

PASADO'S **SAFE** HAVEN

Pro-animal. Anti-cruelty.

LEGISLATIVE UPDATE – HB 1234 & HB 1424

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The information provided in this presentation does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only.

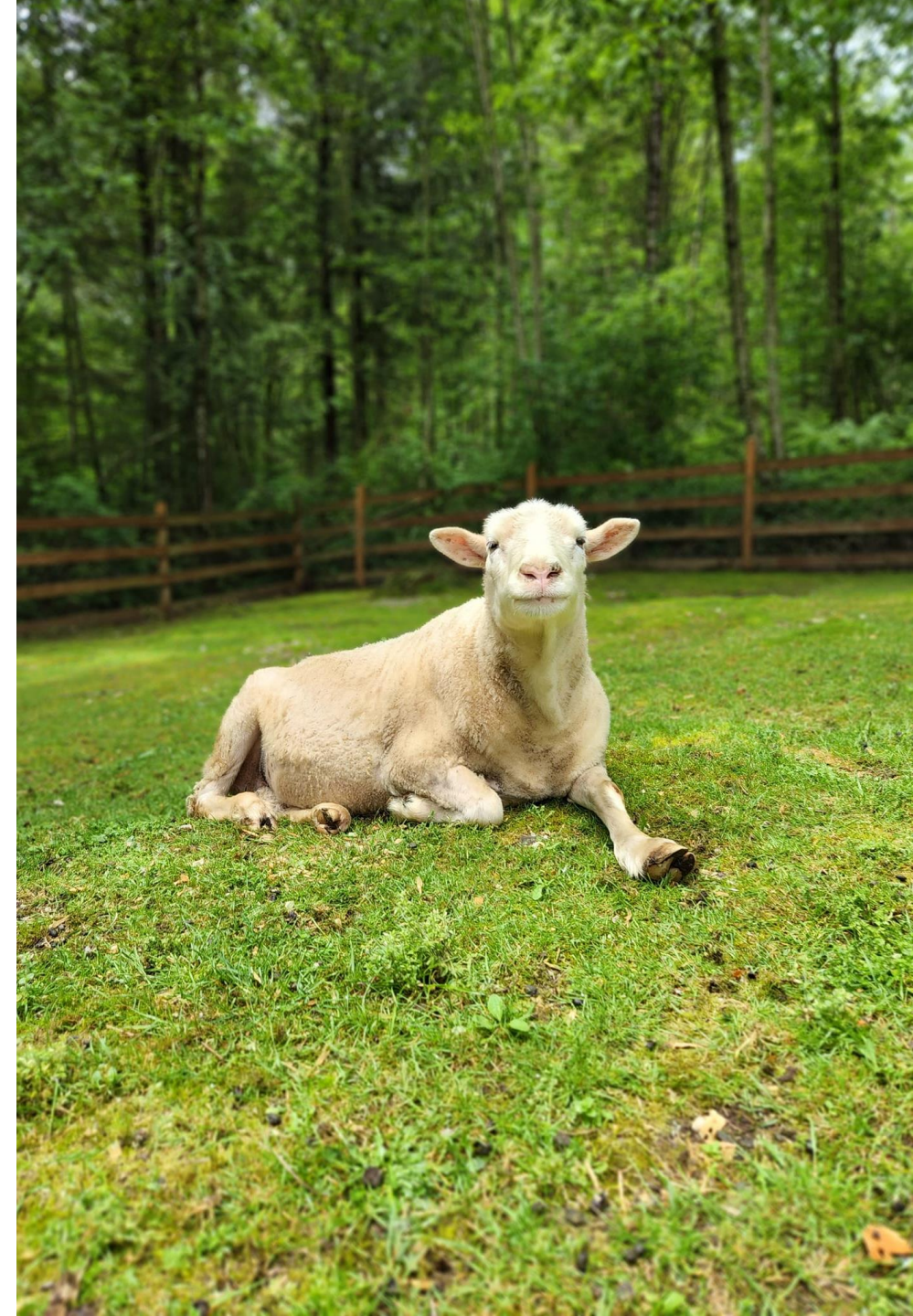
HB 1234 – AN ACT RELATING TO THE CIVIL FORFEITURE OF ANIMALS SEIZED FOR ABUSE OR NEGLECT

- Adds a new section and substantially rewrites **RCW 16.52.085** (Removal of Animals for feeding and care – Examination – Notice – Euthanasia)
- Unanimously passed the Washington House and Senate, signed by the Governor on May 4th
- **The changes go into effect on July 23rd (90 days after adjournment of the session)**



BACKGROUND

- RCW 16.52.085 governs:
 - Seizure (with and without a warrant)
 - Care and placement of seized animals
 - Forfeiture of seized animals
 - Responsibility for costs of care of seized animals (bonds)
 - Owner due process rights (petition for return, hearing)
- Enacted in 1974, amended six times prior to HB 1234
- Ambiguous, poorly organized, many gaps
- Inconsistent and contradictory interpretation and application between jurisdictions
- Some jurisdictions do not use the forfeiture and bond provisions due to perceived litigation risk
- Based on feedback solicited by WACA from its members, it was consistently at the top of the list of statutes that needed to be overhauled to improve day-to-day handling of animal cruelty and neglect situations



HB 1234 OVERVIEW

NEW - STATEMENT OF LEGISLATIVE INTENT - SEC. 1

The legislature finds and declares:

- Seizure, forfeiture and cost of care bonds are pre-conviction civil remedies that **do not conflict with the presumption of innocence.**
- Seizure, forfeiture, and cost of care bonds shall be **used by the state to satisfy its interest in mitigating the suffering of animal victims.**
- The purpose of the act is to provide **a means by which a neglected or abused animal**, an animal involved in animal fighting, or an animal kept in violation of a post—conviction animal ban/court order or a pre-conviction court order **may be removed and protected, cared for, and disposed of appropriately and humanely.**
- Civil asset forfeiture laws/rules do not apply to forfeiture of animals.



NEW - DEFINITION SECTION – SEC. 2 (1)

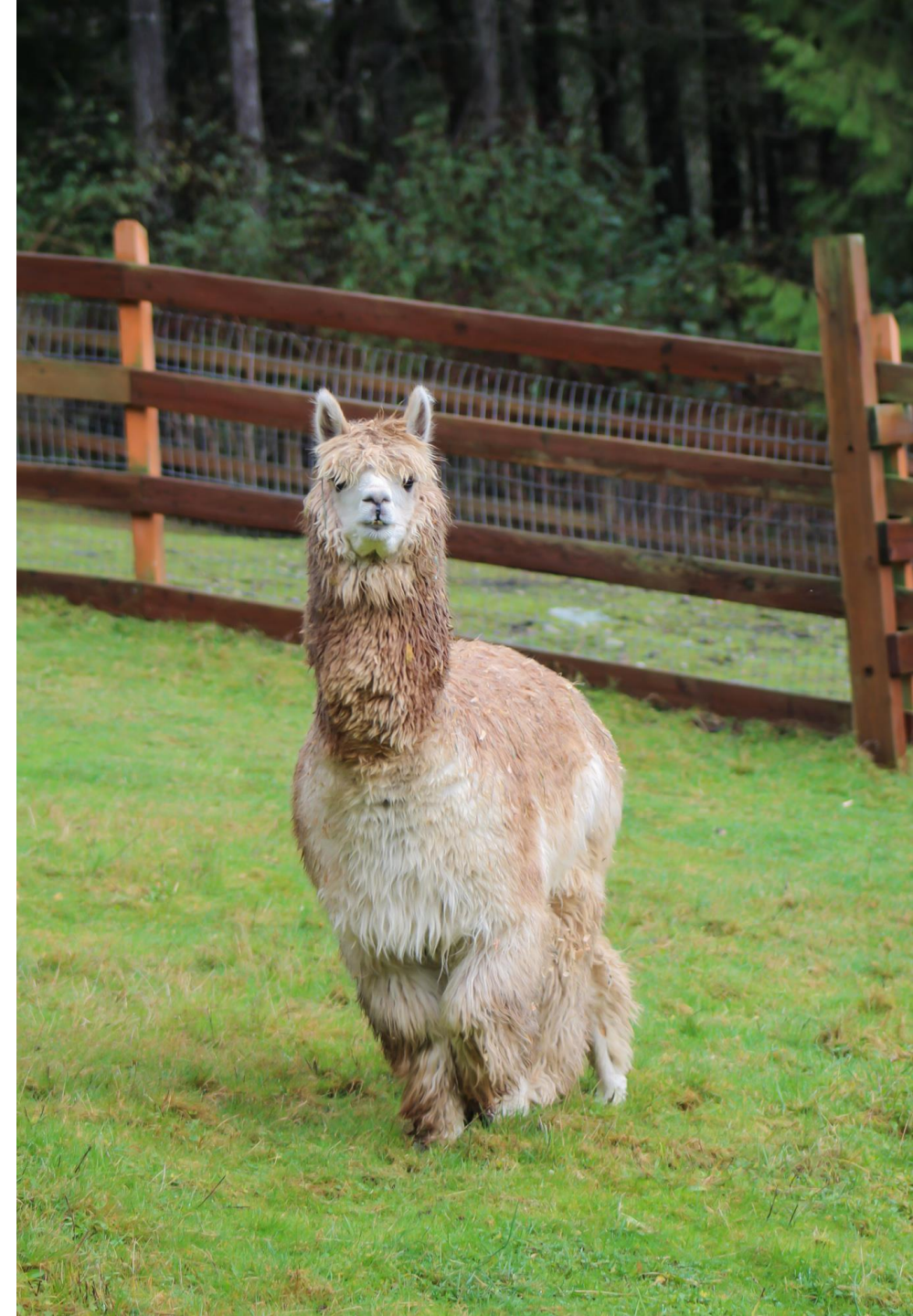
Important: These definitions only apply to 16.52.085.
They do not apply to other parts of Chapter 16.52.

- “**Minimum care**” definition applies only to seizing agencies and their agents (not owners) – Sec. 2 (1)(a).
- “**Physical infirmity**”, “**physical injury**”, and “**serious physical injury or infirmity**” definitions apply to seizure of an animal without a warrant under Sec. 2 (2)(b) – Sec. 2(1)(b) - (d).



SEIZURE – SEC. 2 (2)

- **With a warrant - Sec. 2 (2)(a):**
 - Probable cause to believe than an owner of a domestic animal has **violated Chapter 16.52**
 - Probable cause to believe a person owns, cares for, or resides with an animal **in violation of an animal ban or court order**
 - **Important Note:** Animals seized from a person who is in fact in violation of an animal ban or court order are **immediately forfeited to the seizing agency by operation of law**; no court action is necessary – Sec. 2 (2)(6).
- **Without a warrant - Sec. 2 (2)(b):**
 - If there is probable cause to believe an animal:
 - Is in imminent danger,
 - Is suffering “**serious physical injury or infirmity**”, or
 - Needs immediate medical attention
 - An officer may enter onto private property without a warrant to:
 - Render emergency aid, or
 - Seize the animal without a warrant and immediately bring the animal to a veterinarian.



SEIZURE (CONT.)

- Use of veterinarians or other outside experts/resources:
 - **No prohibitions against or specific requirements** for the use of vets or outside experts/resources during searches and seizures.
 - Because the statute does not address it, their use is left to the needs, judgement, and individual policies of the officer/agency.
- There is **no requirement** that the officer make a good faith effort **to contact the animal's owner before removal.**
- Officers who enter private property without a warrant under this section **are immune from liability for damages** if the officer does not use any more force than is reasonably necessary – Sec. 2 (2)(c).



PLACEMENT OF ANIMALS AFTER SEIZURE – SEC. 2 (3)

- The seizing agency may place animals with:
 - A non-profit **humane society**,
 - A non-profit **animal sanctuary** or
 - A non-profit **rescue**
 - **In foster care** not associated in any way with the owner
- In determining what is a suitable placement, the officer shall consider the animal's needs, including its:
 - size,
 - medical needs, and
 - behavioral characteristics
- Wherever the animal is placed, the agency retains constructive custody of the animal and has a duty to ensure the animal receives “**minimum care**”
- The agency may draw funds from the bond and distribute to the humane society/sanctuary/rescue/foster to cover reasonable costs actually incurred to provide “**minimum care**”



SEIZURE & FORFEITURE NOTICE – SEC. 2 (4)

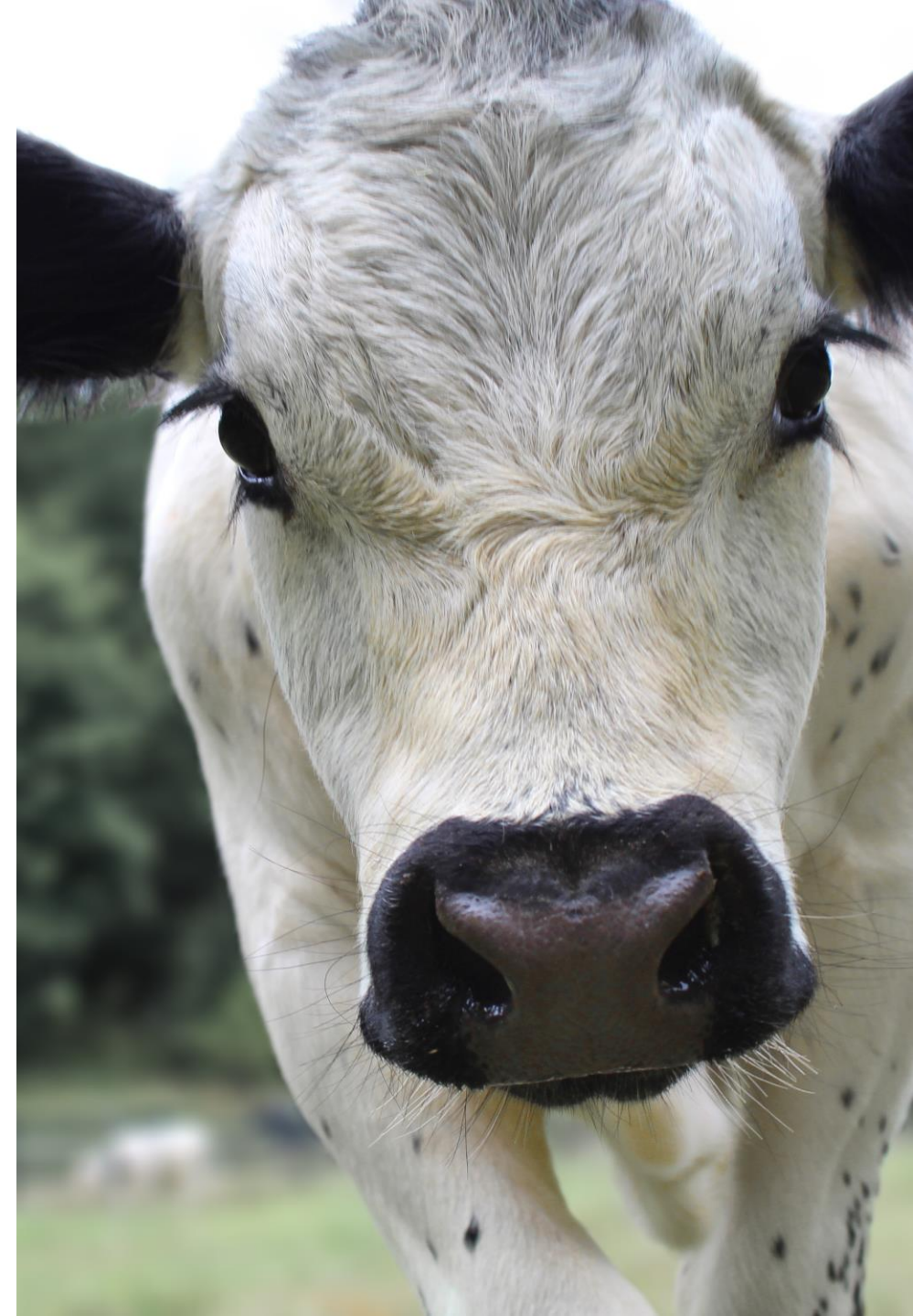
- Written notice must be provided within 72 hours after seizure by:
 - Posting at the place of seizure,
 - Delivery to the last known or suspected owner in person,
 - Delivery to a person residing at the place of seizure, or
 - Registered mail to the last known or suspected owner
- Section 2(4)(a)-(e) contains a detailed list of what the notice must include
- **IMPORTANT:** An Owner's Petition form must be attached to the notice; the form is included at the end of the statute – Sec. 2 (13)



COST OF CARE BONDS – SEC. 2 (5)

Important: The owner must post a Care Bond to prevent forfeiture.

- **Amount:**
 - sufficient to provide “**minimum care**” for each “**animal**” seized for 30 days, regardless of criminal charges
 - “**animal**” includes unborn offspring and afterborn offspring
- **Venue** – New requirement
 - The bond must be posted with the clerk of the district court in the county from which the animal was seized.
- **Deadline** – Big change
 - Bond must be posted by **5:00 pm on the 14th calendar day** after the day the animal was seized, or the animal is forfeited by operation of law (even if a petition for return is filed!)



COST OF CARE BONDS (CONT.)

■ Use of Bond Funds:

- The custodial agency may draw from the bond the reasonable costs actually incurred to provide “minimum care” – Sec. 2 (5)(d)(i)
- The agency may distribute bond funds to the foster, humane society, sanctuary, or rescue caring for the animal – Sec. 2 (3)(b)

■ Court calendar priority:

- If a bond has been posted, all subsequent court proceedings shall be given court calendar priority as long as the animal remains in the agency’s custody – Sec. 2 (5)(d)(i)

■ Bond Renewal:

- Clear provisions requiring bond renewal every 30 days from the date of seizure and automatic forfeiture if not renewed – Sec. 2 (5)(d)(ii)



OWNER'S PETITION FOR IMMEDIATE RETURN - SEC. 2 (4) & (5)

- **Venue** – No change
 - The owner's petition must be filed with the **district court in the county from which the animal was seized.**
- **Deadline** – Big change
 - Must be filed with the District Court by **5:00 pm on the 14th calendar day after the day the animal was seized**, or the animal is forfeited by operation of law (unless bond has been posted)
 - **Important:** Filing a petition does not relieve the owner of the bond requirement. **Bond must be posted to avoid forfeiture.** If a petition is filed but no bond is posted, the animal is forfeited at the expiration of the bond deadline.
- The owner must serve a copy of the petition on the agency and prosecutor



HEARING ON OWNER'S PETITION

– SEC. 2 (5)(C)

- Upon receipt of an owner's petition, the court shall set a **civil hearing to be conducted within 30 calendar days** of the filing
- The hearing is a separate civil proceeding, not combined with criminal proceeding
 - The rules of civil procedure apply
- **Burden of proof:**
 - The burden is on agency to establish probable cause for the seizure existed
- **If PC for the seizure is established**, the court shall order the owner to post/update the bond within 72 hours or the animal is forfeited by operation of law
- **If PC for the seizure is not established**, court may order animal returned subject to conditions, refund of all bond paid, and reasonable attorney's fees



OTHER PROVISIONS

- **Disposition after Forfeiture** – Sec. 2 (7)
 - The agency may place the animal with a new owner
 - The agency **may not** place the animal with family members or friends of the former owner or with anyone who lives in the same household as the former owner
- **Euthanasia** – Sec. 2 (8)
 - Permissible for humane reasons at any time if the animal is severely injured, sick, diseased or suffering by a DVM/LVT/CET
- **Voluntary Relinquishment** – Sec. 2 (9)
 - RCW 16.52.085 does not prevent voluntary permanent relinquishment by the owner
 - Relinquishment by the owner has no effect on the criminal charges that may be pursued
- **Stray, Feral, At Large, Abandoned, and Wild Animals** – Sec. 2 (10)
 - No impact on agencies' ability to take custody of, care for or properly dispose of stray, feral, at-large, abandoned, or wild animals not owned or kept as pets or livestock
- **Immunity** – Sec. 2 (2)(c) and (11)



UNDERSTANDING AND IMPLEMENTING HB 1234 CHANGES

REFERENCE MATERIAL AND
EXAMPLE FORMS WEB PAGE



[www.pasadosafehaven.org/
animalforfeiture/](http://www.pasadosafehaven.org/animalforfeiture/)

ABOUT HB 1234

HB 1234 was signed by Governor Inslee on 05/04/2023 and will go into effect on 07/23/2023, 90 days after adjournment of the 2023 legislative session. This law adds a new section and substantially rewrites RCW 16.52.085 (Removal of Animals for feeding and care – Examination – Notice – Euthanasia). Official HB 1234 Full Text can be found [here](#).

SAMPLE FORMS & REFERENCE MATERIALS

NOTICE & OWNER PETITION TEMPLATE

Example notice of seizure, forfeiture & bond requirement form with owner petition.

[DOWNLOAD](#)

NOTICE FORM REQUIREMENTS CHECKLIST

Ensure your form meets all requirements with this simple checklist.

[DOWNLOAD](#)

OVERVIEW REFERENCE DOCUMENT

A general overview of HB 1234 with relevant citations.

[DOWNLOAD](#)

HELPFUL RESOURCES

CLEAN COPY OF RCW 16.52.085 AS AMENDED BY HB 1234

[DOWNLOAD](#)

HB 1234 OVERVIEW PRESENTATION

A high-level overview of what HB 1234 achieves.

[DOWNLOAD](#)

COMPARISON OF CHANGES

A side-by-side comparison of RCW 16.52.085 prior to and after HB 1234.

[DOWNLOAD](#)

UNDERSTANDING AND IMPLEMENTING HB 1234 CHANGES

COMPARISON OF CHANGES

A side-by-side comparison of RCW 16.52.085 prior to and after HB 1234.

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www.pasadosafehaven.org/animalforfeiture/



| Written Notice to Owner re: Seizure, Forfeiture, and Cost of Care Bond | |
|---|--|
| Timing of Written Notice of Seizure | |
| (3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner.... | Sec. 2 (4) ... Any owner whose animal is seized by a law enforcement officer or animal control officer under this section shall, within 72 hours following the seizure , be given written notice of the circumstances of the removal and notice of legal remedies available to the owner... |
| Methods for Providing Written Notice | |
| (3) The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure , or by registered mail if the owner is known . | Sec. 2 (4) ... The notice shall be given by posting at the place of seizure, by delivery to the last known or suspected owner in person or a person residing at the place of seizure , or by registered mail to the last known or suspected owner ... |
| Required Notice Contents and Attachment | |
| | Important Note: A standard form Owner's Petition must be attached to the notice; the form is included at the end of the statute. See Sec. 2 (13). o |
| (3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. | Sec. 2 (4) Any owner whose animal is seized by a law enforcement officer or animal control officer under this section shall ... be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. Such notice shall include: (a) The name, business address, and telephone number of the law enforcement agency or animal care and control agency responsible for seizing the animal; (b) A description of the seized animal; (c) The authority and purpose for the seizure, |

FEEDBACK – WE WANT IT!

Please send your feedback, suggestions and questions related to HB 1234 or the materials on our HB 1234 resource web page to Kirsten:

kirsteng@pasadosafehaven.org



HB 1424 : AN ACT RELATING TO CONSUMER PROTECTION WITH RESPECT TO THE SALE AND ADOPTION OF DOGS AND CATS

- Amends sections 16.52.360, 16.52.015, and 3 16.52.310 and adds new sections to chapters 63.10, 63.14, and 31.04. Also prescribes penalties.
- Passed the Washington legislature with bi-partisan votes in both chambers; signed by the Governor on May 1st
- The changes go into effect on July 23rd (90 days after adjournment of the session)



BACKGROUND

2009: Legislature enacted ESSB 5651, establishing certain requirements on dog breeders. Commercial dog breeders licensed by the USDA before January 1, 2010 were exempted.

2019: Legislature enacted SHB 1476 which prohibited live dogs and cats from being named as collateral in a consumer lease agreements or secured transaction.

2021: Legislature enacted SHB 1424 which prohibited retail pet stores from selling cats and limited dog sales to stores that were open prior to July 25, 2021.

Several local governments have passed ordinances prohibiting retail pet stores from selling or offering to sell live cats and dogs.

OVERVIEW OF WHAT HB 1424 ACHIEVES

- Only retail pet stores in business prior to July 25, 2021, are allowed to sell dogs and these stores must meet sourcing standards.
- Requires pet stores to give full disclosure on purchase price, breeder source and licensing.
- Closes the loophole in Washington's commercial breeding laws that exempts breeders who were licensed by the USDA prior to January 1, 2010.
- Prohibits the use of consumer leases, retail installment transactions, and consumer loans for the purchase of a dog or cat.
- Imposes a monetary penalty of \$250 for violations, with three violations resulting in the pet store being prohibited from selling dogs. Permits animal control officers to issue citations for violations.
- Clarifies that local governments can impose stricter regulations.



NEW REQUIREMENTS FOR PET STORES

- The sale must occur at the same address on the retail pet store's license.
- Any dog sold must be obtained directly from a breeder in compliance with RCW 16.52.310 and/or USDA licensed broker.
- All advertisements for dogs must include supporting documentation.
- Supporting documentation must also be posted in a visible location at the store and must be disclosed in writing to a prospective customer.
- Supporting documentation includes:
 - Compliance with Washington state commercial breeder law
 - Inspection reports obtained from the USDA from the previous three years, with a requirement to hold them for minimum of five years
 - The dog's age (8 week minimum)
 - Price range for sale
 - The applicable federal or state license numbers for the breeder and/or broker of the dog
 - List of all violations of any federal or state law



CLOSING RCW 16.52.310 LOOPHOLE

The passage of HB 1424 closes a 2009 loophole in RCW 16.52.310: Dog breeding—Limit on the number of dogs—Required conditions—Penalty—Limitation of section—Definitions.

Special Considerations:

- **All** commercial dog breeders are now subject to Washington state law.
 - Commercial dog breeding facilities cannot have more than 50 unaltered dogs over the age of 6 months
 - Commercial dog breeding facilities that have more than 10 unaltered dogs over the age of 6 months must meet defined enclosure/housing requirements
 - All commercial dog breeding facilities must provide easy and convenient access to adequate amounts of clean food and water
 - All commercial dog breeding facilities must provide veterinary care without delay when necessary



ADOPTIONS

- Retail pet stores can still partner with an animal care and control agency or animal rescue group to showcase adoptable animals.
- The animal care and control agency or animal rescue group must maintain ownership of the animal.
- Retail pet stores must display a label, including the name and address of the animal care and control agency or animal rescue group.



ENFORCEMENT

Pet Stores:

- It is a class 1 civil infraction for any person or corporation in violation, subject to the maximum infraction of \$250.
- The civil infraction may be served on the pet store's registered agent.
- An animal control officer may investigate and enforce.
- Any retail pet store that violates this section three or more times over a one-year period is prohibited from selling or offering to sell any dog.
- Nothing in this section prohibits any city, town, or county from enacting or enforcing a local ordinance that creates stronger restrictions on pet stores.

Breeders:

- A person who violates subsection (1) (keeping more than 50 dogs) or (2) (standards of care) is guilty of a gross misdemeanor.



**TAKE ACTION
FOR THE ANIMALS**





QUESTIONS?

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