

# HB 1234 – An act relating to the civil forfeiture of animals seized for abuse or neglect

## Overview of changes to RCW 16.52.085, effective 7/23/2023

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### Background – RCW 16.52.085 (Removal of animals for feeding and care – Examination – Notice – Euthanasia)

- [RCW 16.52.085](#) governs:
  - Seizure of animals when there is probable cause to believe a violation of RCW 16.52 Prevention of Cruelty to Animals has occurred (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 immediate return, hearing)
  - Euthanasia of seized animals
  - Agency/officer Immunity from liability
- Enacted in 1974 and amended six times prior to 2023.
- Ambiguities, poor organization, and gaps have resulted in inconsistent and contradictory interpretation and application among jurisdictions.
- Some jurisdictions refuse to 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 cases.
- [HB 1234](#) adds a new section to and substantially rewrites **RCW 16.52.085**. It passed with unanimous votes in both chambers of the legislature, was signed by the Governor on May 4th and its changes go into effect on July 23, 2023. Official bill information can be found [here](#).

### Overview of HB 1234

- **New Section 1: Statement of legislative intent**
  - 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 Definitions - Sec. 2 (1)**
  - Important: **These definitions only apply to 16.52.085.** They do not apply to other parts of Chapter 16.52 – Sec. 2 (1).
  - “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)**
  - Standards for seizure **with a warrant** – Sec. 2 (2)(a).
  - Allows for seizure with a warrant for **violations of an animal ban or court order** – Sec. 2 (2)(a).
    - Animals seized due to violations 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).
  - Clearer standards for entry onto private property to render emergency aid and for seizure **without a warrant** – Sec. 2 (2)(b).
  - Immunity from liability for damages for officers for entry onto private property without a warrant if reasonable force is used – Sec. 2 (2)(c).
- **Notice to Owner – Sec. 2 (4)**
  - Written notice required 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 – Sec. 2 (4).
- Detailed list of what the notice must include – Sec. 2 (4)(a) – (e).
- A standard form Owner’s Petition must be attached to the notice; the form is included at the end of the statute – Sec. 2 (13).
- **Cost of Care Bond – Sec. 2 (5)**
  - Must be posted with the District Court by **5:00 pm on the 14<sup>th</sup> calendar day** after the day the animal was seized, or the animal is forfeited by operation of law – Sec. 2 (5)(a) - (b)(i).
  - The bond must be in an amount sufficient to provide “**minimum care**” for each “**animal**” seized for **30 days**, regardless of criminal charges – Sec. 2 (5)(a).
  - “**animal**” includes unborn offspring/offspring born after seizure – Sec. 2 (5)(e).
  - If a bond is posted, subsequent court proceedings shall be given court calendar priority as long as the animal remains in custody – Sec. 2 (5)(d)(i).
  - Clear provisions requiring bond **renewal**, deadline for renewal, and automatic forfeiture if the bond is not renewed by the deadline – Sec. 2 (5)(d)(ii).
- **Owner’s Petition for Immediate Return of Animals – Sec. 2 (5)(b)(ii)**
  - Must be filed with the District Court by **5:00 pm on the 14<sup>th</sup> calendar day after the day the animal was seized**, or right to petition for return is waived – Sec. 2 (5)(b)(ii) – (iii).
  - **The owner must still post bond even if a petition is filed!** If a petition for return is filed but no bond is posted, the animal is forfeited at the expiration of the bond deadline. – Sec. 2 (5)(b)(i).
- **Hearing on Owner’s Petition – Sec. 2 (5)(c)**
  - Hearing must be set within 30 calendar days of filing of the petition – Sec. 2 (5)(c)(i).
  - Separate civil proceeding, not combined with criminal proceeding – Sec. 2 (c)(i) – (ii).
    - Rules of civil procedure apply
  - **Burden of proof:** on the agency to establish probable cause (PC) for seizure – Sec. 2 (c)(ii).
  - If PC for seizure is established, owner must post bond within 72 hours or animal is forfeited by operation of law – Sec. 2 (c)(ii).
  - If PC for seizure is not established, court may order animal returned (subject to conditions), refund of bond and reasonable attorney fees – Sec. 2 (c)(ii)

- **Placement of animals after seizure** – Sec. 2 (3)(a)
  - With the seizing agency
  - With a non-profit humane society, animal sanctuary or rescue
  - In **foster care** not associated in any way with the owner
  - The seizing agency retains constructive custody and has a duty to ensure the animal receives “minimum care”, as defined – Sec. 2(3)(b).
  - The seizing agency may draw funds from the bond and may distribute funds to the humane society, sanctuary, rescue or foster to cover costs of care – Sec. 2 (3)(b) and (5)(d)(i).
  - If a seized animal is forfeited, the animal may not be placed with the family members or friends of the former owner or anyone living in the same household as the former owner – Sec. 2 (7).
- **Euthanasia** by DVM/LVT/CET permissible for humane reasons at any time if the animal is severely injured, sick, diseased, or suffering – Sec. 2 (8).
- No impact on **voluntary permanent relinquishment by the owner**, which does not trigger any RCW 16.52.085 requirements and has no effect on whether/which criminal charges can be brought – Sec. 2 (9).
- No impact on agencies’ abilities 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 – Sec. 2 (10).
- Civil and criminal immunity for any authorized person caring for, treating, or attempting to restore an animal to health under this chapter – Sec. 2 (11).

Questions? Contact Kirsten Gregory, General Counsel – [kirsteng@pasadosafehaven.org](mailto:kirsteng@pasadosafehaven.org)