

## WASHINGTON CONSIDERS LEGISLATION THAT WOULD OPEN 900,000 ACRES OF PUBLIC LAND TO COMMERCIAL GRAZING

### LEGISLATION: HB 1306

**STATUS:** In House Committee on Agriculture & Natural Resources, as of February 6, 2009. Failed to pass the House by the March 12 deadline.

**PURPOSE:** As introduced, HB 1306 would have amended RCW 16.24.065 to remove certain restrictions from grazing cattle on public lands owned or managed by the Washington Department of Fish and Wildlife. Currently, an owner of livestock is prohibited from allowing livestock to graze on public lands owned or managed by the Department of Fish and Wildlife, as well as other public land owned by the State of Washington and the federal government, without prior written permission. This bill would have removed that prohibition, as it pertains to the lands owned or managed by the Department of Fish and Wildlife (WDFW), to allow previously unauthorized grazing on those lands. The WDFW currently manages about 900,000 acres of public land, only about 5 percent of that land is approved grazing land. This legislation would have allowed the livestock industry to graze on 100 percent of those 900,000 acres, except in stock restricted areas or those that are fenced to prevent livestock from running at large.

**NOTES:** The estimated expenditures from the state's general fund for this legislation would have been: (1) 2009-2011: \$187,800; (2) 2011-2013: \$439,700; (3) 2013-2015: \$651,400.

### PENDING LEGISLATION: SB 5781

#### COMPANION BILL: HB 1306

**STATUS:** In Senate Committee on Natural Resources and Ocean & Recreation, as of February 12, 2009. Failed to pass the Senate by the March 12 cutoff.

**PURPOSE:** As introduced, SB 5781 would have amended RCW 16.24.065, to authorize owners of livestock to graze the animals on virtually all public lands owned or managed by the Washington Department of Fish and Wildlife (WDFW), without written permission. Written permission would still have been required to graze livestock in stock restricted areas or in areas that are fenced. Under current law, written permission is required to graze livestock on all federal and state lands.



Photos and Information Courtesy of Don Johnson

The two photos above, which demonstrate the effects of livestock grazing, were taken at Smoothing Iron on the S.Fk. Asotin Creek. The Asotin WDFW Wildlife Area lands were purchased with federal mitigation funds. Millions of dollars have been spent for rehabilitation of Asotin Creek, a WDFW-designated "wild steelhead refuge." After 16 years with no cattle on Pintler Cr. (a steelhead containing tributary of Asotin Cr.) a Washington Cattlemen's Association/Washington Department of Fish and Wildlife MOU resulted in their reintroduction. Both utilization cage are the same cage on May 25, 2007, and June 18, 2008. This area has supported 400 wintering elk and Idaho fescue is their favorite forage—apparently the cattle like it too.

## WASHINGTON CONSIDERS MAKING IT A CRIME TO MALICIOUSLY INJURE OR KILL LIVESTOCK *WITHOUT* OWNER'S CONSENT

### PENDING LEGISLATION: HB 1849

**STATUS:** Failed to pass the House by the March 12 deadline.

**PURPOSE:** As introduced, HB1849 would have added new sections to RCW 16.52 and 4.24, making it a crime for "a person to, with malice, kill or cause substantial bodily harm to livestock (including: bison, cattle, deer, donkeys, goats, hogs, horses, llamas, mules, pigs, rabbits, sheep, other fur bearing animals, and other mammals, farmed birds such as chickens, geese, pigeons, turkeys, and other birds, ratites such as emus, ostriches, and rheas), owned or bred for commercial or subsistence purposes belonging to another person, without consent of the owner." Individuals meeting the definition of "slaughterer" or "packer" under RCW 16.50.110, would have been exempt from criminal liability for maliciously killing or causing substantial bodily harm to livestock, when doing so is "in furtherance of their responsibilities in the regular course of employment." A violation of the proposed law would have been a class B felony. Any livestock owner who suffers damage due to the unauthorized malicious killing or infliction of bodily damage to livestock would have been entitled to treble damages and attorney fees.

**NOTES:** Current law (RCW 16.52.185) excludes "accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry" from Washington's Prevention of Cruelty to Animals laws (RCW 16.52). The proposed law appears to do the same, however it expressly protects livestock from unauthorized and malicious infliction of bodily harm and killing; the implication is that even if HB 1849 would have passed, the authorized and malicious (or less-than-malicious) infliction of bodily harm or killing would still be legal.

# OPERATION BAGHDAD PUPS

By Terri Crisp

Operation Baghdad Pups Program Manager, SPCA International

Wars have willing and unwilling participants. The men and women who make the decision to take the patriotic and honorable path to fight for their country deserve the support of those who reap the benefits of their sacrifices. The conflicts in Iraq and Afghanistan have taken their grave toll on human lives, ending too many too soon, physically injuring and maiming others, and leaving an even greater number of our troops with psychological scars that time may or may not heal. That is why SPCA International ([www.SPCA.com](http://www.SPCA.com)) decided to do their part to help.



SPCA International has found a way to support our troops through a unique and effective program. Operation Baghdad Pups came into existence following an email received from a U.S. soldier desperate to get a dog he had befriended while serving in Iraq to the United States. Sgt. Watson's request gave the SPCA International staff their first glimpse at the important bond that can form in the midst of a war between an animal and those immersed in one of life's most altering experiences.

Doing their duty for the country they love has cost individuals more than some could have even imagined when they signed on the dotted line and made the commitment to serve. In spite of the toughness that training has engrained into their way of thinking and their every action, the person wearing a military uniform reaches a point when one more life lost is just too many. One more buddy sent home seriously injured with an uncertain future is a test of the strength of those left behind to continue the fight. Everyone who experiences the ugliness of war eventually finds themselves searching for some balance to counteract the negatives – the compounded anger, frustration, grief, fear and loneliness.

One source of relief for many of our men and women serving in Iraq and Afghanistan was not a resource that was identified in basic or even advanced military training. The mental health staff assigned to counsel the troops cannot officially offer this source as a solution to the person who is struggling to get through another day – often overcome with an array of emotions too burdensome to continue carrying alone.

The unexpected support that has gotten an ever-growing number of individuals through the challenges of going to war has come from some of the bystanders in this latest human caused conflict. Oblivious to any sense of duty, never agreeing to sign on any dotted line and training not an option offered to them, those on the side-lines have had their lives forever altered. They have become some of the most innocent victims of the fighting, often helpless to escape the bullets, IEDs or human hatred. Yet for a few fortunate ones, the war has been the best thing that could have ever happened to them even though they got pulled into it unwillingly.

This unexpected source of relief comes from the dogs and cats born in a country at war and looked upon by the Iraqi people with unrelenting contempt. It has been the American troops who have shown these animals the first kindness many of them have ever experienced. In return the dogs and cats have provided their new found buddies with a very special kind of companionship and the unconditional love that animals are superior at giving. "I feel Red Rocket was taking care of me as much as I was taking care of him," explained SFC Phillips in an email sent from Iraq.

Red Rocket is just one of 66 dogs and 8 cats that SPCA International helped bring to the U.S. during 2008, making it possible for the positive balance these animals provide for the troops to continue as they adjust to being home again.

Befriending a domesticated animal while on active military duty is against regulations, yet those who make the decision to break the rules are willing to risk punishment. When a person is hurting emotionally they seek out ways in which to feel better and it has already been proven away from the battlefield the amazing ability animals have to heal. The human-animal bond has now penetrated the military in a way never seen in other wars and with widespread positive results. In many instances these animals, in their own uncomplicated and natural ways, have helped ward off or lessen the affects of Posttraumatic Stress Disorder on our troops.

SPC Beberg calls her dog, Ratchet, "The savor of my sanity." Another soldier describes the importance of the relationship with her dog, Iraqi, this way, "Soldiers over here deal with the same people and the same crap 24/7, for up to 15 months straight. There is no getting away and nothing that reminds you of home. It gets really depressing. But befriending a creature that is so full of life and positive energy, no matter the environment he is stuck in and no matter how little food he has to eat, is enormously uplifting."

It is not surprising that the men and women now serving in Iraq and Afghanistan have been drawn to the animals they have befriended. SPCA International has heard repeated stories of how these dogs and cats were snatched in the nick of time from the hands of Iraqi children and adults as they were being discarded in burn piles, being buried alive, kicked or in the path of an oncoming car. War normally necessitates taking lives but when lives can be saved instead these actions provide a healthy and necessary balance.

Major Springer captures why these animals are important when he says, "I think being able to take care of Siha and to save her from her violent and grave surroundings gave everyone in my unit an immediate sense of accomplishment that was missing in our daily lives. She always greeted us with a wagging tail and offered unconditional love that reminded us of the animals at home we love and miss so much. She makes it possible for us to be compassionate and humane."

U.S. troops serving in the Middle East today are searching for this kind of balance, and embracing an animal helps them prove to themselves that they are still loving, caring individuals. After a brutal patrol or the senseless death of a fellow soldier, befriended dogs and cats provide relief and a welcome distraction. They are a reminder of what is good and simple in the world, even when living in the midst of the hot sands of a country many in the armed forces have come to loath. Caring for a befriended animal is an effective respite from the surroundings, fighting and fatigue. The perks come in the form of a gentle nuzzle, a slobbery kiss or contented purring.



Once an animal has experienced life among the troops, returning them to a life on the cruel streets where they came from would result in an animal having a short, miserable existence. Knowing this, the soldiers caring for these animals need a way to get them home to the states so they can remain in their care and have the kind of life they earned and deserve. Without the official assistance of the military as an option, SPCA International has stepped up to provide a solution. In 2008, Operation Baghdad Pups succeeded in getting 75 animals to safety, with an average of 4 to 5 new requests for help arriving every week.

What SPCA International is doing has gone beyond just helping animals to survive. With the number of cases of PTSD on the increase among the troops the U.S. military is spending millions of dollars to find alternative treatments for this disorder. SPCA International, as well as the individuals who have befriended dogs and cats in Iraq and Afghanistan, can attest to the effectiveness of pet therapy, and this is one form of treatment that would cost the military almost nothing. SPCA International believes the military should consider a classification for a select number of animals that meet certain criteria. Having these animals living among the troops would go a long way in keeping the troops mentally healthy, maintaining positive morale and retaining more individuals in the service.

To find out more about Operation Baghdad Pups and to make a donation that will help ensure more dogs and cats befriended by U.S. troops come home, visit [www.SPCA.com](http://www.SPCA.com). Our troops need your help!

# BEFORE IT'S TOO LATE: REGULATING HUNTERS TO SAVE THE CALIFORNIA CONDOR

*Hanna Coate, Esq.*

The intelligent and highly social California condor, with a wing span of nearly ten feet, is the largest bird in North America. They were once found in abundance along the West coast from British Columbia to Baja California, and were vital to their ecological communities and to the coastal Native Americans with whom they once shared the land. The decline of the birds began with the rise in the Pacific Northwest fur trading industry. They were shot, poisoned by lead bullets, and lost both habitat and the predators that they depended on for carrion. In 1967, the California condor was placed on the federal Endangered Species list. By 1987, despite the federal protection, only 22 individuals remained in the world, and a controversial decision was made to capture all the remaining birds for extensive breeding and recovery efforts. The last wild California condor was captured on April 19, 1987. Since then, tens of millions of dollars have been spent to save one of the most endangered birds in the world. More than 300 birds have been bred in captivity, and of those, about 150 have been released. Although captive breeding and reintroduction has proven successful, the birds lay only one egg every 2 years, so any tangible increase in population levels will be very slow. As of February 28, 2009, there are 319 individuals remaining in the world, approximately 138 of those are in captivity.



In addition to their slow reproductive rates, the unmitigated causes of their mortality remain an ongoing threat to the survival of the remaining birds. According to the National Park Service, lead toxicity is the leading cause of death of California Condors. Lead bullets are the major source of lead toxicity and the bullets can fragment into hundreds of pieces inside an animal. Only one or two pieces of the lead fragments are toxic to condors, so one animal that had been shot with a lead bullet could poison several feeding condors simultaneously. Between 1997 and 2007, 30 of the remaining condors died painful and preventable deaths due to lead poisoning, and many more died under suspicious circumstances that may have been related to lead.

Since 1997, 13 condors in California have died and 30 birds have needed emergency treatment for lead poisoning. In 2007, with only about 60 free-flying condors remaining in the state, California passed legislation (AB 821, the Ridley-Tree Condor Preservation Act) banning the use of specific types of lead ammunition in certain areas. As of February 28, 2009, there are 90 California condors remaining in that state.

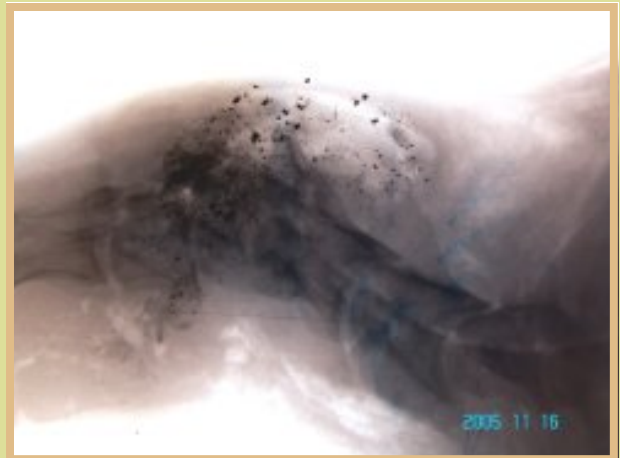
In Arizona, 12 condors died from lead ammunition between 1999 and 2007, with another 31 requiring emergency treatment. With only about 59 free-flying birds remaining in that state, Arizona instituted a voluntary copper bullet coupon program in 2005, which supplies free copper bullets to hunters in areas occupied by condors. The program costs that state about \$100,000 a year. According to Arizona's Game and Fish Department, the condor lead-exposure rates fell 40% from 2004 to 2005. This was the first reduction in lead-exposure rates since testing began in Arizona in 2000. As of March 7, 2009, there are 73 California condors remaining in that state.

On March 25, 2009, the Center for Biological Diversity filed suit against the Bureau of Land Management (for its Arizona Strip management plan) and the U.S. Fish and Wildlife Service (USFWS) (for its 2007 Biological Opinion on that plan), citing a general failure to protect California condors and other endangered species from lead poisoning in and around the Grand Canyon, and more specifically, "failure to comply with the National Environmental Pol-

icy Act, the Federal Land Policy and Management Act, and the Endangered Species Act by refusing to incorporate actions necessary to protect public lands and endangered and threatened species from adverse impacts.”

On March 10, 2009, the National Park Service announced plans to eliminate its use of lead ammunition and fishing tackle in national parks by 2010, and to consider a lead ammunition and fishing gear ban for all recreational users as well. Although there is still no federal law prohibiting the use of lead shot in California condor territory, it has been against federal law to use lead bullets to hunt waterfowl since 1991.

In Washington State, the condors have been extinct for the past 50-100 years, however they are by nature wide-ranging and scientists anticipate that they may soon return to their former range in Washington. On January 13, 2009, Washington Senators Jacobsen and Klein introduced SB 5095, which would have amended RCW 77.15.400 and added a new section to RCW 77.15, to make it a crime to possess any shot (as opposed to any ammunition), other than a non-toxic shot (of which there are currently 11 varieties available), when hunting in designated areas where California Condors and other endangered, threatened, or sensitive species could be harmed by a lead shot. Since 1991, it has been illegal to use toxic shot for hunting and target practice in designated state wildlife areas, such as pheasant release areas and when hunting certain species, including waterfowl, snipe, and coot. Violation of the new provision would have been a misdemeanor and would have included additional penalties of a \$1,000 criminal wildlife assessment for the fish and wildlife enforcement reward account (RCW 77.15.425) and a mandatory two-year revocation of hunting privileges.



X-ray Illustrates the Hundreds of Pieces Into Which Lead Bullets Fragment Inside an Animal

The Washington Department of Fish and Wildlife (WDFW) and the Audubon Society both supported SB 5095. In fact, WDFW recommended that the bill be expanded to include a prohibition on the possession of toxic shot when hunting in designated areas where *any* species (whether endangered, threatened, sensitive, or not) that could be harmed by lead shot is found. The Audubon Society expressed concerns over the extremely high concentrations of lead in the environment, which is linked to the use of lead ammunition. It cited a study (“Lead and Copper Concentrations in North Creek”) released by the Washington Department of Ecology in January 2009, which found that the lead levels in North Creek near the Gig Harbor shooting area were 200 micrograms per liter, which is 900 times the level allowed under the Clean Water Act. The National Rifle Association opposed the bill, stating that it is “a major threat to the future of hunting.” It challenged the National Park Service and other scientific findings that lead toxicity is the leading cause of death among California condors, and cited concerns that non-lead ammunition, such as copper bullets, are more expensive than lead (copper bullets are about one dollar more). However, condor recovery efforts are also quite expensive. According to USFWS, more than \$40 million has been spent so far, and in 2007 alone the conservation, recovery and lead poisoning treatment programs cost over \$5 million.

On January 26, 2009, the Senate Natural Resources, Ocean & Recreation Committee held a public hearing on SB 5095, which included a work session on California condor recovery, available online at: <http://www.tvw.org>. Subsequent to the hearing, no further action was taken on the bill. Although the legislature failed to act on this issue, the Fish and Wildlife Commission has the authority to expand a prohibition on the possession or use of lead shot and other ammunition through regulation, and is considering a rule that would expand the prohibition on the use of lead shot in Washington. WDFW, which supports the pending rule, conducted a study which found that among those surveyed, approval for expanded lead shot restrictions was about 50%, and that support among hunters increased with increased education on the dangers of lead shot.

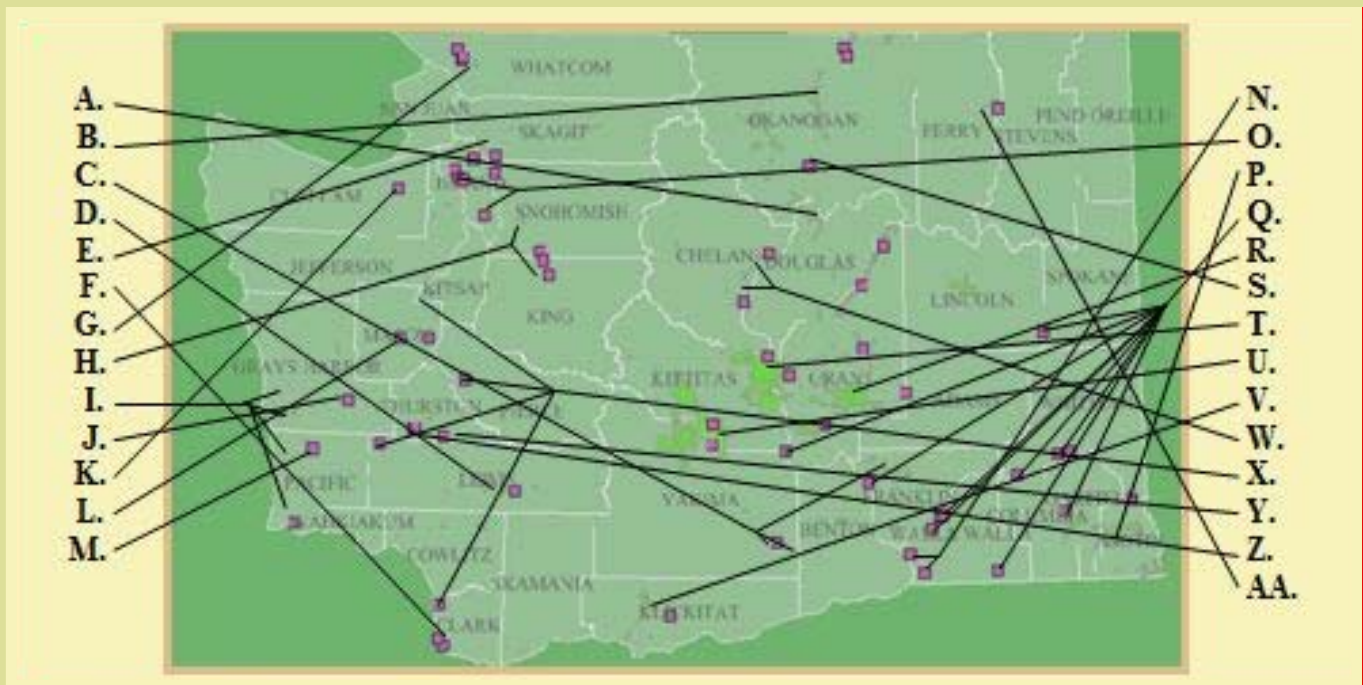
On April 4, 2009, the Fish and Wildlife Commission amended WAC 32-12-068 to expand the non-toxic shot requirements in Washington. The following restrictions on the possession of lead shot apply as of June 1, 2009:

1. It is unlawful to possess shot (either in shot shells or as loose shot for muzzle loading) other than nontoxic shot in the following areas (WAC 32-12-068 (2)):

A. Well's Wildlife Area (Bridgeport Bar Unit)	B. Sinlahekin Wildlife Area (Driscoll Island, Hegdahl, and Kline Parcel units)	C. Sunnyside-Snake River Wildlife Area (Headquarters, Byron and Windmill Ranch units)
D. Cowlitz Wildlife Area (all units)	E. Skagit Wildlife Area (all units)	F. Shillapoo Wildlife Area (all units)
G. Whatcom Wildlife Area (all units)	H. Snoqualmie Wildlife Area (all units)	I. John's River Wildlife Area (Chinook Unit)

2. It is unlawful to possess shot (either in shot shells or as loose shot for muzzle loading), other than nontoxic shot, when hunting for upland game birds (pheasants, quail, chukar, or gray partridge), mourning doves, band-tailed pigeons, or game animals in the following areas (WAC 32-12-068 (3)):

J. Chehalis River pheasant release site	K. Dungeness Recreation Area	L. Hunter Farms pheasant release site
M. Raymond Airport pheasant release site	N. Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge	O. All Whidbey Island pheasant release sites



3. Beginning in 2011, it is unlawful to possess shot (either in shot shells or as loose shot for muzzle loading), other than nontoxic shot, when hunting for upland game birds (pheasant, quail, chukar, and gray partridge), mourning doves, band-tailed pigeons, on areas where pheasants are released, to include (WAC 32-12-068 (4)):

P. Asotin Wildlife Area (Hartsock Unit)	Q. Steamboat Rock Fishtrap, John Henley, Willow Bar, Rice Bar, Hartsock, Mill Creek, Wallula, Peninsula, Hollebeke/Lost Island, Buckshot, Big Flat, and Ringold pheasant release sites	R. Columbia Basin Wildlife Area (Banks Lake, Gloyd Seeps, Lower Crab Creek, Quincy Lakes, Warden units)
S. Sinlahekin Wildlife Area (Chiliwist Unit)	T. Colockum Wildlife Area (Headquarters Unit)	U. Wenas Wildlife Area (Wenas Unit)
V. Klickitat Wildlife Area (Hill Road Unit)	W. Chelan Wildlife Area (Chelan Butte and Swakane units)	X. Fort Lewis, Belfair, Woodland, and Lincoln Creek pheasant release sites
Y. Skookumchuck Wildlife Area	Z. Scatter Creek Wildlife Area	AA. Sherman Creek Wildlife Area

## Ongoing Attempts to Undermine Initiative 713 Fail; the Statewide Ban on Body-Gripping Traps Remains Intact

On November 7, 2000, 55 percent of Washington voters (1.3 million people) approved Initiative 713 (I-713) which imposed state-wide restrictions on the use of body gripping traps. As a result, it is unlawful to:

- (1) use or authorize the use of any steel-jawed leghold trap, neck snare, or other body-gripping trap to capture any mammal for recreation or commerce in fur;
- (2) knowingly buy, sell, barter, or otherwise exchange, or offer to buy, sell, barter, or otherwise exchange the raw fur of a mammal or a mammal that has been trapped in this state with a steel-jawed leghold trap or any other body-gripping trap, whether or not pursuant to permit;
- (3) use or authorize the use of any steel-jawed leghold trap or any other body-gripping trap to capture any animal, except as provided in subsections (4) and (5) of RCW 77.15.194.

Any violation of RCW 77.15.194 is a gross misdemeanor.

Since its passage, several attempts have been made by certain interest groups to overturn the initiative, both legislatively and legally. On November 15, 2002, several organizations (Citizens for Responsible Wildlife Management; Inland Northwest Wildlife Council; Washingtonians for Wildlife Conservation; Citizens for Washington Wildlife; NAIA Trust; Ballot Issues Coalition; King County Outdoor Sports Council; Hunters Heritage Council; Washington Falconers Association; North American Falconers Association; Purse Seine Vessel Owners Association; Washington State Sheep Producers; and Washington Women for Commercial Fishing) filed an unsuccessful lawsuit in the Superior Court of Thurston County (Docket No: 01-2-02177-7), arguing that I-713 violated the State's duty to control and manage wildlife for the public's benefit under the public trust doctrine. On appeal, the Court of Appeals (Division II) affirmed the Superior Court's summary judgment in favor of the State, stating that "Washington voters did not give up control over the State's natural resources in violation of the public trust doctrine.... [I-713] as implemented provide[s] specific restrictions on techniques for...trapping certain wild animals.... this is an assumption of greater rather than lesser control."

In 2003, the state legislature passed SB 5179, which

would have effectively repealed I-713. Governor Locke vetoed the legislation, stating that it would "repeal the core principles underlying the initiative." Other unsuccessful legislative attempts to overturn I-713 include SB 5831 (2001) and HB 2641 (2006).

This year, several bills were introduced, which would have significantly weakened the current

restrictions on the use of body gripping traps. All of the bills failed to pass their house of origin by the March 12 deadline.

**LEGISLATION:** HB 1115

**COMPANION BILL:** SB 5389

**SPONSOR(S):** Blake, Orcutt, Takko, Goodman, Warnick, Van De Wege, Green, Ericks, McCune, Herrera, Hinkle

**PURPOSE:** As introduced, HB 1115 would have amended RCW 77.08.010 and 77.65.450, added a new chapter to Title 77 RCW, and repeal RCW 77.15.190, 77.15.191, 77.15.192, 77.15.194, 77.15.196, 77.15.198, 77.32.545, and 77.65.460 to expand the allowable use of "body gripping traps" in Washington.

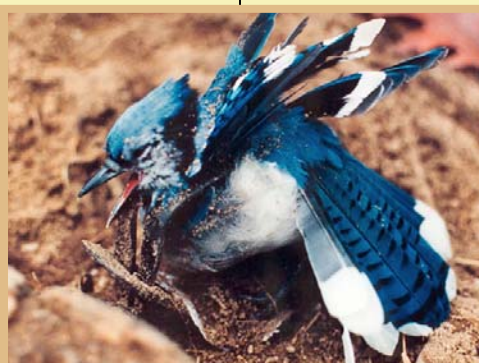
The traps, which would have been defined in the new legislation as "any trap, other than a net, that grips an animal's body or body part, including leghold and foothold traps, neck snares, and nonstrangling foot snares," would have been allowed for use, without restriction, against certain unprotected species, including moles, gophers, Eastern grey squirrels, and California ground squirrels (in addition to rats and mice, which are unprotected under the current regulatory scheme).

In addition, the Department of Fish and Wildlife (WDFW) would have been authorized to issue permits to public and private landowners and

other persons to use the heretofore prohibited body gripping traps to trap wild animals on their property. Namely, the legislation would have allowed for the use of body gripping traps by private land owners who assert that a specific "animal problem" (defined as "a situation where a wild animal threatens or damages either



Cat Paw Maimed In Leghold Trap  
www.predatordefense.org



Blue Jay Caught In A Leghold Trap  
www.furisdead.com

public or private property or resources, threatens or injures livestock or any other domestic animal, or creates a threat to public health and safety”) either exists *or could potentially exist*, and that nonlethal methods for addressing the animal problem cannot be reasonably and effectively applied. Additionally, WDFW would have been able to authorize certain commercial and government entities to use body-gripping traps. Specifically, an owner or operator of commercial timber, as defined in RCW 76.09.020, could have used the traps to capture mountain beavers. An airport operator could have used the traps, either on property controlled by the airport operator or on property in the immediate vicinity of the airport, to capture any wildlife not listed as threatened or endangered if the wildlife is posing a threat to human health and safety. Other professionals who may have been authorized to use the body gripping traps include WDFW employees WDFW and those working with their permission to protect threatened and endangered species, federal wildlife agencies, and wildlife researchers. The new legislation would also have made it legal to sell the fur of animals lawfully trapped with body gripping traps.



**LEGISLATION:** SB 5389

**COMPANION BILL:** HB 1115

**SPONSOR(S):** Hatfield, Schoesler, Jacobsen, Delvin, Hargrove, Swecker, Sheldon, Honeyford, Morton, Stevens  
**PURPOSE:** As introduced, SB 5389 would have amended RCW 77.08.010 and 77.65.450, repealed RCW 77.15.190, 77.15.191, 77.15.192, 77.15.194, 77.15.196, 77.15.198, 77.32.545 and 77.65.460, and added a new chapter to RCW 77, to authorize the Fish and Wildlife Commission to manage trapping of wild animals in Wash-

ington, establish a trapping license program, and mandate certain programs and regulations relevant to trapping in Washington.



Fox Caught in Leghold Trap  
[www.anthony-dacko.net](http://www.anthony-dacko.net)

Much like its companion bill, HB 1115, this bill would have expanded the allow-

able use of “body-gripping traps” in Washington. The traps, which are defined in the proposed legislation as “any trap, other than a net, that grips an animal’s body or body part, including leghold and foothold traps, neck snares, and nonstrangling foot snares,” would be allowed for use, without restriction, against certain unprotected species, including moles, gophers, Eastern

grey squirrels, and California ground squirrels (in addition to rats and mice, which are unprotected under the current regulatory scheme).

In addition, the Department of Fish and Wildlife (WDFW) would have been authorized to issue permits to public and private landowners and other persons to use the heretofore prohibited body-gripping traps to trap wild animals on their property. Namely, the legislation would have allowed the use of body-gripping traps by private land owners who assert that a specific “animal problem” (defined as “a situation where a wild animal threatens or damages either public or private property or resources, threatens or injures livestock or any other domestic animal, or creates a threat to public health and safety”) either exists *or could potentially exist*, and that nonlethal methods for addressing the animal problem cannot be reasonably and effectively applied.

Additionally, WDFW would have been able to authorize certain commercial and government entities to use body gripping traps. Specifically, an owner or operator of commercial timber, as defined in RCW 76.09.020, could have used the traps to capture mountain beavers.

**LEGISLATION:** SB 5123

**SPONSOR(S):** Pridemore, McDermott

**PURPOSE:** As introduced, SB5123 would have amended RCW 77.15.192, to add “any trap used to capture moles below the ground surface” to the list of exemptions from the current prohibition on the use of body-gripping traps.

**NOTES:** A 2002 Attorney General opinion (AGO 2002 No. 3), clarified that in addition to “body-gripping traps,” body-piercing traps, which impale, or “immobilize the trapped animal by piercing its body with a sharp rod activated by a spring mechanism,” are prohibited under I-713. Such body-piercing traps would have been legalized for use on moles under SB 5123.

**LEGISLATION:** SB 5382

**SPONSOR(S):** Morton, Jacobsen, Stevens, Swecker, Hewitt, Zarelli, King, Pflug, Parlette, Honeyford, Holmquist

**PURPOSE:** As introduced, SB 5382 would have amended RCW 77.15.192, to clarify what types of rat and mouse traps are permitted under that provision.

Currently, “common rat and mouse traps” are exempt from a state-wide ban on the use of body-gripping traps. Under the proposed law, the language would have been changed to exempt “traps used to capture old world rats and mice of the family Muridae of the order Rodentia and new world rats and mice of the family Cricetidae of the order Rodentia,” from the definition of “body-gripping traps.”

# MELEE ON THE RUNWAY: AIRCRAFT/ANIMAL STRIKES, CRAFTING EXTREME SOLUTIONS FOR INFLATED PROBLEMS

**LEGISLATION:** HB 2260

**SPONSORS:** McCoy, Warnick, Chandler, Nelson, Liias

**STATUS:** Failed to pass the House by the March 12 deadline.

**PURPOSE:** As introduced, HB 2260 would have amended RCW 77.12.240 and added a new section, to authorize operators of public airports, operators of private airports open to the public, and the United States Department of Agriculture's Wildlife Service (USDA/WS) to remove or kill wildlife (except threatened or endangered species), by any means, including trapping with "otherwise prohibited traps," from airports, property owned by airports, or from property in the immediate vicinity of an airport where wildlife poses a threat to human health or safety.

In the aviation context, the threat to human health or safety refers to the threat of aircraft/wildlife strikes resulting in human injuries or death, which the Federal Aviation Administration (FAA) acknowledges are "**extreme cases.**" Federal Aviation Administration, Wildlife Hazard Management at Airports: A Manual for Airport Personnel, 2005, at 111.

**NOTES:** According to the National Wildlife Strike Database, in Washington in 2008, there were **two** strikes with rabbits, **one** strike with a deer and **one** strike with a coyote, the remainder of the strikes were with birds and bats. In 2007 and 2006, **no** strikes with deer, rabbits or coyotes were recorded, only with birds and bats. In 2005, there was **one** strike with a coyote, the remainder were with birds and bats.

This legislation, therefore, could have authorized the removal and killing (by any means) of unknown numbers of mammals that are highly unlikely to be involved in plane strikes.

As for the birds who could have been targeted under HB 2260, the legislation fails to acknowledge the federal Migratory Bird Treaty Act of 1918 (16 U.S.C. § 603-711; 50 C.F.R. § 1-199), which protects migratory birds, their nests and eggs, as well as FAA and USDA/WS regulations and guidelines. "With few exceptions, a federal Migratory Bird Depredation Permit, and in many cases a state permit, is required before any migratory birds may be taken (captured or killed). A state permit is generally necessary before any state-protected birds or mammals may be taken. Any capturing or killing must be done humanely and only by people who are trained in wildlife species identification and the techniques to be deployed." Federal Aviation Administration, Wildlife Hazard Management at Airports: A Manual for Airport Personnel, 2005, at 127.

Furthermore, HB 2260 fails to address the importance of taking into account the extensive effective, legal and humane wildlife management methods that are avail-

able. The FAA instructs airport operators to use four "basic control strategies" to "solve wildlife problems on airports:"

- (1) aircraft flight schedule modification;
- (2) habitat modification and exclusion;
- (3) repellent and harassment techniques; and
- (4) wildlife removal ("In general, killing of wildlife on an airport is the **last option** deployed after habitat modification, exclusion techniques, and repellent actions have been implemented."). Federal Aviation Administration, Wildlife Hazard Management at Airports: A Manual for Airport Personnel, 2005, at 113, 129.

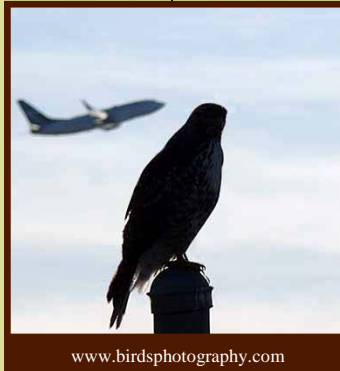
According to the FAA, "habitat modifications to make the airport and surrounding area as unattractive as possible to hazardous wildlife must be the foundation of every airport's Wildlife Hazard Management Plan....these control methods are generally well accepted by the public and minimize the need to harass or kill wildlife on the airport. *Id.*, at 114.

Furthermore, exclusion, which "involves the use of physical barriers to deny wildlife access to a particular area," is a "**permanent,**" and "**environmentally friendly**" solution, that "**might actually be the least expensive solution.**" *Id.*, at 118.

The most "effective, long-term solution" for excluding birds from airport property is "incorporating bird exclusion or deterrence into the design of structures," and the best procedure for excluding large mammals from air operation areas is proper fencing. *Id.*, at 118-119.

Finally, HB 2260 fails to address FAA's directive that **prior to implementing lethal wildlife management techniques, certain requirements must be met:**

- (1) "[d]ocumentation that the wildlife species is an economic, safety, or health threat;"
- (2) "[j]ustification of why nonlethal options are not adequate to solve the problem;"
- (3) "[a]n assessment of the impact that the killing will have on local and regional populations of the species (i.e., is the level of killing planned likely to result in a significant reduction in numbers of the species at the local or regional level?);"
- (4) "[a]ssurance that the killing procedure is appropriate (i.e., safe, effective, and humane) and specific for the target wildlife species;"
- (5) "[d]ocumentation of the effectiveness of the killing program in helping to solve the problem (e.g., reduction in bird strikes);" and
- (6) "[r]ecommended steps to be taken, if any are feasible, to reduce the need for killing in the future." *Id.*, at 130.



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# ANIMAL LAW CALENDAR

**August 21, 2009:** *Virginia Animal Law Conference*. Omni Hotel, Charlottesville, VA. CLE credit. Contact Nancy Miner at [nminer@vacle.org](mailto:nminer@vacle.org).

**August 22, 2009:** *Pet Law Workshop and Pizza in the Park*, Tacoma-Pierce County Bar Association. Point Defiance Park, Ft. Nisqually Picnic Area, WA, 10:00am-4:00pm. 5.5 CLE credits (and 5.5 CE credits for DVMs). \$65.00-\$140.00. <http://www.tpcba.com/files/library/87db1203d7064765.pdf>.

**August 26, 2009:** *Sixth Annual Animal Law Conference*, Pennsylvania Bar Institute. The CLE Conference Center, Wanamaker Bldg., 10th Floor, Ste. 1010, Philadelphia, PA, 9:00am-4:30pm. 6 CLE credits. <http://www.legalspan.com/pbi/catalog.asp?ItemID=20090208-207240-123331#DatesAndLocations>.

**September 23, 2009:** *First Annual Dog Bite Institute*, Washington State Bar Association Animal Law Section. Convention Center, Seattle, 8:00am-6:00pm. 7.25 general CLE credits, 0.75 ethics CLE credits. [adam@animal-lawyer.com](mailto:adam@animal-lawyer.com), [elizabeth@seattleanimallawyer.com](mailto:elizabeth@seattleanimallawyer.com).

**October 16-18, 2009:** *Animal Law Conference at Lewis and Clark: The Links*, Student Animal Legal Defense Fund (SALDF) of Lewis & Clark Law School and the Center for Animal Law Studies at Lewis & Clark. Lewis and Clark Law School, Portland Oregon. CLE credit. Early registration: July 6-August 31. Late Registration: September 1-October 15. [http://www.lclark.edu/law/student\\_groups/student\\_animal\\_legal\\_defense\\_fund/animal\\_law\\_conference](http://www.lclark.edu/law/student_groups/student_animal_legal_defense_fund/animal_law_conference).

**October 21-25, 2009:** *Human Animal Interaction: Impacting Multiple Species*, International Society for Anthrozoology & University of Missouri, College of Veterinary Medicine Research Center for Human Animal Interaction. Westin Crown Plaza, Kansas City, Missouri. [http://rechai.missouri.edu/isaz\\_hai09.htm](http://rechai.missouri.edu/isaz_hai09.htm).

**April 9, 2010:** *First Mid-Atlantic Regional Animal Law Symposium: The Impact On & Opportunities For Animals in the Current Political and Economic Climate*, Animal Law Section of the Maryland State Bar Association, in conjunction with the University Of Baltimore School Of Law and the University Of Pennsylvania School Of Law. University of Baltimore School of Law, 8:30am-4:30pm. [http://www.msba.org/sec\\_comm/sections/animallaw](http://www.msba.org/sec_comm/sections/animallaw). **CALL FOR PAPERS:** [http://www.msba.org/sec\\_comm/sections/animallaw/docs/CallForProposals.pdf](http://www.msba.org/sec_comm/sections/animallaw/docs/CallForProposals.pdf).

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