## ENGROSSED SUBSTITUTE SENATE BILL 6300

State of Washington 66th Legislature 2020 Regular Session

**By** Senate Law & Justice (originally sponsored by Senators Rivers, Pedersen, Zeiger, Kuderer, Frockt, and Lovelett)

READ FIRST TIME 01/31/20.

AN ACT Relating to animal welfare; amending RCW 16.08.100, 16.52.011, 16.52.085, 16.52.095, 16.52.200, 16.52.205, 16.52.207, 16.54.020, and 16.54.030; repealing RCW 16.08.030, 16.52.110, and 16.52.165; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 16.08.100 and 2002 c 244 s 3 are each amended to 7 read as follows:

8 (1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered 9 10 under RCW 16.08.080; (b) owner does not secure the liability 11 insurance coverage required under RCW 16.08.080; (c) dog is not 12 maintained in the proper enclosure; or (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not 13 14 under physical restraint of the responsible person. The owner must 15 pay the costs of confinement and control. The animal control 16 authority must serve notice upon the dog owner in person or by 17 regular and certified mail, return receipt requested, specifying the 18 reason for the confiscation of the dangerous dog, that the owner is 19 responsible for payment of the costs of confinement and control, and 20 that the dog will be destroyed in an expeditious and humane manner if 21 the deficiencies for which the dog was confiscated are not corrected

within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

6 (2) If a dangerous dog of an owner with a prior conviction under 7 this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in 8 accordance with RCW 9A.20.021. It is an affirmative defense that the 9 defendant must prove by a preponderance of the evidence that he or 10 11 she was in compliance with the requirements for ownership of a 12 dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the 13 14 defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall 15 16 be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in 17 18 an expeditious and humane manner.

19 (3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has 20 21 previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a class C felony punishable in 22 accordance with RCW 9A.20.021. It is an affirmative defense that the 23 defendant must prove by a preponderance of the evidence that the 24 25 human severely injured or killed by the defendant's dog: (a) Trespassed on the defendant's real or personal property which was 26 enclosed by fencing suitable to prevent the entry of young children 27 and designed to prevent the dog from escaping and marked with clearly 28 29 visible signs warning people, including children, not to trespass and to beware of dog; or (b) provoked the defendant's dog without 30 31 justification or excuse on the defendant's real or personal property 32 which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked 33 with clearly visible signs warning people, including children, not to 34 trespass and to beware of dog. In such a prosecution, the state has 35 the burden of showing that the owner of the dog either knew or should 36 have known that the dog was potentially dangerous as defined in this 37 chapter. The state may not meet its burden of proof that the owner 38 39 should have known the dog was potentially dangerous solely by showing 40 the dog to be a particular breed or breeds. In addition, the dog

shall be immediately confiscated by an animal control authority,
 quarantined, and upon conviction of the owner destroyed in an
 expeditious and humane manner.

4 (((4) Any person entering a dog in a dog fight is guilty of a 5 class C felony punishable in accordance with RCW 9A.20.021.))

6 **Sec. 2.** RCW 16.52.011 and 2019 c 174 s 3 are each amended to 7 read as follows:

8 (1) Principles of liability as defined in chapter 9A.08 RCW apply 9 to this chapter.

10 (2) The definitions in this section apply throughout this chapter 11 unless the context clearly requires otherwise.

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner, or by a person who has taken control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117, or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

18 (b) "Animal" means any nonhuman mammal, bird, reptile, or 19 amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (h) of this subsection and RCW 16.52.025.

34 (e) "Dog" means an animal of the species *Canis lupus familiaris*.

35 (f) "Euthanasia" means the humane destruction of an animal 36 accomplished by a method that involves instantaneous unconsciousness 37 and immediate death, or by a method that causes painless loss of 38 consciousness, and death during the loss of consciousness.

1 (g) "Food" means food or feed appropriate to the species for 2 which it is intended.

3 (h) "Humane officer" means any individual employed, contracted,
4 or appointed by an animal care and control agency or humane society
5 as authorized under RCW 16.52.025.

6 (i) "Law enforcement agency" means a general authority Washington 7 law enforcement agency as defined in RCW 10.93.020.

8 (j) "Livestock" includes, but is not limited to, horses, mules, 9 cattle, sheep, swine, goats, and bison.

10 (k) "Malice" has the same meaning as provided in RCW 9A.04.110, 11 but applied to acts against animals.

(1) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age, species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(m) "Necessary shelter" means a structure sufficient to protect a dog from wind, rain, snow, cold, heat, or sun that has bedding to permit a dog to remain dry and reasonably clean and maintain a normal body temperature.

(n) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(o) "Owner" means a person who has a right, claim, title, legal
 share, or right of possession to an animal or a person having lawful
 control, custody, or possession of an animal.

(p) "Person" means individuals, corporations, partnerships,
 associations, or other legal entities, and agents of those entities.

30 (q) (("Similar animal" means: (i) For a mammal, another animal 31 that is in the same taxonomic order; or (ii) for an animal that is 32 not a mammal, another animal that is in the same taxonomic class.

33 (r)) "Substantial bodily harm" means substantial bodily harm as 34 defined in RCW 9A.04.110.

35 (((s))) (r) "Tether" means: (i) To restrain an animal by tying or 36 securing the animal to any object or structure; and (ii) a device 37 including, but not limited to, a chain, rope, cable, cord, tie-out, 38 pulley, or trolley system for restraining an animal.

1 Sec. 3. RCW 16.52.085 and 2016 c 181 s 1 are each amended to 2 read as follows:

(1) If a law enforcement officer or animal control officer has 3 probable cause to believe that an owner of a domestic animal has 4 violated this chapter or a person owns, cares for, or resides with an 5 6 animal in violation of an order issued under RCW 16.52.200(4) and no 7 responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a 8 suitable place for feeding and care, or may place the animal under 9 the custody of an animal care and control agency. In determining what 10 11 is a suitable place, the officer shall consider the animal's needs, 12 including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the 13 animal is in an immediate life-threatening condition. 14

(2) If a law enforcement officer or an animal control officer has 15 probable cause to believe a violation of this chapter has occurred, 16 17 the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a 18 veterinarian to determine whether the level of neglect or abuse in 19 violation of this chapter is sufficient to require removal of the 20 animal. This section does not condone illegal entry onto private 21 22 property.

(3) Any owner whose domestic animal is removed pursuant to this 23 chapter shall be given written notice of the circumstances of the 24 25 removal and notice of legal remedies available to the owner. The 26 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 27 if the owner is known. In making the decision to remove an animal 28 29 pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal. 30

31 (4) The agency having custody of the animal may euthanize the 32 animal or may find a responsible person to adopt the animal not less 33 than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or 34 suffering animals at any time. An owner may prevent the animal's 35 36 destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return 37 subject to court-imposed conditions, or (b) posting a bond or 38 39 security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial 40

agency still has custody of the animal when the bond or security 1 expires, the animal shall become the agency's property unless the 2 court orders an alternative disposition. If a court order prevents 3 the agency from assuming ownership and the agency continues to care 4 for the animal, the court shall order the owner to post or renew a 5 6 bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, 7 or residing with ((a similar)) animals under RCW 16.52.200(4), the 8 agency having custody of the animal may assume ownership upon seizure 9 and the owner may not prevent the animal's destruction or adoption by 10 11 petitioning the court or posting a bond.

12 (5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of 13 the county where the animal was removed for the animal's return. The 14 petition shall be filed with the court. Copies of the petition must 15 16 be served on the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. 17 18 If the court grants the petition, the agency which seized the animal must surrender the animal to the owner at no cost to the owner. If a 19 criminal action is filed after the petition is filed but before the 20 hearing on the petition, then the petition shall be joined with the 21 22 criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

30 Sec. 4. RCW 16.52.095 and 1994 c 261 s 7 are each amended to 31 read as follows:

32 ((It shall not be lawful for)) (1) Except as provided in 33 subsection (2) of this section, it is a misdemeanor:

34 <u>(a) For</u> any person to cut off more than one-half of the ear or 35 ears of any domestic animal such as an ox, cow, bull, calf, sheep, 36 goat, or hog((, or dog, and any person cutting off more than one-half 37 of the ear or ears of any such animals, shall be deemed guilty of a 38 misdemeanor, and upon conviction, shall be fined in any sum less than 39 twenty dollars. This section does not apply if cutting off more than

1 one-half of the ear of the animal is a customary husbandry

2 practice)); or

3 (b) For any person to:

4 <u>(i) Devocalize a dog;</u>

5 (ii) Crop or cut off any part of the ear of a dog; or

6 <u>(iii) Crop or cut off any part of the tail of a dog that is seven</u> 7 <u>days old or older, or has opened its eyes, whichever occurs sooner.</u>

8 (2) This section does not apply if the person performing the 9 procedure is a licensed veterinarian utilizing accepted veterinary 10 surgical protocols that may include local anesthesia, general 11 anesthesia, or perioperative pain management.

12 Sec. 5. RCW 16.52.200 and 2016 c 181 s 2 are each amended to 13 read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

18 (2) In case of multiple misdemeanor or gross misdemeanor 19 convictions, the sentences shall be consecutive, however the 20 probationary period shall remain two years.

21 (3) In addition to the penalties imposed by the court, the court 22 shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this 23 24 chapter if any one of the animals involved dies as a result of a 25 violation of this chapter or if the defendant has a prior conviction 26 under this chapter. In other cases the court may enter an order 27 requiring the owner to forfeit the animal if the court deems the 28 animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited
 from owning, caring for, <u>possessing</u>, or residing with any ((similar))
 animals for a period of time as follows:

32 (a) Two years for a first conviction of animal cruelty in the33 second degree under RCW 16.52.207;

34 (b) Permanently for a first conviction of animal cruelty in the 35 first degree under RCW 16.52.205;

36 (c) Permanently for a second or subsequent conviction of animal
 37 cruelty, except as provided in subsection (5) of this section.

38 (5) If a person has no more than two convictions of animal 39 cruelty and each conviction is for animal cruelty in the second

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degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own ((or possess a similar animal)), care for, possess, or reside with animals five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

7 (a) The person's prior animal cruelty in the second degree 8 convictions;

(b) The type of harm or violence inflicted upon the animals;

9

10 (c) Whether the person has completed the conditions imposed by 11 the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning,
 caring for, <u>possessing</u>, or residing with ((similar)) animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

17 The court may delay its decision on forfeiture under subsection 18 (3) of this section until the end of the probationary period.

19 (6) In addition to fines and court costs, the defendant, only if 20 convicted or in agreement, shall be liable for reasonable costs 21 incurred pursuant to this chapter by law enforcement agencies, animal 22 care and control agencies, or authorized private or public entities 23 involved with the care of the animals. Reasonable costs include 24 expenses of the investigation, and the animal's care, euthanization, 25 or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of
one thousand dollars to the county to prevent cruelty to animals.
These funds shall be used to prosecute offenses under this chapter
and to care for forfeited animals pending trial.

30 (8) If a person violates the prohibition on owning, caring for, 31 <u>possessing</u>, or residing with ((similar)) animals under subsection (4) 32 of this section, that person:

33 (a) Shall pay a civil penalty of one thousand dollars for the 34 first violation;

35 (b) Shall pay a civil penalty of two thousand five hundred 36 dollars for the second violation; and

37 (c) Is guilty of a gross misdemeanor for the third and each 38 subsequent violation.

39 (9) As a condition of the sentence imposed under this chapter or
 40 RCW 9.08.070 through 9.08.078, the court may also order the defendant

to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

5 (10) Nothing in this section limits the authority of a law 6 enforcement officer, animal control officer, custodial agency, or 7 court to remove, adopt, euthanize, or require forfeiture of an animal 8 under RCW 16.52.085.

9 Sec. 6. RCW 16.52.205 and 2015 c 235 s 6 are each amended to 10 read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

17 (2) (a) A person is guilty of animal cruelty in the first degree 18 when, except as authorized by law <u>or as provided in (b) of this</u> 19 <u>subsection</u>, he or she, with criminal negligence, starves, dehydrates, 20 or suffocates an animal<u>, or exposes an animal to excessive heat or</u> 21 <u>cold</u> and as a result causes: ((-(a))) <u>(i)</u> Substantial and 22 unjustifiable physical pain that extends for a period sufficient to 23 cause considerable suffering; or ((-(b))) <u>(ii)</u> death.

(b) A person is not guilty of animal cruelty in the first degree by means of exposing an animal to excessive heat or cold if the exposure is due to an unforeseen or unpreventable accident or event caused exclusively by an extraordinary force of nature.

(3) A person is guilty of animal cruelty in the first degree whenhe or she:

30 (a) Knowingly engages in any sexual conduct or sexual contact31 with an animal;

32 (b) Knowingly causes, aids, or abets another person to engage in33 any sexual conduct or sexual contact with an animal;

34 (c) Knowingly permits any sexual conduct or sexual contact with 35 an animal to be conducted on any premises under his or her charge or 36 control;

37 (d) Knowingly engages in, organizes, promotes, conducts,
 38 advertises, aids, abets, participates in as an observer, or performs
 39 any service in the furtherance of an act involving any sexual conduct

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1 or sexual contact with an animal for a commercial or recreational 2 purpose; or

3 (e) Knowingly photographs or films, for purposes of sexual 4 gratification, a person engaged in a sexual act or sexual contact 5 with an animal.

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(4) Animal cruelty in the first degree is a class C felony.

7 (5) In addition to the penalty imposed in subsection (4) of this 8 section, the court ((may)) <u>must</u> order that the convicted person ((<del>do</del> 9 <del>any of the following:</del>

10 (a) Not harbor or own animals or reside in any household where 11 animals are present;

12 (b)) not own, care for, possess, or reside in any household
13 where an animal is present, in accordance with RCW 16.52.200.

14 (6) In addition to the penalties imposed in subsections (4) and 15 (5) of this section, the court may order that the convicted person:

16 (a) Participate in appropriate counseling at the defendant's
17 expense;

18 (((-))) (b) Reimburse the animal shelter or humane society for 19 any reasonable costs incurred for the care and maintenance of any 20 animals taken to the animal shelter or humane society as a result of 21 conduct proscribed in ((subsection (3) of)) this section.

((<del>(6)</del>)) <u>(7)</u> Nothing in this section ((may be considered to))
prohibits accepted animal husbandry practices or ((accepted
veterinary medical practices by)) prohibits a licensed veterinarian
or certified veterinary technician <u>from performing procedures on an</u>
animal that are accepted veterinary medical practices.

(((-7))) (8) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

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((<del>(8)</del>)) <u>(9)</u> For purposes of this section:

32 (a) "Animal" means every creature, either alive or dead, other33 than a human being.

(b) "Sexual conduct" means any touching ((<del>or</del>)) by a person of, fondling by a person of, transfer of saliva by a person to, or use of a foreign object by a person <u>on</u>, ((either directly or through clothing, of)) the sex organs or anus of an animal, either directly or through clothing, or any transfer or transmission of semen by the person upon any part of the animal((, for the purpose of sexual qratification or arousal of the person)). 1 (c) "Sexual contact" means any contact, however slight, between 2 the mouth, sex organ, or anus of a person and the <u>mouth</u>, sex organ, 3 or anus of an animal, or any intrusion, however slight, of any part 4 of the body of the person <u>or foreign object</u> into the sex organ or 5 anus of an animal, or any intrusion of the sex organ or anus of the 6 person into the mouth of the animal((, for the purpose of sexual 7 gratification or arousal of the person)).

8 (d) "Photographs" or "films" means the making of a photograph, 9 motion picture film, videotape, digital image, or any other 10 recording, sale, or transmission of the image.

11 Sec. 7. RCW 16.52.207 and 2019 c 174 s 2 are each amended to 12 read as follows:

13 (1) A person is guilty of animal cruelty in the second degree if, 14 under circumstances not amounting to first degree animal cruelty:

(a) The person knowingly, recklessly, or with criminal negligenceinflicts unnecessary suffering or pain upon an animal; or

(b) The person takes control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117 and knowingly, recklessly, or with criminal negligence abandons the animal((, and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm)).

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest,
 sanitation, space, or medical attention and the animal suffers
 unnecessary or unjustifiable physical pain as a result of the
 failure; or

32 (b) ((Under circumstances not amounting to animal cruelty in the 33 second degree under (c) of this subsection, abandons)) <u>Abandons</u> the 34 animal((; or

35 (c) Abandons the animal and (i) as a result of being abandoned, 36 the animal suffers bodily harm; or (ii) abandoning the animal creates 37 an imminent and substantial risk that the animal will suffer 38 substantial bodily harm)).

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(3) Animal cruelty in the second degree is a gross misdemeanor.

1 (((4) In any prosecution of animal cruelty in the second degree 2 under subsection (1)(a) or (2)(a) of this section, it shall be an 3 affirmative defense, if established by the defendant by a 4 preponderance of the evidence, that the defendant's failure was due 5 to economic distress beyond the defendant's control.))

6 **Sec. 8.** RCW 16.54.020 and 2011 c 336 s 425 are each amended to 7 read as follows:

8 Any person having in his or her care, custody, or control any 9 abandoned animal as defined in RCW 16.54.010, may deliver such animal 10 to any ((humane society having facilities for the care of such 11 animals or to any pound maintained by or under contract or agreement with any city or county within which such animal was abandoned. If no 12 13 such humane society or pound exists within the county)) animal care and control agency as defined in RCW 16.52.011 or to an animal rescue 14 15 group as defined in RCW 82.04.040 having the facilities and resources 16 necessary for the care of such animals. If such an animal care and control agency or animal rescue group cannot reasonably be identified 17 18 to receive the animal, the person with whom the animal was abandoned may notify the sheriff of the county wherein the abandonment 19 20 occurred.

21 Sec. 9. RCW 16.54.030 and 1955 c 190 s 3 are each amended to 22 read as follows:

23 It shall be the duty of the sheriff of such county upon being so 24 notified, to dispose of such animal as provided by law in reference to estrays if such law is applicable to the animal abandoned, or if 25 26 not so applicable then <u>deliver</u> such <u>an</u> animal <u>to any animal care and</u> control agency as defined in RCW 16.52.011 or to an animal rescue 27 group as defined in RCW 82.04.040 having the facilities and resources 28 29 necessary for the care of such an animal. If such an animal care and 30 control agency or animal rescue group cannot reasonably be identified to receive the animal, then such an animal shall be sold by the 31 sheriff at public auction. Notice of any such sale shall be given by 32 33 posting a notice in three public places in the county at least ten 34 days prior to such public sale. Proceeds of such sale shall be paid to the county treasurer for deposit in the county general fund. 35

36 <u>NEW SECTION.</u> Sec. 10. The following acts or parts of acts are 37 each repealed: 1 (1) RCW 16.08.030 (Marauding dog—Duty of owner to kill) and 1929 2 c 198 s 7;

3 (2) RCW 16.52.110 (Old or diseased animals at large) and 2011 c 4 336 s 424 & 1901 c 146 s 13; and

5 (3) RCW 16.52.165 (Punishment—Conviction of misdemeanor) and 1982 6 c 114 s 7 & 1901 c 146 s 16.

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