

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 434 Session of
1999

INTRODUCED BY READSHAW, BELARDI, GIGLIOTTI, BEBKO-JONES, KAISER,
WOJNAROSKI, WALKO, CASORIO, CAPPABIANCA, SAINATO, J. TAYLOR,
TRELLO, STABACK, CURRY, HARHAI, LAUGHLIN, RUFFING, DeLUCA,
ORIE, COLAFELLA, ROSS, DALEY, CIVERA, McCALL, RAMOS,
STEELMAN, FREEMAN, YOUNGBLOOD AND WILT, FEBRUARY 9, 1999

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 9, 1999

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 animal cruelty.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5511 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5511. Cruelty to animals.

9 (a) Killing, maiming or poisoning domestic animals or zoo
10 animals, etc.--

11 (1) A person commits a misdemeanor of the second degree
12 if he willfully and maliciously:

13 (i) Kills, maims or disfigures any domestic animal
14 of another person or any domestic fowl of another person.

15 (ii) Administers poison to or exposes any poisonous
16 substance with the intent to administer such poison to
17 any domestic animal of another person or domestic fowl of

1 another person.

2 (iii) Harasses, annoys, injures, attempts to injure,
3 molests or interferes with a dog guide for an individual
4 who is blind, a hearing dog for an individual who is deaf
5 or audibly impaired or a service dog for an individual
6 who is physically limited.

7 Any person convicted of violating the provisions of this
8 paragraph shall be sentenced to pay a fine of not less than
9 \$500.

10 (2) A person commits a felony of the third degree if he
11 willfully and maliciously:

12 (i) Kills, maims or disfigures any zoo animal in
13 captivity.

14 (ii) Administers poison to or exposes any poisonous
15 substance with the intent to administer such poison to
16 any zoo animal in captivity.

17 (2.1) (i) A person commits a misdemeanor of the second
18 degree if he willfully and maliciously:

19 (A) Kills, maims, mutilates, tortures or
20 disfigures any [dog or cat] animal, whether belonging
21 to himself or otherwise.

22 (B) Administers poison to or exposes any
23 poisonous substance with the intent to administer
24 such poison to any [dog or cat] animal, whether
25 belonging to himself or otherwise.

26 (ii) Any person convicted of violating the
27 provisions of this paragraph shall be sentenced to pay a
28 fine of not less than \$1,000 or to imprisonment for not
29 more than two years, or both. A subsequent conviction
30 under this paragraph shall be a felony of the third

1 degree. This paragraph shall apply to [dogs and cats]
2 animals only.

3 (iii) The killing of [a dog or cat] an animal by the
4 owner of that animal is not malicious if it is
5 accomplished in accordance with the act of December 22,
6 1983 (P.L.303, No.83), referred to as the Animal
7 Destruction Method Authorization Law.

8 (3) This subsection shall not apply to:

9 (i) the killing of any animal taken or found in the
10 act of actually destroying any domestic animal or
11 domestic fowl;

12 (ii) the killing of any animal or fowl pursuant to
13 the act of June 3, 1937 (P.L.1225, No.316), known as The
14 Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring
15 dogs public nuisances) and 2385 (relating to destruction
16 of dogs declared public nuisances), or the regulations
17 promulgated thereunder; or

18 (iii) such reasonable activity as may be undertaken
19 in connection with vermin control or pest control.

20 (b) Regulating certain actions concerning fowl or rabbits.--

21 A person commits a summary offense if he sells, offers for sale,
22 barter, or gives away baby chickens, ducklings, or other fowl,
23 under one month of age, or rabbits under two months of age, as
24 pets, toys, premiums or novelties or if he colors, dyes, stains
25 or otherwise changes the natural color of baby chickens,
26 ducklings or other fowl, or rabbits or if he brings or
27 transports the same into this Commonwealth. This section shall
28 not be construed to prohibit the sale or display of such baby
29 chickens, ducklings, or other fowl, or such rabbits, in proper
30 facilities by persons engaged in the business of selling them

1 for purposes of commercial breeding and raising.

2 (c) Cruelty to animals.--A person commits a summary offense
3 if he wantonly or cruelly illtreats, overloads, beats, otherwise
4 abuses any animal, or neglects any animal as to which he has a
5 duty of care, whether belonging to himself or otherwise, or
6 abandons any animal, or deprives any animal of necessary
7 sustenance, drink, shelter or veterinary care, or access to
8 clean and sanitary shelter which will protect the animal against
9 inclement weather and preserve the animal's body heat and keep
10 it dry. [This subsection shall not apply to activity undertaken
11 in normal agricultural operation.] Unless gross negligence can
12 be shown, this section shall not apply to agricultural practices
13 commonly accepted by the entire community.

14 (d) Selling or using disabled horse.--A person commits a
15 summary offense if he offers for sale or sells any horse, which
16 by reason of debility, disease or lameness, or for other cause,
17 could not be worked or used without violating the laws against
18 cruelty to animals, or leads, rides, drives or transports any
19 such horse for any purpose, except that of conveying the horse
20 to the nearest available appropriate facility for its humane
21 keeping or destruction or for medical or surgical treatment.

22 (e) Transporting animals in cruel manner.--A person commits
23 a summary offense if he carries, or causes, or allows to be
24 carried in or upon any cart, or other vehicle whatsoever, any
25 animal in a cruel or inhumane manner. The person taking him into
26 custody may take charge of the animal and of any such vehicle
27 and its contents, and deposit the same in some safe place of
28 custody, and any necessary expenses which may be incurred for
29 taking charge of and keeping the same, and sustaining any such
30 animal, shall be a lien thereon, to be paid before the same can

1 lawfully be recovered, or the said expenses or any part thereof
2 remaining unpaid may be recovered by the person incurring the
3 same from the owner of said creature in any action therefor.

4 For the purposes of this section, it shall not be deemed
5 cruel or inhumane to transport live poultry in crates so long as
6 not more than 15 pounds of live poultry are allocated to each
7 cubic foot of space in the crate.

8 (f) Hours of labor of animals.--A person commits a summary
9 offense if he leads, drives, rides or works or causes or permits
10 any other person to lead, drive, ride or work any horse, mare,
11 mule, ox, or any other animal, whether belonging to himself or
12 in his possession or control, for more than 15 hours in any 24
13 hour period, or more than 90 hours in any one week.

14 Nothing in this subsection contained shall be construed to
15 warrant any persons leading, driving, riding or walking any
16 animal a less period than 15 hours, when so doing shall in any
17 way violate the laws against cruelty to animals.

18 (g) Cruelty to cow to enhance appearance of udder.--A person
19 commits a summary offense if he kneads or beats or pads the
20 udder of any cow, or willfully allows it to go unmilked for a
21 period of 24 hours or more, for the purpose of enhancing the
22 appearance or size of the udder of said cow, or by a muzzle or
23 any other device prevents its calf, if less than six weeks old,
24 from obtaining nourishment, and thereby relieving the udder of
25 said cow, for a period of 24 hours.

26 (h) Cropping ears of dog; prima facie evidence of
27 violation.--A person commits a summary offense if he crops or
28 cuts off, or causes or procures to be cropped or cut off, the
29 whole, or part of the ear or ears of a dog or shows or exhibits
30 or procures the showing or exhibition of any dog whose ear is or

1 ears are cropped or cut off, in whole or in part, unless the
2 person showing such dog has in his possession either a
3 certificate of veterinarian stating that such cropping was done
4 by the veterinarian or a certificate of registration from a
5 county treasurer, showing that such dog was cut or cropped
6 before this section became effective.

7 The provisions of this section shall not prevent a
8 veterinarian from cutting or cropping the whole or part of the
9 ear or ears of a dog when such dog is anesthetized, and shall
10 not prevent any person from causing or procuring such cutting or
11 cropping of a dog's ear or ears by a veterinarian.

12 The possession by any person of a dog with an ear or ears cut
13 off or cropped and with the wound resulting therefrom unhealed,
14 or any such dog being found in the charge or custody of any
15 person or confined upon the premises owned by or under the
16 control of any person, shall be prima facie evidence of a
17 violation of this subsection by such person except as provided
18 for in this subsection.

19 The owner of any dog whose ear or ears have been cut off or
20 cropped before this section became effective may, if a resident
21 of this Commonwealth, register such dog with the treasurer of
22 the county where he resides, and if a nonresident of this
23 Commonwealth, with the treasurer of any county of this
24 Commonwealth, by certifying, under oath, that the ear or ears of
25 such dog were cut or cropped before this section became
26 effective, and the payment of a fee of \$1 into the county
27 treasury. The said treasurer shall thereupon issue to such
28 person a certificate showing such dog to be a lawfully cropped
29 dog.

30 (h.1) Animal fighting.--A person commits a felony of the

1 third degree if he:

2 (1) for amusement or gain, causes, allows or permits any
3 animal to engage in animal fighting;

4 (2) receives compensation for the admission of another
5 person to any place kept or used for animal fighting;

6 (3) owns, possesses, keeps, trains, promotes, purchases
7 or knowingly sells any animal for animal fighting;

8 (4) in any way knowingly encourages, aids or assists
9 therein;

10 (5) wagers on the outcome of an animal fight;

11 (6) pays for admission to an animal fight or attends an
12 animal fight as a spectator; or

13 (7) knowingly permits any place under his control or
14 possession to be kept or used for animal fighting.

15 This subsection shall not apply to activity undertaken in a
16 normal agricultural operation.

17 (i) Power to initiate criminal proceedings.--An agent of any
18 society or association for the prevention of cruelty to animals,
19 incorporated under the laws of the Commonwealth, shall have the
20 same powers to initiate criminal proceedings provided for police
21 officers by the Pennsylvania Rules of Criminal Procedure. An
22 agent of any society or association for the prevention of
23 cruelty to animals, incorporated under the laws of this
24 Commonwealth, shall have standing to request any court of
25 competent jurisdiction to enjoin any violation of this section.

26 (j) Seizure of animals kept or used for animal fighting.--
27 Any police officer or agent of a society or association for the
28 prevention of cruelty to animals incorporated under the laws of
29 this Commonwealth, shall have power to seize any animal kept,
30 used, or intended to be used for animal fighting. When the

1 seizure is made, the animal or animals so seized shall not be
2 deemed absolutely forfeited, but shall be held by the officer or
3 agent seizing the same until a conviction of some person is
4 first obtained for a violation of subsection (h.1). The officer
5 or agent making such seizure shall make due return to the
6 issuing authority, of the number and kind of animals or
7 creatures so seized by him. Where an animal is thus seized, the
8 police officer or agent is authorized to provide such care as is
9 reasonably necessary, and where any animal thus seized is found
10 to be disabled, injured or diseased beyond reasonable hope of
11 recovery, the police officer or agent is authorized to provide
12 for the humane destruction of the animal. In addition to any
13 other penalty provided by law, the authority imposing sentence
14 upon a conviction for any violation of subsection (h.1) shall
15 order the forfeiture or surrender of any abused, neglected or
16 deprived animal of the defendant to any society or association
17 for the prevention of cruelty to animals duly incorporated under
18 the laws of this Commonwealth and shall require that the owner
19 pay the cost of the keeping, care and destruction of the animal.

20 (k) Killing homing pigeons.--A person commits a summary
21 offense if he shoots, maims or kills any antwerp or homing
22 pigeon, either while on flight or at rest, or detains or entraps
23 any such pigeon which carries the name of its owner.

24 (l) Search warrants.--Where a violation of this section is
25 alleged, any issuing authority may, in compliance with the
26 applicable provisions of the Pennsylvania Rules of Criminal
27 Procedure, issue to any police officer or any agent of any
28 society or association for the prevention of cruelty to animals
29 duly incorporated under the laws of this Commonwealth a search
30 warrant authorizing the search of any building or any enclosure

1 in which any violation of this section is occurring or has
2 occurred, and authorizing the seizure of evidence of the
3 violation including, but not limited to, the animals which were
4 the subject of the violation. Where an animal thus seized is
5 found to be neglected or starving, the police officer or agent
6 is authorized to provide such care as is reasonably necessary,
7 and where any animal thus seized is found to be disabled,
8 injured or diseased beyond reasonable hope of recovery, the
9 police officer or agent is authorized to provide for the humane
10 destruction of the animal. The cost of the keeping, care and
11 destruction of the animal shall be paid by the owner thereof and
12 claims for the costs shall constitute a lien upon the animal. In
13 addition to any other penalty provided by law, the authority
14 imposing sentence upon a conviction for any violation of this
15 section [may] shall require that the owner pay the cost of the
16 keeping, care and destruction of the animal. No search warrant
17 shall be issued based upon an alleged violation of this section
18 which authorizes any police officer or agent or other person to
19 enter upon or search premises where scientific research work is
20 being conducted by, or under the supervision of, graduates of
21 duly accredited scientific schools or where biological products
22 are being produced for the care or prevention of disease.

23 (m) Forfeiture.--In addition to any other penalty provided
24 by law, the authority imposing sentence upon a conviction for
25 any violation of this section [may] shall order the forfeiture
26 or surrender of any abused, neglected or deprived animal of the
27 defendant to any society or association for the prevention of
28 cruelty to animals duly incorporated under the laws of this
29 Commonwealth.

30 (m.1) Fine for summary offense.--In addition to any other

1 penalty provided by law, a person convicted of a summary offense
2 under this section shall pay a fine of not less than \$50 nor
3 more than \$750 or to imprisonment for not more than 90 days, or
4 both.

5 (n) Skinning of and selling or buying pelts of dogs and
6 cats.--A person commits a summary offense if he skins a dog or
7 cat or offers for sale or exchange or offers to buy or exchange
8 the pelt or pelts of any dog or cat.

9 (n.1) Psychological counseling and community service.--The
10 authority imposing sentence may order a person convicted under
11 this section to participate in available animal cruelty programs
12 or education programs, or both, or to obtain psychological
13 counseling or treatment of mental health disorders that, in the
14 judgment of the authority imposing sentence, contributed to the
15 commission of the crime. The person so convicted shall bear any
16 costs incurred for participation in counseling or treatment
17 programs under this section. The authority imposing sentence may
18 order a person convicted under this section to participate in
19 community service work at an animal shelter for a specified
20 period of time. The organization shall report to the authority
21 imposing sentence whether or not the person convicted has
22 completed the required community service work.

23 (o) Representation of humane society by attorney.--Upon
24 prior authorization and approval by the district attorney of the
25 county in which the proceeding is held, an association or agent
26 may be represented in any proceeding under this section by any
27 attorney admitted to practice before the Supreme Court of
28 Pennsylvania and in good standing. [Attorney's] Attorney fees
29 shall be borne by the humane society or association which is
30 represented unless a conviction occurs; then the authority

1 imposing sentence shall order the person so convicted to pay the
2 attorney fees.

3 (o.1) Construction of section.--The provisions of this
4 section shall not supersede the act of December 7, 1982
5 (P.L.784, No.225), known as the Dog Law.

6 (p) Applicability of section.--This section shall not apply
7 to, interfere with or hinder any activity which is authorized or
8 permitted pursuant to the act of June 3, 1937 (P.L.1225,
9 No.316), known as The Game Law or Title 34 (relating to game).

10 (q) Definitions.--As used in this section, the following
11 words and phrases shall have the meanings given to them in this
12 subsection:

13 "Animal fighting." Fighting or baiting any bull, bear, dog,
14 cock or other creature.

15 "Audibly impaired." The inability to hear air conduction
16 thresholds at an average of 40 decibels or greater in the better
17 ear.

18 "Blind." Having a visual acuity of 20/200 or less in the
19 better eye with correction or having a limitation of the field
20 of vision such that the widest diameter of the visual field
21 subtends an angular distance not greater than 20 degrees.

22 "Deaf." Totally impaired hearing or hearing with or without
23 amplification which is so seriously impaired that the primary
24 means of receiving spoken language is through other sensory
25 input, including, but not limited to, lip reading, sign
26 language, finger spelling or reading.

27 "Domestic animal." Any dog, cat, equine animal, bovine
28 animal, sheep, goat or porcine animal.

29 "Domestic fowl." Any avis raised for food, hobby or sport.

30 "Normal agricultural operation." Normal activities,

1 practices and procedures that farmers adopt, use or engage in
2 year after year in the production and preparation for market of
3 poultry, livestock and their products in the production and
4 harvesting of agricultural, agronomic, horticultural,
5 silvicultural and aquicultural crops and commodities.

6 "Physically limited." Having limited ambulation, including,
7 but not limited to, a temporary or permanent impairment or
8 condition that causes an individual to use a wheelchair or walk
9 with difficulty or insecurity, affects sight or hearing to the
10 extent that an individual is insecure or exposed to danger,
11 causes faulty coordination or reduces mobility, flexibility,
12 coordination or perceptiveness.

13 "Zoo animal." Any member of the class of mammalia, aves,
14 amphibia or reptilia which is kept in a confined area by a
15 public body or private individual for purposes of observation by
16 the general public.

17 Section 2. This act shall take effect in 60 days.