

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869 Session of 2015

INTRODUCED BY BIZZARRO, W. KELLER, SCHREIBER, FLYNN, MILLARD, DRISCOLL, KINSEY, PASHINSKI, O'BRIEN, V. BROWN, CRUZ, McNEILL, THOMAS, DAVIS, SCHWEYER, YOUNGBLOOD, D. COSTA, SCHLOSSBERG, READSHAW, MAHONEY, GOODMAN, HARHAI, SIMMONS, DeLUCA, HARKINS, MURT, DONATUCCI, WATSON, KIM, D. MILLER, D. PARKER, RAVENSTAHL, SIMS, MICCARELLI, MATZIE, GIBBONS, R. BROWN AND HELM, APRIL 1, 2015

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES, OCTOBER 27, 2016

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in riot, disorderly conduct and
3 related offenses, further providing for the offense of
4 cruelty to animals.

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

7 Section 1. Section 5511(a)(2.1), (c), (m) and (q) of Title
8 18 of the Pennsylvania Consolidated Statutes are amended and the
9 section is amended by adding a subsection to read:

10 § 5511. Cruelty to animals.

11 (a) Killing, maiming or poisoning domestic animals or zoo
12 animals, etc.--

13 * * *

14 (2.1) (i) A person commits a misdemeanor of the first
15 degree if he willfully and maliciously:

16 (A) Kills, maims, mutilates, tortures or

1 disfigures any dog [or], cat or equine animal,
2 whether belonging to himself or otherwise. [If a
3 person kills, maims, mutilates, tortures or
4 disfigures a dog guide for an individual who is
5 blind, a hearing dog for an individual who is deaf or
6 audibly impaired or a service dog for an individual
7 who is physically limited, whether belonging to the
8 individual or otherwise, that person, in addition to
9 any other applicable penalty, shall be required to
10 make reparations for veterinary costs in treating the
11 dog and, if necessary, the cost of obtaining and
12 training a replacement dog.]

13 (B) Administers poison to or exposes any
14 poisonous substance with the intent to administer
15 such poison to any dog [or], cat or equine animal,
16 whether belonging to himself or otherwise.

17 (ii) Any person convicted of violating the
18 provisions of this paragraph shall be sentenced to pay a
19 fine of not less than \$1,000 or to imprisonment for not
20 more than two years, or both. The court may also order a
21 presentence mental evaluation. A subsequent conviction
22 under this paragraph shall be a felony of the third
23 degree. [This paragraph shall apply to dogs and cats
24 only.]

25 (iii) The killing of a dog [or], cat or equine
26 animal by the owner of that animal is not malicious if it
27 is accomplished in accordance with the act of December
28 22, 1983 (P.L.303, No.83), referred to as the Animal
29 Destruction Method Authorization Law.

30 (iv) If a person kills, maims, mutilates, tortures

1 or disfigures a guide dog for an individual who is blind,
2 a hearing dog for an individual who is deaf or audibly
3 impaired or a service dog for an individual who is
4 physically limited, whether belonging to the individual
5 or otherwise, that person, in addition to any other
6 applicable penalty, shall be required to make reparations
7 for veterinary costs in treating the dog and, if
8 necessary, the cost of obtaining and training a
9 replacement dog.

10 * * *

11 (c) Cruelty to animals.--

12 (1) A person commits an offense if he [wantonly or
13 cruelly] knowingly or recklessly illtreats, overloads, beats,
14 otherwise abuses any animal, or neglects any animal as to
15 which he has a duty of care, whether belonging to himself or
16 otherwise, or abandons any animal, or deprives any animal of
17 necessary sustenance, drink, shelter or veterinary care, or
18 access to clean and sanitary shelter which will protect the
19 animal against inclement weather and preserve the animal's
20 body heat and keep [it] the animal dry.

21 (2) (i) Except as provided in subparagraph (ii), a
22 person convicted of violating paragraph (1) commits a
23 summary offense.

24 (ii) A person convicted for a second or subsequent
25 time of violating paragraph (1) commits a misdemeanor of
26 the third degree if all of the following occurred:

27 (A) The action or omission for which the person
28 was convicted for a subsequent time was performed on
29 a dog or cat.

30 (B) The dog or cat was seriously injured,

1 suffered severe physical distress or was placed at
2 imminent risk of serious physical harm as the result
3 of the person's action or omission.

4 (3) This subsection shall not apply to activity
5 undertaken in normal agricultural operation.

6 (4) Tethering an unattended dog out of doors for more
7 than nine hours within a 24-hour period or without providing
8 for the animal's basic needs, as set forth in this paragraph,
9 shall constitute neglect within the meaning of this section.

10 The following shall apply:

11 (i) A tether must be of a type and length commonly
12 used for the size and breed of dog. A tether must be the
13 longer of 10 feet, or three times the length of the dog
14 as measured from the tip of its nose to the base of its
15 tail. No tow or log chain may be used.

16 (ii) A tether must be secured by means of a swivel
17 anchor, swivel latch or any other mechanism designed to
18 prevent the dog from becoming entangled. A tether must be
19 connected to a well-fitted collar or body harness. No
20 choke, pinch, prong or chain collar may be used.

21 (iii) A tethered dog must have access to potable
22 water and an area of shade that permits the dog to escape
23 the direct rays of the sun.

24 (5) The presence of any of the following conditions
25 regarding a tethered dog shall create a rebuttable
26 presumption of neglect:

27 (i) Excessive waste or excrement in the area where
28 the dog is tethered.

29 (ii) The dog has been tethered out of doors for more
30 than 30 minutes in temperatures above 90 degrees or below

1 32 degrees Fahrenheit.

2 (6) Paragraph (4) shall not be construed to prohibit any
3 of the following:

4 (i) Tethering a dog while actively engaged in lawful
5 hunting, exhibition, performance events or field
6 training.

7 (ii) Tethering a hunting, sporting or sledding dog
8 breed where tethering is integral to the training,
9 conditioning or purpose of the dog.

10 (iii) Tethering a dog in compliance with the
11 requirements of a camping or recreational area.

12 (iv) Tethering a dog for a period of time, not to
13 exceed one hour, reasonably necessary for the dog or
14 person to complete a temporary task.

15 (c.1) Aggravated cruelty to animals.--

16 (1) A person commits the offense of aggravated cruelty
17 to animals if an animal suffers bodily injury, as defined in
18 18 Pa.C.S. § 2301 (relating to definitions), as a result of
19 the person knowingly or recklessly torturing or abusing an
20 animal.

21 (2) (i) Except as provided in subparagraph (ii), a
22 person convicted of violating paragraph (1) commits a
23 misdemeanor of the first degree.

24 (ii) A person convicted of violating paragraph (1)
25 in a case where the animal suffers serious bodily injury,
26 as defined in 18 Pa.C.S. § 2301, or death commits a
27 felony of the third degree.

28 ~~(3) This subsection shall not apply to activity~~ <--
29 ~~undertaken in normal agricultural operation.~~

30 (3) THIS SUBSECTION SHALL NOT APPLY TO ACTIVITY <--

1 UNDERTAKEN IN NORMAL AGRICULTURAL OPERATION OR THE DELIBERATE
2 WOUNDING OF AN ANIMAL AS A RESULT OF THE USE OF A FIREARM,
3 ARCHERY, TRAP OR OTHER LEGAL LETHAL MEANS, PROVIDED THAT THE
4 WOUNDING OCCURS IN AN ATTEMPT TO TAKE THE ANIMAL FOR A LEGAL
5 PURPOSE.

6 * * *

7 (m) Forfeiture.--[In]

8 (1) Except as provided under paragraph (2), in addition
9 to any other penalty provided by law, the authority imposing
10 sentence upon a conviction for any violation of this section
11 may order the forfeiture or surrender of any abused,
12 neglected or deprived animal of the defendant to any society
13 or association for the prevention of cruelty to animals duly
14 incorporated under the laws of this Commonwealth.

15 (2) If the conviction under this subsection is for an
16 offense graded as a misdemeanor of the first or second degree
17 or as a felony under subsection (a), the authority imposing
18 sentence shall order forfeiture or surrender of any abused,
19 neglected or deprived animal of the defendant to any society
20 or association for the prevention of cruelty to animals duly
21 incorporated under the laws of this Commonwealth.

22 * * *

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

26 "Animal fighting." Fighting or baiting any bull, bear, dog,
27 cock or other creature.

28 "Animal fighting paraphernalia." Any device, implement,
29 object or drug used or intended to be used for animal fighting,
30 to train an animal for animal fighting or in furtherance of

1 animal fighting. In determining whether an object is animal
2 fighting paraphernalia, a court or other authority should
3 consider statements by an owner or by anyone in control of the
4 object concerning its use, any prior convictions under Federal
5 or State law relating to animal fighting, the proximity of the
6 object in time and space to the direct violation of this
7 section, direct or circumstantial evidence of the intent of the
8 accused to deliver the object to persons whom he or she knows or
9 should reasonably know intends to use the object to facilitate a
10 violation of this section, oral or written instructions provided
11 with or in the vicinity of the object concerning its use,
12 descriptive materials accompanying the object which explain or
13 depict its use and all other logically relevant factors.

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

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

21 "Conveyance." A truck, tractor, trailer or semitrailer, or
22 any combination of these, propelled or drawn by mechanical
23 power.

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

29 "Domestic animal." Any dog, cat, equine animal, bovine
30 animal, sheep, goat or porcine animal.

1 "Domestic fowl." Any avian raised for food, hobby or sport.

2 "Equine animal." Any member of the Equidae family, which
3 includes horses, asses, mules, ponies and zebras.

4 "Normal agricultural operation." Normal activities,
5 practices and procedures that farmers adopt, use or engage in
6 year after year in the production and preparation for market of
7 poultry, livestock and their products in the production and
8 harvesting of agricultural, agronomic, horticultural,
9 silvicultural and aquicultural crops and commodities.

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

17 "Torture." The term includes any of the following, unless
18 directed to be performed by a licensed veterinarian:

19 (1) breaking, severing or severely impairing limbs;

20 (2) inflicting severe and prolonged pain from burning,
21 crushing or wounding; or

22 (3) causing or allowing, through prolonged deprivation
23 of food or sustenance, the loss of more than one-third of the
24 animal's normal body mass without veterinary care.

25 "Zoo animal." Any member of the class of mammalia, aves,
26 amphibia or reptilia which is kept in a confined area by a
27 public body or private individual for purposes of observation by
28 the general public.

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