

AMENDMENTS TO HOUSE BILL NO. 869

Sponsor: SENATOR ALLOWAY

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1 Amend Bill, page 1, lines 6 through 9, by striking out all of
2 said lines

3 Amend Bill, page 1, by inserting after line 16

4 Section 1. Section 5511(a)(2.1), (c) and (m) of Title 18 of
5 the Pennsylvania Consolidated Statutes are amended and the
6 section is amended by adding subsections to read:

7 § 5511. Cruelty to animals.

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

10 * * *

11 (2.1) (i) A person commits a misdemeanor of the first
12 degree if he willfully and maliciously:

13 (A) Kills, maims, mutilates, tortures or
14 disfigures any dog [or], cat or equine animal,
15 whether belonging to himself or otherwise. [If a
16 person kills, maims, mutilates, tortures or
17 disfigures a dog guide for an individual who is
18 blind, a hearing dog for an individual who is deaf or
19 audibly impaired or a service dog for an individual
20 who is physically limited, whether belonging to the
21 individual or otherwise, that person, in addition to
22 any other applicable penalty, shall be required to
23 make reparations for veterinary costs in treating the
24 dog and, if necessary, the cost of obtaining and
25 training a replacement dog.]

26 (B) Administers poison to or exposes any
27 poisonous substance with the intent to administer
28 such poison to any dog [or], cat or equine animal,
29 whether belonging to himself or otherwise.

30 (ii) Any person convicted of violating the
31 provisions of this paragraph shall be sentenced to pay a
32 fine of not less than \$1,000 or to imprisonment for not
33 more than two years, or both. The court may also order a
34 presentence mental evaluation. A subsequent conviction
35 under this paragraph shall be a felony of the third
36 degree. [This paragraph shall apply to dogs and cats
37 only.]

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

6 (iv) If a person kills, maims, mutilates, tortures
7 or disfigures a guide dog for an individual who is blind,
8 a hearing dog for an individual who is deaf or audibly
9 impaired or a service dog for an individual who is
10 physically limited, whether belonging to the individual
11 or otherwise, that person, in addition to any other
12 applicable penalty, shall be required to make reparations
13 for veterinary costs in treating the dog and, if
14 necessary, the cost of obtaining and training a
15 replacement dog.

16 (v) For purposes of this paragraph, "torture" shall
17 include any of the following, unless directed to be
18 performed by a licensed veterinarian:

19 (A) breaking, severing or severely impairing
20 limbs;

21 (B) inflicting severe and prolonged pain from
22 burning, crushing or wounding; or

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

27 * * *

28 (c) Cruelty to animals.--

29 (1) A person commits an offense if he [wantonly or
30 cruelly] knowingly or recklessly illtreats, overloads, beats,
31 otherwise abuses any animal, or neglects any animal as to
32 which he has a duty of care, whether belonging to himself or
33 otherwise, or abandons any animal, or deprives any animal of
34 necessary sustenance, drink, shelter or veterinary care, or
35 access to clean and sanitary shelter which will protect the
36 animal against inclement weather and preserve the animal's
37 body heat and keep [it] the animal dry.

38 (2) (i) Except as provided in [subparagraph]
39 subparagraphs (ii) and (iii), a person convicted of
40 violating paragraph (1) commits a summary offense.

41 (ii) A person convicted for a second or subsequent
42 time of violating paragraph (1) commits a misdemeanor of
43 the third degree [if all of the following occurred:

44 (A) The action or omission for which the person
45 was convicted for a subsequent time was performed on
46 a dog or cat.

47 (B) The dog or cat was seriously injured,
48 suffered severe physical distress or was placed at
49 imminent risk of serious physical harm as the result
50 of the person's action or omission.]
51 (iii) A person convicted of violating paragraph (1)

1 in combination with a first violation of paragraph (4) or
2 (5) or subsection (c.1) commits a misdemeanor of the
3 third degree.

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 When the same dog is observed to be tethered in the same
11 location that it was after an initial observation of the dog
12 in that location, there shall be a rebuttable presumption
13 that the dog has been continuously tethered in that location
14 since the initial observation. The following shall apply:

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

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

25 (iii) A tethered dog must have access to potable
26 water and an area of shade that permits the dog to escape
27 the direct rays of the sun aside from the shelter
28 required by this section.

29 (5) The presence of any of the following conditions
30 regarding a tethered dog shall create a rebuttable
31 presumption of neglect:

32 (i) Excessive waste or excrement in the area where
33 the dog is tethered.

34 (ii) The dog has been tethered out of doors for more
35 than 30 minutes in temperatures above 90 degrees or below
36 32 degrees Fahrenheit.

37 (iii) The dog is tethered in an area where a severe
38 weather warning has been issued by the National Weather
39 Service.

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

42 (i) Tethering a dog while actively engaged in lawful
43 hunting, exhibition, performance events or field
44 training.

45 (ii) Tethering a hunting or sporting dog breed where
46 tethering is integral to the training, conditioning or
47 purpose of the dog.

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

50 (7) A person who commits an offense under paragraph (4)
51 or (5) shall, upon conviction, be sentenced to pay:

- 1 (i) a fine of not less than \$200 nor more than \$750;
2 (ii) all veterinary costs;
3 (iii) shelter costs, which may not exceed \$15 per
4 day per dog; and
5 (iv) court costs.

6 (c.1) Shelters for dogs.--

7 (1) A person in charge or control of a dog which is kept
8 outdoors or in an unheated enclosure shall, at a minimum,
9 provide the dog with shelter and bedding as follows:

10 (i) The following shall apply:

11 (A) The shelter must be a moisture-proof and
12 wind-proof structure of suitable size to accommodate
13 the dog and allow retention of body heat. At minimum,
14 a shelter must meet the following dimensions:

15 (I) Depth - dog's length plus 12 inches.

16 (II) Width - dog's length plus 18 inches.

17 (III) Height - dog's height plus 3 inches on
18 the low side of the shelter and dog's height plus
19 9 inches on the high side of the shelter.

20 (B) The shelter must be made of durable material
21 with a solid, moisture-proof floor raised at least
22 three inches from the ground.

23 (C) The roof must extend eight inches over the
24 doorway to keep out rain.

25 (D) The shelter may not be constructed of any
26 material that readily conducts heat or cold.

27 (ii) Between May 1 and October 31, the person in
28 charge or control of the dog must ensure that the dog is
29 provided with shade from the direct rays of the sun.

30 (iii) Between November 1 and March 31, the structure
31 must have a windbreak at the entrance. The person in
32 charge or control of the dog must provide a sufficient
33 quantity of suitable bedding material to provide
34 insulation and protection against cold and dampness and
35 promote retention of body heat. Hay, blankets, rags or
36 other material that retains moisture may not be utilized
37 for bedding.

38 (2) (i) Except as provided under subsection (c) (2) or
39 subparagraph (ii), a person convicted of violating
40 paragraph (1) commits a summary offense.

41 (ii) A person convicted for a second or subsequent
42 time of violating paragraph (1) commits a misdemeanor of
43 the third degree.

44 (3) A person who commits an offense under this
45 subsection shall, upon conviction, be sentenced to pay:

- 46 (i) a fine of not less than \$200 nor more than \$750;
47 (ii) all veterinary costs;
48 (iii) shelter costs, which may not exceed \$15 per
49 day per dog; and
50 (iv) court costs.

51 (c.2) Aggravated cruelty to animals.--

1 (1) A person commits the offense of aggravated cruelty
2 to animals if an animal suffers bodily injury, as defined in
3 18 Pa.C.S. § 2301 (relating to definitions), as a result of
4 the person knowingly or recklessly:

5 (i) torturing or abusing an animal;

6 (ii) neglecting an animal as to which he has a duty
7 of care; or

8 (iii) depriving an animal of necessary sustenance,
9 drink, shelter or veterinary care, or access to clean and
10 sanitary shelter which will protect the animal against
11 inclement weather and preserve the animal's body heat and
12 keep the animal dry.

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

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

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

22 * * *