

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1329** Session of
2011

INTRODUCED BY DINNIMAN, ALLOWAY, ARGALL, BAKER, BLAKE, BOSCOLA, BREWSTER, EICHELBERGER, ERICKSON, FARNESE, FERLO, WOZNIAK, YUDICHAK, GREENLEAF, PILEGGI, ORIE, SMUCKER, FONTANA, HUGHES, KASUNIC, KITCHEN, McILHINNEY, PICCOLA, RAFFERTY, SOLOBAY, STACK, SCHWANK, TARTAGLIONE, TOMLINSON, WARD, WASHINGTON, M. WHITE, WILLIAMS, MENSCH, LEACH AND BROWNE,
NOVEMBER 9, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, MARCH 13, 2012

AN ACT

1 Amending the act of December 22, 1983 (P.L.303, No.83), entitled
2 "An act relating to destruction of pet animals; prohibiting
3 certain methods of destruction; providing for a limited
4 license to dispense certain drugs; providing for regulation
5 and enforcement; providing for use of certain surplus funds;
6 and providing penalties," adding definitions; further
7 providing for prohibited means of destroying animals, for
8 methods of destruction of animals, for exclusions, for use of
9 carbon monoxide systems and for use of drugs by humane
10 societies and animal shelters; providing for enforcement;
11 further providing for penalties; and making editorial
12 changes.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The act of December 22, 1983 (P.L.303, No.83),
16 referred to as the Animal Destruction Method Authorization Law,
17 is amended by adding a chapter to read:

18 CHAPTER 1

19 PRELIMINARY PROVISIONS

20 Section 101. Short title.

1 This act shall be known and may be cited as the Animal
2 Destruction Method Authorization Law.

3 Section 102. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Acceptable agents and methods of euthanasia." The
8 chemicals, agents and methods published as acceptable in the
9 most current version of the American Veterinary Medical
10 Association's Guidelines on Euthanasia. The term does not
11 include conditionally acceptable or unacceptable chemicals,
12 agents and methods of euthanasia as published in the most
13 current version of the American Veterinary Medical Association's
14 Guidelines on Euthanasia.

15 "Board." The State Board of Veterinary Medicine.

16 "Department." The Department of Agriculture of the
17 Commonwealth.

18 "Normal agricultural operation." As defined under section 2
19 of the act of June 10, 1982 (P.L.454, No.133), referred to as
20 the Right-to-Farm Law.

21 "Small domestic animals." Cats, dogs, rabbits, mice, rats,
22 hamsters, ferrets, birds, reptiles and amphibians.

23 Section 2. The act is amended by adding a chapter heading to
24 read:

25 CHAPTER 3

26 METHODOLOGY

27 Section 3. Sections 1, 2, 3 and 4 of the act are renumbered
28 and amended to read:

29 Section [1] 301. Prohibited means of destruction of animals.

30 No animal shall be destroyed by means of [a] the following:

1 (1) A high altitude decompression chamber or
2 decompression device.

3 (2) Unacceptable agents and methods published in the
4 most current version of the American Veterinary Medical
5 Association's Guidelines on Euthanasia.

6 Section [2] 302. Methods of destruction of animals and
7 exclusive method for small domestic animals.

8 (a) Required method.--The required method of destruction
9 shall be by the administration of an overdose of a barbiturate,
10 barbiturate combinations, drug or drug combinations approved for
11 this purpose by the Federal Drug Administration and in
12 accordance with guidelines established by the [Pennsylvania
13 Department of Agriculture] department.

14 (b) Authorized method.--Nothing in this act shall prevent a
15 person or humane society organization from destroying a pet
16 animal by means of firearms.

17 (c) Small domestic animals.--The use of sodium pentobarbital
18 or a derivative of it shall be the exclusive method for
19 euthanasia of small domestic animals. In the event sodium
20 pentobarbital or a derivative of it becomes unavailable do to
21 lack of manufacturer supply, the board may issue a waiver of the
22 requirements of this section which would permit the use of any
23 other acceptable injectable agents or method of euthanasia.

24 (d) Exception for dangerous small domestic animals.--
25 Notwithstanding subsections (a) and (c), the following apply in
26 situations with a dangerous small domestic animal:

27 (1) In cases where a small domestic animal under the
28 care and control of an animal shelter or a humane society
29 organization poses a risk or danger to a veterinarian or
30 euthanasia technician performing euthanasia or to personnel

1 of the animal shelter or humane society organization, such
2 veterinarian or euthanasia technician may use any other
3 acceptable agents and methods of euthanasia, except carbon
4 monoxide from any source.

5 (2) The following persons, who in the performance of
6 their duties of employment have the responsibility for the
7 care and control of small domestic animals, are subject to
8 this subsection:

9 (i) Veterinarians.

10 (ii) Euthanasia technicians.

11 (iii) Personnel of a humane society organization.

12 (iv) Personnel of an animal control organization.

13 (v) Personnel of an animal shelter.

14 ~~(vi) Operators and employees of a commercial kennel,~~ ←

15 ~~as defined in the act of December 7, 1982 (P.L.784,~~
16 ~~No.225), known as the Dog Law.~~

17 ~~(vii) (VI) Animal control officers.~~ ←

18 Section [3] 303. Administration of drugs.

19 The barbiturates, barbiturate combinations or other Federal
20 Drug Administration approved drugs or drug combinations shall be
21 administered by intravenous, intraperitoneal or intracardiac
22 injections or orally by a licensed veterinarian or as set forth
23 in section [6] 305.

24 Section [4] 304. Exclusions.

25 (a) General rule.--This act shall not apply to activity
26 undertaken in a normal agricultural operation.

27 (b) Specific entities.--The following exclusions apply:

28 (1) Sections [2 and 3 of this act] 302 and 303 shall not
29 apply to:

30 (i) a medical school [or];

1 (ii) a school of veterinary medicine [or];
2 (iii) a research institution affiliated with a
3 hospital or university[.]; or

4 ~~(iv) a research facility registered and inspected~~ ←
5 ~~under the Animal Welfare Act (Public Law 89-544, 7 U.S.C.~~
6 ~~§ 2131 et seq.).~~

7 (IV) A RESEARCH FACILITY THAT IS ONE OF THE ←
8 FOLLOWING:

9 (A) REGISTERED AND INSPECTED UNDER THE ANIMAL
10 WELFARE ACT (PUBLIC LAW 89-544, 7 U.S.C. § 2131 ET
11 SEQ.).

12 (B) SUBJECT TO THE PUBLIC HEALTH SERVICE POLICY
13 ON THE HUMANE CARE AND USE OF LABORATORY ANIMALS
14 UNDER THE PUBLIC HEALTH SERVICE ACT (58 STAT. 682, 42
15 U.S.C. § 201 ET SEQ.).

16 (C) SUBJECT TO THE PROVISIONS OF 21 CFR PT. 58
17 (RELATING TO GOOD LABORATORY PRACTICE FOR NONCLINICAL
18 LABORATORY STUDIES) UNDER THE FOOD, DRUG AND COSMETIC
19 ACT (52 STAT. 1040, 21 U.S.C. § 301 ET SEQ.) OR THE
20 PUBLIC HEALTH SERVICE ACT.

21 (2) Notwithstanding sections 302 and 303, a veterinarian
22 in a private clinical practice may use any acceptable agent
23 and method of euthanasia, except carbon monoxide from any
24 source.

25 Section 4. Section 5 of the act is repealed:

26 [Section 5. Use of carbon monoxide systems.

27 (1) Carbon monoxide gas may be used to destroy animals
28 seven weeks of age or older.

29 (2) Chloroform, ether, halothane or fluothane may be
30 used to destroy animals under seven weeks of age when

1 administered in an airtight chamber or transparent plastic
2 bag providing for segregation of animals by size and age
3 which is capable of permitting unobstructed visual
4 observation and which does not permit direct contact with any
5 device containing chloroform.

6 (3) Carbon monoxide gas systems shall consist of and be
7 equipped with:

8 (i) A tightly enclosed cabinet for the purpose of
9 containing the animals during the destruction process.

10 (ii) Internal lighting and a window for direct
11 visual observation in the cabinet at all times.

12 (iii) A gas generation capable of achieving a
13 concentration of carbon monoxide gas of at least 5%
14 throughout the cabinet.

15 (iv) A gauge or gas concentration indicator or
16 recording device.

17 (v) A means of separating animals from each other
18 within the cabinet, if the cabinet is of sufficient size
19 to facilitate more than one animal.

20 (vi) A means of fully removing the carbon monoxide
21 gas from the cabinet upon completion of the destruction
22 process.

23 (vii) If an internal combustion engine is used, a
24 means of cooling the gas to a temperature not to exceed
25 115 degrees Fahrenheit at the point of entry into the
26 cabinet and not to exceed 90 degrees Fahrenheit at any
27 point in the cabinet as determined by temperature gauges
28 permanently installed at point of entry and inside the
29 cabinet.

30 (viii) If the gas is generated by an internal

1 combustion engine, a means of removing or filtering out
2 all noxious fumes, irritating acids and carbon particles
3 from the gas before it enters the cabinet.

4 (ix) If an internal combustion engine is used, a
5 means of substantially deadening the sound and vibration
6 transmission from the engine to the cabinet, by placing
7 them in separate rooms or soundproof compartments
8 connecting them with flexible tubing or pipe at least 24
9 inches in length, so that the noise level within the
10 cabinet shall not exceed 70 decibels.

11 (x) If an internal combustion engine is used, a
12 means for exhausting the internal combustion engine gas
13 during the period of engine warmup.

14 (4) Upon completion of the destruction process, animals
15 shall not be removed from the cabinet until the carbon
16 monoxide gas has been fully removed from the cabinet.]

17 Section 5. Section 6 of the act is Renumbered and amended to
18 read:

19 Section [6] 305. Humane societies' and animal shelters' use of
20 drugs.

21 (a) Limited license.--[On and after the effective date of
22 this act, a] The following apply to humane societies and animal
23 shelters:

24 (1) A humane society organization or [an animal control
25 organization] animal shelter may apply to the [Pennsylvania
26 State Board of Pharmacy for registration pursuant to the
27 applicable law for the sole purpose of being authorized to
28 purchase, possess and administer sodium pentobarbital to
29 destroy injured, sick, homeless or unwanted domestic pet
30 animals. A limited license may be issued by the board to

1 eligible applicants. Any agency so registered shall not
2 permit a person to administer sodium pentobarbital unless
3 such person has demonstrated adequate knowledge of the
4 potential hazards and proper techniques to be used in
5 administering this drug.] State Board of Veterinary Medicine
6 for a limited license pursuant to the applicable law for the
7 sole purpose of being authorized to purchase, possess and
8 administer drugs approved for euthanasia under subsection (c)
9 to destroy injured, sick, homeless or unwanted small domestic
10 animals. A limited license may be issued by the State Board
11 of Pharmacy to applicants that meet the eligibility criteria
12 set by the State Board of Veterinary Medicine.

13 (2) An organization licensed under paragraph (1) shall
14 not permit a person to administer drugs approved for
15 euthanasia unless that person holds a current euthanasia
16 technician license under subsection (c).

17 (3) Notwithstanding any other provision of this act, if
18 the department suspends or revokes an organization's kennel
19 license under the act of December 7, 1982 (P.L.784, No.225),
20 known as the Dog Law, the organization's limited license to
21 purchase, possess and administer sodium pentobarbital or a
22 derivative of it shall be deemed revoked.

23 (b) Regulation and enforcement.--The following regulation
24 and enforcement provisions shall apply:

25 (1) The [Pennsylvania Department of Agriculture] board
26 shall regulate and enforce the provisions of [this section]
27 subsection (a).

28 (2) To implement this subsection, the board shall:

29 (i) issue a statement of policy within 120 days of
30 the effective date of this paragraph; and

1 (ii) promulgate regulations within one year of the
2 effective date of this paragraph.

3 (c) Euthanasia technicians.--The following shall apply to
4 euthanasia technicians:

5 (1) The board shall determine the regulation and
6 discipline of euthanasia technicians by:

7 (i) issuing a statement of policy within 120 days of
8 the effective date of this subsection; and

9 (ii) promulgating regulations within one year of the
10 effective date of this subsection.

11 (2) The board may issue a euthanasia technician license
12 to an applicant who satisfies all of the following:

13 (i) Meets the eligibility criteria established by
14 the board, which criteria shall include knowledge of the
15 Commonwealth's law and regulations relating to
16 euthanasia.

17 (ii) Demonstrates adequate knowledge of the
18 potential hazards and proper techniques to be used in
19 administration of euthanasia drugs by satisfying all
20 requirements of the board and at least one of the
21 following:

22 (A) Successfully completes a euthanasia
23 technician certification course, including at least
24 14 hours of instruction, which is approved by the
25 board and administered by any of the following
26 providers:

27 (I) the National Animal Control Association;

28 (II) the American Humane Association;

29 (III) the Humane Society of the United

30 States;

1 (IV) the Pennsylvania Veterinary Medical
2 Association;

3 (V) the University of Pennsylvania School of
4 Veterinary Medicine; or

5 (VI) Federated Humane Societies of
6 Pennsylvania.

7 (B) Is a euthanasia technician registered or
8 licensed under the laws of another state or territory
9 of the United States which has requirements
10 substantially similar to the requirements of this
11 section and presents satisfactory proof to the board
12 of being engaged in the practice of euthanasia for a
13 period of at least one year out of the past five
14 years.

15 (C) Meets other requirements established by the
16 board.

17 (3) The board shall regulate and enforce the provisions
18 of this subsection.

19 (d) Cooperation.--For purposes of administration and
20 enforcement of subsection (a), the board may, by agreement with
21 the department, designate the department to act as its
22 authorized agent for the limited purposes of inspecting and
23 monitoring humane society organizations and animal control
24 organizations, and persons who euthanize animals on behalf of
25 these organizations, for compliance with the applicable
26 requirements and any implementing regulations.

27 Section 5.1. The act is amended by adding a section to read:
28 Section 306. Disclosure.

29 Upon request, any veterinarian, animal shelter or humane
30 society organization utilizing an euthanasia method for the

1 destruction of small animals must disclose all methods that are
2 utilized by the entity.

3 Section 6. The act is amended by adding a chapter heading to
4 read:

5 CHAPTER 5

6 ADMINISTRATION AND ENFORCEMENT

7 Section 7. Sections 7 and 8 of the act are renumbered to
8 read:

9 Section [7] 501. Existing devices.

10 Any humane society organization or any other similar
11 organization which, on the effective date of this act, has in
12 its possession a chamber or device, the use of which is
13 prohibited by this act, shall, within 30 days of the effective
14 date of this act, dismantle and render inoperative the chamber
15 or device.

16 Section [8] 502. Surplus funds.

17 Whenever the Secretary of Agriculture declares that there is
18 a surplus of money in the Dog Law Restricted Account, he may
19 provide payment to those persons who qualify under rules and
20 regulations of the department for reimbursement of losses
21 sustained as a result of compliance with the provisions of this
22 act.

23 Section 8. The act is amended by adding a section to read:

24 Section 503. Enforcement agencies.

25 The department is authorized to conduct investigations and to
26 enforce sections 301, 302, 304 and 305.

27 Section 9. Section 9 of the act is renumbered and amended to
28 read:

29 Section [9] 504. Penalty.

30 (a) Destruction of animals.--Any person or organization

1 [found guilty of violating the provisions of this act] that
2 violates section 301 or 302(c) shall be [fined] subject to a
3 fine not to exceed [\$250] \$500 per violation day. Any person or
4 organization that commits a second or subsequent violation of
5 section 301 or 302(c) shall be subject to a fine not to exceed
6 \$1,000 per violation day.

7 (b) Other provisions.--Except as set forth in subsection
8 (a):

9 (1) Any person or organization that violates this act
10 shall be subject to a fine not to exceed \$350 per violation
11 day.

12 (2) Any person or organization that commits a second or
13 subsequent violation of this act shall be subject to a fine
14 not to exceed \$700 per violation day.

15 (c) Disposition of fines.--Fines collected under this
16 section shall be deposited into the Dog Law Restricted Account.

17 Section 10. The act is amended by adding a chapter heading
18 to read:

19 CHAPTER 11

20 MISCELLANEOUS PROVISIONS

21 Section 11. Sections 10 and 11 of the act are renumbered to
22 read:

23 Section [10] 1101. Use of methods of destruction on humans.

24 Nothing in this act shall be construed to permit the
25 performance of any methods of destruction provided for herein on
26 any human person.

27 Section [11] 1102. Effective date.

28 This act shall take effect in six months.

29 Section 12. This act shall take effect in 180 days.