THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 1329 Session of 2011

INTRODUCED BY DINNIMAN, ALLOWAY, ARGALL, BAKER, BLAKE, BOSCOLA, BREWSTER, EICHELBERGER, ERICKSON, FARNESI, 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

AS AMENDED ON THIRD CONSIDERATION, MARCH 27, 2012

AN ACT

Amending the act of December 22, 1983 (P.L.303, No.83), entitled "An act relating to destruction of pet animals; prohibiting certain methods of destruction; providing for a limited license to dispense certain drugs; providing for regulation and enforcement; providing for use of certain surplus funds; and providing penalties," adding definitions; further providing for prohibited means of destroying animals, for methods of destruction of animals, for exclusions, for use of carbon monoxide systems and for use of drugs by humane societies and animal shelters; providing for enforcement; further providing for penalties; and making editorial changes; FURTHER PROVIDING FOR PROHIBITED MEANS OF DESTRUCTION OF ANIMALS, FOR METHODS OF DESTRUCTION OF ANIMALS, FOR EXCLUSIONS AND FOR USE OF CARBON MONOXIDE SYSTEMS; PROVIDING FOR DISCLOSURE; AND FURTHER PROVIDING FOR PENALTY.

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

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

CHAPTER 1

PRELIMINARY PROVISIONS
Section 101. Short title.
This act shall be known and may be cited as the Animal Destruction Method Authorization Law.

Section 102. Definitions.
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"Board." The State Board of Veterinary Medicine.

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

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

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

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

CHAPTER 3

METHODOLOGY

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

Section [1] 301. Prohibited means of destruction of animals.
No animal shall be destroyed by means of [a] the following:

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

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


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

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

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

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

(1) In cases where a small domestic animal under the care and control of an animal shelter or a humane society organization poses a risk or danger to a veterinarian or
euthanasia technician performing euthanasia or to personnel of the animal shelter or humane society organization, such veterinarian or euthanasia technician may use any other acceptable agents and methods of euthanasia, except carbon monoxide from any source.

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

(i) Veterinarians.

(ii) Euthanasia technicians.

(iii) Personnel of a humane society organization.

(iv) Personnel of an animal control organization.

(v) Personnel of an animal shelter.

(vi) Animal control officers.


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


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

(b) Specific entities. The following exclusions apply:

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

(i) a medical school [or]

(ii) a school of veterinary medicine [or]

(iii) a research institution affiliated with a
hospital or university[.]; or

(iv) A research facility that is one of the following:

(A) Registered and inspected under the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.).

(B) Subject to the Public Health Service Policy on the Humane Care and Use of Laboratory Animals under the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).

(C) Subject to the provisions of 21 CFR Pt. 58 (relating to good laboratory practice for nonclinical laboratory studies) under the Food, Drug and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) or the Public Health Service Act.

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

Section 4. Section 5 of the act is repealed:

{Section 5. Use of carbon monoxide systems.

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

(2) Chloroform, ether, halothane or fluothane may be used to destroy animals under seven weeks of age when administered in an airtight chamber or transparent plastic bag providing for segregation of animals by size and age which is capable of permitting unobstructed visual observation and which does not permit direct contact with any device containing chloroform.
(3) Carbon monoxide gas systems shall consist of and be equipped with:

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

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

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

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

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

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

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

(viii) If the gas is generated by an internal combustion engine, a means of removing or filtering out all noxious fumes, irritating acids and carbon particles from the gas before it enters the cabinet.

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

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

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

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


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

(1) A humane society organization or [an animal control organization] animal shelter may apply to the [Pennsylvania State Board of Pharmacy for registration pursuant to the applicable law for the sole purpose of being authorized to purchase, possess and administer sodium pentobarbital to destroy injured, sick, homeless or unwanted domestic pet animals. A limited license may be issued by the board to eligible applicants. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.] State Board of Veterinary Medicine.
for a limited license pursuant to the applicable law for the
sole purpose of being authorized to purchase, possess and
administer drugs approved for euthanasia under subsection (c)
to destroy injured, sick, homeless or unwanted small domestic
animals. A limited license may be issued by the State Board
of Pharmacy to applicants that meet the eligibility criteria
set by the State Board of Veterinary Medicine.

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

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

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

(1) The Pennsylvania Department of Agriculture board shall regulate and enforce the provisions of subsection (a).

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

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

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

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

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

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

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

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

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

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

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

(I) the National Animal Control Association;

(II) the American Humane Association;

(III) the Humane Society of the United
States;

(IV) the Pennsylvania Veterinary Medical
Association;

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

(VI) Federated Humane Societies of
Pennsylvania.

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

(C) Meets other requirements established by the board.

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

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

Section 5.1. The act is amended by adding a section to read:

Section 306. Disclosure.

Upon request, any veterinarian, animal shelter or humane society organization utilizing an euthanasia method for the destruction of small animals must disclose all methods that are utilized by the entity.

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

CHAPTER 5
ADMINISTRATION AND ENFORCEMENT

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

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


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

Section 8. The act is amended by adding a section to read:
Section 503. Enforcement agencies.

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

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


(a) Destruction of animals. Any person or organization found guilty of violating the provisions of this act shall be fined subject to a fine not to exceed $250 $500 per violation day. Any person or organization that commits a second or subsequent violation of section 301 or 302(c) shall be subject to a fine not to exceed $250 $500 per violation day.
$1,000 per violation day.

(b) Other provisions. Except as set forth in subsection

(a):

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

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

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

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

CHAPTER 11
MISCELLANEOUS PROVISIONS

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

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

This act shall take effect in six months.

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

SECTION 1. SECTIONS 1, 2 AND 4 OF THE ACT OF DECEMBER 22, 1983 (P.L.303, NO.83), REFERRED TO AS THE ANIMAL DESTRUCTION
METHOD AUTHORIZATION LAW, ARE AMENDED TO READ:

SECTION 1. PROHIBITED MEANS OF DESTRUCTION OF ANIMALS.

(1) A HIGH ALTITUDE DECOMPRESSION CHAMBER OR
DECOMPRESSION DEVICE;

(2) CARBON MONOXIDE GAS; OR

(3) CHLOROFORM, ETHER, HALOTHANE OR FLUOTHANE FOR ANIMALS UNDER SEVEN WEEKS OF AGE WHEN ADMINISTERED IN AN AIRTIGHT CHAMBER OR TRANSPARENT PLASTIC BAG.

SECTION 2. METHODS OF DESTRUCTION OF ANIMALS.

(A) REQUIRED METHOD.--THE REQUIRED METHOD OF DESTRUCTION SHALL BE BY THE ADMINISTRATION OF AN OVERDOSE OF A BARBITURATE, BARBITURATE COMBINATIONS, DRUG OR DRUG COMBINATIONS APPROVED FOR THIS PURPOSE BY THE FEDERAL DRUG ADMINISTRATION [AND IN ACCORDANCE WITH GUIDELINES ESTABLISHED BY THE PENNSYLVANIA DEPARTMENT OF AGRICULTURE].

(B) AUTHORIZED METHOD.--NOTHING IN THIS ACT SHALL PREVENT A PERSON OR HUMANE SOCIETY ORGANIZATION FROM DESTROYING A PET ANIMAL BY MEANS OF FIREARMS.

SECTION 4. EXCLUSIONS.

(A) GENERAL RULE.--THIS ACT SHALL NOT APPLY TO ACTIVITY UNDERTAKEN IN A NORMAL AGRICULTURAL OPERATION. FOR THE PURPOSES OF THIS PARAGRAPH, "NORMAL AGRICULTURAL OPERATION" SHALL BE DEFINED AS IT IS DEFINED UNDER SECTION 2 OF THE ACT OF JUNE 10, 1982 (P.L.454, NO.133), REFERRED TO AS THE RIGHT-TO-FARM LAW.

(B) SPECIFIC ENTITIES.--SECTIONS 1(2) AND (3), 2 AND 3 OF THIS ACT SHALL NOT APPLY TO:

(1) A MEDICAL SCHOOL [OR];

(2) A SCHOOL OF VETERINARY MEDICINE [OR];

(3) A RESEARCH INSTITUTION AFFILIATED WITH A HOSPITAL OR UNIVERSITY; OR

(4) A RESEARCH FACILITY THAT IS ONE OF THE FOLLOWING:

(i) REGISTERED AND INSPECTED UNDER THE ANIMAL WELFARE ACT (PUBLIC LAW 89-544, 7 U.S.C. § 2131 ET SEQ.);
(II) Subject to the Public Health Service Policy on the Humane Care and Use of Laboratory Animals under the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.); or

(iii) Subject to the provisions of 21 CFR Pt. 58 (Relating to Good Laboratory Practice for Nonclinical Laboratory Studies) or its successor regulation under the Food, Drug and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) or the Public Health Service Act.

SECTION 2. SECTION 5 OF THE ACT IS REPEALED:

Section 5. Use of Carbon Monoxide Systems.

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

(2) Chloroform, ether, halothane or fluothane may be used to destroy animals under seven weeks of age when administered in an airtight chamber or transparent plastic bag providing for segregation of animals by size and age which is capable of permitting unobstructed visual observation and which does not permit direct contact with any device containing chloroform.

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

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

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

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

(IV) A gauge or gas concentration indicator or
RECORDING DEVICE.

(V) A MEANS OF SEPARATING ANIMALS FROM EACH OTHER WITHIN THE CABINET, IF THE CABINET IS OF SUFFICIENT SIZE TO FACILITATE MORE THAN ONE ANIMAL.

(VI) A MEANS OF FULLY REMOVING THE CARBON MONOXIDE GAS FROM THE CABINET UPON COMPLETION OF THE DESTRUCTION PROCESS.

(VII) IF AN INTERNAL COMBUSTION ENGINE IS USED, A MEANS OF COOLING THE GAS TO A TEMPERATURE NOT TO EXCEED 115 DEGREES FAHRENHEIT AT THE POINT OF ENTRY INTO THE CABINET AND NOT TO EXCEED 90 DEGREES FAHRENHEIT AT ANY POINT IN THE CABINET AS DETERMINED BY TEMPERATURE GAUGES PERMANENTLY INSTALLED AT POINT OF ENTRY AND INSIDE THE CABINET.

(VIII) IF THE GAS IS GENERATED BY AN INTERNAL COMBUSTION ENGINE, A MEANS OF REMOVING OR FILTERING OUT ALL NOXIOUS FUMES, IRRITATING ACIDS AND CARBON PARTICLES FROM THE GAS BEFORE IT ENTERS THE CABINET.

(IX) IF AN INTERNAL COMBUSTION ENGINE IS USED, A MEANS OF SUBSTANTIALLY DEADENING THE SOUND AND VIBRATION TRANSMISSION FROM THE ENGINE TO THE CABINET, BY PLACING THEM IN SEPARATE ROOMS OR SOUNDPROOF COMPARTMENTS CONNECTING THEM WITH FLEXIBLE TUBING OR PIPE AT LEAST 24 INCHES IN LENGTH, SO THAT THE NOISE LEVEL WITHIN THE CABINET SHALL NOT EXCEED 70 DECIBELS.

(X) IF AN INTERNAL COMBUSTION ENGINE IS USED, A MEANS FOR EXHAUSTING THE INTERNAL COMBUSTION ENGINE GAS DURING THE PERIOD OF ENGINE WARMUP.

(4) UPON COMPLETION OF THE DESTRUCTION PROCESS, ANIMALS SHALL NOT BE REMOVED FROM THE CABINET UNTIL THE CARBON
MONOXIDE GAS HAS BEEN FULLY REMOVED FROM THE CABINET.

SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 6.1. DISCLOSURE.

UPON REQUEST, ANY VETERINARIAN, ANIMAL SHELTER OR HUMANE SOCIETY ORGANIZATION UTILIZING AN EUTHANASIA METHOD FOR THE DESTRUCTION OF DOGS OR CATS MUST DISCLOSE ALL METHODS THAT ARE UTILIZED BY THE ENTITY. THE DEPARTMENT SHALL PROMULGATE REGULATIONS REQUIRING THE PUBLIC DISPLAY OF THE INFORMATION DISCLOSED UNDER THIS SECTION.

SECTION 4. SECTION 9 OF THE ACT IS AMENDED TO READ:

SECTION 9. PENALTY.

(A) DESTRUCTION OF ANIMALS.--ANY PERSON OR ORGANIZATION [FOUND GUILTY OF VIOLATING THE PROVISIONS OF THIS ACT] THAT VIOLATES SECTION 1 SHALL BE [FINED] SUBJECT TO A FINE NOT TO EXCEED [$250] $500 PER VIOLATION DAY. ANY PERSON OR ORGANIZATION THAT COMMITS A SECOND OR SUBSEQUENT VIOLATION OF SECTION 1 SHALL BE SUBJECT TO A FINE NOT TO EXCEED $1,000 PER VIOLATION DAY.

(B) OTHER PROVISIONS.--EXCEPT AS SET FORTH IN SUBSECTION (A):

(1) ANY PERSON OR ORGANIZATION THAT VIOLATES THIS ACT SHALL BE SUBJECT TO A FINE NOT TO EXCEED $350 PER VIOLATION DAY.

(2) ANY PERSON OR ORGANIZATION THAT COMMITS A SECOND OR SUBSEQUENT VIOLATION OF THIS ACT SHALL BE SUBJECT TO A FINE NOT TO EXCEED $700 PER VIOLATION DAY.

(C) DISPOSITION OF FINES.--FINES COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED INTO THE DOG LAW RESTRICTED ACCOUNT.

SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.