

ANIMAL DESTRUCTION METHOD AUTHORIZATION LAW - OMNIBUS AMENDMENTS

Act of Oct. 24, 2012, P.L. 1452, No. 182

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HB 2630

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 administration of drugs, for exclusions, for use of carbon monoxide systems and for use of drugs by humane societies and animal shelters; providing for disclosure; further providing for existing devices, for surplus funds and for penalties; and making editorial changes.

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:

"Animal protection organization." Any of the following:

(1) A nonprofit society or association incorporated under 15 Pa.C.S. Ch. 53 Subch. A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals.

(2) A municipality which operates an animal shelter.

"Board." The State Board of Veterinary Medicine.

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

"Small domestic animals." As follows:

(1) Any of the following whose general intended purpose is to be kept and cared for as household pets:

- (i) Rabbits.
- (ii) Mice.
- (iii) Rats.
- (iv) Hamsters.
- (v) Guinea pigs.
- (vi) Ferrets.
- (vii) Birds.
- (viii) Reptiles.
- (ix) Amphibians.

(2) All cats and dogs.

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

**CHAPTER 3
METHODOLOGY**

Section 3. Sections 1 and 2 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.**

(3) **Drowning.**

(4) **Chloroform, ether, halothane or fluothane.**

(5) **Carbon monoxide gas from any source.**

Section [2] **302. Methods of destruction of animals and exclusive method for small domestic 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] **the use of a method that is approved for that purpose by the most current version of the American Veterinary Medical Association ' s Guidelines on Euthanasia with the exception of those agents and methods prohibited by section 301.**

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

(c) **Small domestic animals.--**

(1) **Except as set forth in paragraph (2), the use of commercially available injectable euthanasia solution approved by the Food and Drug Administration for that purpose shall be the exclusive method for euthanasia of small domestic animals.**

(2) **If euthanasia solution becomes unavailable, the board may issue a waiver of the requirements of this section which would permit the use of any method of euthanasia that is consistent with both the standard of care as defined by the board and the most current version of the American Veterinary Medical Association's Guidelines on Euthanasia.**

(d) **Exception for dangerous small domestic animals.--**In cases where a small domestic animal under the care and control of any person or animal protection organization poses an imminent threat to human or animal life, an alternative method of euthanasia may be used if it is in accordance with section 301.

(e) **Tranquilization.--**An animal may be tranquilized with a substance approved by the Food and Drug Administration before euthanasia commences.

Section 3.1. Section 3 of the act is repealed:

[Section 3. Administration of drugs.

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.]

Section 3.2. Section 4 of the act is renumbered and amended to read:

Section [4] **303. Exclusions.**

[Sections 2 and 3 of this act] **(a) Agricultural operations.--**

(1) This act shall not apply and nothing in this act shall prevent the destruction of an animal by a means not otherwise prohibited by law performed in the course of normal agricultural operation.

(2) As used in this section, the term "normal agricultural operation" has the meaning given in section 2 of the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law, without regard to area utilized or anticipated yearly income to result from the agricultural operation.

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

(1) Section 302 shall not apply to:

(i) Except as prohibited in section 301, a veterinarian or a certified veterinary technician under the indirect supervision of a veterinarian licensed under the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act ;

(ii) a medical school [or];

(iii) a school of veterinary medicine [or];

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

(v) 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 Federal Food, Drug and Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) or the Public Health Service Act.

(2) (Reserved) .

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:

Section [6] **304.** [Humane societies' and animal shelters']

Animal protection organization use of drugs.

(a) [Limited license.--On and after the effective date of this act, a humane society organization or an animal control organization 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.] **License.--The following apply to animal protection organizations:**

(1) **An animal protection organization may apply to the board for the sole purpose of being authorized to purchase, possess and administer drugs approved for euthanasia under section 302 in accordance with regulations promulgated under this act and the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act.**

(2) **An animal protection organization authorized under paragraph (1) may not permit a person to administer drugs approved for euthanasia unless that person holds a current euthanasia technician license under subsections (b) and (c) or is a person licensed as a veterinarian under the Veterinary Medicine Practice Act .**

(3) **Notwithstanding any other provision of this act, if the department suspends or revokes a kennel license of an animal protection organization under the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law, the authorization to purchase, possess and administer drugs**

approved for euthanasia under subsection (c) shall be immediately revoked at that kennel and the department shall report the suspension or revocation to the board. The department shall report all suspected violations of this act to the board.

(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 this [section.] act, including the authority to inspect an animal protection organization and revoke a license or authorization issued under this act.

(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 18 months of the effective date of this paragraph.

(c) Euthanasia technicians.--The following shall apply:

(1) 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 shall include knowledge of the Commonwealth's statutes 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:

(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;

(VI) the Federated Humane Societies of Pennsylvania; or

(VII) any other courses approved by the board.

(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.

(2) The board shall regulate, discipline and enforce the provisions of this subsection by:

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

(ii) promulgating regulations within 18 months of the effective date of this subsection.

(d) **Cooperation.**--For the purpose of enforcement of this act, the board may enter into a memorandum of understanding with the department and designate the department to act as its authorized agent for the limited purposes of inspecting and monitoring animal protection organizations, and persons who euthanize animals on behalf of animal protection 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 305. Disclosure.

Upon request, any veterinarian or animal protection organization utilizing an euthanasia method for the destruction of small domestic animals must disclose all methods that are utilized by the person.

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

**CHAPTER 5
ADMINISTRATION AND ENFORCEMENT**

Section 7. Section 7 of the act is renumbered and amended to read:

Section [7] **501. Existing devices.**

Any [humane society organization or any other similar] **person, animal protection organization or other** 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.

Section 8. Section 8 of the act is repealed:
[Section 8. Surplus funds.]

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

Section [9] **502. Penalty.**

(a) **Additional penalties.**--Any penalty imposed by the board under this section shall be in addition to the civil and criminal penalties provided for under the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act.

(b) **Destruction of small domestic animals.**--Any person or animal protection organization [found guilty of violating the provisions of this act] **not authorized or licensed under this act that is found in violation of this act by the board** shall be fined not to exceed [\$250] **\$500** per violation day. **The board may impose an additional penalty of \$1,000 per violation for a second or subsequent violation of this act .**

(c) **Additional civil penalty imposed by the board.**--

(1) In addition to any other civil penalty provided for under this act, the board may impose a civil penalty of up to \$10,000 on any current licensee or certificate holder who violates any provision of this act or any person who practices as a euthanasia technician without being properly licensed under this act.

(2) The penalty under paragraph (1) may be imposed by the board after affording the accused party the opportunity for a hearing, as provided under 2 Pa.C.S. (relating to administrative law and procedure).

(d) Disposition of fines.--All fines and civil penalties imposed in accordance with this act shall be paid into the Professional Licensure Augmentation 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:

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

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

Section [11] **1102.** Effective date.

This act shall take effect in six months.

Section 12. This act shall take effect as follows:

(1) The renumbering and amendment of section 1 of the act shall take effect in 90 days.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect in 180 days.

APPROVED--The 24th day of October, A.D. 2012.

TOM CORBETT