

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 871 Session of
2003

INTRODUCED BY WENGER, CORMAN, MADIGAN, THOMPSON, ROBBINS,
KASUNIC, M. WHITE, EARLL, WAUGH, LEMMOND, RAFFERTY,
TARTAGLIONE, COSTA, HELFRICK AND KITCHEN, JULY 15, 2003

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JULY 15, 2003

AN ACT

1 Relating to and defining the profession of the humane society
2 police officer; conferring powers and imposing duties on the
3 State Board of Humane Society Police Officers and the
4 Department of Agriculture; providing for examination,
5 licensure and continuing education; providing for the
6 granting, cancellation, suspension and revocation of
7 appointments; preserving the rights of existing appointments;
8 providing for search warrants; providing for promulgation of
9 rules and regulations; providing penalties and remedies for
10 persons engaged in the profession of humane society police
11 officers; promoting the protection of all domestic animals
12 and preventing any acts of cruelty; and making a repeal.

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

12 Section. 1. Short title.

13 This act shall be known and may be cited as the Humane
14 Society Police Officer Act.

15 Section 2. Definitions.

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

19 "Agricultural animal." A bovine animal, equine animal,
20 sheep, goat, pig, poultry, bird, fowl, wild or semiwild animal
21 or fish or other aquatic animal that is raised, kept,
22 transported or utilized for the purpose of or pursuant to
23 agricultural production.

24 "Agricultural production." The production and preparation
25 for market of agricultural animals and their products and of
26 agricultural, agronomic, horticultural, silvicultural and
27 aquacultural crops and commodities.

28 "Board." The State Board of Humane Society Police Officers.

29 "Cruelty to animals laws." The provisions of 18 Pa.C.S. §
30 5511 (relating to cruelty to animals).

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

3 "Humane society police officer." A person who is duly
4 appointed pursuant to 22 Pa.C.S. § 501 (relating to appointment
5 by nonprofit corporations) to act as a police officer for a
6 society or association for the prevention of cruelty to animals
7 or who is an agent of a society or association for the
8 prevention of cruelty to animals as the term "agent" is used in
9 18 Pa.C.S. § 5511 (relating to cruelty to animals).

10 "Land grant institution." An educational institution located
11 within or outside the geographic boundaries of this Commonwealth
12 that has received a grant of public land made by the Congress of
13 the United States for the support of education pursuant to the
14 act of July 2, 1862 (12 Stat. 503, 7 U.S.C. § 301 et seq.),
15 referred to as the Morrill Act.

16 "Society or association for the prevention of cruelty to
17 animals." A nonprofit society or association duly incorporated
18 pursuant to 15 Pa.C.S. Ch. 53 Subch. A (relating to
19 incorporation generally) for the purpose of the prevention of
20 cruelty to animals.

21 Section 3. State Board of Humane Society Police Officers.

22 (a) Establishment.--There is hereby established within the
23 Department of Agriculture a board to be known as the State Board
24 of Humane Society Police Officers. The board shall consist of
25 the following members:

- 26 (1) The Secretary of Agriculture or a designee.
27 (2) The State Veterinarian.
28 (3) Three humane society police officers, two humane
29 society executive directors and one member representing the
30 public at large, each of whom shall be appointed by the

1 Governor with the advice and consent of a majority of the
2 members elected to the Senate.

3 (4) Five veterinarians possessing the requisite
4 qualifications to practice veterinary medicine under the laws
5 of this Commonwealth, each of whom has at least five years'
6 experience immediately preceding appointment with one of the
7 following designated species: small animals, bovine, swine,
8 equine and poultry. Each veterinarian shall be appointed by
9 the Governor with the advice and consent of a majority of the
10 members elected to the Senate. In appointing veterinarians,
11 the Governor shall consider nominees suggested by Statewide
12 farm organizations, the poultry industry and equine and
13 livestock breeding organizations.

14 (5) Two members representing production agriculture,
15 each of whom shall be appointed by the Governor with the
16 advice and consent of a majority of the members elected to
17 the Senate.

18 (b) Terms.--The term of each member of the board shall be
19 three years or until such time as a successor has been appointed
20 and qualified, but not longer in any event than six months
21 beyond the three-year period. If any member dies or resigns or
22 otherwise becomes disqualified during that member's term, a
23 successor shall be appointed in the same way and with the same
24 qualifications and shall hold office for the unexpired term. No
25 member shall be eligible for appointment to serve more than two
26 consecutive terms.

27 (c) Quorum.--A majority of the member of the board serving
28 in accordance with law shall constitute a quorum for purposes of
29 conducting the business of the board. A member may not be
30 counted as part of a quorum or vote on any issue unless that

1 member is physically in attendance at the meeting. The board
2 shall keep a full and accurate record of all proceedings and of
3 all resolutions and orders issued or adopted.

4 (d) Chairperson and secretary.--The Secretary of Agriculture
5 shall serve as the chairperson of the board. The members shall
6 elect a secretary.

7 (e) Residency requirement.--All members shall be residents
8 of this Commonwealth.

9 (f) Compensation.--Each member of the board except the
10 Secretary of Agriculture and the State Veterinarian shall
11 receive \$100 per day for each day actually engaged in the
12 business of the board as compensation for serving on the board
13 and shall devote such time and effort to the prosecution of the
14 board's business as necessary to fulfill the board's obligation
15 under law. The members shall also be entitled to reimbursement
16 in the amount of reasonable traveling, hotel and other necessary
17 expenses incurred in the performance of their duties in
18 accordance with Commonwealth regulations.

19 (g) Attendance at meetings.--A member of the board who fails
20 to attend three consecutive meetings shall forfeit that member's
21 seat unless the Secretary of Agriculture, upon written request
22 from the member, finds that the member should be excused from a
23 meeting because of illness or the death of a family member.

24 (h) Seminars.--A public member who fails to attend two
25 consecutive statutorily mandated seminars in accordance with
26 section 813(e) of the act of April 9, 1929 (P.L.177, No.175),
27 known as The Administrative Code of 1929, shall forfeit that
28 member's seat unless the Secretary of Agriculture, upon written
29 request from the public member, finds that the public member
30 should be excused from a meeting because of illness or the death

1 of a family member.

2 (i) Frequency of meetings.--The board shall meet at least
3 once every four months and at such additional times as may be
4 necessary to conduct the business of the board.

5 Section 4. Board duties, rights, privileges and powers.

6 The board shall do all of the following:

7 (1) Adopt reasonable rules and regulations governing
8 humane society police officers as are necessary to enable it
9 to carry out and make effective the purpose and intent of
10 this act.

11 (2) Adopt rules and regulations of professional conduct
12 for humane society police officers which are appropriate to
13 establish and maintain a high standard of integrity and
14 skills.

15 (3) Have its rules printed and distributed to all humane
16 society police officers.

17 (4) Administer and enforce the law and rules and
18 regulations relating to humane society police officers.

19 (5) Approve the qualifications of applicants for
20 appointments to become humane society police officers.

21 (6) Prescribe the subject, character, manner, time and
22 place of holding training, examinations and the filing of
23 applications for examinations. The board may require the
24 payment of fees by applicants for training, continuing
25 education and examinations.

26 (7) Issue temporary permits to duly qualified
27 applicants, signed by the chairperson and attested by the
28 secretary under an adopted seal.

29 (8) Provide for, regulate and require all persons
30 appointed in accordance with the provisions of this act to

1 register their appointment biennially, to require as a
2 condition precedent to such biennial registration the payment
3 of the biennial registration fee as provided in this act, to
4 issue biennial registration certificates to such persons and
5 to suspend or revoke the registration of such persons who
6 fail, refuse or neglect to register same or pay such fees.

7 (9) Conduct investigations and hearings upon complaints
8 calling for discipline of an appointee.

9 (10) Have summons and subpoenas issued, if necessary,
10 for any witnesses or subpoenas duces tecum in connection with
11 any matter within the jurisdiction of the board.

12 (11) Adopt such forms as it may deem necessary.

13 (12) Submit annually to the Appropriations Committee of
14 the Senate and the Appropriations Committee of the House of
15 Representatives not more than 15 days after the Governor has
16 submitted the budget required by law to the General Assembly,
17 a copy of the budget request for the upcoming fiscal year
18 which the board previously submitted to the Department of
19 Agriculture.

20 (13) Submit annually a report to the Agricultural and
21 Rural Affair Committees of both the Senate and the House of
22 Representatives containing a description of the types of
23 complaints received, the status of ongoing cases, board
24 action which has been taken and the length of time from the
25 initial complaint to final board resolution.

26 (14) Keep records of its proceedings, especially
27 regarding the issuance, denial, registration, suspension and
28 revocation of appointment for humane society police officers.
29 All appointments issued by the board shall be numbered and
30 recorded by the secretary, and a file kept for that purpose

1 and such file or record shall be open to the public
2 inspection. In all actions or proceedings in any court, a
3 transcript of any record or any part thereof, which is
4 certified to be a true copy by the secretary, shall be
5 entitled to admission in evidence.

6 Section 5. Humane society police officers.

7 (a) Application for appointment of humane society police
8 officers.--No society, association, corporation or organization,
9 other than a society or association for the prevention of
10 cruelty to animals, shall be eligible under 22 Pa.C.S. § 501
11 (relating to appointment by nonprofit corporations) to apply for
12 or receive appointment of any individual as a police officer in
13 the enforcement of cruelty to animals laws. Each society or
14 association for the prevention of cruelty to animals which makes
15 application to the board pursuant to 22 Pa.C.S. § 501 for the
16 appointment of an individual to act as a police officer for the
17 society or association for the prevention of cruelty to animals
18 must provide an application, a fee determined by the board and
19 the documentation the board may require to demonstrate that the
20 person has satisfactorily completed a training program
21 established in accordance with section 6.

22 (b) Appointment by board and jurisdiction of humane society
23 police officers.--An individual may not exercise the powers
24 conferred upon an agent of a society or association for the
25 prevention of cruelty to animals under 18 Pa.C.S. § 5511
26 (relating to cruelty to animals) or the powers conferred upon a
27 humane society police officer within the boundaries of a county
28 under 22 Pa.C.S. § 501(c) unless such powers are exercised in
29 full accordance with all of the provisions of 22 Pa.C.S. § 501.

30 (c) Requirement of appointment as a humane society police

1 officer.--A humane society police officer must complete a humane
2 society police officer training program as constituted and
3 certified by the board.

4 (d) Criminal history information.--The application for the
5 appointment of a person to act as a humane society police
6 officer shall include a report of criminal history record
7 information from the Pennsylvania State Police pursuant to 18
8 Pa.C.S. Ch. 91 (relating to criminal history record information)
9 or a statement from the Pennsylvania State Police that the
10 Pennsylvania State Police central repository contains no
11 pertinent information relating to the person who is the subject
12 of the application. The criminal history record information
13 shall be limited to that which may be disseminated pursuant to
14 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

15 (e) Refusal, suspension or revocation of appointment.--The
16 board shall refuse to appoint a person to act as a humane
17 society police officer, or shall suspend or revoke the
18 appointment of a person who is acting as a humane society police
19 officer, if the board determines that the person:

20 (1) Has failed to satisfy the training requirements of
21 section 6.

22 (2) Has failed to provide documentation which is
23 required by this act to be submitted with an application for
24 appointment or other documentation which the board may
25 reasonably request.

26 (3) Has a criminal history record which would disqualify
27 the applicant from becoming a private police officer pursuant
28 to 22 Pa.C.S. Ch. 5 (relating to private police).

29 (4) Has been convicted of violating 18 Pa.C.S. § 5301
30 (relating to official oppression).

1 (f) Additional grounds for refusal, suspension or revocation
2 of appointment.--The board may refuse to appoint a person to act
3 as a humane society police officer or may suspend or revoke the
4 appointment of a person who acts as a humane society police
5 officer if the board determines that the person:

6 (1) Has failed to keep, maintain or make available such
7 records as are required to be kept, maintained or made
8 available under section 6(f) for certification of completion
9 of additional training requirements.

10 (2) Has made a false or misleading statement in the
11 application for appointment or a certification of completion
12 of additional training or submitted an application for
13 appointment or a certification for completion of additional
14 training containing a false or misleading statement.

15 (3) Has carried or possessed a firearm in the
16 performance of duty without certification pursuant to section
17 7.

18 (4) Has engaged in conduct which constitutes a prima
19 facie violation of 18 Pa.C.S. § 5301.

20 (5) Has violated any of the provisions of this act.

21 (g) Effect on 22 Pa.C.S. § 501.--Nothing in this section
22 shall be construed to limit the authority of the board to deny
23 the appointment of any person or to place upon any person any
24 additional prerequisites or conditions of appointment pursuant
25 to 22 Pa.C.S. § 501(a).

26 Section 6. Humane society police officer training program.

27 (a) General rule.--A land grant institution approved by the
28 board may establish a program for training of individuals to act
29 as humane society police officers.

30 (b) Minimum requirements.--The program for initial training

1 of humane society police officers must include, at a minimum, a
2 total of 56 hours of instruction in accordance with subsections
3 (c) and (d).

4 (c) Instructional areas.--At least 32 hours of instruction
5 in the initial training program must be provided in the
6 following group of instructional areas:

7 (1) Cruelty to animals laws.

8 (2) Care and treatment of animals.

9 (3) Pennsylvania rules of criminal law and criminal
10 procedure.

11 (d) Curriculum.--At least 24 hours of instruction in the
12 initial training program must be provided in the following group
13 of instructional areas:

14 (1) Animal husbandry practices constituting normal
15 agricultural operation.

16 (2) Practices accepted in the agricultural industry in
17 the raising, keeping and production of agricultural animals.

18 (3) Characteristics of agricultural animals likely
19 evidencing care that is violative of the cruelty to animals
20 laws.

21 (4) Proper care and handling of agricultural animals
22 pursuant to enforcement of the cruelty to animals laws.

23 (5) Treatments administered and research conducted
24 during the normal scope of veterinarian practices.

25 (e) Final examination.--The initial training program must
26 also require an individual, as a prerequisite to successful
27 completion of the training program, to take and pass a final
28 examination that sufficiently measures the individual's
29 knowledge and understanding of the instructional material.

30 (f) Continuing education.--

1 (1) The program for continuous training of humane
2 society police officers must provide for such instruction as
3 will allow an individual to receive, at a minimum, a total of
4 ten hours of additional instruction every two years. At least
5 two of the eight hours of instruction must be provided in
6 areas of instruction prescribed in subsection (d). The
7 program must attempt to provide to an individual instruction
8 that differs from instruction previously provided to the
9 individual during the individual's initial or continuous
10 training.

11 (2) The society or association for the prevention of
12 cruelty to animals for which an individual acts as humane
13 society police officer shall maintain complete and accurate
14 records documenting that the individual has successfully
15 completed all requirements for additional training of humane
16 society police officers established in accordance with
17 subsection (g). The society or association for the prevention
18 of cruelty to animals shall make such records available, upon
19 request, to the board and to any person.

20 (g) Additional training requirements.--During each two-year
21 period following the date in which a humane society police
22 officer has been initially appointed, the officer shall
23 successfully complete the minimum requirements for additional
24 training prescribed in the program for continuous training of
25 humane society police officers established in accordance with
26 subsection (f).

27 Section 7. Limitation on possession of firearms.

28 No person appointed as a humane society police officer shall
29 carry, possess or use a firearm in the performance of that
30 person's duties unless that person holds a current and valid

1 certification in the use and handling of firearms pursuant to at
2 least one of the following:

3 (1) 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal
4 police education and training).

5 (2) The act of October 10, 1974 (P.L.705, No.235), known
6 as the Lethal Weapons Training Act.

7 (3) The act of February 9, 1984 (P.L.3, No.2), known as
8 the Deputy Sheriffs' Education and Training Act.

9 (4) Any other firearms program which has been determined
10 by the Commissioner of the Pennsylvania State Police to be of
11 sufficient scope and duration as to provide the person with
12 basic training in the use and handling of firearms.

13 Section 8. Search warrants.

14 Notwithstanding contrary provisions of 18 Pa.C.S. § 5511(1)
15 (relating to cruelty to animals) and in addition to the
16 requirements of existing law, all search warrant applications
17 filed in connection with alleged violations of cruelty to
18 animals laws must have the approval of the district attorney
19 prior to filing.

20 Section 9. Procedure in disciplinary actions.

21 (a) Due process.--Disciplinary actions of the board shall be
22 taken subject only after affording due notice, hearing,
23 adjudication and a right of appeal in accordance with 2 Pa.C.S.
24 (relating to administrative law and procedure).

25 (b) Temporary suspension.--

26 (1) The board shall temporarily suspend an appointment
27 under circumstances determined by the board to constitute an
28 immediate and clear danger to the public health or safety.

29 Temporary suspensions shall remain in effect until vacated by
30 the board, but in no event longer than 180 days.

1 (2) Notwithstanding subsection (a), the board may order
2 a temporary suspension without first holding a hearing, but
3 such order shall be issued only after providing due notice to
4 the appointee at the appointee's last known address, which
5 shall include a written statement of all allegations.

6 (3) Thereafter, the board shall commence formal action
7 forthwith to suspend, revoke or restrict the appointment as
8 provided in this act. In such instances, action shall be
9 taken promptly and without delay.

10 (4) Within 30 days after issuing an order temporarily
11 suspending an appointment, the board shall conduct or cause
12 to be conducted a preliminary hearing to determine whether
13 there is a prima facie case supporting suspension. The
14 appointee may be present at the preliminary hearing and may
15 be represented by counsel, call and cross-examine witnesses,
16 inspect physical evidence, offer evidence and testimony and
17 make a record of the proceedings.

18 (5) If no prima facie case is presented, the suspension
19 shall be removed immediately.

20 (c) Automatic suspension.--

21 (1) An appointment issued under this act shall be
22 suspended automatically if the appointee is legally committed
23 to an institution due to mental incompetency, upon filing
24 with the board a certified copy of such commitment, upon
25 conviction of a felony under the act of April 14, 1972
26 (P.L.233, No.64), known as The Controlled Substance, Drug,
27 Device and Cosmetic Act, or upon conviction of an offense
28 under the laws of another jurisdiction, which, if committed
29 in this Commonwealth, would be a felony under The Controlled
30 Substance, Drug, Device and Cosmetic Act.

1 (2) As used in this subsection, the term "conviction"
2 shall include a judgment, an admission of guilt or a plea of
3 nolo contendere.

4 (3) Suspension under this section shall not be stayed
5 pending appeal of a conviction. Restoration of such
6 appointment shall be made as provided in this act for
7 revocation or suspension of such appointment.

8 Section 10. Misdemeanor of the third degree.

9 A person who fails to return a suspended or revoked
10 appointment or registration in such a manner as the board
11 directs commits a misdemeanor of the third degree.

12 Section 11. Reinstatement of appointment, certificate or
13 registration.

14 Unless ordered to do so by a court, the board may not
15 reinstate the appointment, certificate or registration of a
16 humane society police officer that has been revoked. Any person
17 whose appointment has been revoked may apply for reinstatement
18 after a period of at least five years but must meet all
19 licensing qualifications set by this act, including the
20 examination requirement.

21 Section 12. Enforcement duties and powers.

22 (a) General rule.--The enforcement of laws and rules
23 regulating humane society police officers is primarily vested in
24 the board, which shall have the following powers and duties:

25 (1) To inspect appointments.

26 (2) To conduct investigations of alleged violations of
27 this act.

28 (3) To issue subpoenas, upon application of an attorney
29 representing the Commonwealth in disciplinary matters before
30 the board, for the purpose of investigating alleged

1 violations of the disciplinary provisions administered by the
2 board. The board shall have the power to subpoena witnesses,
3 to administer oaths, to examine witnesses and to take such
4 testimony or compel the production of such books, records,
5 papers and documents as it may deem necessary or proper in
6 and pertinent to any proceeding, investigation or hearing
7 held or had by it. Medical records may not be subpoenaed
8 without consent of the patient or without order of a court of
9 competent jurisdiction on a showing that the records are
10 reasonably necessary for the conduct of the investigation.
11 The board may impose such limitations on the scope of the
12 subpoena as are necessary to prevent unnecessary intrusion
13 into confidential information. The board is authorized to
14 apply to Commonwealth Court to enforce its subpoenas. An
15 attorney responsible for representing the Commonwealth in
16 disciplinary matters before the board shall notify the board
17 immediately upon receiving notification of an alleged
18 violation of this act. The board shall maintain current
19 records of all reported alleged violations and periodically
20 review the records for the purpose of determining that each
21 alleged violation has been resolved in a timely manner.

22 (b) Rules and regulations.--The board may make such
23 reasonable rules and regulations as it deems necessary and
24 proper in order to carry out the intent and purpose of this act.
25 Section 13. Temporary appointment.

26 (a) General rule.--An agent of a society or association for
27 the prevention of cruelty to animals may petition the board for
28 temporary appointment as a humane society police officer,
29 provided that:

30 (1) No other agent for the society or association for

1 the prevention of cruelty to animals is currently appointed
2 to act as a humane society police officer for that society.

3 (2) The agent has not been previously appointed under
4 this section.

5 (3) The agent submits to the board the criminal history
6 information prescribed in section 5(d) and such information
7 shows that such agent would not be disqualified from
8 appointment under section 5(e)(3).

9 (b) Expiration.--A temporary appointment under this section
10 shall expire at the end of six months or such time as the agent
11 or any other agent of the humane society has been permanently
12 appointed by the board to act as humane society police officer
13 in the county, whichever is earlier. No more than one temporary
14 appointment shall be effective for any society or association
15 for the prevention of cruelty to animals at any time.

16 Section 14. Application of act to prior appointees.

17 (a) General rule.--A humane society police officer who,
18 prior to the effective date of this act:

19 (1) Has successfully completed a training program
20 similar to that required under section 6 shall, after review
21 by the board, be certified as having met the training
22 requirements of this act.

23 (2) Has not successfully completed a training program
24 similar to that required under section 6 may continue to
25 perform the duties of a humane society police officer until
26 such person has successfully completed the required training
27 program, but not longer than one year from the effective date
28 of this act.

29 (b) Uncertified officers.--A humane society police officer
30 who, prior to the effective date of this act, has not been

1 certified in the use and handling of firearms pursuant to one or
2 more of the provisions of section 7 may not carry or possess a
3 firearm in the performance of the duties of a humane society
4 police officer on or after the effective date of this act until
5 the person has been certified in the use and handling of
6 firearms in accordance with this act.

7 Section 15. Regulations.

8 The department shall promulgate such regulations, if any, as
9 are necessary to implement and enforce this act.

10 Section 16. Repeals.

11 (a) Specific repeals.--The following acts or parts of acts
12 are repealed in part:

13 22 Pa.C.S. § 501 to the extent that it deals with animals
14 and cruelty to animals.

15 (b) Inconsistent repeals.--The following acts or parts of
16 acts are repealed insofar as they are inconsistent with this
17 act:

18 Act of December 12, 1994 (P.L.956, No.135), known as the
19 Humane Society Police Officer Enforcement Act.

20 Section 17. Effective date.

21 This act shall take effect in 60 days.