

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2326 Session of
2005

INTRODUCED BY READSHAW, BEBKO-JONES, BUXTON, CALTAGIRONE,
CAPPELLI, CASORIO, CORRIGAN, DeWEESE, FRANKEL, FREEMAN,
GERGELY, HERMAN, KOTIK, LEDERER, MAHER, MARKOSEK, McGEEHAN,
NAILOR, PALLONE, PISTELLA, REICHLEY, SAINATO, SHAPIRO,
SOLOBAY, STABACK, TANGRETTI, WALKO, WATSON AND FABRIZIO,
DECEMBER 14, 2005

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 14, 2005

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 animal cruelty.

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

6 Section 1. Section 5511 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5511. Cruelty to animals.

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

11 (1) A person commits a misdemeanor of the second degree
12 if he willfully and maliciously:

13 (i) Kills, maims or disfigures any domestic animal
14 of another person or any domestic fowl of another person.

15 (ii) Administers poison to or exposes any poisonous
16 substance with the intent to administer such poison to

1 any domestic animal of another person or domestic fowl of
2 another person.

3 (iii) Harasses, annoys, injures, attempts to injure,
4 molests or interferes with a dog guide for an individual
5 who is blind, a hearing dog for an individual who is deaf
6 or audibly impaired or a service dog for an individual
7 who is physically limited.

8 Any person convicted of violating the provisions of this
9 paragraph shall be sentenced to pay a fine of not less than
10 \$500.

11 (2) A person commits a felony of the third degree if he
12 willfully and maliciously:

13 (i) Kills, maims or disfigures any zoo animal in
14 captivity.

15 (ii) Administers poison to or exposes any poisonous
16 substance with the intent to administer such poison to
17 any zoo animal in captivity.

18 (2.1) (i) A person commits a misdemeanor of the first
19 degree if he willfully and maliciously:

20 (A) Kills, maims, mutilates, tortures or
21 disfigures any dog or cat, whether belonging to
22 himself or otherwise. If a person kills, maims,
23 mutilates, tortures or disfigures a dog guide for an
24 individual who is blind, a hearing dog for an
25 individual who is deaf or audibly impaired or a
26 service dog for an individual who is physically
27 limited, whether belonging to the individual or
28 otherwise, that person, in addition to any other
29 applicable penalty, shall be required to make
30 reparations for veterinary costs in treating the dog

1 and, if necessary, the cost of obtaining and training
2 a replacement dog.

3 (B) Administers poison to or exposes any
4 poisonous substance with the intent to administer
5 such poison to any [dog or cat] animal, whether
6 belonging to himself or otherwise.

7 (ii) Any person convicted of violating the
8 provisions of this paragraph shall be sentenced to pay a
9 fine of not less than \$1,000 or to imprisonment for not
10 more than two years, or both. The court may also order a
11 presentence mental evaluation. A subsequent conviction
12 under this paragraph shall be a felony of the third
13 degree. This paragraph shall apply to [dogs and cats]
14 animals only.

15 (iii) The killing of a dog or cat by the owner of
16 that animal is not malicious if it is accomplished in
17 accordance with the act of December 22, 1983 (P.L.303,
18 No.83), referred to as the Animal Destruction Method
19 Authorization Law.

20 (3) This subsection shall not apply to:

21 (i) the killing of any animal taken or found in the
22 act of actually destroying any domestic animal or
23 domestic fowl;

24 (ii) the killing of any animal or fowl pursuant to
25 the act of June 3, 1937 (P.L.1225, No.316), known as The
26 Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring
27 dogs public nuisances) and 2385 (relating to destruction
28 of dogs declared public nuisances), or the regulations
29 promulgated thereunder; or

30 (iii) such reasonable activity as may be undertaken

1 in connection with vermin control or pest control.

2 (b) Regulating certain actions concerning fowl or rabbits.--

3 A person commits a summary offense if he sells, offers for sale,
4 barters, or gives away baby chickens, ducklings, or other fowl,
5 under one month of age, or rabbits under two months of age, as
6 pets, toys, premiums or novelties or if he colors, dyes, stains
7 or otherwise changes the natural color of baby chickens,
8 ducklings or other fowl, or rabbits or if he brings or
9 transports the same into this Commonwealth. This section shall
10 not be construed to prohibit the sale or display of such baby
11 chickens, ducklings, or other fowl, or such rabbits, in proper
12 facilities by persons engaged in the business of selling them
13 for purposes of commercial breeding and raising.

14 (c) Cruelty to animals.--

15 (1) A person commits an offense if he wantonly or
16 cruelly illtreats, overloads, beats, otherwise abuses any
17 animal, or neglects any animal as to which he has a duty of
18 care, whether belonging to himself or otherwise, or abandons
19 any animal, or deprives any animal of necessary sustenance,
20 drink, shelter or veterinary care, or access to clean and
21 sanitary shelter which will protect the animal against
22 inclement weather and preserve the animal's body heat and
23 keep it dry. Unless gross negligence can be shown, this
24 section shall not apply to agricultural practices commonly
25 accepted by the entire community.

26 (2) (i) Except as provided in subparagraph (ii), a
27 person convicted of violating paragraph (1) commits a
28 summary offense.

29 (ii) A person convicted for a second or subsequent
30 time of violating paragraph (1) commits a misdemeanor of

1 the third degree if all of the following occurred:

2 (A) The action or omission for which the person
3 was convicted for a subsequent time was performed on
4 a dog or cat.

5 (B) The dog or cat was seriously injured,
6 suffered severe physical distress or was placed at
7 imminent risk of serious physical harm as the result
8 of the person's action or omission.

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

11 (d) Selling or using disabled horse.--A person commits a
12 summary offense if he offers for sale or sells any horse, which
13 by reason of debility, disease or lameness, or for other cause,
14 could not be worked or used without violating the laws against
15 cruelty to animals, or leads, rides, drives or transports any
16 such horse for any purpose, except that of conveying the horse
17 to the nearest available appropriate facility for its humane
18 keeping or destruction or for medical or surgical treatment.

19 (e) Transporting animals in cruel manner.--A person commits
20 a summary offense if he carries, or causes, or allows to be
21 carried in or upon any cart, or other vehicle whatsoever, any
22 animal in a cruel or inhumane manner. The person taking him into
23 custody may take charge of the animal and of any such vehicle
24 and its contents, and deposit the same in some safe place of
25 custody, and any necessary expenses which may be incurred for
26 taking charge of and keeping the same, and sustaining any such
27 animal, shall be a lien thereon, to be paid before the same can
28 lawfully be recovered, or the said expenses or any part thereof
29 remaining unpaid may be recovered by the person incurring the
30 same from the owner of said creature in any action therefor.

1 For the purposes of this section, it shall not be deemed
2 cruel or inhumane to transport live poultry in crates so long as
3 not more than 15 pounds of live poultry are allocated to each
4 cubic foot of space in the crate.

5 (e.1) Transporting equine animals in cruel manner.--
6 Notwithstanding any other provision of law, a person commits a
7 summary offense for each equine animal if the person carries, or
8 causes or allows to be carried, any equine animal in or upon any
9 conveyance or other vehicle whatsoever with two or more levels
10 stacked on top of one another. A person who violates this
11 subsection on a second or subsequent occasion commits a
12 misdemeanor of the third degree for each equine animal
13 transported.

14 (f) Hours of labor of animals.--A person commits a summary
15 offense if he leads, drives, rides or works or causes or permits
16 any other person to lead, drive, ride or work any horse, mare,
17 mule, ox, or any other animal, whether belonging to himself or
18 in his possession or control, for more than 15 hours in any 24
19 hour period, or more than 90 hours in any one week.

20 Nothing in this subsection contained shall be construed to
21 warrant any persons leading, driving, riding or walking any
22 animal a less period than 15 hours, when so doing shall in any
23 way violate the laws against cruelty to animals.

24 (g) Cruelty to cow to enhance appearance of udder.--A person
25 commits a summary offense if he kneads or beats or pads the
26 udder of any cow, or willfully allows it to go unmilked for a
27 period of 24 hours or more, for the purpose of enhancing the
28 appearance or size of the udder of said cow, or by a muzzle or
29 any other device prevents its calf, if less than six weeks old,
30 from obtaining nourishment, and thereby relieving the udder of

1 said cow, for a period of 24 hours.

2 (h) Cropping ears of dog; prima facie evidence of
3 violation.--A person commits a summary offense if he crops or
4 cuts off, or causes or procures to be cropped or cut off, the
5 whole, or part of the ear or ears of a dog or shows or exhibits
6 or procures the showing or exhibition of any dog whose ear is or
7 ears are cropped or cut off, in whole or in part, unless the
8 person showing such dog has in his possession either a
9 certificate of veterinarian stating that such cropping was done
10 by the veterinarian or a certificate of registration from a
11 county treasurer, showing that such dog was cut or cropped
12 before this section became effective.

13 The provisions of this section shall not prevent a
14 veterinarian from cutting or cropping the whole or part of the
15 ear or ears of a dog when such dog is anesthetized, and shall
16 not prevent any person from causing or procuring such cutting or
17 cropping of a dog's ear or ears by a veterinarian.

18 The possession by any person of a dog with an ear or ears cut
19 off or cropped and with the wound resulting therefrom unhealed,
20 or any such dog being found in the charge or custody of any
21 person or confined upon the premises owned by or under the
22 control of any person, shall be prima facie evidence of a
23 violation of this subsection by such person except as provided
24 for in this subsection.

25 The owner of any dog whose ear or ears have been cut off or
26 cropped before this section became effective may, if a resident
27 of this Commonwealth, register such dog with the treasurer of
28 the county where he resides, and if a nonresident of this
29 Commonwealth, with the treasurer of any county of this
30 Commonwealth, by certifying, under oath, that the ear or ears of

1 such dog were cut or cropped before this section became
2 effective, and the payment of a fee of \$1 into the county
3 treasury. The said treasurer shall thereupon issue to such
4 person a certificate showing such dog to be a lawfully cropped
5 dog.

6 (h.1) Animal fighting.--A person commits a felony of the
7 third degree if he:

8 (1) for amusement or gain, causes, allows or permits any
9 animal to engage in animal fighting;

10 (2) receives compensation for the admission of another
11 person to any place kept or used for animal fighting;

12 (3) owns, possesses, keeps, trains, promotes, purchases
13 or knowingly sells any animal for animal fighting;

14 (4) in any way knowingly encourages, aids or assists
15 therein;

16 (5) wagers on the outcome of an animal fight;

17 (6) pays for admission to an animal fight or attends an
18 animal fight as a spectator; or

19 (7) knowingly permits any place under his control or
20 possession to be kept or used for animal fighting.

21 This subsection shall not apply to activity undertaken in a
22 normal agricultural operation.

23 (i) Power to initiate criminal proceedings.--An agent of any
24 society or association for the prevention of cruelty to animals,
25 incorporated under the laws of the Commonwealth, shall have the
26 same powers to initiate criminal proceedings provided for police
27 officers by the Pennsylvania Rules of Criminal Procedure. An
28 agent of any society or association for the prevention of
29 cruelty to animals, incorporated under the laws of this
30 Commonwealth, shall have standing to request any court of

1 competent jurisdiction to enjoin any violation of this section.

2 (j) Seizure of animals kept or used for animal fighting.--

3 Any police officer or agent of a society or association for the
4 prevention of cruelty to animals incorporated under the laws of
5 this Commonwealth, shall have power to seize any animal kept,
6 used, or intended to be used for animal fighting. When the
7 seizure is made, the animal or animals so seized shall not be
8 deemed absolutely forfeited, but shall be held by the officer or
9 agent seizing the same until a conviction of some person is
10 first obtained for a violation of subsection (h.1). The officer
11 or agent making such seizure shall make due return to the
12 issuing authority, of the number and kind of animals or
13 creatures so seized by him. Where an animal is thus seized, the
14 police officer or agent is authorized to provide such care as is
15 reasonably necessary, and where any animal thus seized is found
16 to be disabled, injured or diseased beyond reasonable hope of
17 recovery, the police officer or agent is authorized to provide
18 for the humane destruction of the animal. In addition to any
19 other penalty provided by law, the authority imposing sentence
20 upon a conviction for any violation of subsection (h.1) shall
21 order the forfeiture or surrender of any abused, neglected or
22 deprived animal of the defendant to any society or association
23 for the prevention of cruelty to animals duly incorporated under
24 the laws of this Commonwealth and shall require that the owner
25 pay the cost of the keeping, care and destruction of the animal.

26 (k) Killing homing pigeons.--A person commits a summary
27 offense if he shoots, maims or kills any antwerp or homing
28 pigeon, either while on flight or at rest, or detains or entraps
29 any such pigeon which carries the name of its owner.

30 (l) Search warrants.--Where a violation of this section is

1 alleged, any issuing authority may, in compliance with the
2 applicable provisions of the Pennsylvania Rules of Criminal
3 Procedure, issue to any police officer or any agent of any
4 society or association for the prevention of cruelty to animals
5 duly incorporated under the laws of this Commonwealth a search
6 warrant authorizing the search of any building or any enclosure
7 in which any violation of this section is occurring or has
8 occurred, and authorizing the seizure of evidence of the
9 violation including, but not limited to, the animals which were
10 the subject of the violation. Where an animal thus seized is
11 found to be neglected or starving, the police officer or agent
12 is authorized to provide such care as is reasonably necessary,
13 and where any animal thus seized is found to be disabled,
14 injured or diseased beyond reasonable hope of recovery, the
15 police officer or agent is authorized to provide for the humane
16 destruction of the animal. The cost of the keeping, care and
17 destruction of the animal shall be paid by the owner thereof and
18 claims for the costs shall constitute a lien upon the animal. In
19 addition to any other penalty provided by law, the authority
20 imposing sentence upon a conviction for any violation of this
21 section may require that the owner pay the cost of the keeping,
22 care and destruction of the animal. No search warrant shall be
23 issued based upon an alleged violation of this section which
24 authorizes any police officer or agent or other person to enter
25 upon or search premises where scientific research work is being
26 conducted by, or under the supervision of, graduates of duly
27 accredited scientific schools or where biological products are
28 being produced for the care or prevention of disease.

29 (m) Forfeiture.--In addition to any other penalty provided
30 by law, the authority imposing sentence upon a conviction for

1 any violation of this section may order the forfeiture or
2 surrender of any abused, neglected or deprived animal of the
3 defendant to any society or association for the prevention of
4 cruelty to animals duly incorporated under the laws of this
5 Commonwealth.

6 (m.1) Fine for summary offense.--In addition to any other
7 penalty provided by law, a person convicted of a summary offense
8 under this section shall pay a fine of not less than \$50 nor
9 more than \$750 or to imprisonment for not more than 90 days, or
10 both.

11 (m.2) Prohibition of ownership.--Notwithstanding any
12 provision of law and in addition to any other penalty provided
13 by law, the authority imposing sentence upon a conviction for
14 any violation of this section may order the prohibition or
15 limitation of the defendant's ownership, possession, control or
16 custody of animals or employment with the care of animals for a
17 period of time not to exceed the statutory maximum term of
18 imprisonment applicable to the offense for which sentence is
19 being imposed.

20 (n) Skinning of and selling or buying pelts of dogs and
21 cats.--A person commits a summary offense if he skins a dog or
22 cat or offers for sale or exchange or offers to buy or exchange
23 the pelt or pelts of any dog or cat.

24 (n.1) Psychological counseling and community service.--The
25 authority imposing sentence may order a person convicted under
26 this section to participate in available animal cruelty programs
27 or education programs, or both, or to obtain psychological
28 counseling or treatment of mental health disorders that, in the
29 judgment of the authority imposing sentence, contributed to the
30 commission of the crime. The person so convicted shall bear any

costs incurred for participation in counseling or treatment programs under this section. The authority imposing sentence may order a person convicted under this section to participate in community service work at an animal shelter for a specified period of time. The organization shall report to the authority imposing sentence whether or not the person convicted has completed the required community service work.

(o) Representation of humane society by attorney.--Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. [Attorney's] Attorney fees shall be borne by the humane society or association which is represented[.] unless a conviction occurs; then the authority imposing sentence shall order the person so convicted to pay the attorney fees.

(o.1) Construction of section.--The provisions of this section shall not supersede the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law.

(p) Applicability of section.--This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Animal fighting." Fighting or baiting any bull, bear, dog, cock or other creature.

"Audibly impaired." The inability to hear air conduction

1 thresholds at an average of 40 decibels or greater in the better
2 ear.

3 "Blind." Having a visual acuity of 20/200 or less in the
4 better eye with correction or having a limitation of the field
5 of vision such that the widest diameter of the visual field
6 subtends an angular distance not greater than 20 degrees.

7 "Conveyance." A truck, tractor, trailer or semitrailer, or
8 any combination of these, propelled or drawn by mechanical
9 power.

10 "Deaf." Totally impaired hearing or hearing with or without
11 amplification which is so seriously impaired that the primary
12 means of receiving spoken language is through other sensory
13 input, including, but not limited to, lip reading, sign
14 language, finger spelling or reading.

15 "Domestic animal." Any dog, cat, equine animal, bovine
16 animal, sheep, goat or porcine animal.

17 "Domestic fowl." Any avis raised for food, hobby or sport.

18 "Equine animal." Any member of the Equidae family, which
19 includes horses, asses, mules, ponies and zebras.

20 "Normal agricultural operation." Normal activities,
21 practices and procedures that farmers adopt, use or engage in
22 year after year in the production and preparation for market of
23 poultry, livestock and their products in the production and
24 harvesting of agricultural, agronomic, horticultural,
25 silvicultural and aquicultural crops and commodities.

26 "Physically limited." Having limited ambulation, including,
27 but not limited to, a temporary or permanent impairment or
28 condition that causes an individual to use a wheelchair or walk
29 with difficulty or insecurity, affects sight or hearing to the
30 extent that an individual is insecure or exposed to danger,

1 causes faulty coordination or reduces mobility, flexibility,
2 coordination or perceptiveness.

3 "Zoo animal." Any member of the class of mammalia, aves,
4 amphibia or reptilia which is kept in a confined area by a
5 public body or private individual for purposes of observation by
6 the general public.

7 Section 2. This act shall take effect in 60 days.