

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 AND WILLIAMS, NOVEMBER 9, 2011

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, NOVEMBER 9, 2011

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," further providing for prohibited
 7 means of destroying animals, for methods of destruction of
 8 animals, for exclusions, for use of carbon monoxide systems
 9 and for use of drugs by humane societies and animal shelters;
 10 providing for enforcement; and further providing for
 11 penalties.

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

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

17 Section 1. Prohibited means of destruction of animals and
 18 exclusive method for dogs and cats.

19 (a) General rule.--No animal shall be destroyed by means of
 20 [a] the following:

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

3 (2) Carbon monoxide gas from any source.

4 (3) Chloroform, ether, halothane, fluothane or any
5 similar substance, when administered in an airtight chamber
6 or plastic bag.

7 (b) Dogs and cats.--The use of sodium pentobarbital or a
8 derivative of it shall be the exclusive method for euthanasia of
9 dogs and cats.

10 Section 2. Section 2 of the act is amended by adding a
11 subsection to read:

12 Section 2. Methods of destruction of animals.

13 * * *

14 (c) Exception for dangerous dogs or cats.--

15 (1) Notwithstanding subsection (a) and section 1(b), in
16 cases of extraordinary circumstances where a dog or cat under
17 the care and control of an animal shelter or a humane society
18 organization poses an extreme risk or danger to a
19 veterinarian or euthanasia technician performing euthanasia,
20 such veterinarian or euthanasia technician may use any other
21 humane substance or procedure to perform euthanasia on the
22 dangerous dog or cat.

23 (2) All humane substances or procedures utilized by a
24 facility to euthanize a dog or cat that poses an extreme risk
25 or danger to a veterinarian or euthanasia technician shall be
26 publicly posted in the facility.

27 (3) The following persons, who in the performance of
28 their duties of employment have the responsibility for the
29 care and control of dogs and cats and for the collection of
30 stray dogs and cats, are subject to this subsection:

1 (i) Veterinarians.

2 (ii) Euthanasia technicians.

3 (iii) Personnel of a humane society organization.

4 (iv) Personnel of an animal control organization.

5 (v) Personnel of an animal shelter.

6 (vi) Operators and employees of a commercial kennel,
7 as defined in the act of December 7, 1982 (P.L.784,
8 No.225), known as the Dog Law.

9 (vii) Animal control officers.

10 (4) For purposes of this subsection, "humane substance
11 or procedure" means any substance or procedure officially
12 recognized by the most recent standards of the American
13 Veterinary Medical Association as an acceptable substance or
14 procedure for the euthanasia of an animal. The term does not
15 include the following:

16 (i) Any substance or procedure officially
17 recognized by the most recent standards of the
18 American Veterinary Medical Association as either a
19 "conditional" or a "not acceptable" substance or
20 procedure for the euthanasia of an animal.

21 (ii) Any of the following:

22 (A) Carbon dioxide gas from any source.

23 (B) Electrocution.

24 (C) Nitrogen gas.

25 (D) Argon gas.

26 Section 3. Section 4 of the act is amended to read:

27 Section 4. Exclusions.

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

30 (b) Specific entities.--Sections 2 and 3 of this act shall

1 not apply to:

2 (1) a medical school [or];

3 (2) a school of veterinary medicine [or];

4 (3) a research institution affiliated with a hospital or
5 university[.]; or

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

9 (c) Definition.--As used in this section, the term "normal
10 agricultural operation" has the same meaning given in section 2
11 of the act of June 10, 1982 (P.L.454, No.133), entitled "An act
12 protecting agricultural operations from nuisance suits and
13 ordinances under certain circumstances." This term does not
14 include a commercial kennel as defined in section 102 of the act
15 of December 7, 1982 (P.L.784, No.225), known as the Dog Law.

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

17 [Section 5. Use of carbon monoxide systems.

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

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

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

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

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

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

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

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

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

14 (vii) If an internal combustion engine is used, a
15 means of cooling the gas to a temperature not to exceed
16 115 degrees Fahrenheit at the point of entry into the
17 cabinet and not to exceed 90 degrees Fahrenheit at any
18 point in the cabinet as determined by temperature gauges
19 permanently installed at point of entry and inside the
20 cabinet.

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

25 (ix) If an internal combustion engine is used, a
26 means of substantially deadening the sound and vibration
27 transmission from the engine to the cabinet, by placing
28 them in separate rooms or soundproof compartments
29 connecting them with flexible tubing or pipe at least 24
30 inches in length, so that the noise level within the

1 cabinet shall not exceed 70 decibels.

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

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

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

9 Section 6. Humane societies' and animal shelters' use of drugs.

10 (a) Limited license.--[On and after the effective date of
11 this act, a]

12 (1) A humane society organization or an animal control
13 organization may apply to the [Pennsylvania] State Board of
14 Pharmacy for [registration] a limited license pursuant to the
15 applicable law for the sole purpose of being authorized to
16 purchase, possess and administer sodium pentobarbital or a
17 derivative of it to destroy injured, sick, homeless or
18 unwanted domestic [pet] animals. A limited license may be
19 issued by the [board] State Board of Pharmacy to [eligible]
20 applicants that meet the eligibility criteria set by the
21 State Board of Pharmacy. [Any agency so registered]

22 (2) An organization licensed under paragraph (1) shall
23 not permit a person to administer sodium pentobarbital or a
24 derivative of it unless [such person has demonstrated
25 adequate knowledge of the potential hazards and proper
26 techniques to be used in administering this drug.] that
27 person holds a current euthanasia technician license under
28 subsection (d).

29 (3) Notwithstanding any other provision of this act, if
30 the Department of Agriculture suspends or revokes an

1 organization's kennel license under the act of December 7,
2 1982 (P.L.784, No.225), known as the Dog Law, the
3 organization's limited license to purchase, possess and
4 administer sodium pentobarbital or a derivative of it shall
5 be deemed revoked.

6 (b) Regulation and enforcement.--

7 (1) The [Pennsylvania Department of Agriculture] State
8 Board of Pharmacy, in consultation with the department, shall
9 regulate and enforce the provisions of [this section]
10 subsection (a).

11 (2) To implement this subsection, the department and the
12 State Board of Pharmacy shall each:

13 (i) issue a statement of policy within 90 days of
14 the effective date of this paragraph; and

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

17 (c) Euthanasia technicians.--

18 (1) The State Board of Veterinary Medicine shall
19 determine the regulation and discipline of euthanasia
20 technicians by:

21 (i) issuing a statement of policy within 90 days of
22 the effective date of this subsection; and

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

25 (2) The State Board of Veterinary Medicine may issue a
26 euthanasia technician license to an applicant who satisfies
27 all of the following subparagraphs:

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

1 euthanasia.

2 (ii) Demonstrates adequate knowledge of the
3 potential hazards and proper techniques to be used in
4 administration of euthanasia drugs by satisfying one of
5 the following clauses:

6 (A) Successfully completes a euthanasia
7 technician certification course, including at least
8 14 hours of instruction, which is approved by:

9 (I) the National Animal Control Association;

10 (II) the American Humane Association; or

11 (III) the Humane Society of the United
12 States.

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

21 (C) Meets other requirements established by the
22 State Board of Veterinary Medicine, which
23 requirements shall include knowledge of the
24 Commonwealth's law and regulations relating to
25 euthanasia.

26 (3) The State Board of Veterinary Medicine shall
27 regulate and enforce the provisions of this subsection.

28 (d) Cooperation.--For purposes of administration and
29 enforcement of subsection (a), the State Board of Pharmacy and
30 the State Board of Veterinary Medicine may, by agreement with

1 the department, designate the department to act as their
2 authorized agent for the limited purposes of inspecting and
3 monitoring humane society organizations and animal control
4 organizations, and persons who euthanize animals on behalf of
5 these organizations, for compliance with the applicable
6 requirements and any implementing regulations.

7 Section 6. The act is amended by adding a section to read:
8 Section 8.1. Enforcement agencies.

9 The Department of Agriculture is authorized to conduct
10 investigations and to enforce sections 1, 2, 3, 4 and 7.

11 Section 7. Section 9 of the act is amended to read:
12 Section 9. Penalty.

13 (a) Destruction of animals.--Any person or organization
14 found guilty of violating [the provisions] section 1 or 2(c)(1)
15 of this act shall be fined not to exceed [\$250] \$500 per
16 violation day. Any person or organization found guilty of
17 violating section 1 or 2(c)(1) of this act for the second or
18 subsequent occurrence shall be fined not to exceed \$1,000 per
19 violation day.

20 (b) Other provisions.--Any person or organization found
21 guilty of violating the balance of this act shall be fined not
22 to exceed \$350 per violation day. Any person or organization
23 found guilty of violating the balance of this act for the second
24 or subsequent occurrence shall be fined not to exceed \$700 per
25 violation day.

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

28 Section 8. This act shall take effect in 180 days.