

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 869 Session of 2015

INTRODUCED BY BIZZARRO, W. KELLER, SCHREIBER, FLYNN, MILLARD, DRISCOLL, KINSEY, PASHINSKI, O'BRIEN, V. BROWN, CRUZ, McNEILL, THOMAS, DAVIS, SCHWEYER, YOUNGBLOOD, D. COSTA, SCHLOSSBERG, READSHAW, MAHONEY, GOODMAN, HARHAI, SIMMONS, DeLUCA, HARKINS, MURT, DONATUCCI, WATSON, KIM, D. MILLER, D. PARKER, RAVENSTAHL, SIMS, MICCARELLI, MATZIE AND GIBBONS, APRIL 1, 2015

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 18, 2016

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in riot, disorderly conduct and
3 related offenses, further providing for cruelty to animals.

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

6 ~~Section 1. Section 5511(m) of Title 18 of the Pennsylvania~~ <--
7 ~~Consolidated Statutes is amended to read:~~

8 ~~§ 5511. Cruelty to animals.~~

9 * * *

10 SECTION 1. SECTION 5511(A)(2.1), (C) AND (M) OF TITLE 18 OF <--
11 THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED AND THE
12 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

13 § 5511. CRUELTY TO ANIMALS.

14 (A) KILLING, MAIMING OR POISONING DOMESTIC ANIMALS OR ZOO
15 ANIMALS, ETC.--

1 * * *

2 (2.1) (I) A PERSON COMMITS A MISDEMEANOR OF THE FIRST
3 DEGREE IF HE WILLFULLY AND MALICIOUSLY:

4 (A) KILLS, MAIMS, MUTILATES, TORTURES OR
5 DISFIGURES ANY DOG [OR], CAT OR EQUINE ANIMAL,
6 WHETHER BELONGING TO HIMSELF OR OTHERWISE. [IF A
7 PERSON KILLS, MAIMS, MUTILATES, TORTURES OR
8 DISFIGURES A DOG GUIDE FOR AN INDIVIDUAL WHO IS
9 BLIND, A HEARING DOG FOR AN INDIVIDUAL WHO IS DEAF OR
10 AUDIBLY IMPAIRED OR A SERVICE DOG FOR AN INDIVIDUAL
11 WHO IS PHYSICALLY LIMITED, WHETHER BELONGING TO THE
12 INDIVIDUAL OR OTHERWISE, THAT PERSON, IN ADDITION TO
13 ANY OTHER APPLICABLE PENALTY, SHALL BE REQUIRED TO
14 MAKE REPARATIONS FOR VETERINARY COSTS IN TREATING THE
15 DOG AND, IF NECESSARY, THE COST OF OBTAINING AND
16 TRAINING A REPLACEMENT DOG.]

17 (B) ADMINISTERS POISON TO OR EXPOSES ANY
18 POISONOUS SUBSTANCE WITH THE INTENT TO ADMINISTER
19 SUCH POISON TO ANY DOG [OR], CAT OR EQUINE ANIMAL,
20 WHETHER BELONGING TO HIMSELF OR OTHERWISE.

21 (II) ANY PERSON CONVICTED OF VIOLATING THE
22 PROVISIONS OF THIS PARAGRAPH SHALL BE SENTENCED TO PAY A
23 FINE OF NOT LESS THAN \$1,000 OR TO IMPRISONMENT FOR NOT
24 MORE THAN TWO YEARS, OR BOTH. THE COURT MAY ALSO ORDER A
25 PRESENTENCE MENTAL EVALUATION. A SUBSEQUENT CONVICTION
26 UNDER THIS PARAGRAPH SHALL BE A FELONY OF THE THIRD
27 DEGREE. [THIS PARAGRAPH SHALL APPLY TO DOGS AND CATS
28 ONLY.]

29 (III) THE KILLING OF A DOG [OR], CAT OR EQUINE
30 ANIMAL BY THE OWNER OF THAT ANIMAL IS NOT MALICIOUS IF IT

1 IS ACCOMPLISHED IN ACCORDANCE WITH THE ACT OF DECEMBER
2 22, 1983 (P.L.303, NO.83), REFERRED TO AS THE ANIMAL
3 DESTRUCTION METHOD AUTHORIZATION LAW.

4 (IV) IF A PERSON KILLS, MAIMS, MUTILATES, TORTURES
5 OR DISFIGURES A GUIDE DOG FOR AN INDIVIDUAL WHO IS BLIND,
6 A HEARING DOG FOR AN INDIVIDUAL WHO IS DEAF OR AUDIBLY
7 IMPAIRED OR A SERVICE DOG FOR AN INDIVIDUAL WHO IS
8 PHYSICALLY LIMITED, WHETHER BELONGING TO THE INDIVIDUAL
9 OR OTHERWISE, THAT PERSON, IN ADDITION TO ANY OTHER
10 APPLICABLE PENALTY, SHALL BE REQUIRED TO MAKE REPARATIONS
11 FOR VETERINARY COSTS IN TREATING THE DOG AND, IF
12 NECESSARY, THE COST OF OBTAINING AND TRAINING A
13 REPLACEMENT DOG.

14 (V) FOR PURPOSES OF THIS PARAGRAPH, "TORTURE" SHALL
15 INCLUDE ANY OF THE FOLLOWING, UNLESS DIRECTED TO BE
16 PERFORMED BY A LICENSED VETERINARIAN:

17 (A) BREAKING, SEVERING OR SEVERELY IMPAIRING
18 LIMBS;

19 (B) INFLICTING SEVERE AND PROLONGED PAIN FROM
20 BURNING, CRUSHING OR WOUNDING; OR

21 (C) CAUSING OR ALLOWING, THROUGH PROLONGED
22 DEPRIVATION OF FOOD OR SUSTENANCE, THE LOSS OF MORE
23 THAN ONE-THIRD OF THE ANIMAL'S NORMAL BODY MASS
24 WITHOUT VETERINARY CARE.

25 * * *

26 (C) CRUELTY TO ANIMALS.--

27 (1) A PERSON COMMITS AN OFFENSE IF HE [WANTONLY OR
28 CRUELLY] KNOWINGLY OR RECKLESSLY ILLTREATS, OVERLOADS, BEATS,
29 OTHERWISE ABUSES ANY ANIMAL, OR NEGLECTS ANY ANIMAL AS TO
30 WHICH HE HAS A DUTY OF CARE, WHETHER BELONGING TO HIMSELF OR

1 OTHERWISE, OR ABANDONS ANY ANIMAL, OR DEPRIVES ANY ANIMAL OF
2 NECESSARY SUSTENANCE, DRINK, SHELTER OR VETERINARY CARE, OR
3 ACCESS TO CLEAN AND SANITARY SHELTER WHICH WILL PROTECT THE
4 ANIMAL AGAINST INCLEMENT WEATHER AND PRESERVE THE ANIMAL'S
5 BODY HEAT AND KEEP [IT] THE ANIMAL DRY.

6 (2) (I) EXCEPT AS PROVIDED IN [SUBPARAGRAPH]
7 SUBPARAGRAPHS (II) AND (III), A PERSON CONVICTED OF
8 VIOLATING PARAGRAPH (1) COMMITS A SUMMARY OFFENSE.

9 (II) A PERSON CONVICTED FOR A SECOND OR SUBSEQUENT
10 TIME OF VIOLATING PARAGRAPH (1) COMMITS A MISDEMEANOR OF
11 THE THIRD DEGREE [IF ALL OF THE FOLLOWING OCCURRED:

12 (A) THE ACTION OR OMISSION FOR WHICH THE PERSON
13 WAS CONVICTED FOR A SUBSEQUENT TIME WAS PERFORMED ON
14 A DOG OR CAT.

15 (B) THE DOG OR CAT WAS SERIOUSLY INJURED,
16 SUFFERED SEVERE PHYSICAL DISTRESS OR WAS PLACED AT
17 IMMINENT RISK OF SERIOUS PHYSICAL HARM AS THE RESULT
18 OF THE PERSON'S ACTION OR OMISSION.]_.

19 (III) A PERSON CONVICTED OF VIOLATING PARAGRAPH (1)
20 IN COMBINATION WITH A FIRST VIOLATION OF PARAGRAPH (4) OR
21 (5) OR SUBSECTION (C.1) COMMITS A MISDEMEANOR OF THE
22 THIRD DEGREE.

23 (3) THIS SUBSECTION SHALL NOT APPLY TO ACTIVITY
24 UNDERTAKEN IN NORMAL AGRICULTURAL OPERATION.

25 (4) TETHERING AN UNATTENDED DOG OUT OF DOORS FOR MORE
26 THAN NINE HOURS WITHIN A 24-HOUR PERIOD OR WITHOUT PROVIDING
27 FOR THE ANIMAL'S BASIC NEEDS, AS SET FORTH IN THIS PARAGRAPH,
28 SHALL CONSTITUTE NEGLIGENCE WITHIN THE MEANING OF THIS SECTION.
29 WHEN THE SAME DOG IS OBSERVED TO BE TETHERED IN THE SAME
30 LOCATION THAT IT WAS AFTER AN INITIAL OBSERVATION OF THE DOG

1 IN THAT LOCATION, THERE SHALL BE A REBUTTABLE PRESUMPTION
2 THAT THE DOG HAS BEEN CONTINUOUSLY TETHERED IN THAT LOCATION
3 SINCE THE INITIAL OBSERVATION. THE FOLLOWING SHALL APPLY:

4 (I) A TETHER MUST BE OF A TYPE AND LENGTH COMMONLY
5 USED FOR THE SIZE AND BREED OF DOG. A TETHER MUST BE THE
6 LONGER OF 10 FEET, OR THREE TIMES THE LENGTH OF THE DOG
7 AS MEASURED FROM THE TIP OF ITS NOSE TO THE BASE OF ITS
8 TAIL. NO TOW OR LOG CHAIN MAY BE USED.

9 (II) A TETHER MUST BE SECURED BY MEANS OF A SWIVEL
10 ANCHOR, SWIVEL LATCH OR ANY OTHER MECHANISM DESIGNED TO
11 PREVENT THE DOG FROM BECOMING ENTANGLED. A TETHER MUST BE
12 CONNECTED TO A WELL-FITTED COLLAR OR BODY HARNESS. NO
13 CHOKE, PINCH, PRONG OR CHAIN COLLAR MAY BE USED.

14 (III) A TETHERED DOG MUST HAVE ACCESS TO POTABLE
15 WATER AND AN AREA OF SHADE THAT PERMITS THE DOG TO ESCAPE
16 THE DIRECT RAYS OF THE SUN ASIDE FROM THE SHELTER
17 REQUIRED BY THIS SECTION.

18 (5) THE PRESENCE OF ANY OF THE FOLLOWING CONDITIONS
19 REGARDING A TETHERED DOG SHALL CREATE A REBUTTABLE
20 PRESUMPTION OF NEGLIGENCE:

21 (I) EXCESSIVE WASTE OR EXCREMENT IN THE AREA WHERE
22 THE DOG IS TETHERED.

23 (II) THE DOG HAS BEEN TETHERED OUT OF DOORS FOR MORE
24 THAN 30 MINUTES IN TEMPERATURES ABOVE 90 DEGREES OR BELOW
25 32 DEGREES FAHRENHEIT.

26 (III) THE DOG IS TETHERED IN AN AREA WHERE A SEVERE
27 WEATHER WARNING HAS BEEN ISSUED BY THE NATIONAL WEATHER
28 SERVICE.

29 (6) PARAGRAPH (4) SHALL NOT BE CONSTRUED TO PROHIBIT ANY
30 OF THE FOLLOWING:

1 (I) TETHERING A DOG WHILE ACTIVELY ENGAGED IN LAWFUL
2 HUNTING, EXHIBITION, PERFORMANCE EVENTS OR FIELD
3 TRAINING.

4 (II) TETHERING A HUNTING OR SPORTING DOG BREED WHERE
5 TETHERING IS INTEGRAL TO THE TRAINING, CONDITIONING OR
6 PURPOSE OF THE DOG.

7 (III) TETHERING A DOG IN COMPLIANCE WITH THE
8 REQUIREMENTS OF A CAMPING OR RECREATIONAL AREA.

9 (7) A PERSON WHO COMMITS AN OFFENSE UNDER PARAGRAPH (4)
10 OR (5) SHALL, UPON CONVICTION, BE SENTENCED TO PAY:

11 (I) A FINE OF NOT LESS THAN \$200 NOR MORE THAN \$750;

12 (II) ALL VETERINARY COSTS;

13 (III) SHELTER COSTS, WHICH MAY NOT EXCEED \$15 PER
14 DAY PER DOG; AND

15 (IV) COURT COSTS.

16 (C.1) SHELTERS FOR DOGS.--

17 (1) A PERSON IN CHARGE OR CONTROL OF A DOG WHICH IS KEPT
18 OUTDOORS OR IN AN UNHEATED ENCLOSURE SHALL, AT A MINIMUM,
19 PROVIDE THE DOG WITH SHELTER AND BEDDING AS FOLLOWS:

20 (I) THE FOLLOWING SHALL APPLY:

21 (A) THE SHELTER MUST BE A MOISTURE-PROOF AND
22 WIND-PROOF STRUCTURE OF SUITABLE SIZE TO ACCOMMODATE
23 THE DOG AND ALLOW RETENTION OF BODY HEAT. AT MINIMUM,
24 A SHELTER MUST MEET THE FOLLOWING DIMENSIONS:

25 (I) DEPTH - DOG'S LENGTH PLUS 12 INCHES.

26 (II) WIDTH - DOG'S LENGTH PLUS 18 INCHES.

27 (III) HEIGHT - DOG'S HEIGHT PLUS 3 INCHES ON
28 THE LOW SIDE OF THE SHELTER AND DOG'S HEIGHT PLUS
29 9 INCHES ON THE HIGH SIDE OF THE SHELTER.

30 (B) THE SHELTER MUST BE MADE OF DURABLE MATERIAL

1 WITH A SOLID, MOISTURE-PROOF FLOOR RAISED AT LEAST
2 THREE INCHES FROM THE GROUND.

3 (C) THE ROOF MUST EXTEND EIGHT INCHES OVER THE
4 DOORWAY TO KEEP OUT RAIN.

5 (D) THE SHELTER MAY NOT BE CONSTRUCTED OF ANY
6 MATERIAL THAT READILY CONDUCTS HEAT OR COLD.

7 (II) BETWEEN MAY 1 AND OCTOBER 31, THE PERSON IN
8 CHARGE OR CONTROL OF THE DOG MUST ENSURE THAT THE DOG IS
9 PROVIDED WITH SHADE FROM THE DIRECT RAYS OF THE SUN.

10 (III) BETWEEN NOVEMBER 1 AND MARCH 31, THE STRUCTURE
11 MUST HAVE A WINDBREAK AT THE ENTRANCE. THE PERSON IN
12 CHARGE OR CONTROL OF THE DOG MUST PROVIDE A SUFFICIENT
13 QUANTITY OF SUITABLE BEDDING MATERIAL TO PROVIDE
14 INSULATION AND PROTECTION AGAINST COLD AND DAMPNES AND
15 PROMOTE RETENTION OF BODY HEAT. HAY, BLANKETS, RAGS OR
16 OTHER MATERIAL THAT RETAINS MOISTURE MAY NOT BE UTILIZED
17 FOR BEDDING.

18 (2) (I) EXCEPT AS PROVIDED UNDER SUBSECTION (C) (2) OR
19 SUBPARAGRAPH (II), A PERSON CONVICTED OF VIOLATING
20 PARAGRAPH (1) COMMITS A SUMMARY OFFENSE.

21 (II) A PERSON CONVICTED FOR A SECOND OR SUBSEQUENT
22 TIME OF VIOLATING PARAGRAPH (1) COMMITS A MISDEMEANOR OF
23 THE THIRD DEGREE.

24 (3) A PERSON WHO COMMITS AN OFFENSE UNDER THIS
25 SUBSECTION SHALL, UPON CONVICTION, BE SENTENCED TO PAY:

26 (I) A FINE OF NOT LESS THAN \$200 NOR MORE THAN \$750;

27 (II) ALL VETERINARY COSTS;

28 (III) SHELTER COSTS, WHICH MAY NOT EXCEED \$15 PER
29 DAY PER DOG; AND

30 (IV) COURT COSTS.

1 (C.2) AGGRAVATED CRUELTY TO ANIMALS.--

2 (1) A PERSON COMMITS THE OFFENSE OF AGGRAVATED CRUELTY
3 TO ANIMALS IF AN ANIMAL SUFFERS BODILY INJURY, AS DEFINED IN
4 18 PA.C.S. § 2301 (RELATING TO DEFINITIONS), AS A RESULT OF
5 THE PERSON KNOWINGLY OR RECKLESSLY:

6 (I) TORTURING OR ABUSING AN ANIMAL;

7 (II) NEGLECTING AN ANIMAL AS TO WHICH HE HAS A DUTY
8 OF CARE; OR

9 (III) DEPRIVING AN ANIMAL OF NECESSARY SUSTENANCE,
10 DRINK, SHELTER OR VETERINARY CARE, OR ACCESS TO CLEAN AND
11 SANITARY SHELTER WHICH WILL PROTECT THE ANIMAL AGAINST
12 INCLEMENT WEATHER AND PRESERVE THE ANIMAL'S BODY HEAT AND
13 KEEP THE ANIMAL DRY.

14 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II), A
15 PERSON CONVICTED OF VIOLATING PARAGRAPH (1) COMMITS A
16 MISDEMEANOR OF THE FIRST DEGREE.

17 (II) A PERSON CONVICTED OF VIOLATING PARAGRAPH (1)
18 IN A CASE WHERE THE ANIMAL SUFFERS SERIOUS BODILY INJURY,
19 AS DEFINED IN 18 PA.C.S. § 2301, OR DEATH COMMITS A
20 FELONY OF THE THIRD DEGREE.

21 (3) THIS SUBSECTION SHALL NOT APPLY TO ACTIVITY
22 UNDERTAKEN IN NORMAL AGRICULTURAL OPERATION.

23 * * *

24 (m) Forfeiture.--[In]

25 (1) Except as provided under paragraph (2), in addition
26 to any other penalty provided by law, the authority imposing
27 sentence upon a conviction for any violation of this section
28 may order the forfeiture or surrender of any abused,
29 neglected or deprived animal of the defendant to any society
30 or association for the prevention of cruelty to animals duly

1 incorporated under the laws of this Commonwealth.

2 (2) If the conviction under this subsection is for an
3 offense graded as a misdemeanor of the first or second degree
4 or as a felony under subsection (a), the authority imposing
5 sentence shall order forfeiture or surrender of any abused,
6 neglected or deprived animal of the defendant to any society
7 or association for the prevention of cruelty to animals duly
8 incorporated under the laws of this Commonwealth.

9 * * *

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