

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, GIBBONS AND R. BROWN, APRIL 1, 2015

AS RE-REPORTED FROM COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 25, 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 THE OFFENSE OF <--
4 cruelty to animals.

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

7 Section 1. Section 5511(a)(2.1), (c) and (m), (M) AND (Q) of <--
8 Title 18 of the Pennsylvania Consolidated Statutes are amended
9 and the section is amended by adding subsections A SUBSECTION to <--
10 read:

11 § 5511. Cruelty to animals.

12 (a) Killing, maiming or poisoning domestic animals or zoo
13 animals, etc.--

14 * * *

15 (2.1) (i) A person commits a misdemeanor of the first
16 degree if he willfully and maliciously:

1 (A) Kills, maims, mutilates, tortures or
2 disfigures any dog [or], cat or equine animal,
3 whether belonging to himself or otherwise. [If a
4 person kills, maims, mutilates, tortures or
5 disfigures a dog guide for an individual who is
6 blind, a hearing dog for an individual who is deaf or
7 audibly impaired or a service dog for an individual
8 who is physically limited, whether belonging to the
9 individual or otherwise, that person, in addition to
10 any other applicable penalty, shall be required to
11 make reparations for veterinary costs in treating the
12 dog and, if necessary, the cost of obtaining and
13 training a replacement dog.]

14 (B) Administers poison to or exposes any
15 poisonous substance with the intent to administer
16 such poison to any dog [or], cat or equine animal,
17 whether belonging to himself or otherwise.

18 (ii) Any person convicted of violating the
19 provisions of this paragraph shall be sentenced to pay a
20 fine of not less than \$1,000 or to imprisonment for not
21 more than two years, or both. The court may also order a
22 presentence mental evaluation. A subsequent conviction
23 under this paragraph shall be a felony of the third
24 degree. [This paragraph shall apply to dogs and cats
25 only.]

26 (iii) The killing of a dog [or], cat or equine
27 animal by the owner of that animal is not malicious if it
28 is accomplished in accordance with the act of December
29 22, 1983 (P.L.303, No.83), referred to as the Animal
30 Destruction Method Authorization Law.

1 (iv) If a person kills, maims, mutilates, tortures
2 or disfigures a guide dog for an individual who is blind,
3 a hearing dog for an individual who is deaf or audibly
4 impaired or a service dog for an individual who is
5 physically limited, whether belonging to the individual
6 or otherwise, that person, in addition to any other
7 applicable penalty, shall be required to make reparations
8 for veterinary costs in treating the dog and, if
9 necessary, the cost of obtaining and training a
10 replacement dog.

11 ~~(v) For purposes of this paragraph, "torture" shall <--~~
12 ~~include any of the following, unless directed to be~~
13 ~~performed by a licensed veterinarian:~~

14 ~~(A) breaking, severing or severely impairing~~
15 ~~limbs;~~

16 ~~(B) inflicting severe and prolonged pain from~~
17 ~~burning, crushing or wounding; or~~

18 ~~(C) causing or allowing, through prolonged~~
19 ~~deprivation of food or sustenance, the loss of more~~
20 ~~than one third of the animal's normal body mass~~
21 ~~without veterinary care.~~

22 * * *

23 (c) Cruelty to animals.--

24 (1) A person commits an offense if he [wantonly or
25 cruelly] knowingly or recklessly illtreats, overloads, beats,
26 otherwise abuses any animal, or neglects any animal as to
27 which he has a duty of care, whether belonging to himself or
28 otherwise, or abandons any animal, or deprives any animal of
29 necessary sustenance, drink, shelter or veterinary care, or
30 access to clean and sanitary shelter which will protect the

1 animal against inclement weather and preserve the animal's
2 body heat and keep [it] the animal dry.

3 (2) (i) Except as provided in ~~¶subparagraph~~ <--
4 ~~subparagraphs~~ (ii) ~~and (iii)~~, a person convicted of <--
5 violating paragraph (1) commits a summary offense.

6 (ii) A person convicted for a second or subsequent
7 time of violating paragraph (1) commits a misdemeanor of
8 the third degree ~~if all of the following occurred:~~ <--

9 (A) The action or omission for which the person
10 was convicted for a subsequent time was performed on
11 a dog or cat.

12 (B) The dog or cat was seriously injured,
13 suffered severe physical distress or was placed at
14 imminent risk of serious physical harm as the result
15 of the person's action or omission. ~~¶~~ <--

16 ~~(iii) A person convicted of violating paragraph (1)~~
17 ~~in combination with a first violation of paragraph (4) or~~
18 ~~(5) or subsection (c.1) commits a misdemeanor of the~~
19 ~~third degree.~~

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

22 (4) Tethering an unattended dog out of doors for more
23 than nine hours within a 24-hour period or without providing
24 for the animal's basic needs, as set forth in this paragraph,
25 shall constitute neglect within the meaning of this section.
26 When the same dog is observed to be tethered in the same <--
27 location that it was after an initial observation of the dog
28 in that location, there shall be a rebuttable presumption
29 that the dog has been continuously tethered in that location
30 since the initial observation. The following shall apply:

1 (i) A tether must be of a type and length commonly
2 used for the size and breed of dog. A tether must be the
3 longer of 10 feet, or three times the length of the dog
4 as measured from the tip of its nose to the base of its
5 tail. No tow or log chain may be used.

6 (ii) A tether must be secured by means of a swivel
7 anchor, swivel latch or any other mechanism designed to
8 prevent the dog from becoming entangled. A tether must be
9 connected to a well-fitted collar or body harness. No
10 choke, pinch, prong or chain collar may be used.

11 (iii) A tethered dog must have access to potable
12 water and an area of shade that permits the dog to escape
13 the direct rays of the sun ~~aside from the shelter~~ <--
14 required by this section.

15 (5) The presence of any of the following conditions
16 regarding a tethered dog shall create a rebuttable
17 presumption of neglect:

18 (i) Excessive waste or excrement in the area where
19 the dog is tethered.

20 (ii) The dog has been tethered out of doors for more
21 than 30 minutes in temperatures above 90 degrees or below
22 32 degrees Fahrenheit.

23 ~~(iii) The dog is tethered in an area where a severe <--~~
24 ~~weather warning has been issued by the National Weather~~
25 ~~Service.~~

26 (6) Paragraph (4) shall not be construed to prohibit any
27 of the following:

28 (i) Tethering a dog while actively engaged in lawful
29 hunting, exhibition, performance events or field
30 training.

1 ~~(ii) Tethering a hunting or sporting, SPORTING OR~~ <--
2 ~~SLEDDING dog breed where tethering is integral to the~~
3 ~~training, conditioning or purpose of the dog.~~

4 ~~(iii) Tethering a dog in compliance with the~~
5 ~~requirements of a camping or recreational area.~~

6 ~~(7) A person who commits an offense under paragraph (4)~~ <--
7 ~~or (5) shall, upon conviction, be sentenced to pay:~~

8 ~~(i) a fine of not less than \$200 nor more than \$750;~~

9 ~~(ii) all veterinary costs;~~

10 ~~(iii) shelter costs, which may not exceed \$15 per~~
11 ~~day per dog; and~~

12 ~~(iv) court costs.~~

13 ~~(c.1) Shelters for dogs.~~

14 ~~(1) A person in charge or control of a dog which is kept~~
15 ~~outdoors or in an unheated enclosure shall, at a minimum,~~
16 ~~provide the dog with shelter and bedding as follows:~~

17 ~~(i) The following shall apply:~~

18 ~~(A) The shelter must be a moisture proof and~~
19 ~~wind proof structure of suitable size to accommodate~~
20 ~~the dog and allow retention of body heat. At minimum,~~
21 ~~a shelter must meet the following dimensions:~~

22 ~~(I) Depth — dog's length plus 12 inches.~~

23 ~~(II) Width — dog's length plus 18 inches.~~

24 ~~(III) Height — dog's height plus 3 inches on~~
25 ~~the low side of the shelter and dog's height plus~~
26 ~~9 inches on the high side of the shelter.~~

27 ~~(B) The shelter must be made of durable material~~
28 ~~with a solid, moisture proof floor raised at least~~
29 ~~three inches from the ground.~~

30 ~~(C) The roof must extend eight inches over the~~

1 ~~doorway to keep out rain.~~

2 ~~(D) The shelter may not be constructed of any~~
3 ~~material that readily conducts heat or cold.~~

4 ~~(ii) Between May 1 and October 31, the person in~~
5 ~~charge or control of the dog must ensure that the dog is~~
6 ~~provided with shade from the direct rays of the sun.~~

7 ~~(iii) Between November 1 and March 31, the structure~~
8 ~~must have a windbreak at the entrance. The person in~~
9 ~~charge or control of the dog must provide a sufficient~~
10 ~~quantity of suitable bedding material to provide~~
11 ~~insulation and protection against cold and dampness and~~
12 ~~promote retention of body heat. Hay, blankets, rags or~~
13 ~~other material that retains moisture may not be utilized~~
14 ~~for bedding.~~

15 ~~(2) (i) Except as provided under subsection (c) (2) or~~
16 ~~subparagraph (ii), a person convicted of violating~~
17 ~~paragraph (1) commits a summary offense.~~

18 ~~(ii) A person convicted for a second or subsequent~~
19 ~~time of violating paragraph (1) commits a misdemeanor of~~
20 ~~the third degree.~~

21 ~~(3) A person who commits an offense under this~~
22 ~~subsection shall, upon conviction, be sentenced to pay:~~

23 ~~(i) a fine of not less than \$200 nor more than \$750;~~

24 ~~(ii) all veterinary costs;~~

25 ~~(iii) shelter costs, which may not exceed \$15 per~~
26 ~~day per dog; and~~

27 ~~(iv) court costs.~~

28 ~~(IV) TETHERING A DOG FOR A PERIOD OF TIME, NOT TO~~ <--
29 ~~EXCEED ONE HOUR, REASONABLY NECESSARY FOR THE DOG OR~~
30 ~~PERSON TO COMPLETE A TEMPORARY TASK.~~

1 ~~(e.2)~~ (C.1) 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. TORTURING OR ABUSING AN ANIMAL.~~ <--

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 (Q) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <--
11 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
12 SUBSECTION:

13 "ANIMAL FIGHTING." FIGHTING OR BAITING ANY BULL, BEAR, DOG,
14 COCK OR OTHER CREATURE.

15 "ANIMAL FIGHTING PARAPHERNALIA." ANY DEVICE, IMPLEMENT,
16 OBJECT OR DRUG USED OR INTENDED TO BE USED FOR ANIMAL FIGHTING,
17 TO TRAIN AN ANIMAL FOR ANIMAL FIGHTING OR IN FURTHERANCE OF
18 ANIMAL FIGHTING. IN DETERMINING WHETHER AN OBJECT IS ANIMAL
19 FIGHTING PARAPHERNALIA, A COURT OR OTHER AUTHORITY SHOULD
20 CONSIDER STATEMENTS BY AN OWNER OR BY ANYONE IN CONTROL OF THE
21 OBJECT CONCERNING ITS USE, ANY PRIOR CONVICTIONS UNDER FEDERAL
22 OR STATE LAW RELATING TO ANIMAL FIGHTING, THE PROXIMITY OF THE
23 OBJECT IN TIME AND SPACE TO THE DIRECT VIOLATION OF THIS
24 SECTION, DIRECT OR CIRCUMSTANTIAL EVIDENCE OF THE INTENT OF THE
25 ACCUSED TO DELIVER THE OBJECT TO PERSONS WHOM HE OR SHE KNOWS OR
26 SHOULD REASONABLY KNOW INTENDS TO USE THE OBJECT TO FACILITATE A
27 VIOLATION OF THIS SECTION, ORAL OR WRITTEN INSTRUCTIONS PROVIDED
28 WITH OR IN THE VICINITY OF THE OBJECT CONCERNING ITS USE,
29 DESCRIPTIVE MATERIALS ACCOMPANYING THE OBJECT WHICH EXPLAIN OR
30 DEPICT ITS USE AND ALL OTHER LOGICALLY RELEVANT FACTORS.

1 "AUDIBLY IMPAIRED." THE INABILITY TO HEAR AIR CONDUCTION
2 THRESHOLDS AT AN AVERAGE OF 40 DECIBELS OR GREATER IN THE BETTER
3 EAR.

4 "BLIND." HAVING A VISUAL ACUITY OF 20/200 OR LESS IN THE
5 BETTER EYE WITH CORRECTION OR HAVING A LIMITATION OF THE FIELD
6 OF VISION SUCH THAT THE WIDEST DIAMETER OF THE VISUAL FIELD
7 SUBTENDS AN ANGULAR DISTANCE NOT GREATER THAN 20 DEGREES.

8 "CONVEYANCE." A TRUCK, TRACTOR, TRAILER OR SEMITRAILER, OR
9 ANY COMBINATION OF THESE, PROPELLED OR DRAWN BY MECHANICAL
10 POWER.

11 "DEAF." TOTALLY IMPAIRED HEARING OR HEARING WITH OR WITHOUT
12 AMPLIFICATION WHICH IS SO SERIOUSLY IMPAIRED THAT THE PRIMARY
13 MEANS OF RECEIVING SPOKEN LANGUAGE IS THROUGH OTHER SENSORY
14 INPUT, INCLUDING, BUT NOT LIMITED TO, LIP READING, SIGN
15 LANGUAGE, FINGER SPELLING OR READING.

16 "DOMESTIC ANIMAL." ANY DOG, CAT, EQUINE ANIMAL, BOVINE
17 ANIMAL, SHEEP, GOAT OR PORCINE ANIMAL.

18 "DOMESTIC FOWL." ANY AVIS RAISED FOR FOOD, HOBBY OR SPORT.

19 "EQUINE ANIMAL." ANY MEMBER OF THE EQUIDAE FAMILY, WHICH
20 INCLUDES HORSES, ASSES, MULES, PONIES AND ZEBRAS.

21 "NORMAL AGRICULTURAL OPERATION." NORMAL ACTIVITIES,
22 PRACTICES AND PROCEDURES THAT FARMERS ADOPT, USE OR ENGAGE IN
23 YEAR AFTER YEAR IN THE PRODUCTION AND PREPARATION FOR MARKET OF
24 POULTRY, LIVESTOCK AND THEIR PRODUCTS IN THE PRODUCTION AND
25 HARVESTING OF AGRICULTURAL, AGRONOMIC, HORTICULTURAL,
26 SILVICULTURAL AND AQUICULTURAL CROPS AND COMMODITIES.

27 "PHYSICALLY LIMITED." HAVING LIMITED AMBULATION, INCLUDING,
28 BUT NOT LIMITED TO, A TEMPORARY OR PERMANENT IMPAIRMENT OR
29 CONDITION THAT CAUSES AN INDIVIDUAL TO USE A WHEELCHAIR OR WALK
30 WITH DIFFICULTY OR INSECURITY, AFFECTS SIGHT OR HEARING TO THE

1 EXTENT THAT AN INDIVIDUAL IS INSECURE OR EXPOSED TO DANGER,
2 CAUSES FAULTY COORDINATION OR REDUCES MOBILITY, FLEXIBILITY,
3 COORDINATION OR PERCEPTIVENESS.

4 "TORTURE." THE TERM INCLUDES ANY OF THE FOLLOWING, UNLESS
5 DIRECTED TO BE PERFORMED BY A LICENSED VETERINARIAN:

6 (1) BREAKING, SEVERING OR SEVERELY IMPAIRING LIMBS;

7 (2) INFLECTING SEVERE AND PROLONGED PAIN FROM BURNING,
8 CRUSHING OR WOUNDING; OR

9 (3) CAUSING OR ALLOWING, THROUGH PROLONGED DEPRIVATION
10 OF FOOD OR SUSTENANCE, THE LOSS OF MORE THAN ONE-THIRD OF THE
11 ANIMAL'S NORMAL BODY MASS WITHOUT VETERINARY CARE.

12 "ZOO ANIMAL." ANY MEMBER OF THE CLASS OF MAMMALIA, AVES,
13 AMPHIBIA OR REPTILIA WHICH IS KEPT IN A CONFINED AREA BY A
14 PUBLIC BODY OR PRIVATE INDIVIDUAL FOR PURPOSES OF OBSERVATION BY
15 THE GENERAL PUBLIC.

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