

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1238 Session of
2017

INTRODUCED BY STEPHENS, BIZZARRO, GREINER, FARRY, D. COSTA, SAINATO, READSHAW, O'BRIEN, W. KELLER, STAATS, JAMES, DEAN, KAUFFMAN, WHEELAND, DRISCOLL, BOBACK, SCHLOSSBERG, CHARLTON, MURT, WATSON, SCHWEYER, FREEMAN, MILLARD, A. HARRIS, MILNE, DeLUCA, DEASY, KORTZ, DONATUCCI, GILLEN, CONKLIN, DAVIS, PHILLIPS-HILL, RAVENSTAHL, SANTORA, ROE AND MICCARELLI, APRIL 17, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 25, 2017

AN ACT

Amending Titles 3 (Agriculture), 18 (Crimes and Offenses), 22 (Detectives and Private Police), 34 (Game) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in race horse industry reform, further providing for licenses for horse race meetings and for occupational licenses for individuals; in riot, disorderly conduct and related offenses, repealing provisions relating to offense of cruelty to animals, live animals as prizes prohibited, police animals and assault with a biological agent on animal, fowl or honey bees and providing for offenses relating to cruelty to animals; in humane society police officers, further providing for definitions, for appointment by nonprofit corporations, for qualifications for appointment, for suspension, revocation, limitation and restriction of appointment and restoration of appointment, for powers and authority and jurisdiction, for search warrants and for costs; in hunting and furtaking, further providing for destruction of dogs declared public nuisances; in budget and finance, further providing for municipal corporation portion of fines, etc; and making editorial changes.

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

Section 1. Sections 9318(e)(1)(iv) and 9323(g.1)(3) of Title

3 of the Pennsylvania Consolidated Statutes, added October 28, 2016 (P.L.913, No.114), are amended to read:

§ 9318. Licenses for horse race meetings.

* * *

(e) Action on licenses.--The following shall apply:

(1) The commission shall be prohibited from issuing a license to conduct a horse race meeting at which pari-mutuel wagering is permitted to an individual or applicant or an owner, officer, director or manager of the applicant who has been convicted of:

* * *

(iv) An offense under 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals).

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§ 9323. Occupational licenses for individuals.

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(g.1) Denial.--The commission may deny an application for a license or suspend, revoke or refuse to renew a license issued under this section if it determines that the applicant or licensee meets any of the following:

* * *

(3) Has been convicted of an offense under 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals).

* * *

Section 2. Chapter 55 of Title 18 is amended by adding a subchapter heading to read:

SUBCHAPTER A

DEFINITION OF OFFENSES GENERALLY

Section 3. Sections 5511, 5511.1, 5511.2 and 5511.3 of Title

18 are repealed:

[§ 5511. Cruelty to animals.

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

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

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

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

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

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

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

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

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

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

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

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

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

(3) This subsection shall not apply to:

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

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

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(a.1) Guide dogs.--

(1) A person commits a misdemeanor of the third degree if he is the owner or co-owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited without provocation by the guide, hearing or service dog or the individual.

(2) A person commits an offense under this subsection only if the person knew or should have known that the dog he owns or co-owns had a propensity to attack human beings or domestic animals without provocation and the owner or co-owner knowingly or recklessly failed to restrain the dog or keep the dog in a contained, secure manner.

(3) Any person convicted of violating the provisions of this subsection shall be sentenced to pay a fine of not more than \$5,000 and shall be ordered to make reparations for

veterinary costs in treating the guide, hearing or service dog and, if necessary, the cost of obtaining and training a replacement guide, hearing or service dog.

(a.2) Civil penalty and restitution.--

(1) A person who is the owner or co-owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited shall be subject to paragraph (2) if all of the following apply:

(i) The owner or co-owner knew the dog had a propensity to attack human beings or domestic animals.

(ii) The owner or co-owner failed to restrain the dog or keep the dog in a contained, secure manner.

(2) A court of common pleas may impose any of the following upon any person who is the owner or co-owner of a dog under paragraph (1):

(i) A civil penalty of up to \$15,000.

(ii) Reparations for veterinary costs in treating the guide, hearing or service dog and, if necessary, the cost of retraining the dog or of obtaining and training a replacement guide, hearing or service dog.

(iii) Loss of income for the time the individual is unable to work due to the unavailability of the guide, hearing or service dog.

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

A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as

pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.--

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

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

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

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

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at

imminent risk of serious physical harm as the result of the person's action or omission.

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

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

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

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

(e.1) Transporting equine animals in cruel manner.--

Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

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

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

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

(h) Specific violations; prima facie evidence of violation.-

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(1) (i) A person commits a summary offense if the

person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2) (i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance

chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3) (i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or

cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4) (i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act

under the guidance or oversight of a veterinarian.

(5) (i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

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

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

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

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

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

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

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

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

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

(h.2) Possession of animal fighting paraphernalia.--In addition to any other penalty provided by law, a person commits a misdemeanor of the third degree if he knowingly owns or possesses animal fighting paraphernalia.

(i) Power to initiate criminal proceedings.--An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.--Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept,

used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1) or forfeiture is obtained under the act of July 9, 2013 (P.L.263, No.50), known as the Costs of Care of Seized Animals Act. The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

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

(l) Search warrants.--Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal

Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.--In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or

surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

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

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

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

(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 fees shall be borne by the humane society or association which is represented.

(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.

"Animal fighting paraphernalia." Any device, implement, object or drug used or intended to be used for animal fighting, to train an animal for animal fighting or in furtherance of animal fighting. In determining whether an object is animal fighting paraphernalia, a court or other authority should consider statements by an owner or by anyone in control of the object concerning its use, any prior convictions under Federal or State law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intends to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use and all other logically relevant factors.

"Audibly impaired." The inability to hear air conduction

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

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

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

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

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

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

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

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

"Physically limited." Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the

extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

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

§ 5511.1. Live animals as prizes prohibited.

(a) General rule.--No person shall give or offer to give away any live animal, except fish, as a prize in any drawing, lottery, contest, sweepstakes or other game. No person operating any drawing, lottery, contest, sweepstake or other game shall sell or offer to sell any live animal, except fish, in conjunction with the operation of a drawing, lottery, contest, sweepstakes or other game.

(b) Exception.--

(1) This section shall not apply to any domestic animal given away or sold in connection with any agricultural, educational or vocational program sponsored or sanctioned by the Department of Agriculture.

(2) The Department of Agriculture shall promulgate the rules and regulations necessary to provide the conditions and requirements of live animal offerings under this subsection.

(c) 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.

(d) Penalty.--A violation of this section constitutes a summary offense punishable by a fine of not more than \$250.

§ 5511.2. Police animals.

(a) Illegal to taunt police animals.--It shall be unlawful for any person to willfully or maliciously taunt, torment, tease, beat, kick or strike a police animal. Any person who violates any of the provisions of this subsection commits a felony of the third degree.

(b) Illegal to torture police animals.--It shall be unlawful for any person to willfully or maliciously torture, mutilate, injure, disable, poison or kill a police animal. Any person who violates any of the provisions of this subsection commits a felony of the second degree.

(c) Restitution.--In any case in which a defendant is convicted of a violation of subsection (a) or (b), the defendant shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills, for replacement costs of the animal if it is disabled or killed and for the salary of the animal's handler for the period of time the handler's services are lost to the agency.

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

"Accelerate detection dog." A dog which is trained for accelerant detection, commonly referred to as arson canines.

"Bomb detection dog." A dog which is trained to locate a bomb or explosives by scent.

"Narcotic detection dog." A dog which is trained to locate narcotics by scent.

"Police animal." An animal, including, but not limited to, dogs and horses, used by the Pennsylvania State Police, a police department created by a metropolitan transportation authority

operating under 74 Pa.C.S. Ch. 17 (relating to metropolitan transportation authorities), a police department created pursuant to the act of April 6, 1956 (1955 P.L.1414, No.465), known as the Second Class County Port Authority Act, the Capitol Police, the Department of Corrections, a county facility or office or by a municipal police department, fire department, search and rescue unit or agency or handler under the supervision of such department, search and rescue unit or agency in the performance of the functions or duties of such department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, an accelerant detection dog, bomb detection dog, narcotic detection dog, search and rescue dog and tracking animal.

"Search and rescue dog." A dog which is trained to locate lost or missing persons, victims of natural or manmade disasters and human bodies.

"Tracking animal." An animal which is trained to track or used to pursue a missing person, escaped inmate or fleeing felon.

§ 5511.3. Assault with a biological agent on animal, fowl or honey bees.

(a) Offense defined.--A person commits a felony of the second degree if the person intentionally, knowingly or maliciously exposes or causes to be exposed an animal, fowl or honey bees to any virus, bacteria, prion or other agent which causes infectious disease, including any of the following:

- (1) Foot-and-mouth disease.
- (2) Bovine spongiform encephalopathy (BSE), commonly

known as mad cow disease.

(3) Avian influenza.

(4) Varroamite.

(b) Restitution.--The person convicted of violating this section shall, in addition to any other sentence imposed, be sentenced to pay the owner of the afflicted animal, fowl or honey bees restitution in an amount equal to the cost of the financial damages incurred as a result of the offense, including the following:

(1) Value of afflicted animal, fowl or honey bees.

(2) Disposal of afflicted animal, fowl or honey bees.

(3) Testing for disease on existing animal.

(4) Cleanup and sanitization of property and buildings on and in which afflicted animals, fowl or honey bees were located.

(5) Liability insurance for cleanup and sanitization workers.

(6) Soil testing of property.

(7) Loss revenue for aggrieved owner of afflicted animal, fowl or honey bees.

(c) Exceptions.--The provisions of this section shall not apply to research or veterinarian services, including immunizations, vaccinations or other treatments administered during the normal scope of practice.]

Section 4. Chapter 55 of Title 18 is amended by adding a subchapter to read:

SUBCHAPTER B

CRUELTY TO ANIMALS

Sec.

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5558. Representation of humane society by attorney.

5559. Construction of subchapter.

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§ 5531. Definitions.

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

"Accelerant detection dog." A dog that is trained for accelerant detection, commonly referred to as arson canines.

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

"Animal fighting paraphernalia." A device, implement, object or drug used or intended to be used for animal fighting, to train an animal for animal fighting or in furtherance of animal fighting. In determining whether an object is animal fighting paraphernalia, a court or other authority should consider the following:

(1) Statements by an owner or by an individual in control of the object concerning its use.

(2) A prior conviction under Federal or State law relating to animal fighting.

(3) The proximity of the object in time and space to the direct violation of this subchapter.

(4) Direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom the accused knows or should reasonably know intends to use the object to facilitate a violation of this subchapter.

(5) Oral or written instructions provided with or in the vicinity of the object concerning the object's use.

(6) Descriptive materials accompanying the object which explain or depict the object's use.

(7) All other logically relevant factors.

"Audibly impaired." The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

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

"Bodily injury." Impairment of physical condition or substantial pain.

"Bomb detection dog." A dog that is trained to locate a bomb or explosives by scent.

"Certified veterinary technician." As defined in section 3(13) of the act of December 27, 1974 (P.L.995, No.326), known as the Veterinary Medicine Practice Act.

"Conveyance." A truck, tractor, trailer or semitrailer, or a combination of these, propelled or drawn by mechanical power.

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

"Domestic animal." A dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

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

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

"Humane society police officer." As defined in 22 Pa.C.S. § 3702 (relating to definitions).

"Licensed doctor of veterinary medicine." As defined in section 3(8) of the Veterinary Medicine Practice Act.

"Narcotic detection dog." A dog that is trained to locate narcotics by scent.

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

"Physically limited." Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

"Police animal." An animal, including, but not limited to, dogs and horses, used by the Pennsylvania State Police, a police department created by a metropolitan transportation authority operating under 74 Pa.C.S. Ch. 17 (relating to metropolitan transportation authorities), a police department created under the act of April 6, 1956 (1955 P.L.1414, No.465), known as the Second Class County Port Authority Act, the Capitol Police, the Department of Corrections, a county facility or office or by a

municipal police department, fire department, search and rescue unit or agency or handler under the supervision of the department, search and rescue unit or agency in the performance of the functions or duties of the department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, an accelerant detection dog, bomb detection dog, narcotic detection dog, search and rescue dog and tracking animal.

"Search and rescue dog." A dog that is trained to locate lost or missing persons, victims of natural or manmade disasters and human bodies.

"Serious bodily injury." Bodily injury that creates a substantial risk of death or causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

"Torture." Any of the following acts directed toward or against an animal unless directed to be performed by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE acting within the normal scope of practice:

- (1) Breaking, severing or severely impairing limbs.
- (2) Inflicting severe and prolonged pain from burning, crushing or wounding.
- (3) Causing or allowing severe and prolonged pain through prolonged deprivation of food or sustenance without veterinary care.

"Tracking animal." An animal that is trained to track or used to pursue a missing person, escaped inmate or fleeing felon.

~~"Veterinarian." A licensed doctor of veterinary medicine,~~

certified veterinary technician or veterinary assistant.

"Veterinary assistant." As defined in section 3(14) of the
Veterinary Medicine Practice Act.

§ 5532. Neglect of animal.

(a) Offense defined.--A person commits an offense if the
person fails to provide any of the following for each animal to
which the person has a duty of care, whether belonging to
himself or otherwise:

(1) Necessary sustenance and potable water.

(2) Access to clean and sanitary shelter and protection
from the weather. The shelter must be sufficient to permit
the animal to retain body heat and keep the animal dry.

(3) Necessary veterinary care.

(b) Grading.--

(1) Except as set forth in paragraph (2), a violation of
this section is a summary offense.

(2) If the violation causes bodily injury to the animal
or places the animal at imminent risk of serious bodily
injury, a violation of this section is a misdemeanor of the
third degree.

§ 5533. Cruelty to animal.

(a) Offense defined.--A person commits an offense if the
person intentionally, knowingly or recklessly illtreats,
overloads, beats, abandons or abuses an animal.

(b) Grading.--

(1) Except as set forth in paragraph (2), a violation of
this section is a summary offense.

(2) If the violation causes bodily injury to the animal
or places the animal at imminent risk of serious bodily

injury, a violation of this section is a misdemeanor of the second degree.

§ 5534. Aggravated cruelty to animal.

(a) Offense defined.--A person commits an offense if the person intentionally or knowingly does any of the following:

(1) Tortures an animal.

(2) Violates section 5532 (relating to neglect of animal) or 5533 (relating to cruelty to animal) causing serious bodily injury to the animal or the death of the animal.

(b) Grading.--A violation of this section is a felony of the third degree.

§ 5535. Attack of guide dog.

(a) Offense defined.--A person commits a misdemeanor of the third degree if the person is the owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited without provocation by the guide, hearing or service dog or the individual.

(b) Culpability.--A person commits an offense under this section only if the person knew or should have known that the dog the person owns had a propensity to attack human beings or domestic animals without provocation, and the owner knowingly or recklessly failed to restrain the dog or keep the dog in a contained, secure manner.

(c) Penalty.--A person convicted of violating this section shall be sentenced to pay a fine of not more than \$5,000 and shall be ordered to make reparations for veterinary costs in

treating the guide, hearing or service dog and, if necessary, the cost of obtaining and training a replacement guide, hearing or service dog.

(d) Civil penalty and restitution.--

(1) A person who is the owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited shall be subject to paragraph (2) if both of the following apply:

(i) The owner knew the dog had a propensity to attack human beings or domestic animals.

(ii) The owner failed to restrain the dog or keep the dog in a contained, secure manner.

(2) A court of common pleas may impose any of the following upon a person who is the owner of a dog under paragraph (1):

(i) A civil penalty of up to \$15,000.

(ii) Reparations for veterinary costs in treating the guide, hearing or service dog and, if necessary, the cost of retraining the dog or of obtaining and training a replacement guide, hearing or service dog.

(iii) Loss of income for the time the individual is unable to work due to the unavailability of the guide, hearing or service dog.

§ 5536. Tethering of unattended dog.

(a) Presumptions.--

(1) Tethering an unattended dog out of doors for less than nine hours within a 24-hour period when all of the

following conditions are present shall create a rebuttable presumption that a dog has not been the subject of neglect within the meaning of section 5532:

(i) The tether is of a type commonly used for the size and breed of dog and is at least three times the length of the dog as measured from the tip of its nose to the base of its tail or 10 feet, whichever is longer.

(ii) The tether is secured to a well-fitted collar or harness by means of a swivel anchor, swivel latch or other mechanism designed to prevent the dog from becoming entangled.

(iii) The tethered dog has access to potable water and an area of shade that permits the dog to escape the direct rays of the sun.

(iv) The dog has not been tethered for longer than 30 minutes in temperatures above 90 or below 32 degrees Fahrenheit.

(2) The presence of any of the following conditions regarding tethering an unattended dog out of doors shall create a rebuttable presumption that a dog has been the subject of neglect within the meaning of section 5532:

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

(ii) Open sores or wounds on the dog's body.

(iii) The use of a tow or log chain, or a choke, pinch, prong or chain collar.

(b) Construction.--This section shall not be construed to prohibit any of the following:

(1) Tethering a dog while actively engaged in lawful

hunting, exhibition, performance events or field training.

(2) Tethering a hunting, sporting or sledding dog breed where tethering is integral to the training, conditioning or purpose of the dog.

(3) Tethering a dog in compliance with the requirements of a camping or recreational area.

(4) Tethering a dog for a period of time, not to exceed one hour, reasonably necessary for the dog or person to complete a temporary task.

§ 5537. Selling or using disabled horse.

A person commits a summary offense if the person offers for sale or sells a horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for humane keeping or destruction or for medical or surgical treatment.

§ 5538. Transporting animals in cruel manner.

(a) Offense defined.--A person commits a summary offense if the person carries, or causes or allows to be carried, in or upon any cart or other vehicle whatsoever an animal in a cruel or inhumane manner. The person taking the offender into custody may take charge of the animal and of the vehicle and the vehicle's contents, and deposit the same in a safe place of custody, and the necessary expenses that may be incurred for taking charge of and keeping the same, and sustaining the animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the expenses or any part thereof

remaining unpaid may be recovered by the person incurring the same from the owner of the animal in an action therefor.

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

§ 5539. Transporting equine animals in cruel manner.

Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, an equine animal in or upon a conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this section on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

§ 5540. Hours of labor of animals.

(a) Offense defined.--A person commits a summary offense if the person leads, drives, rides or works or causes or permits another person to lead, drive, ride or work a horse, mule, ox or other animal, whether belonging to the person or in the person's possession or control, for more than 15 hours in a 24-hour period or more than 90 hours in one week.

(b) Construction.--Nothing in this section shall be construed to warrant a person leading, driving, riding or walking an animal for a period less than 15 hours, when doing so shall in any way violate the laws against cruelty to animals.

§ 5541. Cruelty to cow to enhance appearance of udder.

A person commits a summary offense if the person kneads or beats or pads the udder of a cow, or willfully allows it to go unmilked for a period of 24 hours or more, for the purpose of

enhancing the appearance or size of the udder of the cow, or by a muzzle or any other device, prevents the cow's calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of the cow, for a period of 24 hours.

§ 5542. Animal mutilation and related offenses.

(a) Cropping of ear.--The following apply:

(1) A person commits an offense under section 5533 (relating to cruelty to animal) if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(2) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE.

(3) The possession by a person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation by the person, except as provided for in this subsection.

(4) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE and the date and location at which the procedure was

performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(b) Debarking.--The following apply:

(1) A person commits an offense under section 5533 if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of a part of its resonance chamber.

(2) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE.

(3) The possession by a person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of a person or confined upon the premises owned by or under the control of a person, shall be prima facie evidence of a violation by the person, except as provided in this subsection.

(4) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the

dog during that period of time.

(c) Docking of tail.--The following apply:

(1) A person commits an offense under section 5533 if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(2) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE as provided in this subsection.

(3) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the ~~veterinarian's~~ LICENSED DOCTOR OF VETERINARY MEDICINE'S professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(4) The possession by a person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation by the person, except as provided in this subsection.

(5) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(d) Surgical birth.--The following apply:

(1) A person commits an offense under section 5533 if the person surgically births or causes or procures a surgical birth.

(2) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from surgically birthing a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a surgical birthing by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE.

(3) The possession by a person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of a person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation by the person, except as provided in this subsection.

(4) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the

dog during that period of time.

(5) This subsection shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE.

(e) ~~Declawing~~ DEWCLAWING.--The following apply:

(1) A person commits an offense under section 5533 if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(2) The provisions of this subchapter shall not prevent a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE.

(3) The possession by a person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of a person or confined upon the premises owned by or under the control of a person, shall be prima facie evidence of a violation by the person, except as provided in this subsection.

(4) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending ~~veterinarian~~ LICENSED DOCTOR OF

VETERINARY MEDICINE and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(f) Additional penalty.--In addition to any other penalty provided by law, upon conviction for conduct described in this section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation.

§ 5543. Animal fighting.

A person commits a felony of the third degree if the person:

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

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

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells an animal for animal fighting;

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

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

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

(7) knowingly permits a place under the person's control or possession to be kept or used for animal fighting.

§ 5544. Possession of animal fighting paraphernalia.

In addition to any other penalty provided by law, a person commits a misdemeanor of the third degree if the person

knowingly owns or possesses animal fighting paraphernalia.

§ 5545. Killing homing pigeons.

A person commits a summary offense if the person shoots, maims or kills an antwerp or homing pigeon, either while on flight or at rest, or detains or entraps a pigeon which carries the name of the pigeon's owner.

§ 5546. Skinning of and selling or buying pelts of dogs and cats.

A person commits a summary offense if the person skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of a dog or cat.

§ 5547. Live animals as prizes prohibited.

(a) General rule.--No person shall give or offer to give away a live animal, except fish, as a prize in a drawing, lottery, contest, sweepstakes or other game. No person operating a drawing, lottery, contest, sweepstakes or other game shall sell or offer to sell a live animal, except fish, in conjunction with the operation of a drawing, lottery, contest, sweepstakes or other game.

(b) Regulating certain actions concerning fowl or rabbits.--No person shall sell, offer for sale, barter or give away baby chickens, ducklings or other fowl under one month of age or rabbits under two months of age as pets, toys, premiums or novelties or color, dye, stain or otherwise change the natural color of baby chickens, ducklings or other fowl or rabbits. This subsection shall not be construed to prohibit the sale or display of baby chickens, ducklings or other fowl or rabbits in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Exception.--

(1) This section shall not apply to a domestic animal given away or sold in connection with an agricultural, educational or vocational program sponsored or sanctioned by the Department of Agriculture.

(2) The Department of Agriculture shall promulgate the rules and regulations necessary to provide the conditions and requirements of live animal offerings under this subsection.

(d) Penalty.--A violation of this section constitutes a summary offense punishable by a fine of not more than \$250.

§ 5548. Police animals.

(a) Illegal to taunt police animals.--It shall be unlawful for a person to intentionally or knowingly taunt, torment, tease, beat, kick or strike a police animal. A person who violates the provisions of this subsection commits a felony of the third degree.

(b) Illegal to torture police animals.--It shall be unlawful for a person to intentionally or knowingly torture, mutilate, injure, disable, poison or kill a police animal. A person who violates the provisions of this subsection commits a felony of the second degree.

(c) Restitution.--In a case in which a defendant is convicted of a violation of subsection (a) or (b), the defendant shall be ordered to make restitution to the agency or individual owning the animal for veterinary bills, for replacement costs of the animal if it is disabled or killed and for the salary of the animal's handler for the period of time the handler's services are lost to the agency.

§ 5549. Assault with a biological agent on animal, fowl or

honey bees.

(a) Offense defined.--A person commits a felony of the second degree if the person intentionally, knowingly or maliciously exposes or causes to be exposed an animal, fowl or honey bees to a virus, bacteria, prion or other agent which causes infectious disease, including any of the following:

(1) Foot-and-mouth disease.

(2) Bovine spongiform encephalopathy (BSE), commonly known as mad cow disease.

(3) Avian influenza.

(4) Varroa mite.

(b) Restitution.--The person convicted of violating this section shall, in addition to any other sentence imposed, be sentenced to pay the owner of the afflicted animal, fowl or honey bees restitution in an amount equal to the cost of the financial damages incurred as a result of the offense, including the following:

(1) Value of afflicted animal, fowl or honey bees.

(2) Disposal of afflicted animal, fowl or honey bees.

(3) Testing for disease on existing animal.

(4) Cleanup and sanitization of property and buildings on and in which afflicted animals, fowl or honey bees were located.

(5) Liability insurance for cleanup and sanitization workers.

(6) Soil testing of property.

(7) Loss of revenue for the aggrieved owner of afflicted animal, fowl or honey bees.

(c) Exceptions.--The provisions of this section shall not

apply to research or veterinarian services, including immunizations, vaccinations or other treatments administered during the normal scope of practice.

§ 5550. Fine and term of imprisonment for summary offense.

Unless otherwise specifically provided, a person convicted of a summary offense under this subchapter shall, upon conviction, be sentenced to pay a fine of not less than \$50 nor more than \$750 or imprisonment for not more than 90 days, or both.

§ 5551. Power to initiate criminal proceedings.

An agent of a society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of a society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request a court of competent jurisdiction to enjoin a violation of this subchapter.

§ 5552. Seizure of animals kept or used for animal fighting.

A police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth shall have power to seize an animal kept, used or intended to be used for animal fighting. When the seizure is made, the animal or animals seized shall not be deemed absolutely forfeited but shall be held by the officer or agent seizing the animal or animals until a conviction of a person is first obtained for a violation of section 5543 (relating to animal fighting) or forfeiture is obtained under the act of July 9, 2013 (P.L.263, No.50), known as the Costs of Care of Seized

Animals Act. The officer or agent making the seizure shall make due return to the issuing authority of the number and kind of animals or creatures seized by the officer or agent. Where an animal is seized, the police officer or agent is authorized to provide the care that is reasonably necessary and, where an animal seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for a violation of section 5543 shall order the forfeiture or surrender of an abused or neglected animal of the defendant to a society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

§ 5553. Search warrants.

Where a violation of this subchapter is alleged, an issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to a police officer or an agent of a society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of a building or an enclosure in which a violation of this subchapter is occurring or has occurred and authorizing the seizure of evidence of the violation, including, but not limited to, the animals which were the subject of the violation. Where an animal seized is found to be neglected or starving, the police officer or agent is authorized to provide the care that

is reasonably necessary and, where any animal seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner of the animal, and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for a violation of this subchapter may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this subchapter which authorizes a police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by or under the supervision of graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

§ 5554. Forfeiture.

(a) General rule.--Except as provided under subsection (b), in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for a violation of this subchapter may order the forfeiture or surrender of an abused or neglected animal of the defendant to a society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(b) Forfeiture required for felony offense.--If the conviction under this subchapter is for an offense graded as a felony, the authority imposing sentence shall order forfeiture or surrender of an abused or neglected animal of the defendant

to a society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.
§ 5555. Prohibition of ownership.

Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for a violation of this subchapter may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed. A humane society police officer, law enforcement officer or State dog warden shall have authority to ensure compliance with this section and may notify the local district attorney who may petition the court to remove animals kept in violation of this section.

§ 5556. Civil immunity for ~~veterinarians~~ LICENSED DOCTORS OF VETERINARY MEDICINE, TECHNICIANS AND ASSISTANTS.

(a) A ~~veterinarian~~ LICENSED DOCTOR OF VETERINARY MEDICINE, CERTIFIED VETERINARY TECHNICIAN OR VETERINARY ASSISTANT who reports, in good faith and in the normal course of business, a suspected violation of this subchapter to the proper authority shall not be liable for civil damages as a result of reporting the incident.

(b) Nonapplicability.--Subsection (a) shall not apply to an act or omission intentionally designed to harm or to an act or omission that constitutes gross negligence or willful, wanton or reckless conduct.

§ 5557. Civil immunity for humane society police officers.

(a) General rule.--A humane society police officer acting in

good faith and within the scope of the authority provided under this subchapter shall not be liable for civil damages as a result of an act or omission in the course of an investigation or enforcement action.

(b) Nonapplicability.--Subsection (a) shall not apply to an act or omission intentionally designed to harm, or to an act or omission that constitutes gross negligence or willful, wanton or reckless conduct.

§ 5558. 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 a proceeding under this subchapter by an attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney fees shall be borne by the humane society or association that is represented.

§ 5559. Construction of subchapter.

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

§ 5560. Exemption of normal agricultural operations.

Sections 5532 (relating to neglect of animal), 5533 (relating to cruelty to animal), 5534 (relating to aggravated cruelty to animal), 5536 (relating to tethering of unattended dog) and 5543 (relating to animal fighting) shall not apply to activity undertaken in a normal agricultural operation.

§ 5561. Nonapplicability of subchapter.

(a) Game law.--This subchapter shall not apply to, interfere with or hinder any activity which is authorized or permitted under 34 Pa.C.S. (relating to game) or the regulations

promulgated under those laws.

(b) Exemptions.--The provisions of this subchapter shall not apply to the following:

(1) The killing of a dog or cat by the owner of that animal if it is accomplished in accordance with the act of December 22, 1983 (P.L.303, No.83), known as the Animal Destruction Method Authorization Law.

(2) The killing of an animal found pursuing, wounding or killing a domestic animal or domestic fowl.

(3) The killing of an animal or fowl under 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances) or regulations promulgated under 34 Pa.C.S. §§ 2384 and 2385.

(4) Reasonable activity that may be undertaken with vermin control or pest control.

(5) Shooting activities not otherwise prohibited under this subchapter.

(6) Conduct that is lawful under the laws of the United States or this Commonwealth relating to activities undertaken by a research facility that is one of the following:

(i) Registered and inspected under the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.).

(ii) Subject to the Public Health Service Policy on Humane Care and Use of Laboratory Animals provided for under the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).

(iii) Subject to the provisions of 21 CFR Pt. 58 (relating to good laboratory practice for nonclinical laboratory studies) under the Federal Food, Drug and

Cosmetic Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.) or
the Public Health Service Act.

Section 5. The definitions of "cruelty to animals laws" and "humane society police officer" in section 3702 of Title 22 are amended to read:

§ 3702. Definitions.

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

* * *

"Cruelty to animals laws." The provisions of 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals).

* * *

"Humane society police officer." Any person who holds a current appointment under this chapter to act as a humane society police officer for a society or association for the prevention of cruelty to animals. The term shall include an individual who is an agent of a society or association for the prevention of cruelty to animals as "agent" is used in 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals), provided that individual holds a current appointment under this chapter.

* * *

Section 6. Sections 3704(a), 3705, 3706(a), 3708(a), 3710 and 3716 of Title 22 are amended to read:

§ 3704. Appointment by nonprofit corporations.

(a) Application for appointment.--A society or association may apply to the court of common pleas in any county for the appointment of an individual as a humane society police officer

for that county[.] by providing proof of qualification under section 3705 (relating to qualifications for appointment) to the court of common pleas and to the district attorney. The court, upon [such application which includes proof of qualification under section 3705 (relating to qualifications for appointment), shall] reviewing the application and considering the recommendation, if any, of the district attorney, may by order appoint such person to be a humane society police officer.

* * *

§ 3705. Qualifications for appointment.

[An individual shall be qualified for an] In order for an individual to be considered for appointment as a humane society police officer [provided], the society or association [submits] must submit proof satisfactory to the court of common pleas and the district attorney in each county for which the society or association directs the individual to act as a humane society police officer that the individual [meets all of the following requirements]:

(1) Has been a resident of this Commonwealth for the previous 12 months.

(2) Has successfully completed the training program established pursuant to section 3712 (relating to training program).

(3) Has obtained a criminal history report from the Pennsylvania State Police pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information) or a statement from the Pennsylvania State Police that the Pennsylvania State Police central repository contains no pertinent information relating to the individual who is the

subject of the application. The criminal history record information shall be limited to that which may be disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(4) Has not been convicted of an offense graded a felony or a serious misdemeanor.

(5) Has not been convicted of any violation, including a summary offense, of 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals).

(6) Has not been convicted of an offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country equivalent to an offense graded a felony or a serious misdemeanor or an offense of cruelty to animals.

§ 3706. Suspension, revocation, limitation and restriction of appointment; restoration of appointment.

(a) Grounds for suspension, revocation, limitation or restriction.--By its own action, on petition by a district attorney or pursuant to a written affidavit filed by a complainant, the court of common pleas may, after conducting a hearing, suspend, revoke, limit or restrict an appointment of an individual to act as a humane society police officer in the county if the court determines any of the following:

(1) Being convicted of a felony or a serious misdemeanor in any Federal or State court or being convicted of the equivalent of a felony in any foreign country, territory or possession.

(2) Being convicted of an offense of cruelty to animals in any Federal or State court or being convicted of the

equivalent of a cruelty to animals offense in any foreign country, territory or possession.

(3) Presenting false credentials or documents or making a false or misleading statement in the application for appointment or a certification of completion of additional training or submitting an application for appointment or a certification for completion of additional training containing a false or misleading statement.

(4) Carrying or possessing a firearm in the performance of his or her duties without certification pursuant to section 3711 (relating to limitation on possession of firearms).

(5) The individual has conducted his or her authority to enforce animal cruelty laws in a manner that is substandard of conduct normally expected of humane society police officers.

* * *

§ 3708. Powers and authority; jurisdiction.

(a) Authority limited to county of appointment.--An individual appointed as a humane society police officer in accordance with this chapter shall have power and authority to exercise the powers conferred under 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals) in enforcement of animal cruelty laws only within the particular county whose court of common pleas issued the appointment. The individual has no power or authority to exercise the powers conferred under 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B in any other county whose court of common pleas has not issued an appointment.

* * *

§ 3710. Search warrants.

Notwithstanding contrary provisions of 18 Pa.C.S. [§ 5511(1)] Ch. 55 Subch. B (relating to cruelty to animals) and in addition to the requirements of existing law, all search warrant applications filed in connection with alleged violations of cruelty to animals laws must have the approval of the district attorney in the county of the alleged offense prior to filing.

§ 3716. Costs.

In addition to any fines, fees or other penalties levied or imposed under this chapter or any other statute, a cost of \$50 shall be imposed upon conviction for any violation of 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals) other than a summary offense. Costs collected under this section shall be disposed of in accordance with section 3717 (relating to disposition of moneys).

Section 7. Section 2385(c)(1) of Title 34 is amended to read:

§ 2385. Destruction of dogs declared public nuisances.

* * *

(c) Inapplicability of certain laws.--

(1) The provisions of 18 Pa.C.S. [§ 5511] Ch. 55 Subch. B (relating to cruelty to animals) shall not apply to any person killing any dog pursuant to subsection (a).

* * *

Section 8. Section 3573(c)(1) of Title 42 is amended to read:

§ 3573. Municipal corporation portion of fines, etc.

* * *

(c) Summary offenses.--Fines, forfeited recognizances and

other forfeitures imposed, lost or forfeited under the following provisions of law shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 2709(a) (1), (2) and (3) (relating to harassment).

Section 3304 (relating to criminal mischief).

Section 3503 (relating to criminal trespass).

Section 3929 (relating to retail theft).

Section 4105 (relating to bad checks).

Section 5503 (relating to disorderly conduct).

Section 5505 (relating to public drunkenness).

[Section 5511] Ch. 55 Subch. B (relating to cruelty to animals).

Section 6308 (relating to purchase, consumption, possession or transportation of intoxicating beverages).

Section 6501 (relating to scattering rubbish).

* * *

Section 9. This act shall take effect in 60 days.