

No. 137

AN ACT

HB 97

Amending the act of November 25, 1970 (P.L.707, No.230), entitled "An act codifying and compiling a part of the law of the Commonwealth," redefining the offense of cruelty to animals and providing additional remedies.

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

Section 1. Section 5511 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the "Consolidated Pennsylvania Statutes," amended December 6, 1972 (P.L.1482, No.334), is amended to read:

§ 5511. Cruelty to animals.

[(a) Offense defined.—A person commits a misdemeanor of the second degree if he intentionally or recklessly:

- (1) subjects any animal to cruel mistreatment;**
- (2) subjects any animal in his custody to cruel neglect; or**
- (3) kills or injures any animal belonging to another without legal privilege or consent of the owner.**

(b) Exception.—Paragraphs (a)(1) and (a)(2) of this section shall not be deemed applicable to accepted veterinary practices and activities carried on for scientific research.

(c) Arrests, searches, and seizures.—Any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth shall have the same power as a peace officer to make arrests for violations of this section and to make searches and seizures relating to violations of this section.]

(a) Killing, maiming or poisoning domestic animals, etc.—A person commits a misdemeanor of the second degree if he wilfully and maliciously kills, maims or disfigures any domestic animal of another person, or wilfully and maliciously, administers poison to any such animal, or exposes any poisonous substance, with intent that the same shall be taken or swallowed by animals, fowl or birds.

This subsection shall not apply to the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl nor to such reasonable activity as may be undertaken in connection with vermin control or pest control. For the purposes of this subsection, "domestic animal" shall mean any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal. For the purposes of this subsection, "domestic fowl" shall mean any avis raised for food, hobby or sport.

(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 to color, dye, stain or otherwise change the natural color of baby chickens, ducklings or other fowl, or rabbits or to bring or transport the same into this Commonwealth: Provided, That this act 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 for purposes of commercial breeding and raising.

(c) Cruelty to animals.—A person commits a summary offense if he wantonly or cruelly illtreats, overloads, beats or otherwise abuses any animal, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or keeps or uses, or in any way is connected with, or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, or encourages, aids or assists therein, or permits or suffers any place to be so kept or used. The fine shall be paid to the treasury of the municipality in which said offense occurred.

(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 without violating the laws against cruelty to animals, or leads, rides or drives any such horse for any purpose, except that of conveying the animal to a proper place for its humane keeping or killing or for medical or surgical treatment.

All fines shall be paid to the treasury of the municipality in which said offense occurred.

(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 inhuman 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 of the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhuman 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.

(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.

Said fine shall be paid to the treasury of the municipality in which such offense occurred.

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

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

The possession by any person of a dog with an ear or ears cut off or cropped and with the wound 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 such person except as provided for in this subsection.

The owner of any dog whose ear or ears have been cut off or cropped before this section became effective may, if a resident of this Commonwealth, register such dog with the treasurer of the county where he resides, and if a nonresident of this Commonwealth, with the treasurer of any county of this Commonwealth, by certifying, under oath, that the ear or ears of such dog were cut or cropped before this section became effective, and the payment of a fee of one dollar (\$1) into

the county treasury. The said treasurer shall thereupon issue to such person a certificate showing such dog to be a lawfully cropped dog.

(i) Power to make arrests.—Any policeman or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, shall, upon his own view of any offense under this section, make an arrest, and bring before a justice of the peace the offender found violating said provisions, and any policeman or any agent of any society, as aforesaid, shall also make arrests of such offenders on warrants duly issued according to law, when such offense is not committed in view of said officer, or agent and in addition to such powers, such policeman or agent is authorized and shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept for baiting or fighting.—Any 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 bull, bear, dog, cock, or other creature, kept, used, or intended to be used for the purpose of fighting or baiting, and to sell the same. The proceeds therefrom shall be paid to the treasurer of the municipality in which such offense occurred. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer seizing the same until a conviction of some person is first obtained for keeping or using, or being connected with or interested in the management of any place used for fighting or baiting animals, and the animal or creature seized shall have been found on the premises which are the subject of the complaint. The agent making such seizure shall make due return to the justice of the peace before whom the complaint is heard, of the number and kind of animals or creatures so seized by him, and it shall be the duty of the justice of the peace hearing the complaint, in case of a conviction, to make the forfeiture of such animals or creatures seized a part of the sentence.

(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.—Any justice of the peace, on proof of demand and oath of any policeman or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth on his belief based on probable cause, that an act of cruelty to animals is being committed in any building, barn or enclosure, is authorized to issue a search warrant to any of the said officers to make search of the said premise, and to forthwith arrest offenders found committing acts of cruelty, and bring them before said justice of the peace for trial; providing for the care of animals so found to be neglected and starving and if necessary to remove them from the

premises for that purpose, and for the humane destruction of any animal disabled, diseased or injured beyond reasonable hope of recovery, the costs thereof to be paid by the owner; authorizing a lien on said animals for expenses or keep and care, or action against the owner to cover the same: Provided, That no search warrant shall be issued under the provisions of this section which shall authorize any policeman, 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.

Section 2. This act shall take effect immediately.

APPROVED—The 12th day of December, A. D. 1973.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 137.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth