

No. 1986-191

AN ACT

HB 2606

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for cruelty to animals.

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

Section 1. Section 5511(a), (c), (i), (j), (p) and (q) of Title 18 of the Pennsylvania Consolidated Statutes, amended July 8, 1986 (P.L.442, No.93), are amended and a subsection is added to read:

§ 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 kills, maims or disfigures any domestic animal of another person or any zoo animal in captivity, or willfully and maliciously, administers poison to any such domestic or zoo animal, or exposes any poisonous substance, with intent that the same shall be taken or swallowed by animals, fowl or birds.] 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.

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)] (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.

* * *

(c) Cruelty to animals.—A person commits a summary 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, **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**. This subsection shall not apply to activity undertaken in normal agricultural operation.

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(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 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.

(i) Power to initiate criminal proceedings.—**[If an] An** agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, **[views a violation of this section, he]** shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. **[If an agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, does not view but receives information concerning a violation of this section which constitutes a summary offense, he may institute criminal proceedings by filing a citation with the appropriate issuing authority. The agent shall not issue a summary citation to a defendant unless the violation is viewed by the agent.] 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 **[baiting or] 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 [bull, bear, dog, cock, or other creature,] *animal* kept, used, or intended to be used for [the purpose of] *animal* 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 *or agent* 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] *a violation of subsection (h.1)*. The *officer or 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. *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. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall require that the owner pay the cost of the keeping, care and destruction of the animal.*

* * *

(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.*

“*Domestic animal.*” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“*Domestic fowl.*” Any avis raised for food, hobby or sport.

“*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.

“*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.

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

APPROVED—The 16th day of December, A. D. 1986.

DICK THORNBURGH