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S.B. 164
134th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsors: Sens. Hottinger and Yuko

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SUMMARY

Companion animal cruelty prohibitions and penalties

- Revises the law and penalties associated with companion animal cruelty.
- Specifies that knowingly causing serious physical harm to a companion animal is classified as a violent offense.

Use of gas chamber to destroy animals

- Prohibits an animal shelter from recklessly destroying a domestic animal by the use of a carbon monoxide gas chamber, carbon dioxide gas chamber, or any other nonanesthetic inhalant.

DETAILED ANALYSIS

Companion animal cruelty prohibitions and penalties

The bill revises Ohio's companion animal abuse laws. A companion animal is a cat or dog, regardless of where the cat or dog is kept, and any other animal kept inside a residential dwelling. The specific revisions are as follows:

- Lowers the mental state, from knowingly to recklessly, for the offense of depriving a companion animal of necessary sustenance or confining the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water (deprivation or confining prohibition), which applies to companion animal custodians and caretakers¹;

¹ R.C. 959.131(A)(12)(d) and 959.131(E). These actions are currently defined as "serious physical harm" under current law. The bill removes these types of actions from the offense of causing serious physical harm to a companion animal, which is a 5th degree felony.

- Accordingly, lowers the penalty for violating the reckless deprivation or confining prohibition from a 5th degree felony to a 1st degree misdemeanor for a first offense (retains the 5th degree felony on each subsequent offense).²
- Categorizes the existing prohibition against knowingly causing serious physical harm to a companion animal, which is a 5th degree felony, as a violent crime.³ Serious physical harm is physical harm that does one of the following:
 - Carries an unnecessary or unjustifiable substantial risk of death;
 - Involves either partial or total permanent incapacity; or
 - Involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain.⁴

By specifying that knowingly causing serious physical harm to a companion animal is a violent offense, a judge is not required to sentence an offender to a community control sanction, but instead must impose a prison term on a first offense. In addition, this violation would not be expungable in the same manner as nonviolent 4th and 5th degree felonies and misdemeanors.⁵ The bill also subjects both nonregistered and registered animal rescues to the same penalties for certain animal abuse acts. Generally, under current law, the penalties for animal abuse acts that apply to a nonregistered animal rescue are less stringent. The reason for this is that an owner, manager, or employee (employee) of a nonregistered animal rescue who commits an animal abuse act must be charged under the general animal abuse statutes. However, an employee of a registered animal rescue who commits the same act must be charged under the statutes that specifically apply to registered animal rescues. These statutes have a heightened penalty. For example, an employee of a registered animal rescue who knowingly deprives the companion animal of necessary sustenance is subject to a 5th degree felony for the first offense. If an employee of a nonregistered animal rescue commits the same act, the employee is subject to a 1st degree misdemeanor on the first offense. The bill closes this loophole by applying the heightened penalties to nonregistered animal rescues.⁶

Animal shelter use of gas chamber to destroy animals

The bill prohibits an animal shelter (i.e., county humane society, dog pound, or local animal shelter operated by a local governmental entity) from recklessly destroying a domestic animal by the use of a carbon monoxide gas chamber, carbon dioxide gas chamber, or any other nonanesthetic inhalant. A violation of this prohibition is a 4th degree misdemeanor (up to 30 days in jail and a fine of up to \$250). However, an animal shelter may destroy a domestic

² R.C. 959.99(E)(1).

³ R.C. 2901.01; *see* R.C. 959.131(C).

⁴ R.C. 959.131(A)(12).

⁵ R.C. 959.131(A)(12) and 959.131(E); R.C. 2929.13(B), not in the bill.

⁶ R.C. 959.131(A)(7) and (8); also *see* R.C. 959.131(F) and (G).

animal by the use of these methods if the State Veterinary Medical Licensing Board, in consultation with the State Board of Pharmacy, declares that there is a shortage of approved lethal injection substances.

Current law prohibits and imposes a 4th degree misdemeanor for destroying a domestic animal by any person by the use of:

- A high altitude decompression chamber; or
- Any method other than a method that immediately and painlessly renders the domestic animal initially unconscious and subsequently dead.

The existing prohibition and the prohibition established by the bill do not apply to or prohibit the slaughtering of livestock under the law governing livestock slaughter or the taking of any wild animal when taken in accordance with the law governing hunting and fishing. As added by the bill, these prohibitions also do not apply to both of the following:

1. The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate under Ohio law; and
2. An animal used in scientific research conducted by a research facility in accordance with the federal Animal Welfare Act and related regulations.⁷

HISTORY

Action	Date
Introduced	04-15-21
Reported, S. Agriculture and Natural Resources	06-01-22
Passed Senate (32-0)	06-01-22

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⁷ R.C. 959.06 and 959.99(C); R.C. 2929.24, and 2929.29, not in the bill.