
DEPARTMENT OF AGRICULTURE

Agricultural easements; Farmland Preservation Advisory Board

- Authorizes an agricultural easement acquired by the Director of Agriculture or a political subdivision or charitable organization that has received a matching grant from the Director to include a provision to preserve a unique natural or physical feature on the land if the use of the land remains predominantly agricultural.
- Requires one representative on the continuing Farmland Preservation Advisory Board to be from a nonprofit organization dedicated to the preservation of farmland rather than from a national nonprofit organization that is so dedicated.

Concentrated animal feeding facilities

- Establishes a general prohibition in the Concentrated Animal Feeding Facilities (CAFF) Law against violations or failures to perform duties related to national pollutant discharge elimination system (NPDES) permits and the NPDES provisions of permits to operate issued under that Law.
- Establishes an additional general prohibition against violations or failures to perform duties under the CAFF Law that are not related to NPDES permits and permit provisions.
- Requires the Attorney General, upon the written request of the Director of Agriculture, to prosecute any person who violates either of the above prohibitions.
- Replaces the criminal penalties established in former law for violations of specified provisions of the CAFF Law with criminal penalties that are based on the culpable mental state of the violator, and establishes a different standard for actions that constitute acting negligently for purposes of those penalties.

Dogs and other companion animals

- Beginning December 1, 2013, requires an individual to register a dog for one year, three years, or permanently, rather than requiring annual registration.
- Revises the fee structure for dog registrations by establishing a fee of \$2 for each year of registration for a one-year or three-year registration and a \$20 fee for permanent registration, rather than a fee of \$2 per registration.
- Requires that any dog registration fee increase adopted by a board of county commissioners be in the ratio of \$2 for each year of registration and in the ratio of



\$20 for a permanent registration rather than in the ratio of \$2 for each dog registration.

- Revises the formula for the transfer of a portion of such a county fee increase to the OSU College of Veterinary Medicine.
- Requires the county auditor to designate the color of dog registration tags, and eliminates the requirement that such tags had to be a different color each year.
- Authorizes a board of county commissioners, in lieu of appointing and employing a county dog warden and deputies, to appoint the county sheriff to enforce the laws governing dogs and prohibiting cruelty to animals.
- Requires the board, if it chooses to appoint the sheriff, to enter into a two-year written agreement with the sheriff for that purpose, and specifies that an agreement may authorize both of the following:
 - The sheriff to appoint sheriff's deputies or persons other than peace officers as deputy dog wardens; and
 - The transfer of any benefits accrued by employees who are transferred as a result of the county sheriff's being appointed as the county dog warden.
- Requires any dog warden and deputy dog wardens appointed in accordance with the act to comply with any training requirements applicable to county dog wardens and deputy dog wardens appointed or employed under continuing law governing dog wardens and with the requirements established in that law.
- Revises the general prohibition against negligently committing specified types of cruel treatment against a companion animal that applies to anyone who confines or is the custodian or caretaker of a companion animal.
- Specifically prohibits an owner, manager, or employee of a registered animal rescue for dogs, a boarding kennel, or a training kennel (hereafter dog kennel) who confines or is the custodian or caretaker of a companion animal from negligently committing specified acts of cruel treatment against a companion animal, a violation of which is a first degree misdemeanor on each offense.
- Specifically prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from knowingly committing specified acts of cruel treatment against a companion animal, a violation of which is a fifth degree felony on each offense.



Apiaries

- Credits money that is collected from registration fees and fines under the Apiaries Law to the continuing Plant Pest Program Fund rather than the GRF.
- Requires money credited to the Plant Pest Program Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in continuing law.

Auctioneers

- Exempts from licensure an approved bid calling contest that is conducted for the purposes of the advancement or promotion of the auction profession in Ohio and an auction at which a national or international bid calling champion appears, provided that certain conditions are met for each exemption.
- Makes technical changes in the Auctioneers Law to clarify that it applies to limited liability companies.

Agricultural commodity marketing programs

- Revises the procedures governing the approval by the Director of Agriculture of an amendment to an agricultural commodity marketing program that was established before April 10, 1985.
- Establishes specific eligibility requirements for producers voting in a referendum held on a proposed egg marketing program or a proposed amendment to such a program.

Other animal provisions (PARTIALLY VETOED)

- Specifies that the care and housing standards adopted by the Zoological Association of America, with which persons who are issued restricted snake possession and propagation permits must comply as provided in continuing law, are those that were in effect on September 5, 2012.
- Exempts an applicant for a wildlife propagation permit from the requirement to sterilize each male dangerous wild animal.
- Would have removed spider monkeys from the permitting and standards of care and housing requirements, but required a person that possesses one of those monkeys to register it with the Director (VETOED).

- Revises the procedure in accordance with which money in the High Volume Breeder Kennel Control License Fund is transferred to counties.

Agricultural easements; Farmland Preservation Advisory Board

(R.C. 901.21, 901.22, and 901.23; Section 803.20)

The act authorizes the Director of Agriculture to include, in an agricultural easement acquired by the Director, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural. Similarly, an agricultural easement acquired as a result of a matching grant awarded by the Director may include a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

Under continuing law, the Director, municipal corporations, counties, townships, and soil and water conservation districts may purchase or acquire by gift, devise, or bequest agricultural easements to retain the use of land predominantly in agriculture. Charitable organizations that are exempt from federal income taxation and organized for certain land preservation or protection purposes also may acquire and hold agricultural easements. If such a local government or a charitable organization cannot fund the purchase of an easement on its own, it may apply for a matching grant from the Director.

The act also alters the membership of the continuing Farmland Preservation Advisory Board by requiring one member to be a representative of a nonprofit organization dedicated to the preservation of farmland rather than of a national nonprofit organization dedicated for that purpose. The member that is serving on the Board representing the national nonprofit organization on September 29, 2013, must continue to serve until the expiration of the term for which the member was appointed. At the end of that term, a member must be appointed in accordance with the act.

Concentrated animal feeding facilities

(R.C. 903.30 and 903.99)

The act establishes a general prohibition in the Concentrated Animal Feeding Facilities (CAFF) Law against violations of or failures to perform duties required by specified provisions governing national pollutant discharge elimination system (NPDES) permits and the NPDES provisions of permits to operate issued under that Law, related rules adopted and orders issued by the Director of Agriculture, and terms or conditions of NPDES permits issued by the Director. It also establishes a second



general prohibition against violations of or failures to perform duties required by specified provisions of that Law, rules adopted by the Director under that Law, and orders and terms or conditions of permits issued by the Director under that Law or rules adopted under it that are not related to NPDES permits and permit provisions.

The act requires the Attorney General, upon the written request of the Director, to prosecute any person who violates either of the above prohibitions. It then replaces the former criminal penalties for violations of specified provisions of the CAFF Law with the following criminal penalties:

(1) For negligent violations of the prohibition discussed above regarding NPDES permits and the NPDES provisions of permits to operate, a fine of not more than \$10,000, imprisonment for not more than 90 days, or both;

(2) For reckless violations of either of the prohibitions discussed above, a fine of not more than \$10,000, imprisonment for not more than one year, or both; and

(3) For knowing violations of either of the prohibitions discussed above, a fine of not more than \$25,000, imprisonment for not more than three years, or both. Additionally, the violator is guilty of a felony.

For purposes of the penalties discussed above for negligent violations, the act lowers the threshold for what constitutes negligence. It specifies that a person acts negligently when, because of a lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. Under the Criminal Code, a person instead acts negligently when, because of a *substantial* lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a *substantial* lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist. The Criminal Code's provisions establishing what actions constitute acting recklessly and knowingly apply to items (2) and (3), above.

With regard to violations of either of the prohibitions discussed above, the act specifies that each day of violation constitutes a separate offense.

Former law instead established penalties for violations of specific prohibitions in the CAFF Law. It only established a specific culpable mental state of knowing with regard to two of the prohibitions.



Dog registration

(R.C. 955.01, 955.05, 955.06, 955.07, 955.08, 955.09, and 955.14; Section 812.10)

The act requires an individual to register a dog for a period of one year or three years or register the dog permanently. Former law instead required an individual to register a dog annually. The act makes necessary conforming changes to reflect the revised registration periods.

The act then revises the fee structure for dog registrations. First, it establishes a fee of \$2 for each year of registration for a one-year or three-year registration and a \$20 fee for a permanent dog registration. Under former law, the fee was \$2 per registration.

Additionally, law retained in part by the act authorizes a board of county commissioners to increase the dog registration fee in the ratio of \$2 for each dog registration. The act retains that authority, but requires that any dog registration fee increase adopted by a board be in the ratio of \$2 for each year of registration and in the ratio of \$20 for a permanent registration.

The act also revises law under which money is transferred to the Ohio State University College of Veterinary Medicine. Under the act, 10¢ from each one-year dog registration, 30¢ from each three-year dog registration, and \$1 from each permanent dog registration fee that is increased by a board of county commissioners, after the first increase using the prescribed ratio, must be transferred to the College. Under former law, 10¢ from each dog registration fee that was increased by a board of county commissioners, after the first such increase, was to be so transferred.

The act requires the county auditor to designate the color of dog registration tags and eliminates the requirement that such tags had to be a different color each year.

Finally, the act's provisions revising dog registration take effect December 1, 2013.

Appointment of county dog wardens

(R.C. 955.12 and 955.121)

The act authorizes a board of county commissioners, in lieu of appointing a county dog warden and deputies under continuing law, to appoint the county sheriff to enforce the laws governing dogs and prohibiting cruelty to animals. If the board chooses to appoint the county sheriff as the county dog warden, the board must enter into a two-year written agreement with the sheriff for that purpose at the first meeting



in a calendar year following a general election in which at least one of the members of the board was elected.

The act specifies that an agreement may authorize both of the following:

(1) The sheriff to appoint sheriff's deputies or persons other than peace officers as deputy dog wardens; and

(2) The transfer of any benefits accrued by employees who are transferred as a result of the county sheriff's being appointed as the county dog warden.

The act also requires any dog warden and deputy dog wardens appointed in accordance with the act to comply with any training requirements applicable to county dog wardens and deputy dog wardens appointed or employed under continuing law governing dog wardens and with the requirements established in that law. Those requirements include the posting of a performance bond. The act also makes necessary conforming changes.

Cruel treatment of companion animals

(R.C. 959.131, 959.132, and 959.99)

Negligently committing acts of cruel treatment against a companion animal

General prohibition

The act revises the general statutory prohibition against negligently committing specified types of cruel treatment against a companion animal by prohibiting any person who confines or is the custodian or caretaker of a companion animal from negligently doing any of the following:

(1) Committing any act by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omitting any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(3) Committing any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief, against the companion animal; or

(4) Needlessly killing the companion animal.



Rather than prohibiting the acts specified in items (1) to (4), above, former law prohibited any person who confined or was the custodian or caretaker of a companion animal from negligently torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal.

The act retains the prohibition in continuing law against negligently depriving a companion animal of necessary sustenance, confining the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impounding or confining the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

Under law retained by the act, violation of the general prohibition against negligent treatment of companion animals is a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.

Under continuing law, a companion animal is any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. A companion animal does not include livestock or any wild animal. The act adds a definition of "livestock" for that purpose. Under the act, "livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer as defined in the Division of Wildlife Law; and any other animal that is raised or maintained domestically for food or fiber.

Prohibition – owners, managers, and employees of certain kennels

The act additionally prohibits an owner, manager, or employee of an animal rescue for dogs, boarding kennel, or training kennel (hereafter dog kennel) who confines or is the custodian or caretaker of a companion animal from negligently committing any of the acts specified in items (1) to (4), above, or negligently depriving or confining the companion animal as discussed above. Violation of that prohibition is a first degree misdemeanor on each offense.

For purposes of the act's provisions regarding such dog kennels, an animal rescue for dogs is a rescue that is registered with the Director of Agriculture under continuing law. A boarding kennel is an establishment operating for profit that keeps, houses, and maintains dogs solely for the purpose of providing shelter, care, and feeding of the dogs in return for a fee or other consideration. A training kennel is an



establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

Knowingly committing acts of cruel treatment against a companion animal

Prohibitions

The act prohibits an owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal from knowingly committing any of the following acts:

(1) Torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against the companion animal;

(2) Depriving the companion animal of necessary sustenance, confining the companion animal without supplying it during the confinement with sufficient quantities of food and water, or impounding or confining the companion animal without affording it, during the impoundment or confinement, with access to shelter if it is substantially certain that the companion animal would die or experience unnecessary or unjustifiable pain or suffering due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

Violation of the prohibition is a fifth degree felony on each offense.

The act retains the provision in continuing law that prohibits any person from knowingly torturing, tormenting, needlessly mutilating or maiming, cruelly beating, poisoning, needlessly killing, or committing an act of cruelty against a companion animal, a violation of which is a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense.

Additional court actions

Through the operation and application of continuing statutes governing the treatment of companion animals, a court may order a person who is convicted of or pleads guilty to the prohibitions established by the act to forfeit to an impounding agency any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time and may order the person to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency so impounded, provided that the costs were not otherwise paid under those statutes. Additionally, if a court has reason to believe that a person who is convicted of or pleads guilty to the

prohibitions suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling, and the court must order the offender to pay the costs of the evaluation or counseling.

Exceptions

The act applies to the prohibitions established by it the following exceptions in ongoing law to the continuing prohibitions against cruel treatment of a companion animal:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal Animal Welfare Act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate under the Veterinarians Law;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals; and

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under the Veterinarians Law.

Apiaries

(R.C. 909.15 and 927.54)

The act credits money that is collected from registration fees and fines under the Apiaries Law to the continuing Plant Pest Program Fund rather than the GRF. It then also requires money credited to the Plant Pest Program Fund to be used to administer the Apiaries Law in addition to the Nursery Stock and Plant Pest Law as in continuing law.

Auctioneers

(R.C. 4707.02, 4707.073, and 4707.10)

The act adds the following exemptions to the continuing exemptions from the requirement to be licensed by the Department of Agriculture in order to act as an auction firm, auctioneer, or apprentice auctioneer:

(1) A bid calling contest that is approved by the State Auctioneers Commission and that is conducted for the purposes of the advancement or promotion of the auction profession in Ohio, provided that no compensation is paid to the sponsor of or participants in the contest other than a prize or award for winning the contest; and

(2) An auction at which the champion of a national or international bid calling contest appears, provided that the champion is not paid a commission and the auction is conducted under the direct supervision of an auctioneer licensed under the Auctioneers Law in order to ensure that the champion complies with the Law and rules adopted under it.

The act also makes technical changes in the Auctioneers Law to clarify that it applies to limited liability companies.

Agricultural commodity marketing programs

(R.C. 924.02 and 924.06)

The act revises the procedures governing the approval by the Director of Agriculture of an amendment to any agricultural commodity marketing program, regardless of when the program was established, by requiring a majority of the producers who vote in a referendum on the amendment to vote in favor of the amendment in order for the Director to approve it. It then eliminates former law specifying that if a marketing program was established before April 10, 1985, one of the following results of a referendum had to occur in order for the Director to approve an amendment to the program:

(1) At least 66 and 2/3% of the producers who voted in the referendum had to vote in favor of the amendment and represent a majority of the volume of the affected commodity that was produced in the preceding marketing year by all producers who voted in the referendum; or

(2) A majority of the producers who voted in the referendum had to vote in favor of the amendment and represent at least 66 and 2/3% of the volume of the affected commodity that was so produced.



In addition, the act specifies that, for the purposes of a referendum held on a proposed egg marketing program or a proposed amendment to such a program, an eligible producer, i.e. a producer who is eligible to vote in a referendum, is a person who is in the business of producing and marketing, or causing to be produced and marketed, eggs from a flock of more than 75,000 domesticated chickens and, if the referendum is held on a proposed amendment to a program, is subject to an assessment under the program. Consequently, the act excludes such an egg marketing program from the requirement in continuing law that the Director determine the eligibility of agriculture commodity producers to participate in referendums and other procedures that may be required to establish marketing programs for agricultural commodities.

Dangerous wild animals and restricted snakes (PARTIALLY VETOED)

(R.C. 935.01, 935.03, 935.041, 935.07, and 935.12)

The act specifies that the care and housing standards adopted by the Zoological Association of America, with which persons who are issued restricted snake possession and propagation permits must comply as provided in continuing law, are those that were in effect on September 5, 2012. Prior law did not specify an effective date of those standards.

In addition, the act exempts an applicant for a wildlife propagation permit from the requirement to sterilize each male dangerous wild animal possessed by the applicant.

The Governor vetoed a provision that would have removed spider monkeys from permitting and standards of care and housing requirements, but required a person that possesses one of those monkeys to register it with the Director in accordance with that Law. The Governor also vetoed conforming changes.

High Volume Breeder Kennel Control License Fund

(R.C. 956.07 and 956.18)

The act revises the procedure by which money in the High Volume Breeder Kennel Control License Fund is transferred to counties. Under the act, the Director of Agriculture must use \$50 of the application fee submitted by a high volume dog breeder, which is credited to the Fund, or an amount equal to the fee collected for the registration of a dog kennel that is charged by the county in which the high volume breeder is located or will be located, whichever is greater, to reimburse that county. Under former law, the Treasurer of State was required to transfer the applicable amount to a county.

