



NEW YORK
CITY BAR

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PERTAINING TO ANIMALS**

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Honorable Joseph B. Scarnati III, President
Pennsylvania State Senate
292 Main Capitol Building
Senate Box 203025
Harrisburg, PA 17120-3025

Honorable Keith R. McCall, Speaker
Pennsylvania House of Representatives
139 Main Capitol Building
PO Box 202122
Harrisburg, Pennsylvania 17120-2122

Re: Support of H.B. 1411/S.B. 843

Dear Senator Scarnati and Representative McCall:

We write to urge you to enact H.B. 1411/S.B. 843, an Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, relating to cruelty to animals. Specifically, this bill would prohibit the use of live animals, including wild birds, for targets at trap shoots and block shoots. The bill defines a trap shoot or a block shoot as an event during which participants shoot or attempt to shoot animals that are launched from a fixed location within a predefined shooting field or tethered when presented to the participant.

This bill is of concern to the New York City Bar because we understand that many of the wild birds used for the Pennsylvania trap shoots are: (1) illegally captured in New York City and transported across state lines in violation of Article 11 of the New York Environmental Conservation Law (“Env. Cons. L.”); (2) procured and harmed in violation

of Section 353 of the New York Agriculture and Markets Law (“Ag. & Mkts L.”); and (3) subjected to unconscionable cruelty in the trap shoots. We understand that the Pennsylvania Bar Association also supports this bill.

The New York City Bar is an independent non-governmental organization of more than 23,000 lawyers, law professors, and government officials, principally from New York City but also from throughout the United States and 50 other countries. The Committee on Legal Issues Pertaining to Animals (the “LIPTA Committee”) is the first committee of its kind in the country and has a history of supporting federal, state, and local anti-cruelty legislation, including legislation to prohibit “canned hunts” involving the shooting of tethered animals and animals shot in confined areas.¹

At the trap shoots, which occur throughout the year,² thousands of pigeons, both feral and domesticated, are released from mechanical traps and shot.³ In *Hulsizer v. Labor Day Committee, Inc.*, 557 Pa. 467, 471-72 (1999),⁴ the Supreme Court of Pennsylvania described the unconscionable cruelty involved in one of the trap shoots:

During a shoot, four to six thousand pigeons become the targets of gunfire. Of these, over five hundred die immediately from their wounds. Hundreds of other pigeons, however, suffer a slow and painful death, for their wounded bodies fall outside of the circled area or outside of Hegins Park, and they are never retrieved by appellee [host of the pigeon shoot] or provided any veterinary or other care. They eventually die from their wounds or starvation. An additional two thousand or more wounded birds fall within the circled area, and they suffer pain until they are eventually killed. They are not given any sustenance, drink, or veterinary care. Instead, they lie on the ground until the shooter has completed a full round of shots, a process that often takes several minutes. Then, the trapper boys retrieve the wounded pigeons from the circled area and kill them by a variety of methods. These include tearing the birds’ heads from their bodies, throwing or smashing them against objects on the ground, crushing the birds by falling on them, and suffocating the birds by tossing them into a barrel filled with other dead and dying pigeons. All of these methods are contrary to accepted veterinary methods of euthanasia and cause the birds additional pain and suffering. Wounded pigeons also fly into the crowd of spectators, who further injure and kill them. Spectators ostensibly derive great enjoyment from this chance to participate in the slaughter.

It is believed that, because there is a constant demand for birds to supply these events, the trap shoots induce unlawful poaching activity in nearby New York City where

¹ LIPTA Committee report approving a bill to amend the Env. Cons. L. in relation to the prohibition on canned shoots (2007), at http://www.nycbar.org/pdf/report/canned_hunts_2007.pdf.

² Richard Hamilton, *Bogardus, Elliott and Gilbert make big money in the pigeon rings. It all came to an end in the early 1900's*, Trapshooting Hall of Fame (pigeon shoots occur in fall and winter), at <http://www.traphof.org/live-bird-shooting.htm>; HSUS, *supra note 1* (pigeon shoot occurring in July and August).

³ *Hulsizer v. Labor Day Committee, Inc.*, 557 Pa. 467, 471-72 (1999); Memorandum in Support of Plaintiff’s Petition for a Preliminary Injunction at 4, *Seeton v. Pike Township Sportsmen’s Assoc.*, (Pa. Ct. of Common Pleas, Berks Cnty 2001) (No. 01-11734).

⁴ In this opinion, the court ruled on standing and did not address the merits of the animal cruelty complaint.

pigeons are plentiful and relatively comfortable near humans.⁵ Residents in New York City have repeatedly witnessed individuals scattering seeds, throwing a net over the birds attracted by the seeds, and placing the birds in the back of a vehicle.⁶

Both the netting and the subsequent transport of pigeons from New York into Pennsylvania violate the New York State Environmental Conservation Law.⁷ The procurement of pigeons in New York for use in the Pennsylvania trap shoots also constitutes *per se* cruelty under New York’s animal cruelty law. Ag. & Mkts. L. section 353 prohibits, among other things, the procurement of any animal for the purpose of being tortured, unjustifiably injured, maimed, mutilated or killed.⁸ Since 1902, New York has expressly prohibited pigeon shoots due to their inherent cruelty.⁹ Senator Slater, one of the original bill sponsors, stated that pigeon shooting tournaments were unquestionably cruel, comparing the activity to shutting a doe in a barn, scaring her out, and shooting at her from twenty yards away.¹⁰ In 1903, *The American Almanac, Year Book, Cyclopedia and Atlas* reported, “[I]t was shown that at these so-called tournaments many birds were only wounded and were allowed to escape and die after suffering several days from the effects of the shot in their bodies. The sport was shown to be so brutal, and in every respect so demoralizing, that sportsmen throughout the State rejoiced at the passage of the bill.”¹¹ In addition to *per se* cruelty, necropsy reports have indicated that once captured for the

⁵ Letter from New York Senator Liz Krueger to Pennsylvania legislators (2008) (urging the adoption of legislation to ban live pigeon shoots in Pennsylvania; noting that many birds involved in the shoots have been illegally netted in New York City; and observing that New York City’s law enforcement resources may be diverted from other problems to address the netting of birds); Press Release, Humane Society of the United States (“HSUS”), Reward Offered for Exposing Cruelty at Upcoming Pigeon Shoot (July 28, 2008), at http://www.humanesociety.org/news/press_releases/2008/07/reward_offered_for_exposing_cruelty_of_pigeon_shoot_072808.html (noting that birds have been illegally netted in New York for the shoots).

⁶ *Id.*

⁷ Env. Cons. L. section 11-1101 prohibits the netting of wild birds without a permit. Env. Cons. L. section 11-0917 prohibits the transport of wildlife across state lines if contrary to any statute. In 2008, Isaac Gonzales was convicted for illegally netting pigeons in violation of these laws. Jennifer 8 Lee, *A Tip-Off, a Reward, an Arrest for Pigeon Poaching*, NY TIMES, July 4, 2008, at B2.

⁸ Ag. & Mkts. L. section 353 provides in relevant part:

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor . . .

⁹ Chapter 61 of the New York Laws of 1902 repealed an exception to the animal cruelty law that allowed pigeon shoots in New York. Specifically, in 1902 New York repealed Chapter 107 of the New York Laws of 1875, which provided that the laws established for the prevention of cruelty to animals should not be construed to “prohibit of interfere with the shooting, by members of sportsmen’s clubs or incorporated societies; provided that, in each case, as soon as they can be captured or taken, after being shot, such pigeons, if living, shall immediately be killed.”

¹⁰ Senate Advances the Pigeon Shooting Bill, NY TIMES, Feb. 14, 1902, at 5.

¹¹ *A Review of New York State Legislation During 1902*, in THE AMERICAN ALMANAC 824-25 (1903), available at <http://books.google.com>.

Pennsylvania trap shoots, the wild birds are deprived of food and drink in further violation of Ag. & Mkts. L. section 353.¹²

Responding to citizens' complaints about illegal pigeon nettings and prosecuting the netters diverts New York's law enforcement, prosecutorial, and judicial resources away from other priorities.¹³ If Pennsylvania enacts this legislation, the pigeon nettings will undoubtedly decline or cease altogether because there is apparently no other economic incentive for illegally netting thousands of pigeons on our streets.¹⁴ We, therefore, urge you to pass this bill to prohibit trap shoots in consideration of the criminal activity it promotes in New York.

In addition, we note that a prohibition of pigeon shoots appears to be consistent with Pennsylvania's existing anti-cruelty law, 18 Pa.C.S.A. section 5511(c), which protects animals from cruelty, abuse, neglect, abandonment, and the deprivation of sustenance, drink, shelter or veterinary care. Several recent videos of the Pennsylvania trap shoots show that the practices described by the Supreme Court in *Hulsizer* continue and are prevalent at pigeon shoots hosted by various organizations.¹⁵

Even though, arguably, both participants and hosts of the trap shoots could be prosecuted under 18 Pa.C.S.A. section 5511(c), the Berks County District Attorney recently demanded that animal cruelty charges filed by a humane officer against a gun club hosting a pigeon shoot be withdrawn.¹⁶ D.A. John T. Adams opined that "pigeon shoots do not constitute a violation of 5511(c) Cruelty to Animals" and that legislation is necessary to prohibit such activity.¹⁷ D.A. Adams' position seems to be misguided because he based it on a decision simply denying a motion for a preliminary injunction in an animal cruelty case that is still pending in the Court of Common Pleas on the merits and ignored what the Pennsylvania Supreme Court strongly suggested. Although we disagree with the district attorney's position, legislation expressly banning trap shoots would swiftly put an end to these cruel practices and provide absolute clarity to local prosecutors and the public.

Thank you for your consideration.

Sincerely,

Martha Golar

Martha Golar, Esq.

¹² GARY L. FRANCIONE, ANIMALS, PROPERTY AND THE LAW xiii (1995); *see also* Heidi Prescott, Opinion, *A Cruelty Protected Only in PA*, Philadelphia Inquirer (Feb. 4, 2010), at <http://www.philly.com/inquirer/opinion/83523247.html?&c=n> (last visited Feb. 28, 2010).

¹³ Krueger, *supra* note 1.

¹⁴ *Id.*

¹⁵ *E.g.*, HSUS, Video, *Pigeons Captured for Killing*, at <http://www.humanesociety.org/news/multimedia/index.jsp> (last visited Feb. 28, 2010); Showing Animals Respect and Kindness, http://www.youtube.com/watch?v=oIUuADgYPYI&feature=player_embedded# (last visited Feb. 28, 2010); <http://www.youtube.com/watch?v=ZQGQkDMbwXk#> (last visited Feb. 28, 2010).

¹⁶ Letter from John T. Adams, Berks County District Attorney, to District Justice Victor Frederick, IV (Dec. 28, 2009), *available at* http://www.youtube.com/watch?v=oIUuADgYPYI&feature=player_embedded#, 2:03 (last visited Feb. 28, 2010).

¹⁷ Letter from John T. Adams, Berks County District Attorney, *at* <http://www.sharkonline.org/?P=0000001057> (last visited Feb. 28, 2010).

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