February 12, 2018

Honorable Mike Stack  
President, Pennsylvania State Senate  
200 Main Capitol Building  
Harrisburg, PA 17120

Re: Support of S.B. 612 (2017-2018)

Dear Lieutenant Governor Stack:

On behalf of the Animal Law Committee of the New York City Bar Association, we write to urge the Senate to approve S.B. 612, an Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in riot, disorderly conduct and related offenses, further providing for the offense of cruelty to animals. This bill would prohibit the use of live pigeons for targets at trap shoots and block shoots.1 We understand that the Philadelphia Senate had approved a predecessor bill in 2014 and that the Governor was prepared to approve the bill, but that it expired without a vote in the House of Representatives.

The New York City Bar is an independent non-governmental organization of more than 24,000 lawyers, law professors, and government officials, principally from New York City but also from throughout the United States and 50 other countries. The Animal Law 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.2

This bill is of concern to the New York City Bar Animal Law Committee because we understand that many of the pigeons 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, harmed, and carried in violation of New York’s animal cruelty law in Sections 353 and 359 of the New York Agriculture and Markets Law (“Ag. & Mkts L.”); and (3) subjected to unconscionable cruelty in the trap shoots.

1 The bill defines a trap shoot or a block shoot as a “contest event during which participants shoot or attempt to shoot targets for either amusement or as a test of skill in marksmanship that are launched or otherwise immediately presented to the shooter either manually or with electronic or mechanical assistance from a fixed location or locations within a predefined shooting field.”

At the trap shoots (also called pigeon shoots), which occur throughout the year, thousands of pigeons, both feral and domesticated, are released from mechanical traps and shot. According to one news report, over 25 pigeon shoots occurred in Pennsylvania in 2016. In *Hulsizer v. Labor Day Committee, Inc.*, 557 Pa. 467, 471-72 (1999), the Supreme Court of Pennsylvania described the unconscionable cruelty involved in one of the trap shoots, noting that hundreds of pigeons suffered a slow and painful death, were denied veterinary care, and in some cases, had their heads torn off and bodies smashed by children hired to collect their bodies:

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

---


6 In this opinion, the court ruled on standing and did not address the merits of the animal cruelty complaint.
into the crowd of spectators, who further injure and kill them. Spectators ostensibly derive great enjoyment from this chance to participate in the slaughter.

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. In *Seeton v. Adams*, 50 A.3d 268, 277 (Pa. Commw. Ct., 2012), the Commonwealth Court of Pennsylvania stated in dicta, “It is truly shocking that live, not clay, pigeons are catapulted into the air for target practice.”

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 pigeons are plentiful and relatively comfortable near humans. 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. The NYPD has made multiple arrests in connection with the illegal netting of pigeons in New York City. It is believed that the pigeon netting usually occurs a few days before a pigeon shoot. For example, on July 29, 2015, a few days before a large pigeon shoot in Pennsylvania, a person was arrested for netting pigeons in New

---


10 For example, in *People v. Alomar*, No. 2015NY039214 (NY Criminal Court), the defendant was charged with violations of the Environmental Conservation Law section 11-1101(1) and Agriculture and Markets Law section 26-359(1) for allegedly netting pigeons on 72nd Street in Manhattan on January 25, 2015. In 2008, Isaac Gonzales was convicted for illegally netting pigeons in violation of the New York Environmental Conservation Law. Jennifer 8 Lee, *A Tip-Off, a Reward, an Arrest for Pigeon Poaching*, N.Y. TIMES (July 4, 2008), http://cityroomblogs.nytimes.com/2008/07/02/a-tip-off-a-reward-an-arrest-for-pigeon-poaching/2939212585.html?_r=0.
In response to complaints of pigeon nettings, the New York City government stated on its website that trapping pigeons without a permit is illegal. The New York City Department of Parks and Recreation’s spokesperson Crystal Howard warned, “Don’t steal our animals . . . Pigeons are core to the character of New York City, and it is illegal and dangerous to remove animals from New York City parks.” And New York City’s largest wildlife rehabilitation organization has voiced concern that New York City’s wild birds, including birds that were rehabilitated by the organization itself, are being illegally stolen for the Pennsylvania pigeon shoots.

Both the netting and the subsequent transport of pigeons from New York into Pennsylvania violate the New York State Environmental Conservation Law. 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. New York Agriculture & Markets Law section 353 prohibits, among other things, the procurement of any animal for the purpose of being tortured, unjustifiably injured, maimed, mutilated or killed. New York Agriculture & Markets Law section 359 prohibits carrying an animal in a cruel manner. In addition, the use of pigeons illegally collected in New York State violates the federal Lacey Act, 16 U.S.C. § 3372(a)(2)(A), because the pigeons are collected in violation of New York State law.

---


15 New York Environmental Conservation Law section 11-1101 prohibits the netting of wild birds without a permit. Environmental Conservation Law section 11-0917 prohibits the transport of wildlife across state lines if contrary to any statute.

16 New York Agriculture & Markets Law 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 willfully 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 . . .

17 16 U.S.C. § 3372(a)(2)(A) provides, “It is unlawful for any person . . . to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State . . .” Notably, the Lacey Act was enacted in response to the fate of the Passenger Pigeon to make illegal the interstate transport of birds taken in violation of state laws.
Since 1902, New York has prohibited pigeon shoots due to their inherent cruelty.\textsuperscript{18} 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.\textsuperscript{19} In 1903, \textit{The American Almanac, Year Book, Cyclopaedia 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.”\textsuperscript{20}

In addition to \textit{per se} cruelty, necropsy reports have indicated that once captured for the Pennsylvania trap shoots, the wild birds are deprived of food and drink in further violation of Ag. & Mkts. L. section 353.\textsuperscript{21} 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.\textsuperscript{22} 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.\textsuperscript{23} 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. The law that allows birds to be shot on regulated hunting grounds does not allow the practice of pigeon shoots.\textsuperscript{24} The Pennsylvania Bar Association also supports the end of live pigeon shoot\textsuperscript{25} as does a majority of the public.\textsuperscript{26} Unfortunately, one Pennsylvania county

\textsuperscript{18} 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.”

\textsuperscript{19} \textit{Senate Advances the Pigeon Shooting Bill}, N.Y. TIMES, Feb. 14, 1902, at 5.

\textsuperscript{20} \textit{A Review of New York State Legislation During 1902, in The American Almanac 824-25 (1903)}, available at http://books.google.com. In addition to the animal welfare concern, it is believed that pigeon shoots were partially to blame for the extinction of the passenger pigeon, which were used in trapshoots in the early to mid 19\textsuperscript{th} Century in Pennsylvania. Pennsylvania Game Commission, \textit{Passenger Pigeon, Ectopistes migratorius}, http://www.pgc.pa.gov/Wildlife/EndangeredAndThreatened/Pages/PassengerPigeon.aspx.

\textsuperscript{21} \textsc{Mark Hawthorne}, \textsc{Bleating Hearts: The Hidden World of Animal Suffering} (2013); \textsc{Gary L. Francione}, \textsc{Animals, Property and the Law} xiii (1995).

\textsuperscript{22} Krueger, \textit{supra} note 8.

\textsuperscript{23} Id.

\textsuperscript{24} 34 Pennsylvania Consolidated Statutes § 2928 (allowing for the shooting of the following domestically produced birds: ringneck pheasants, bobwhite quail, and mallard ducks).

\textsuperscript{25} Press Release, The Humane Society for the United States (“HSUS”), Pennsylvania Voters Show Statewide Support for Banning Live Pigeon Shoots (Oct. 31, 2013) (Supporters of the predecessor bill included The Pennsylvania Bar Association, Pennsylvania Council of Churches, the Pennsylvania Veterinary Medical
prosecutor has maintained that legislation is necessary to prohibit pigeon shoots.\(^{27}\) We disagree with that position, and note that the prosecutor’s position is contrary to other states’ positions concerning the legality of pigeon shoots under similar state anticruelty laws.\(^{28}\) 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,

Lori Barrett-Peterson

Cc: Governor Tom Wolf  
Governor’s Correspondence Office  
508 Main Capitol Building  
Harrisburg, PA 17120

Hon. Mike Turzai  
Speaker  
Pennsylvania House of Representatives  
139 Main Capitol  
PO Box 202028  
Harrisburg, PA 17120-2028


\(^{27}\) In Seeton v. Adams, 50 A.3d 268, 277 (Pa. Commw. Ct., 2012), the majority ruled that a humane society police officer had no authority to compel a district attorney to prosecute animal cruelty at a pigeon shoot because the prosecutor had discretion to decide whether to prosecute a case. The dissent disagreed stating that the District Attorney’s decision was based not on his prosecutorial discretion, but on a mistake of law. The dissent stated:

Here, District Attorney Adams stated very clearly the reason why he believed he was legally unable to prosecute when he stated: “I am bound by the law” “pigeon shoots do not constitute a violation of 5511(c) Cruelty to Animals.” This was legally incorrect because Pennsylvania courts have only held that live pigeon shoots are not a per se violation of the Animal Cruelty Law. The mishandling of wounded and injured pigeons at a live pigeon shoot is criminally actionable.” [Internal citations omitted.]

\(^{28}\) E.g., Waters v. People, 23 Colo. 33 (Co. Sup. Ct. 1896) (“[T]he killing of captive doves, as they are released from a trap, merely to improve one's skill of marksmanship, or for sport and amusement, though there is no specific intention to inflict pain or torture, is, within the meaning of this [animal cruelty law], unnecessary and unjustifiable.”) Ca. Att’y Gen. Op. No. 99-1107 (Mar. 31, 2000), https://oag.ca.gov/system/files/opinions/pdfs/99-1107.pdf (“It is a violation of the state's animal cruelty laws to conduct a “pigeon shoot” at which domestic pigeons are released from cages and shot for purposes of sport and amusement.”).
Hon. Stewart J. Greenleaf  
Chair, Judiciary Committee  
Pennsylvania State Senate  
Senate Box 203012  
Harrisburg, PA 17120-3012

Hon. Patrick M. Browne (Bill Sponsor)  
Pennsylvania State Senate  
281 Main Capitol  
Harrisburg, PA 17120

Hon. Dave Reed  
Chair, Rules Committee  
Pennsylvania House of Representatives  
110 Main Capitol Building  
PO Box 202062  
Harrisburg, PA 17120-2062

Hon. Ronald S. Marsico  
Chair, Judiciary Committee  
Pennsylvania House of Representatives  
315J Main Capitol  
PO Box 202105  
Harrisburg, PA 17120-2105