



# Ohio Legislative Service Commission

## Bill Analysis

Amanda George

### Sub. H.B. 116

130th General Assembly

(As Reported by H. Agriculture and Natural Resources)

**Reps.** Pelanda, Gonzales, Hackett, Young, Stebelton, Burkley, C. Hagan, Ruhl

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## BILL SUMMARY

### Limited license authorizing use of drugs to euthanize or sedate animals

- Authorizes the State Board of Pharmacy to issue a limited license to a county dog warden solely for the purpose of purchasing, possessing, and administering drugs that are distributed in a manufactured dosage form for euthanizing animals.
- Removes the order of preference in current law regarding authorized methods for euthanizing an animal when using a lethal solution.
- Authorizes an agent or employee of an animal shelter that has been issued such a limited license, a county dog warden who has been issued such a license, and an agent or employee of such a county dog warden to administer sedation drugs before euthanizing an animal.
- Applies the provisions in current law governing the issuance by the Board of such limited licenses to animal shelters to the issuance of those licenses to county dog wardens, including:
  - Application requirements;
  - Authority for a county dog warden and a warden's agent or employee to perform euthanasia using lethal solutions and requirements governing that use;
  - A requirement for successful completion of a euthanasia technician certification course; and
  - A requirement that a county dog warden's agent or employee perform euthanasia by lethal injection only in a humane and proficient manner.

- Includes the use of sedation drugs in the above provisions as applicable.
- Requires the State Veterinary Medical Licensing Board to approve, by rule, substances to be used for lethal injection of an animal in consultation with the State Board of Pharmacy rather than requiring both Boards to approve such substances by rule as in current law.

### **Drugs allowed for use in animal euthanasia**

- Revises the type of drugs that may be used to perform euthanasia of an animal by an animal shelter or a county dog warden by removing the specific authorization for combination drugs that contain pentobarbital and at least one noncontrolled substance ingredient.

### **Chemical capture**

- Authorizes the Board to grant a chemical capture classification to an animal shelter or county dog warden's limited license, and defines chemical capture.
- Establishes requirements and procedures with which an animal shelter or county dog warden must comply to receive a chemical capture classification designation.
- Requires the Board to adopt rules governing chemical capture within two years after the bill's effective date, and authorizes the Attorney General or a county prosecuting attorney to seek a court order requiring adoption of the rules if the Board fails to do so.
- Requires the holder of a limited license with a chemical capture classification to notify the Board immediately of any changes in the dangerous drugs to be used in chemical capture or in the certified officers employed by the holder.
- Requires the State Board of Pharmacy, in consultation with the State Veterinary Medical Licensing Board, to certify an individual as a certified officer for purposes of chemical capture if the individual meets requirements established by the bill.
- Authorizes a certified officer who is appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification as discussed above to chemically capture a companion animal or dog at large to limit injury to the officer, the animal or another animal, or the public.
- States that chemical capture of a companion animal or dog at large by a certified officer is not an act of cruelty, that possession or control of dangerous drugs is authorized when in the scope of duties by a certified officer for use in chemical

capture, and that the Veterinarians Law does not apply to an act of chemical capture by a certified officer.

- Prohibits a person from performing chemical capture with a drug or combination of drugs other than the drugs specified in rules adopted by the Board under the bill.
- Prohibits an animal shelter or county dog warden from allowing an individual to perform chemical capture unless the shelter or warden holds a chemical capture classification and the individual performing the capture is a certified officer.
- Prohibits an individual from performing chemical capture unless the individual is a certified officer and is appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification.
- States that violation of any of the above prohibitions is a first degree misdemeanor.

### **Veterinarians and veterinary technicians**

- Clarifies that the bill's provisions do not preclude a licensed veterinarian or, if applicable, a veterinarian technician from engaging in the practice of veterinary medicine.

### **Use of dangerous drugs**

- Requires a county dog warden who applies for licensure as a limited category I, II, or III terminal distributor of dangerous drugs to include with the application a notarized list of the dangerous drugs to be administered to animals and the personnel who are authorized to administer the drugs.
- Prohibits a county dog warden from being licensed as a terminal distributor of dangerous drugs unless the dog warden will maintain supervision and control over the possession and custody of dangerous drugs acquired by or on behalf of the dog warden and unless at least one of the dog warden's agents or employees is a certified euthanasia technician.

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## **CONTENT AND OPERATION**

### **Overview**

Current law allows animal shelters to euthanize animals using certain drugs by authorizing the State Board of Pharmacy to issue a limited license to an animal shelter for the purpose of purchasing, possessing, and administering those drugs. The bill allows county dog wardens also to euthanize animals using certain drugs by

authorizing the Board to issue such limited licenses to county dog wardens. It applies the requirements and prohibitions in current law governing the issuance by the Board of such limited licenses to animal shelters to the issuance of those licenses to county dog wardens. The bill revises what constitutes a drug for purposes of euthanasia by removing the specification that the drug be a combination drug and that it contain pentobarbital and at least one noncontrolled substance active ingredient. The bill also allows a euthanasia technician who works at an animal shelter or for a dog warden holding such a limited license to administer sedation drugs to animals prior to euthanasia.

The bill then authorizes the Board, on application of an animal shelter or county dog warden, to grant a chemical capture classification to a limited license, thus allowing the animal shelter or dog warden to use an anesthetic drug on a companion animal or dog at large for capture or immobilization. It establishes requirements governing that classification, including a requirement that an animal shelter or county dog warden employ an individual who has been certified by the Board as being qualified to conduct chemical capture.

### **Limited license authorizing use of drugs to euthanize or sedate animals**

The bill authorizes the State Board of Pharmacy to issue a limited license to a county dog warden solely for the purpose of purchasing, possessing, and administering drugs (see "**Drugs for use in animal euthanasia**," below) that are distributed in a manufactured dosage form. It applies the requirements and prohibitions in current law governing the issuance by the Board of such limited licenses to animal shelters to the issuance of those licenses to county dog wardens. Thus, all of the provisions discussed below also apply to animal shelters.

A limited license cannot authorize or permit the distribution of drugs to any person other than the originating wholesale distributor of the drugs. An application for licensure must include the information the Board requires by rule. If the application meets the requirements of the rules, the Board must issue the limited license.<sup>1</sup>

The bill requires the State Veterinary Medical Licensing Board, in consultation with the State Board of Pharmacy, to approve by rule any substance used by an agent or employee of an animal shelter, county dog warden, or agent or employee of a county dog warden to euthanize an animal by lethal injection (see below). Current law instead

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<sup>1</sup> R.C. 4729.531.



requires the State Veterinary Medical Licensing Board and the State Board of Pharmacy to both approve by rule such substances.<sup>2</sup>

The bill also removes the order of preference in current law regarding authorized methods for euthanizing an animal when using a lethal solution. Under the bill, when using a lethal solution to perform euthanasia on an animal, a dog warden, agent, or employee must use the solution in accordance with one of the following methods, but not in the order listed as in current law:

(1) Intravenous injection by hypodermic needle;

(2) Intraperitoneal injection by hypodermic needle;

(3) Intracardial injection by hypodermic needle, but only on an animal verified to be unconscious; or

(4) Oral administration of solution or powder.<sup>3</sup>

Current law specifies under method (3), above, that the animal must be sedated or unconscious. Also under current law, method (4), above, is instead solution or powder added to food.

In addition, the bill authorizes an agent or employee of an animal shelter, a county dog warden, or an agent or employee of a county dog warden who has successfully completed a euthanasia technician certification course (see below) to administer a solution of one or more drugs exclusively for the purpose of inducing sedation or unconsciousness prior to euthanasia. Only those drugs that have been approved by rule of the State Board of Pharmacy, in consultation with the State Veterinary Medical Licensing Board, may be used.<sup>4</sup>

A county dog warden or a warden's agent or employee, other than a registered veterinary technician, is prohibited from performing euthanasia by means of lethal injection on an animal or administering sedation drugs unless the agent or employee has received certification after successfully completing a euthanasia technician certification course. The bill includes sedation drugs in the same prohibition in existing law regarding agents and employees of animal shelters. Under current law, as revised by the bill, the curriculum for a euthanasia technician certification course must be

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<sup>2</sup> R.C. 4729.532(A).

<sup>3</sup> R.C. 4729.532(A).

<sup>4</sup> R.C. 4729.532(B).



approved by the State Veterinary Medical Licensing Board, be at least 16 hours in length, and include information in at least all of the following areas:

(1) The pharmacology, proper administration, and storage of euthanasia and sedation solutions;

(2) Federal and state laws regulating the storage and accountability of euthanasia and sedation solutions;

(3) Euthanasia technician stress management; and

(4) Proper disposal of euthanized animals.<sup>5</sup>

The bill also prohibits an agent or employee of a county dog warden from performing sedation or euthanasia by means of lethal injection on animals unless the facility in which the agent or employee works or is employed has a limited license from the State Board of Pharmacy. Additionally, such an agent or employee must perform sedation or euthanasia by means of lethal injection only in a humane and proficient manner in conformity with the approved methods discussed above and not in violation of Ohio's animals cruelty laws. The bill includes sedation drugs in the same provisions in existing law regarding agents and employees of animal shelters.<sup>6</sup>

### **Drugs for use in animal euthanasia**

The bill revises the type of drugs that may be used to perform euthanasia by means of lethal injection on an animal by an animal shelter or a county dog warden by prohibiting an agent or employee of an animal shelter or a county dog warden or agent or employee of a county dog warden from performing euthanasia by means of lethal injection on an animal by use of any substance other than a substance in manufactured dosage form that the State Veterinary Medical Licensing Board, in consultation with the State Board of Pharmacy, approves by rule. Current law instead allows only the use of combination drugs that contain pentobarbital and at least one noncontrolled substance active ingredient, in a manufactured dosage form, whose only indication is for euthanizing animals, or other substances that both Boards approve by rule.<sup>7</sup>

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<sup>5</sup> R.C. 4729.532(C).

<sup>6</sup> R.C. 4729.532(D).

<sup>7</sup> R.C. 4729.532(A).



## Chemical capture of companion animals and dogs at large

### License classification

The bill authorizes an animal shelter or county dog warden that holds a limited license as discussed above to apply to the State Board of Pharmacy for a chemical capture classification to the limited license. The application must include a notarized list of the dangerous drugs to be used in chemical capture and the certified officers (see "**Use of dangerous drugs**" and "**Certified officer**," below) employed by the applicant.<sup>8</sup> On application of the animal shelter or county dog warden, the Board may grant a chemical capture classification to the limited license. The classification permits the holder to purchase, possess, and administer a combination of drugs for chemical capture. The classification cannot authorize or permit the distribution of those drugs to any person other than the originating wholesale distributor of the drugs.<sup>9</sup>

The bill defines "chemical capture" to mean using an anesthetic drug on a companion animal or dog at large to do any of the following: (1) immobilize and capture, (2) attempt to immobilize and capture, or (3) attempt to immobilize or capture.<sup>10</sup> Under existing 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.<sup>11</sup>

To qualify for a chemical capture classification, an applicant must appoint or employ a certified officer (see below).<sup>12</sup> If an applicant meets the bill's requirements and rules adopted under the bill (see below), the Board must grant the classification. The Board may suspend or revoke a classification or refuse to issue or renew a classification for any violation of the bill's provisions regarding chemical capture or applicable rules.<sup>13</sup>

The bill requires the Board, in accordance with the Administrative Procedures Act and in consultation with the State Veterinary Medical Licensing Board, to adopt rules that do all of the following:

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<sup>8</sup> R.C. 4729.542(A).

<sup>9</sup> R.C. 4729.533 (B).

<sup>10</sup> R.C. 955.151(A)(2).

<sup>11</sup> R.C. 959.131(A)(1), not in the bill.

<sup>12</sup> R.C. 4729.533(C).

<sup>13</sup> R.C. 4729.533(D).



(1) Specify the information an applicant must provide for issuance or renewal of a chemical capture classification;

(2) Establish criteria for the State Board of Pharmacy to use in determining whether to refuse to grant a classification or to renew, suspend, or revoke a classification;

(3) Specify the drugs to be used in chemical capture; the proper storage, administration, and use of approved drugs; the proper storage, maintenance, and use of instruments and equipment used in chemical capture; and the proper disposal of instruments used in chemical capture;

(4) Establish criteria for determining when chemical capture is appropriate; the care of a companion animal immediately upon capture; and recordkeeping for the drugs used and actions taken during a chemical capture; and

(5) Address any other matters the Board considers necessary or appropriate for administration and enforcement of the bill's provisions regarding chemical capture.<sup>14</sup>

If the Board fails to adopt the rules within two years of the bill's effective date, the Attorney General or a county prosecuting attorney may seek a court order requiring adoption of the rules.<sup>15</sup>

Under the bill, the holder of a limited license with a chemical capture classification must notify the Board immediately of any changes in the dangerous drugs to be used in chemical capture or in the certified officers (see below) employed by the holder.<sup>16</sup>

### **Certified officer**

The bill requires the State Board of Pharmacy, in consultation with the State Veterinary Medical Licensing Board, to certify an individual as a certified officer if the individual either successfully completes an approved chemical capture course or successfully completes training acceptable to the State Board of Pharmacy from the National Animal Control Association or Safe Capture International, Inc.<sup>17</sup>

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<sup>14</sup> R.C. 4729.533(E).

<sup>15</sup> Section 3.

<sup>16</sup> R.C. 4729.542(B).

<sup>17</sup> R.C. 4729.534(A).





Under the bill, in order to be an approved chemical capture course, a curriculum must include all of the following topics:

- (1) The pharmacology, proper administration, storage, and recordkeeping of drugs used in chemical capture;
- (2) Federal and state laws regulating the storage and accountability of drugs used in chemical capture;
- (3) Chemical capture technology, animal behavior, post-immobilization procedures, proper public and personnel safety, and marksmanship training; and
- (4) Any other topic specified by the Board.<sup>18</sup>

The bill establishes authority in the Dog's Law for a certified officer appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification granted by the Board to chemically capture a companion animal or dog at large, in accordance with the bill's provisions regarding chemical capture of animals and rules adopted under them, in order to limit injury to the officer, the animal or another animal, or the public.<sup>19</sup> It states that chemical capture of a companion animal or dog at large by a certified officer in accordance with Ohio law is not an act of cruelty.<sup>20</sup> The bill also provides in the Controlled Substances Law that possession or control of dangerous drugs is authorized when in the scope of duties by a certified officer for use in chemical capture<sup>21</sup> and that the Veterinarians Law does not apply to an act of chemical capture by a certified officer.<sup>22</sup> The bill applies definitions of "chemical capture" and "certified officer" to the above provisions.

### **Prohibitions and penalties**

The bill prohibits a person from performing chemical capture with a drug or combination of drugs other than the drugs specified in rules adopted by the Board under the bill and prohibits an animal shelter or county dog warden from permitting an individual to perform chemical capture unless the shelter or warden holds a chemical capture classification granted by the Board and the individual is a certified officer. The bill also prohibits an individual from performing chemical capture unless the individual

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<sup>18</sup> R.C. 4729.534(B).

<sup>19</sup> R.C. 955.151(B).

<sup>20</sup> R.C. 959.134.

<sup>21</sup> R.C. 3719.091.

<sup>22</sup> R.C. 4741.201.



is a certified officer and is appointed or employed by an animal shelter or county dog warden that holds a chemical capture classification.<sup>23</sup> Violation of any of those prohibitions is a first degree misdemeanor.<sup>24</sup>

## **Veterinarians and veterinary technicians**

The bill adds language stating that the provisions in current law and the bill regarding sedation and euthanasia of animals by agents and employees of animal shelters, county dog wardens, and agents and employees of county dog wardens do not preclude licensed veterinarians and registered veterinary technicians from engaging in the practice of veterinary medicine.<sup>25</sup> Similarly, it adds language to the bill's prohibitions against performing chemical capture in violation of the bill's applicable requirements stating that those prohibitions do not preclude a licensed veterinarian from engaging in the practice of veterinary medicine.<sup>26</sup>

## **Use of dangerous drugs**

The bill requires a county dog warden who applies for licensure as a limited category I, II, or III terminal distributor of dangerous drugs to include with the application a notarized list of the dangerous drugs to be administered to animals and the personnel who are authorized to administer the drugs to animals under the dog warden's limited license discussed above. It exempts such a county dog warden from submitting with the application a notarized copy of a protocol or standing orders signed by a licensed health professional authorized to prescribe drugs. The same provisions apply under current law to applications submitted on behalf of an animal shelter.<sup>27</sup>

The bill excludes county dog wardens from requirements governing the holders of terminal distributor of dangerous drugs licenses who engage in the sale or distribution of dangerous drugs at retail and possess dangerous drugs for purposes other than their own use or consumption. It authorizes an agent or employee of a

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<sup>23</sup> R.C. 4729.535.

<sup>24</sup> R.C. 4729.991.

<sup>25</sup> R.C. 4729.532(E).

<sup>26</sup> R.C. 4729.535.

<sup>27</sup> R.C. 4729.54(F).



county dog warden, like an agent or employee of an animal shelter as in current law, to possess and use dangerous drugs in the course of business as discussed above.<sup>28</sup>

Finally, the bill prohibits a county dog warden, like an animal shelter as in current law, from being licensed as a terminal distributor of dangerous drugs unless the dog warden will maintain supervision and control over the possession and custody of dangerous drugs that are acquired by or on behalf of the dog warden and unless at least one of the dog warden's agents or employees is a certified euthanasia technician as discussed above.<sup>29</sup>

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## HISTORY

ACTION	DATE
Introduced	04-08-13
Reported, H. Agriculture and Natural Resources	06-04-13

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<sup>28</sup> R.C. 4729.54(H)(2) and 4729.542(C).

<sup>29</sup> R.C. 4729.55(B) and (H).

