

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: CS/SB 654

INTRODUCER: Regulated Industries Committee; and Senator Hays and others

SUBJECT: Euthanasia of Domestic Animals

DATE: February 12, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Fav/CS
2.	Davlanes	Stovall	HR	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

The Committee Substitute (CS) requires an animal control officer, a wildlife officer, or an animal disease diagnostic laboratory to report to the Department of Health (DOH) knowledge of any animal bite; any diagnosis of disease in an animal; or any suspicion of a grouping of animals having similar disease, symptoms, or syndromes that may indicate the presence of a threat to humans.

The CS expands the list of drugs that can be used to euthanize domestic animals and adds certain drugs that may be used to immobilize domestic animals. The CS allows the Board of Pharmacy (the board), at the request of the Board of Veterinary Medicine, to expand the list of drugs that may be used to euthanize or immobilize domestic animals in the future if findings support the addition of drugs to the list for humane and lawful treatment of animals. The CS limits the possession and use of these drugs to animal control officers and employees or agents of animal control agencies and humane societies while operating within the scope of their employment or official duties.

The CS clarifies that the DOH is responsible for issuing permits for possession and use of euthanasia and immobilization drugs.

The CS provides the DOH and the board with the authority to deny a permit or fine, place on probation, or otherwise discipline an applicant or permittee for failure to maintain certain standards or for violations of the statutes. The CS allows the DOH to immediately suspend a permit via emergency order upon a determination that a permittee poses a threat to public health, safety, or welfare.

Lastly, the CS eliminates food-based delivery of euthanasia drugs as an acceptable method of euthanasia. The CS permits euthanasia by intracardial injection only upon an unconscious dog or cat which exhibits no corneal reflex.

This CS substantially amends the following sections of the Florida Statutes: 381.0031, 828.055, and 828.058.

II. Present Situation:

Animal Control in Florida

Animal control agencies operated by humane societies or by cities, counties, or other local subdivisions are generally responsible for enforcing state, county, and local animal control laws and regulations in Florida. Animal control officers employed or appointed by a county or municipality are authorized to investigate violations of animal control laws or regulations.¹ The governing body of a county or municipality is authorized to enact animal control ordinances.²

Euthanasia of Domestic Animals in Florida

Euthanasia is the act or practice of killing or permitting the death of sick or injured animals in a relatively painless way for reasons of mercy.³ National euthanasia statistics are difficult to calculate because there is not a mandatory requirement for states to keep records on the number of animals taken in, adopted, euthanized, or reclaimed.⁴ It is estimated that 3.7 million animals were euthanized nationwide in 2008.⁵

In Florida, the only approved drugs for use in euthanasia of domestic animals are sodium pentobarbital or a sodium pentobarbital derivative. Euthanasia drugs are to be delivered by the following methods, in order of preference:⁶

- Intravenous injection by hypodermic needle;
- Intraperitoneal injection by hypodermic needle;
- Intracardial injection by hypodermic needle; or
- Solution or powder added to food.

¹ Section 828.27, F.S.

² Section 828.27(2), F.S.

³ See Merriam-Webster Online Dictionary at: www.merriam-webster.com/dictionary/euthanasia (last viewed January 30, 2012).

⁴ See American Humane Association at: <http://www.americanhumane.org/animals/stop-animal-abuse/fact-sheets/animal-shelter-euthanasia.html> (last viewed January 30, 2012).

⁵ *Id.*

⁶ Section 828.058(1), F.S.

In order for an animal control agency or humane society to provide euthanasia services, the agency or society must obtain a permit from the DOH to purchase, possess, and use the euthanasia drugs approved by statute. Current law states that the Department of Business and Professional Regulation (DBPR) is responsible for issuing the permit.⁷ The law was enacted at a time when health care professional boards were administratively housed under DPBR. However, due to reorganization of DBPR and the DOH, DOH and the board have primary responsibility for evaluating applications for the permit and taking disciplinary actions against holders of the permit for violations of law and rule.

The board has adopted rules to govern the issuance of permits to county or municipal animal control agencies or humane societies registered with the Secretary of State to purchase, possess, and use sodium pentobarbital and sodium pentobarbital with lidocaine to euthanize sick, injured, or abandoned domestic animals.⁸ Currently, there are 105 active animal control shelter permits with the board. The initial cost of the permit is \$50 and is renewable biennially.⁹ DBPR issues exemption letters to entities which authorize the entities to possess immobilizers without violating s. 499.03, F.S., which imposes criminal sanctions for the unauthorized possession of habit-forming, toxic, harmful, or new drugs.¹⁰ DBPR does not charge a fee for issuing the exemption letter.

Euthanasia can only be performed by a licensed veterinarian or an employee or agent of an agency, animal shelter, or other facility operated for the collection and care of stray, neglected, abandoned, or unwanted animals if the employee or agent has completed an euthanasia technician certification course.¹¹ However, any law enforcement officer, veterinarian, officer or agent of a municipal or county animal control unit, or officer or agent of any society or association for the prevention of cruelty to animals may kill a sick or injured animal by shooting the animal or injecting it with a barbiturate drug if the officer or agent finds the animal so injured or sick as to appear useless and suffering, the officer or agent reasonably believes the animal is imminently near death or cannot be cured, and a reasonable attempt is made to locate the owner of the animal or a veterinarian for consultation regarding destruction of the animal.¹²

Disease Reporting

Section 381.0031, F.S., requires certain medical providers, any hospital licensed under ch. 395, F.S., and any laboratory licensed under ch. 483, F.S., to report to the DOH the diagnosis or suspicion of a disease of public health importance.¹³ The DOH is required to periodically issue a list of infectious and noninfectious diseases which it determines to be a threat to public health and therefore of public health importance.¹⁴ The current list of diseases or conditions to be reported includes, but is not limited to:¹⁵

⁷ Section 828.055(2), F.S.

⁸ Section 828.055(1), F.S.; *see also* Rule 64B16-29, F.A.C.

⁹ Rule 64B16-29.002(1)(a) and (b), F.A.C.

¹⁰ Section 499.03(1), F.S.

¹¹ Section 828.058(4)(a), F.S.

¹² Section 828.05(3), F.S.

¹³ Section 381.0031(1), F.S.

¹⁴ Section 381.0031(2), F.S.

¹⁵ The complete list of diseases or conditions to be reported is codified at Rule 64D-3.029(3), F.A.C.

- Acquired Immune Deficiency Syndrome (AIDS);
- Amebic Encephalitis;
- Botulism;
- Chlamydia;
- Cholera;
- Diphtheria;
- Gonorrhea;
- Hepatitis A, B, C, D, E and G;
- Human Immunodeficiency Virus (HIV);
- Influenza;
- Lyme disease;
- Meningitis;
- Mumps;
- Plague;
- Rabies;
- Smallpox;
- Syphilis;
- Tuberculosis;
- Typhoid fever;
- Viral hemorrhagic fevers;
- West Nile virus; and
- Yellow fever.

The diseases or conditions listed in the rule must be reported by telephone, facsimile, electronic data transfer, or other confidential means of communication to the county health department having jurisdiction for the area in which the disease or condition is found and within the time period specified by rule.¹⁶ Persons required to report the diseases are not prohibited from reporting other diseases not included on the list.¹⁷ Additional rules provide for written reports to be issued by practitioners, laboratories, medical facilities, and other persons following the initial reporting of a disease or condition of public health significance.¹⁸

The following persons are required to report suspected rabies exposure to humans, as well as conditions that are diagnosed or suspected in animals, under Rule 64D-3.039(2), F.A.C.:¹⁹

- Animal control officers operating under s. 828.27, F.S.;
- Employees or agents of a public or private agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals;
- Animal disease laboratories licensed under s. 585.61, F.S.;
- Wildlife officers operating under s. 372.07, F.S.;
- Wildlife rehabilitators permitted by the Fish and Wildlife Conservation Commission; and

¹⁶ Rule 64D-3.029(1), F.A.C.; the time period for reporting varies according to the severity of the threat to public health posed by the identified disease or condition.

¹⁷ *Id.*

¹⁸ Rules 64D-3.030, 64D-3.031, 64D-3.032, and 64D-3.033, F.A.C.

¹⁹ The rule provides that “[a]ny grouping or clustering of animals having similar diseases, symptoms or syndromes that may indicate the presence of a threat to humans including those for biological agents associated with terrorism shall be reported.”

- Florida state park personnel operating under s. 258.007, F.S.²⁰

III. Effect of Proposed Changes:

The CS requires an animal control officer (operating under s. 828.27, F.S.), a wildlife officer (operating under s. 379.3311, F.S.), and an animal disease diagnostic laboratory (operating under s. 585.61, F.S.) to report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans.²¹

The CS expands the list of controlled substances and legend drugs that can be used for the purpose of euthanasia or immobilization of animals to include:

- Tiletamine hydrochloride, alone or in combination with zolazepam (Telazol®);
- Xylazine (Rompun®);
- Ketamine;
- Acepromazine maleate (Atravet®);
- Acetylpromazine (Acezine 2);
- Etorphine (Imobilon®); and
- Yohimbine hydrochloride, alone or combined with Atipamezole (Antisedan®).

At the request and recommendation of the Board of Veterinary Medicine, the board may adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals upon a finding that such additions are necessary for the humane and lawful treatment of those animals.

Any county or municipal animal control agency or any humane society registered with the Secretary of State may apply to the DOH, not the DBPR, for a permit to purchase, possess, and use the drugs listed above. The CS provides that the possession and use of these drugs is limited to those employees or agents of the permittee certified in accordance with s. 828.058, F.S.,²² or s. 828.27, F.S.,²³ while operating in the scope of their employment or official duties with the permittee. The board may revoke or suspend the permit upon a determination that the permittee is using any of these drugs for any purpose other than that set forth in s. 828.055, F.S., or if the permittee fails to follow the rules of the board regarding proper storage and handling.

²⁰ Chapter 64D-3.033(1), F.A.C.

²¹ This provision is consistent with Rule 64D-3.033, F.A.C., which currently requires animal control officers, animal disease laboratories, and wildlife officers to report suspected rabies exposure to humans as well as conditions that they diagnose or suspect in any grouping or clustering of animals having similar diseases, symptoms, or syndromes that may indicate the presence of a threat to humans, including those for biological agents associated with terrorism.

²² Section 828.058(4)(a), F.S., refers to licensed veterinarians or employees or agents of a private or public agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals, provided the employee or agent has successfully completed a 16-hour euthanasia technicians certification course.

²³ Section 828.27(1)(b), F.S., defines “animal control officer” as any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions related to animal control or cruelty and to issue citations. Such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety, and animal care and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

The CS provides the DOH and the board with authority to deny a permit or suspend, fine, or otherwise discipline a permittee or an applicant for a permit for failure to maintain certain standards or violation of certain statutes.²⁴ For example, use of prescription drugs listed in the CS for a purpose other than the purposes allowed in the CS; failure to take reasonable precautions against theft, loss, or diversion of the drugs listed in the CS; and failure to notice or report to the DOH a significant loss, theft, or inventory shortage are grounds for denial of an application for a permit or suspension, revocation, or refusal to renew a permit. The board can only take disciplinary action for a substantial violation of this section and the adopted rules. The board is required to consider the severity of the violation, the actions taken to remedy the violation, the timeframe for the remedial actions, and any previous violations in deciding what disciplinary action to take.

The CS gives the DOH the power to immediately suspend a permit by emergency order upon a determination that a permittee poses a threat to the public health, safety, or welfare. Licensed pharmacists, veterinarians, or health care practitioners operating within the scope of the applicable professional act are exempt from the provisions of this section.

The CS provides that a lethal solution of an agent approved by the Board of Veterinary Medicine to euthanize an animal may only be administered by intracardial injection if the dog or cat is unconscious with no corneal reflex.²⁵ An animal may not be euthanized through a solution or powder added to the animal's food.

The CS becomes effective July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this CS have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the CS have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this CS have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

²⁴ Chapters 465 and 499, F.S., and adopted rules.

²⁵ Corneal reflex is tested by touching the cornea with a sterile object (a drop of water or saline can be used) and noting whether the animal blinks and withdraws the eye into the orbit. See http://ruralareavet.org/PDF/Anesthesia-Patient_Monitoring.pdf (Last visited January 31, 2012).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The CS allows all animal control agencies to use the same permit used to obtain drugs for euthanasia to obtain drugs for chemical immobilization without paying additional fees. In addition, animal control agencies will not be required to contract with veterinarians to obtain certain controlled substances for chemical immobilization. As a result, the CS may result in savings to certain animal control agencies.

C. Government Sector Impact:

The DOH expects to incur non-recurring costs for rulemaking as required by the CS which can be absorbed with the current budget authority.²⁶

VI. Technical Deficiencies:

The bill's title states that the DOH or the board may suspend or revoke a permit under certain conditions but does not describe the other types of discipline against a permittee or applicant which are specified in this bill. The bill's title also does not state that licensed pharmacists, veterinarians, or health care practitioners operating within the scope of the applicable professional act are exempt from certain provisions of the bill.

VII. Related Issues:

Lines 88-100 add certain medications to the list of substances which are permitted to be purchased by county or municipal animal control agencies for the purpose of euthanizing animals or for the chemical immobilization of animals. However, yohimbine and yohimbine combined with atipamezole are not used for euthanasia or chemical immobilization of animals; rather, these are stimulants used to reverse the effects of anesthesia.

It is unclear if etorphine alone is permitted to be purchased, as the bill only mentions it as permissible when combined with acepromazine maleate.

Lines 48-52 provides that information in reports submitted to the department concerning diseases of public health significance is held confidential and exempt from public records provisions in s. 119.07(1), F.S. This language is in current statute. Lines 34-40 add additional diseases which must be reported to the department which were not included in the original public records exemption. If information relating to reporting of these new diseases needs to be confidential and exempt, a separate public records exemption must be filed.

²⁶ Department of Health, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 654*. A copy is on file with the Senate Health Regulation Committee.

The bill gives authority to animal control agencies to use certain drugs for the euthanasia of domestic animals. There are no provisions in the bill authorizing the use of such drugs for euthanasia of wild animals.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on February 2, 2012:

The CS clarifies that the DOH, not DBPR, is responsible for issuing permits for euthanasia and immobilization drugs.

The CS provides the DOH and the board with the power and rulemaking authority to deny a permit or suspend, fine, or otherwise discipline a permittee or an applicant for a permit for failure to maintain certain standards or violation of certain statutes. For example, use of prescription drugs listed in the CS for a purpose other than the purposes allowed in the CS; failure to take reasonable precautions against theft, loss or diversion of the drugs listed in the CS; and failure to notice or report to the DOH a significant loss, theft, or inventory shortage are grounds upon which denial of an application for the permit, suspension, revocation, or refusal to renew a permit may be based. The CS gives the DOH the power to immediately suspend a permit by emergency order upon a determination that a permittee poses a threat to the public health, safety, or welfare.

The CS conforms the language to be identical to CS/HB 479.

- B. **Amendments:**

None.