
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 2505 **Hearing Date:** June 14, 2016
Author: Quirk
Version: February 19, 2016
Urgency: No **Fiscal:** Yes
Consultant: ML

Subject: *Animals: Euthanasia*

HISTORY

Source: Fearless Advocacy; Humane Society of the United States; San Francisco SPCA

Prior Legislation: AB 1426 (Liu) – Ch. 652, Stats. 2006
SB 1659 (Kopp) – Ch. 751, Stats. 1998

Support: American Society for the Prevention of Cruelty to Animals; Best Friends Animal Society; California Animal Control Directors Association; California Veterinary Medical Association; Humane Society Veterinary Medical Association (HSVMA); LIUNA Locals 777 & 792; Los Angeles County District Attorney's Office; San Diego Humane Society; State Humane Association of California; Stockton Animal Shelter

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

This purpose of this bill is to prohibit the use of carbon dioxide to euthanize an animal.

Current law prohibits the killing of any animal by using a) carbon monoxide gas (Pen. Code, § 597u, subd. (a)(1)) or b) intracardiac injection of a euthanasia agent on a conscious animal, unless the animal is heavily sedated or anesthetized in a humane manner, or comatose, or unless, in light of all the relevant circumstances, the procedure is justifiable. (Pen. Code, § 597u, subd. (a)(2).)

Current law states that with respect to the killing of any dog or cat, no person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall use any of the methods specified in subdivision (a) or any of the following methods:

- a) High-altitude decompression chamber. (Pen. Code, § 597u, subd. (b)(1).)
- b) Nitrogen gas. (Pen. Code, § 597u, subd. (b)(2).)

Current law states that no person, peace officer, officer of a humane society or officer of a pound or animal regulation department of a public agency shall kill any dog or cat by the use of any high-altitude decompression chamber or nitrogen gas. (Penal Code Section 597w.)

Current law provides that it is unlawful for any person to sell, attempt to sell, load or cause to be loaded, transport or attempt to transport any live horse, mule, burro, or pony that is disabled if the animal is intended to be sold, loaded, or transported for commercial slaughter out of California. (Penal Code Section 597x(a).)

Current law defines a "disabled animal" as including, but not limited to, any animal that has broken limbs, is unable to stand and balance itself without assistance, cannot walk, or is severely injured. (Penal Code Section 597x(b).)

Current law states that a violation of the prohibitions on methods of killing is a misdemeanor. (Penal Code Section 597y.)

This bill prohibits the use of carbon dioxide to euthanize an animal.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re:

Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

The use of carbon dioxide (CO₂) to euthanize dogs and cats is cost prohibitive, inhumane, dangerous, and unnecessary. However, due to a loophole in existing law, it is still legal to continue this practice. AB 2505 will close the loophole in current law and prohibit the use of CO₂ when euthanizing dogs and cats in California.

In a CO₂ chamber it can take minutes for dogs and cats to lose consciousness, and sometimes as long as twenty-five minutes for them to expire. Furthermore, some dogs and cats are resistant to CO₂, particularly the vulnerable ones like the sick and elderly. In these cases it takes longer to kill the animal using CO₂ and sometimes death is not even achieved. Exposure to CO₂ is known to cause animals pain and make them to feel like they are suffocating. Sometimes dogs and cats experience organ failure before losing consciousness. Furthermore, CO₂ is hazardous to animal personnel due to the risk of narcosis and complications from faulty equipment.

No state agency is tasked with inspecting gas chambers. This safety measure was eliminated in 1998 when the state assumed this practice was banned. As such any shelter in operation of one could be exposing staff and other adoptable animals to hazardous chemicals.

The widely accepted humane standard for euthanasia is a method called "euthanasia by injection." This method typically causes dogs and cats to lose consciousness within three to five seconds and die a pain-free death.

2. Background

CO₂ euthanasia occurs by administration of the gas in a sealed container. The gas produces unconsciousness and then death. A pressurized cylinder of CO₂ is now viewed by a number of international animal research oversight authorities as the only acceptable method. CO₂ may be

administered in a home cage or in a specialized compartment and may be used to kill individuals or small groups of animals.

Discussions of CO₂ euthanasia with various people working in laboratory animal medicine and care (e.g. veterinarians, vivarium directors, technicians) reveal that there are conflicting CO₂ practices and recommendations within the animal research community. For example, some institutions require that the euthanasia chamber be prefilled with CO₂, while others prohibit the use of prefilled chambers because they appear to cause animal distress. Similar discrepancies in practice have also been noted in regards to concentration, flow rate and presence of oxygen. (Laboratory Animals, Conlee et al. (2005), p. 139.)

The American Veterinary Medical Association published their most recent guidelines regarding animal euthanasia in 2013. The AVMA laid out strict guidelines for the use of CO₂, but did not prohibit its use for euthanasia altogether. According to the AVMA, “Unfortunately, there are still shelters and animal control operations that do not have access to controlled substances and/or the personnel authorized by the Drug Enforcement Administration to administer them. This limits these facilities’ options for euthanizing animals.” (<http://atwork.avma.org/2013/02/26/euthanasia-guidelines-the-gas-chamber-debate/>)

The AVMA Guidelines and Restrictions with respect to use of CO₂ for animal euthanasia are as follows and use of CO₂ is only considered acceptable if all the following guidelines are met:

- a) Personnel must be instructed thoroughly in the gas’s use and must understand its hazards and limitations;
- b) The gas source and chamber must be located in a well-ventilated environment, preferably outdoors;
- c) The gas must be supplied in a precisely regulated and purified form without contaminants or adulterants, typically from a commercially supplied cylinder or tank;
- d) The gas flow rate must allow operators to achieve known and appropriate gas concentrations within the recommended time;
- e) The chamber must be of the highest-quality construction and should allow for separation of individual animals. If animals need to be combined, they should be of the same species, and, if needed, restrained or separated so that they will not hurt themselves or others. Chambers should not be overloaded and need to be kept clean to minimize odors that might distress animals that are subsequently euthanized;
- f) The chamber must be well lighted and must allow personnel to directly observe the animals;
- g) If the chamber is inside a room, monitors must be placed in the room to warn personnel of hazardous concentrations of gas; and
- h) It is essential that the gas and the chamber be used in compliance with state and federal occupational health and safety regulations.

In the 2013 Guidelines, euthanasia by intravenous injection of an approved euthanasia agent remains the preferred method for euthanasia of dogs, cats, and other small companion animals. Gas chambers are not recommended for routine euthanasia of cats and dogs in shelters and animal control operations.