

S T A T E O F N E W Y O R K

998--B

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PAULIN, BENJAMIN, BRADLEY, COLTON, GALEF, MAYER-SOHN, ORTIZ, SWEENEY, ROSENTHAL, SPANO -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BING, CHRISTENSEN, CLARK, CUSICK, DINOWITZ, GABRYSZAK, GLICK, JOHN, LATIMER, PHEFFER, SCARBOROUGH, SCHIMMINGER, WRIGHT -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to increasing the penalty for multiple convictions of torturing or failing to provide sustenance to a companion animal

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 353 of the agriculture and markets law, as amended
2 by chapter 458 of the laws of 1985 and the opening paragraph as amended
3 by chapter 523 of the laws of 2005, is amended to read as follows:
4 S 353. Overdriving, torturing and injuring animals; failure to provide
5 proper sustenance. 1. A person who overdrives, overloads, tortures or
6 cruelly beats or unjustifiably injures, maims, mutilates or kills any
7 animal, whether wild or tame, and whether belonging to himself or to
8 another, or deprives any animal of necessary sustenance, food or drink,
9 or neglects or refuses to furnish it such sustenance or drink, or causes,
10 procures or permits any animal to be overdriven, overloaded,
11 tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or
12 killed, or to be deprived of necessary food or drink, or who wilfully
13 sets on foot, instigates, engages in, or in any way furthers any act of
14 cruelty to any animal, or any act tending to produce such cruelty, is
15 guilty of a class A misdemeanor and for purposes of paragraph (b) of

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 subdivision one of section 160.10 of the criminal procedure law, shall
2 be treated as a misdemeanor defined in the penal law.

3 2. WHEN COMMITTED AGAINST A COMPANION ANIMAL, ANY VIOLATION OF SUBDI-
4 VISION ONE OF THIS SECTION WITHIN FIVE YEARS FROM THE DATE OF A PRIOR
5 CONVICTION OF ANY VIOLATION OF SUBDIVISION ONE OF THIS SECTION, SHALL BE
6 A CLASS E FELONY, PUNISHABLE PURSUANT TO THE PROVISIONS OF SECTION THREE
7 HUNDRED FIFTY-THREE-A OF THIS ARTICLE.

8 3. Nothing herein contained shall be construed to prohibit or inter-
9 fere with any properly conducted scientific tests, experiments or inves-
10 tigations, involving the use of living animals, performed or conducted
11 in laboratories or institutions, which are approved for these purposes
12 by the state commissioner of health. The state commissioner of health
13 shall prescribe the rules under which such approvals shall be granted,
14 including therein standards regarding the care and treatment of any such
15 animals. Such rules shall be published and copies thereof conspicuously
16 posted in each such laboratory or institution. The state commissioner of
17 health or his duly authorized representative shall have the power to
18 inspect such laboratories or institutions to insure compliance with such
19 rules and standards. Each such approval may be revoked at any time for
20 failure to comply with such rules and in any case the approval shall be
21 limited to a period not exceeding one year.

22 S 2. This act shall take effect on the first of December next succeed-
23 ing the date on which it shall have become a law.