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

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I N A S S E M B L Y

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Introduced by M. of A. McENENY, CLARK, MILLMAN, V. LOPEZ, ORTIZ -- Multi-Sponsored by -- M. of A. COOK, CYMBROWITZ, DelMONTE, DINOWITZ, ENGLEBRIGHT, GALEF, GLICK, JACOBS, JOHN, KOON, MARKEY, MAYERSOHN, PHEFFER, WEISENBERG -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to prohibiting animal wrestling and baiting

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

Section 1. Section 351 of the agriculture and markets law, as added by chapter 150 of the laws of 1984, subdivision 2 as amended by chapter 190 of the laws of 2004 and subdivision 5 as added by chapter 308 of the laws of 2008, is amended to read as follows:

S 351. Prohibition of animal fighting, WRESTLING OR BAITING. 1. (A) For purposes of this section, the term "animal fighting" shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals[, or between any such animal and a person or persons,] except in exhibitions of a kind commonly featured at rodeos.

(B) FOR PURPOSES OF THIS SECTION, THE TERM "WRESTLING" SHALL MEAN ANY FIGHT, CONTEST OR PHYSICAL ALTERCATION BETWEEN ONE OR MORE PERSONS AND ONE OR MORE ANIMALS CONDUCTED SOLELY FOR THE PURPOSE OF ENTERTAINMENT OR PROFIT.

(C) FOR PURPOSES OF THIS SECTION, "BAITING" SHALL MEAN TO CAUSE ONE OR MORE ANIMALS TO ATTACK, PROVOKE OR HARASS ANOTHER ANIMAL OR ANIMALS, OR TO USE ONE OR MORE ANIMALS FOR THE PURPOSE OF TRAINING OR CAUSING AN ANIMAL TO FIGHT, ATTACK, PROVOKE OR HARASS ANOTHER ANIMAL OR ANIMALS, SOLELY FOR THE PURPOSE OF ENTERTAINMENT OR PROFIT.

(D) FOR PURPOSES OF THIS SECTION, "SURGICAL ALTERATION" OF AN ANIMAL SHALL INCLUDE, BUT NOT BE LIMITED TO, DECLAWING, TOOTH REMOVAL, SEVERING OF TENDONS OR ADMINISTRATION OF DRUGS.

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

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2. Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:

(a) For amusement or gain, causes any animal to engage in animal fighting, WRESTLING OR BAITING; [or]

(b) Trains any animal under circumstances evincing an intent that such animal engage in animal fighting, WRESTLING OR BAITING for amusement or gain; [or]

(c) Breeds, sells [or], offers for sale, SHIPS, TRANSPORTS OR PURCHASES any animal under circumstances evincing an intent that such animal engage in animal fighting, WRESTLING OR BAITING; [or]

(d) Permits any act described in paragraph (a), (b) [or], (c), (E) OR (F) of this subdivision to occur on premises under his OR HER control; [or]

(e) Owns, possesses or keeps any animal trained to engage in animal fighting, WRESTLING OR BAITING on premises where an exhibition of animal fighting, WRESTLING OR BAITING is being conducted under circumstances evincing an intent that such animal engage in animal fighting, WRESTLING OR BAITING; OR

(F) SELLS, OFFERS FOR SALE, SHIPS, TRANSPORTS, PURCHASES, OWNS OR POSSESSES AN ANIMAL WHICH HAS BEEN BRED OR TRAINED TO FIGHT, WRESTLE OR ENGAGE IN BAITING ACTIVITY UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING, WRESTLING OR BAITING.

3. (a) Any person who engages in conduct specified in paragraph (b), (C), (D) OR (E) of this subdivision is guilty of a misdemeanor [and is] punishable by imprisonment for a period not to exceed one year, or by a fine [not to exceed] OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN fifteen thousand dollars, or by both such fine and imprisonment.

(b) The owning, possessing or keeping of [any animal] ONE OR MORE ANIMALS under circumstances evincing an intent that such animal engage in animal fighting, WRESTLING OR BAITING;

(C) THE OWNING OR POSSESSING OF IMPLEMENTS WHICH ARE COMMONLY USED SOLELY FOR EITHER TRAINING ANIMALS TO ENGAGE IN ANIMAL FIGHTING, WRESTLING OR BAITING, OR DURING ANIMAL FIGHTS, WRESTLING OR BAITING;

(D) THE KNOWING SALE, TRANSFER, EXCHANGE OR MANUFACTURE OF IMPLEMENTS COMMONLY USED SOLELY FOR EITHER TRAINING ANIMALS ENGAGED IN ANIMAL FIGHTING, WRESTLING OR BAITING, OR DURING ANIMAL FIGHTS, WRESTLING OR BAITING;

(E) THE PREPARATION OF AN ANIMAL PURSUANT TO SUBDIVISION SIX OF THIS SECTION FOR THE PURPOSE OF TRAINING SUCH ANIMAL TO FIGHT, WRESTLE OR ENGAGE IN BAITING, OR FOR THE PURPOSE OF CAUSING SUCH ANIMAL TO FIGHT, WRESTLE OR ENGAGE IN BAITING.

4. (a) Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting, WRESTLING OR BAITING is being conducted.

5. (a) Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a violation punishable by a fine not to exceed five hundred dollars. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and

is punishable by imprisonment for a period not to exceed one year, or by a fine not to [exceeded] EXCEED one thousand dollars, or by both [by] such fine and imprisonment.

(b) The knowing presence as a spectator at any place where an exhibition of animal fighting, WRESTLING OR BAITING is being conducted.

6. FOR PURPOSES OF THIS SECTION, THE FOLLOWING SHALL BE PRESUMPTIVE EVIDENCE OF INTENT THAT AN ANIMAL ENGAGES IN ANIMAL FIGHTING, WRESTLING OR BAITING:

(A) ADMINISTERING TO ANY ANIMAL HORMONES, STEROIDS OR ANY CHEMICAL COMMONLY USED TO ENHANCE THE FIGHTING, WRESTLING OR BAITING ABILITY OF AN ANIMAL;

(B) PERFORMING OR SUBJECTING A BEAR TO SURGICAL ALTERATION;

(C) BREEDING OR CROSSBREEDING OF COCKS OR OTHER BIRDS SOLELY FOR THE PURPOSE OF ENHANCING THE FIGHTING ABILITY OF THE BIRD OR ITS OFFSPRING;

(D) SHAVING THE BREAST, NECK OR LOWER EXTREMITIES OF A BIRD OR BIRDS, IN CONJUNCTION WITH CUTTING THE WATTLES AND COMBS, OR CLIPPING THE FEATHERS, OR REMOVAL OF THE REAR TOENAIL; OR

(E) OWNING, POSSESSING OR KEEPING A BIRD OR BIRDS, IN CONJUNCTION WITH OWNING, POSSESSING OR KEEPING OF IMPLEMENTS WHICH ARE COMMONLY USED SOLELY FOR TRAINING OR FIGHTING BIRDS. SUCH IMPLEMENTS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE SHARP PLASTIC OR METAL SPUR DESIGNED FOR ATTACHMENT TO THE FIGHTING BIRD'S LEG AND COMMONLY KNOWN AS A "GAFF" OR "SLASHER", AND THE PROTECTIVE GLOVE DESIGNED FOR PLACEMENT OVER THE FIGHTING BIRD'S LEG WHILE IT IS BEING TRAINED TO FIGHT.

7. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT LAWFUL HUNTING ACTIVITIES CONDUCTED PURSUANT TO ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW.

S 2. This act shall take effect immediately.