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

3400

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. ENGLEBRIGHT, CLARK, ORTIZ -- Multi-Sponsored by -- M. of A. COLTON, DINOWITZ, GALEF, HEASTIE, HOOPER, JOHN, MAYERSOHN, McENENY, MILLMAN, PHEFFER, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the regulation of trapping; and to repeal subdivision 10 of section 71-0923 of such law relating to the penalty for trapping near certain buildings or facilities

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

Section 1. Section 11-0103 of the environmental conservation law is amended by adding a new subdivision 33 to read as follows:

33. "BODY-GRIPPING TRAP" SHALL MEAN A TRAP THAT GRIPS A MAMMAL'S BODY OR BODY PART INCLUDING, BUT NOT LIMITED TO, STEEL-JAWED LEGHOLD TRAPS, PADDED LEGHOLD TRAPS AND CONIBEAR TRAPS. CAGE AND BOX TRAPS, NETS, SUITCASE-TYPE LIVE BEAVER TRAPS, AND COMMON MOUSE AND RAT TRAPS SHALL NOT BE CONSIDERED BODY-GRIPPING TRAPS.

S 2. Subdivisions 10 and 12 of section 11-1101 of the environmental conservation law, subdivision 12 as added by chapter 586 of the laws of 1991, are amended to read as follows:

10. [Traps] BODY-GRIPPING TRAPS shall not be set or placed on a public highway OR PUBLIC ROAD, OR WITHIN ONE HUNDRED FEET OF A PUBLIC HIGHWAY, PUBLIC ROAD, DWELLING, SCHOOL BUILDING, SCHOOL PLAYGROUND, DAY CARE FACILITY, PLACE OF WORSHIP, ATHLETIC FIELD, OR A PAVED OR MARKED BICYCLE PATH, WALKING PATH OR HIKING TRAIL MAINTAINED BY THE STATE, OR ANY CITY, TOWN, VILLAGE OR COUNTY.

12. [No person shall trap wildlife] (A) BODY-GRIPPING TRAPS SHALL NOT BE SET within [one] FIVE hundred feet of a dwelling, school building, school playground [or church], DAY CARE FACILITY, PLACE OF WORSHIP, ATHLETIC FIELD, OR A PAVED OR MARKED BICYCLE PATH, WALKING PATH OR HIKING TRAIL MAINTAINED BY THE STATE, OR ANY CITY, TOWN, VILLAGE OR

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

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COUNTY, without the written consent of the owner or lessee of the property where the trap is set.

(B) NO PROVISION OF THIS SECTION SHALL BE DEEMED TO PROHIBIT THE OWNER OF PROPERTY FROM SETTING TRAPS ON HIS OR HER LAND WITHIN ONE HUNDRED FEET OF HIS OR HER DWELLING, PROVIDED THAT SUCH SETTING OF TRAPS DOES NOT OTHERWISE VIOLATE THE PROVISIONS OF SUBDIVISION TEN OF THIS SECTION.

S 3. Section 11-1101 of the environmental conservation law is amended by adding three new subdivisions 13, 14 and 15 to read as follows:

13. (A) THE DEPARTMENT AND ANY CITY, TOWN, VILLAGE OR COUNTY WHICH PERMITS TRAPPING USING BODY-GRIPPING TRAPS ON PUBLIC LAND OVER WHICH IT HAS JURISDICTION, SHALL POST SIGNS AT ALL MAJOR POINTS OF ENTRY TO SUCH LAND. THE SIGNS SHALL CLEARLY STATE THAT TRAPPING USING BODY-GRIPPING TRAPS IS PERMITTED ON THE LAND, THE DATES OF THE OPEN TRAPPING SEASON AND THE TELEPHONE NUMBERS OF THE NEAREST REGIONAL OFFICE OF THE DEPARTMENT AND THE LOCAL POLICE. SUCH SIGNS SHALL BE POSTED ON A PERMANENT BASIS WHERE TRAPPING USING BODY-GRIPPING TRAPS IS PERMITTED.

(B) THE DEPARTMENT SHALL PROMULGATE RULES AND REGULATIONS ESTABLISHING FURTHER SPECIFICATIONS FOR THE REQUIREMENTS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

14. NO PROVISION OF THIS SECTION SHALL BE DEEMED TO PROHIBIT THE DEPARTMENT FROM PROMULGATING RULES AND REGULATIONS REQUIRING MORE RESTRICTIVE PROVISIONS IN AREAS OF THE STATE WHERE THEY ARE DEEMED NECESSARY FOR THE PROTECTION AND WELL-BEING OF THE PUBLIC.

15. EACH VIOLATION OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR.

S 4. Section 71-0921 of the environmental conservation law is amended by adding a new subdivision 14 to read as follows:

14. FOR A FIRST CONVICTION OF A VIOLATION OF SUBDIVISION TEN, TWELVE OR THIRTEEN OF SECTION 11-1101 OF THIS CHAPTER, BY IMPRISONMENT OF NOT MORE THAN THIRTY DAYS, A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS, OR BY BOTH SUCH IMPRISONMENT AND FINE; FOR A SECOND CONVICTION, BY IMPRISONMENT OF NOT MORE THAN SIXTY DAYS, A FINE OF NOT LESS THAN FIVE HUNDRED NOR MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH SUCH IMPRISONMENT AND FINE; FOR A THIRD OR SUBSEQUENT CONVICTION, BY IMPRISONMENT OF NOT MORE THAN ONE HUNDRED EIGHTY DAYS, A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS, OR BY BOTH SUCH IMPRISONMENT AND FINE.

S 5. Subdivision 10 of section 71-0923 of the environmental conservation law is REPEALED.

S 6. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.