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

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2009-2010 Regular Sessions

I N A S S E M B L Y

April 24, 2009

Introduced by M. of A. BRADLEY, MILLMAN, ZEBROWSKI, CASTRO, LUPARDO, JAFFEE, TITONE -- Multi-Sponsored by -- M. of A. COOK, GUNTHER, PHEFFER, SWEENEY, WEISENBERG -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to codifying animal cruelty laws under the penal law; to amend the agriculture and markets law, the criminal procedure law, the environmental conservation law, the general business law, the family court act and the administrative code of the city of New York, in relation to making conforming technical changes; and to repeal article 26 of the agriculture and markets law relating thereto

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

Section 1. The penal law is amended by adding a new article 236 to read as follows:

ARTICLE 236

OFFENSES AGAINST ANIMALS

SECTION 236.00 DEFINITIONS.
236.01 PROHIBITION OF ANIMAL FIGHTING.
236.02 OVERDRIVING, TORTURING AND INJURING ANIMALS; FAILURE TO PROVIDE PROPER SUSTENANCE.
236.03 AGGRAVATED CRUELTY TO ANIMALS.
236.04 APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.
236.05 ELECTROCUTION OF FUR-BEARING ANIMALS PROHIBITED.
236.06 SALE OF BABY CHICKS AND BABY RABBITS.
236.07 ABANDONMENT OF ANIMALS.
236.08 FAILURE TO PROVIDE PROPER FOOD AND DRINK TO AN IMPOUNDED ANIMAL.
236.09 SELLING OR OFFERING TO SELL OR EXPOSING DISEASED ANIMAL.
236.10 SELLING DISABLED HORSES.

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

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236.11 LIVE ANIMALS AS PRIZES PROHIBITED.
236.12 CARRYING AN ANIMAL IN A CRUEL MANNER.
236.13 TRANSPORTATION OF HORSES.
236.14 POISONING OR ATTEMPTING TO POISON ANIMALS.
236.15 INTERFERENCE WITH OR INJURY TO CERTAIN DOMESTIC ANIMALS.
236.16 THROWING SUBSTANCE INJURIOUS TO ANIMALS IN PUBLIC PLACE.
236.17 UNAUTHORIZED POSSESSION OF DOGS PRESUMPTIVE EVIDENCE OF LARCENY.
236.18 RUNNING HORSES ON HIGHWAY.
236.19 CLIPPING OR CUTTING THE EARS OF DOGS.
236.20 DOG STEALING.
236.21 REMOVING, SEIZING OR TRANSPORTING DOGS FOR RESEARCH PURPOSES.
236.22 LEAVING STATE TO AVOID PROVISIONS OF THIS ARTICLE.
236.23 OPERATING UPON TAILS OF HORSES UNLAWFUL.
236.24 INTERFERENCE WITH OFFICERS.
236.25 PROTECTION OF THE PUBLIC FROM ATTACK BY WILD ANIMALS AND REPTILES.
236.26 POWERS OF PEACE OFFICERS.
236.27 ISSUANCE OF WARRANTS UPON COMPLAINT.
236.28 SEIZURE OF ANIMALS LOST, STRAYED, HOMELESS, ABANDONED OR IMPROPERLY CONFINED OR KEPT.
236.29 HUMANE DESTRUCTION OR OTHER DISPOSITION OF ANIMALS LOST, STRAYED, HOMELESS, ABANDONED OR IMPROPERLY CONFINED OR KEPT.
236.30 OFFICER MAY TAKE POSSESSION OF ANIMALS OR IMPLEMENTS USED IN FIGHTS AMONG ANIMALS.
236.31 DISPOSITION OF ANIMALS OR IMPLEMENTS USED IN FIGHTS AMONG ANIMALS.
236.32 DISPOSAL OF DEAD ANIMALS.
236.33 SPAYING AND NEUTERING OF DOGS AND CATS.
236.34 UNLAWFUL TAMPERING WITH ANIMAL RESEARCH.
236.35 PROHIBITION OF THE SELLING OF FUR, HAIR, SKIN OR FLESH OF A DOG OR CAT.
236.36 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES; EXTREME TEMPERATURES.

S 236.00 DEFINITIONS.

1. "ANIMAL", AS USED IN THIS ARTICLE, INCLUDES EVERY LIVING CREATURE EXCEPT A HUMAN BEING.

2. "TORTURE" OR "CRUELTY" INCLUDES EVERY ACT, OMISSION, OR NEGLECT, WHEREBY UNJUSTIFIABLE PHYSICAL PAIN, SUFFERING OR DEATH IS CAUSED OR PERMITTED.

3. "ADOPTION" MEANS THE DELIVERY TO ANY NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR THE LIMITED PURPOSE OF HARBORING A PET, OF ANY DOG OR CAT, SEIZED OR SURRENDERED.

4. "FARM ANIMAL", AS USED IN THIS ARTICLE, MEANS ANY UNGULATE, POULTRY, SPECIES OF CATTLE, SHEEP, SWINE, GOATS, LLAMAS, HORSES OR FUR-BEARING ANIMALS, AS DEFINED IN SECTION 11-1907 OF THE ENVIRONMENTAL CONSERVATION LAW, WHICH ARE RAISED FOR COMMERCIAL OR SUBSISTENCE PURPOSES. FUR-BEARING ANIMAL SHALL NOT INCLUDE DOGS OR CATS.

5. "COMPANION ANIMAL" OR "PET" MEANS ANY DOG OR CAT, AND SHALL ALSO MEAN ANY OTHER DOMESTICATED ANIMAL NORMALLY MAINTAINED IN OR NEAR THE HOUSEHOLD OF THE OWNER OR PERSON WHO CARES FOR SUCH OTHER DOMESTICATED ANIMAL. "PET" OR "COMPANION ANIMAL" SHALL NOT INCLUDE A "FARM ANIMAL" AS DEFINED IN THIS SECTION.

S 236.01 PROHIBITION OF ANIMAL FIGHTING.

1. DEFINITIONS. 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.

2. ANIMAL FIGHTING; FIRST OFFENSE. (A) ANY PERSON WHO ENGAGES IN ANY OF THE FOLLOWING CONDUCT IS GUILTY OF A CLASS E FELONY FOR HIS OR HER FIRST OFFENSE 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:

(I) FOR AMUSEMENT OR GAIN, CAUSES ANY ANIMAL TO ENGAGE IN ANIMAL FIGHTING; OR

(II) TRAINS ANY ANIMAL UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING FOR AMUSEMENT OR GAIN; OR

(III) BREEDS, SELLS OR OFFERS FOR SALE ANY ANIMAL UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING; OR

(IV) PERMITS ANY ACT DESCRIBED IN SUBPARAGRAPH (I), (II) OR (III) OF THIS PARAGRAPH TO OCCUR ON PREMISES UNDER HIS OR HER CONTROL; OR

(V) OWNS, POSSESSES OR KEEPS ANY ANIMAL TRAINED TO ENGAGE IN ANIMAL FIGHTING ON PREMISES WHERE AN EXHIBITION OF ANIMAL FIGHTING IS BEING CONDUCTED UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING.

(B) IF ANY OF THE CONDUCT SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION RESULTS IN PHYSICAL INJURY, SERIOUS PHYSICAL INJURY, OR THE DEATH OF THE ANIMAL, THE PERSON WHO ENGAGES IN SUCH CONDUCT SHALL BE GUILTY OF A CLASS D FELONY.

3. POSSESSION OF FIGHTING ANIMAL; FIRST OFFENSE. (A) ANY PERSON WHO ENGAGES IN CONDUCT SPECIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION IS GUILTY OF A CLASS A MISDEMEANOR AND IS PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED ONE YEAR, OR BY A FINE NOT TO EXCEED FIFTEEN THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(B) THE OWNING, POSSESSING OR KEEPING OF ANY ANIMAL UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING.

4. ATTENDING OR WAGERING ON ANIMAL FIGHTS; FIRST OFFENSE. (A) ANY PERSON WHO ENGAGES IN CONDUCT SPECIFIED IN PARAGRAPH (B) OF THIS SUBDIVISION IS GUILTY OF A CLASS 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 IS BEING CONDUCTED.

5. SECOND AND ADDITIONAL OFFENSES. (A) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION AND HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS D FELONY.

(B) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS C FELONY.

(C) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED TWO OR MORE TIMES OF A VIOLATION OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS C FELONY.

(D) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED TWO OR MORE TIMES OF A VIOLATION OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS B FELONY.

(E) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION THREE OF THIS SECTION AND HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

(F) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION FOUR OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

S 236.02 OVERDRIVING, TORTURING AND INJURING ANIMALS; FAILURE TO PROVIDE PROPER SUSTENANCE.

1. A PERSON WHO TORTURES OR CRUELLY BEATS OR UNJUSTIFIABLY INJURES, MAIMS, MUTILATES OR KILLS ANY ANIMAL, WHETHER WILD OR TAME, AND WHETHER BELONGING TO HIMSELF, HERSELF, OR TO ANOTHER SHALL BE GUILTY OF A CLASS E FELONY.

2. ANY PERSON WHO DEPRIVES ANY ANIMAL OF NECESSARY SUSTENANCE, FOOD OR DRINK, OR NEGLECTS OR REFUSES TO FURNISH IT SUCH SUSTENANCE OR DRINK, OR CAUSES, PROCURES OR PERMITS ANY ANIMAL TO BE OVERDRIVEN OR OVERLOADED, OR WHO WILFULLY SETS ON FOOT, INSTIGATES, ENGAGES IN, OR IN ANY WAY FURTHERS ANY ACT OF CRUELTY TO ANY ANIMAL, OR ANY ACT TENDING TO PRODUCE SUCH CRUELTY, IS GUILTY OF A CLASS A MISDEMEANOR.

3. ANY PERSON WHO DEPRIVES ANY ANIMAL OF NECESSARY SUSTENANCE, FOOD OR DRINK, OR NEGLECTS OR REFUSES TO FURNISH IT SUCH SUSTENANCE OR DRINK, OR CAUSES, PROCURES OR PERMITS ANY ANIMAL TO BE OVERDRIVEN OR OVERLOADED, AND SUCH ACT RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH OF THE ANIMAL SHALL BE GUILTY OF A CLASS E FELONY.

4. (A) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION ONE OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS D FELONY.

(B) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

(C) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION THREE OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS D FELONY.

5. NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE WITH ANY PROPERLY CONDUCTED SCIENTIFIC TESTS, EXPERIMENTS OR INVESTIGATIONS, INVOLVING THE USE OF LIVING ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS, WHICH ARE APPROVED FOR THESE PURPOSES BY THE COMMISSIONER OF HEALTH. THE COMMISSIONER OF HEALTH SHALL PRESCRIBE THE RULES UNDER WHICH SUCH APPROVALS SHALL BE GRANTED, INCLUDING THEREIN STANDARDS REGARDING THE CARE AND TREATMENT OF ANY SUCH ANIMALS. SUCH RULES SHALL BE PUBLISHED AND COPIES THEREOF CONSPICUOUSLY POSTED IN EACH SUCH LABORATORY OR INSTITUTION. THE COMMISSIONER OF HEALTH OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE SHALL HAVE THE POWER TO INSPECT SUCH LABORATORIES OR INSTITUTIONS TO INSURE COMPLIANCE WITH SUCH RULES AND STANDARDS. EACH SUCH APPROVAL MAY BE REVOKED AT ANY TIME FOR FAILURE TO COMPLY WITH SUCH RULES AND IN ANY CASE THE APPROVAL SHALL BE LIMITED TO A PERIOD NOT EXCEEDING ONE YEAR.

S 236.03 AGGRAVATED CRUELTY TO ANIMALS.

1. A PERSON IS GUILTY OF AGGRAVATED CRUELTY TO ANIMALS WHEN, WITH NO JUSTIFIABLE PURPOSE, HE OR SHE INTENTIONALLY KILLS OR INTENTIONALLY CAUSES SERIOUS PHYSICAL INJURY TO A COMPANION ANIMAL WITH AGGRAVATED CRUELTY.

2. FOR PURPOSES OF THIS SECTION, "AGGRAVATED CRUELTY" SHALL MEAN CONDUCT WHICH: (A) IS INTENDED TO CAUSE EXTREME PHYSICAL PAIN; OR (B) IS DONE OR CARRIED OUT IN AN ESPECIALLY DEPRAVED OR SADISTIC MANNER.

3. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,

OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS OTHERWISE LEGALLY AUTHORIZED, OR ANY PROPERLY CONDUCTED SCIENTIFIC TESTS, EXPERIMENTS, OR INVESTIGATIONS INVOLVING THE USE OF LIVING ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS APPROVED FOR SUCH PURPOSES BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION 236.02 OF THIS ARTICLE.

4. AGGRAVATED CRUELTY TO ANIMALS IS A CLASS E FELONY.

5. ANY PERSON WHO IS CONVICTED OF A VIOLATION OF SUBDIVISION ONE OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION UNDER THIS SECTION SHALL BE GUILTY OF A CLASS D FELONY.

S 236.04 APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.

1. FOR PURPOSES OF THIS SECTION:

(A) "PHYSICAL CONDITION" SHALL INCLUDE ANY SPECIAL MEDICAL NEEDS OF A DOG DUE TO DISEASE, ILLNESS, INJURY, AGE OR BREED ABOUT WHICH THE OWNER OR PERSON WITH CUSTODY OR CONTROL OF THE DOG SHOULD REASONABLY BE AWARE.

(B) "INCLEMENT WEATHER" SHALL MEAN WEATHER CONDITIONS THAT ARE LIKELY TO ADVERSELY AFFECT THE HEALTH OR SAFETY OF THE DOG, INCLUDING BUT NOT LIMITED TO RAIN, SLEET, ICE, SNOW, WIND, OR EXTREME HEAT AND COLD.

(C) "DOGS THAT ARE LEFT OUTDOORS" SHALL MEAN DOGS THAT ARE OUTDOORS IN INCLEMENT WEATHER WITHOUT READY ACCESS TO, OR THE ABILITY TO ENTER, A HOUSE, APARTMENT BUILDING, OFFICE BUILDING, OR ANY OTHER PERMANENT STRUCTURE THAT COMPLIES WITH THE STANDARDS ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION.

2. (A) ANY PERSON WHO OWNS OR HAS CUSTODY OR CONTROL OF A DOG THAT IS LEFT OUTDOORS SHALL PROVIDE IT WITH SHELTER APPROPRIATE TO ITS BREED, PHYSICAL CONDITION AND THE CLIMATE. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF THIS SUBDIVISION SHALL BE GUILTY OF A CLASS B MISDEMEANOR.

(B) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION WHERE SUCH VIOLATION RESULTS IN THE PHYSICAL INJURY TO THE ANIMAL SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

(C) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION WHERE SUCH VIOLATION RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH TO THE ANIMAL SHALL BE GUILTY OF A CLASS E FELONY.

(D) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

(E) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS E FELONY.

(F) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (C) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS D FELONY.

3. BEGINNING SEVENTY-TWO HOURS AFTER A CHARGE OF VIOLATING THIS SECTION, EACH DAY THAT A DEFENDANT FAILS TO CORRECT THE DEFICIENCIES IN THE DOG SHELTER FOR A DOG THAT HE OR SHE OWNS OR THAT IS IN HIS OR HER CUSTODY OR CONTROL AND THAT IS LEFT OUTDOORS, SO AS TO BRING IT INTO COMPLIANCE WITH THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A SEPARATE OFFENSE.

4. THE COURT MAY, IN ITS DISCRETION, REDUCE THE AMOUNT OF ANY FINE IMPOSED FOR A VIOLATION OF THIS SECTION BY THE AMOUNT WHICH THE DEFENDANT PROVES HE OR SHE HAS SPENT PROVIDING A DOG SHELTER OR REPAIRING AN EXISTING DOG SHELTER SO THAT IT COMPLIES WITH THE REQUIREMENTS OF THIS

SECTION. NOTHING IN THIS SUBDIVISION SHALL PREVENT THE SEIZURE OF A DOG FOR A VIOLATION OF THIS SECTION PURSUANT TO THE AUTHORITY GRANTED IN THIS ARTICLE.

5. MINIMUM STANDARDS FOR DETERMINING WHETHER SHELTER IS APPROPRIATE TO A DOG'S BREED, PHYSICAL CONDITION AND THE CLIMATE SHALL INCLUDE:

(A) FOR DOGS THAT ARE RESTRAINED IN ANY MANNER OUTDOORS, SHADE BY NATURAL OR ARTIFICIAL MEANS TO PROTECT THE DOG FROM DIRECT SUNLIGHT AT ALL TIMES WHEN EXPOSURE TO SUNLIGHT IS LIKELY TO THREATEN THE HEALTH OF THE DOG.

(B) FOR ALL DOGS THAT ARE LEFT OUTDOORS IN INCLEMENT WEATHER, A HOUSING FACILITY, WHICH MUST: (I) HAVE A WATERPROOF ROOF; (II) BE STRUCTURALLY SOUND WITH INSULATION APPROPRIATE TO LOCAL CLIMATIC CONDITIONS AND SUFFICIENT TO PROTECT THE DOG FROM INCLEMENT WEATHER; (III) BE CONSTRUCTED TO ALLOW EACH DOG ADEQUATE FREEDOM OF MOVEMENT TO MAKE NORMAL POSTURAL ADJUSTMENTS, INCLUDING THE ABILITY TO STAND UP, TURN AROUND AND LIE DOWN WITH ITS LIMBS OUTSTRETCHED; AND (IV) ALLOW FOR EFFECTIVE REMOVAL OF EXCRETIONS, OTHER WASTE MATERIAL, DIRT AND TRASH. THE HOUSING FACILITY AND THE AREA IMMEDIATELY SURROUNDING IT SHALL BE REGULARLY CLEANED TO MAINTAIN A HEALTHY AND SANITARY ENVIRONMENT AND TO MINIMIZE HEALTH HAZARDS.

6. INADEQUATE SHELTER MAY BE INDICATED BY THE APPEARANCE OF THE HOUSING FACILITY ITSELF, INCLUDING BUT NOT LIMITED TO, SIZE, STRUCTURAL SOUNDNESS, EVIDENCE OF CROWDING WITHIN THE HOUSING FACILITY, HEALTHFUL ENVIRONMENT IN THE AREA IMMEDIATELY SURROUNDING SUCH FACILITY, OR BY THE APPEARANCE OR PHYSICAL CONDITION OF THE DOG.

7. UPON A FINDING OF ANY VIOLATION OF THIS SECTION, ANY DOG OR DOGS SEIZED PURSUANT TO THE PROVISIONS OF THIS ARTICLE THAT HAVE NOT BEEN VOLUNTARILY SURRENDERED BY THE OWNER OR CUSTODIAN OR FORFEITED PURSUANT TO COURT ORDER SHALL BE RETURNED TO THE OWNER OR CUSTODIAN ONLY UPON PROOF THAT APPROPRIATE SHELTER AS REQUIRED BY THIS SECTION IS BEING PROVIDED.

8. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY PROTECTIONS AFFORDED TO DOGS OR OTHER ANIMALS UNDER ANY OTHER PROVISIONS OF THIS ARTICLE.

S 236.05 ELECTROCUTION OF FUR-BEARING ANIMALS PROHIBITED.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PERSON SHALL INTENTIONALLY KILL, OR STUN TO FACILITATE THE KILLING OF, A FUR-BEARING ANIMAL BY MEANS OF AN ELECTRICAL CURRENT. FOR THE PURPOSE OF THIS SECTION, "FUR-BEARING ANIMAL" MEANS ARCTIC FOX, RED FOX, SILVER FOX, CHINCHILLA, MINK, PINE MARTEN, MUSKRAT, AND THOSE FUR-BEARING ANIMALS INCLUDED WITHIN THE PROVISIONS OF SECTION 11-1907 OF THE ENVIRONMENTAL CONSERVATION LAW.

2. A VIOLATION OF SUBDIVISION ONE OF THIS SECTION IS A CLASS A MISDEMEANOR.

S 236.06 SALE OF BABY CHICKS AND BABY RABBITS.

1. NO PERSON SHALL SELL, OFFER FOR SALE, BARTER OR GIVE AWAY LIVING BABY CHICKS, DUCKLINGS OR OTHER FOWL OR BABY RABBITS UNLESS SUCH PERSON PROVIDES PROPER BROODER FACILITIES WHERE APPROPRIATE FOR THE CARE OF SUCH BABY CHICKS, DUCKLINGS OR OTHER FOWL OR BABY RABBITS DURING THE TIME THEY ARE IN THE POSSESSION OF SUCH PERSON. FOR THE PURPOSES OF THIS SECTION, A BABY RABBIT SHALL BE A RABBIT OF LESS THAN TWO MONTHS OF AGE.

2. NO PERSON SHALL SELL, OFFER FOR SALE, BARTER OR DISPLAY LIVING BABY CHICKS, DUCKLINGS OR OTHER FOWL OR BABY RABBITS WHICH HAVE BEEN DYED, COLORED OR OTHERWISE TREATED SO AS TO IMPART TO THEM AN ARTIFICIAL COLOR.

3. NO PROVISION OF SUBDIVISION TWO OF THIS SECTION SHALL BE INTERPRETED OR APPLIED TO PREVENT OR RESTRICT TEACHERS AND QUALIFIED INSTRUCTORS OF YOUTH UNDER THE GUIDANCE AND SUPERVISION OF THE NEW YORK STATE COOPERATIVE EXTENSION SERVICE FROM USING EGGS FOR NON-PROFIT EDUCATIONAL PURPOSES OR FROM OBSERVING FOWL HATCHED FROM SUCH EGGS FOR NON-PROFIT EDUCATIONAL PURPOSES.

4. NO PERSON SHALL SELL, OFFER FOR SALE, BARTER OR GIVE AWAY LIVING BABY CHICKS, DUCKLINGS OR OTHER FOWL OR BABY RABBITS UNDER TWO MONTHS OF AGE IN ANY QUANTITY LESS THAN SIX.

5. A VIOLATION OF THE PROVISIONS OF THIS SECTION IS A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY BOTH.

S 236.07 ABANDONMENT OF ANIMALS.

1. A PERSON BEING THE OWNER OR POSSESSOR, OR HAVING CHARGE OR CUSTODY OF AN ANIMAL, WHO ABANDONS SUCH ANIMAL, OR LEAVES IT TO DIE IN A STREET, ROAD OR PUBLIC PLACE, OR WHO ALLOWS SUCH ANIMAL, IF IT BECOMES DISABLED, TO LIE IN A PUBLIC STREET, ROAD OR PUBLIC PLACE MORE THAN THREE HOURS AFTER HE OR SHE RECEIVES NOTICE THAT IT IS LEFT DISABLED, IS GUILTY OF A CLASS A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

2. (A) A PERSON BEING THE OWNER OR POSSESSOR, OR HAVING CHARGE OR CUSTODY OF AN ANIMAL, WHO ABANDONS SUCH ANIMAL, OR LEAVES IT TO DIE IN A STREET, ROAD OR PUBLIC PLACE, OR WHO ALLOWS SUCH ANIMAL, IF IT BECOMES DISABLED, TO LIE IN A PUBLIC STREET, ROAD OR PUBLIC PLACE MORE THAN THREE HOURS AFTER HE OR SHE RECEIVES NOTICE THAT IT IS LEFT DISABLED, AND

(B) SUCH ACT OR FAILURE TO ACT RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH OF THE ANIMAL, IS GUILTY OF A CLASS E FELONY.

3. (A) ANY PERSON WHO IS CONVICTED OF VIOLATING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS E FELONY.

(B) ANY PERSON WHO IS CONVICTED OF VIOLATING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS D FELONY.

S 236.08 FAILURE TO PROVIDE PROPER FOOD AND DRINK TO AN IMPOUNDED ANIMAL.

1. (A) A PERSON WHO, HAVING IMPOUNDED OR CONFINED ANY ANIMAL, REFUSES OR NEGLECTS TO SUPPLY TO SUCH ANIMAL DURING ITS CONFINEMENT A SUFFICIENT SUPPLY OF GOOD AND WHOLESOME AIR, FOOD, SHELTER AND WATER, IS GUILTY OF A CLASS A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

(B) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND SUCH VIOLATION RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH OF THE ANIMAL SHALL BE GUILTY OF A CLASS E FELONY.

(C) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS E FELONY.

(D) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS D FELONY.

2. IN CASE ANY ANIMAL SHALL BE AT ANY TIME IMPOUNDED AS AFORESAID, AND SHALL CONTINUE TO BE WITHOUT NECESSARY FOOD AND WATER FOR MORE THAN TWELVE SUCCESSIVE HOURS, IT SHALL BE LAWFUL FOR ANY PERSON, FROM TIME TO TIME, AND AS OFTEN AS IT SHALL BE NECESSARY, TO ENTER INTO AND UPON ANY POUND IN WHICH ANY SUCH ANIMAL SHALL BE SO CONFINED, AND TO SUPPLY IT WITH NECESSARY FOOD AND WATER, SO LONG AS IT SHALL REMAIN SO CONFINED;

SUCH PERSON SHALL NOT BE LIABLE FOR ANY ACTION FOR SUCH ENTRY, AND THE REASONABLE COST OF SUCH FOOD AND WATER MAY BE COLLECTED BY HIM OR HER FROM THE OWNER OF SUCH ANIMAL, AND SAID ANIMAL SHALL NOT BE EXEMPT FROM LEVY AND SALE UPON EXECUTION ISSUED UPON A JUDGMENT THEREFOR.

S 236.09 SELLING OR OFFERING TO SELL OR EXPOSING DISEASED ANIMAL.

A PERSON WHO WILFULLY SELLS OR OFFERS TO SELL, USES, EXPOSES, OR CAUSES OR PERMITS TO BE SOLD, OFFERED FOR SALE, USED OR EXPOSED, ANY HORSE OR OTHER ANIMAL HAVING THE DISEASE KNOWN AS GLANDERS OR FARCY, OR OTHER CONTAGIOUS OR INFECTIOUS DISEASE DANGEROUS TO THE LIFE OR HEALTH OF HUMAN BEINGS, OR ANIMALS, OR WHICH IS DISEASED PAST RECOVERY, OR WHO REFUSES UPON DEMAND TO DEPRIVE OF LIFE AN ANIMAL AFFECTED WITH ANY SUCH DISEASE, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR BY BOTH.

S 236.10 SELLING DISABLED HORSES.

IT SHALL BE UNLAWFUL FOR ANY PERSON HOLDING AN AUCTIONEER'S LICENSE KNOWINGLY TO RECEIVE OR OFFER FOR SALE OR TO SELL AT PUBLIC AUCTION, OTHER THAN AT A SHERIFF'S OR JUDICIAL SALE UNDER A COURT ORDER, ANY HORSE WHICH BY REASON OF DEBILITY, DISEASE OR LAMENESS, OR FOR ANY OTHER CAUSE, COULD NOT BE WORKED IN THIS STATE WITHOUT VIOLATING THE LAW AGAINST CRUELTY TO ANIMALS. ANY PERSON VIOLATING ANY PROVISION OF THIS SECTION SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN FIVE DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

S 236.11 LIVE ANIMALS AS PRIZES PROHIBITED.

1. FOR THE PURPOSES OF THIS SECTION "LIVESTOCK" SHALL MEAN ANY DOMESTICATED SHEEP, GOAT, HORSE, CATTLE OR SWINE.

2. NO PERSON SHALL GIVE OR OFFER TO GIVE AWAY AS A PRIZE, OR EXCHANGE OR OFFER TO EXCHANGE FOR NOMINAL CONSIDERATION, ANY LIVE ANIMAL OTHER THAN PUREBRED LIVESTOCK OR FISH IN ANY GAME, DRAWING, CONTEST, SWEEPSTAKES OR OTHER PROMOTION, EXCEPT WHEN ANY LIVE ANIMAL IS GIVEN AWAY BY INDIVIDUALS OR ORGANIZATIONS OPERATING IN CONJUNCTION WITH A COOPERATIVE EXTENSION EDUCATION PROGRAM OR AGRICULTURAL VOCATIONAL PROGRAM SANCTIONED BY THE EDUCATION DEPARTMENT.

3. THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL PROMULGATE RULES AND REGULATIONS WHICH PROVIDE GUIDELINES, CONDITIONS AND REQUIREMENTS WHEN ANY LIVE ANIMAL IS GIVEN AWAY UNDER THE EXCEPTIONS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION.

4. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS OR IN LIEU THEREOF SHALL BE GUILTY OF A VIOLATION PUNISHABLE SOLELY BY A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

S 236.12 CARRYING AN ANIMAL IN A CRUEL MANNER.

1. (A) A PERSON WHO CARRIES OR CAUSES TO BE CARRIED IN OR UPON ANY VESSEL OR VEHICLE OR OTHERWISE, ANY ANIMAL IN A CRUEL OR INHUMANE MANNER, OR SO AS TO PRODUCE TORTURE, IS GUILTY OF A CLASS A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

(B) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND SUCH VIOLATION RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH OF THE ANIMAL SHALL BE GUILTY OF A CLASS E FELONY.

(C) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS E FELONY.

(D) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS D FELONY.

2. A RAILWAY CORPORATION, OR AN OWNER, AGENT, CONSIGNEE, OR PERSON IN CHARGE OF ANY HORSES, SHEEP, CATTLE, OR SWINE, IN THE COURSE OF, OR FOR TRANSPORTATION, WHO CONFINES, OR CAUSES OR SUFFERS THE SAME TO BE CONFINED, IN CARS FOR A LONGER PERIOD THAN TWENTY-EIGHT CONSECUTIVE HOURS, OR THIRTY-SIX CONSECUTIVE HOURS WHERE CONSENT IS GIVEN IN THE MANNER HEREINAFTER PROVIDED, WITHOUT UNLOADING FOR REST, WATER AND FEEDING, DURING FIVE CONSECUTIVE HOURS, UNLESS PREVENTED BY STORM OR INEVITABLE ACCIDENT, IS GUILTY OF A CLASS A MISDEMEANOR. THE CONSENT WHICH WILL EXTEND THE PERIOD FROM TWENTY-EIGHT TO THIRTY-SIX HOURS SHALL BE GIVEN BY THE OWNER, OR BY PERSON IN CUSTODY OF A PARTICULAR SHIPMENT, BY A WRITING SEPARATE AND APART FROM ANY PRINTED BILL OF LADING OR OTHER RAILROAD FORM. IN ESTIMATING SUCH CONFINEMENT, THE TIME DURING WHICH THE ANIMALS HAVE BEEN CONFINED WITHOUT REST, ON CONNECTING ROADS FROM WHICH THEY ARE RECEIVED, MUST BE COMPUTED.

S 236.13 TRANSPORTATION OF HORSES.

1. EVERY VEHICLE UTILIZED FOR THE TRANSPORTATION OF MORE THAN SIX HORSES SHALL MEET THE FOLLOWING REQUIREMENTS:

(A) THE INTERIORS OF COMPARTMENTS CONTAINING HORSES SHALL BE CONSTRUCTED OF SMOOTH MATERIALS, CONTAINING NO SHARP OBJECTS OR PROTRUSIONS WHICH ARE HAZARDOUS;

(B) THE FLOORS SHALL BE OF SUCH CONSTRUCTION OR COVERED WITH ABRASIVE MATERIAL SO AS TO PREVENT HORSES FROM SKIDDING OR SLIDING;

(C) THERE SHALL BE SUFFICIENT APERTURES TO INSURE ADEQUATE VENTILATION;

(D) THERE SHALL BE SUFFICIENT INSULATION OR COVERINGS TO MAINTAIN AN ADEQUATE TEMPERATURE IN THE COMPARTMENT CONTAINING HORSES;

(E) PARTITIONS OF STURDY CONSTRUCTION SHALL BE PLACED A MAXIMUM OF TEN FEET APART IN VEHICLES WHICH DO NOT HAVE STALLS;

(F) DOORWAYS SHALL BE OF SUFFICIENT HEIGHT TO ALLOW SAFE INGRESS AND EGRESS OF EACH HORSE CONTAINED IN THE COMPARTMENT;

(G) EACH COMPARTMENT CONTAINING HORSES SHALL BE OF SUCH HEIGHT SO AS TO ALLOW SUFFICIENT CLEARANCE ABOVE THE POLL AND WITHERS OF EACH HORSE IN THE COMPARTMENT;

(H) RAMPS SUFFICIENT FOR LOADING AND UNLOADING HORSES SHALL BE PROVIDED IF THE VERTICAL DISTANCE FROM THE FLOOR OF THE COMPARTMENT CONTAINING HORSES TO THE GROUND IS GREATER THAN FIFTEEN INCHES; AND

(I) THERE SHALL BE AT LEAST TWO DOORWAYS FOR INGRESS AND EGRESS, WHICH SHALL NOT BE ON THE SAME SIDE.

2. EVERY VEHICLE UTILIZED FOR THE TRANSPORTATION OF MORE THAN SIX HORSES OVER A HIGHWAY SHALL HAVE NO MORE THAN ONE TIER.

3. (A) TRANSPORTING A HORSE IN VIOLATION OF THIS SECTION SHALL BE A VIOLATION PUNISHABLE BY A FINE OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

(B) ANY SUBSEQUENT VIOLATION OF THIS SECTION ON A DATE FOLLOWING A CONVICTION UNDER THE PROVISIONS OF THIS SECTION SHALL BE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

4. THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL PROMULGATE RULES AND REGULATIONS, INCLUDING SIZE SPECIFICATIONS, AND ESTABLISH GUIDELINES IN ORDER TO FACILITATE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

5. (A) THE TERM "HORSE" AS USED THROUGHOUT THIS SECTION SHALL APPLY TO THE ENTIRE FAMILY OF EQUIDAE.

(B) THE TERM "VEHICLE" AS USED THROUGHOUT THIS SECTION SHALL APPLY TO EVERY DEVICE IN, UPON, OR BY WHICH ANY PERSON OR PROPERTY IS OR MAY BE TRANSPORTED OR DRAWN UPON A HIGHWAY, EXCEPT DEVICES MOVED BY HUMAN POWER OR USED EXCLUSIVELY UPON STATIONARY RAILS OR TRACKS.

6. THE COURT IN WHICH A CONVICTION UNDER THE PROVISIONS OF THIS SECTION IS OBTAINED, SHALL, WITHIN THIRTY DAYS OF SUCH CONVICTION, TRANSMIT A COPY OF THE RECORD OF CONVICTION TO THE DIVISION OF CRIMINAL JUSTICE SERVICES WHICH SHALL MAINTAIN A RECORD OF SUCH CONVICTION FOR THE PURPOSE OF IDENTIFYING SUBSEQUENT VIOLATIONS OF THIS SECTION.

S 236.14 POISONING OR ATTEMPTING TO POISON ANIMALS.

1. A PERSON WHO UNJUSTIFIABLY ADMINISTERS ANY POISONOUS OR NOXIOUS DRUG OR SUBSTANCE TO ANY ANIMAL IS GUILTY OF A CLASS E FELONY.

2. ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND SUCH VIOLATION RESULTS IN THE SERIOUS PHYSICAL INJURY OR DEATH OF THE ANIMAL SHALL BE GUILTY OF A CLASS D FELONY.

3. ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS D FELONY.

4. ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF A FELONY UNDER SUCH SUBDIVISION SHALL BE GUILTY OF A CLASS C FELONY.

S 236.15 INTERFERENCE WITH OR INJURY TO CERTAIN DOMESTIC ANIMALS.

A PERSON WHO WILFULLY OR UNJUSTIFIABLY INTERFERES WITH, INJURES, DESTROYS OR TAMPERS WITH OR WHO WILFULLY SETS ON FOOT, INSTIGATES, ENGAGES IN OR IN ANY WAY FURTHERS ANY ACT BY WHICH ANY HORSE, MULE, DOG OR ANY OTHER DOMESTIC ANIMAL USED FOR THE PURPOSES OF RACING, BREEDING OR COMPETITIVE EXHIBITION OF SKILL, BREED OR STAMINA, IS INTERFERED WITH, INJURED, DESTROYED OR TAMPERED WITH, OR ANY ACT TENDING TO PRODUCE SUCH INTERFERENCE, INJURY, DESTRUCTION OR TAMPERING, WHETHER SUCH HORSE, MULE, DOG OR OTHER DOMESTIC ANIMAL BE THE PROPERTY OF HIMSELF, HERSELF OR ANOTHER, IS GUILTY OF A FELONY.

S 236.16 THROWING SUBSTANCE INJURIOUS TO ANIMALS IN PUBLIC PLACE.

A PERSON WHO WILFULLY THROWS, DROPS OR PLACES, OR CAUSES TO BE THROWN, DROPPED OR PLACED UPON ANY ROAD, HIGHWAY, STREET OR PUBLIC PLACE, ANY GLASS, NAILS, PIECES OF METAL, OR OTHER SUBSTANCE WHICH MIGHT WOUND, DISABLE OR INJURE ANY ANIMAL IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

S 236.17 UNAUTHORIZED POSSESSION OF DOGS PRESUMPTIVE EVIDENCE OF LARCENY.

THE UNAUTHORIZED POSSESSION OF A DOG OR DOGS, BY ANY PERSON NOT THE TRUE OWNER, FOR A PERIOD EXCEEDING TEN DAYS, WITHOUT NOTIFYING EITHER THE OWNER, THE LOCAL POLICE AUTHORITIES, OR THE SUPERINTENDENT OF THE STATE POLICE AT ALBANY, NEW YORK, OF SUCH POSSESSION, SHALL BE PRESUMPTIVE EVIDENCE OF LARCENY.

S 236.18 RUNNING HORSES ON HIGHWAY.

A PERSON DRIVING ANY VEHICLE UPON ANY PLANK ROAD, TURNPIKE OR PUBLIC HIGHWAY, WHO UNJUSTIFIABLY RUNS THE HORSES DRAWING THE SAME, OR CAUSES OR PERMITS THEM TO RUN, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY BOTH.

S 236.19 CLIPPING OR CUTTING THE EARS OF DOGS.

1. (A) WHOEVER CLIPS OR CUTS OFF OR CAUSES OR PROCURES ANOTHER TO CLIP OR CUT OFF THE WHOLE OR ANY PART OF AN EAR OF ANY DOG UNLESS AN ANESTHETIC SHALL HAVE BEEN GIVEN TO THE DOG AND THE OPERATION PERFORMED BY A LICENSED VETERINARIAN, IS GUILTY OF A CLASS A MISDEMEANOR, PUNISHABLE BY

IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

(B) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND SUCH VIOLATION RESULTS IN THE MAIMING OR TORTURING OF THE ANIMAL THAT CAUSES SERIOUS PHYSICAL INJURY TO THE ANIMAL SHALL BE GUILTY OF A CLASS E FELONY.

(C) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS E FELONY.

(D) ANY PERSON WHO VIOLATES THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION AND WHO HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING THE PROVISIONS OF SUCH PARAGRAPH SHALL BE GUILTY OF A CLASS D FELONY.

2. EACH APPLICANT FOR A DOG LICENSE MUST STATE ON SUCH APPLICATION WHETHER ANY EAR OF THE DOG FOR WHICH HE OR SHE APPLIES FOR SUCH LICENSE HAS BEEN CUT OFF WHOLLY OR IN PART.

3. NOTHING HEREIN CONTAINED SHALL BE CONSTRUED AS PREVENTING ANY DOG WHOSE EAR OR EARS SHALL HAVE BEEN CLIPPED OR CUT OFF WHOLLY OR IN PART, NOT IN VIOLATION OF THIS SECTION, FROM BEING IMPORTED INTO THE STATE EXCLUSIVELY FOR BREEDING PURPOSES.

S 236.20 DOG STEALING.

1. IT SHALL BE UNLAWFUL FOR ANY PERSON:

(A) TO REMOVE OR CAUSE TO BE REMOVED THE COLLAR, IDENTIFICATION TAG OR ANY OTHER IDENTIFICATION BY WHICH THE OWNER MAY BE ASCERTAINED FROM ANY DOG, CAT OR ANY OTHER DOMESTIC ANIMAL AS DEFINED IN SUBDIVISION SEVEN OF SECTION ONE HUNDRED EIGHT OF THE AGRICULTURE AND MARKETS LAW, OR TO ENTICE ANY IDENTIFIED DOG, CAT OR OTHER SUCH DOMESTIC ANIMAL INTO OR OUT OF ANY HOUSE OR ENCLOSURE FOR THE PURPOSE OF REMOVING ITS COLLAR, TAG OR ANY OTHER IDENTIFICATION, EXCEPT WITH THE OWNER'S PERMISSION;

(B) TO ENTICE, SEIZE OR MOLEST ANY DOG, WHILE IT IS BEING HELD OR LED BY ANY PERSON OR WHILE IT IS PROPERLY MUZZLED OR WEARING A COLLAR WITH AN IDENTIFICATION TAG ATTACHED, EXCEPT WHERE SUCH ACTION IS INCIDENTAL TO THE ENFORCEMENT OF SOME LAW OR REGULATION;

(C) TO TRANSPORT ANY DOG, NOT LAWFULLY IN HIS OR HER POSSESSION, FOR THE PURPOSE OF KILLING OR SELLING SUCH DOG.

2. ANY PERSON VIOLATING ANY OF THE PROVISIONS OF THIS SECTION, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE NOT EXCEEDING TWO HUNDRED DOLLARS, OR BY IMPRISONMENT NOT TO EXCEED SIX MONTHS, OR BY BOTH.

S 236.21 REMOVING, SEIZING OR TRANSPORTING DOGS FOR RESEARCH PURPOSES.

IT SHALL BE UNLAWFUL FOR ANY PERSON:

1. TO REMOVE, SEIZE OR TRANSPORT OR CAUSE TO REMOVE, SEIZE OR TRANSPORT ANY DOG WHICH BELONGS TO OR IS LICENSED TO ANOTHER FOR THE PURPOSE OF SALE, BARTER OR TO GIVE AWAY SAID DOG TO A LABORATORY, HOSPITAL, RESEARCH INSTITUTE, MEDICAL SCHOOL OR ANY AGENCY OR ORGANIZATION ENGAGED IN RESEARCH ACTIVITY, WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE OWNER OR LICENSEE.

2. ANY PERSON WHO VIOLATES THE PROVISION OF THIS SECTION, UPON CONVICTION THEREOF, SHALL BE GUILTY OF A MISDEMEANOR, AND IS PUNISHABLE BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH.

S 236.22 LEAVING STATE TO AVOID PROVISIONS OF THIS ARTICLE.

A PERSON WHO LEAVES THIS STATE WITH INTENT TO ELUDE ANY OF THE PROVISIONS OF THIS ARTICLE OR TO COMMIT ANY ACT OUT OF THIS STATE WHICH IS PROHIBITED BY THEM OR WHO, BEING A RESIDENT OF THIS STATE, DOES ANY ACT WITHOUT THIS STATE, PURSUANT TO SUCH INTENT, WHICH WOULD BE PUNISHA-

BLE UNDER SUCH PROVISIONS, IF COMMITTED WITHIN THIS STATE, IS PUNISHABLE IN THE SAME MANNER AS IF SUCH ACT HAD BEEN COMMITTED WITHIN THIS STATE.

S 236.23 OPERATING UPON TAILS OF HORSES UNLAWFUL.

1. ANY PERSON WHO CUTS THE BONE, TISSUES, MUSCLES OR TENDONS OF THE TAIL OF ANY HORSE, MARE OR GELDING, OR OTHERWISE OPERATES UPON IT IN ANY MANNER FOR THE PURPOSE OR WITH THE EFFECT OF DOCKING, SETTING, OR OTHERWISE ALTERING THE NATURAL CARRIAGE OF THE TAIL, OR WHO KNOWINGLY PERMITS THE SAME TO BE DONE UPON PREMISES OF WHICH HE OR SHE IS THE OWNER, LESSEE, PROPRIETOR OR USER, OR WHO ASSISTS IN OR IS VOLUNTARILY PRESENT AT SUCH CUTTING, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS OR BY BOTH. IF A HORSE IS FOUND WITH THE BONE, TISSUES, MUSCLES OR TENDONS OF ITS TAIL CUT AS AFORESAID AND WITH THE WOUND RESULTING THEREFROM UNHEALED, UPON THE PREMISES OR IN THE CHARGE AND CUSTODY OF ANY PERSON, SUCH FACT SHALL BE PRIMA FACIE EVIDENCE OF A VIOLATION OF THIS SECTION BY THE OWNER OR USER OF SUCH PREMISES OR THE PERSON HAVING SUCH CHARGE OR CUSTODY, RESPECTIVELY.

2. ANY PERSON WHO SHOWS OR EXHIBITS AT ANY HORSE SHOW OR OTHER LIKE EXHIBITION IN THIS STATE A HORSE, MARE OR GELDING, THE TAIL OF WHICH HAS BEEN CUT OR OPERATED UPON IN THE MANNER REFERRED TO IN SUBDIVISION ONE OF THIS SECTION, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY BOTH; PROVIDED THAT THE PROVISIONS OF THIS SECTION SHALL NOT APPLY WITH RESPECT TO AN ANIMAL THE TAIL OF WHICH HAS BEEN SO CUT OR OPERATED UPON, IF THE OWNER THEREOF FURNISHES TO THE MANAGER OR OTHER OFFICIAL HAVING CHARGE OF THE HORSE SHOW OR EXHIBITION AT WHICH SUCH ANIMAL IS SHOWN OR EXHIBITED AN AFFIDAVIT BY THE OWNER, OR A LICENSED VETERINARIAN, IN A FORM APPROVED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS, STATING THAT IT WAS SO CUT IN A STATE WHEREIN SUCH CUTTING WAS NOT SPECIFICALLY PROHIBITED BY THE LAWS THEREOF. SAID AFFIDAVIT SHALL, TO THE BEST OF AFFIANT'S KNOWLEDGE, INFORMATION AND BELIEF, IDENTIFY THE ANIMAL WITH RESPECT TO SEX, AGE, MARKINGS, SIRE AND DAM, AND STATE THE TIME AND PLACE OF SUCH CUTTING AND THE NAME AND ADDRESS OF THE PERSON BY WHOM PERFORMED. THE AFFIDAVIT SHALL BE SUBJECT TO INSPECTION AT ALL REASONABLE TIMES BY ANY PEACE OFFICER, ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR POLICE OFFICER OF THIS STATE, OR BY A DESIGNATED REPRESENTATIVE OF THE COMMISSIONER OF AGRICULTURE AND MARKETS. IN LIEU OF FURNISHING SUCH AFFIDAVIT TO THE MANAGER OR OTHER OFFICIAL HAVING CHARGE OF SUCH HORSE SHOW OR EXHIBITION, THE OWNER OF SUCH HORSE MAY SPECIFY ON THE ENTRY BLANK FOR THE HORSE SHOW OR EXHIBITION THE NAME AND ADDRESS OF A CENTRAL REGISTRY OFFICE DESIGNATED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS WHERE SUCH AN AFFIDAVIT HAS ALREADY BEEN FILED AND IS AVAILABLE FOR INSPECTION.

S 236.24 INTERFERENCE WITH OFFICERS.

ANY PERSON WHO SHALL INTERFERE WITH OR OBSTRUCT ANY CONSTABLE OR POLICE OFFICER OR ANY OFFICER OR AGENT OF ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS IN THE DISCHARGE OF HIS OR HER DUTY TO ENFORCE THE LAWS RELATING TO ANIMALS SHALL BE GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

S 236.25 PROTECTION OF THE PUBLIC FROM ATTACK BY WILD ANIMALS AND REPTILES.

ANY PERSON OWNING, POSSESSING OR HARBORING A WILD ANIMAL OR REPTILE CAPABLE OF INFLICTING BODILY HARM UPON A HUMAN BEING, WHO SHALL FAIL TO EXERCISE DUE CARE IN SAFEGUARDING THE PUBLIC FROM ATTACK BY SUCH WILD ANIMAL OR REPTILE, IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISON-

MENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY BOTH. "WILD ANIMAL" WITHIN THE MEANING OF THIS SECTION, SHALL NOT INCLUDE A DOG OR CAT OR OTHER DOMESTIC ANIMAL.

PREVIOUS ATTACKS UPON A HUMAN BEING BY SUCH WILD ANIMAL OR REPTILE, OR KNOWLEDGE OF THE VICIOUS PROPENSITIES OF SUCH WILD ANIMAL OR REPTILE, ON THE PART OF THE POSSESSOR OR HARBORER THEREOF, SHALL NOT BE REQUIRED TO BE PROVEN BY THE PEOPLE UPON A PROSECUTION HEREUNDER; AND NEITHER THE FACT THAT SUCH WILD ANIMAL OR REPTILE HAS NOT PREVIOUSLY ATTACKED A HUMAN BEING, NOR LACK OF KNOWLEDGE OF THE VICIOUS PROPENSITIES OF SUCH WILD ANIMAL OR REPTILE ON THE PART OF THE OWNER, POSSESSOR OR HARBORER THEREOF SHALL CONSTITUTE A DEFENSE TO A PROSECUTION HEREUNDER.

S 236.26 POWERS OF PEACE OFFICERS.

A CONSTABLE OR POLICE OFFICER MUST, AND ANY AGENT OR OFFICER OF ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS MAY ISSUE AN APPEARANCE TICKET PURSUANT TO SECTION 150.20 OF THE CRIMINAL PROCEDURE LAW, SUMMON OR ARREST, AND BRING BEFORE A COURT OR MAGISTRATE HAVING JURISDICTION, ANY PERSON OFFENDING AGAINST ANY OF THE PROVISIONS OF THIS ARTICLE. ANY OFFICER OR AGENT OF ANY OF SAID SOCIETIES MAY LAWFULLY INTERFERE TO PREVENT THE PERPETRATION OF ANY ACT OF CRUELTY UPON ANY ANIMAL IN HIS OR HER PRESENCE. ANY OF SAID SOCIETIES MAY PREFER A COMPLAINT BEFORE ANY COURT, TRIBUNAL OR MAGISTRATE HAVING JURISDICTION, FOR THE VIOLATION OF ANY LAW RELATING TO OR AFFECTING ANIMALS AND MAY AID IN PRESENTING THE LAW AND FACTS BEFORE SUCH COURT, TRIBUNAL OR MAGISTRATE IN ANY PROCEEDING TAKEN.

S 236.27 ISSUANCE OF WARRANTS UPON COMPLAINT.

UPON COMPLAINT UNDER OATH OR AFFIRMATION TO ANY MAGISTRATE AUTHORIZED TO ISSUE WARRANTS IN CRIMINAL CASES, THAT THE COMPLAINANT HAS JUST AND REASONABLE CAUSE TO SUSPECT THAT ANY OF THE PROVISIONS OF LAW RELATING TO OR IN ANY WAY AFFECTING ANIMALS ARE BEING OR ARE ABOUT TO BE VIOLATED IN ANY PARTICULAR BUILDING OR PLACE, SUCH MAGISTRATE SHALL IMMEDIATELY ISSUE AND DELIVER A WARRANT TO ANY PERSON AUTHORIZED BY LAW TO MAKE ARRESTS FOR SUCH OFFENSES, AUTHORIZING HIM OR HER TO ENTER AND SEARCH SUCH BUILDING OR PLACE, AND TO ARREST ANY PERSON THERE PRESENT FOUND VIOLATING ANY OF SAID LAWS, AND TO BRING SUCH PERSON BEFORE THE NEAREST MAGISTRATE OF COMPETENT JURISDICTION, TO BE DEALT WITH ACCORDING TO LAW.

S 236.28 SEIZURE OF ANIMALS LOST, STRAYED, HOMELESS, ABANDONED OR IMPROPERLY CONFINED OR KEPT.

1. ANY POLICE OFFICER OR AGENT OR OFFICER OF THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, MAY LAWFULLY TAKE POSSESSION OF ANY LOST, STRAYED, HOMELESS OR ABANDONED ANIMAL FOUND IN ANY STREET, ROAD OR OTHER PUBLIC PLACE.

2. ANY POLICE OFFICER IN LEWIS COUNTY MAY LAWFULLY TAKE POSSESSION OF ANY LOST, STRAYED, HOMELESS OR ABANDONED DOMESTIC ANIMAL, AS DEFINED IN SECTION ONE HUNDRED EIGHT OF THE AGRICULTURE AND MARKETS LAW, FOUND IN ANY STREET, ROAD OR OTHER PUBLIC PLACE.

3. ANY SUCH POLICE OFFICER OR AGENT OR OFFICER MAY ALSO LAWFULLY TAKE POSSESSION OF ANY ANIMAL IN OR UPON ANY PREMISES OTHER THAN A STREET, ROAD OR OTHER PUBLIC PLACE, WHICH FOR MORE THAN TWELVE SUCCESSIVE HOURS HAS BEEN CONFINED OR KEPT IN A CROWDED OR UNHEALTHY CONDITION OR IN UNHEALTHFUL OR UNSANITARY SURROUNDINGS OR NOT PROPERLY CARED FOR OR WITHOUT NECESSARY SUSTENANCE, FOOD OR DRINK, PROVIDED THAT A COMPLAINT STATING JUST AND REASONABLE GROUNDS IS MADE UNDER OATH OR AFFIRMATION TO ANY MAGISTRATE AUTHORIZED TO ISSUE WARRANTS IN CRIMINAL CASES, AND THAT SUCH WARRANT AUTHORIZING ENTRY AND SEARCH IS ISSUED AND DELIVERED BY

SUCH MAGISTRATE; IF JUST AND REASONABLE CAUSE IS SHOWN, THE MAGISTRATE SHALL IMMEDIATELY ISSUE SUCH WARRANT.

4. ANY SUCH POLICE OFFICER OR AGENT OR OFFICER MAY ALSO LAWFULLY TAKE POSSESSION OF ANY UNWANTED ANIMAL FROM THE PERSON IN POSSESSION OR CUSTODY THEREOF.

5. WHEN ANY PERSON ARRESTED IS, AT THE TIME OF SUCH ARREST, IN CHARGE OF ANY ANIMAL OR OF ANY VEHICLE DRAWN BY OR CONTAINING ANY ANIMAL, ANY AGENT OR OFFICER OF SAID SOCIETY OR SOCIETIES OR ANY POLICE OFFICER MAY TAKE CHARGE OF SUCH ANIMAL AND OF SUCH VEHICLE AND ITS CONTENTS, AND DEPOSIT THE SAME IN A SAFE PLACE OR CUSTODY, OR DELIVER THE SAME INTO THE POSSESSION OF THE POLICE OR SHERIFF OF THE COUNTY OR PLACE WHEREIN SUCH ARREST WAS MADE, WHO SHALL THEREUPON ASSUME THE CUSTODY THEREOF; AND ALL NECESSARY EXPENSES INCURRED IN TAKING CHARGE OF SUCH PROPERTY SHALL BE A CHARGE THEREON.

6. NOTHING HEREIN CONTAINED SHALL RESTRICT THE RIGHTS AND POWERS DERIVED FROM SECTION ONE HUNDRED EIGHTEEN OF THE AGRICULTURE AND MARKETS LAW RELATING TO SEIZURE OF UNLICENSED DOGS AND THE DISPOSITION TO BE MADE OF ANIMALS SO SEIZED OR TAKEN, NOR THOSE DERIVED FROM ANY OTHER GENERAL OR SPECIAL LAW RELATING TO THE SEIZURE OR OTHER TAKING OF DOGS AND OTHER ANIMALS BY A SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS.

7. (A) IF ANY ANIMAL IS SEIZED AND IMPOUNDED PURSUANT TO THE PROVISIONS OF THIS SECTION OR SECTION 236.30 OF THIS ARTICLE FOR ANY VIOLATION OF THIS ARTICLE, UPON ARRAIGNMENT OF CHARGES THE DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, POUND, ANIMAL SHELTER OR ANY AUTHORIZED AGENTS THEREOF, HEREINAFTER REFERRED TO FOR THE PURPOSES OF THIS SECTION AS THE "IMPOUNDING ORGANIZATION", MAY FILE A PETITION WITH THE COURT REQUESTING THAT THE PERSON FROM WHOM AN ANIMAL IS SEIZED OR THE OWNER OF THE ANIMAL BE ORDERED TO POST A SECURITY. THE SECURITY SHALL BE IN AN AMOUNT SUFFICIENT TO SECURE PAYMENT FOR ALL REASONABLE EXPENSES EXPECTED TO BE INCURRED BY THE IMPOUNDING ORGANIZATION IN CARING AND PROVIDING FOR THE ANIMAL PENDING DISPOSITION OF THE CHARGES. REASONABLE EXPENSES SHALL INCLUDE, BUT NOT BE LIMITED TO, ESTIMATED MEDICAL CARE AND BOARDING OF THE ANIMAL FOR AT LEAST THIRTY DAYS. THE AMOUNT OF THE SECURITY, IF ANY, SHALL BE DETERMINED BY THE COURT AFTER TAKING INTO CONSIDERATION ALL OF THE FACTS AND CIRCUMSTANCES OF THE CASE INCLUDING, BUT NOT LIMITED TO THE RECOMMENDATION OF THE IMPOUNDING ORGANIZATION HAVING CUSTODY AND CARE OF THE SEIZED ANIMAL AND THE COST OF CARING FOR THE ANIMAL. IF A SECURITY HAS BEEN POSTED IN ACCORDANCE WITH THIS SECTION, THE IMPOUNDING ORGANIZATION MAY DRAW FROM THE SECURITY THE ACTUAL REASONABLE COSTS TO BE INCURRED BY SUCH ORGANIZATION IN CARING FOR THE SEIZED ANIMAL.

(B) (I) UPON RECEIPT OF A PETITION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, THE COURT SHALL SET A HEARING ON THE PETITION TO BE CONDUCTED WITHIN TEN BUSINESS DAYS OF THE FILING OF SUCH PETITION. THE PETITIONER SHALL SERVE A TRUE COPY OF THE PETITION UPON THE DEFENDANT AND THE DISTRICT ATTORNEY. THE PETITIONER SHALL ALSO SERVE A TRUE COPY OF THE PETITION ON ANY INTERESTED PERSON. FOR PURPOSES OF THIS SUBDIVISION, INTERESTED PERSON SHALL MEAN AN INDIVIDUAL, PARTNERSHIP, FIRM, JOINT STOCK COMPANY, CORPORATION, ASSOCIATION, TRUST, ESTATE OR OTHER LEGAL ENTITY WHO THE COURT DETERMINES MAY HAVE A PECUNIARY INTEREST IN THE ANIMAL WHICH IS THE SUBJECT OF THE PETITION. THE PETITIONER SHALL HAVE THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON FROM WHOM THE ANIMAL WAS SEIZED VIOLATED A PROVISION OF THIS ARTICLE. THE COURT MAY WAIVE FOR GOOD CAUSE SHOWN THE POSTING OF SECURITY.

(II) IF THE COURT ORDERS THE POSTING OF A SECURITY, THE SECURITY SHALL BE POSTED WITH THE CLERK OF THE COURT WITHIN FIVE BUSINESS DAYS OF THE HEARING PROVIDED FOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH. THE COURT MAY ORDER THE IMMEDIATE FORFEITURE OF THE SEIZED ANIMAL TO THE IMPOUNDING ORGANIZATION IF THE PERSON ORDERED TO POST THE SECURITY FAILS TO DO SO. ANY ANIMAL FORFEITED SHALL BE MADE AVAILABLE FOR ADOPTION OR EUTHANIZED SUBJECT TO SUBDIVISION SEVEN-A OF SECTION ONE HUNDRED EIGHTEEN OF THE AGRICULTURE AND MARKETS LAW OR SECTION 236.29 OF THIS ARTICLE.

(III) IN THE CASE OF AN ANIMAL OTHER THAN A COMPANION ANIMAL OR PET, IF A PERSON ORDERED TO POST SECURITY FAILS TO DO SO, THE COURT MAY, IN ADDITION TO THE FORFEITURE TO A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, POUND, ANIMAL SHELTER OR ANY AUTHORIZED AGENTS THEREOF, AND SUBJECT TO THE RESTRICTIONS OF SECTIONS 236.06, 236.09 AND 236.29 OF THIS ARTICLE, ORDER THE ANIMAL WHICH WAS THE BASIS OF THE ORDER TO BE SOLD, PROVIDED THAT ALL INTERESTED PERSONS SHALL FIRST BE PROVIDED THE OPPORTUNITY TO REDEEM THEIR INTEREST IN THE ANIMAL AND TO PURCHASE THE INTEREST OF THE PERSON ORDERED TO POST SECURITY, SUBJECT TO SUCH CONDITIONS AS THE COURT DEEMS APPROPRIATE TO ASSURE PROPER CARE AND TREATMENT OF THE ANIMAL. THE COURT MAY REIMBURSE THE PERSON ORDERED TO POST SECURITY AND ANY INTERESTED PERSONS ANY MONEY EARNED BY THE SALE OF THE ANIMAL LESS ANY COSTS INCLUDING, BUT NOT LIMITED TO, VETERINARY AND CUSTODIAL CARE. ANY ANIMAL DETERMINED BY THE COURT TO BE MAIMED, DISEASED, DISABLED OR INFIRM SO AS TO BE UNFIT FOR SALE OR ANY USEFUL PURPOSE SHALL BE FORFEITED TO A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY OR AUTHORIZED AGENTS THEREOF, AND BE AVAILABLE FOR ADOPTION OR SHALL BE EUTHANIZED SUBJECT TO SECTION 236.29 OF THIS ARTICLE.

(IV) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN ANY WAY THE RIGHTS OF A SECURED PARTY HAVING A SECURITY INTEREST IN ANY ANIMAL DESCRIBED IN THIS SECTION. THIS SECTION EXPRESSLY DOES NOT IMPAIR OR SUBORDINATE THE RIGHTS OF SUCH A SECURED LENDER HAVING A SECURITY INTEREST IN THE ANIMAL OR IN THE PROCEEDS FROM THE SALE OF SUCH ANIMAL.

(C) IN NO EVENT SHALL THE SECURITY PREVENT THE IMPOUNDING ORGANIZATION HAVING CUSTODY AND CARE OF THE ANIMAL FROM DISPOSING OF THE ANIMAL PURSUANT TO SECTION 236.29 OF THIS ARTICLE PRIOR TO THE EXPIRATION OF THE THIRTY DAY PERIOD COVERED BY THE SECURITY IF THE COURT MAKES A DETERMINATION OF THE CHARGES AGAINST THE PERSON FROM WHOM THE ANIMAL WAS SEIZED PRIOR THERETO. UPON RECEIPT OF A PETITION FROM THE IMPOUNDING ORGANIZATION, THE COURT MAY ORDER THE PERSON FROM WHOM THE ANIMAL WAS SEIZED OR THE OWNER OF THE ANIMAL TO POST AN ADDITIONAL SECURITY WITH THE CLERK OF THE COURT TO SECURE PAYMENT OF REASONABLE EXPENSES FOR AN ADDITIONAL PERIOD OF TIME PENDING A DETERMINATION BY THE COURT OF THE CHARGES AGAINST THE PERSON FROM WHOM THE ANIMAL WAS SEIZED. THE PERSON WHO POSTED THE SECURITY SHALL BE ENTITLED TO A REFUND OF THE SECURITY IN WHOLE OR PART FOR ANY EXPENSES NOT INCURRED BY SUCH IMPOUNDING ORGANIZATION UPON ADJUDICATION OF THE CHARGES. THE PERSON WHO POSTED THE SECURITY SHALL BE ENTITLED TO A FULL REFUND OF THE SECURITY, INCLUDING REIMBURSEMENT BY THE IMPOUNDING ORGANIZATION OF ANY AMOUNT ALLOWED BY THE COURT TO BE EXPENDED, AND THE RETURN OF THE ANIMAL SEIZED AND IMPOUNDED UPON ACQUITTAL OR DISMISSAL OF THE CHARGES, EXCEPT WHERE THE DISMISSAL IS BASED UPON AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL PURSUANT TO SECTION 215.30 OF THE CRIMINAL PROCEDURE LAW. THE COURT ORDER DIRECTING SUCH REFUND AND REIMBURSEMENT SHALL PROVIDE FOR PAYMENT

TO BE MADE WITHIN A REASONABLE TIME FROM THE ACQUITTAL OR DISMISSAL OF CHARGES.

8. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, THE COURT MAY ORDER A PERSON CHARGED WITH ANY VIOLATION OF THIS ARTICLE TO PROVIDE NECESSARY FOOD, WATER, SHELTER AND CARE FOR ANY ANIMAL WHICH IS THE BASIS OF THE CHARGE, WITHOUT THE REMOVAL OF THE ANIMAL FROM ITS EXISTING LOCATION, UNTIL THE CHARGES AGAINST THE PERSON ARE ADJUDICATED. UNTIL A FINAL DETERMINATION OF THE CHARGES IS MADE, ANY LAW ENFORCEMENT OFFICER, OFFICER OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR ITS AUTHORIZED AGENTS, MAY BE AUTHORIZED BY AN ORDER OF THE COURT TO MAKE REGULAR VISITS TO WHERE THE ANIMAL IS BEING KEPT TO ASCERTAIN IF THE ANIMAL IS RECEIVING NECESSARY FOOD, WATER, SHELTER AND CARE. NOTHING SHALL PREVENT ANY LAW ENFORCEMENT OFFICER, OFFICER OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR ITS AUTHORIZED AGENTS, FROM APPLYING FOR A WARRANT PURSUANT TO THIS SECTION TO SEIZE ANY ANIMAL BEING HELD BY THE PERSON CHARGED PENDING THE ADJUDICATION OF THE CHARGES IF IT IS DETERMINED THAT THE ANIMAL IS NOT RECEIVING THE NECESSARY FOOD, WATER, SHELTER OR CARE.

S 236.29 HUMANE DESTRUCTION OR OTHER DISPOSITION OF ANIMALS LOST, STRAYED, HOMELESS, ABANDONED OR IMPROPERLY CONFINED OR KEPT.

1. ANY AGENT OR OFFICER OF THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR OF ANY SOCIETY DULY INCORPORATED FOR THAT PURPOSE, OR ANY POLICE OFFICER, MAY LAWFULLY AND HUMANELY DESTROY OR CAUSE TO BE HUMANELY DESTROYED ANY ANIMAL FOUND ABANDONED AND NOT PROPERLY CARED FOR, OR ANY LOST, STRAYED, HOMELESS OR UNWANTED ANIMAL, IF UPON EXAMINATION A LICENSED VETERINARY SURGEON SHALL CERTIFY IN WRITING, OR IF TWO REPUTABLE CITIZENS CALLED BY HIM OR HER TO VIEW THE SAME IN HIS OR HER PRESENCE FIND THAT THE ANIMAL IS SO MAIMED, DISEASED, DISABLED, OR INFIRM SO AS TO BE UNFIT FOR ANY USEFUL PURPOSE; OR AFTER SUCH AGENT OR OFFICER HAS OBTAINED IN WRITING FROM THE OWNER OF SUCH ANIMAL HIS OR HER CONSENT TO SUCH DESTRUCTION.

2. IN THE ABSENCE OF SUCH FINDINGS OR CERTIFICATE THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR ANY SOCIETY DULY INCORPORATED FOR THAT PURPOSE MAY AFTER FIVE DAYS HUMANELY DESTROY ANY ANIMAL OF WHICH POSSESSION IS TAKEN AS PROVIDED FOR IN SECTION 236.28 OF THIS ARTICLE, UNLESS THE SAME IS EARLIER REDEEMED BY ITS OWNER.

2-A. THE USE OF A DECOMPRESSION CHAMBER OR DECOMPRESSION DEVICE OF ANY KIND IS HEREBY DECLARED TO BE INHUMANE WHEN USED FOR THE PURPOSE OF DESTROYING AN ANIMAL AND IS HEREBY PROHIBITED.

2-B. NO PERSON SHALL EUTHANIZE ANY DOG OR CAT WITH T-61, CURARE, ANY CURARIFORM DRUG, ANY NEURO-MUSCULAR BLOCKING AGENT OR ANY OTHER PARALYZING DRUG.

2-C. NO PERSON SHALL EUTHANIZE A DOG OR CAT BY GUNSHOT EXCEPT AS AN EMERGENCY PROCEDURE FOR A DANGEROUS DOG OR A SEVERELY INJURED DOG OR CAT THAT IS SUFFERING AND CANNOT OTHERWISE BE AIDED.

2-D. NO PERSON SHALL EUTHANIZE A DOG OR CAT BY GAS EMITTED FROM ANY ENGINE EXHAUST SYSTEM.

2-E. NO PERSON SHALL RELEASE ANY DOG OR CAT FROM THE CUSTODY OR CONTROL OF ANY POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, DOG PROTECTIVE ASSOCIATION, DOG CONTROL OFFICER, PEACE OFFICER OR ANY AGENT THEREOF, FOR ANY PURPOSE EXCEPT ADOPTION OR REDEMPTION BY ITS OWNER.

ANY VIOLATION OF THIS SUBDIVISION, OR SUBDIVISION TWO-A, TWO-B, TWO-C OR TWO-D OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR AND SHALL BE

PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

3. IN LIEU OF SUCH DESTRUCTION OR REDEMPTION, SUCH SOCIETY MAY IN ITS DISCRETION LAWFULLY AND WITHOUT LIABILITY DELIVER SUCH ANIMAL FOR ADOPTION TO AN INDIVIDUAL OTHER THAN THE OWNER AFTER THE TIME FOR REDEMPTION HAS EXPIRED.

4. PRIOR TO SUCH DESTRUCTION OR OTHER DISPOSITION, THE OWNER OF THE ANIMAL MAY REDEEM THE SAME UPON PROVING TITLE TO THE SATISFACTION OF SUCH SOCIETY AND PAYING SUCH SOCIETY SUCH AMOUNT, APPROVED BY A MAGISTRATE, AS MAY HAVE BEEN REASONABLY EXPENDED BY SUCH SOCIETY IN CONNECTION WITH THE CARE AND MAINTENANCE THEREOF.

5. (A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, UPON CONVICTION FOR ANY VIOLATION OF SECTION 236.01, 236.02, 236.03, 236.04, 236.07, 236.08, 236.12, 236.14, 236.15, 236.19 OR 236.23 OF THIS ARTICLE, THE CONVICTED PERSON MAY, AFTER A DULY HELD HEARING PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, BE ORDERED BY THE COURT TO FORFEIT, TO A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY OR AUTHORIZED AGENTS THEREOF, THE ANIMAL OR ANIMALS WHICH ARE THE BASIS OF THE CONVICTION. UPON SUCH AN ORDER OF FORFEITURE, THE CONVICTED PERSON SHALL BE DEEMED TO HAVE RELINQUISHED ALL RIGHTS TO THE ANIMALS WHICH ARE THE BASIS OF THE CONVICTION, EXCEPT THOSE GRANTED IN PARAGRAPH (D) OF THIS SUBDIVISION.

(B) PURSUANT TO THE PROVISIONS OF SUBDIVISIONS TWO-A, TWO-B, TWO-C AND TWO-D OF THIS SECTION, NO DOG OR CAT IN THE CUSTODY OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE SOCIETY OR ITS AUTHORIZED AGENTS THEREOF, OR A POUND OR SHELTER, SHALL BE SOLD, TRANSFERRED OR OTHERWISE MADE AVAILABLE TO ANY PERSON FOR THE PURPOSE OF RESEARCH, EXPERIMENTATION OR TESTING. NO AUTHORIZED AGENT OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, NOR OF A DULY INCORPORATED HUMANE SOCIETY, SHALL USE ANY ANIMAL PLACED IN ITS CUSTODY BY THE DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR DULY INCORPORATED HUMANE SOCIETY FOR THE PURPOSE OF RESEARCH, EXPERIMENTATION OR TESTING.

(C) THE COURT MAY ADDITIONALLY ORDER THAT THE CONVICTED PERSON OR ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT, SHALL NOT OWN, HARBOR, OR HAVE CUSTODY OR CONTROL OF ANY OTHER ANIMALS, OTHER THAN FARM ANIMALS, FOR A PERIOD OF TIME WHICH THE COURT DEEMS REASONABLE.

(D) IN THE CASE OF FARM ANIMALS, THE COURT MAY, IN ADDITION TO THE FORFEITURE TO A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY OR AUTHORIZED AGENTS THEREOF, AND SUBJECT TO THE RESTRICTIONS OF SECTIONS 236.06 AND 236.09 OF THIS ARTICLE, ORDER THE FARM ANIMALS WHICH WERE THE BASIS OF THE CONVICTION TO BE SOLD. IN NO CASE SHALL FARM ANIMALS WHICH ARE THE BASIS OF THE CONVICTION BE REDEEMED BY THE CONVICTED PERSON WHO IS THE SUBJECT OF THE ORDER OF FORFEITURE OR BY ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT. THE COURT SHALL REIMBURSE THE CONVICTED PERSON AND ANY DULY DETERMINED INTERESTED PERSONS, PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, ANY MONEY EARNED BY THE SALE OF THE FARM ANIMALS LESS ANY COSTS INCLUDING, BUT NOT LIMITED TO, VETERINARY AND CUSTODIAL CARE, AND ANY FINES OR PENALTIES IMPOSED BY THE COURT. THE COURT MAY ORDER THAT THE SUBJECT ANIMALS BE PROVIDED WITH APPROPRIATE CARE AND TREATMENT PENDING THE HEARING AND THE DISPOSITION OF THE CHARGES. ANY FARM ANIMAL ORDERED

FORFEITED BUT NOT SOLD SHALL BE REMANDED TO THE CUSTODY AND CHARGE OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR DULY INCORPORATED HUMANE SOCIETY OR ITS AUTHORIZED AGENT THEREOF AND DISPOSED OF PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION.

(E) A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY IN CHARGE OF ANIMALS FORFEITED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION MAY, IN ITS DISCRETION, LAWFULLY AND WITHOUT LIABILITY, ADOPT THEM TO INDIVIDUALS OTHER THAN THE CONVICTED PERSON OR PERSONS DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT, OR HUMANELY DISPOSE OF THEM ACCORDING TO THE PROVISIONS OF SUBDIVISIONS TWO-A, TWO-B, TWO-C, AND TWO-D OF THIS SECTION.

(F) (I) PRIOR TO AN ORDER OF FORFEITURE OF FARM ANIMALS, A HEARING SHALL BE HELD WITHIN THIRTY DAYS OF CONVICTION, TO DETERMINE THE PECUNIARY INTERESTS OF ANY OTHER PERSON IN THE FARM ANIMALS WHICH WERE THE BASIS OF THE CONVICTION. WRITTEN NOTICE SHALL BE SERVED AT LEAST FIVE DAYS PRIOR TO THE HEARING UPON ALL INTERESTED PERSONS. IN ADDITION, NOTICE SHALL BE MADE BY PUBLICATION IN A LOCAL NEWSPAPER AT LEAST SEVEN DAYS PRIOR TO THE HEARING. FOR THE PURPOSES OF THIS SUBDIVISION, INTERESTED PERSONS SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP, FIRM, JOINT STOCK COMPANY, CORPORATION, ASSOCIATION, TRUST, ESTATE, OR OTHER LEGAL ENTITY WHO THE COURT DETERMINES MAY HAVE A PECUNIARY INTEREST IN THE FARM ANIMALS WHICH ARE THE SUBJECT OF THE FORFEITURE ACTION.

(II) ALL INTERESTED PERSONS SHALL BE PROVIDED AN OPPORTUNITY AT THE HEARING TO REDEEM THEIR INTEREST AS DETERMINED BY THE COURT IN THE SUBJECT FARM ANIMALS AND TO PURCHASE THE INTEREST OF THE CONVICTED PERSON. THE CONVICTED PERSON SHALL BE ENTITLED TO BE REIMBURSED HIS OR HER INTEREST IN THE FARM ANIMALS, LESS ANY COSTS, FINES OR PENALTIES IMPOSED BY THE COURT, AS SPECIFIED UNDER PARAGRAPH (D) OF THIS SUBDIVISION. IN NO CASE SHALL THE COURT AWARD CUSTODY OR CONTROL OF THE ANIMALS TO ANY INTERESTED PERSON WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT.

(G) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN ANY WAY THE RIGHTS OF A SECURED PARTY HAVING A SECURITY INTEREST IN ANY FARM ANIMAL DESCRIBED IN THIS SECTION. THIS SECTION EXPRESSLY DOES NOT IMPAIR OR SUBORDINATE THE RIGHTS OF SUCH A SECURED LENDER HAVING A SECURITY INTEREST IN FARM ANIMALS OR IN THE PROCEEDS FROM THE SALE OF SUCH FARM ANIMALS.

S 236.30 OFFICER MAY TAKE POSSESSION OF ANIMALS OR IMPLEMENTS USED IN FIGHTS AMONG ANIMALS.

ANY OFFICER AUTHORIZED BY LAW TO MAKE ARRESTS MAY LAWFULLY TAKE POSSESSION OF ANY ANIMALS, OR IMPLEMENTS, OR OTHER PROPERTY USED OR EMPLOYED, OR ABOUT TO BE USED OR EMPLOYED, IN THE VIOLATION OF ANY PROVISION OF LAW RELATING TO FIGHTS AMONG ANIMALS. HE OR SHE SHALL STATE TO THE PERSON IN CHARGE THEREOF, AT THE TIME OF SUCH TAKING, HIS OR HER NAME AND RESIDENCE, AND ALSO, THE TIME AND PLACE AT WHICH THE APPLICATION PROVIDED FOR BY SECTION 236.31 OF THE ARTICLE WILL BE MADE.

S 236.31 DISPOSITION OF ANIMALS OR IMPLEMENTS USED IN FIGHTS AMONG ANIMALS.

THE OFFICER, AFTER TAKING POSSESSION OF SUCH ANIMALS, OR IMPLEMENTS, OR OTHER PROPERTY, PURSUANT TO SECTION 236.30 OF THIS ARTICLE, SHALL APPLY TO THE MAGISTRATE BEFORE WHOM COMPLAINT IS MADE AGAINST THE OFFENDER VIOLATING SUCH PROVISION OF LAW, FOR THE ORDER AUTHORIZED BY THIS SECTION, AND SHALL MAKE AND FILE AN AFFIDAVIT WITH SUCH MAGISTRATE,

STATING THEREIN THE NAME OF THE OFFENDER CHARGED IN SUCH COMPLAINT, THE TIME, PLACE AND DESCRIPTION OF THE ANIMALS, IMPLEMENTS OR OTHER PROPERTY SO TAKEN, TOGETHER WITH THE NAME OF THE PARTY WHO CLAIMS THE SAME, IF KNOWN, AND THAT THE AFFIANT HAS REASON TO BELIEVE AND DOES BELIEVE, STATING THE GROUNDS OF SUCH BELIEF, THAT THE SAME WERE USED OR EMPLOYED, OR WERE ABOUT TO BE USED OR EMPLOYED, IN SUCH VIOLATION, AND WILL ESTABLISH THE TRUTH THEREOF UPON THE TRIAL OF SUCH OFFENDER. HE OR SHE SHALL THEN DELIVER SUCH ANIMALS, IMPLEMENTS, OR OTHER PROPERTY, TO SUCH MAGISTRATE, WHO SHALL THEREUPON, BY ORDER IN WRITING, PLACE THE SAME IN THE CUSTODY OF AN OFFICER OR OTHER PROPER PERSON IN SUCH ORDER NAMED AND DESIGNATED, TO BE BY HIM OR HER KEPT UNTIL THE TRIAL OR FINAL DISCHARGE OF THE OFFENDER, AND SHALL SEND A COPY OF SUCH ORDER, WITHOUT DELAY, TO THE DISTRICT ATTORNEY OF THE COUNTY. THE OFFICER OR PERSON SO NAMED AND DESIGNATED IN SUCH ORDER, SHALL IMMEDIATELY THEREUPON ASSUME SUCH CUSTODY, AND SHALL RETAIN THE SAME FOR THE PURPOSE OF EVIDENCE UPON SUCH TRIAL, SUBJECT TO THE ORDER OF THE COURT BEFORE WHICH SUCH OFFENDER MAY BE REQUIRED TO APPEAR, UNTIL HIS OR HER FINAL DISCHARGE OR CONVICTION. UPON THE CONVICTION OF SUCH OFFENDER, THE ANIMALS, IMPLEMENTS, OR OTHER PROPERTY, SHALL BE ADJUDGED BY THE COURT TO BE FORFEITED. IN THE EVENT OF THE ACQUITTAL OR FINAL DISCHARGE, WITHOUT CONVICTION, OF SUCH OFFENDER, SUCH COURT SHALL, ON DEMAND, DIRECT THE DELIVERY OF THE PROPERTY SO HELD IN CUSTODY TO THE OWNER THEREOF.

S 236.32 DISPOSAL OF DEAD ANIMALS.

1. THE CARCASSES OF LARGE DOMESTIC ANIMALS, INCLUDING BUT NOT LIMITED TO HORSES, COWS, SHEEP, SWINE, GOATS AND MULES, WHICH HAVE DIED OTHERWISE THAN BY SLAUGHTER, SHALL BE BURIED AT LEAST THREE FEET BELOW THE SURFACE OF THE GROUND OR OTHERWISE DISPOSED OF IN A SANITARY MANNER BY THE OWNER OF SUCH ANIMALS, WHETHER THE CARCASSES ARE LOCATED ON THE PREMISES OF SUCH OWNER OR ELSEWHERE. SUCH DISPOSAL SHALL BE COMPLETED WITHIN SEVENTY-TWO HOURS AFTER THE OWNER IS DIRECTED TO DO SO BY ANY PEACE OFFICER, ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, POLICE OFFICER, OR BY A DESIGNATED REPRESENTATIVE OF THE COMMISSIONER OF AGRICULTURE AND MARKETS.

2. NOTWITHSTANDING SECTION FORTY-ONE OF THE AGRICULTURE AND MARKETS LAW, ANY VIOLATION OF THIS SECTION SHALL CONSTITUTE A VIOLATION. THIS SECTION SHALL NOT APPLY TO ANIMAL CARCASSES USED FOR EXPERIMENTAL OR TEACHING PURPOSES.

S 236.33 SPAYING AND NEUTERING OF DOGS AND CATS.

1. THE LEGISLATURE FINDS THAT THE UNCONTROLLED BREEDING OF DOGS AND CATS IN THE STATE RESULTS IN AN OVERABUNDANCE OF PUPPIES AND KITTENS. MORE PUPPIES AND KITTENS ARE PRODUCED THAN RESPONSIBLE HOMES FOR THEM CAN BE PROVIDED. THIS LEADS TO MANY OF SUCH ANIMALS BECOMING STRAY AND SUFFERING PRIVATION AND DEATH, BEING IMPOUNDED AND DESTROYED AT GREAT EXPENSE TO THE COMMUNITY AND CONSTITUTING A PUBLIC NUISANCE AND HEALTH HAZARD. IT IS THEREFORE DECLARED TO BE THE PUBLIC POLICY OF THIS STATE THAT EVERY FEASIBLE HUMANE MEANS OF REDUCING THE PRODUCTION OF UNWANTED PUPPIES AND KITTENS BE ENCOURAGED.

2. NO ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS SHALL RELEASE ANY DOG OR CAT FOR ADOPTION TO ANY PERSON UNLESS PRIOR THERETO:

(A) THE DOG OR CAT HAS BEEN SPAYED OR NEUTERED; OR

(B) THE PERSON INTENDING TO ADOPT THE DOG OR CAT SHALL HAVE EXECUTED A WRITTEN AGREEMENT WITH THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, TO HAVE THE DOG OR CAT

SPAYED OR NEUTERED WITHIN THIRTY DAYS FROM THE ADOPTION DATE, OR IN THE CASE OF A DOG OR CAT WHICH HAS NOT YET REACHED SEXUAL MATURITY, WITHIN THIRTY DAYS OF THE DOG OR CAT REACHING SIX MONTHS OF AGE. THE PERSON INTENDING TO ADOPT THE DOG OR CAT SHALL DEPOSIT WITH THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, AN AMOUNT OF NOT LESS THAN THIRTY-FIVE DOLLARS. NOT MORE THAN EVERY TWO YEARS, THE COMMISSIONER OF AGRICULTURE AND MARKETS, AFTER HOLDING A PUBLIC HEARING, MAY RAISE THE AMOUNT TO BE DEPOSITED TO REFLECT RISING COSTS; OR

(C) THE PERSON INTENDING TO ADOPT THE DOG OR CAT SHALL HAVE EXECUTED A WRITTEN AGREEMENT WITH THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION OR SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS TO HAVE THE DOG OR CAT SPAYED OR NEUTERED WITHIN THIRTY DAYS FROM THE ADOPTION DATE, OR IN THE CASE OF A DOG OR CAT WHICH HAS NOT YET REACHED SEXUAL MATURITY, WITHIN THIRTY DAYS OF THE DOG OR CAT REACHING SIX MONTHS OF AGE. THE PERSON INTENDING TO ADOPT THE DOG OR CAT SHALL HAVE PAID AN ADOPTION FEE WHICH INCLUDES THE COST OF THE SPAY OR NEUTER PROCEDURE. THE WRITTEN AGREEMENT SHALL REQUIRE THAT THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION OR SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FROM WHICH THE DOG OR CAT IS ADOPTED BEAR THE COST OF THE SPAY OR NEUTER PROCEDURE.

3. FOR THE PURPOSES OF THIS SECTION, THE AGE OF THE ANIMAL AT THE TIME OF ADOPTION SHALL BE DETERMINED BY THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS THAT RELEASES THE ANIMAL FOR ADOPTION AND SUCH AGE SHALL BE CLEARLY WRITTEN ON THE WRITTEN AGREEMENT BY THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG OR CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, PRIOR TO THE AGREEMENT BEING EXECUTED BY THE PERSON ADOPTING THE ANIMAL.

4. ANY DEPOSIT COLLECTED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION THAT IS NOT CLAIMED WITHIN NINETY DAYS OF ITS COLLECTION, OR IF THE DEPOSIT IS FOR AN ANIMAL UNDER SIX MONTHS OF AGE, WITHIN SIXTY DAYS AFTER THE ANIMAL HAS REACHED SIX MONTHS OF AGE, SHALL BE DEPOSITED IN THE ANIMAL POPULATION CONTROL FUND ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW.

DEPOSITS COLLECTED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION SHALL BE REFUNDED TO THE ADOPTER UPON PRESENTATION TO THE ANIMAL SHELTER, POUND, DOG CONTROL OFFICER, HUMANE SOCIETY, DOG AND CAT PROTECTIVE ASSOCIATION, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OF WRITTEN DOCUMENTATION FROM A LICENSED VETERINARIAN THAT THE DOG OR CAT HAS BEEN SPAYED OR NEUTERED, PROVIDED THAT THE ANIMAL HAS BEEN SPAYED OR NEUTERED WITHIN THE TIME SPECIFIED IN THE WRITTEN AGREEMENT, OR THAT BECAUSE OF OLD AGE OR OTHER HEALTH REASONS, AS CERTIFIED BY A LICENSED VETERINARIAN EXAMINING THE DOG OR CAT, SPAYING OR NEUTERING WOULD ENDANGER THE ANIMAL'S LIFE.

5. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT ANY TOWN, CITY, VILLAGE OR COUNTY IN THIS STATE FROM ENACTING A LOCAL LAW OR ORDINANCE REQUIRING THAT ANIMAL SHELTERS, POUNDS, DOG CONTROL OFFICERS, HUMANE SOCIETIES, DOG OR CAT PROTECTIVE ASSOCIATIONS AND DULY INCORPORATED SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS WITHIN SUCH TOWN, CITY, VILLAGE OR COUNTY SPAY OR NEUTER DOGS AND CATS PRIOR TO RELEASING SUCH ANIMALS FOR ADOPTION, PROVIDED THAT SUCH LOCAL LAW OR ORDINANCE MAY REQUIRE SPAYING OR NEUTERING AT AN AGE EARLIER, BUT IN NO EVENT LATER

THAN THAT REQUIRED IN THIS SECTION, EXCEPT WHERE BECAUSE OF ADVANCED AGE OR OTHER HEALTH REASONS, AS CERTIFIED BY A LICENSED VETERINARIAN WHO HAS EXAMINED THE DOG OR CAT, SPAYING OR NEUTERING WOULD ENDANGER THE LIFE OF THE ANIMAL. A TOWN, CITY, VILLAGE OR COUNTY IN THIS STATE THAT ENACTS SUCH A LOCAL LAW OR ORDINANCE SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION.

S 236.34 UNLAWFUL TAMPERING WITH ANIMAL RESEARCH.

1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "INFECTIOUS AGENTS" SHALL BE LIMITED TO THOSE ORGANISMS THAT CAUSE SERIOUS PHYSICAL INJURY OR DEATH TO HUMANS.

(B) "ANIMAL" MEANS ANY WARM OR COLD-BLOODED ANIMAL OR INSECT WHICH IS BEING USED IN FOOD OR FIBER PRODUCTION, AGRICULTURE, RESEARCH, TESTING, OR EDUCATION, HOWEVER, SHALL NOT INCLUDE ANY ANIMAL HELD PRIMARILY AS A PET.

(C) "FACILITY" MEANS ANY BUILDING, STRUCTURE, LABORATORY, VEHICLE, PASTURE, PADDOCK, POND, IMPOUNDMENT OR PREMISES WHERE ANY SCIENTIFIC RESEARCH, TEST, EXPERIMENT, PRODUCTION, EDUCATION, OR INVESTIGATION INVOLVING THE USE OF ANY ANIMAL IS CARRIED OUT, CONDUCTED OR ATTEMPTED OR WHERE RECORDS OR DOCUMENTS RELATING TO AN ANIMAL OR ANIMAL RESEARCH, TESTS, EXPERIMENTS, PRODUCTION, EDUCATION OR INVESTIGATION ARE MAINTAINED.

(D) "RELEASE" MEANS TO INTENTIONALLY SET FREE FROM ANY FACILITY ANY ANIMAL WITHOUT ANY RIGHT, TITLE, OR CLAIM THERETO.

(E) "ABANDONMENT" MEANS THE INTENTIONAL RELINQUISHMENT OR FORSAKING OF POSSESSION OR CONTROL OF ANY ANIMAL RELEASED FROM A FACILITY.

(F) "PERSON" MEANS ANY INDIVIDUAL, FIRM, ORGANIZATION, PARTNERSHIP, ASSOCIATION OR CORPORATION.

(G) "SECRET SCIENTIFIC MATERIAL" MEANS A SAMPLE, CULTURE, MICRO-ORGANISM, SPECIMEN, RECORD, RECORDING, DOCUMENT, DRAWING OR ANY OTHER ARTICLE, MATERIAL, DEVICE OR SUBSTANCE WHICH CONSTITUTES, REPRESENTS, EVIDENCES, REFLECTS, OR RECORDS A SCIENTIFIC OR TECHNICAL PROCESS, INVENTION OR FORMULA OR ANY PART OR PHASE THEREOF WHICH IS STORED, TESTED, STUDIED OR EXAMINED IN ANY FACILITY, AND WHICH IS NOT, AND NOT INTENDED TO BE, AVAILABLE TO ANYONE OTHER THAN THE PERSON OR PERSONS RIGHTFULLY IN POSSESSION THEREOF OR SELECTED PERSONS HAVING ACCESS THERETO WITH HIS, HER OR THEIR CONSENT, AND WHEN IT ACCORDS OR MAY ACCORD SUCH RIGHTFUL POSSESSORS AN ADVANTAGE OVER COMPETITORS OR OTHER PERSONS WHO DO NOT HAVE KNOWLEDGE OR THE BENEFIT THEREOF.

(H) "NOTICE" MEANS TO PROVIDE INFORMATION IN SUCH DETAIL TO MAKE A REASONABLE PERSON AWARE OF THE PRESENCE IN A FACILITY OF INFECTIOUS AGENTS OR SECRET SCIENTIFIC MATERIAL.

2. NOTICE. ANY PERSON WHO, AFTER NOTICE HAS BEEN GIVEN BY:

(A) ACTUAL NOTICE IN WRITING OR ORALLY TO THE PERSON; OR

(B) PROMINENTLY POSTING WRITTEN NOTICE UPON OR IMMEDIATELY ADJACENT TO THE FACILITY; OR

(C) NOTICE THAT IS ANNOUNCED UPON ENTRY TO THE FACILITY BY ANY PERSON:

(I) KNOWINGLY OR INTENTIONALLY RELEASES AN ANIMAL FROM A FACILITY OR CAUSES THE ABANDONMENT OF AN ANIMAL KNOWING THAT SUCH ANIMAL WAS EXPOSED TO INFECTIOUS AGENTS PRIOR TO SUCH RELEASE OR ABANDONMENT AND WAS CAPABLE OF TRANSMITTING SUCH INFECTIOUS AGENTS TO HUMANS; OR

(II) WITH INTENT TO DO SO, CAUSES LOSS OR DAMAGE TO SECRET SCIENTIFIC MATERIAL, AND HAVING NO RIGHT TO DO SO NOR ANY REASONABLE GROUND TO BELIEVE THAT HE OR SHE HAS SUCH RIGHT, CAUSES LOSS OF OR DAMAGE TO ANY SECRET SCIENTIFIC MATERIAL IN AN AMOUNT IN EXCESS OF TWO HUNDRED FIFTY

DOLLARS AT A FACILITY, SHALL BE GUILTY OF UNLAWFUL TAMPERING WITH ANIMAL RESEARCH. UNLAWFUL TAMPERING WITH ANIMAL RESEARCH IS A CLASS E FELONY.

3. PRIVATE RIGHT OF ACTION. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION SHALL BE LIABLE IN ANY COURT OF COMPETENT JURISDICTION, INCLUDING SMALL CLAIMS COURT, IN AN AMOUNT EQUAL TO:

(A) DAMAGES SUSTAINED AS A RESULT OF SUCH VIOLATION OR FIFTY DOLLARS, WHICHEVER IS GREATER, FOR EACH VIOLATION;

(B) SUCH ADDITIONAL PUNITIVE DAMAGES AS THE COURT MAY ALLOW;

(C) ATTORNEY'S FEES AND COSTS; AND

(D) COST OF DUPLICATING ANY EXPERIMENT WHICH WAS DAMAGED BY THE UNLAWFUL TAMPERING WITH ANIMAL RESEARCH, IF APPLICABLE.

IN ANY ACTION BROUGHT BY ANY PERSON TO ENFORCE THIS SECTION, THE COURT MAY, SUBJECT TO ITS JURISDICTION, ISSUE AN INJUNCTION TO RESTRAIN OR PREVENT ANY VIOLATION OF THIS SECTION OR ANY CONTINUANCE OF ANY SUCH VIOLATION.

S 236.35 PROHIBITION OF THE SELLING OF FUR, HAIR, SKIN OR FLESH OF A DOG OR CAT.

1. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP OR CORPORATION TO KNOWINGLY IMPORT, SELL, OFFER FOR SALE, MANUFACTURE, DISTRIBUTE, TRANSPORT OR OTHERWISE MARKET OR TRADE IN THE FUR, HAIR, SKIN OR FLESH OF A DOMESTICATED DOG (CANIS FAMILIARIS) OR DOMESTICATED CAT (FELIS CATUS OR DOMESTICUS), WHETHER DOMESTICALLY RAISED OR IMPORTED FROM ANOTHER COUNTRY, OR ANY PRODUCT OR ITEM CONTAINING OR COMPRISED OF THE FUR, HAIR, SKIN OR FLESH OF A DOG OR CAT. AS USED IN THIS SECTION THE TERM "DOMESTICATED DOG OR CAT" SHALL NOT MEAN OR INCLUDE COYOTE (RANIS LATRANS), FOX (VULPES VOLPES, VULPES CINEREOARGENTEUS), LYNX (FELIS LYNX) OR BOBCAT (FELIS RUFUS).

2. MANUFACTURERS OR SUPPLIERS SHALL PROVIDE CERTIFICATION TO EACH RETAILER THAT ANY FUR, HAIR, SKIN OR FLESH CONTAINED IN SUCH ITEMS IS NOT DERIVED FROM DOMESTICATED DOG OR DOMESTICATED CAT.

3. THE COMMISSIONER OF AGRICULTURE AND MARKETS SHALL MAINTAIN A STANDARD FOR THE CERTIFICATION REQUIRED BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION.

4. A VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS FOR AN INDIVIDUAL AND UP TO FIVE THOUSAND DOLLARS FOR A CORPORATION FOR THE FIRST VIOLATION. ANY SUBSEQUENT VIOLATION SHALL BE PUNISHABLE BY A CIVIL PENALTY OF UP TO TWENTY-FIVE THOUSAND DOLLARS.

5. ANY CIVIL PENALTIES COLLECTED PURSUANT TO THIS SECTION OF LAW ARE PAYABLE TO THE ANIMAL POPULATION CONTROL FUND ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-XX OF THE STATE FINANCE LAW.

6. (A) NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE WITH ANY PROPERLY CONDUCTED SCIENTIFIC TESTS, EXPERIMENTS OR INVESTIGATIONS INVOLVING THE USE OF DOG OR CAT FUR OR FLESH, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS, WHICH ARE APPROVED FOR THESE PURPOSES BY THE COMMISSIONER OF HEALTH IN ACCORDANCE WITH SECTION 236.02 OF THIS ARTICLE.

(B) NO PROVISION OF THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY PERSON, FIRM, PARTNERSHIP OR CORPORATION FROM IMPORTING, SELLING, OFFERING FOR SALE, MANUFACTURING, DISTRIBUTING, TRANSPORTING, OR OTHERWISE MARKETING OR TRADING IN THE FUR, HAIR, SKIN, OR FLESH OF A DOMESTICATED DOG OR CAT FOR THE PURPOSES OF CONDUCTING SCIENTIFIC TESTS, EXPERIMENTS OR INVESTIGATIONS THAT ARE TO BE PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS, WHICH ARE APPROVED FOR THESE PURPOSES BY THE COMMISSIONER OF HEALTH IN ACCORDANCE WITH SECTION 236.02 OF THIS ARTICLE.

S 236.36 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES; EXTREME TEMPERATURES.

1. A PERSON SHALL NOT CONFINE A COMPANION ANIMAL IN A MOTOR VEHICLE IN EXTREME HEAT OR COLD WITHOUT PROPER VENTILATION OR OTHER PROTECTION FROM SUCH EXTREME TEMPERATURES WHERE SUCH CONFINEMENT PLACES THE COMPANION ANIMAL IN IMMINENT DANGER OF DEATH OR SERIOUS PHYSICAL INJURY DUE TO EXPOSURE TO SUCH EXTREME HEAT OR COLD.

2. WHERE THE OPERATOR OF SUCH A VEHICLE CANNOT BE PROMPTLY LOCATED, A POLICE OFFICER, PEACE OFFICER, OR PEACE OFFICER ACTING AS AN AGENT OF A DULY INCORPORATED HUMANE SOCIETY MAY TAKE NECESSARY STEPS TO REMOVE THE ANIMAL OR ANIMALS FROM THE VEHICLE.

3. POLICE OFFICERS, PEACE OFFICERS OR PEACE OFFICERS ACTING AS AGENTS OF A DULY INCORPORATED HUMANE SOCIETY REMOVING AN ANIMAL OR ANIMALS FROM A VEHICLE PURSUANT TO THIS SECTION SHALL PLACE A WRITTEN NOTICE ON OR IN THE VEHICLE, BEARING THE NAME OF THE OFFICER OR AGENT, AND THE DEPARTMENT OR AGENCY AND ADDRESS WHERE THE ANIMAL OR ANIMALS WILL BE TAKEN.

4. AN ANIMAL OR ANIMALS REMOVED FROM A VEHICLE PURSUANT TO THIS SECTION SHALL, AFTER RECEIPT OF ANY NECESSARY EMERGENCY VETERINARY TREATMENT, BE DELIVERED TO THE DULY INCORPORATED HUMANE SOCIETY OR SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR DESIGNATED AGENT THEREOF, IN THE JURISDICTION WHERE THE ANIMAL OR ANIMALS WERE SEIZED.

5. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS FOR A FIRST OFFENSE, AND A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND AND SUBSEQUENT OFFENSES.

6. OFFICERS SHALL NOT BE HELD CRIMINALLY OR CIVILLY LIABLE FOR ACTIONS TAKEN REASONABLY AND IN GOOD FAITH IN CARRYING OUT THE PROVISIONS OF THIS SECTION.

7. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY OTHER PROTECTIONS AFFORDED TO COMPANION ANIMALS UNDER ANY OTHER PROVISIONS OF THIS ARTICLE.

S 2. Article 26 of the agriculture and markets law is REPEALED.

S 3. Paragraph (a) of subdivision 24 of section 108 of the agriculture and markets law, as amended by chapter 392 of the laws of 2004, is amended to read as follows:

(a) "Dangerous dog" means any dog which (i) without justification attacks a person, companion animal as defined in subdivision five of section [three hundred fifty of this chapter] 236.00 OF THE PENAL LAW, farm animal as defined in subdivision four of section [three hundred fifty of this chapter] 236.00 OF THE PENAL LAW or domestic animal as defined in subdivision seven of this section and causes physical injury or death, or (ii) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

S 4. Paragraph (b) of subdivision 2 of section 121 of the agriculture and markets law, as amended by chapter 392 of the laws of 2004, is amended to read as follows:

(b) secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section [three hundred fifty-three-b

of this chapter] 236.04 OF THE PENAL LAW. Such confinement shall not include lengthy periods of tying or chaining;

S 5. Subdivision 1 of section 160.10 of the criminal procedure law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) A MISDEMEANOR DEFINED IN SECTION 236.02 OF THE PENAL LAW; OR

S 6. Subparagraph 2 of paragraph (f) of subdivision 1 of section 530.12 of the criminal procedure law, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 7. Subparagraph 2 of paragraph (c) of subdivision 1 and subparagraph 2 of paragraph (c) of subdivision 4 of section 530.13 of the criminal procedure law, as added by chapter 253 of the laws of 2006, are amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 8. The opening paragraph of paragraph e of subdivision 6 of section 11-0103 of the environmental conservation law, as amended by chapter 10 of the laws of 2005, is amended to read as follows:

"Wild animal" shall not include "companion animal" as defined in section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law. Wild animal includes, and is limited to, any or all of the following orders and families:

S 9. Paragraph f of subdivision 9 of section 11-0917 of the environmental conservation law, as amended by chapter 432 of the laws of 1997, is amended to read as follows:

f. No live wolf, coyote, coydog, fox, skunk, venomous reptile or raccoon shall be possessed or transported, except under a license or permit issued by the department. Every such license or permit shall contain a prominent notice thereon warning the licensee or permittee of his or her duty to exercise due care in safeguarding the public from attack by such wild animal or venomous reptile and that failure to do so is a crime under section [three hundred seventy of the agriculture and markets law] 236.25 OF THE PENAL LAW. The provisions of the opening paragraph of section [three hundred seventy of the agriculture and markets] 236.25 OF THE PENAL law except the last sentence thereof shall be set forth on such license or permit immediately following such warning notice.

S 10. Subdivision 6 of section 399-aa of the general business law, as added by chapter 573 of the laws of 2002, is amended to read as follows:

6. (a) No provision of this section shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations involving the use of dog or cat fur or flesh, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section [three hundred fifty-three of the agriculture and markets] 236.02 OF THE PENAL law.

(b) No provision of this section shall be construed to prohibit any person, firm, partnership or corporation from importing, selling, offering for sale, manufacturing, distributing, transporting, or otherwise marketing or trading in the fur, hair, skin, or flesh of a domesticated

dog or cat for the purposes of conducting scientific tests, experiments or investigations that are to be performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section [three hundred fifty-three of the agriculture and markets] 236.02 OF THE PENAL law.

S 11. Section 750-t of the general business law, as added by chapter 526 of the laws of 1992, is amended to read as follows:

S 750-t. Disposal in compliance with forms. A pet cemetery owner shall dispose of a pet in compliance with a pet disposal form completed by a pet owner or veterinarian. If such pet is disposed of, either by individual cremation or individual burial, the pet cemetery owner shall within ten days of such disposal send or give a written confirmation of such disposal to the pet owner or veterinarian, depending on instructions in pet disposal form, and, shall attest to the method, date, and place of disposal. If a pet is disposed of either through mass cremation or mass burial, no written confirmation shall be required. Copies of all forms shall be retained for a period of two years after receipt. All pet remains shall be buried at least twelve inches below the surface of the ground or in accordance with section [three hundred seventy-seven of the agriculture and markets] 236.32 OF THE PENAL law in the case of a large domestic animal or otherwise disposed of in a sanitary manner.

S 12. Subdivision 1 of section 352.3 of the family court act, as amended by chapter 532 of the laws of 2008, is amended to read as follows:

(1) Upon the issuance of an order pursuant to section 315.3 or the entry of an order of disposition pursuant to section 352.2, a court may enter an order of protection against any respondent for good cause shown. The order may require that the respondent: (a) stay away from the home, school, business or place of employment of the victims of the alleged offense; or (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the alleged offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order; or (c) refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the person protected by the order or a minor child residing in such person's household. "Companion animal", as used in this subdivision, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 13. Paragraph 2 of subdivision (h) of section 446 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 14. Paragraph 2 of subdivision (i) of section 551 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 15. Paragraph 2 of subdivision (i) of section 656 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 16. Paragraph 2 of subdivision (h) of section 759 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 17. Paragraph 2 of subdivision (i) of section 842 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 18. Subparagraph 2 of paragraph (g) of subdivision 1 of section 1056 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section [three hundred fifty of the agriculture and markets] 236.00 OF THE PENAL law.

S 19. Subdivision d of section 20-383 of the administrative code of the city of New York, as amended by local law number 2 of the city of New York for the year 1994, is amended to read as follows:

d. Notwithstanding the provisions of subdivisions b and c of this section, any driver of a horse drawn cab found guilty of one violation of subdivision d of section 20-381.1 of the code or sections [three hundred fifty-one, three hundred fifty-three, three hundred fifty-five through three hundred sixty-two or three hundred sixty-nine of the New York state agriculture and markets] 236.01, 236.02, 236.07, 236.08, 236.09, 236.10, 236.11, 236.12, 236.13, 236.14, 236.15, 236.16, OR 236.24 OF THE PENAL law or who is found guilty of a violation of this subchapter while his or her license is suspended, shall have his or her license revoked. A driver whose license has been revoked in accordance with this provision may not apply for a new license for five years from the date of revocation.

S 20. Section 80 of the agriculture and markets law, as amended by chapter 680 of the laws of 1967, is amended to read as follows:

S 80. Certificate to healthy herds. For the purpose of giving recognition to other than segregated herds which are certified to him OR HER, after competent examination satisfactory to him OR HER, to be in a healthy condition, the commissioner is hereby authorized to issue such certificates as he OR SHE may deem proper to the owner of such herd; to use such terms to designate such herds as will harmonize with federal designations of such herds and to adopt such rules as he OR SHE may deem proper for the tagging, branding or marking of any animal or animals affected or believed to be affected with any communicable disease, or exposed thereto. In the event that such animals are branded it shall not be construed as cruelty to animals within the meaning of article [twenty-six of this chapter] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW.

S 21. Subdivision 3 of section 404 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

3. Violation of any provision of this article or conviction of a violation of any provision of article [twenty-six of this chapter] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW or regulations promulgated there-

under pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal, or violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.

S 22. Section 407 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

S 407. Construction with other laws. Nothing in this article shall be construed to limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing other provisions of [article twenty-six of] this chapter, ARTICLE TWO HUNDRED THIRTY-SIX OF THE PENAL LAW, or any other law relating to the humane treatment of or cruelty to animals.

S 23. Subdivisions 56, 68 and 79 of section 2.10 of the criminal procedure law, subdivision 56 as added by chapter 188 of the laws of 1989, subdivision 68 as added by chapter 227 of the laws of 2000 and subdivision 79 as added by chapter 752 of the laws of 2004, are amended to read as follows:

56. Dog control officers of the town of Brookhaven, who at the discretion of the town board may be designated as constables for the purpose of enforcing article [twenty-six of the agriculture and markets law] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW and for the purpose of issuing appearance tickets permitted under article seven of [such] THE AGRICULTURE AND MARKETS law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

68. Dog control officers of the town of Arcadia, who at the discretion of the town board may be designated as constables for the purpose of enforcing article [twenty-six of the agriculture and markets law] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW and for the purpose of issuing appearance tickets permitted under article seven of [such] THE AGRICULTURE AND MARKETS law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

79. Animal control officers of the city of Elmira, who at the discretion of the city council of the city of Elmira may be designated as constables for the purpose of enforcing article [twenty-six of the agriculture and markets law] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW, and for the purpose of issuing appearance tickets permitted under article seven of [such] THE AGRICULTURE AND MARKETS law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

S 24. Paragraph (i) of subdivision 1 of section 750-h of the general business law, as added by chapter 526 of the laws of 1992, is amended to read as follows:

(i) Conviction of a violation of article [twenty-six of the agriculture and markets law] TWO HUNDRED THIRTY-SIX OF THE PENAL LAW involving cruelty to animals.

S 25. Section 753-d of the general business law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

S 753-d. Construction with other laws. Nothing in this article shall be construed to limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing [articles twenty-six and] ARTICLE twenty-six-A of the agriculture and markets law, ARTICLE TWO HUNDRED THIRTY-SIX OF THE PENAL LAW, or any other law relating to the humane treatment of, or cruelty to, animals.

S 26. This act shall take effect on the ninetieth day after it shall have become a law.