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

2755

2009-2010 Regular Sessions

I N S E N A T E

March 2, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the agriculture and markets law and the penal law, in relation to the creation, sale or possession of images of animal cruelty

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

Section 1. The agriculture and markets law is amended by adding eight new sections 353-e, 353-f, 353-g, 353-h, 353-i, 353-j, 353-k and 353-l to read as follows:

S 353-E. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE. 1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 353-F. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE. 1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE.

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

LBD03534-01-9

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 353-G. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE. 1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 353-H. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE. 1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 353-I. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE. 1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED,

MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 353-J. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE. 1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 353-K. SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE. 1. A PERSON IS GUILTY OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY SELLS AN IMAGE DEPICTING ANIMAL CRUELTY TO ANOTHER PERSON OR ENTITY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 353-L. SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE. 1. A PERSON IS GUILTY OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY SELLS AN IMAGE DEPICTING ANIMAL CRUELTY TO ANOTHER PERSON OR ENTITY; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

4. SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 2. The penal law is amended by adding eight new sections 245.15, 245.20, 245.25, 245.30, 245.35, 245.40, 245.45 and 245.50 to read as follows:

S 245.15 CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE.

1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 245.20 CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 245.25 CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE.

1. A PERSON IS GUILTY OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY CREATES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

CREATION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 245.30 POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE.

1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE WHEN HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 245.35 POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY AND INTENDS TO SELL OR DISTRIBUTE SUCH IMAGE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 245.40 POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE.

1. A PERSON IS GUILTY OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY POSSESSES AN IMAGE DEPICTING ANIMAL CRUELTY; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

POSSESSION OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 245.45 SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

1. A PERSON IS GUILTY OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE WHEN HE OR SHE KNOWINGLY SELLS AN IMAGE DEPICTING ANIMAL CRUELTY TO ANOTHER PERSON OR ENTITY.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS E FELONY.

S 245.50 SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE.

1. A PERSON IS GUILTY OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

A. HE OR SHE KNOWINGLY SELLS AN IMAGE DEPICTING ANIMAL CRUELTY TO ANOTHER PERSON OR ENTITY; AND

B. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF THE CRIME OF SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE SECOND DEGREE.

2. THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY DEPICTION THAT HAS SERIOUS RELIGIOUS, POLITICAL, SCIENTIFIC, EDUCATIONAL, JOURNALISTIC, HISTORICAL, OR ARTISTIC VALUE.

3. FOR PURPOSES OF THIS SECTION, THE TERM "IMAGE DEPICTING ANIMAL CRUELTY" MEANS ANY VISUAL OR AUDITORY DEPICTION, INCLUDING ANY PHOTOGRAPH, MOTION-PICTURE FILM, VIDEO RECORDING, ELECTRONIC IMAGE, OR SOUND RECORDING OF CONDUCT IN WHICH A LIVING ANIMAL IS INTENTIONALLY MAIMED, MUTILATED, TORTURED, WOUNDED, OR KILLED, IF SUCH CONDUCT IS ILLEGAL UNDER FEDERAL LAW OR THE LAWS OF THIS STATE.

SALE OF IMAGES DEPICTING ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.