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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 13, 2011

Introduced by M. of A. MILLMAN, ORTIZ, MARKEY, CASTRO, COOK, CAHILL -- Multi-Sponsored by -- M. of A. BARRON, BOYLAND, GALEF, GOTTFRIED, JEFFRIES, McENENY, PHEFFER, REILLY, WEISENBERG -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to enacting the prevention of farm animal cruelty act

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

Section 1. This act shall be known and may be cited as the "prevention of farm animal cruelty act".

S 2. The agriculture and markets law is amended by adding a new section 380 to read as follows:

S 380. PROHIBITED TREATMENT OF FARM ANIMALS. 1. ALL FARM AND LIVESTOCK ANIMALS SHALL BE KEPT, RAISED AND BRED UNDER HUMANE TREATMENT STANDARDS AND CONDITIONS. NO PERSON SHALL KEEP, RAISE OR BREED ANY COVERED ANIMAL ON A FARM OR AT AN ANIMAL FACILITY UNDER INHUMANE CONDITIONS, INCLUDING:

(A) TETHERING OR CONFINING ANY COVERED ANIMAL FOR ALL OR THE MAJORITY OF ANY DAY, IN A MANNER THAT PREVENTS SUCH ANIMAL FROM (1) LYING DOWN, STANDING UP, AND FULLY EXTENDING HIS OR HER LIMBS, AND (2) TURNING AROUND FREELY;

(B) EXCESSIVELY BREEDING ANY COVERED ANIMAL OR BREEDING A COVERED ANIMAL IN A MANNER LIKELY TO CAUSE HEALTH PROBLEMS FOR THE ANIMAL OR ITS YOUNG;

(C) UTILIZING GAVAGE TECHNIQUES OR OTHERWISE FORCE FEEDING ANY COVERED ANIMAL;

(D) KEEPING ANY COVERED ANIMAL IN EXCESSIVELY CROWDED, UNSANITARY OR UNSAFE CONDITIONS, INCLUDING:

(1) KEEPING ANY COVERED ANIMAL IN ENCLOSURES STACKED MORE THAN TWO ENCLOSURES HIGH;

(2) FAILING TO PROVIDE SHELTER FOR ANY COVERED ANIMAL FROM INCLEMENT WEATHER; AND

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

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(3) KEEPING ANY COVERED ANIMAL IN AREAS CONTAINING TRASH OR HAZARDOUS SUBSTANCES;

(E) FAILING TO PROVIDE DAILY NUTRITIOUS FOOD AND POTABLE WATER TO ANY COVERED ANIMAL AS APPROPRIATE FOR THE SIZE, AGE AND CONDITION OF THE ANIMAL; OR

(F) FAILING TO OBTAIN APPROPRIATE MEDICAL CARE FOR AND TREATMENT OF ANY COVERED ANIMAL, INCLUDING NON-ELECTIVE SURGICAL PROCEDURES.

2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY:

(A) TO ANY COVERED ANIMAL:

(1) DURING SCIENTIFIC OR AGRICULTURAL RESEARCH;

(2) DURING EXAMINATION, TESTING, INDIVIDUAL TREATMENT OR OPERATION FOR VETERINARY PURPOSES;

(3) DURING TRANSPORTATION;

(4) DURING RODEO EXHIBITIONS, STATE OR COUNTY FAIR EXHIBITIONS, 4-H PROGRAMS, AND SIMILAR EXHIBITIONS; OR

(5) DURING THE SLAUGHTER OF A COVERED ANIMAL IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 6 (COMMENCING WITH SECTION 19501) OF PART 3 OF DIVISION 9 OF THE FOOD AND AGRICULTURAL CODE, RELATING TO HUMANE METHODS OF SLAUGHTER, AND OTHER APPLICABLE LAW AND REGULATIONS; OR

(B) TO A PIG DURING THE SEVEN-DAY PERIOD PRIOR TO THE PIG'S EXPECTED DATE OF GIVING BIRTH.

3. NO PERSON SHALL SELL, GIVE AWAY OR TRANSFER ANY COVERED ANIMAL KEPT, BORN OR BRED AT ANY FARM OR ANIMAL FACILITY THAT BREEDS OR MAINTAINS ANIMALS UNDER INHUMANE CONDITIONS IN ORDER TO AVOID LIABILITY FOR A VIOLATION OF THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION.

4. (A) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF SHALL BE PUNISHED BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS OR BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT.

(B) THE DEPARTMENT, AT ITS DISCRETION, SHALL REVIEW THE NATURE OF SUCH VIOLATION OR VIOLATIONS, AND MAY REMOVE ANY ANIMAL OR ANIMALS AND PLACE THEM IN THE CARE OF A VETERINARIAN, ANIMAL SHELTER OR OTHER APPROPRIATE RESCUE GROUP OR FACILITY. THE INDIVIDUAL IN VIOLATION SHALL BE REQUIRED TO PAY ALL REASONABLE COSTS ASSOCIATED WITH THE CARE OF SEIZED ANIMALS.

(C) ANY PERSON DETERMINED TO BE IN VIOLATION OF THIS SECTION SHALL PRESENT TO THE DEPARTMENT, A SWORN, WRITTEN STATEMENT SIGNED BY A VETERINARIAN CERTIFYING THAT THE FARM OR ANIMAL FACILITY HAS ABIDED BY ALL FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS THAT PERTAIN TO THE HUMANE TREATMENT OR CONDITIONS OF ANIMALS, IN ORDER FOR SUCH PERSON TO RESUME HOUSING ANIMALS AT A FARM OR ANIMAL FACILITY.

(D) NOTHING IN THIS SECTION SHALL PRECLUDE ANY PEACE OR ANIMAL CONTROL OFFICER WHO SHALL HAVE THE POWERS OF A PEACE OFFICER AS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW WITH RESPECT TO THIS SECTION FROM ENFORCING THE PROVISIONS OF THIS SECTION IF HE OR SHE SHALL RECEIVE ORALLY OR IN WRITING A REPORT OF ANY INHUMANE CONDITION AT SUCH FARM OR ANIMAL FACILITY.

(E) THE PROVISIONS OF THIS SECTION ARE IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER LAWS PROTECTING ANIMAL WELFARE, INCLUDING THE PENAL LAW. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT ANY STATE LAW OR REGULATIONS PROTECTING THE WELFARE OF ANIMALS, NOR SHALL ANYTHING IN THIS SECTION PREVENT A LOCAL GOVERNING BODY FROM ADOPTING AND ENFORCING ITS OWN ANIMAL WELFARE LAWS AND REGULATIONS.

5. FOR THE PURPOSES OF THIS SECTION: (A) "ANIMAL FACILITY" MEANS ANY AREA BUILT, INSTALLED OR DESIGNED TO SERVE AS A BREEDING OR MAINTAINING AREA FOR ANIMALS;

(B) "COVERED ANIMAL" MEANS ANY PORCINE, BOVINE, OR POULTRY SPECIES ADULT OR JUVENILE ANIMAL OR FOWL KEPT ON A FARM FOR THE PURPOSE OF PRODUCING FOOD PRODUCTS, INCLUDING MEAT, EGGS AND MILK;

(C) "ENCLOSURE" MEANS ANY CAGE, CRATE, OR OTHER STRUCTURE (INCLUDING WHAT IS COMMONLY DESCRIBED AS A "GESTATION CRATE" FOR PIGS; A "VEAL CRATE" FOR CALVES; OR A "BATTERY CAGE" FOR EGG-LAYING HENS) USED TO CONFINE A COVERED ANIMAL;

(D) "FARM" MEANS THE LAND, BUILDING, SUPPORT FACILITIES, AND OTHER EQUIPMENT THAT ARE WHOLLY OR PARTIALLY USED FOR THE COMMERCIAL PRODUCTION OF ANIMALS OR ANIMAL PRODUCTS USED FOR FOOD OR FIBER; AND DOES NOT INCLUDE LIVE ANIMAL MARKETS;

(E) "FULLY EXTENDING HIS OR HER LIMBS" MEANS FULLY EXTENDING ALL LIMBS WITHOUT TOUCHING THE SIDE OF AN ENCLOSURE, INCLUDING, IN THE CASE OF EGG-LAYING HENS, FULLY SPREADING BOTH WINGS WITHOUT TOUCHING THE SIDE OF AN ENCLOSURE OR OTHER EGG-LAYING HENS;

(F) "HUMANE TREATMENT STANDARDS" MEANS RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER FOR THE HUMANE TREATMENT OF ANIMALS INVOLVED IN ANIMAL BREEDING. SUCH REGULATIONS SHALL TAKE INTO CONSIDERATION: ADEQUATE LIVING CONDITIONS FOR THE ANIMAL, DAILY MINIMUM AMOUNTS OF EXERCISE EACH ANIMAL SHALL RECEIVE AND DAILY HUMAN INTERACTION;

(G) "INHUMANE CONDITION" MEANS VIOLATION OF ANY FEDERAL, STATE, LOCAL LAW OR REGULATION THAT PERTAINS TO THE HUMANE TREATMENT OF ANIMALS, CRUELTY TO ANIMALS, ENDANGERING THE LIFE OR HEALTH OF AN ANIMAL OR TO THE CARE, TREATMENT, SALE, POSSESSION OR HANDLING OF ANIMALS, OR TO CRIMES INVOLVING MORAL TURPITUDE;

(H) "NONELECTIVE SURGICAL PROCEDURE" MEANS A SURGICAL PROCEDURE THAT IS NECESSARY TO PRESERVE OR RESTORE THE HEALTH OF AN ANIMAL, TO PREVENT AN ANIMAL FROM EXPERIENCING PAIN OR DISCOMFORT, OR TO CORRECT A CONDITION THAT WOULD INTERFERE WITH AN ANIMAL'S ABILITY TO WALK, RUN, JUMP, OR OTHERWISE FUNCTION IN A NORMAL MANNER;

(I) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, LIMITED LIABILITY COMPANY, CORPORATION, ESTATE, TRUST, RECEIVER, OR SYNDICATE; AND

(J) "TURNING AROUND FREELY" MEANS TURNING IN A COMPLETE CIRCLE WITHOUT ANY IMPEDIMENT, INCLUDING A TETHER, AND WITHOUT TOUCHING THE SIDE OF AN ENCLOSURE.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided that effective immediately, the commissioner of agriculture and markets is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement the provisions of this act on its effective date on or before such date.