

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

3431--D

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. ZEBROWSKI, MILLMAN, M. MILLER, ARROYO, SWEENEY, DINOWITZ, TITONE, PAULIN, COLTON, N. RIVERA, P. RIVERA, SCARBOROUGH, ENGLEBRIGHT, CALHOUN, MAISEL, GUNTHER, SIMOTAS, LAVINE, GALEF, BOYLAND, CUSICK, BRONSON, MOYA, WEISENBERG, ROSENTHAL, GLICK, KELLNER, CAMARA, CAHILL, BENEDETTO, ROBERTS, HOOPER, DenDEKKER, WEPRIN, KAVANAGH, BRINDISI -- Multi-Sponsored by -- M. of A. BRENNAN, CASTELLI, CERETTO, CONTE, FINCH, GABRYSZAK, GIBSON, GIGLIO, GOTTFRIED, HIKIND, KOLB, LOSQUADRO, LUPARDO, MALLIOTAKIS, McDONOUGH, McENENY, PERRY, RAIA, SALADINO, SCHIMEL, TEDISCO, TENNEY, THIELE, TOBACCO, WALTER -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Agriculture in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to restricting the performance of surgical devocalization procedures on dogs and cats

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

- 1 Section 1. The agriculture and markets law is amended by adding a new
2 section 365-a to read as follows:
3 S 365-A. DEVOCALIZATION OF ANIMALS. 1. NO PERSON SHALL PERFORM THE
4 SURGICAL DEVOCALIZATION OF A DOG OR CAT EXCEPT IN ACCORDANCE WITH THE
5 PROVISIONS OF THIS SECTION.
6 2. A. SURGICAL DEVOCALIZATION OF A DOG OR CAT SHALL BE PERFORMED ONLY
7 BY A PERSON LICENSED AS A VETERINARIAN IN THIS STATE UNDER THE
8 PROVISIONS OF ARTICLE ONE HUNDRED THIRTY-FIVE OF THE EDUCATION LAW.
9 B. SURGICAL DEVOCALIZATION OF A DOG OR CAT MAY BE PERFORMED ONLY WHEN
10 THE PROCEDURE IS MEDICALLY NECESSARY TO TREAT OR RELIEVE A PHYSICAL

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

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1 ILLNESS, DISEASE OR INJURY OR CORRECT A CONGENITAL ABNORMALITY SUFFERED
2 BY THE ANIMAL, WHICH PHYSICAL ILLNESS, DISEASE, INJURY OR CONGENITAL
3 ABNORMALITY IS CAUSING OR MAY REASONABLY CAUSE THE ANIMAL PHYSICAL PAIN
4 OR HARM.

5 3. A. ANY PERSON WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE ON A
6 DOG OR CAT SHALL INCLUDE INFORMATION RELATED TO THE PROCEDURE INCLUDING
7 THE MEDICAL NECESSITY IN THE ANIMAL'S TREATMENT RECORD AS DEFINED IN
8 SECTION SIXTY-SEVEN HUNDRED FOURTEEN OF THE EDUCATION LAW.

9 B. ANY PERSON WHO PERFORMS A DEVOCALIZATION PROCEDURE ON A DOG OR CAT
10 SHALL REPORT THE NUMBER IN THE AGGREGATE OF ALL SUCH PROCEDURES TO THE
11 COMMISSIONER OF EDUCATION ANNUALLY ON OR BEFORE MARCH THIRTIETH. THE
12 DEPARTMENT SHALL MAINTAIN ALL NOTICES RECEIVED UNDER THIS SUBDIVISION
13 FOR FOUR YEARS FROM THE DATE OF RECEIPT.

14 4. AS USED IN THIS SECTION, "DEVOCALIZATION" MEANS A SURGICAL PROCE-
15 DURE ON THE LARYNX OR VOCAL CORDS OF AN ANIMAL INTENDED TO CAUSE THE
16 REDUCTION OR ELIMINATION OF VOCAL SOUNDS PRODUCED BY THAT ANIMAL AND
17 INCLUDES PROCEDURES COMMONLY REFERRED TO AS "DEBARKING", "SILENCING" OR
18 "BARK SOFTENING".

19 5. A. ANY PERSON WHO KNOWINGLY PERFORMS, OR KNOWINGLY CAUSES TO BE
20 PERFORMED, THE SURGICAL DEVOCALIZATION OF A DOG OR CAT IN VIOLATION OF
21 THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS B MISDEMEANOR
22 PUNISHABLE BY IMPRISONMENT FOR A PERIOD OF NOT MORE THAN NINETY DAYS OR
23 BY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS OR BY BOTH SUCH FINE AND
24 IMPRISONMENT.

25 B. ANY VETERINARIAN WHO KNOWINGLY PERFORMS A SURGICAL DEVOCALIZATION
26 PROCEDURE IN VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE
27 SUBJECT TO THE REVOCATION OR SUSPENSION OF HIS OR HER LICENSE PURSUANT
28 TO ARTICLE ONE HUNDRED THIRTY OF THE EDUCATION LAW.

29 S 2. Paragraph a of subdivision 8 of section 374 of the agriculture
30 and markets law, as amended by chapter 594 of the laws of 2003 and such
31 subdivision as renumbered by chapter 479 of the laws of 2009, is amended
32 to read as follows:

33 a. In addition to any other penalty provided by law, upon conviction
34 for any violation of section three hundred fifty-one, three hundred
35 fifty-three, three hundred fifty-three-a, three hundred fifty-three-b,
36 three hundred fifty-five, three hundred fifty-six, three hundred fifty-
37 nine, three hundred sixty, three hundred sixty-one, three hundred
38 sixty-five, THREE HUNDRED SIXTY-FIVE-A or three hundred sixty-eight of
39 this article, the convicted person may, after a duly held hearing pursu-
40 ant to paragraph f of this subdivision, be ordered by the court to
41 forfeit, to a duly incorporated society for the prevention of cruelty to
42 animals or a duly incorporated humane society or authorized agents ther-
43 eof, the animal or animals which are the basis of the conviction. Upon
44 such an order of forfeiture, the convicted person shall be deemed to
45 have relinquished all rights to the animals which are the basis of the
46 conviction, except those granted in paragraph d of this subdivision.

47 S 3. The commissioner of agriculture and markets and the commissioner
48 of education are authorized and directed to promulgate and implement all
49 rules, regulations and standards they respectively deem necessary to
50 enforce the provisions of this act on or before the effective date of
51 this act.

52 S 4. This act shall take effect on the ninetieth day after it shall
53 have become a law.