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

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I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. ROSENTHAL, CASTRO, PAULIN, MAISEL, McENENY, KELLNER, KAVANAGH, MILLMAN, ROBINSON, GOTTFRIED, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. BING, CUSICK, GLICK, HEVESI, LATIMER, V. LOPEZ, TITUS, WEISENBERG -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the confinement of animals for food producing purposes

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 a new section 353-e to read as follows:

S 353-E. CONFINEMENT OF ANIMALS FOR FOOD PRODUCING PURPOSES. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CALF RAISED FOR VEAL" MEANS ANY CALF OF THE BOVINE SPECIES KEPT FOR THE PURPOSE OF PRODUCING THE FOOD PRODUCT DESCRIBED AS VEAL.

(B) "COVERED ANIMALS" MEANS ANY PIG DURING PREGNANCY, CALF RAISED FOR VEAL, OR EGG-LAYING HEN WHO IS KEPT ON A FARM.

(C) "EGG-LAYING HEN" MEANS ANY FEMALE DOMESTICATED CHICKEN, TURKEY, DUCK, GOOSE, OR GUINEA FOWL KEPT FOR THE PURPOSE OF EGG PRODUCTION.

(D) "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.

(E) "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.

(F) "FULLY EXTENDING ITS LIMBS" MEANS FULLY EXTENDING ALL LIMBS WITHOUT TOUCHING THE SIDE OF AN ENCLOSURE, INCLUDING, IN THE CASE OF

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

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EGG-LAYING HENS, FULLY SPREADING BOTH WINGS WITHOUT TOUCHING THE SIDE OF AN ENCLOSURE OR OTHER EGG-LAYING HENS.

(G) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

(H) "PIG DURING PREGNANCY" MEANS ANY PREGNANT PIG OF THE PORCINE SPECIES KEPT FOR THE PRIMARY PURPOSE OF BREEDING.

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

2. IT SHALL BE UNLAWFUL FOR ANY PERSON TO TETHER OR CONFINE ANY COVERED ANIMAL, AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, ON A FARM FOR ALL OR THE MAJORITY OF ANY DAY, IN A MANNER THAT PREVENTS SUCH ANIMAL FROM LYING DOWN, STANDING UP AND FULLY EXTENDING ITS LIMBS AND TURNING AROUND FREELY.

3. THIS SECTION SHALL NOT APPLY DURING THE FOLLOWING LAWFULLY PERFORMED ACTIVITIES:

(A) TRANSPORTATION,

(B) EXHIBITIONS AT RODEOS, FAIRS, YOUTH PROGRAMS, AND SIMILAR EXHIBITIONS,

(C) SLAUGHTERING PROCESS,

(D) SCIENTIFIC OR AGRICULTURAL RESEARCH,

(E) EXAMINATION, TESTING, INDIVIDUAL TREATMENT OR OPERATION FOR VETERINARY PURPOSES,

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

4. A VIOLATION OF THE PROVISIONS OF THIS SECTION IS A CLASS A MISDEMEANOR 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.

5. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT ANY TOWN, CITY, VILLAGE OR COUNTY IN NEW YORK STATE FROM ENACTING A LOCAL LAW OR ORDINANCE TO PROVIDE FOR THE HUMANE TREATMENT OF AND PREVENTION OF CRUELTY TO FARM ANIMALS, PROVIDED, HOWEVER, THAT NO SUCH LAW SHALL CONFLICT WITH THE PROVISIONS OF THIS SECTION.

6. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO REDUCE THE PROTECTION AFFORDED TO FARM ANIMALS UNDER ANY OTHER SECTION OF THIS ARTICLE OR ANY OTHER LAW OR REGULATION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR RESTRICT AGENTS OR OFFICERS OF SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS OR THE POLICE FROM ENFORCING THE OTHER PROVISIONS OF THIS ARTICLE OR ANY OTHER LAW OR REGULATION RELATING TO THE HUMANE TREATMENT OF OR CRUELTY TO ANIMALS.

7. THIS SECTION SHALL BE ENFORCED BY THE DEPARTMENT, AND ANY AGENT AND 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, SUMMONS OR ARREST, AND BRING BEFORE A COURT OR MAGISTRATE HAVING JURISDICTION, ANY PERSON OFFENDING AGAINST ANY OF THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect January 1, 2015.