

2118

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

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

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

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

LBD04950-01-1

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

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

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

8 2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY:

9 (A) TO ANY COVERED ANIMAL:

10 (1) DURING SCIENTIFIC OR AGRICULTURAL RESEARCH;

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

13 (3) DURING TRANSPORTATION;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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