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

3805

2011-2012 Regular Sessions

I N S E N A T E

March 4, 2011

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to imposing additional penalties for animal abuse

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

Section 1. Section 353 of the agriculture and markets law, as amended by chapter 458 of the laws of 1985 and the opening paragraph as amended by chapter 523 of the laws of 2005, is amended to read as follows:

S 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance. 1. A person who overdrives[,] OR overloads[, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills] any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, [tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed,] or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any SUCH act of cruelty to any animal, or any SUCH act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

2. THE COURT, FOR A PERSON WHO TORTURES OR CRUELLY BEATS OR UNJUSTIFIABLY INJURES, MAIMS, MUTILATES OR KILLS ANY ANIMAL, WHETHER WILD OR TAME, AND WHETHER BELONGING TO HIMSELF OR ANOTHER, OR WHO CAUSES, PROCURES OR PERMITS ANY ANIMAL TO BE TORTURED, CRUELLY BEATEN, OR UNJUSTIFIABLY INJURED, MAIMED, MUTILATED OR KILLED SHALL, IN ADDITION TO ANY OTHER PENALTY OTHERWISE IMPOSED BY LAW FOR A VIOLATION OF THIS SECTION ORDER AN IMMEDIATE AND THOROUGH PSYCHIATRIC ANALYSIS AND EVALUATION BY A COMPETENT PROFESSIONAL, AND WHERE NECESSARY REQUIRE A PERSON

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

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WHO VIOLATES ANY OF SUCH PROVISIONS TO ENTER INTO AND SUCCESSFULLY COMPLETE ANY TREATMENT OR PROGRAM DEEMED HELPFUL IN MODIFYING BEHAVIOR PATTERNS OR TREATING ANY MENTAL ILLNESS WHICH MAY CAUSE OR CONTRIBUTE TO SUCH ILLEGAL ACTIVITIES.

3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THE FAMILY COURT ACT, OR ANY OTHER PROVISION OF LAW WHERE A PERSON DEEMED A YOUTHFUL OFFENDER VIOLATES ANY PROVISION OF THIS SECTION, ANY RECORD OR MATTER CONSIDERED IN CONNECTION WITH THE ADJUDICATION ENTERED WITH RESPECT TO THE SAME SHALL NOT BE SEALED OR OTHERWISE PROTECTED FROM DISCLOSURE AND MAY BE USED FOR ANY LAWFUL PURPOSE IN ANY SUBSEQUENT PROSECUTION, WHENEVER COMMENCED.

4. Nothing [herein] contained IN THIS SECTION shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the [state] commissioner of health. The [state] commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The [state] commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING, OR FISHING, AS DEFINED BY THE ENVIRONMENTAL CONSERVATION LAW; OR WITH THE ROUTINE MANAGEMENT OF A FARMING OPERATION; OR THE ERADICATION OF VERMIN; OR THE DISPATCH OF RABID OR DISEASED ANIMALS OR ANIMALS POSING AN IMMINENT THREAT TO HUMAN SAFETY.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.