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I N   S E N A T E

January 9, 2012

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Introduced by Sen. ZELDIN -- 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 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  
11    ILLNESS, DISEASE OR INJURY OR CORRECT A CONGENITAL ABNORMALITY SUFFERED  
12    BY THE ANIMAL, WHICH PHYSICAL ILLNESS, DISEASE, INJURY OR CONGENITAL  
13    ABNORMALITY IS CAUSING OR MAY REASONABLY CAUSE THE ANIMAL PHYSICAL PAIN  
14    OR HARM.

15    3. A. ANY PERSON WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE ON A  
16    DOG OR CAT SHALL PREPARE A RECORD OF THE PROCEDURE CONTAINING THE  
17    FOLLOWING INFORMATION:

18        (1) THE NAME AND ADDRESS OF THE ANIMAL'S OWNER;

19        (2) THE NAME AND ADDRESS OF THE PERSON FROM WHOM PAYMENT IS RECEIVED  
20    FOR THE PROCEDURE;

21        (3) A DESCRIPTION OF THE ANIMAL, INCLUDING ITS NAME, SPECIES, BREED,  
22    DATE OF BIRTH, SEX, COLOR, MARKINGS AND CURRENT WEIGHT;

23        (4) THE LICENSE NUMBER AND MUNICIPALITY THAT ISSUED THE LICENSE FOR  
24    THE ANIMAL;

25        (5) THE DATE AND TIME OF THE PROCEDURE;

26        (6) THE REASON THE PROCEDURE WAS PERFORMED; AND

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

LBD00518-04-2

1 (7) ANY DIAGNOSTIC OPINION, ANALYSIS OR TEST RESULTS TO SUPPORT THE  
2 DIAGNOSIS.

3 B. AFTER PERFORMING A SURGICAL DEVOCALIZATION PROCEDURE ON A DOG OR  
4 CAT, THE PERSON PERFORMING THE PROCEDURE SHALL FILE WITH THE CLERK OF  
5 THE MUNICIPALITY IN WHICH THE SURGERY IS TO BE PERFORMED A COPY OF THE  
6 RECORD SPECIFIED IN PARAGRAPH A OF THIS SUBDIVISION, TOGETHER WITH A  
7 WRITTEN STATEMENT DECLARING THAT THE PROCEDURE IS MEDICALLY NECESSARY TO  
8 TREAT OR RELIEVE A PHYSICAL ILLNESS, DISEASE OR INJURY OR CORRECT A  
9 CONGENITAL ABNORMALITY SUFFERED BY THE ANIMAL, WHICH PHYSICAL ILLNESS,  
10 DISEASE, INJURY OR CONGENITAL ABNORMALITY IS CAUSING OR MAY REASONABLE  
11 CAUSE THE ANIMAL PHYSICAL PAIN OR HARM.

12 C. THE RECORD REQUIRED BY PARAGRAPH A OF THIS SUBDIVISION SHALL BE  
13 RETAINED BY THE PERSON PERFORMING THE PROCEDURE FOR A PERIOD OF FOUR  
14 YEARS AFTER THE LAST CONTACT WITH THE ANIMAL ON WHICH THE PROCEDURE WAS  
15 PERFORMED. ALL SUCH RECORDS SHALL BE SUBJECT TO AUDIT BY THE STATE BOARD  
16 FOR VETERINARY MEDICINE.

17 D. ANY PERSON WHO PERFORMS A DEVOCALIZATION PROCEDURE ON A DOG OR CAT  
18 SHALL REPORT THE NUMBER OF ALL SUCH PROCEDURES TO THE STATE BOARD FOR  
19 VETERINARY MEDICINE ANNUALLY ON OR BEFORE MARCH THIRTIETH. THE BOARD  
20 SHALL MAINTAIN ALL NOTICES RECEIVED UNDER THIS SUBDIVISION FOR FOUR  
21 YEARS FROM THE DATE OF RECEIPT.

22 E. ANY PERSON WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE ON A  
23 DOG OR CAT SHALL PREPARE AND PROVIDE TO THE ANIMAL'S OWNER A WRITTEN  
24 NOTICE THAT SUCH PROCEDURE HAS BEEN CONDUCTED ON THE ANIMAL IN ACCORD-  
25 ANCE WITH THE PROVISIONS OF THIS SECTION AND CONTAINING THE INFORMATION  
26 SPECIFIED IN SUBPARAGRAPHS ONE, THREE, FIVE AND SIX OF PARAGRAPH A OF  
27 THIS SUBDIVISION.

28 4. NO COMMERCIAL ESTABLISHMENT, PET SHOP, FIRM, CORPORATION OR PERSON  
29 SHALL KNOWINGLY SELL A DOG OR CAT THAT HAS BEEN SURGICALLY DEVOCALIZED,  
30 UNLESS A COPY OF THE WRITTEN NOTICE DESCRIBED IN PARAGRAPH E OF SUBDIVI-  
31 SION THREE OF THIS SECTION IS PROVIDED TO ANY PROSPECTIVE PURCHASER  
32 BEFORE THE PURCHASER ENTERS INTO AN AGREEMENT TO PURCHASE SAID ANIMAL.  
33 IN ADDITION TO THE PENALTIES SET FORTH IN THIS SECTION, A FAILURE TO  
34 PROVIDE SUCH NOTICE SHALL RENDER ANY PURCHASE AGREEMENT VOIDABLE AND A  
35 VIOLATION OF THIS PARAGRAPH SHALL CONSTITUTE AN UNFAIR OR DECEPTIVE ACT  
36 OR PRACTICE IN THE CONDUCT OF A TRADE OR COMMERCE UNDER SECTION THREE  
37 HUNDRED FORTY-NINE OF THE GENERAL BUSINESS LAW. THE PROVISIONS OF THIS  
38 PARAGRAPH SHALL NOT APPLY TO DULY INCORPORATED HUMANE SOCIETIES,  
39 NON-PROFIT ANIMAL WELFARE ORGANIZATIONS, DULY INCORPORATED SOCIETIES FOR  
40 THE PREVENTION OF CRUELTY TO ANIMALS, DOG OR CAT PROTECTIVE ASSOCI-  
41 ATIONS, DOG CONTROL OFFICERS, POUNDS OR SHELTERS.

42 5. AS USED IN THIS SECTION, "DEVOCALIZATION" MEANS A SURGICAL PROCE-  
43 DURE ON THE LARYNX OR VOCAL CORDS OF AN ANIMAL WHICH CAUSES THE  
44 REDUCTION OR ELIMINATION OF VOCAL SOUNDS PRODUCED BY THAT ANIMAL AND  
45 INCLUDES PROCEDURES COMMONLY REFERRED TO AS "DEBARKING", "SILENCING" OR  
46 "BARK SOFTENING".

47 6. A. ANY PERSON WHO PERFORMS, OR KNOWINGLY CAUSES TO BE PERFORMED,  
48 THE SURGICAL DEVOCALIZATION OF A DOG OR CAT IN VIOLATION OF THE  
49 PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR  
50 PUNISHABLE BY IMPRISONMENT FOR A PERIOD OF NOT MORE THAN ONE YEAR OR BY  
51 A FINE OF NOT TO EXCEED FIVE THOUSAND DOLLARS OR BY BOTH SUCH FINE AND  
52 IMPRISONMENT.

53 B. IN ADDITION TO THE PENALTIES DESCRIBED IN PARAGRAPH A OF THIS  
54 SUBDIVISION, THE COURT MAY ORDER ANY PERSON WHO VIOLATES THE PROVISIONS  
55 OF THIS SECTION TO SUCCESSFULLY COMPLETE A COURSE OF INSTRUCTION RELA-  
56 TIVE TO THE HUMANE TREATMENT OF ANIMALS OR BE BARRED FROM OWNING OR

1 KEEPING A DOG OR CAT OR SHARING A RESIDENCE WITH ANOTHER WHO OWNS OR  
2 KEEPS A DOG OR CAT FOR A PERIOD OF TIME AS DETERMINED BY SAID COURT. THE  
3 COURT MAY FURTHER ORDER ANY PERSON WHO VIOLATES THIS SECTION TO SURREN-  
4 DER THE ANIMAL ON WHICH THE PROCEDURE WAS PERFORMED, AS WELL AS ANY  
5 OTHER ANIMALS OWNED OR CONTROLLED BY SUCH PERSON.

6 C. ANY VETERINARIAN WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE  
7 IN VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO THE  
8 REVOCATION OR SUSPENSION OF HIS OR HER LICENSE.

9 S 2. The commissioner of agriculture and markets and the commissioner  
10 of education are authorized and directed to promulgate and implement all  
11 rules, regulations and standards they respectively deem necessary to  
12 enforce the provisions of this act on or before the effective date of  
13 this act.

14 S 3. This act shall take effect on the ninetieth day after it shall  
15 have become a law.