

1204

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ZEBROWSKI, MILLMAN, MILLER, ARROYO, SWEENEY, DINOWITZ, TITONE, PAULIN, COLTON, RIVERA, SCARBOROUGH, ENGLEBRIGHT, 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, CERETTO, CURRAN, FINCH, GABRYSZAK, GIBSON, GIGLIO, GOTTFRIED, HIKIND, LOSQUADRO, LUPARDO, MALLIOTAKIS, McDONOUGH, McKEVITT, PERRY, RAIA, SALADINO, SCHIMEL, TEDISCO, TENNEY, THIELE, WALTER -- read once and referred 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.

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

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

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

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

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

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

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

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

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

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