

775

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ROSENTHAL, LAVINE, SWEENEY, RUSSELL, BRINDISI --
read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the penal law, in
relation to promoting understanding, awareness and enforcement of
animal crimes laws; and to repeal sections 351, 353, 353-a, 353-b,
353-d, 355, 360, 361, 362 and subdivision 8 of section 374 of the
agriculture and markets law relating thereto

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

1 Section 1. Section 350 of the agriculture and markets law, as added
2 by chapter 1047 of the laws of 1965, subdivision 3 as added by chapter
3 619 of the laws of 1987, subdivision 4 as added by chapter 569 of the
4 laws of 1995, subdivision 5 as amended by chapter 118 of the laws of
5 1999, is amended to read as follows:
6 S 350. Definitions. 1. "Animal[,]", as used in this article, includes
7 every living creature except a human being;
8 2. ["Torture" or "cruelty"] "CRUELTY" includes every act, omission, or
9 neglect, whereby unjustifiable physical pain, suffering or death is
10 caused or permitted AND SHALL INCLUDE BUT NOT BE LIMITED TO, ANY ACT OF
11 OVERDRIVING, OVERLOADING, INJURING, MAIMING, MUTILATING OR KILLING AN
12 ANIMAL.
13 3. "TORTURE" MEANS CONDUCT THAT IS INTENDED TO CAUSE EXTREME PHYSICAL
14 PAIN.
15 4. "Adoption" means the delivery [to any natural person eighteen years
16 of age or older, for the limited purpose of harboring a pet,] TO ANY
17 NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR THE LIMITED PURPOSES
18 OF HARBORING of any dog or cat, seized or surrendered.
19 [4]5. "Farm animal", as used in this article, means any ungulate,
20 poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-
21 bearing animals, as defined in section 11-1907 of the environmental

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

LBD01445-01-3

conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal, AS REFERENCED IN THIS ARTICLE, shall not include dogs or cats.

[5]6. "Companion animal" or "pet" means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. ["Pet" or "companion"] "COMPANION animal" OR "PET" shall not include a "farm animal" as defined in this section.

7. "ANIMAL CRUELTY OFFENSE" MEANS ANY VIOLATION OF THIS ARTICLE OR OF ARTICLE TWO HUNDRED EIGHTY OF THE PENAL LAW, OR ANY OTHER UNLAWFUL ACT BY WHICH HARM IS INTENTIONALLY, KNOWINGLY, RECKLESSLY OR NEGLIGENTLY CAUSED OR PERMITTED TO OCCUR TO AN ANIMAL.

8. "DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS," AS USED IN THIS ARTICLE, SHALL MEAN A CORPORATION CONSTITUTED PURSUANT TO THE PROVISIONS OF SUBDIVISION (G) OF SECTION FOUR HUNDRED FOUR AND SECTION ONE THOUSAND FOUR HUNDRED THREE OF THE NOT-FOR-PROFIT CORPORATION LAW.

S 2. Sections 351, 353, 353-a, 353-b, 353-d, 355, 360, 361 and 362 of the agriculture and markets law are REPEALED.

S 3. Section 365 of the agriculture and markets law, as amended by chapter 458 of the laws of 1985, is amended to read as follows:

S 365. Clipping or cutting the ears of dogs. 1. Whoever clips or cuts off or causes or procures another to clip or cut off the whole or any part of an ear of any dog unless an anaesthetic shall have been given to the dog and the operation performed by a licensed veterinarian, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or a fine of not more than one thousand dollars, or by both.

2. [The provisions of this section shall not apply to any dog or person who is the owner or possessor of any dog whose ear or a part thereof has been clipped or cut off prior to September first, nineteen hundred twenty-nine.

3.] Each applicant for a dog license must state on such application whether any ear of the dog for which he applies for such license has been cut off wholly or in part.

[4.] 3. Nothing herein contained shall be construed as preventing any dog whose ear or ears shall have been clipped or cut off wholly or in part, not in violation of this section, from being imported into the state exclusively for breeding purposes.

S 4. Section 369 of the agriculture and markets law, as amended by chapter 458 of the laws of 1985, is amended to read as follows:

S 369. Interference with officers. Any person who shall interfere with or obstruct any constable or police officer or any officer or agent of any duly incorporated society for the prevention of cruelty to animals in the discharge of his duty to enforce the laws relating to animals, INCLUDING THOSE PROVISIONS CONTAINED IN ARTICLE TWO HUNDRED EIGHTY OF THE PENAL LAW, shall be guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

S 5. Section 371 of the agriculture and markets law, as amended by chapter 573 of the laws of 1978, is amended to read as follows:

S 371. Powers of peace officers. A constable or police officer must, and any agent or 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, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the

1 agriculture and markets law OR ANY PROVISIONS OF ARTICLE TWO HUNDRED
2 EIGHTY OF THE PENAL LAW. Any officer or agent of any of said societies
3 may lawfully interfere to prevent the perpetration of any act of cruelty
4 upon any animal in his OR HER presence. Any of said societies may prefer
5 a complaint before any court, tribunal or magistrate having jurisdic-
6 tion, for the violation of any law relating to or affecting animals and
7 may aid in presenting the law and facts before such court, tribunal or
8 magistrate in any proceeding taken.

9 S 6. Subdivision 6 of section 373 of the agriculture and markets law,
10 as amended by chapter 256 of the laws of 1997, paragraph a as amended by
11 chapter 586 of the laws of 2008, subparagraph 2 of paragraph b as
12 amended by section 24 of part T of chapter 59 of the laws of 2010, is
13 amended to read as follows:

14 6. a. If any animal is seized [and] OR impounded pursuant to the
15 provisions of this section, [section three hundred fifty-three-d of this
16 article] or section three hundred seventy-five of this article, OR
17 PURSUANT TO THE PROVISIONS OF ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL
18 PROCEDURE LAW, for any violation of this article, ANY VIOLATION OF ARTI-
19 CLE TWO HUNDRED EIGHTY OF THE PENAL LAW, OR IN CONNECTION WITH THE
20 ARREST ON AN ANIMAL CRUELTY OFFENSE, THEN, upon arraignment of charges
21 [the], A duly incorporated society for the prevention of cruelty to
22 animals, humane society, pound, animal shelter, SHERIFF, MUNICIPAL
23 POLICE DEPARTMENT, OR DISTRICT ATTORNEY, or any authorized agents there-
24 of, hereinafter referred to for the purposes of this section as the
25 "impounding organization", may file a petition with the court requesting
26 that the person from whom an animal is seized or the owner of the animal
27 be ordered to post a security. The security shall be in an amount suffi-
28 cient to secure payment for all reasonable expenses expected to be
29 incurred by the impounding organization in caring and providing for the
30 animal pending disposition of the charges. Reasonable expenses shall
31 include, but not be limited to, estimated medical care and boarding of
32 the animal for at least thirty days. The amount of the security, if any,
33 shall be determined by the court after taking into consideration all of
34 the facts and circumstances of the case including, but not limited to
35 the recommendation of the impounding organization having custody and
36 care of the seized animal and the cost of caring for the animal. If a
37 security has been posted in accordance with this section, the impounding
38 organization may draw from the security the actual reasonable costs to
39 be incurred by such organization in caring for the seized animal.

40 b. (1) Upon receipt of a petition pursuant to paragraph a of this
41 subdivision the court shall set a hearing on the petition to be
42 conducted within ten business days of the filing of such petition. The
43 petitioner shall serve a true copy of the petition upon the defendant
44 and the district attorney. The petitioner shall also serve a true copy
45 of the petition on any interested person. For purposes of this subdivi-
46 sion, interested person shall mean an individual, partnership, firm,
47 joint stock company, corporation, association, trust, estate or other
48 legal entity who the court determines may have a pecuniary interest in
49 the animal which is the subject of the petition. The petitioner shall
50 have the burden of proving by a preponderance of the evidence that the
51 person from whom the animal was seized violated a provision of this
52 article. The court may waive for good cause shown the posting of securi-
53 ty.

54 (2) If the court orders the posting of a security, the security shall
55 be posted with the clerk of the court within five business days of the
56 hearing provided for in subparagraph one of this paragraph. The court

1 may order the immediate forfeiture of the seized animal to the impound-
2 ing organization if the person ordered to post the security fails to do
3 so. Any animal forfeited shall be made available for adoption or euthan-
4 ized subject to subdivision seven-a of section one hundred seventeen of
5 this chapter or section three hundred seventy-four of this article.

6 (3) In the case of an animal other than a companion animal or pet, if
7 a person ordered to post security fails to do so, the court may, in
8 addition to the forfeiture to [a duly incorporated society for the
9 prevention of cruelty to animals, humane society, pound, animal shelter
10 or any authorized agents thereof] THE IMPOUNDING ORGANIZATION, and
11 subject to the restrictions of sections three hundred fifty-four, three
12 hundred fifty-seven and three hundred seventy-four of this article,
13 order the animal which was the basis of the order to be sold, provided
14 that all interested persons shall first be provided the opportunity to
15 redeem their interest in the animal and to purchase the interest of the
16 person ordered to post security, subject to such conditions as the court
17 deems appropriate to assure proper care and treatment of the animal. The
18 court may reimburse the person ordered to post security and any inter-
19 ested persons any money earned by the sale of the animal less any costs
20 including, but not limited to, veterinary and custodial care. Any animal
21 determined by the court to be maimed, diseased, disabled or infirm so as
22 to be unfit for sale or any useful purpose shall be forfeited to [a duly
23 incorporated society for the prevention of cruelty to animals or a duly
24 incorporated humane society] THE IMPOUNDING ORGANIZATION or authorized
25 agents thereof, and be available for adoption or shall be euthanized
26 subject to section three hundred seventy-four of this article.

27 (4) Nothing in this section shall be construed to limit or restrict in
28 any way the rights of a secured party having a security interest in any
29 animal described in this section. This section expressly does not impair
30 or subordinate the rights of such a secured lender having a security
31 interest in the animal or in the proceeds from the sale of such animal.

32 c. In no event shall the security prevent the impounding organization
33 having custody and care of the animal from disposing of the animal
34 pursuant to section three hundred seventy-four of this article prior to
35 the expiration of the thirty day period covered by the security if the
36 court makes a determination of the charges against the person from whom
37 the animal was seized prior thereto. Upon receipt of a petition from the
38 impounding organization, the court may order the person from whom the
39 animal was seized or the owner of the animal to post an additional secu-
40 rity with the clerk of the court to secure payment of reasonable
41 expenses for an additional period of time pending a determination by the
42 court of the charges against the person from whom the animal was seized.
43 The person who posted the security shall be entitled to a refund of the
44 security in whole or part for any expenses not incurred by such impound-
45 ing organization upon adjudication of the charges. The person who posted
46 the security shall be entitled to a full refund of the security, includ-
47 ing reimbursement by the impounding organization of any amount allowed
48 by the court to be expended, and the return of the animal seized and
49 impounded upon acquittal or dismissal of the charges, except where the
50 dismissal is based upon an adjournment in contemplation of dismissal
51 pursuant to section 215.30 of the criminal procedure law. The court
52 order directing such refund and reimbursement shall provide for payment
53 to be made within a reasonable time from the acquittal or dismissal of
54 charges.

55 S 7. Subdivision 8 of section 374 of the agriculture and markets law
56 is REPEALED.

1 S 8. The agriculture and markets law is amended by adding a new
2 section 380 to read as follows:

3 S 380. SPECIAL SENTENCING PROVISIONS. IN ADDITION TO ANY OTHER PENAL-
4 TY PROVIDED BY LAW, A COURT MAY IMPOSE THE FOLLOWING SENTENCES UPON A
5 CONVICTION FOR ANY ANIMAL CRUELTY OFFENSE:

6 1. THE CONVICTED PERSON MAY, AFTER A DULY HELD HEARING PURSUANT TO
7 SUBDIVISION SIX OF THIS SECTION, BE ORDERED BY THE COURT TO FORFEIT, TO
8 AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE DEPARTMENT, DISTRICT
9 ATTORNEY, A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO
10 ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY OR AUTHORIZED AGENTS THERE-
11 EOF, THE ANIMAL OR ANIMALS WHICH ARE THE BASIS OF THE CONVICTION. UPON
12 SUCH AN ORDER OF FORFEITURE, THE CONVICTED PERSON SHALL BE DEEMED TO
13 HAVE RELINQUISHED ALL RIGHTS TO THE ANIMALS WHICH ARE THE BASIS OF THE
14 CONVICTION, EXCEPT THOSE GRANTED IN SUBDIVISION TWO OF THIS SECTION.

15 2. IN THE CASE OF FARM ANIMALS, THE COURT MAY, IN ADDITION TO THE
16 FORFEITURE TO AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE
17 DEPARTMENT, DISTRICT ATTORNEY, A DULY INCORPORATED SOCIETY FOR THE
18 PREVENTION OF CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY
19 OR AUTHORIZED AGENTS THEREOF, AND SUBJECT TO THE RESTRICTIONS OF
20 SECTIONS THREE HUNDRED FIFTY-FOUR AND THREE HUNDRED FIFTY-SEVEN OF THIS
21 ARTICLE, ORDER THE FARM ANIMALS WHICH WERE THE BASIS OF THE CONVICTION
22 TO BE SOLD. IN NO CASE SHALL FARM ANIMALS WHICH ARE THE BASIS OF THE
23 CONVICTION BE REDEEMED BY THE CONVICTED PERSON WHO IS THE SUBJECT OF THE
24 ORDER OF FORFEITURE OR BY ANY PERSON CHARGED WITH AN ANIMAL CRUELTY
25 OFFENSE FOR CONSPIRING, AIDING OR ABETTING IN THE UNLAWFUL ACT WHICH WAS
26 THE BASIS OF THE CONVICTION, OR OTHERWISE ACTING AS AN ACCOMPLICE IF
27 SUCH CHARGE HAS NOT YET BEEN ADJUDICATED. THE COURT SHALL REIMBURSE THE
28 CONVICTED PERSON AND ANY DULY DETERMINED INTERESTED PERSONS, PURSUANT TO
29 SUBDIVISION SIX OF THIS SECTION, ANY MONEY EARNED BY THE SALE OF THE
30 FARM ANIMALS LESS ANY COSTS INCLUDING, BUT NOT LIMITED TO, VETERINARY
31 AND CUSTODIAL CARE, AND ANY FINES OR PENALTIES IMPOSED BY THE COURT. THE
32 COURT MAY ORDER THAT THE SUBJECT ANIMALS BE PROVIDED WITH APPROPRIATE
33 CARE AND TREATMENT PENDING THE HEARING AND THE DISPOSITION OF THE CHARG-
34 ES. ANY FARM ANIMAL ORDERED FORFEITED BUT NOT SOLD SHALL BE REMANDED TO
35 THE CUSTODY AND CHARGE OF AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL
36 POLICE DEPARTMENT, DISTRICT ATTORNEY, A DULY INCORPORATED SOCIETY FOR
37 THE PREVENTION OF CRUELTY TO ANIMALS OR DULY INCORPORATED HUMANE SOCIETY
38 OR ITS AUTHORIZED AGENT THEREOF AND DISPOSED OF PURSUANT TO SUBDIVISION
39 FIVE OF THIS SECTION.

40 3. THE COURT MAY ORDER THAT THE CONVICTED PERSON SHALL NOT OWN,
41 HARBOR, OR HAVE CUSTODY OR CONTROL OF ANY OTHER ANIMALS, OTHER THAN FARM
42 ANIMALS, FOR A PERIOD OF TIME WHICH THE COURT DEEMS REASONABLE. IN
43 MAKING ITS DETERMINATION OF WHAT PERIOD OF TIME IS REASONABLE, THE COURT
44 SHALL TAKE INTO ACCOUNT THE TOTALITY OF THE CIRCUMSTANCES BEFORE IT AND
45 BE BOUND TO NO SINGLE FACTOR. SUCH ORDER MUST BE IN WRITING AND SPECIF-
46 ICALLY STATE THE PERIOD OF TIME IMPOSED.

47 4. NO DOG OR CAT IN THE CUSTODY OF A DULY INCORPORATED SOCIETY FOR
48 THE PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE SOCIETY
49 OR ITS AUTHORIZED AGENTS THEREOF, OR A POUND OR SHELTER, SHALL BE SOLD,
50 TRANSFERRED OR OTHERWISE MADE AVAILABLE TO ANY PERSON FOR THE PURPOSE OF
51 RESEARCH, EXPERIMENTATION OR TESTING. NO AUTHORIZED AGENT OF A DULY
52 INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, NOR OF A
53 DULY INCORPORATED HUMANE SOCIETY, SHALL USE ANY ANIMAL PLACED IN ITS
54 CUSTODY BY THE DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY
55 TO ANIMALS OR DULY INCORPORATED HUMANE SOCIETY FOR THE PURPOSE OF
56 RESEARCH, EXPERIMENTATION OR TESTING.

1 5. AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE DEPARTMENT,
2 DISTRICT ATTORNEY, A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF
3 CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY IN CHARGE OF
4 ANIMALS FORFEITED PURSUANT TO SUBDIVISION ONE OR TWO OF THIS SECTION
5 MAY, IN ITS DISCRETION, LAWFULLY AND WITHOUT LIABILITY, ADOPT THEM TO
6 INDIVIDUALS OTHER THAN THE CONVICTED PERSON OR PERSON CHARGED WITH AN
7 ANIMAL CRUELTY OFFENSE FOR CONSPIRING, AIDING OR ABETTING IN THE UNLAW-
8 FUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR OTHERWISE ACTING AS AN
9 ACCOMPLICE IF SUCH CHARGE HAS NOT YET BEEN ADJUDICATED, OR HUMANELY
10 DISPOSE OF THEM SUBJECT TO SECTION THREE HUNDRED SEVENTY-FOUR OF THIS
11 ARTICLE.

12 6. (A) PRIOR TO AN ORDER OF FORFEITURE OF FARM ANIMALS, A HEARING
13 SHALL BE HELD WITHIN THIRTY DAYS OF CONVICTION TO DETERMINE THE PECUNI-
14 ARY INTERESTS OF ANY OTHER PERSON IN THE FARM ANIMALS WHICH WERE THE
15 BASIS OF THE CONVICTION. WRITTEN NOTICE SHALL BE SERVED AT LEAST FIVE
16 DAYS PRIOR TO THE HEARING UPON ALL INTERESTED PERSONS. IN ADDITION,
17 NOTICE SHALL BE MADE BY PUBLICATION IN A LOCAL NEWSPAPER AT LEAST SEVEN
18 DAYS PRIOR TO THE HEARING. FOR THE PURPOSES OF THIS SUBDIVISION, INTER-
19 ESTED PERSONS SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP, FIRM, JOINT STOCK
20 COMPANY, CORPORATION, ASSOCIATION, TRUST, ESTATE, OR OTHER LEGAL ENTITY
21 WHO THE COURT DETERMINES MAY HAVE A PECUNIARY INTEREST IN THE FARM
22 ANIMALS WHICH ARE THE SUBJECT OF THE FORFEITURE ACTION.

23 (B) ALL INTERESTED PERSONS SHALL BE PROVIDED AN OPPORTUNITY AT THE
24 HEARING TO REDEEM THEIR INTEREST AS DETERMINED BY THE COURT IN THE
25 SUBJECT FARM ANIMALS AND TO PURCHASE THE INTEREST OF THE CONVICTED
26 PERSON. THE CONVICTED PERSON SHALL BE ENTITLED TO BE REIMBURSED HIS OR
27 HER INTEREST IN THE FARM ANIMALS, LESS ANY COSTS, FINES OR PENALTIES
28 IMPOSED BY THE COURT, AS SPECIFIED UNDER SUBDIVISION TWO OF THIS
29 SECTION. IN NO CASE SHALL THE COURT AWARD CUSTODY OR CONTROL OF THE
30 ANIMALS TO ANY INTERESTED PERSON WHO CONSPIRED, AIDED OR ABETTED IN THE
31 UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR
32 SHOULD HAVE KNOWN OF THE UNLAWFUL ACT.

33 7. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN
34 ANY WAY THE RIGHTS OF A SECURED PARTY HAVING A SECURITY INTEREST IN ANY
35 FARM ANIMAL DESCRIBED IN THIS SECTION. THIS SECTION EXPRESSLY DOES NOT
36 IMPAIR OR SUBORDINATE THE RIGHTS OF SUCH A SECURED LENDER HAVING A SECU-
37 RITY INTEREST IN FARM ANIMALS OR IN THE PROCEEDS FROM THE SALE OF SUCH
38 FARM ANIMALS.

39 S 9. The penal law is amended by adding a new title Q to read as
40 follows:

41 TITLE Q
42 OFFENSES AGAINST ANIMALS
43 ARTICLE 280
44 OFFENSES AGAINST ANIMALS

45 SECTION 280.00 DEFINITIONS.

46 280.05 PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE.

47 280.10 PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE.

48 280.20 ANIMAL CRUELTY IN THE SECOND DEGREE.

49 280.25 ANIMAL CRUELTY IN THE FIRST DEGREE.

50 280.30 UNLAWFUL DEALING WITH ANIMALS USED FOR RACING, BREEDING,
51 OR COMPETITIVE EXHIBITION OF SKILL, BREED OR STAMINA.

52 280.35 ENDANGERING THE WELFARE OF ANIMALS.

53 280.40 ANIMAL ABDUCTION IN THE THIRD DEGREE.

54 280.45 ANIMAL ABDUCTION IN THE SECOND DEGREE.

55 280.50 ANIMAL ABDUCTION IN THE FIRST DEGREE.

280.55 UNAUTHORIZED POSSESSION OF ANIMAL PRESUMPTIVE EVIDENCE OF
RESTRAINT AND ABDUCTION.

280.60 APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.

280.65 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES; EXTREME
TEMPERATURES.

280.70 LEAVING NEW YORK STATE TO AVOID PROVISIONS OF THIS ARTI-
CLE.

280.75 EVIDENTIARY AND IMPOUNDMENT PROCEDURES BY MEMBERS OF LAW
ENFORCEMENT.

280.80 SPECIAL SENTENCING PROVISIONS APPLICABLE.

S 280.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "ANIMAL" INCLUDES EVERY LIVING CREATURE EXCEPT A HUMAN BEING.

2. "CRUELTY" INCLUDES EVERY ACT, OMISSION, OR NEGLECT, WHEREBY UNJUS-
TIFIABLE PHYSICAL PAIN, SUFFERING OR DEATH IS CAUSED OR PERMITTED AND
SHALL INCLUDE BUT NOT BE LIMITED TO, ANY ACT OF OVERDRIVING, OVERLOAD-
ING, INJURING, MAIMING, MUTILATING, OR KILLING AN ANIMAL.

3. "AGGRAVATED CRUELTY" SHALL MEAN AN ACT OF CRUELTY THAT IS DONE OR
CARRIED OUT IN A DEPRAVED OR SADISTIC MANNER.

4. "TORTURE" MEANS CONDUCT THAT IS INTENDED TO CAUSE EXTREME PAIN.

5. "ADOPTION" MEANS THE DELIVERY OF ANY ANIMAL, SEIZED OR SURRENDERED,
TO ANY NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR THE LIMITED
PURPOSE OF HARBORING SUCH ANIMAL AS A PET.

6. "FARM ANIMAL" MEANS ANY UNGULATE, POULTRY, SPECIES OF CATTLE,
SHEEP, SWINE, GOATS, LLAMAS, HORSES OR FUR-BEARING ANIMALS, AS DEFINED
IN SECTION 11-1907 OF THE ENVIRONMENTAL CONSERVATION LAW, WHICH ARE
RAISED FOR COMMERCIAL OR SUBSISTENCE PURPOSES. "FUR-BEARING ANIMAL"
SHALL NOT INCLUDE DOGS OR CATS.

7. "COMPANION ANIMAL" OR "PET" MEANS ANY DOG OR CAT, AND SHALL ALSO
MEAN ANY OTHER DOMESTICATED ANIMAL NORMALLY MAINTAINED IN OR NEAR THE
HOUSEHOLD OF THE OWNER OR PERSON WHO CARES FOR SUCH OTHER DOMESTICATED
ANIMAL. "COMPANION ANIMAL" OR "PET" SHALL NOT INCLUDE A "FARM ANIMAL" AS
DEFINED IN THIS SECTION.

8. "ANIMAL FIGHTING" SHALL MEAN ANY FIGHT BETWEEN COCKS OR OTHER
BIRDS, OR BETWEEN DOGS, BULLS, BEARS OR ANY OTHER ANIMALS, OR BETWEEN
ANY SUCH ANIMAL AND A PERSON OR PERSONS, EXCEPT IN EXHIBITIONS OF A KIND
COMMONLY FEATURED AT RODEOS.

9. "ABANDONS" MEANS ANY ACTION TAKEN THAT REFLECTS WILLFUL DEPARTURE
FROM THE OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OF AN
ANIMAL, WITHOUT MAKING ADEQUATE PROVISIONS FOR THE ANIMAL'S FUTURE CARE.

10. "RESTRAIN" MEANS TO RESTRICT AN ANIMAL'S MOVEMENTS INTENTIONALLY
AND UNLAWFULLY IN SUCH MANNER AS TO INTERFERE SUBSTANTIALLY WITH ITS
LIBERTY BY MOVING IT FROM ONE PLACE TO ANOTHER, OR BY CONFINING IT
EITHER IN THE PLACE WHERE THE RESTRICTION COMMENCES OR IN A PLACE TO
WHICH IT HAS BEEN MOVED, WITH KNOWLEDGE THAT THE RESTRICTION IS UNLAW-
FUL.

11. "ABDUCT" MEANS TO RESTRAIN AN ANIMAL WITH INTENT TO PREVENT ITS
LIBERATION BY SECRETING OR HOLDING IT IN A PLACE WHERE IT IS NOT LIKELY
TO BE FOUND.

S 280.05 PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE.

A PERSON IS GUILTY OF PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE
WHEN SUCH PERSON:

1. OWNS, POSSESSES, OR KEEPS ANY ANIMAL UNDER ANY CIRCUMSTANCE EVINCING
AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING; OR

2. PAYS AN ADMISSION FEE, MAKES A WAGER, OR IS OTHERWISE PRESENT AT ANY PLACE WHERE AN EXHIBITION OF ANIMAL FIGHTING IS BEING CONDUCTED, AND SUCH PERSON HAS KNOWLEDGE THAT SUCH AN EXHIBITION IS BEING CONDUCTED.

PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 280.10 PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE.

A PERSON IS GUILTY OF PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE WHEN SUCH PERSON:

1. INTENTIONALLY CAUSES AN ANIMAL TO ENGAGE IN ANIMAL FIGHTING; OR

2. TRAINS AN ANIMAL UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING; OR

3. BREEDS, TRANSFERS, SELLS OR OFFERS FOR SALE AN ANIMAL UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING; OR

4. PERMITS ANY ACT DESCRIBED IN SUBDIVISION ONE, TWO OR THREE OF THIS SECTION TO OCCUR ON PREMISES UNDER HIS OR HER CONTROL; OR

5. OWNS, POSSESSES OR KEEPS ANY ANIMAL ON PREMISES WHERE AN EXHIBITION OF ANIMAL FIGHTING IS BEING CONDUCTED UNDER CIRCUMSTANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING.

PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE IS A CLASS D FELONY.

S 280.20 ANIMAL CRUELTY IN THE SECOND DEGREE.

A PERSON IS GUILTY OF ANIMAL CRUELTY IN THE SECOND DEGREE WHEN:

1. HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, HE OR SHE DEPRIVES SUCH ANIMAL OF, OR NEGLECTS TO FURNISH SUCH ANIMAL WITH, NUTRITION, HYDRATION, VETERINARY CARE, OR SHELTER ADEQUATE TO MAINTAIN THE ANIMAL'S HEALTH AND COMFORT, OR CAUSES, PROCURES, OR PERMITS SUCH ANIMAL TO BE DEPRIVED OF NUTRITION, HYDRATION, VETERINARY CARE, OR SHELTER ADEQUATE TO MAINTAIN THE ANIMAL'S HEALTH AND COMFORT, AND HE OR SHE KNOWS OR REASONABLY SHOULD KNOW THAT SUCH ANIMAL IS NOT RECEIVING ADEQUATE NUTRITION, HYDRATION, VETERINARY CARE, OR SHELTER ADEQUATE TO MAINTAIN THE ANIMAL'S HEALTH AND COMFORT; OR

2. HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OF AN ANIMAL, HE OR SHE ABANDONS SUCH ANIMAL; OR

3. HAVING NO JUSTIFIABLE PURPOSE, HE OR SHE KNOWINGLY INSTIGATES, ENGAGES IN, OR IN ANY WAY FURTHERS CRUELTY TO AN ANIMAL, OR ANY ACT TENDING TO PRODUCE SUCH CRUELTY; OR

4. HAVING NO JUSTIFIABLE PURPOSE, HE OR SHE ADMINISTERS OR EXPOSES ANY POISONOUS OR NOXIOUS DRUG OR SUBSTANCE TO AN ANIMAL, WITH INTENT THAT THE ANIMAL TAKE THE SAME AND WITH INTENT TO INJURE THE ANIMAL.

NOTHING HEREIN CONTAINED 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 COMMISSIONER OF HEALTH. THE 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 COMMISSIONER OF HEALTH OR HIS OR HER 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.

ANIMAL CRUELTY IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 280.25 ANIMAL CRUELTY IN THE FIRST DEGREE.

A PERSON IS GUILTY OF ANIMAL CRUELTY IN THE FIRST DEGREE WHEN:

1 1. HAVING NO JUSTIFIABLE PURPOSE AND WITH INTENT TO CAUSE THE DEATH OF
2 A COMPANION ANIMAL, HE OR SHE CAUSES THE DEATH OF SUCH ANIMAL; OR

3 2. HAVING NO JUSTIFIABLE PURPOSE AND WITH INTENT TO CAUSE SERIOUS
4 PHYSICAL INJURY TO A COMPANION ANIMAL, HE OR SHE CAUSES SUCH INJURY TO
5 SUCH ANIMAL; OR

6 3. HAVING NO JUSTIFIABLE PURPOSE, HE OR SHE INTENTIONALLY TORTURES AN
7 ANIMAL OR KNOWINGLY INSTIGATES, ENGAGES IN, OR IN ANY WAY FURTHERS
8 AGGRAVATED CRUELTY TO AN ANIMAL, OR ANY ACT TENDING TO PRODUCE SUCH
9 AGGRAVATED CRUELTY; OR

10 4. COMMITS THE CRIME OF ANIMAL CRUELTY IN THE SECOND DEGREE IN
11 VIOLATION OF SUBDIVISION FOUR OF SECTION 280.20 AND SUCH ANIMAL IS A
12 HORSE, MULE, OR DOMESTIC CATTLE; OR

13 5. COMMITS THE CRIME OF ANIMAL CRUELTY IN THE SECOND DEGREE IN
14 VIOLATION OF SECTION 280.20 OF THIS ARTICLE AND HAS PREVIOUSLY BEEN
15 CONVICTED, WITHIN THE PRECEDING TEN YEARS, OF ANIMAL CRUELTY IN THE
16 SECOND DEGREE.

17 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR
18 INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,
19 OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVA-
20 TION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN
21 ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS
22 POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS
23 OTHERWISE LEGALLY AUTHORIZED, OR ANY PROPERLY CONDUCTED SCIENTIFIC
24 TESTS, EXPERIMENTS, OR INVESTIGATIONS INVOLVING THE USE OF LIVING
25 ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS APPROVED
26 FOR SUCH PURPOSES BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION
27 280.20 OF THIS ARTICLE.

28 ANIMAL CRUELTY IN THE FIRST DEGREE IS A CLASS D FELONY.

29 S 280.30 UNLAWFUL DEALING WITH ANIMALS USED FOR RACING, BREEDING, OR
30 COMPETITIVE EXHIBITION OF SKILL, BREED OR STAMINA.

31 A PERSON IS GUILTY OF UNLAWFUL DEALING WITH ANIMALS USED FOR RACING,
32 BREEDING, OR COMPETITIVE EXHIBITION OF SKILL, BREED, OR STAMINA WHEN
33 SUCH PERSON:

34 1. COMMITS THE CRIME OF ANIMAL CRUELTY IN THE SECOND DEGREE IN
35 VIOLATION OF SECTION 280.20 OF THIS ARTICLE, AND SUCH ANIMAL IS AN
36 ANIMAL USED FOR THE PURPOSES OF RACING, BREEDING OR COMPETITIVE EXHIBI-
37 TION OF SKILL, BREED, OR STAMINA; OR

38 2. INTERFERES WITH, INJURES, DESTROYS, OR TAMPERS WITH ANY ANIMAL USED
39 FOR THE PURPOSES OF RACING, BREEDING, OR COMPETITIVE EXHIBITION OF
40 SKILL, BREED, OR STAMINA.

41 UNLAWFUL DEALING WITH ANIMALS USED FOR RACING, BREEDING OR COMPETITIVE
42 EXHIBITION OF SKILL, BREED OR STAMINA IS A CLASS E FELONY.

43 S 280.35 ENDANGERING THE WELFARE OF ANIMALS.

44 A PERSON IS GUILTY OF ENDANGERING THE WELFARE OF ANIMALS WHEN, WITH
45 THE INTENT TO CAUSE INJURY TO AN ANIMAL, OR RECKLESSLY CREATING A RISK
46 THEREOF, SUCH PERSON:

47 1. CREATES A HAZARDOUS OR PHYSICALLY OFFENSIVE CONDITION FOR ANY
48 ANIMAL BY ANY ACT THAT SERVES NO LEGITIMATE PURPOSE; OR

49 2. THROWS, DROPS OR PLACES, OR CAUSES TO BE THROWN, DROPPED OR PLACED
50 IN A PUBLIC PLACE, A SUBSTANCE THAT MIGHT WOUND, DISABLE, OR INJURE ANY
51 ANIMAL.

52 ENDANGERING THE WELFARE OF ANIMALS IS A VIOLATION.

53 S 280.40 ANIMAL ABDUCTION IN THE THIRD DEGREE.

54 A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE THIRD DEGREE WHEN SUCH
55 PERSON RESTRAINS A COMPANION ANIMAL WITHOUT THE CONSENT OF THE INDIVID-

UAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL.

ANIMAL ABDUCTION IN THE THIRD DEGREE IS A CLASS B MISDEMEANOR.

S 280.45 ANIMAL ABDUCTION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE SECOND DEGREE WHEN SUCH PERSON ABDUCTS A COMPANION ANIMAL WITHOUT THE CONSENT OF THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL.

ANIMAL ABDUCTION IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 280.50 ANIMAL ABDUCTION IN THE FIRST DEGREE.

A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE FIRST DEGREE WHEN SUCH PERSON ABDUCTS OR RESTRAINS A COMPANION ANIMAL WITHOUT THE CONSENT OF THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL, AND WHEN:

1. SUCH PERSON'S INTENT IS TO COMPEL THE PAYMENT OR DELIVERANCE OF MONEY OR PROPERTY AS RANSOM, OR TO ENGAGE IN OTHER PARTICULAR CONDUCT, OR TO REFRAIN FROM ENGAGING IN PARTICULAR CONDUCT; OR

2. SUCH PERSON CAUSES PHYSICAL INJURY TO THE COMPANION ANIMAL; OR

3. THE COMPANION ANIMAL DIES DURING THE ABDUCTION OR BEFORE IT IS ABLE TO RETURN OR BE RETURNED TO SAFETY. SUCH DEATH SHALL BE PRESUMED FROM EVIDENCE THAT THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL DID NOT SEE THE ANIMAL FOLLOWING THE TERMINATION OF THE ABDUCTION AND PRIOR TO TRIAL AND RECEIVED NO RELIABLE INFORMATION DURING SUCH PERIOD PERSUASIVELY INDICATING THAT SUCH ANIMAL WAS ALIVE.

ANIMAL ABDUCTION IN THE FIRST DEGREE IS A CLASS D FELONY.

S 280.55 UNAUTHORIZED POSSESSION OF ANIMAL PRESUMPTIVE EVIDENCE OF RESTRAINT AND ABDUCTION.

THE UNAUTHORIZED POSSESSION OF A COMPANION ANIMAL BY ANY PERSON WITHOUT THE CONSENT OF THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL, FOR A PERIOD EXCEEDING TEN DAYS, WITHOUT NOTIFYING EITHER SAID INDIVIDUAL, THE LOCAL POLICE AUTHORITIES, THE LOCAL MUNICIPAL SHELTER OR POUND OR THE OFFICE OF THE SUPERINTENDENT OF THE STATE POLICE LOCATED IN ALBANY, NEW YORK, OF SUCH POSSESSION, SHALL BE PRESUMPTIVE EVIDENCE OF RESTRAINT AND ABDUCTION.

S 280.60 APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.

1. FOR PURPOSES OF THIS SECTION:

(A) "PHYSICAL CONDITION" SHALL INCLUDE ANY SPECIAL MEDICAL NEEDS OF A DOG DUE TO DISEASE, ILLNESS, INJURY, AGE OR BREED ABOUT WHICH THE OWNER OR PERSON WITH CUSTODY OR CONTROL OF THE DOG SHOULD REASONABLY BE AWARE.

(B) "INCLEMENT WEATHER" SHALL MEAN WEATHER CONDITIONS THAT ARE LIKELY TO ADVERSELY AFFECT THE HEALTH OR SAFETY OF THE DOG, INCLUDING BUT NOT LIMITED TO RAIN, SLEET, ICE, SNOW, WIND, OR EXTREME HEAT AND COLD.

(C) "DOGS THAT ARE LEFT OUTDOORS" SHALL MEAN DOGS THAT ARE OUTDOORS IN INCLEMENT WEATHER WITHOUT READY ACCESS TO, OR THE ABILITY TO ENTER, A HOUSE, APARTMENT BUILDING, OFFICE BUILDING, OR ANY OTHER PERMANENT STRUCTURE THAT COMPLIES WITH THE STANDARDS ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION.

2. (A) ANY PERSON WHO OWNS OR HAS CUSTODY OR CONTROL OF A DOG THAT IS LEFT OUTDOORS SHALL PROVIDE IT WITH SHELTER APPROPRIATE TO ITS BREED, PHYSICAL CONDITION AND CLIMATE. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS FOR A FIRST OFFENSE, AND A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND AND SUBSEQUENT OFFENSE.

BEGINNING SEVENTY-TWO HOURS AFTER A CHARGE OF VIOLATING THIS SECTION, EACH DAY THAT A DEFENDANT FAILS TO CORRECT THE DEFICIENCIES IN THE DOG SHELTER FOR A DOG THAT HE OR SHE OWNS OR THAT IS IN HIS OR HER CUSTODY OR CONTROL AND THAT IS LEFT OUTDOORS, SO AS TO BRING IT INTO COMPLIANCE WITH THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A SEPARATE OFFENSE.

(B) THE COURT MAY, IN ITS DISCRETION, REDUCE THE AMOUNT OF ANY FINE IMPOSED FOR A VIOLATION OF THIS SECTION BY THE AMOUNT WHICH THE DEFENDANT PROVES HE OR SHE HAS SPENT PROVIDING A DOG SHELTER OR REPAIRING AN EXISTING DOG SHELTER SO THAT IT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION. NOTHING IN THIS PARAGRAPH SHALL PREVENT THE SEIZURE OF A DOG FOR A VIOLATION OF THIS SECTION PURSUANT TO THE AUTHORITY GRANTED IN THIS ARTICLE.

3. MINIMUM STANDARDS FOR DETERMINING WHETHER SHELTER IS APPROPRIATE TO A DOG'S BREED, PHYSICAL CONDITION AND THE CLIMATE SHALL INCLUDE:

(A) FOR DOGS THAT ARE RESTRAINED IN ANY MANNER OUTDOORS, SHADE BY NATURAL OR ARTIFICIAL MEANS TO PROTECT THE DOG FROM DIRECT SUNLIGHT AT ALL TIMES WHEN EXPOSURE TO SUNLIGHT IS LIKELY TO THREATEN THE HEALTH OF THE DOG.

(B) FOR ALL DOGS THAT ARE LEFT OUTDOORS IN INCLEMENT WEATHER, A HOUSING FACILITY, WHICH MUST: (1) HAVE A WATERPROOF ROOF; (2) BE STRUCTURALLY SOUND WITH INSULATION APPROPRIATE TO LOCAL CLIMATIC CONDITIONS AND SUFFICIENT TO PROTECT THE DOG FROM INCLEMENT WEATHER; (3) BE CONSTRUCTED TO ALLOW EACH DOG ADEQUATE FREEDOM OF MOVEMENT TO MAKE NORMAL POSTURAL ADJUSTMENTS, INCLUDING THE ABILITY TO STAND UP, TURN AROUND AND LIE DOWN WITH ITS LIMBS OUTSTRETCHED; AND (4) ALLOW FOR EFFECTIVE REMOVAL OF EXCRETIONS, OTHER WASTE MATERIAL, DIRT AND TRASH. THE HOUSING FACILITY AND THE AREA IMMEDIATELY SURROUNDING IT SHALL BE REGULARLY CLEANED TO MAINTAIN A HEALTHY AND SANITARY ENVIRONMENT AND TO MINIMIZE HEALTH HAZARDS.

4. INADEQUATE SHELTER MAY BE INDICATED BY THE APPEARANCE OF THE HOUSING FACILITY ITSELF, INCLUDING BUT NOT LIMITED TO, SIZE, STRUCTURAL SOUNDNESS, EVIDENCE OF CROWDING WITHIN THE HOUSING FACILITY, HEALTHFUL ENVIRONMENT IN THE AREA IMMEDIATELY SURROUNDING SUCH FACILITY, OR BY THE APPEARANCE OR PHYSICAL CONDITION OF THE DOG.

5. UPON A FINDING OF ANY VIOLATION OF THIS SECTION, ANY DOG OR DOGS SEIZED PURSUANT TO THE PROVISIONS OF THIS ARTICLE THAT HAVE NOT BEEN VOLUNTARILY SURRENDERED BY THE OWNER OR CUSTODIAN OR FORFEITED PURSUANT TO COURT ORDER SHALL BE RETURNED TO THE OWNER OR CUSTODIAN ONLY UPON PROOF THAT APPROPRIATE SHELTER AS REQUIRED BY THIS SECTION IS BEING PROVIDED.

6. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY PROTECTIONS AFFORDED TO DOGS OR OTHER ANIMALS UNDER ANY OTHER PROVISIONS OF THIS ARTICLE.

S 280.65 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES; EXTREME TEMPERATURES.

1. A PERSON SHALL NOT CONFINE A COMPANION ANIMAL IN A MOTOR VEHICLE IN EXTREME HEAT OR COLD WITHOUT PROPER VENTILATION OR OTHER PROTECTION FROM SUCH EXTREME TEMPERATURES WHERE SUCH CONFINEMENT PLACES THE COMPANION ANIMAL IN IMMINENT DANGER OF DEATH OR SERIOUS PHYSICAL INJURY DUE TO EXPOSURE TO SUCH EXTREME HEAT OR COLD.

2. WHERE THE OPERATOR OF SUCH A VEHICLE CANNOT BE PROMPTLY LOCATED, A POLICE OFFICER, PEACE OFFICER, OR PEACE OFFICER ACTING AS AN AGENT OF A DULY INCORPORATED HUMANE SOCIETY MAY TAKE NECESSARY STEPS TO REMOVE THE ANIMAL OR ANIMALS FROM THE VEHICLE.

3. POLICE OFFICERS, PEACE OFFICERS OR PEACE OFFICERS ACTING AS AGENTS OF A DULY INCORPORATED HUMANE SOCIETY REMOVING AN ANIMAL OR ANIMALS FROM

1 A VEHICLE PURSUANT TO THIS SECTION SHALL PLACE A WRITTEN NOTICE ON OR IN
2 THE VEHICLE, BEARING THE NAME OF THE OFFICER OR AGENT, AND THE DEPART-
3 MENT OR AGENCY AND ADDRESS WHERE THE ANIMAL OR ANIMALS WILL BE TAKEN.

4 4. AN ANIMAL OR ANIMALS REMOVED FROM A VEHICLE PURSUANT TO THIS
5 SECTION SHALL, AFTER RECEIPT OF ANY NECESSARY EMERGENCY VETERINARY
6 TREATMENT, BE DELIVERED TO THE DULY INCORPORATED HUMANE SOCIETY OR SOCI-
7 ETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR DESIGNATED AGENT THERE-
8 OF, IN THE JURISDICTION WHERE THE ANIMAL OR ANIMALS WERE SEIZED.

9 5. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE
10 OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY A FINE OF
11 NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS FOR A
12 FIRST OFFENSE, AND A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE
13 THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND AND SUBSEQUENT OFFENSES.

14 6. OFFICERS SHALL NOT BE HELD CRIMINALLY OR CIVILLY LIABLE FOR ACTIONS
15 TAKEN REASONABLY AND IN GOOD FAITH IN CARRYING OUT THE PROVISIONS OF
16 THIS SECTION.

17 7. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY
18 OTHER PROTECTIONS AFFORDED TO COMPANION ANIMALS UNDER ANY OTHER
19 PROVISIONS OF THIS ARTICLE.

20 S 280.70 LEAVING NEW YORK STATE TO AVOID PROVISIONS OF THIS ARTICLE.

21 A PERSON WHO LEAVES THIS STATE WITH INTENT TO ELUDE ANY OF THE
22 PROVISIONS OF THIS ARTICLE OR TO COMMIT ANY ACT OUT OF THIS STATE WHICH
23 IS PROHIBITED BY THEM OR WHO, BEING A RESIDENT OF THIS STATE, DOES ANY
24 ACT WITHOUT THIS STATE, PURSUANT TO SUCH INTENT, WHICH WOULD BE PUNISHA-
25 BLE UNDER SUCH PROVISIONS, IF COMMITTED WITHIN THIS STATE, IS PUNISHABLE
26 IN THE SAME MANNER AS IF SUCH ACT HAD BEEN COMMITTED WITHIN THIS STATE.

27 S 280.75 EVIDENTIARY AND IMPOUNDMENT PROCEDURES BY MEMBERS OF LAW
28 ENFORCEMENT.

29 MATTERS RELATING TO THE SEIZURE, ADOPTION, CARE, DISPOSITION AND
30 DESTRUCTION OF ANIMALS BY MEMBERS OF LAW ENFORCEMENT AND MEMBERS OF A
31 DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS
32 CHARGED TO ENFORCE THIS ARTICLE, ANCILLARY TO SUCH ENFORCEMENT OF THIS
33 ARTICLE, SHALL BE GOVERNED BY ARTICLE TWENTY-SIX OF THE AGRICULTURE AND
34 MARKETS LAW AND ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE
35 LAW.

36 S 280.80 SPECIAL SENTENCING PROVISIONS APPLICABLE.

37 IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE SENTENCING
38 PROVISIONS CONTAINED IN SECTION THREE HUNDRED EIGHTY OF THE AGRICULTURE
39 AND MARKETS LAW SHALL BE APPLICABLE TO VIOLATIONS OF THIS ARTICLE.

40 S 10. The penal law is amended by adding a new section 60.22 to read
41 as follows:

42 S 60.22 AUTHORIZED DISPOSITIONS; PROMOTING ANIMAL FIGHTING.

43 WHEN A PERSON IS CONVICTED OF AN OFFENSE DEFINED IN SECTION 280.05 OF
44 THIS CHAPTER, IN ADDITION TO THE OTHER PENALTIES AS PROVIDED IN THIS
45 CHAPTER, THE COURT MAY IMPOSE A FINE WHICH SHALL NOT EXCEED FIFTEEN
46 THOUSAND DOLLARS. WHEN A PERSON IS CONVICTED OF AN OFFENSE DEFINED IN
47 SECTION 280.10 OF THIS CHAPTER, THE COURT MAY IMPOSE A FINE WHICH SHALL
48 NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS.

49 S 11. Paragraph (c) of subdivision 1 of section 70.02 of the penal
50 law, as amended by chapter 405 of the laws of 2010, is amended to read
51 as follows:

52 (c) Class D violent felony offenses: an attempt to commit any of the
53 class C felonies set forth in paragraph (b); reckless assault of a child
54 as defined in section 120.02, assault in the second degree as defined in
55 section 120.05, menacing a police officer or peace officer as defined in
56 section 120.18, stalking in the first degree, as defined in subdivision

1 one of section 120.60, strangulation in the second degree as defined in
2 section 121.12, rape in the second degree as defined in section 130.30,
3 criminal sexual act in the second degree as defined in section 130.45,
4 sexual abuse in the first degree as defined in section 130.65, course of
5 sexual conduct against a child in the second degree as defined in
6 section 130.80, aggravated sexual abuse in the third degree as defined
7 in section 130.66, facilitating a sex offense with a controlled
8 substance as defined in section 130.90, criminal possession of a weapon
9 in the third degree as defined in subdivision five, six, seven or eight
10 of section 265.02, criminal sale of a firearm in the third degree as
11 defined in section 265.11, intimidating a victim or witness in the
12 second degree as defined in section 215.16, soliciting or providing
13 support for an act of terrorism in the second degree as defined in
14 section 490.10, and making a terroristic threat as defined in section
15 490.20, falsely reporting an incident in the first degree as defined in
16 section 240.60, placing a false bomb or hazardous substance in the first
17 degree as defined in section 240.62, placing a false bomb or hazardous
18 substance in a sports stadium or arena, mass transportation facility or
19 enclosed shopping mall as defined in section 240.63, [and] aggravated
20 unpermitted use of indoor pyrotechnics in the first degree as defined in
21 section 405.18, AND ANIMAL CRUELTY IN THE FIRST DEGREE AS DEFINED IN
22 SUBDIVISION ONE, TWO OR THREE OF SECTION 280.25.

23 S 12. Section 195.06 of the penal law, as added by chapter 42 of the
24 laws of 1986, is amended to read as follows:

25 S 195.06 Killing or injuring a police animal.

26 A person is guilty of killing or injuring a police animal when such
27 person intentionally kills or injures any animal while such animal is in
28 the performance of its duties and under the supervision of a police or
29 peace officer.

30 Killing or injuring a police animal is a class [A misdemeanor] D Felo-
31 NY.

32 S 13. Section 195.11 of the penal law, as added by chapter 344 of the
33 laws of 1989, is amended to read as follows:

34 S 195.11 Harming an animal trained to aid a person with a disability in
35 the second degree.

36 A person is guilty of harming an animal trained to aid a person with a
37 disability in the second degree when such person intentionally causes
38 physical injury to such animal while it is in the performance of aiding
39 a person with a disability, and thereby renders such animal incapable of
40 providing such aid to such person, or to another person with a disabili-
41 ty.

42 For purposes of this section and section 195.12 of this article, the
43 term "disability" means "disability" as defined in subdivision twenty-
44 one of section two hundred ninety-two of the executive law.

45 Harming an animal trained to aid a person with a disability in the
46 second degree is a class [B] A misdemeanor.

47 S 14. Section 195.12 of the penal law, as added by chapter 344 of the
48 laws of 1989, is amended to read as follows:

49 S 195.12 Harming an animal trained to aid a person with a disability in
50 the first degree.

51 A person is guilty of harming an animal trained to aid a person with a
52 disability in the first degree when such person:

53 1. intentionally causes physical injury to such animal while it is in
54 the performance of aiding a person with a disability, and thereby
55 renders such animal permanently incapable of providing such aid to such
56 person, or to another person with a disability; or

1 2. intentionally kills such animal while it is in the performance of
2 aiding a person with a disability.

3 Harming an animal trained to aid a person with a disability in the
4 first degree is a class [A misdemeanor] D FELONY.

5 S 15. Subdivision 2 of section 265.01 of the penal law, as amended by
6 chapter 220 of the laws of 1988, is amended to read as follows:

7 (2) He OR SHE possesses any dagger, dangerous knife, dirk, razor,
8 stiletto, imitation pistol, or any other dangerous or deadly instrument
9 or weapon with intent to use the same unlawfully against another PERSON
10 OR ANIMAL; or

11 S 16. Severability clause. If any clause, sentence, paragraph, subdi-
12 vision, section or part of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or part thereof directly involved in the controversy in which such judg-
17 ment shall have been rendered. It is hereby declared to be the intent of
18 the legislature that this act would have been enacted even if such
19 invalid provisions had not been included herein.

20 S 17. This act shall take effect on the first of November next
21 succeeding the date on which it shall have become a law.