

775--B

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, MONTESANO, MILLMAN, TENNEY, HENNESSEY, ENGLEBRIGHT, FAHY, JAFFEE, COLTON, SKOUFIS, OTIS, THIELE, CURRAN -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, GARBARINO, HEVESI, LUPARDO, McDONALD, SCHIMEL, SKARTADOS, SOLAGES, STECK, WALTER -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Agriculture in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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 SPECIFICALLY INCLUDE, BUT NOT BE LIMITED
11 TO, ANY ACT OF OVERDRIVING, OVERLOADING, INJURING, MAIMING, MUTILATING
12 OR KILLING AN ANIMAL.

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

LBD01445-11-4

1 3. "TORTURE" MEANS CONDUCT THAT IS INTENDED TO CAUSE EXTREME PHYSICAL
2 PAIN.

3 4. "Adoption" means the delivery [to any natural person eighteen years
4 of age or older, for the limited purpose of harboring a pet, of any dog
5 or cat, seized or surrendered] OF ANY ANIMAL FORFEITED, SEIZED OR
6 SURRENDERED, TO ANY NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR
7 THE PURPOSE OF THAT PERSON PERMANENTLY HARBORING SUCH ANIMAL AS A PET.

8 [4]5. "Farm animal", as used in this article, means any ungulate,
9 poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-
10 bearing animals, as defined in section 11-1907 of the environmental
11 conservation law, which are raised for commercial or subsistence
12 purposes. Fur-bearing animal, AS REFERENCED IN THIS ARTICLE, shall not
13 include dogs or cats.

14 [5]6. "Companion animal" or "pet" means any dog or cat, and shall also
15 mean any other domesticated animal normally maintained in or near the
16 household of the owner or person who cares for such other domesticated
17 animal. ["Pet" or "companion"] "COMPANION animal" OR "PET" shall not
18 include a "farm animal" as defined in this section.

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

23 8. "DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO
24 ANIMALS," AS USED IN THIS ARTICLE, SHALL MEAN A CORPORATION CONSTITUTED
25 PURSUANT TO THE PROVISIONS OF SUBDIVISION (G) OF SECTION FOUR HUNDRED
26 FOUR AND SECTION FOURTEEN HUNDRED THREE OF THE NOT-FOR-PROFIT CORPO-
27 RATION LAW.

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

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

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

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

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

45 [4.] 3. Nothing herein contained shall be construed as preventing any
46 dog whose ear or ears shall have been clipped or cut off wholly or in
47 part, not in violation of this section, from being imported into the
48 state exclusively for breeding purposes.

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

51 S 369. Interference with officers. Any person who shall interfere with
52 or obstruct any constable or police officer or any officer or agent of
53 any duly incorporated society for the prevention of cruelty to animals
54 in the discharge of his duty to enforce the laws relating to animals,
55 INCLUDING THOSE PROVISIONS CONTAINED IN ARTICLE TWO HUNDRED EIGHTY OF
56 THE PENAL LAW, shall be guilty of a misdemeanor, punishable by imprison-

1 ment for not more than one year, or by a fine of not more than one thou-
2 sand dollars, or by both.

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

5 S 371. Powers of peace officers. A constable or police officer must,
6 and any agent or officer of any duly incorporated society for the
7 prevention of cruelty to animals may issue an appearance ticket pursuant
8 to section 150.20 of the criminal procedure law, summon or arrest, and
9 bring before a court or magistrate having jurisdiction, any person
10 offending against any of the provisions of article twenty-six of the
11 agriculture and markets law OR ANY PROVISIONS OF ARTICLE TWO HUNDRED
12 EIGHTY OF THE PENAL LAW. Any officer or agent of any of said societies
13 may lawfully interfere to prevent the perpetration of any act of cruelty
14 upon any animal in his OR HER presence. Any of said societies may prefer
15 a complaint before any court, tribunal or magistrate having jurisdic-
16 tion, for the violation of any law relating to or affecting animals and
17 may aid in presenting the law and facts before such court, tribunal or
18 magistrate in any proceeding taken.

19 S 6. Subdivision 6 of section 373 of the agriculture and markets law,
20 as amended by chapter 256 of the laws of 1997, paragraph a and subpara-
21 graph 1 of paragraph b as amended by chapter 531 of the laws of 2013,
22 subparagraph 2 of paragraph b as amended by section 24 of part T of
23 chapter 59 of the laws of 2010, is amended to read as follows:

24 6. a. If any animal is seized [and] OR impounded pursuant to the
25 provisions of this section[, section three hundred fifty-three-d of this
26 article] or section three hundred seventy-five of this article, OR
27 PURSUANT TO THE PROVISIONS OF ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL
28 PROCEDURE LAW, for any violation of this article, ANY VIOLATION OF ARTI-
29 CLE TWO HUNDRED EIGHTY OF THE PENAL LAW, OR IN CONNECTION WITH THE
30 ARREST ON AN ANIMAL CRUELTY OFFENSE, THEN, upon arraignment of charges,
31 or within a reasonable time thereafter, [the] A duly incorporated socie-
32 ty for the prevention of cruelty to animals, humane society, pound,
33 animal shelter, SHERIFF, MUNICIPAL POLICE DEPARTMENT, OR DISTRICT ATTOR-
34 NEY, or any authorized agents thereof, hereinafter referred to for the
35 purposes of this section as the "impounding organization", may file a
36 petition with the court requesting that the person from whom an animal
37 is seized or the owner of the animal be ordered to post a security. The
38 district attorney prosecuting the charges may file and obtain the
39 requested relief on behalf of the impounding organization if requested
40 to do so by the impounding organization. The security shall be in an
41 amount sufficient to secure payment for all reasonable expenses expected
42 to be incurred by the impounding organization in caring and providing
43 for the animal pending disposition of the charges. Reasonable expenses
44 shall include, but not be limited to, estimated medical care and board-
45 ing of the animal for at least thirty days. The amount of the security,
46 if any, shall be determined by the court after taking into consideration
47 all of the facts and circumstances of the case including, but not limit-
48 ed to the recommendation of the impounding organization having custody
49 and care of the seized animal and the cost of caring for the animal. If
50 a security has been posted in accordance with this section, the impound-
51 ing organization may draw from the security the actual reasonable costs
52 to be incurred by such organization in caring for the seized animal.

53 b. (1) Upon receipt of a petition pursuant to paragraph a of this
54 subdivision the court shall set a hearing on the petition to be
55 conducted within ten business days of the filing of such petition. The
56 petitioner shall serve a true copy of the petition upon the defendant

1 and the district attorney if the district attorney has not filed the
2 petition on behalf of the petitioner. The petitioner shall also serve a
3 true copy of the petition on any interested person. For purposes of this
4 subdivision, interested person shall mean an individual, partnership,
5 firm, joint stock company, corporation, association, trust, estate or
6 other legal entity who the court determines may have a pecuniary inter-
7 est in the animal which is the subject of the petition. The petitioner
8 or the district attorney acting on behalf of the petitioner, shall have
9 the burden of proving by a preponderance of the evidence that the person
10 from whom the animal was seized violated a provision of this article.
11 The court may waive for good cause shown the posting of security.

12 (2) If the court orders the posting of a security, the security shall
13 be posted with the clerk of the court within five business days of the
14 hearing provided for in subparagraph one of this paragraph. The court
15 may order the immediate forfeiture of the seized animal to the impound-
16 ing organization if the person ordered to post the security fails to do
17 so. Any animal forfeited shall be made available for adoption or euthan-
18 ized subject to subdivision seven-a of section one hundred seventeen of
19 this chapter or section three hundred seventy-four of this article.

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

41 (4) Nothing in this section shall be construed to limit or restrict in
42 any way the rights of a secured party having a security interest in any
43 animal described in this section. This section expressly does not impair
44 or subordinate the rights of such a secured lender having a security
45 interest in the animal or in the proceeds from the sale of such animal.

46 c. In no event shall the security prevent the impounding organization
47 having custody and care of the animal from disposing of the animal
48 pursuant to section three hundred seventy-four of this article prior to
49 the expiration of the thirty day period covered by the security if the
50 court makes a determination of the charges against the person from whom
51 the animal was seized prior thereto. Upon receipt of a petition from the
52 impounding organization, the court may order the person from whom the
53 animal was seized or the owner of the animal to post an additional secu-
54 rity with the clerk of the court to secure payment of reasonable
55 expenses for an additional period of time pending a determination by the
56 court of the charges against the person from whom the animal was seized.

1 The person who posted the security shall be entitled to a refund of the
2 security in whole or part for any expenses not incurred by such impound-
3 ing organization upon adjudication of the charges. The person who posted
4 the security shall be entitled to a full refund of the security, includ-
5 ing reimbursement by the impounding organization of any amount allowed
6 by the court to be expended, and the return of the animal seized and
7 impounded upon acquittal or dismissal of the charges, except where the
8 dismissal is based upon an adjournment in contemplation of dismissal
9 pursuant to section 215.30 of the criminal procedure law. The court
10 order directing such refund and reimbursement shall provide for payment
11 to be made within a reasonable time from the acquittal or dismissal of
12 charges.

13 S 7. Subdivision 8 of section 374 of the agriculture and markets law
14 is REPEALED.

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

17 S 380. SPECIAL SENTENCING PROVISIONS. IN ADDITION TO ANY OTHER PENAL-
18 TY PROVIDED BY LAW, UPON CONVICTION FOR ANY ANIMAL CRUELTY OFFENSE, THE
19 FOLLOWING SENTENCES MAY BE IMPOSED BY THE COURT:

20 1. THE CONVICTED PERSON MAY, AFTER A DULY HELD HEARING PURSUANT TO
21 SUBDIVISION SIX OF THIS SECTION, BE ORDERED BY THE COURT TO FORFEIT TO
22 AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE DEPARTMENT, DISTRICT
23 ATTORNEY, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO
24 ANIMALS, OR DULY INCORPORATED HUMANE SOCIETY, OR AUTHORIZED AGENTS THER-
25 EOF, THE ANIMAL OR ANIMALS WHICH ARE THE BASIS OF THE CONVICTION. UPON
26 SUCH AN ORDER OF FORFEITURE, THE CONVICTED PERSON SHALL BE DEEMED TO
27 HAVE RELINQUISHED ALL RIGHTS TO THE ANIMALS WHICH ARE THE BASIS OF THE
28 CONVICTION, EXCEPT THOSE GRANTED IN SUBDIVISION TWO OF THIS SECTION.

29 2. IN THE CASE OF FARM ANIMALS, THE COURT MAY, IN ADDITION TO THE
30 FORFEITURE TO AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE
31 DEPARTMENT, DISTRICT ATTORNEY, DULY INCORPORATED SOCIETY FOR THE
32 PREVENTION OF CRUELTY TO ANIMALS, OR DULY INCORPORATED HUMANE SOCIETY,
33 OR AUTHORIZED AGENTS THEREOF, AND SUBJECT TO THE RESTRICTIONS OF
34 SECTIONS THREE HUNDRED FIFTY-FOUR AND THREE HUNDRED FIFTY-SEVEN OF THIS
35 ARTICLE, ORDER THE FARM ANIMALS WHICH WERE THE BASIS OF THE CONVICTION
36 TO BE SOLD. IN NO CASE SHALL FARM ANIMALS WHICH ARE THE BASIS OF THE
37 CONVICTION BE REDEEMED BY THE CONVICTED PERSON WHO IS THE SUBJECT OF THE
38 ORDER OF FORFEITURE OR BY ANY PERSON CHARGED WITH AN ANIMAL CRUELTY
39 OFFENSE FOR CONSPIRING, AIDING, OR ABETTING IN THE UNLAWFUL ACT WHICH
40 WAS THE BASIS OF THE CONVICTION, OR OTHERWISE ACTING AS AN ACCOMPLICE,
41 IF SUCH CHARGE HAS NOT YET BEEN ADJUDICATED. THE COURT SHALL REIMBURSE
42 THE CONVICTED PERSON AND ANY DULY DETERMINED INTERESTED PERSONS, PURSU-
43 ANT TO SUBDIVISION SIX OF THIS SECTION, ANY MONEY EARNED BY THE SALE OF
44 THE FARM ANIMALS LESS ANY COSTS INCLUDING, BUT NOT LIMITED TO, VETERI-
45 NARY AND CUSTODIAL CARE, AND ANY FINES OR PENALTIES IMPOSED BY THE
46 COURT. THE COURT MAY ORDER THAT THE SUBJECT ANIMALS BE PROVIDED WITH
47 APPROPRIATE CARE AND TREATMENT PENDING THE HEARING AND THE DISPOSITION
48 OF THE CHARGES. ANY FARM ANIMAL ORDERED FORFEITED BUT NOT SOLD SHALL BE
49 REMANDED TO THE CUSTODY AND CHARGE OF AN ANIMAL SHELTER, POUND, SHERIFF,
50 MUNICIPAL POLICE DEPARTMENT, DISTRICT ATTORNEY, DULY INCORPORATED SOCIE-
51 TY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR DULY INCORPORATED HUMANE
52 SOCIETY, OR AUTHORIZED AGENTS THEREOF, AND DISPOSED OF PURSUANT TO
53 SUBDIVISION FIVE OF THIS SECTION.

54 3. THE COURT MAY ORDER THAT THE CONVICTED PERSON SHALL NOT OWN,
55 HARBOR, OR HAVE CUSTODY OR CONTROL OF ANY OTHER ANIMALS, OTHER THAN FARM
56 ANIMALS, FOR A PERIOD OF TIME WHICH THE COURT DEEMS REASONABLE. IN

1 MAKING ITS DETERMINATION OF WHAT PERIOD OF TIME IS REASONABLE, THE COURT
2 SHALL TAKE INTO ACCOUNT THE TOTALITY OF THE CIRCUMSTANCES BEFORE IT AND
3 BE BOUND TO NO SINGLE FACTOR. SUCH ORDER MUST BE IN WRITING AND SPECIF-
4 ICALLY STATE THE PERIOD OF TIME IMPOSED.

5 4. NO DOG OR CAT IN THE CUSTODY OF A DULY INCORPORATED SOCIETY FOR THE
6 PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE SOCIETY, OR
7 A POUND OR SHELTER, OR ITS AUTHORIZED AGENTS, SHALL BE USED, SOLD,
8 TRANSFERRED OR OTHERWISE MADE AVAILABLE TO ANY PERSON FOR THE PURPOSE OF
9 RESEARCH, EXPERIMENTATION OR TESTING. NO AUTHORIZED AGENT OF A DULY
10 INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, NOR OF A
11 DULY INCORPORATED HUMANE SOCIETY, SHALL USE ANY ANIMAL PLACED IN ITS
12 CUSTODY BY THE DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY
13 TO ANIMALS OR DULY INCORPORATED HUMANE SOCIETY FOR THE PURPOSE OF
14 RESEARCH, EXPERIMENTATION OR TESTING.

15 5. AN ANIMAL SHELTER, POUND, SHERIFF, MUNICIPAL POLICE DEPARTMENT,
16 DISTRICT ATTORNEY, OR DULY INCORPORATED SOCIETY FOR THE PREVENTION OF
17 CRUELTY TO ANIMALS OR A DULY INCORPORATED HUMANE SOCIETY IN CHARGE OF
18 ANIMALS FORFEITED PURSUANT TO SUBDIVISIONS ONE OR TWO IF THIS SECTION
19 MAY, IN ITS DISCRETION, LAWFULLY AND WITHOUT LIABILITY, ADOPT THEM TO
20 INDIVIDUALS OTHER THAN THE CONVICTED PERSON OR PERSON CHARGED WITH AN
21 ANIMAL CRUELTY OFFENSE FOR CONSPIRING, AIDING OR ABETTING IN THE UNLAW-
22 FUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR OTHERWISE ACTING AS AN
23 ACCOMPLICE, IF SUCH CHARGE HAS NOT YET BEEN ADJUDICATED, OR HUMANELY
24 DISPOSE OF THEM SUBJECT TO SECTION THREE HUNDRED SEVENTY-FOUR OF THIS
25 ARTICLE.

26 6. (A) PRIOR TO AN ORDER OF FORFEITURE OF FARM ANIMALS, A HEARING
27 SHALL BE HELD WITHIN THIRTY DAYS OF CONVICTION, TO DETERMINE THE PECUNI-
28 ARY INTERESTS OF ANY OTHER PERSON IN THE FARM ANIMALS WHICH WERE THE
29 BASIS OF THE CONVICTION. WRITTEN NOTICE SHALL BE SERVED AT LEAST FIVE
30 DAYS PRIOR TO THE HEARING UPON ALL INTERESTED PERSONS. IN ADDITION,
31 NOTICE SHALL BE MADE BY PUBLICATION IN A LOCAL NEWSPAPER AT LEAST SEVEN
32 DAYS PRIOR TO THE HEARING. FOR THE PURPOSES OF THIS SUBDIVISION, INTER-
33 ESTED PERSONS SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP, FIRM, JOINT STOCK
34 COMPANY, CORPORATION, ASSOCIATION, TRUST, ESTATE, OR OTHER LEGAL ENTITY
35 WHO THE COURT DETERMINES MAY HAVE A PECUNIARY INTEREST IN THE FARM
36 ANIMALS WHICH ARE THE SUBJECT OF THE FORFEITURE ACTION.

37 (B) ALL INTERESTED PERSONS SHALL BE PROVIDED AN OPPORTUNITY AT THE
38 HEARING TO REDEEM THEIR INTEREST AS DETERMINED BY THE COURT IN THE
39 SUBJECT FARM ANIMALS AND TO PURCHASE THE INTEREST OF THE CONVICTED
40 PERSON. THE CONVICTED PERSON SHALL BE ENTITLED TO BE REIMBURSED HIS OR
41 HER INTEREST IN THE FARM ANIMALS, LESS ANY COSTS, FINES OR PENALTIES
42 IMPOSED BY THE COURT, AS SPECIFIED UNDER SUBDIVISION TWO OF THIS
43 SECTION. IN NO CASE SHALL THE COURT AWARD CUSTODY OR CONTROL OF THE
44 ANIMALS TO ANY INTERESTED PERSON WHO CONSPIRED, AIDED OR ABETTED IN THE
45 UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR
46 SHOULD HAVE KNOWN OF THE UNLAWFUL ACT.

47 7. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN
48 ANY WAY THE RIGHTS OF A SECURED PARTY HAVING A SECURITY INTEREST IN ANY
49 FARM ANIMAL DESCRIBED IN THIS SECTION. THIS SECTION EXPRESSLY DOES NOT
50 IMPAIR OR SUBORDINATE THE RIGHTS OF SUCH A SECURED LENDER HAVING A SECU-
51 RITY INTEREST IN FARM ANIMALS OR IN THE PROCEEDS FROM THE SALE OF SUCH
52 FARM ANIMALS.

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

55 TITLE Q
56 OFFENSES AGAINST ANIMALS

ARTICLE 280

OFFENSES AGAINST ANIMALS

SECTION 280.00 DEFINITIONS.

280.05 PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE.

280.10 PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE.

280.20 ANIMAL CRUELTY IN THE SECOND DEGREE.

280.25 ANIMAL CRUELTY IN THE FIRST DEGREE.

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

280.35 ENDANGERING THE WELFARE OF ANIMALS.

280.40 ANIMAL ABDUCTION IN THE THIRD DEGREE.

280.45 ANIMAL ABDUCTION IN THE SECOND DEGREE.

280.50 ANIMAL ABDUCTION IN THE FIRST DEGREE.

280.55 UNAUTHORIZED POSSESSION OF ANIMAL PRESUMPTIVE EVIDENCE OF
RESTRAINT AND ABDUCTION.280.60 FAILURE TO PROVIDE APPROPRIATE SHELTER FOR DOGS LEFT
OUTDOORS.280.65 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES IN 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," AS USED IN THIS ARTICLE, INCLUDES EVERY LIVING CREATURE
EXCEPT A HUMAN BEING.2. "CRUELTY" INCLUDES EVERY ACT, OMISSION, OR NEGLECT, WHEREBY PHYS-
ICAL PAIN, SUFFERING OR DEATH IS CAUSED OR PERMITTED, AND SHALL SPECIF-
ICALLY INCLUDE ANY ACT OF OVERDRIVING, OVERLOADING, INJURING, MAIMING,
MUTILATING, OR KILLING OF AN ANIMAL.3. "AGGRAVATED CRUELTY" SHALL MEAN AN ACT OF CRUELTY THAT IS DONE OR
CARRIED OUT IN AN ESPECIALLY DEPRAVED OR SADISTIC MANNER.4. "TORTURE" MEANS CONDUCT THAT IS INTENDED TO CAUSE EXTREME PHYSICAL
PAIN.5. "ADOPTION" MEANS THE DELIVERY OF ANY ANIMAL, FORFEITED, SEIZED OR
SURRENDERED, TO ANY NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR
THE PURPOSE OF THAT PERSON PERMANENTLY HARBORING SUCH ANIMAL AS A PET.6. "FARM ANIMAL," AS USED IN THIS ARTICLE, MEANS ANY UNGULATE, POUL-
TRY, SPECIES OF CATTLE, SHEEP, SWINE, GOATS, LLAMAS, HORSES OR FUR-BEAR-
ING ANIMALS, AS DEFINED IN SECTION 11-1907 OF THE ENVIRONMENTAL CONSER-
VATION LAW, WHICH ARE RAISED FOR COMMERCIAL OR SUBSISTENCE PURPOSES.
FUR-BEARING ANIMAL, AS REFERENCED IN THIS SUBDIVISION, 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" MEANS 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, WHICH SERVES NO LEGITIMATE PURPOSE.9. "ABANDONS," AS USED IN THIS ARTICLE, 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 SUBSTANTIALY 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 UNLAWFUL.

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.

12. "ANIMAL FIGHTING PARAPHERNALIA" SHALL MEAN EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND THAT ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN THE TRAINING, PREPARATION, CONDITIONING OR FURTHERANCE OF ANIMAL FIGHTING. ANIMAL FIGHTING PARAPHERNALIA INCLUDES (I) A BREAKING STICK, WHICH MEANS A DEVICE DESIGNED FOR INSERTION BEHIND THE MOLARS OF A DOG FOR THE PURPOSE OF BREAKING THE DOG'S GRIP ON ANOTHER ANIMAL OR OBJECT; (II) A CAT MILL, WHICH MEANS A DEVICE THAT ROTATES AROUND A CENTRAL SUPPORT WITH ONE ARM DESIGNED TO SECURE A DOG AND ONE ARM DESIGNED TO SECURE A CAT, RABBIT, OR OTHER SMALL ANIMAL BEYOND THE GRASP OF THE DOG; (III) A TREADMILL, WHICH MEANS AN EXERCISE DEVICE CONSISTING OF AN ENDLESS BELT ON WHICH THE ANIMAL WALKS OR RUNS WITHOUT CHANGING PLACES; (IV) A SPRINGPOLE, WHICH MEANS A BITING SURFACE ATTACHED TO A STRETCHABLE DEVICE, SUSPENDED AT A HEIGHT SUFFICIENT TO PREVENT A DOG FROM REACHING THE BITING SURFACE WHILE TOUCHING THE GROUND; (V) A FIGHTING PIT, WHICH MEANS A WALLED AREA, OR OTHERWISE DEFINED AREA, DESIGNED TO CONTAIN AN ANIMAL FIGHT; (VI) ANY OTHER INSTRUMENT COMMONLY USED IN THE FURTHERANCE OF PITTING AN ANIMAL AGAINST ANOTHER ANIMAL.

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.

3. OWNS, POSSESSES, SELLS, TRANSFERS OR MANUFACTURES ANIMAL FIGHTING PARAPHERNALIA UNDER ANY CIRCUMSTANCE EVINCING AN INTENT THAT SUCH PARAPHERNALIA BE USED TO ENGAGE IN OR OTHERWISE PROMOTE OR FACILITATE ANIMAL FIGHTING.

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 SUBDIVISIONS ONE, TWO OR THREE OF THIS SECTION TO OCCUR ON PREMISES UNDER HIS OR HER CONTROL; OR

5. OWNS, POSSESSES, HARBORS, 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 THAT SUCH ANIMAL IS NOT RECEIVING ADEQUATE NUTRITION, HYDRATION, VETERINARY CARE, OR SHELTER; 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 CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING, OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS OTHERWISE LEGALLY AUTHORIZED. 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 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 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. HAVING NO JUSTIFIABLE PURPOSE AND WITH INTENT TO CAUSE THE DEATH OF A COMPANION ANIMAL, HE OR SHE CAUSES THE DEATH OF SUCH ANIMAL; OR

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

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

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

1 5. COMMITS THE CRIME OF ANIMAL CRUELTY IN THE SECOND DEGREE IN
2 VIOLATION OF SECTION 280.20 OF THIS ARTICLE AND HAS PREVIOUSLY BEEN
3 CONVICTED, WITHIN THE PRECEDING TEN YEARS, OF ANIMAL CRUELTY IN THE
4 SECOND DEGREE.

5 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR
6 INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,
7 OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVA-
8 TION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN
9 ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, THE DISPATCH OF ANIMALS
10 POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS
11 OTHERWISE LEGALLY AUTHORIZED, OR ANY PROPERLY CONDUCTED SCIENTIFIC
12 TESTS, EXPERIMENTS, OR INVESTIGATIONS INVOLVING THE USE OF LIVING
13 ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS APPROVED
14 FOR SUCH PURPOSES BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION
15 280.20 OF THIS ARTICLE.

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

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

19 A PERSON IS GUILTY OF UNLAWFUL DEALING WITH ANIMALS USED FOR RACING,
20 BREEDING, OR COMPETITIVE EXHIBITION OF SKILL, BREED, OR STAMINA WHEN
21 SUCH PERSON:

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

26 2. HAVING NO JUSTIFIABLE PURPOSE, HE OR SHE TAMPERS WITH AN ANIMAL
27 USED FOR THE PURPOSES OF RACING, BREEDING, OR COMPETITIVE EXHIBITION OF
28 SKILL, BREED, OR STAMINA, OR OTHERWISE INTERFERES WITH SUCH AN ANIMAL
29 DURING A RACE OR COMPETITIVE EXHIBITION OF SKILL, BREED, OR STAMINA.

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

32 S 280.35 ENDANGERING THE WELFARE OF ANIMALS.

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

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

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

41 ENDANGERING THE WELFARE OF ANIMALS IS A VIOLATION.

42 S 280.40 ANIMAL ABDUCTION IN THE THIRD DEGREE.

43 A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE THIRD DEGREE WHEN SUCH
44 PERSON RESTRAINS A COMPANION ANIMAL WITHOUT THE CONSENT OF THE INDIVID-
45 UAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR CUSTODY OVER
46 SAID COMPANION ANIMAL.

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

48 S 280.45 ANIMAL ABDUCTION IN THE SECOND DEGREE.

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

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

54 S 280.50 ANIMAL ABDUCTION IN THE FIRST DEGREE.

55 A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE FIRST DEGREE WHEN SUCH
56 PERSON ABDUCTS OR RESTRAINS A COMPANION ANIMAL WITHOUT THE CONSENT OF

1 THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE, CONTROL, CHARGE OR
2 CUSTODY OVER SAID COMPANION ANIMAL, AND WHEN:

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

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

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

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

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

17 THE UNAUTHORIZED POSSESSION OF A COMPANION ANIMAL BY ANY PERSON WITH-
18 OUT THE CONSENT OF THE INDIVIDUAL HAVING OWNERSHIP, POSSESSION, CARE,
19 CONTROL, CHARGE OR CUSTODY OVER SAID COMPANION ANIMAL, FOR A PERIOD
20 EXCEEDING TEN DAYS, WITHOUT NOTIFYING EITHER SAID INDIVIDUAL, THE LOCAL
21 POLICE AUTHORITIES, THE LOCAL MUNICIPAL SHELTER OR POUND, OR THE SUPER-
22 INTENDENT OF THE STATE POLICE AT ALBANY, NEW YORK, OF SUCH POSSESSION,
23 SHALL BE PRESUMPTIVE EVIDENCE OF RESTRAINT AND ABDUCTION.

24 S 280.60 FAILURE TO PROVIDE APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.

25 1. FOR PURPOSES OF THIS SECTION:

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

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

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

37 2. (A) ANY PERSON WHO OWNS OR HAS CUSTODY OR CONTROL OF A DOG THAT IS
38 LEFT OUTDOORS SHALL PROVIDE IT WITH SHELTER APPROPRIATE TO ITS BREED,
39 PHYSICAL CONDITION AND THE CLIMATE.

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

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

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

52 (B) FOR ALL DOGS THAT ARE LEFT OUTDOORS IN INCLEMENT WEATHER, A HOUS-
53 ING FACILITY, WHICH MUST: (1) HAVE A WATERPROOF ROOF; (2) BE STRUC-
54 TURALLY SOUND WITH INSULATION APPROPRIATE TO LOCAL CLIMATIC CONDITIONS
55 AND SUFFICIENT TO PROTECT THE DOG FROM INCLEMENT WEATHER; (3) BE
56 CONSTRUCTED TO ALLOW EACH DOG ADEQUATE FREEDOM OF MOVEMENT TO MAKE

1 NORMAL POSTURAL ADJUSTMENTS, INCLUDING THE ABILITY TO STAND UP, TURN
2 AROUND AND LIE DOWN WITH ITS LIMBS OUTSTRETCHED; AND (4) ALLOW FOR
3 EFFECTIVE REMOVAL OF EXCRETIONS, OTHER WASTE MATERIAL; DIRT AND TRASH.
4 THE HOUSING FACILITY AND THE AREA IMMEDIATELY SURROUNDING IT SHALL BE
5 REGULARLY CLEANED TO MAINTAIN A HEALTHY AND SANITARY ENVIRONMENT AND TO
6 MINIMIZE HEALTH HAZARDS.

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

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

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

21 FAILURE TO PROVIDE APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS IS A
22 VIOLATION.

23 S 280.65 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES IN EXTREME TEMPER-
24 ATURES.

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

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

34 3. POLICE OFFICERS, PEACE OFFICERS OR PEACE OFFICERS ACTING AS AGENTS
35 OF A DULY INCORPORATED HUMANE SOCIETY REMOVING AN ANIMAL OR ANIMALS FROM
36 A VEHICLE PURSUANT TO THIS SECTION SHALL PLACE A WRITTEN NOTICE ON OR IN
37 THE VEHICLE, BEARING THE NAME OF THE OFFICER OR AGENT, AND THE DEPART-
38 MENT OR AGENCY AND ADDRESS WHERE THE ANIMAL OR ANIMALS WILL BE TAKEN.

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

44 5. OFFICERS SHALL NOT BE HELD CRIMINALLY OR CIVILLY LIABLE FOR ACTIONS
45 TAKEN REASONABLY AND IN GOOD FAITH IN CARRYING OUT THE PROVISIONS OF
46 THIS SECTION.

47 6. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY
48 OTHER PROTECTIONS AFFORDED TO COMPANION ANIMALS UNDER ANY OTHER
49 PROVISIONS OF THIS ARTICLE.

50 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES IN EXTREME TEMPERATURES
51 IS A VIOLATION.

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

53 A PERSON WHO LEAVES THIS STATE WITH INTENT TO ELUDE ANY OF THE
54 PROVISIONS OF THIS ARTICLE OR TO COMMIT ANY ACT OUT OF THIS STATE WHICH
55 IS PROHIBITED BY THEM OR WHO, BEING A RESIDENT OF THIS STATE, DOES ANY
56 ACT WITHOUT THIS STATE, PURSUANT TO SUCH INTENT, WHICH WOULD BE PUNISHA-

1 BLE UNDER SUCH PROVISIONS, IF COMMITTED WITHIN THIS STATE, IS PUNISHABLE
2 IN THE SAME MANNER AS IF SUCH ACT HAD BEEN COMMITTED WITHIN THIS STATE.
3 S 280.75 EVIDENTIARY AND IMPOUNDMENT PROCEDURES BY MEMBERS OF LAW
4 ENFORCEMENT.

5 MATTERS RELATING TO THE SEIZURE, ADOPTION, CARE, DISPOSITION, AND
6 DESTRUCTION OF ANIMALS BY MEMBERS OF LAW ENFORCEMENT AND MEMBERS OF A
7 DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS
8 CHARGED TO ENFORCE THIS ARTICLE, ANCILLARY TO SUCH ENFORCEMENT OF THIS
9 ARTICLE, SHALL BE GOVERNED BY ARTICLE TWENTY-SIX OF THE AGRICULTURE AND
10 MARKETS LAW AND ARTICLE SIX HUNDRED NINETY OF THE CRIMINAL PROCEDURE
11 LAW.

12 S 280.80 SPECIAL SENTENCING PROVISIONS APPLICABLE.

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

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

18 S 60.22 AUTHORIZED DISPOSITIONS; PROMOTING ANIMAL FIGHTING.

19 WHEN A PERSON IS CONVICTED OF AN OFFENSE DEFINED IN SECTION 280.05 OF
20 THIS CHAPTER, IN ADDITION TO THE OTHER PENALTIES AS PROVIDED IN THIS
21 CHAPTER, THE COURT MAY IMPOSE A FINE WHICH SHALL NOT EXCEED FIFTEEN
22 THOUSAND DOLLARS. WHEN A PERSON IS CONVICTED OF AN OFFENSE DEFINED IN
23 SECTION 280.10 OF THIS CHAPTER, THE COURT MAY IMPOSE A FINE WHICH SHALL
24 NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS.

25 S 11. Paragraph (c) of subdivision 1 of section 70.02 of the penal
26 law, as amended by chapter 1 of the laws of 2013, is amended to read as
27 follows:

28 (c) Class D violent felony offenses: an attempt to commit any of the
29 class C felonies set forth in paragraph (b); reckless assault of a child
30 as defined in section 120.02, assault in the second degree as defined in
31 section 120.05, menacing a police officer or peace officer as defined in
32 section 120.18, stalking in the first degree, as defined in subdivision
33 one of section 120.60, strangulation in the second degree as defined in
34 section 121.12, rape in the second degree as defined in section 130.30,
35 criminal sexual act in the second degree as defined in section 130.45,
36 sexual abuse in the first degree as defined in section 130.65, course of
37 sexual conduct against a child in the second degree as defined in
38 section 130.80, aggravated sexual abuse in the third degree as defined
39 in section 130.66, facilitating a sex offense with a controlled
40 substance as defined in section 130.90, criminal possession of a weapon
41 in the third degree as defined in subdivision five, six, seven, eight,
42 nine or ten of section 265.02, criminal sale of a firearm in the third
43 degree as defined in section 265.11, intimidating a victim or witness in
44 the second degree as defined in section 215.16, soliciting or providing
45 support for an act of terrorism in the second degree as defined in
46 section 490.10, and making a terroristic threat as defined in section
47 490.20, falsely reporting an incident in the first degree as defined in
48 section 240.60, placing a false bomb or hazardous substance in the first
49 degree as defined in section 240.62, placing a false bomb or hazardous
50 substance in a sports stadium or arena, mass transportation facility or
51 enclosed shopping mall as defined in section 240.63, [and] aggravated
52 unpermitted use of indoor pyrotechnics in the first degree as defined in
53 section 405.18, AND ANIMAL CRUELTY IN THE FIRST DEGREE AS DEFINED IN
54 SUBDIVISION ONE, TWO OR THREE OF SECTION 280.25.

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

1 S 195.06 Killing or injuring a police animal.

2 A person is guilty of killing or injuring a police animal when such
3 person intentionally kills or injures any animal while such animal is in
4 the performance of its duties and under the supervision of a police or
5 peace officer.

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

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

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

12 A person is guilty of harming an animal trained to aid a person with a
13 disability in the second degree when such person intentionally causes
14 physical injury to such animal while it is in the performance of aiding
15 a person with a disability, and thereby renders such animal incapable of
16 providing such aid to such person, or to another person with a disabili-
17 ty.

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

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

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

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

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

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

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

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

37 S 15. Section 265.01 of the penal law, as amended by chapter 1 of the
38 laws of 2013, is amended to read as follows:

39 S 265.01 Criminal possession of a weapon in the fourth degree.

40 A person is guilty of criminal possession of a weapon in the fourth
41 degree when:

42 (1) He or she possesses any firearm, electronic dart gun, electronic
43 stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal
44 knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles,
45 metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type sling-
46 shot or slungshot, shirken or "Kung Fu star"; or

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

51 [(3); or]

52 (4) He OR SHE possesses a rifle, shotgun, antique firearm, black
53 powder rifle, black powder shotgun, or any muzzle-loading firearm, and
54 has been convicted of a felony or serious offense; or

55 (5) He OR SHE possesses any dangerous or deadly weapon and is not a
56 citizen of the United States; or

1 (6) He OR SHE is a person who has been certified not suitable to
2 possess a rifle or shotgun, as defined in subdivision sixteen of section
3 265.00, and refuses to yield possession of such rifle or shotgun upon
4 the demand of a police officer. Whenever a person is certified not suit-
5 able to possess a rifle or shotgun, a member of the police department to
6 which such certification is made, or of the state police, shall forth-
7 with seize any rifle or shotgun possessed by such person. A rifle or
8 shotgun seized as herein provided shall not be destroyed, but shall be
9 delivered to the headquarters of such police department, or state
10 police, and there retained until the aforesaid certificate has been
11 rescinded by the director or physician in charge, or other disposition
12 of such rifle or shotgun has been ordered or authorized by a court of
13 competent jurisdiction.

14 (7) He OR SHE knowingly possesses a bullet containing an explosive
15 substance designed to detonate upon impact.

16 (8) He OR SHE possesses any armor piercing ammunition with intent to
17 use same unlawfully against another.

18 Criminal possession of a weapon in the fourth degree is a class A
19 misdemeanor.

20 S 16. Severability clause. If any clause, sentence, paragraph, subdi-
21 vision, section or part of this act shall be adjudged by any court of
22 competent jurisdiction to be invalid, such judgment shall not affect,
23 impair, or invalidate the remainder thereof, but shall be confined in
24 its operation to the clause, sentence, paragraph, subdivision, section
25 or part thereof directly involved in the controversy in which such judg-
26 ment shall have been rendered. It is hereby declared to be the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.

29 S 17. This act shall take effect on the one hundred eightieth day
30 after it shall have become a law.