

1776

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. FUSCHILLO, GRISANTI, DeFRANCISCO, GOLDEN, KENNEDY, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law 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 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, of any dog
17 or cat, seized or surrendered] OF ANY ANIMAL FORFEITED, SEIZED OR
18 SURRENDERED, TO ANY NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER, FOR
19 THE PURPOSE OF THAT PERSON PERMANENTLY HARBORING SUCH ANIMAL AS A PET.
20 [4]5. "Farm animal", as used in this article, means any ungulate,
21 poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-
22 bearing animals, as defined in section 11-1907 of the environmental
23 conservation law, which are raised for commercial or subsistence

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

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1 purposes. Fur-bearing animal, AS REFERENCED IN THIS ARTICLE, shall not
2 include dogs or cats.

3 [5]6. "Companion animal" or "pet" means any dog or cat, and shall also
4 mean any other domesticated animal normally maintained in or near the
5 household of the owner or person who cares for such other domesticated
6 animal. ["Pet" or "companion"] "COMPANION animal" OR "PET" shall not
7 include a "farm animal" as defined in this section.

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

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

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18 the agriculture and markets law are REPEALED.

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

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

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

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

34 [4.] 3. Nothing herein contained shall be construed as preventing any
35 dog whose ear or ears shall have been clipped or cut off wholly or in
36 part, not in violation of this section, from being imported into the
37 state exclusively for breeding purposes.

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

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

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

50 S 371. Powers of peace officers. A constable or police officer must,
51 and any agent or officer of any duly incorporated society for the
52 prevention of cruelty to animals may issue an appearance ticket pursuant
53 to section 150.20 of the criminal procedure law, summon or arrest, and
54 bring before a court or magistrate having jurisdiction, any person
55 offending against any of the provisions of article twenty-six of the
56 agriculture and markets law OR ANY PROVISIONS OF ARTICLE TWO HUNDRED

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

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

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

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

53 (2) If the court orders the posting of a security, the security shall
54 be posted with the clerk of the court within five business days of the
55 hearing provided for in subparagraph one of this paragraph. The court
56 may order the immediate forfeiture of the seized animal to the impound-

ing organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.

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

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

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

S 7. Subdivision 8 of section 374 of the agriculture and markets law 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 ARTICLE.

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 UNJUSTIFIABLE PHYSICAL PAIN, SUFFERING OR DEATH IS CAUSED OR PERMITTED AND SHALL INCLUDE BUT NOT BE LIMITED TO, ANY ACT OF OVERDRIVING, OVERLOADING, 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 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

1 SUPPORT WITH ONE ARM DESIGNED TO SECURE A DOG AND ONE ARM DESIGNED TO
2 SECURE A CAT, RABBIT, OR OTHER SMALL ANIMAL BEYOND THE GRASP OF THE DOG;
3 (III) A TREADMILL, WHICH MEANS AN EXERCISE DEVICE CONSISTING OF AN
4 ENDLESS BELT ON WHICH THE ANIMAL WALKS OR RUNS WITHOUT CHANGING PLACES;
5 (IV) A SPRINGPOLE, WHICH MEANS A BITING SURFACE ATTACHED TO A STRETCHA-
6 BLE DEVICE, SUSPENDED AT A HEIGHT SUFFICIENT TO PREVENT A DOG FROM
7 REACHING THE BITING SURFACE WHILE TOUCHING THE GROUND; (V) A FIGHTING
8 PIT, WHICH MEANS A WALLED AREA, OR OTHERWISE DEFINED AREA, DESIGNED TO
9 CONTAIN AN ANIMAL FIGHT; AND (VI) ANY OTHER INSTRUMENT COMMONLY USED IN
10 THE FURTHERANCE OF PITTING AN ANIMAL AGAINST ANOTHER ANIMAL.

11 S 280.05 PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE.

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

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

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

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

23 PROMOTING ANIMAL FIGHTING IN THE SECOND DEGREE IS A CLASS A MISDEMEA-
24 NOR.

25 S 280.10 PROMOTING ANIMAL FIGHTING IN THE FIRST DEGREE.

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

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

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

31 3. BREEDS, TRANSFERS, SELLS OR OFFERS FOR SALE AN ANIMAL UNDER CIRCUM-
32 STANCES EVINCING AN INTENT THAT SUCH ANIMAL ENGAGE IN ANIMAL FIGHTING;
33 OR

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

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

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

40 S 280.20 ANIMAL CRUELTY IN THE SECOND DEGREE.

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

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

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

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

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

4 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR
5 INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,
6 OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVA-
7 TION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN
8 ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS
9 POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS
10 OTHERWISE LEGALLY AUTHORIZED. NOTHING HEREIN CONTAINED SHALL BE
11 CONSTRUED TO PROHIBIT OR INTERFERE WITH ANY PROPERLY CONDUCTED SCIENTIF-
12 IC TESTS, EXPERIMENTS, OR INVESTIGATIONS INVOLVING THE USE OF LIVING
13 ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS, WHICH
14 ARE APPROVED FOR THESE PURPOSES BY THE STATE COMMISSIONER OF HEALTH. THE
15 STATE COMMISSIONER OF HEALTH SHALL PRESCRIBE THE RULES UNDER WHICH SUCH
16 APPROVALS SHALL BE GRANTED, INCLUDING THEREIN STANDARDS REGARDING THE
17 CARE AND TREATMENT OF ANY SUCH ANIMALS. SUCH RULES SHALL BE PUBLISHED
18 AND COPIES THEREOF CONSPICUOUSLY POSTED IN EACH SUCH LABORATORY OR
19 INSTITUTION. THE STATE COMMISSIONER OF HEALTH OR HIS OR HER DULY AUTHOR-
20 IZED REPRESENTATIVE SHALL HAVE THE POWER TO INSPECT SUCH LABORATORIES OR
21 INSTITUTIONS TO INSURE COMPLIANCE WITH SUCH RULES AND STANDARDS. EACH
22 SUCH APPROVAL MAY BE REVOKED AT ANY TIME FOR FAILURE TO COMPLY WITH SUCH
23 RULES AND IN ANY CASE THE APPROVAL SHALL BE LIMITED TO A PERIOD NOT
24 EXCEEDING ONE YEAR.

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

26 S 280.25 ANIMAL CRUELTY IN THE FIRST DEGREE.

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

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

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

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

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

40 5. COMMITS THE CRIME OF ANIMAL CRUELTY IN THE SECOND DEGREE IN
41 VIOLATION OF SECTION 280.20 OF THIS ARTICLE AND HAS PREVIOUSLY BEEN
42 CONVICTED, WITHIN THE PRECEDING TEN YEARS, OF ANIMAL CRUELTY IN THE
43 SECOND DEGREE.

44 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR
45 INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,
46 OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVA-
47 TION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN
48 ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS
49 POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS
50 OTHERWISE LEGALLY AUTHORIZED, OR ANY PROPERLY CONDUCTED SCIENTIFIC
51 TESTS, EXPERIMENTS, OR INVESTIGATIONS INVOLVING THE USE OF LIVING
52 ANIMALS, PERFORMED OR CONDUCTED IN LABORATORIES OR INSTITUTIONS APPROVED
53 FOR SUCH PURPOSES BY THE COMMISSIONER OF HEALTH PURSUANT TO SECTION
54 280.20 OF THIS ARTICLE.

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

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

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

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

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

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

S 280.35 ENDANGERING THE WELFARE OF ANIMALS.

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

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

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

ENDANGERING THE WELFARE OF ANIMALS IS A VIOLATION.

S 280.40 ANIMAL ABDUCTION IN THE THIRD DEGREE.

A PERSON IS GUILTY OF ANIMAL ABDUCTION IN THE THIRD DEGREE WHEN SUCH PERSON RESTRAINS 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 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.

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

9 S 280.60 APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS.

10 1. FOR PURPOSES OF THIS SECTION:

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

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

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

22 2. (A) ANY PERSON WHO OWNS OR HAS CUSTODY OR CONTROL OF A DOG THAT IS
23 LEFT OUTDOORS SHALL PROVIDE IT WITH SHELTER APPROPRIATE TO ITS BREED,
24 PHYSICAL CONDITION AND CLIMATE. ANY PERSON WHO KNOWINGLY VIOLATES THE
25 PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY
26 A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS
27 FOR A FIRST OFFENSE, AND A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR
28 MORE THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND AND SUBSEQUENT OFFENSE.
29 BEGINNING SEVENTY-TWO HOURS AFTER A CHARGE OF VIOLATING THIS SECTION,
30 EACH DAY THAT A DEFENDANT FAILS TO CORRECT THE DEFICIENCIES IN THE DOG
31 SHELTER FOR A DOG THAT HE OR SHE OWNS OR THAT IS IN HIS OR HER CUSTODY
32 OR CONTROL AND THAT IS LEFT OUTDOORS, SO AS TO BRING IT INTO COMPLIANCE
33 WITH THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A SEPARATE OFFENSE.

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

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

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

47 (B) FOR ALL DOGS THAT ARE LEFT OUTDOORS IN INCLEMENT WEATHER, A HOUS-
48 ING FACILITY, WHICH MUST: (1) HAVE A WATERPROOF ROOF; (2) BE STRUC-
49 TURALLY SOUND WITH INSULATION APPROPRIATE TO LOCAL CLIMATIC CONDITIONS
50 AND SUFFICIENT TO PROTECT THE DOG FROM INCLEMENT WEATHER; (3) BE
51 CONSTRUCTED TO ALLOW EACH DOG ADEQUATE FREEDOM OF MOVEMENT TO MAKE
52 NORMAL POSTURAL ADJUSTMENTS, INCLUDING THE ABILITY TO STAND UP, TURN
53 AROUND AND LIE DOWN WITH ITS LIMBS OUTSTRETCHED; AND (4) ALLOW FOR
54 EFFECTIVE REMOVAL OF EXCRETIONS, OTHER WASTE MATERIAL, DIRT AND TRASH.
55 THE HOUSING FACILITY AND THE AREA IMMEDIATELY SURROUNDING IT SHALL BE

1 REGULARLY CLEANED TO MAINTAIN A HEALTHY AND SANITARY ENVIRONMENT AND TO
2 MINIMIZE HEALTH HAZARDS.

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

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

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

17 FAILURE TO PROVIDE APPROPRIATE SHELTER FOR DOGS LEFT OUTDOORS IS A
18 VIOLATION.

19 S 280.65 CONFINEMENT OF COMPANION ANIMALS IN VEHICLES; EXTREME TEMPER-
20 ATURES.

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

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

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

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

40 5. ANY PERSON WHO KNOWINGLY VIOLATES THE PROVISIONS OF SUBDIVISION ONE
41 OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE BY A FINE OF
42 NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS FOR A
43 FIRST OFFENSE, AND A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE
44 THAN TWO HUNDRED FIFTY DOLLARS FOR A SECOND AND SUBSEQUENT OFFENSES.

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

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

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

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

54 A PERSON WHO LEAVES THIS STATE WITH INTENT TO ELUDE ANY OF THE
55 PROVISIONS OF THIS ARTICLE OR TO COMMIT ANY ACT OUT OF THIS STATE WHICH
56 IS PROHIBITED BY THEM OR WHO, BEING A RESIDENT OF THIS STATE, DOES ANY

1 ACT WITHOUT THIS STATE, PURSUANT TO SUCH INTENT, WHICH WOULD BE PUNISHA-
2 BLE UNDER SUCH PROVISIONS, IF COMMITTED WITHIN THIS STATE, IS PUNISHABLE
3 IN THE SAME MANNER AS IF SUCH ACT HAD BEEN COMMITTED WITHIN THIS STATE.
4 S 280.75 EVIDENTIARY AND IMPOUNDMENT PROCEDURES BY MEMBERS OF LAW
5 ENFORCEMENT.

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

13 S 280.80 SPECIAL SENTENCING PROVISIONS APPLICABLE.

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

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

19 S 60.22 AUTHORIZED DISPOSITIONS; PROMOTING ANIMAL FIGHTING.

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

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

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

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

3 S 195.06 Killing or injuring a police animal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 S 16. Severability clause. If any clause, sentence, paragraph, subdi-
46 vision, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

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