

1679

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 12, 2015

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Introduced by M. of A. ZEBROWSKI, MILLER, ARROYO, DINOWITZ, TITONE, PAULIN, COLTON, RIVERA, SCARBOROUGH, ENGLEBRIGHT, GUNTHER, SIMOTAS, LAVINE, GALEF, CUSICK, BRONSON, MOYA, ROSENTHAL, GLICK, CAMARA, CAHILL, BENEDETTO, ROBERTS, HOOPER, DenDEKKER, WEPRIN, KAVANAGH, BRINDISI, OTIS, ORTIZ -- Multi-Sponsored by -- M. of A. BRENNAN, CERETTO, CURRAN, FINCH, GIGLIO, GOTTFRIED, HIKIND, KOLB, LUPARDO, MALLIOTAKIS, McDONALD, McDONOUGH, McKEVITT, MOSLEY, PERRY, QUART, RAIA, SALADINO, SCHIMEL, SOLAGES, TEDISCO, TENNEY, THIELE, WALKER -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to restricting the performance of surgical devocalization procedures on dogs and cats

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

- 1     Section 1. The agriculture and markets law is amended by adding a new  
2     section 365-a to read as follows:  
3     S 365-A. DEVOCALIZATION OF ANIMALS. 1. NO PERSON SHALL PERFORM THE  
4     SURGICAL DEVOCALIZATION OF A DOG OR CAT EXCEPT IN ACCORDANCE WITH THE  
5     PROVISIONS OF THIS SECTION.  
6     2. A. SURGICAL DEVOCALIZATION OF A DOG OR CAT SHALL BE PERFORMED ONLY  
7     BY A PERSON LICENSED AS A VETERINARIAN IN THIS STATE UNDER THE  
8     PROVISIONS OF ARTICLE ONE HUNDRED THIRTY-FIVE OF THE EDUCATION LAW.  
9     B. SURGICAL DEVOCALIZATION OF A DOG OR CAT MAY BE PERFORMED ONLY WHEN  
10    THE PROCEDURE IS MEDICALLY NECESSARY TO TREAT OR RELIEVE A PHYSICAL  
11    ILLNESS, DISEASE OR INJURY OR CORRECT A CONGENITAL ABNORMALITY SUFFERED  
12    BY THE ANIMAL, WHICH PHYSICAL ILLNESS, DISEASE, INJURY OR CONGENITAL  
13    ABNORMALITY IS CAUSING OR MAY REASONABLY CAUSE THE ANIMAL PHYSICAL PAIN  
14    OR HARM.  
15    3. A. ANY PERSON WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE ON A  
16    DOG OR CAT SHALL INCLUDE INFORMATION RELATED TO THE PROCEDURE INCLUDING

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

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1 THE MEDICAL NECESSITY IN THE ANIMAL'S TREATMENT RECORD AS DEFINED IN  
2 SECTION SIXTY-SEVEN HUNDRED FOURTEEN OF THE EDUCATION LAW.

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

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

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

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

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

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

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

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