S T A T E O F N E W Y O R K

2965

2015-2016 Regular Sessions

I N S E N A T E

January 30, 2015

Introduced by Sen. DeFRANCISCO -- 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, 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:

Section 1. The agriculture and markets law is amended by adding a new section 365-a to read as follows:

S 365-A. DEVOCALIZATION OF ANIMALS. 1. NO PERSON SHALL PERFORM THE SURGICAL DEVOCALIZATION OF A DOG OR CAT EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

2. A. SURGICAL DEVOCALIZATION OF A DOG OR CAT SHALL BE PERFORMED ONLY BY A PERSON LICENSED AS A VETERINARIAN IN THIS STATE UNDER THE PROVISIONS OF ARTICLE ONE HUNDRED THIRTY-FIVE OF THE EDUCATION LAW.

B. SURGICAL DEVOCALIZATION OF A DOG OR CAT MAY BE PERFORMED ONLY WHEN:

(I) THE PROCEDURE IS MEDICALLY NECESSARY TO TREAT OR RELIEVE A PHYSICAL ILLNESS, DISEASE OR INJURY OR CORRECT A CONGENITAL ABNORMALITY SUFFERED BY THE ANIMAL, WHICH PHYSICAL ILLNESS, DISEASE, INJURY OR CONGENITAL ABNORMALITY IS CAUSING OR MAY REASONABLY CAUSE THE ANIMAL PHYSICAL PAIN OR HARM; OR

(II) AS A FINAL ALTERNATIVE TO EUTHANASIA: (A) BEHAVIORAL MODIFICATION AND REMOVAL OF STIMULI PROMPTING VOCALIZATION HAVE FAILED TO ALLEVIATE THE CONDITION; (B) THE VETERINARIAN, ACTING IN GOOD FAITH, DETERMINES, IN HIS OR HER PROFESSIONAL MEDICAL JUDGEMENT AND IN ACCORDANCE WITH THE GENERALLY ACCEPTED STANDARDS OF THE VETERINARY COMMUNITY, THAT DEVOCALIZATION IS NECESSARY TO AVOID EUTHANASIA; AND (C) THE LICENSED VETERINARIAN HAS DISCUSSED THE POTENTIAL COMPLICATIONS FROM THE PROCEDURE WITH THE ANIMAL'S OWNER.

3. A. ANY PERSON WHO PERFORMS A SURGICAL DEVOCALIZATION PROCEDURE ON A 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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THE MEDICAL NECESSITY IN THE ANIMAL'S TREATMENT RECORD AS DEFINED IN SECTION SIXTY-SEVEN HUNDRED FOURTEEN OF THE EDUCATION LAW.

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

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

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

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

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

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

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

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