STATE OF NEW YORK

653--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. L. ROSENTHAL, BRINDISI, MONTESANO, ENGLEBRIGHT, FAHY, JAFFEE, COLTON, SKOUFIS, OTIS, THIELE, ORTIZ, STECK, WEPRIN, DAVILA, CURRAN, CUSICK, SANTABARBARA, MURRAY, PALUMBO, MOSLEY, RAIA, ZEBROWSKI, BENEDETTO, BARRETT, PAULIN, HARRIS, M. G. MILLER, SEAWRIGHT, JENNE, DiPIETRO -- Multi-Sponsored by -- M. of A. GALEF, GARBARINO, GLICK, HEVESI, LUPARDO, MAYER, McDONOUGH, SIMON, SKARTADOS, SOLAGES, WALTER -- read once and referred to the Committee on Agriculture -- 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:

Section 1. Section 350 of the agriculture and markets law, as added by chapter 1047 of the laws of 1965, subdivision 3 as added by chapter 619 of the laws of 1987, subdivision 4 as added by chapter 569 of the laws of 1995, subdivision 5 as amended by chapter 118 of the laws of 1999, is amended to read as follows:

§ 350. Definitions. 1. "Animal[~~,~~]", as used in this article, includes every living creature except a human being;

2. [~~"Torture" or "cruelty"~~] **"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**.

2-a. "Torture" means conduct that is intended to cause extreme physical pain.

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

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3. "Adoption" means the delivery [~~to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered~~] **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**.

4. "Farm animal", as used in this article, 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**, as referenced in this article,** shall not include dogs or cats.

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

6. "Animal cruelty offense" means any violation of this article or of article two hundred eighty of the penal law, or any other unlawful act by which harm is intentionally, knowingly, recklessly or negligently caused or permitted to occur to an animal.

7. "Duly incorporated society for the prevention of cruelty to animals", as used in this article, shall mean a corporation constituted pursuant to the provisions of subdivision (g) of section four hundred four and section fourteen hundred three of the not-for-profit corporation law.

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

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

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

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

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

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

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

§ 369. Interference with officers. Any person who shall interfere with or obstruct any constable or police officer or any officer or agent of any duly incorporated society for the prevention of cruelty to animals in the discharge of his duty to enforce the laws relating to animals**, including those provisions contained in article two hundred eighty of the penal law,** shall be guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

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

§ 371. Powers of peace officers. A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of **this** article [~~**twenty-six of the agriculture and markets law**~~] **or any provisions of article two hundred eighty of the penal law**. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his **or her** presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.

§ 6. Subdivision 6 of section 373 of the agriculture and markets law, as amended by chapter 256 of the laws of 1997, paragraph a and subparagraph 1 of paragraph b as amended by chapter 531 of the laws of 2013, subparagraph 2 of paragraph b as amended by section 24 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

6. a. If any animal is seized [~~**and**~~] **or** impounded pursuant to the provisions of this section, [~~**section three hundred fifty-three-d of this article**~~] or section three hundred seventy-five of this article**, or pursuant to the provisions of article six hundred ninety of the criminal procedure law,** for any violation of this article, **any violation of article two hundred eighty of the penal law or in connection with the arrest for an animal cruelty offense, then,** upon arraignment of charges, or within a reasonable time thereafter, [~~**the**~~] **a** duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter**, sheriff, municipal police department, district attorney** or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization", may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the impounding organization. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b. (1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a

true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney acting on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

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

ing 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.

§ 7. Subdivision 8 of section 374 of the agriculture and markets law is REPEALED.

§ 8. Section 380 of the agriculture and markets law, as added by chapter 470 of the laws of 2017, is renumbered section 381 and a new section 382 is added to read as follows:

§ 382. Special sentencing provisions. In addition to any other penalty provided by law, a court may impose the following sentences upon a conviction for any animal cruelty offense:

1. The convicted person may, after a duly held hearing pursuant to subdivision six of this section, be ordered by the court to forfeit, to an animal shelter, pound, sheriff, municipal police department, district attorney, 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 subdivision two of this section.

2. In the case of farm animals, the court may, in addition to the forfeiture to an animal shelter, pound, sheriff, municipal police department, district attorney, a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person charged with an animal cruelty offense for conspiring, aiding or abetting in the unlawful act which was the basis of the conviction, or otherwise acting as an accomplice if such charge has not yet been adjudicated. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to subdivision six of this section, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of an animal shelter, pound, sheriff, municipal police department, district attorney, a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to subdivision five of this section.

3. The court may order that the convicted person shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable. In making its determination of what period of time is reasonable, the court

shall take into account the totality of the circumstances before it and be bound to no single factor. Such order must be in writing and specifically state the period of time imposed.

4. No dog or cat in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society or its authorized agents thereof, or a pound or shelter, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.

5. An animal shelter, pound, sheriff, municipal police department, district attorney, a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to subdivision one or two of this section may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person charged with an animal cruelty offense for conspiring, aiding or abetting in the unlawful act which was the basis of the conviction, or otherwise acting as an accomplice if such charge has not yet been adjudicated, or humanely dispose of them subject to section three hundred seventy-four of this article.

6. (a) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(b) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his or her interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under subdivision two of this section. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

7. 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 farm 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 farm animals or in the proceeds from the sale of such farm animals.

§ 9. Part 3 of the penal law is amended by adding a new title Q to read as follows:

TITLE Q
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 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.

§ 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 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; and (vi) any other instrument commonly used in the furtherance of pitting an animal against another animal.

§ 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.

§ 280.10 Promoting animal fighting in the first degree.

A person is guilty of promoting animal fighting in the first degree when such person:

1. Intentionally causes an animal to engage in animal fighting; or

2. Trains an animal under circumstances evincing an intent that such animal engage in animal fighting; or

3. Breeds, transfers, sells or offers for sale an animal under circumstances evincing an intent that such animal engage in animal fighting; or

4. Permits any act described in subdivision one, two or three of this section to occur on premises under his or her control; or

5. Owns, possesses or keeps any animal on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.

Promoting animal fighting in the first degree is a class D felony.

§ 280.20 Animal cruelty in the second degree.

A person is guilty of animal cruelty in the second degree when:

1. Having ownership, possession, care, control, charge or custody of an animal, he or she deprives such animal of, or neglects to furnish

such animal with, nutrition, hydration, veterinary care, or shelter adequate to maintain the animal's health and comfort, or causes, procures, or permits such animal to be deprived of nutrition, hydration, veterinary care, or shelter adequate to maintain the animal's health and comfort, and he or she knows or reasonably should know that such animal is not receiving adequate nutrition, hydration, veterinary care or shelter; 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 commissioner of health. The commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The 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.

§ 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

5. Commits the crime of animal cruelty in the second degree in violation of section 280.20 of this article and has previously been convicted, within the preceding ten years, of animal cruelty in the second degree.

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, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section 280.20 of this article.

Animal cruelty in the first degree is a class D felony.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 280.55 Unauthorized possession of animal presumptive evidence of restraint and abduction.

The unauthorized possession of a companion animal by any person without the consent of the individual having ownership, possession, care, control, charge or custody over said companion animal, for a period exceeding ten days, without notifying either said individual, the local police authorities, the local municipal shelter or pound or the office of the superintendent of the state police located in Albany, New York, of such possession, shall be presumptive evidence of restraint and abduction.

§ 280.60 Appropriate shelter for dogs left outdoors.

1. For purposes of this section:

(a) "Physical condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) "Inclement weather" shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.

(c) "Dogs that are left outdoors" shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2. (a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offense. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material, dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

Failure to provide appropriate shelter for dogs left outdoors is a violation.

§ 280.65 Confinement of companion animals in vehicles; extreme temperatures.

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.

3. Police officers, peace officers or peace officers acting as agents of a duly incorporated humane society removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address where the animal or animals will be taken.

4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.

5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a

first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses.

6. Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.

7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

Confinement of companion animals in vehicles; extreme temperatures is a violation.

§ 280.70 Leaving New York state to avoid provisions of this article.

A person who leaves this state with intent to elude any of the provisions of this article or to commit any act out of this state which is prohibited by them or who, being a resident of this state, does any act without this state, pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed within this state.

§ 280.75 Evidentiary and impoundment procedures by members of law enforcement.

Matters relating to the seizure, adoption, care, disposition and destruction of animals by members of law enforcement and members of a duly incorporated society for the prevention of cruelty to animals charged to enforce this article, ancillary to such enforcement of this article, shall be governed by article twenty-six of the agriculture and markets law and article six hundred ninety of the criminal procedure law.

§ 280.80 Special sentencing provisions applicable.

In addition to any other penalty provided by law, the sentencing provisions contained in section three hundred eighty-two of the agriculture and markets law shall be applicable to violations of this article.

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

§ 60.22 Authorized dispositions; promoting animal fighting.

When a person is convicted of an offense defined in section 280.05 of this chapter, in addition to the other penalties as provided in this chapter, the court may impose a fine which shall not exceed fifteen thousand dollars. When a person is convicted of an offense defined in section 280.10 of this chapter, the court may impose a fine which shall not exceed twenty-five thousand dollars.

§ 11. Paragraph (c) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 368 of the laws of 2015, is amended to read as follows:

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal

possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, [~~and~~] aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18**, and animal cruelty in the first degree as defined in subdivision one, two or three of section 280.25**.

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

§ 195.06 Killing or injuring a police animal.

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

Killing or injuring a police animal is a class [~~A misdemeanor~~] **D felony**.

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

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

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

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

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

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

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

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

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

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

Harming an animal trained to aid a person with a disability in the first degree is a class [~~A misdemeanor~~] **D felony**.

§ 15. Subdivision 2 of section 265.01 of the penal law, as amended by chapter 269 of the laws of 2016, is amended to read as follows:

(2) He or she possesses any dagger, dangerous knife, dirk, machete, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another **person or an animal**; or

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

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