STATE OF NEW YORK

8724

IN SENATE

May 10, 2018

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to codifying animal cruelty laws under such law; to amend the general business law, the family court act, the criminal procedure law, the environmental conservation law, the public authorities law and the administrative code of the city of New York, in relation to making necessary technical and conforming changes; and repealing certain provisions 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. Sections 350, 351, 353, 353-a, 353-b, 353-c, 353-d, 353-e, 353-f, 354, 355, 356, 359, 360, 361, 362, 363, 364, 365, 366, 366-a, 368, 375 and 376 of the agriculture and markets law are REPEALED.

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 Subdivision 8 of section 374 of the agriculture and markets law is REPEALED.

§ 3. 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 Offenses against animals; definitions of terms.
280.05 Facilitating animal fighting in the first degree.
280.06 Facilitating animal fighting in the second degree.
280.07 Facilitating animal fighting in the third degree.
280.10 Overdriving, torturing or injuring animals; failure to provide proper sustenance.
280.15 Aggravated cruelty to animals.
280.20 Failure to provide appropriate shelter for a dog left outdoors.
280.25 Electrocution of fur-bearing animals.
280.30 Confinement of a companion animal in a vehicle; extreme temperatures.

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

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280.35 Participation in a prohibited practice at a companion animal grooming facility.
280.40 Piercing and tattooing of a companion animal.
280.45 Unlawful sale of baby chicks and baby rabbits.
280.50 Abandonment of an animal.
280.55 Failure to provide proper food and drink to impounded animals.
280.60 Carrying an animal in a cruel manner.
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280.90 Clipping or cutting the ears of a dog.
280.95 Stealing a companion animal.
280.100 Removing, seizing or transporting a dog for research purposes.
280.105 Unlawfully operating upon the tails of horses.
280.110 Evidentiary and impoundment procedures by members of law enforcement.
280.115 Disposition of animals through forfeiture procedures after conviction.
280.120 Officer may take possession of animals or implements used in fights among animals.
280.125 Disposition of animals or implements used in fights among animals.

§ 280.00 Offenses against animals; definitions of terms.

The following definitions are applicable to this article:

(a) "Animal" includes every living creature except a human being.

(b) "Torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

(c) "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet seized or surrendered.

(d) "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 sustenance purposes. Fur-bearing animal shall not include dogs or cats.

(e) "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 animal" shall not include a "farm animal" as defined in subdivision (d) of this section.

(f) "Animal fighting" shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animal, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.

(g) "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 shall include the following:

(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; or

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

(h) "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.

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

(j) "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 established under paragraph (ii) of subdivision (b) of section 280.20 of this article.

(k) "Fur-bearing animal" shall include arctic fox, red fox, silver fox, chinchilla, mink, pine marten, muskrat, and those fur-bearing animals included within the provisions of section 11-1907 of the environmental conservation law.

(l) "Cage and box dryer" shall mean a product that is attached to or near a cage or box for the purpose of drying or aiding in the drying of a companion animal contained in a cage or box, which is capable of functioning without a person manually holding a dryer.

(m) "Companion animal grooming facility" shall mean an establishment where a companion animal may be bathed, brushed, clipped or styled for a fee.

(n) "Tattoo" shall mean a mark on the body made with indelible ink or pigments injected beneath the outer layer of the skin.

(o) "Baby rabbit" shall mean a rabbit of less than two months of age.

§ 280.05 Facilitating animal fighting in the first degree.

A person is guilty of facilitating animal fighting in the first degree when he or she:

(a) for amusement or gain, causes any animal to engage in animal fighting; or

(b) trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or

(c) breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or

(d) permits any act described in subdivision (a), (b) or (c) of this section to occur on premises under his or her control; or

(e) owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being

conducted under circumstances evincing an intent that such animal engage in animal fighting.

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

§ 280.06 Facilitating animal fighting in the second degree.

A person is guilty of facilitating animal fighting in the second degree when he or she:

(a) owns, possesses or keeps any animal under circumstances evincing an intent that such animal engage in animal fighting;

(b) paid an admission fee or made a wager at any place where an exhibition of animal fighting is being conducted;

(c) knowingly participates as a spectator at any place where an exhibition of animal fighting is being conducted and has been previously found guilty of such offense or for violating subdivision (b) of this section in the previous five years; or

(d) intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting and has been previously found guilty of such offense in the previous five years.

Facilitating animal fighting in the second degree is a class A misdemeanor.

§ 280.07 Facilitating animal fighting in the third degree.

A person is guilty of facilitating animal fighting in the third degree when he or she:

(a) knowingly participates as a spectator at any place where an exhibition of animal fighting is being conducted; or

(b) intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia, as defined in subdivision (g) of section 280.00 of this article, with the intent to engage in or otherwise promote or facilitate animal fighting.

Facilitating animal fighting in the third degree is a class B misdemeanor.

§ 280.10 Overdriving, torturing or injuring animals; failure to provide proper sustenance.

(a) A person is guilty of overdriving, torturing, injuring or failing to provide proper sustenance to an animal if he or she:

(i) overdrives, overloads, tortures, beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to such person or to another;

(ii) deprives any animal of necessary food or drink by neglecting or refusing to furnish an animal with such food or drink;

(iii) causes, procures or permits any animal to be overdriven, overloaded, tortured, beaten, or unjustifiably injured, maimed, mutilated or killed;

(iv) causes, procures or permits any animal to be deprived of necessary food or drink; or

(v) wilfully instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty.

(b) Nothing in this section 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 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.

Overdriving, torturing or injuring animals or failing to provide sustenance to an animal is a class A misdemeanor.

§ 280.15 Aggravated cruelty to animals.

(a) A person is guilty of aggravated cruelty to animals when he or she, with no justifiable purpose, intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which:

(i) is intended to cause extreme physical pain; or

(ii) is done or carried out in an especially depraved or sadistic manner.

(b) 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; 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 subdivision (b) of section 280.10 of this article.

Aggravated cruelty to animals is a class D felony.

§ 280.20 Failure to provide appropriate shelter for a dog left outdoors.

(a) A person is guilty of failing to provide appropriate shelter for a dog left outdoors, as defined in subdivision (j) of section 280.00 of this article, when he or she knowingly fails to provide appropriate shelter specific to the breed and physical condition of such dog and the climate outdoors.

(b) For purposes of this section, minimum standards for determining whether shelter is appropriate to the breed and physical condition, as defined in subdivision (h) of section 280.00 of this article, of such dog and the climate outdoors shall include:

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

(ii) for all dogs 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 such 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 including but not limited to, dirt and trash. Such housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

(c) 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 such housing facility, healthful

environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

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

(e) Nothing in this section shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted under this article. 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.

(f) 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 such shelter into compliance with the provisions of this section, shall constitute a separate offense.

Failure to provide appropriate shelter for dogs left outdoors is 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. 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 to comply with the requirements of this section.

§ 280.25 Electrocution of fur-bearing animals.

A person is guilty of electrocution of fur-bearing animals when he or she, notwithstanding any other provision of law, intentionally kills or stuns a fur-bearing animal by means of an electrical current.

Electrocution of fur-bearing animals is a class A misdemeanor.

§ 280.30 Confinement of a companion animal in a vehicle; extreme temperatures.

(a) A person is guilty of confinement of a companion animal in a vehicle in extreme temperatures when he or she confines 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 such companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

(b) If the operator of such 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 such vehicle.

(i) 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.

(ii) 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.

(iii) 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.

(c) 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 a companion animal in a vehicle in extreme temperatures is 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.

§ 280.35 Participation in a prohibited practice at a companion animal grooming facility.

(a) A person is guilty of participating in a prohibited practice at a companion animal grooming facility, as defined in subdivision (m) of section 280.00 of this article, when he or she uses a cage or box dryer, as defined in subdivision (l) of section 280.00 of this section, which contains a heating element with the heating element turned on for the purpose of drying or aiding in the drying of a companion animal.

(b) Nothing contained in this section shall limit or abrogate any claim or cause of action any person may have under common law or by statute. The provisions of this section shall be in addition to any such common law and statutory remedies.

Participation in a prohibited practice at a companion animal grooming facility is a violation punishable by a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for each violation.

§ 280.40 Piercing and tattooing of a companion animal.

A person is guilty of piercing or tattooing of a companion animal when he or she:

(a) pierces or causes to have pierced a companion animal, unless such piercing provides a medical benefit to the companion animal whereas such piercing shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian; or

(b) tattoos or causes to have tattooed a companion animal, unless such tattoo, as defined in subdivision (n) of section 280.00 of this article:

(i) is done in conjunction with a medical procedure performed by a licensed veterinarian or under the supervision of a licensed veterinarian for the benefit of the companion animal and to indicate that such medical procedure has been done, provided that such tattoo is not for design purposes; or

(ii) is done for the purpose of identification of the companion animal and not for design purposes, and such tattoo includes only such numbers and/or letters allotted by a corporation that, in the regular course of its business, maintains an animal tattoo identification registry.

Piercing and tattooing of a companion animal is a violation.

§ 280.45 Unlawful sale of baby chicks and baby rabbits.

(a) A person is guilty of unlawful sale of baby chicks or baby rabbits when he or she:

(i) sells, offers for sale, barters or gives away living baby chicks, ducklings or other fowl or baby rabbits, as defined in subdivision (o) of section 280.00 of this article, unless such person provides proper brooder facilities appropriate for the care of such baby chicks, ducklings or other fowl or baby rabbits during the time they are in the possession of such person;

(ii) sells, offers for sale, barters or displays living baby chicks, ducklings or other fowl or baby rabbits which have been dyed, colored or otherwise treated so as to impart to them an artificial color; or

(iii) sells, offers for sale, barters or gives away living baby chicks, ducklings or other fowl or baby rabbits under two months of age in any quantity less than six.

(b) Nothing under this section shall be interpreted or applied to prevent or restrict teachers and qualified instructors of youth under the guidance and supervision of the New York state cooperative extension service from using eggs for non-profit educational purposes or from observing fowl hatched from such eggs for non-profit educational purposes.

Unlawful sale of baby chicks and baby rabbits is a class A misdemeanor.

§ 280.50 Abandonment of an animal.

A person is guilty of abandonment of an animal when he or she, being the owner or possessor, or having charge or custody of an animal, abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he or she receives notice that it is left disabled.

Abandonment of an animal is a class A misdemeanor.

§ 280.55 Failure to provide proper food and drink to impounded animals.

(a) A person is guilty of failure provide proper food and drink to impounded animals when he or she, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water.

(b) If any animal shall be impounded pursuant to subdivision (a) of this section, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon such impound and supply such animal with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by such person from the owner of such animal, and such animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

Failure to provide proper food and drink to impounded animals is a class A misdemeanor.

§ 280.60 Carrying an animal in a cruel manner.

A person is guilty of carrying an animal in a cruel manner when:

(a) he or she carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhumane manner, or so as to produce torture; or

(b) a railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident.

(i) The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by the person in custo-

dy of a particular shipment, by writing separate and apart from any printed bill of lading or other railroad form.

(ii) In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.

Carrying an animal in a cruel manner is a class A misdemeanor.

§ 280.65 Poisoning or attempting to poison animals in the first degree.

A person is guilty of poisoning or attempting to poison animals in the first degree when he or she:

(a) unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle; or

(b) unjustifiably exposes any such drug or substance with intent that the same shall be taken by a horse, mule or by domestic cattle, whether such horse, mule or domestic cattle is the property of such person or another.

Poisoning or attempting to poison animals in the first degree is a class E felony.

§ 280.66 Poisoning or attempting to poison animals in the second degree.

A person is guilty of poisoning or attempting to poison animals in the second degree when he or she:

(a) unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle; or

(b) unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal is the property of such person or another.

Poisoning or attempting to poison animals in the second degree is a class A misdemeanor.

§ 280.70 Interference with or injury to certain domestic animals.

A person is guilty of interference with or injury to certain domestic animals when he or she willfully or unjustifiably interferes with, injures, destroys or tampers with or who willfully permits, instigates, engages in or in any way furthers any act by which any horse, mule, dog or any other domestic animal used for the purposes of racing, breeding or competitive exhibition of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any act tending to produce such interference, injury, destruction or tampering, whether such horse, mule, dog or other domestic animal is the property of such person or another.

Interference with or injury to certain domestic animals is a class E felony.

§ 280.75 Throwing a substance injurious to animals in a public place.

A person is guilty of throwing a substance injurious to animals in a public place when he or she willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal.

Throwing a substance injurious to animals in a public place is a class A misdemeanor.

§ 280.80 Unauthorized possession of dogs; presumptive evidence of larceny.

The unauthorized possession of a dog or dogs, by any person not the true owner, for a period exceeding ten days, without notifying either the owner, the local police authorities, or the superintendent of the state police of such possession, shall be presumptive evidence of larceny.

§ 280.85 Running horses on a highway.

A person is guilty of running horses on a highway when he or she is driving any vehicle upon any plank road, turnpike or public highway, who unjustifiably runs the horses drawing the same, or causes or permits them to run.

Running horses on a highway is a class A misdemeanor.

§ 280.90 Clipping or cutting the ears of a dog.

(a) A person is guilty of clipping or cutting the ears of a dog when he or she 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 is performed by a licensed veterinarian.

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

(c) Nothing in this section shall be construed as preventing any dog whose ear or ears 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.

Clipping or cutting the ears of a dog is a class A misdemeanor.

§ 280.95 Stealing a companion animal.

A person is guilty of stealing a companion animal when he or she:

(a) removes or causes to be removed the collar, identification tag or any other identification by which the owner may be ascertained from any dog, cat or any other companion animal, as defined in subdivision (e) of section 280.00 of this article;

(b) entices any identified dog, cat or other such companion animal into or out of any house or enclosure for the purpose of removing its collar, tag or any other identification, except with the owner's permission;

(c) entices, seizes or molests any companion animal, while it is being held or led by any person or while it is properly muzzled or wearing a collar with an identification tag attached, except where such action is incidental to the enforcement of some law or regulation; or

(d) transports any companion animal, not lawfully in his or her possession, for the purpose of killing or selling such companion animal.

Stealing a companion animal is a class A misdemeanor.

§ 280.100 Removing, seizing or transporting a dog for research purposes.

A person is guilty of removing, seizing or transporting a dog for research purposes when he or she removes, seizes or transports or causes to remove, seize or transport any dog which belongs to or is licensed to another for the purpose of sale, barter or to give away said dog to a laboratory, hospital, research institute, medical school or any agency or organization engaged in research activity, without the express written permission of the owner or licensee.

Removing, seizing or transporting a dog for research purposes is a class A misdemeanor.

§ 280.105 Unlawfully operating upon the tails of horses.

(a) A person is guilty of unlawfully operating upon the tails of horses when he or she:

(i) cuts the bone, tissues, muscles or tendons of the tail of any horse, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon premises of which he or she is the owner, lessee,

proprietor or user, or who assists in or is voluntarily present at such cutting; or

(ii) shows or exhibits at any horse show or other like exhibition in this state a horse, mare or gelding, the tail of which has been cut or operated upon pursuant to subdivision (a) of this section.

(1) Provided that the provisions of this section shall not apply with respect to an animal the tail of which has been so cut or operated upon, if the owner thereof furnishes to the manager or other official having charge of the horse show or exhibition at which such animal is shown or exhibited, an affidavit by the owner, or a licensed veterinarian, in a form approved by the department of agriculture and markets, stating that the tail of such horse was so cut in a state wherein such cutting was not then specifically prohibited by the laws thereof.

(2) Such affidavit shall, to the best of the affiant's knowledge, information and belief, identify the animal with respect to sex, age, markings, sire and dam, and state the time and place of such cutting and the name and address of the person by whom it was performed.

(3) The affidavit shall be subject to inspection at all reasonable times by any peace officer, acting pursuant to his or her special duties, or police officer of this state, or by a designated representative of the commissioner of agriculture and markets.

(4) In lieu of furnishing such affidavit to the manager or other official having charge of such horse show or exhibition, the owner of such horse may specify on the entry blank for the horse show or exhibition the name and address of a central registry office designated by the department of agriculture and markets where such an affidavit has already been filed and is available for inspection.

(b) If a horse is found with the bone, tissues, muscles or tendons of its tail cut as described in subdivision (a) of this section, and with the wound resulting therefrom unhealed, upon the premises or in the charge and custody of any person, such fact shall be prima facie evidence of a violation of this section by the owner or user of such premises or the person having such charge or custody, respectively.

Unlawfully operating upon the tails of horses is a class A misdemeanor.

§ 280.110 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.

§ 280.115 Disposition of animals through forfeiture procedures after conviction.

(a) In addition to any other penalty provided by law, upon conviction for any violation of section 280.05, 280.06, 280.07, 280.10, 280.15, 280.20, 280.50, 280.55, 280.60, 280.65, 280.66, 280.75, or 280.105 of this article, the convicted person may, after a duly held hearing pursuant to subdivision (f) of this section, 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 such 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 such conviction, except those granted in subdivision (d) of this section.

(b) No animal in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, duly incorporated animal protective association, pound or its authorized agents thereof, 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, duly incorporated animal protective association or pound 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.

(c) The court may additionally order that the convicted person or any person dwelling in the same household 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, 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.

(d) In the case of farm animals, the court may, in addition to the forfeiture to 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 section 280.45 of this article and section three hundred fifty-seven of the agriculture and markets law, order the farm animals which were the basis of such 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 dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of such conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to subdivision (f) 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 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 (e) of this section.

(e) 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 (a) of this section may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of such conviction, or who knew or should have known of the unlawful act, or humanely euthanize them according to the provisions of section three hundred seventy-four of the agriculture and markets law.

(f) (i) 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 such farm animals.

(ii) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in such 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 (d) 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 such conviction, or who knew or should have known of such unlawful act.

(g) 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.

§ 280.120 Officer may take possession of animals or implements used in fights among animals.

Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He or she shall state to the person in charge thereof, at the time of such taking, his or her name and residence, and also, the time and place at which the application provided for by section 280.125 of this article will be made.

§ 280.125 Disposition of animals or implements used in fights among animals.

An officer, after taking possession of such animals, or implements, or other property, pursuant to section 280.120 of this article, shall apply to the magistrate before which the complaint was made against the offender violating such provision of law, for the order described herein, and shall make and file an affidavit with such magistrate, stating therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He or she shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person named and designated in such order, shall immediately thereupon assume such custody, and shall retain such for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his or her final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge,

without conviction, of such offender, such court shall, on demand, direct the delivery of the property held in custody to the owner thereof.

§ 4. Paragraph (a) of subdivision 24 of section 108 of the agriculture and markets law, as amended by chapter 392 of the laws of 2004, is amended to read as follows:

(a) "Dangerous dog" means any dog which (i) without justification attacks a person, companion animal as defined in subdivision [~~five~~] (e) of section [~~three hundred fifty of this chapter~~] 280.00 of the penal law, farm animal as defined in subdivision [~~four~~] (d) of section [~~three hundred fifty of this chapter~~] 280.00 of the penal law or domestic animal as defined in subdivision seven of this section and causes physical injury or death, or (ii) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

§ 5. Subdivision 1 and paragraph (b) of subdivision 2 of section 123 of the agriculture and markets law, as amended by section 18 of part T of chapter 59 of the laws of 2010, are amended to read as follows:

1. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal as defined in subdivision (e) of section [~~three hundred fifty of this chapter~~] 280.00 of the penal law, farm animal as defined in [~~such~~] subdivision (d) of section [~~three hundred fifty~~] 280.00 of the penal law, or a domestic animal as defined in subdivision seven of section one hundred eight of this article to a dog control officer or police officer of the appropriate municipality. Such officer shall immediately inform the complainant of his or her right to commence a proceeding as provided in subdivision two of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself or herself.

(b) secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section [~~three hundred fifty-three-b of this chapter~~] 280.00 of the penal law. Such confinement shall not include lengthy periods of tying or chaining;

§ 6. Section 332 of the agriculture and markets law, as amended by chapter 449 of the laws of 2010, is amended to read as follows:

§ 332. Disposition. Any person having in his or her care, custody, or control any abandoned animal, as defined in section three hundred thirty-one of this article, may deliver such animal to any duly incorporated society for the prevention of cruelty to animals or any duly incorporated humane society having facilities for the care and eventual disposition of such animals, or, in the case of dogs, cats and other small animals, to any pound maintained by or under contract or agreement with any county, city, town, or village within which such animal was abandoned. The person with whom the animal was abandoned shall, however, on the day of divesting himself or herself of possession thereof, notify the person who had placed such animal in his or her custody of the name and address of the animal society or pound to which the animal has been delivered, such notice to be by registered letter mailed to the last

known address of the person intended to be so notified. If an animal is not claimed by its owner within five days after being so delivered to such duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or pound, such animal may at any time thereafter be placed for adoption in a suitable home [~~or euthanized in accordance with the provisions of section three hundred seventy-four of this chapter~~]. In no event, however, shall the use of a decompression chamber or decompression device of any kind be used for the purpose of destroying or disposing of such animal.

§ 7. Paragraph a of subdivision 6 of section 373 of the agriculture and markets law, as amended by chapter 531 of the laws of 2013, is amended to read as follows:

a. If any animal is seized and impounded pursuant to the provisions of this section, section [~~three hundred fifty-three-d of this article~~] **280.30 of the penal law** or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges, or within a reasonable time thereafter, the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter 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.

§ 8. Subdivision 6 of section 399-aa of the general business law, as added by chapter 573 of the laws of 2002, is amended to read as follows:

6. (a) No provision of this section shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations involving the use of dog or cat fur or flesh, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section [~~three hundred fifty-three of the agriculture and markets~~] **280.10 of the penal** law.

(b) No provision of this section shall be construed to prohibit any person, firm, partnership or corporation from importing, selling, offering for sale, manufacturing, distributing, transporting, or otherwise marketing or trading in the fur, hair, skin, or flesh of a domesticated dog or cat for the purposes of conducting scientific tests, experiments or investigations that are to be performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section [~~three hundred fifty-three of the agriculture and markets~~] **280.10 of the penal** law.

§ 9. Subdivision 1 of section 352.3 of the family court act, as amended by chapter 532 of the laws of 2008, is amended to read as follows:

(1) Upon the issuance of an order pursuant to section 315.3 or the entry of an order of disposition pursuant to section 352.2, a court may enter an order of protection against any respondent for good cause shown. The order may require that the respondent: (a) stay away from the home, school, business or place of employment of the victims of the alleged offense; or (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the alleged offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order; or (c) refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the person protected by the order or a minor child residing in such person's household. "Companion animal", as used in this subdivision, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law.

§ 10. Paragraph 2 of subdivision (h) of section 446 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 11. Paragraph 2 of subdivision (i) of section 551 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 12. Paragraph 2 of subdivision (i) of section 656 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 13. Paragraph 2 of subdivision (h) of section 759 of the family court act, as added by chapter 253 of the laws of 2006, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 14. Paragraph 2 of subdivision (i) of section 842 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 15. Subparagraph 2 of paragraph (g) of subdivision 1 of section 1056 of the family court act, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 16. Clause (B) of subparagraph 6 of paragraph (a) of subdivision 1 of section 530.12 of the criminal procedure law, as amended by chapter 526 of the laws of 2013, is amended to read as follows:

(B) "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law;

§ 17. Subparagraph 2 of paragraph (c) of subdivision 1 and subparagraph 2 of paragraph (c) of subdivision 4 of section 530.13 of the criminal procedure law, as added by chapter 253 of the laws of 2006, are amended to read as follows:

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision [~~five~~] (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law.

§ 18. Paragraph (v) of subdivision 8 of section 700.05 of the criminal procedure law, as added by chapter 91 of the laws of 2017, is amended to read as follows:

(v) Any of the acts designated as felonies in section [~~three hundred fifty-one of the agriculture and markets~~] 280.05 of the penal law.

§ 19. The opening paragraph of paragraph e of subdivision 6 of section 11-0103 of the environmental conservation law, as amended by chapter 10 of the laws of 2005, is amended to read as follows:

"Wild animal" shall not include "companion animal" as defined in section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law. Wild animal includes, and is limited to, any or all of the following orders and families:

§ 20. Paragraph (b) of subdivision 1 of section 1264-a of the public authorities law, as added by chapter 378 of the laws of 2017, is amended to read as follows:

(b) "Domestic companion animal" means a companion animal or pet as defined in subdivision (e) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law 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 animal" shall not include a "farm animal", as defined in subdivision (d) of section [~~three hundred fifty of the agriculture and markets~~] 280.00 of the penal law.

§ 21. Subdivision a of section 17-1601 of the administrative code of the city of New York, as added by local law number 4 of the city of New York for the year 2014, is amended to read as follows:

a. "Animal abuse crime" shall mean any of the following:

1. animal fighting, as defined in [~~section three hundred fifty-one of the agriculture and markets~~] sections 280.05, 280.06, and 280.07 of the penal law;

2. overdriving, torturing or injuring animals; failure to provide proper sustenance, as defined in section [~~three hundred fifty-three of the agriculture and markets~~] 280.10 of the penal law;

3. aggravated cruelty to animals, as defined in section [~~three hundred fifty-three-a of the agriculture and markets~~] 280.15 of the penal law;

4. electrocution of fur-bearing animals, as defined in section [~~three hundred fifty-three-c of the agriculture and markets~~] 280.25 of the penal law;

5. abandonment of animals, as defined in section [~~three hundred fifty-five of the agriculture and markets~~] 280.50 of the penal law;

6. failure to provide proper food and drink to an impounded animal, as defined in section [~~three hundred fifty-six of the agriculture and markets~~] **280.55 of the penal** law;

7. poisoning or attempting to poison animals, as defined in [~~section three hundred sixty of the agriculture and markets~~] **sections 280.65 and 280.66 of the penal** law;

8. interference with or injury to certain domestic animals, as defined in section [~~three hundred sixty-one of the agriculture and markets~~] **280.70 of the penal** law;

9. harming a service animal in the first degree, as defined in section 242.15 of the penal [~~code~~] **law**; or

10. an offense in any other jurisdiction which includes all of the essential elements of any such crime provided for in paragraph one, two, three, four, five, six, seven, eight, or nine of this subdivision.

§ 22. Subdivision d of section 20-383 of the administrative code of the city of New York, as amended by local law number 2 of the city of New York for the year 1994, is amended to read as follows:

d. Notwithstanding the provisions of subdivisions b and c of this section, any driver of a horse drawn cab found guilty of one violation of subdivision d of section 20-381.1 of the code or sections [~~three hundred fifty-one, three hundred fifty-three, three hundred fifty-five through three hundred sixty-two or three hundred sixty-nine of the New York state agriculture and markets law~~] **280.05, 280.06, 280.07, 280.10, 280.15, 280.20, 280.25, 280.30, 280.35, 280.40, 280.45, 280.50, 280.55, 280.60, 280.65, 280.66, 280.70 or 280.75 of the penal law** or who is found guilty of a violation of this subchapter while his or her license is suspended, shall have his or her license revoked. A driver whose license has been revoked in accordance with this provision may not apply for a new license for five years from the date of revocation.

§ 23. This act shall take effect immediately.