

# STATE OF NEW YORK

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95

2017-2018 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 4, 2017

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Introduced by M. of A. PAULIN, ROSENTHAL, GUNTHER, COLTON, GALEF, JAFFEE, ORTIZ -- Multi-Sponsored by -- M. of A. ABBATE, CURRAN, CUSICK, DINOWITZ, GLICK, RA, SCHIMMINGER, THIELE, WRIGHT -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to increasing the penalty for multiple convictions of torturing or failing to provide sustenance to an animal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 353 of the agriculture and markets law, as amended  
2 by chapter 458 of the laws of 1985 and the opening paragraph as amended  
3 by chapter 523 of the laws of 2005, is amended to read as follows:

4 § 353. Overdriving, torturing and injuring animals; failure to provide  
5 proper sustenance. 1. A person who overdrives, overloads, tortures or  
6 cruelly beats or unjustifiably injures, maims, mutilates or kills any  
7 animal, whether wild or tame, and whether belonging to himself or to  
8 another, or deprives any animal of necessary sustenance, food or drink,  
9 or neglects or refuses to furnish it such sustenance or drink, or causes,  
10 procures or permits any animal to be overdriven, overloaded,  
11 tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or  
12 killed, or to be deprived of necessary food or drink, or who wilfully  
13 sets on foot, instigates, engages in, or in any way furthers any act of  
14 cruelty to any animal, or any act tending to produce such cruelty, is  
15 guilty of a class A misdemeanor and for purposes of paragraph (b) of  
16 subdivision one of section 160.10 of the criminal procedure law, shall  
17 be treated as a misdemeanor defined in the penal law.

18 2. A second violation of subdivision one of this section within five  
19 years from the date of a prior conviction of any violation of subdivi-  
20 sion one of this section, shall be a felony. A defendant convicted of  
21 this offense shall be sentenced pursuant to paragraph (b) of subdivision

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

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1 one of section 55.10 of the penal law provided, however, that any term  
2 of imprisonment imposed for a violation of this section shall be a defi-  
3 nite sentence, which may not exceed two years.

4 3. Nothing herein contained shall be construed to prohibit or inter-  
5 fere with any properly conducted scientific tests, experiments or inves-  
6 tigations, involving the use of living animals, performed or conducted  
7 in laboratories or institutions, which are approved for these purposes  
8 by the state commissioner of health. The state commissioner of health  
9 shall prescribe the rules under which such approvals shall be granted,  
10 including therein standards regarding the care and treatment of any such  
11 animals. Such rules shall be published and copies thereof conspicuously  
12 posted in each such laboratory or institution. The state commissioner of  
13 health or his duly authorized representative shall have the power to  
14 inspect such laboratories or institutions to insure compliance with such  
15 rules and standards. Each such approval may be revoked at any time for  
16 failure to comply with such rules and in any case the approval shall be  
17 limited to a period not exceeding one year.

18 § 2. This act shall take effect on the first of December next succeed-  
19 ing the date on which it shall have become a law.