STATE OF NEW YORK

95

2017-2018 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2017

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:

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

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

2. A second violation of subdivision one of this section within five years from the date of a prior conviction of any violation of subdivision one of this section, shall be a felony. A defendant convicted of 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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one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for a violation of this section shall be a definite sentence, which may not exceed two years.

3. 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 state commissioner of health. The state 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 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.

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