

STATE OF NEW YORK

90--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAMINSKY, HELMING, HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to detecting, disrupting and dismantling violent enterprise animal cruelty and appropriately punishing individuals associated with such enterprise cruelty; and to repeal 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:

1 Section 1. Section 350 of the agriculture and markets law is amended
2 by adding two new subdivisions 6 and 7 to read as follows:

3 6. "Animal fighting" means any fight between animals, or between any
4 animal and a person or persons, for amusement or gain. The term shall
5 not be construed to include exhibitions of a kind commonly featured at
6 rodeos.

7 7. "Animal fighting paraphernalia" means equipment, products, or mate-
8 rials of any kind that are used, intended for use, or designed for use
9 in the training, preparation, conditioning or furtherance of animal
10 fighting. Animal fighting paraphernalia includes:

11 (i) a breaking stick, which means a device designed for insertion
12 behind the molars of a dog for the purpose of breaking the dog's grip on
13 another animal or object;

14 (ii) a cat mill, which means a device that rotates around a central
15 support with one arm designed to secure a dog and one arm designed to
16 secure a cat, rabbit, or other small animal beyond the grasp of the dog;

17 (iii) a treadmill, which means an exercise device consisting of an
18 endless belt on which the animal walks or runs without changing places;

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

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(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.

§ 2. Section 351 of the agriculture and markets law is REPEALED and a new section 351 is added to read as follows:

§ 351. Promoting animal fighting in the third degree. A person is guilty of promoting animal fighting in the third degree when such person:

1. Owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent that such paraphernalia be used to engage in or otherwise promote or facilitate animal fighting; or

2. Is knowingly present as a spectator at a place where an exhibition of animal fighting is being conducted.

Promoting animal fighting in the third degree is a class B 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.

§ 3. The agriculture and markets law is amended by adding four new sections 351-a, 351-b, 351-c and 351-d to read as follows:

§ 351-a. 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 with the intent that such animal engage in, or in any way facilitate, animal fighting; or

2. Commits the crime of promoting animal fighting in the third degree in violation of subdivision one of section three hundred fifty-one of this article and has been convicted within the previous five years of a violation of this section, section three hundred fifty-one, three hundred fifty-one-b, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-six, three hundred fifty-nine, three hundred sixty-one, or three hundred sixty-six of this article; or

3. Commits the crime of promoting animal fighting in the third degree in violation of subdivision two of section three hundred fifty-one of this article, and:

(a) has been convicted within the previous five years of a violation of this section, section three hundred fifty-one, three hundred fifty-one-b, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-six, three hundred fifty-nine, three hundred sixty-one, or three hundred sixty-six of this article, or

(b) has paid an admission fee as a spectator who is knowingly present, made a wager, or otherwise actively contributed, in any manner, to the exhibition of animal fighting being conducted.

Promoting animal fighting in the second degree is 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.

§ 351-b. Promoting animal fighting in the first degree. A person is guilty of promoting animal fighting in the first degree when such person:

1. Causes an animal to engage in animal fighting;

2. Trains an animal with the intent that such animal engage in animal fighting;

1 3. Breeds, transfers, sells, or offers for sale an animal with the
2 intent that such animal engage in animal fighting;

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

5 5. Owns, possesses, harbors, or keeps any animal on premises where an
6 exhibition of animal fighting is being conducted with the intent that
7 such animal engage in animal fighting.

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

9 § 351-c. Promoting enterprise animal fighting. A person is guilty of
10 promoting enterprise animal fighting when such person:

11 1. Commits the crime of promoting animal fighting in the first degree
12 in violation of subdivision one of section three hundred fifty-one-b of
13 this article as part of, during, or in connection with a continuous
14 exhibition of animal fighting that includes more than two animals in
15 successive acts of animal fighting;

16 2. Commits the crime of promoting animal fighting in the first degree
17 in violation of subdivision two or three of section three hundred
18 fifty-one-b of this article and is in possession of more than six
19 animals with the intent that such animals engage in, or otherwise facil-
20 itate, animal fighting;

21 3. Commits the crime of promoting animal fighting in the first degree
22 in violation of subdivision four of section three hundred fifty-one-b of
23 this article where such act is a continuous exhibition of animal fight-
24 ing that includes more than two animals in successive acts of animal
25 fighting; or

26 4. Commits the crime of promoting animal fighting in the first degree
27 in violation of section three hundred fifty-one-b of this article and
28 has been convicted, within the previous five years, of a violation of
29 section three hundred fifty-one-a, three hundred fifty-one-b, three
30 hundred fifty-three, three hundred fifty-three-a, or three hundred
31 sixty-one of this article.

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

34 § 351-d. Authorized dispositions; promoting animal fighting. When a
35 person is convicted of an offense defined in subdivision one of section
36 three hundred fifty-one-a of this article, in addition to the penalties
37 provided in section three hundred seventy-four of this article and those
38 provided in the other laws of this state, the court may impose a fine
39 which shall not exceed ten thousand dollars. When a person is convicted
40 of an offense defined in section three hundred fifty-one-b of this arti-
41 cle, in addition to the penalties provided in section three hundred
42 seventy-four of this article and those provided in the other laws of
43 this state, the court may impose a fine which shall not exceed twenty
44 thousand dollars. When a person is convicted of an offense defined in
45 section three hundred fifty-one-c of this article, in addition to the
46 penalties provided in section three hundred seventy-four of this article
47 and those provided in the other laws of this state, the court may impose
48 a fine which shall not exceed thirty thousand dollars.

49 § 4. Paragraph a of subdivision 8 of section 374 of the agriculture
50 and markets law, as amended by chapter 594 of the laws of 2003 and
51 subdivision 8 as renumbered by chapter 479 of the laws of 2009, is
52 amended to read as follows:

53 a. In addition to any other penalty provided by law, upon conviction
54 for any violation of section three hundred fifty-one, **three hundred**
55 **fifty-one-a, three hundred fifty-one-b, three hundred fifty-one-c,** three
56 hundred fifty-three, three hundred fifty-three-a, three hundred fifty-

1 three-b, three hundred fifty-five, three hundred fifty-six, three
2 hundred fifty-nine, three hundred sixty, three hundred sixty-one, three
3 hundred sixty-five or three hundred sixty-eight of this article, the
4 convicted person may, after a duly held hearing pursuant to paragraph f
5 of this subdivision, be ordered by the court to forfeit, to a duly
6 incorporated society for the prevention of cruelty to animals or a duly
7 incorporated humane society or authorized agents thereof, the animal or
8 animals which are the basis of the conviction. Upon such an order of
9 forfeiture, the convicted person shall be deemed to have relinquished
10 all rights to the animals which are the basis of the conviction, except
11 those granted in paragraph d of this subdivision.

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

21 § 6. This act shall take effect on the ninetieth day after it shall
22 have become a law.