

Memorandum in Support, with Amendments

COMMITTEE ON ANIMALS AND THE LAW

Animals and the Law #3-A

May 22, 2014

S. 6643

A. 775-B

By: Senator Lanza

By: M. of A. Rosenthal

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 180 days after it shall have become a law

AN ACT to amend the Agriculture and Markets Law and the Penal Law, in relation to promoting a better awareness, understanding, and enforcement of the laws on animal crimes by clarifying, modernizing, and restructuring the animal crimes laws of New York State. This bill does so by transferring certain sections of the Agriculture and Markets Law into the Penal Law, redefining terms, re-titling offenses, altering the classification of certain animal crimes offenses, delineating specific sentencing provisions, and defining certain new offenses.

SECTION AND LAW REFERRED TO: The focal point of the bill is the amendment of the Penal Law to add a new Title Q, which contains all Penal Law provisions of offenses against animals, including animal cruelty, and is largely based upon the former provisions of Article 26 of the Agriculture and Markets Law.

Specifically, Agriculture and Markets Law, Article 26, sections 351, 353, 353-a, 353-b, 353-d, 355, 360, 361, 362 and subdivision 8 of section 374 are repealed, and the provisions of these sections, with certain modifications, are transferred into the new Penal Law Title Q. The existing section 350 of the Agriculture and Markets Law is modified by adding subdivision 6, which provides the definition of an "animal cruelty offense." The existing section 350 of the Agriculture and Markets Law, containing definitions, is further modified by adding a new subdivision 7, which provides the definition of a "duly incorporated society for the prevention of cruelty to animals." Sections 353-b, shelter for dogs left outdoors, and 353-d, confinement of animals in vehicles, are moved to the new Penal Law Title Q without changes. The existing sections 369 and 371 of the Agriculture and Markets Law, both relating to enforcement, are amended to integrate the revisions contained in this bill and make these enforcement provisions applicable to the new Penal Law Title Q. Existing subdivision 6 of section 373 of the Agriculture and Markets Law, related to impoundment of animals, is amended to add other agencies as qualified impounding organizations for the

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purposes of petitioning for a security bond for reasonable expenses of care and to provide “for the animal pending disposition of the charges.” The existing section 374 of the Agriculture and Markets Law, humane destruction of animals, is modified by detaching the special sentencing provisions which are moved to a new section 380 in this law.

The proposed Penal Law Title Q contains a new Article 280, which is captioned "Offenses against Animals." Section 280.00 is introduced to the Penal Law and contains the bulk of the definitions for the proposed Article 280.

THE COMMITTEE ON ANIMALS AND THE LAW
SUPPORTS THIS LEGISLATION, WITH AMENDMENTS

S.6643/A.775-B transfers the majority of the New York statutory crimes relating to animals from the Agriculture and Markets Law to the Penal Law. Relocating these laws will make these crimes easier for police officers and other law enforcement personnel to access while in the field, and thus enhance enforcement of these laws. Currently, many of these crimes are located in the Agriculture and Markets laws simply because they are “animal related.” In reality, because police officers on patrol may not carry a copy of the Agriculture and Markets Law, location of these provisions in that law makes it less likely that police officers responding to reports of animal related crimes will be fully familiar with the provisions of law relating to animal related crimes. By transferring the majority of these crimes to the Penal Law, the laws will not only be readily accessible to police officers responding to these types of situations, but police officers will also be better educated on these laws, will have a better understanding and familiarity with them, and will therefore be more likely to effectively recognize and enforce such crimes. In addition, pursuant to Criminal Procedure Law section 160.10, the relocation of misdemeanor crimes into the Penal Law will now require fingerprinting of those charged with designated animal related crimes. This information can prove beneficial to law enforcement agencies to identify second offenders and violators who subsequently commit violent crimes.

The new Penal Law Title Q is not simply a compilation of provisions that were formerly in the Agriculture and Markets Law. The proposed new Penal Law provisions modernize the antiquated language of many of the animal related crimes as set forth in the Agriculture and Markets Law, and make the provisions clear and understandable, giving terms of art concrete meaning and definition, incorporating current case law and concepts into new statutory terminology, and addressing due process concerns. Penal Law Title Q restructures the statutory language of many of the animal related crimes to correspond to other criminal statutes located in the Penal Law. For example, animal related crimes in the New Title Q have been reclassified in order of precedence as are other criminal laws (e.g. Animal Cruelty in the Second Degree; Animal Abduction in the First Degree; Animal Fighting in the First Degree). The bill also provides increased penalties for repeat offenders; classifies the crimes of Animal Fighting in the First Degree and Animal Cruelty in the First Degree as class D felonies, thus greatly increasing the penalties for those offenses; classifies Animal Cruelty in the First Degree (formerly Aggravated Cruelty to Animals) as a violent felony offense; adds the new crime of Animal Abduction on three different levels (Third Degree, Second Degree, First Degree); enhances the ability of forfeited animals to be placed

with rescue agencies; enhances the penalty for attending an animal fight; makes the use of bait animals (animals used for dog fighting practice) a felony offense; prohibits the transfer of animals for fighting purposes, even without an exchange of money; provides a statutory definition for “torture” to enhance enforcement of animal cruelty that involves conduct that can now be identified as torture of an animal; and most importantly, extends felony penalties to those who have tortured, or committed cruelty “done or carried out in a depraved or sadistic manner” against any animal, not merely companion animals.

In addition, we recommend that AML § 366-a, Removing, seizing or transporting dogs for research purposes, be transferred to the Penal Law since it is among the offenses against animals intended to be grouped together in the new Article 280 of the Penal Law.

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Increased public awareness and outreach will be essential to effective implementation and enforcement of this bill if it is enacted into law. The Committee on Animals and the Law has a history of constructive public outreach and engaging with the public on various issues relating to animal law. When this bill is passed by the legislature and signed into law, the Committee would welcome an opportunity to work with the state to promote awareness and understanding of the law within the legal community and the public at large.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** this legislation, with amendments.

Chair of the Committee: Amy L. Chaitoff, Esq.