

STATE OF NEW YORK



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Intro. 6098

IN ASSEMBLY

May 27, 1965

Introduced by COMMITTEE ON RULES—read once and referred to the Committee on Rules

AN ACT

To amend a chapter of the laws of nineteen hundred sixty-five, entitled "An act providing for the punishment of offenses, constituting chapter forty of the consolidated laws" and the agriculture and markets law, in relation to cruelty to animals

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

1 Section 1. Sections 245.10, 245.15 and 245.20 of a chapter of the
2 laws of nineteen hundred sixty-five, entitled "An act providing for
3 the punishment of offenses, constituting chapter forty of the con-
4 solidated laws" are hereby repealed.

5 § 2. Article twenty-six of the agriculture and markets law is
6 hereby renumbered article twenty-seven, and sections three hun-
7 dred fifty, three hundred fifty-one, three hundred fifty-two, three
8 hundred fifty-three, three hundred fifty-four and three hundred
9 fifty-five are hereby renumbered, respectively, sections four hundred
10 fifty, four hundred fifty-one, four hundred fifty-two, four hundred

EXPLANATION — Matter in *italics* is new; matter in brackets [] is old law to be omitted.

1 fifty-three, four hundred fifty-four and four hundred fifty-five.

2 § 3. Such law is hereby amended by adding thereto a new article,
3 to be article twenty-six, to read as follows:

4 *ARTICLE 26*

5 *ANIMALS*

6 *Section 350. Definitions*

7 351. *Keeping a place where animals are fought.*

8 352. *Instigating fights between animals.*

9 353. *Overdriving, torturing and injuring animals; failing
10 to provide proper sustenance.*

11 354. *Sale of baby chicks.*

12 355. *Abandonment of animals.*

13 356. *Failure to provide proper food and drink to
14 impounded animal.*

15 357. *Selling or offering to sell or exposing diseased animal.*

16 358. *Selling disabled horses.*

17 359. *Carrying animal in a cruel manner.*

18 360. *Poisoning or attempting to poison animals.*

19 361. *Interference with or injury to certain domestic
20 animals.*

21 362. *Throwing substance injurious to animals in public
22 place.*

23 363. *Unauthorized possession of dogs presumptive evidence
24 of Larceny.*

25 364. *Running horses on highway.*

26 365. *Clipping or cutting the ears of dogs.*

27 366. *Dog stealing.*

1 367. *Leaving state to avoid provisions of this article.*

2 368. *Operating upon tails of horses unlawful.*

3 369. *Interference with officers.*

4 370. *Protection of the public from attack by wild animals*
5 *and reptiles.*

6 § 350. *Definitions.*

7 1. *"Animal," as used in this article, includes every living crea-*
8 *ture except a human being;*

9 2. *"Torture" or "cruelty" includes every act, omission, or*
10 *neglect, whereby unjustifiable physical pain, suffering or death is*
11 *caused or permitted.*

12 § 351. *Keeping a place where animals are fought.*

13 *A person who keeps or uses, or is in any manner connected with,*
14 *or interested in the management of, or receives money for the admis-*
15 *sion of any person to, a house, apartment, pit or place kept or used*
16 *for baiting or fighting any animal, and any owner or occupant of a*
17 *house, apartment, pit or place who wilfully procures or permits the*
18 *same to be used or occupied for such baiting or fighting, is guilty of*
19 *a misdemeanor, punishable by imprisonment for not more than one*
20 *year, or by a fine of not more than five hundred dollars, or by both.*

21 § 352. *Instigating fights between animals.*

22 *A person who sets on foot, instigates, promotes, or carries on, or*
23 *does any act as assistant, umpire, or principal, or is a witness of, or*
24 *in any way aids in or engages in the furtherance of any fight between*
25 *cocks or other birds, or dogs, bulls, bears, or other animals, pre-*
26 *meditated by any person owning, or having custody of such birds or*
27 *animals, is guilty of a misdemeanor punishable by fine not less than*

1 *ten dollars, nor more than one thousand dollars, or by imprisonment*
2 *not less than ten days nor more than one year, or both.*

3 § 353. *Overdriving, torturing and injuring animals; failure to*
4 *provide proper sustenance.*

5 *A person who overdrives, overloads, tortures or cruelly beats or*
6 *unjustifiably injures, maims, mutilates or kills any animal, whether*
7 *wild or tame, and whether belonging to himself or to another, or*
8 *deprives any animal of necessary sustenance, food or drink, or*
9 *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*
12 *or killed, or to be deprived of necessary food or drink, or who wil-*
13 *fully sets on foot, instigates, engages in, or in any way furthers any*
14 *act of cruelty to any animal, or any act tending to produce such*
15 *cruelty, is guilty of a misdemeanor, punishable by imprisonment*
16 *for not more than one year, or by a fine of not more than five hun-*
17 *dred dollars, or by both.*

18 *Nothing herein contained shall be construed to prohibit or inter-*
19 *fere with any properly conducted scientific tests, experiments or*
20 *investigations, involving the use of living animals, performed or*
21 *conducted in laboratories or institutions, which are approved for*
22 *these purposes by the state commissioner of health. The state com-*
23 *missioner of health shall prescribe the rules under which such ap-*
24 *provals shall be granted, including therein standards regarding the*
25 *care and treatment of any such animals. Such rules shall be pub-*
26 *lished and copies thereof conspicuously posted in each such labora-*
27 *tory or institution. The state commissioner of health or his duly*

1 authorized representative shall have the power to inspect such
2 laboratories or institutions to insure compliance with such rules
3 and standards. Each such approval may be revoked at any time
4 for failure to comply with such rules and in any case the approval
5 shall be limited to a period not exceeding one year.

6 § 354. Sale of baby chicks.

7 1. No person shall sell, offer for sale, barter or give away living
8 baby chicks, ducklings or other fowl unless such person provides
9 proper brooder facilities for the care of such baby chicks, ducklings
10 or other fowl during the time they are in the possession of such
11 person.

12 2. No person shall sell, offer for sale, barter or display living baby
13 chicks, ducklings or other fowl which have been dyed, colored or
14 otherwise treated so as to impart to them an artificial color.

15 3. No person shall sell, offer for sale, barter or give away living
16 baby chicks, ducklings or other fowl under two months of age in
17 any quantity less than six.

18 4. A violation of the provisions of this section is a misdemeanor,
19 punishable by imprisonment for not more than one year, or by a
20 fine of not more than five hundred dollars, or by both.

21 § 355. Abandonment of animals.

22 A person being the owner or possessor, or having charge or custody
23 of an animal, who abandons such animal, or leaves it to die in a
24 street, road or public place, or who allows such animal, if it become
25 disabled, to lie in a public street, road or public place more than
26 three hours after he receives notice that it is left disabled, is guilty

1 of a misdemeanor, punishable by imprisonment for not more than
2 one year, or by a fine of not more than five hundred dollars, or by
3 both.

4 § 356. Failure to provide proper food and drink to impounded
5 animal.

6 A person who, having impounded or confined any animal, refuses
7 or neglects to supply to such animal during its confinement a suffi-
8 cient supply of good and wholesome air, food, shelter and water, is
9 guilty of a misdemeanor, punishable by imprisonment for not more
10 than one year, or by a fine of not more than five hundred dollars,
11 or by both. In case any animal shall be at any time impounded as
12 aforesaid, and shall continue to be without necessary food and water
13 for more than twelve successive hours, it shall be lawful for any
14 person, from time to time, and as often as it shall be necessary, to
15 enter into and upon any pound in which any such animal shall be
16 so confined, and to supply it with necessary food and water, so long
17 as it shall remain so confined; such person shall not be liable to any
18 action for such entry, and the reasonable cost of such food and
19 water may be collected by him of the owner of such animal, and
20 the said animal shall not be exempt from levy and sale upon execu-
21 tion issued upon a judgment therefor.

22 § 357. Selling or offering to sell or exposing diseased animal.

23 A person who wilfully sells or offers to sell, uses, exposes, or
24 causes or permits to be sold, offered for sale, used or exposed, any
25 horse or other animal having the disease known as glanders or
26 farcy, or other contagious or infectious disease dangerous to the
27 life or health of human beings, or animals, or which is diseased past

1 recovery, or who refuses upon demand to deprive of life an animal
2 affected with any such disease, is guilty of a misdemeanor, punish-
3 able by imprisonment for not more than one year, or by a fine of
4 not more than five hundred dollars or by both.

5 § 358. Selling disabled horses.

6 It shall be unlawful for any person holding an auctioneer's
7 license knowingly to receive or offer for sale or to sell at public
8 auction, other than at a sheriff's or judicial sale under a court order,
9 any horse which by reason of debility, disease or lameness, or for
10 any other cause, could not be worked in this state without violating
11 the law against cruelty to animals. Any person violating any provi-
12 sion of this section shall be punishable by a fine of not less than
13 five dollars nor more than one hundred dollars, or by imprisonment
14 for not more than six months, or by both such fine and imprison-
15 ment.

16 § 359. Carrying animal in a cruel manner.

17 1. A person who carries or causes to be carried in or upon any
18 vessel or vehicle or otherwise, any animal in a cruel or inhuman
19 manner, or so as to produce torture, is guilty of a misdemeanor,
20 punishable by imprisonment for not more than one year, or by a
21 fine of not more than five hundred dollars, or by both.

22 2. A railway corporation, or an owner, agent, consignee, or
23 person in charge of any horses, sheep, cattle, or swine, in the course
24 of, or for transportation, who confines, or causes or suffers the same
25 to be confined, in cars for a longer period than twenty-eight con-
26 secutive hours, or thirty-six consecutive hours where consent is
27 given in the manner hereinafter provided, without unloading for

1 rest, water and feeding, during five consecutive hours, unless pre-
2 vented by storm or inevitable accident, is guilty of a misdemeanor.
3 The consent which will extend the period from twenty-eight to
4 thirty-six hours shall be given by the owner, or by person in cus-
5 tody of a particular shipment, by a writing separate and apart from
6 any printed bill of lading or other railroad form. In estimating
7 such confinement, the time during which the animals have been
8 confined without rest, on connecting roads from which they are
9 received, must be computed. If the owner, agent, consignee or
10 other person in charge of any such animals refuses or neglects upon
11 demand to pay for the care or feed of the animals while so unloaded
12 or rested, the railway company, or other carriers thereof, may
13 charge the expense thereof to the owner or consignee and shall have
14 a lien thereon for such expense.

15 § 360. Poisoning or attempting to poison animals.

16 A person who unjustifiably administers any poisonous or noxious
17 drug or substance to a horse, mule or domestic cattle or unjustifiably
18 exposes any such drug or substance with intent that the same shall
19 be taken by horse, mule or by domestic cattle, whether such horse,
20 mule or domestic cattle be the property of himself or another, is
21 guilty of a felony, punishable by imprisonment in a state's prison,
22 for not more than five years. A person who unjustifiably admin-
23 isters any poisonous or noxious drug or substance to an animal,
24 other than a horse, mule or domestic cattle, or unjustifiably exposes
25 any such drug or substance with intent that the same shall be taken
26 by an animal other than a horse, mule or domestic cattle, whether
27 such animal be the property of himself or another, is guilty of a

1 misdemeanor, punishable by imprisonment for not more than one
2 year, or by a fine of not more than five hundred dollars, or by both.

3 § 361. *Interference with or injury to certain domestic animals.*

4 A person who wilfully or unjustifiably interferes with, injures,
5 destroys or tampers with or who willfully sets on foot, instigates,
6 engages in or in any way furthers any act by which any horse, mule,
7 dog or any other domestic animal used for the purposes of racing,
8 breeding or competitive exhibition of skill, breed or stamina, is
9 interfered with, injured, destroyed or tampered with, or any act
10 tending to produce such interference, injury, destruction or tamper-
11 ing, whether such horse, mule, dog or other domestic animal be the
12 property of himself or another, is guilty of a felony, punishable by
13 imprisonment in a state's prison for not more than three years.

14 § 362. *Throwing substance injurious to animals in public place.*

15 A person who wilfully throws, drops or places, or causes to be
16 thrown, dropped or placed upon any road, highway, street or public
17 place, any glass, nails, pieces of metal, or other substance which
18 might wound, disable or injure any animal is guilty of a misde-
19 meanor, punishable by imprisonment for not more than one year,
20 or by a fine of not more than five hundred dollars, or by both.

21 § 363. *Unauthorized possession of dogs presumptive evidence of*
22 *larceny.*

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

1 § 364. *Running horses on highway.*

2 *A person driving any vehicle upon any plank road, turnpike or*
3 *public highway, who unjustifiably runs the horses drawing the*
4 *same, or causes or permits them to run, is guilty of a misdemeanor,*
5 *punishable by imprisonment for not more than one year, or by a*
6 *fine of not more than five hundred dollars, or by both.*

7 § 365. *Clipping or cutting the ears of dogs.*

8 1. *Whoever clips or cuts off or causes or procures another to clip*
9 *or cut off the whole or any part of an ear of any dog unless an*
10 *anaesthetic shall have been given to the dog and the operation*
11 *performed by a licensed veterinarian, is guilty of a misdemeanor,*
12 *punishable by imprisonment for not more than one year, or a fine*
13 *of not more than five hundred dollars, or by both.*

14 2. *The provisions of this section shall not apply to any dog or*
15 *person who is the owner or possessor of any dog whose ear or a part*
16 *thereof has been clipped or cut off prior to September first, nineteen*
17 *hundred twenty-nine.*

18 3. *Each applicant for a dog license must state on such applica-*
19 *tion whether any ear of the dog for which he applies for such license*
20 *has been cut off wholly or in part.*

21 4. *Nothing herein contained shall be construed as preventing any*
22 *dog whose ear or ears shall have been clipped or cut off wholly or*
23 *in part, not in violation of this section, from being imported into*
24 *the state exclusively for breeding purposes.*

25 § 366. *Dog stealing.*

26 *It shall be unlawful for any person:*

27 1. *To remove or cause to be removed the collar or license tag*
28 *from any dog, or to entice any licensed dog into or out of any house*

1 or enclosure for the purpose of removing its collar or tag, except
2 with the owner's permission;

3 2. To entice, seize or molest any dog, while it is being held or led
4 by any person or while it is properly muzzled or wearing a collar
5 with a license tag attached, except where such action is incidental
6 to the enforcement of some law or regulation;

7 3. To transport any dog, not lawfully in his possession, for the
8 purpose of killing or selling such dog.

9 Any person violating any of the provisions of this section, upon
10 conviction thereof, shall be punished by a fine not exceeding ten
11 dollars, or by imprisonment not to exceed ten days, or by both.

12 § 367. Leaving state to avoid provisions of this article.

13 A person who leaves this state with intent to elude any of the
14 provisions of this article or to commit any act out of this state which
15 is prohibited by them or who, being a resident of this state, does
16 any act without this state, pursuant to such intent, which would
17 be punishable under such provisions, if committed within this state,
18 is punishable in the same manner as if such act had been committed
19 within this state.

20 § 368. Operating upon tails of horses unlawful.

21 1. Any person who cuts the bone, tissues, muscles or tendons of
22 the tail of any horse, mare or gelding, or otherwise operates upon
23 it in any manner for the purpose or with the effect of docking,
24 setting, or otherwise altering the natural carriage of the tail, or who
25 knowingly permits the same to be done upon premises of which he
26 is the owner, lessee, proprietor or user, or who assists in or is volun-
27 tarily present at such cutting, is guilty of a misdemeanor, punish-

1 able by imprisonment for not more than one year, or by a fine of
2 not more than five hundred dollars or by both. If a horse is found
3 with the bone, tissues, muscles or tendons of its tail cut as aforesaid
4 and with the wound resulting therefrom unhealed, upon the prem-
5 ises or in the charge and custody of any person, such fact shall be
6 prima facie evidence of a violation of this section by the owner or
7 user of such premises or the person having such charge or custody,
8 respectively.

9 2. Any person who shows or exhibits at any horse show or other
10 like exhibition in this state a horse, mare or gelding, the tail of
11 which has been cut or operated upon in the manner referred to in
12 section one hercof, is guilty of a misdemeanor, punishable by im-
13 prisonment for not more than one year, or by a fine of not more
14 than five hundred dollars, or by both; provided that the provisions
15 of this section shall not apply with respect to an animal the tail
16 of which has been so cut or operated upon, if the owner thereof fur-
17 nishes to the manager or other official having charge of the horse
18 show or exhibition at which such animal is shown or exhibited an
19 affidavit by the owner, or a licensed veterinarian, in a form approved
20 by the state department of agriculture and markets, stating either
21 that the tail of such horse was so cut prior to June first, nineteen
22 hundred sixty-four, or that it was so cut in a state wherein such
23 cutting was not then specifically prohibited by the laws thereof.
24 Said affidavit shall, to the best of affiant's knowledge, information
25 and belief, identify the animal with respect to sex, age, markings,
26 sire and dam, and state either that the cutting was done prior to
27 June first, nineteen hundred sixty-four, or the time and place of

1 such cutting and the name and address of the person by whom per-
2 formed. The affidavit shall be subject to inspection at all reason-
3 able times by any peace officer of this state. In lieu of furnishing
4 such affidavit to the manager or other official having charge of such
5 horse show or exhibition, the owner of such horse may specify on
6 the entry blank for the horse show or exhibition the name and
7 address of a central registry office designated by the state depart-
8 ment of agriculture and markets where such an affidavit has already
9 been filed and is available for inspection.

10 § 369. Interference with officers.

11 Any person who shall interfere with or obstruct any constable or
12 police officer or any officer or agent of any duly incorporated society
13 for the prevention of cruelty to animals in the discharge of his duty
14 to enforce the laws relating to animals shall be guilty of a misde-
15 meanor, punishable by imprisonment for not more than one year, or
16 by a fine of not more than five hundred dollars, or by both.

17 § 370. Protection of the public from attack by wild animals and
18 reptiles.

19 Any person owning, possessing or harboring a wild animal or
20 reptile capable of inflicting bodily harm upon a human being, who
21 shall fail to exercise due care in safeguarding the public from attack
22 by such wild animal or reptile, is guilty of a misdemeanor, punish-
23 able by imprisonment for not more than one year, or by a fine of
24 not more than five hundred dollars, or by both. "Wild animal"
25 within the meaning of this section, shall not include a dog or cat or
26 other domestic animal.

1 *Previous attacks upon a human being by such wild animal or*
2 *reptile, or knowledge of the vicious propensities of such wild animal*
3 *or reptile, on the part of the possessor or harbinger thereof, shall not*
4 *be required to be proven by the people upon a prosecution here-*
5 *under; and neither the fact that such wild animal or reptile has*
6 *not previously attacked a human being, nor lack of knowledge of*
7 *the vicious propensities of such wild animal or reptile on the part*
8 *of the owner, possessor or harbinger thereof shall constitute a defense*
9 *to a prosecution hereunder.*

10 § 4. This act shall take effect September first, nineteen hundred
11 sixty-seven.

NOTE.—The three sections proposed to be repealed by section one of this act, relate to cruelty to animals. Section three of this act relocates in a new article in the Agriculture and Markets Law all the provisions of present Penal Law Article 16, "Animals." The purpose of this bill, and a companion bill introduced simultaneously herewith, is to treat in a single article in the Agriculture and Markets Law, rather than in the proposed Penal Law, all the provisions of present Penal Law Article 16.

	6/3/65 (TUES.)	6/8/65 (TUES.)	6/9/65 (WED.)	6/14/65 (MON.)	6/15/65 (TUES.)	6/16/65 (WED.)	6/21/65 (MON.)	6/22/65 (TUE) GOVERNOR
	ASSEMBLY	ASSEMBLY	SENATE	SENATE	SENATE	SENATE	SENATE	
A. Intro 4924 103 A. P. 5085 Main Bill	PASSED (106-24)	-	PASSED	-	-	-	-	X
A. Intro 4979 103 A. P. 5156 Transfer Bill	PASSED (118-12)	-	PASSED	-	-	-	-	X
A. Intro 6099 103 A. P. 7166 Quality to animals; transfer the transfer bill	PASSED (128-2)	-	pending	pending	pending	pending (3rd reading)	PASSED	X
A. Intro 6098 103 A. P. 7165 Quality to animals; transfer the transfer bill	PASSED (128-2)	-	pending	pending	PASSED	-	-	X
A. Intro 6086 103 A. P. 7135 "Special mosaic" provision in the Main Bill	PASSED	-	pending	PASSED	-	-	-	X
A. Intro 4972 A. P. 5147 103 Adultery	Foot and Tailed PASSED (73-49, also roll call)	PASSED (96-38)	PASSED	-	-	-	-	X
A. Intro 4973 103 A. P. 5148 Sodomy	PASSED (117-13)	-	PASSED	-	-	-	-	X
A. Intro 6085 103 A. P. 7134 103 Savings Clause	PASSED	-	pending	PASSED	-	-	-	X