

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #1

February 19, 2021

S. 90

By: Senator Kaminsky

A. 696

By: M. of A. Zebrowski

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 90<sup>th</sup> day after it shall have become a law

**AN ACT** to amend the agriculture and markets law and the penal 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.

**LAW AND SECTIONS REFERRED TO:** Sections 350 and 374 of the Agriculture and Markets Law, new Sections 351, 351-a, 351-b, 351-c and 351-d of the Agriculture and Markets Law, and Section 70.06 of the Penal Law.

### **THE COMMITTEE ON ANIMALS AND THE LAW** **SUPPORTS THIS LEGISLATION**

Animal fighting is a crime in New York under existing provisions in the Agriculture and Market Law, which make conducting an animal fight, or training or breeding an animal to fight, a felony offense. Animal fighting is a cruel and brutal form of animal abuse. Dogs are most commonly used in this blood sport, although animal fighting may also involve hogs and chickens.<sup>1</sup> Smaller animals, such as cats and rabbits, may also be part of animal fighting through their use as bait animals. When dogs are the animals intended to be used in fights, they are kept chained and in isolation to increase aggressiveness. During the fights, the animals used suffer extensive injuries including “puncture wounds, lacerations, blood loss, crushing injuries and broken bones.”<sup>2</sup> Additionally, animal fighting is often connected to other types of criminal activity, including “illegal gambling and possession of drugs and firearms.”<sup>3</sup> Although dogfighting declined in the 1990s, there is a belief

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<sup>1</sup> *Ending Animal Fighting*, THE HUMANE SOC’Y OF THE U.S., <https://www.humanesociety.org/all-our-fights/ending-animal-fighting> (last visited Apr. 6, 2020).

<sup>2</sup> The Criminal, Underground World of Dogfighting, ASPCA, <https://www.asPCA.org/animal-cruelty/dogfighting> (last visited Mar. 18, 2020).

<sup>3</sup> *Id.*

among law enforcement that the internet has made it an easier crime to commit and thus, there is now an increase in this illegal activity.<sup>4</sup>

The sponsors of this legislation state that the current laws in effect to combat animal fighting are insufficient, noting the “seriousness and pervasiveness of the underground world of animal fighting, its financial appeal, its associated crimes, and its weak enforcement.”<sup>5</sup> Recent cases in New York support the assertion that extensive animal fighting operations continue to exist throughout the state. In October 2019, the New York City Police Department, Nassau County Police and ASPCA took down a dog-fighting ring, rescuing 28 dogs.<sup>6</sup> The men running the ring tortured the dogs, “starving them...forcing them to run on treadmills in weighted vests, and prying open their mouths with sticks...” Weapons and illegal drugs were found with the animals.<sup>7</sup> In February 2020, Delaware county deputies and local shelter staff rescued 20 dogs from a suspected dog-fighting operation.<sup>8</sup> The animals were kept in stacked cages without food or water, and there was animal fighting paraphernalia on the property.<sup>9</sup>

This bill will provide stronger penalties for individuals holding or promoting animal fights, and conforms those penalties to provisions of the Penal Law prescribing penalties for the level of offenses established in this description of animal fighting crimes. The legislation creates three levels of offenses that apply to the conducting of animal fights, replacing the current provisions with Promoting Animal Fighting in the Third Degree, Second Degree, and First Degree, and adding a new crime of Promoting Enterprise Animal Fighting. The addition of “facilitate” to the description of Promoting Animal Fighting in the Second Degree is particularly important because it includes within the illegal activities the keeping of bait animals as well as animals intended to be used in a fight. An animal fighting offense will be increased in severity if the individual violates this section of law and has committed another animal crime offense within the last five years, or has been convicted of having “paid an admission fee, made a wager or otherwise actively contributed” to an animal fighting exhibition.

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<sup>4</sup> *A Closer Look at Dogfighting*, ASPCA, <https://www.asPCA.org/animal-cruelty/dogfighting/closer-look-dogfighting> (last visited Mar. 5, 2020).

<sup>5</sup> S. 94 Sponsor Memo, NYSENATE.GOV, <https://www.nysenate.gov/legislation/bills/2019/s94> (last visited Apr. 6, 2020).

<sup>6</sup> Ruth Weissmann and Craig McCarthy, NYPD officers rescue nearly 30 dogs from animal-fighting ring, N.Y. POST (Oct. 10, 2019, 5:23 PM), <https://nypost.com/2019/10/10/nypd-officers-rescue-nearly-30-dogs-from-animal-fighting-ring/>.

<sup>7</sup> Kathleen Culliton, Dog Fight Ringleaders Tortured Dozens Of Pit Bulls: Prosecutors, PATCH.COM (Dec. 6, 2019, 2:30 PM), <https://patch.com/new-york/new-york-city/dog-fight-ringleaders-tortured-dozens-pit-bulls-prosecutors>.

<sup>8</sup> Sarah Eames, *Suspect in dogfighting case pleads not guilty*, The Daily Star (Feb. 27, 2020), [https://www.thedailystar.com/news/local\\_news/suspect-in-dogfighting-case-pleads-not-guilty/article\\_3b691fa6-aaa4-5358-ae81-5cab1d47961a.html](https://www.thedailystar.com/news/local_news/suspect-in-dogfighting-case-pleads-not-guilty/article_3b691fa6-aaa4-5358-ae81-5cab1d47961a.html).

<sup>9</sup> *Id.*

An additional crime relating to animal fighting is created with the addition of Section 351-c to the Agriculture and Markets Law, “Promoting Enterprise Animal Fighting.” This is a new crime that serves to elevate the penalty for highly-organized criminal fighting ventures. A person is guilty of this offense when they violate Section 351-b (“Promoting Animal Fighting in the First Degree”):

- “As part of, during, or in connection with a continuous exhibition of animal fighting that includes more than two animals in successive acts of animal fighting”;
- And possesses more than six animals with the intent to have the animals engage in or facilitate animal fighting;
- And has been convicted within the last five years of a different animal crime offense;
- Or, permits one of the prohibited acts listed in Section 351-b to “occur on premises under his or her control” and the act is a “continuous exhibition of animal fighting that includes more than two animals in successive acts of animal fighting.”

A violation of this section is a class C felony. This new provision is particularly important since it provides authorization for invoking federal RICO investigations, to enforce these prohibitions against organized animal fighting activities. This provision notably elevates the penalties for those engaging in highly-organized animal fighting activities that may be part of a broader pattern of criminal activity.

The Committee on Animals and Law applauds the sponsors for their commitment to treating animal fighting as the serious and cruel crime that it is, and streamlining and strengthening New York State law to allow for greater enforcement of animal fighting prohibitions and stronger penalties for those who violate the law.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** this legislation to clarify and strengthen New York State’s animal fighting laws, and urges the passage and enactment of this bill.