



NEW YORK
CITY BAR

Legislative Affairs (212) 382-6655

COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS

S.3352
A.10564

Senator Krueger
Assembly Member Englebright

AN ACT to amend the agriculture and markets law, in relation to nonambulatory animals

THIS BILL IS APPROVED

S.7847
A.10843

Senator Padavan
Assembly Member Rosenthal

AN ACT to amend the agriculture and markets law, in relation to downed animals.

THIS BILL IS APPROVED WITH RECOMMENDATIONS

Both of these bills seek to alleviate some of the cruelty to animals in agriculture when they become unable to walk, as well as the health concerns involved in sending such animals to slaughter, by requiring that, rather than proceeding to slaughter, the animals be humanely euthanized or, in the limited circumstances in which the animals may be moved, that it be done in a humane fashion rather than the oft-used methods of dragging and forklifts. There is a strong financial incentive to keep animals alive for slaughter, so that their meat may be sold for human consumption, which can result in the use of cruel handling methods. We commend all of the legislators involved for their attempts to address this increasingly evident problem, which came to national light after the recent expose of horrific cruelty to downed dairy cattle at the Hallmark/Westland slaughterhouse in California, resulting in the largest meat recall in United States history. While this Committee strongly approves of addressing the egregious cruelty to which such animals are subject, it believes that S.7847/A.10843, unlike S.3352/A.10564, has substantial limitations that will limit its effectiveness unless it is amended.

First, although both bills refer to protections for “animals,” they define that term very differently. S.3352/A.10564 defines animals as including domestic sheep, cattle or swine raised for commercial or subsistence purposes. This is a very broad definition,

which covers most large animals raised for food (though even this broad definition would be improved by the addition of goats, who are being raised and slaughtered for food in increasing numbers).

On the other hand, S.7847/A.10843 defines animals as any live species of cattle. Dairy cattle are, in fact, the animals most likely to become non-ambulatory prior to slaughter, because of the weak and depleted state they are likely to reach before they are deemed no longer useful for milk production. Moreover, the meat from downed dairy cattle presents the most egregious health risks, since such cows present the possibility of carrying bovine spongiform encephalopathy, a.k.a. mad cow disease, a disease that, once transmitted to humans through the ingestion of certain types of tissue, is always fatal.

In spite of the fact that cattle have been, and should be, a particular focus of this type of protection, there are substantial reasons for not limiting such a bill to cattle. First, some members of all the large animal species go “down” prior to slaughter, and they are just as prone to egregious suffering, and just as worthy of protection, as cows. Second, while members of these other species may not have been shown, at this point, to carry a disease transmissible to humans similar to mad cow disease, they are nevertheless prone to other serious infections. There is, obviously, a much greater likelihood that they are carrying such infections if they are among the animals who become non-ambulatory, and such diseases could, as a result, be introduced into the human food chain if these animals are allowed to proceed to slaughter. Third, the United States Department of Agriculture has recently announced its intention to amend its regulations to effectively prohibit the slaughter of all cows that go down at the slaughterhouse. While, even as written, S.7847/A.10843 would go further than this proposed federal regulation, since it would cover cows at stockyards, auctions and in the hands of dealers, and would cover slaughterhouses that are not federally inspected, the vast majority of animals who it would protect will now also be protected under federal regulation and it will be, thus, largely redundant. Thus, we strongly recommend that S.7847/A.10843 be amended to include all large animals, including pigs, sheep and goats. At the very least, S.7847/A.10843 should not define “animals,” a very broad term, to mean only cattle. This could give the impression that all animals are protected by this law, which they clearly would not be.

Second, we recommend that S.7847/A.10843 be amended to remove, or at least limit, the exemption for “veterinary treatment.” The bill, as currently written, provides that “No slaughterhouse, stockyard, auction market agency, or dealer shall hold a downed animal without taking immediate action to humanely euthanize the animal, *or humanely remove the animal for veterinary treatment.*”[emphasis supplied]

It is, perhaps, useful to compare the provisions of S.7847/A.10843 to those of S.3352/A.10564 in this context. Unlike S.7847/A.10843, S.3352/A.10564 applies to animals while still on farms (it provides that “no person shall transport or hold ..., buy, sell, give, receive, or market a nonambulatory animal,” which would, clearly, include persons on farms). This is certainly appropriate, since the suffering of animals, and health risks, are no less when the animal goes down on the farm than when it happens

later in the process. However, in order to protect farmers whose animals go down because of remediable causes, S.3352/A.10564 contains an exemption, solely applicable to animals on farms, which permits the farmer to forestall humane euthanasia for a brief period of time, and/or transport the animal on the same property, solely to obtain veterinary treatment. The veterinarian may also determine that the animal is healthy enough for commercial and/or subsistence purposes, which would, presumably, permit the farmer to slaughter such animal on the farm for human consumption. This limited exemption would not apply beyond the farm, such as in stockyards, auctions, or slaughterhouses, nor would it allow the farmer to transport the animal, while non-ambulatory, beyond the confines of the farm. This rather cumbersome exemption appears to have been included to protect small farmers who slaughter their own animals for their own use (including their own sale of the meat) so that they will not lose the value of the animal when the animal has gone down for reasons unrelated to infection. Since such veterinary examination, and slaughter, takes place within the confines of the farm, the suffering of the animal is limited, albeit not eliminated. Once the animal leaves the farm, under S.3352/A.10564, no veterinary exemptions exist.

Under S.7847/A.10843, however, which does not protect animals on the farm *at all*, a very broad veterinary exemption is granted to slaughterhouses, stockyards, auctions and dealers to, rather than immediately humanely euthanize the animal, instead “humanely remove the animals for veterinary treatment.” This exemption would be virtually impossible to enforce, particularly since “veterinary treatment” is undefined and there is no requirement that a veterinarian make the determination that the animal must be removed for “veterinary treatment.” Thus, all the way through the slaughter process, right up to the point of slaughter, those in possession of the animals would have the option, rather than euthanizing the animal, of removing the animal. This Committee strongly disapproves of this loophole. Once the animal is in the slaughter process, starting with the stockyards or auction houses, and ending at the slaughterhouse, the only remotely humane, and enforceable, solution to non-ambulatory status is immediate euthanasia. At the very least, this loophole should be completely eliminated at the slaughterhouse, and should require a veterinarian to make a determination that veterinary treatment is called for, at the stockyard, auction house, or in the hands of the dealer.

For the above reasons, this Committee strongly urges the adoption of legislation protecting nonambulatory animals and recommends that, if S.7847/A.10843 is enacted, rather than S.3352/A.10564, that it be strengthened to comport more closely with S.3352/A.10564.

July 2008