

## **REPORT ON LEGISLATION**

**A4897  
S3529**

**Assemblymember Glick  
Senator Padavan**

An ACT to amend the agriculture and markets law, in relation to prohibiting the electrocution of fur-bearing animals

### **THIS BILL IS APPROVED WITH A RECOMMENDATION**

This Committee offers its approval of the proposed legislation A-4897 and its Senate equivalent, S-3529 (collectively, the "proposed legislation"). The proposed legislation would amend the Agriculture and Markets Law to add a new section, Section 353-c, that would penalize as a Class A misdemeanor the intentional killing or stunning of any fur-bearing animal<sup>1</sup> by means of an electrical current. A Class A misdemeanor is punishable by a sentence of up to one year of incarceration under the New York Penal Law (Penal Law Sec. 70.15(1)) and a fine of up to \$1,000 (Penal Law Sec. Sec. 80.05).

We recommend passage of the proposed legislation because of the inherent cruelty and inhumane nature of this method of killing animals.

The fur industry uses several methods, including gassing, strangulation, and anal or genital electrocution, to kill animals. Anal and genital electrocution are painful and traumatic to the animal, causing painful seizures to the heart. Moreover, electrocution is done from nose-to-tail or nose-to-foot, rather than through the brain which is required in order to induce loss of consciousness according to the American Veterinary Medical Association (AVMA) and, therefore, in order to be humane. Electrocuted animals remain conscious for a time after onset of cardiac fibrillation, brought on by the electrocution. Electrocution constitutes a cruel and unacceptable method of taking an animal's life.

Several other states have recognized that electrocution is unnecessarily cruel. For example, Massachusetts prohibits the destruction of unadoptable strays by electrocution or any unnecessarily cruel method. Mass. Gen. Laws Ann. 140 Sec. 153. Michigan has a similar provision forbidding animal control from using electrocution or high altitude decompression as a method of destruction when the law permits destruction. Mich. Com. Laws. Ann. 287. 279a. Notably Indiana already penalizes as a Class B misdemeanor the killing of any animals by electrocution or decompression, with certain exceptions. See Indiana Code 15-5-17-(2)(b). Because of the narrow subject of the proposed legislation,

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<sup>1</sup> For purposes of proposed section 353-c, the term "fur-bearing animals" would include, but not be limited to, red fox, silver fox, chinchilla, mink, pine marten, muskrat, and those fur-bearing animals included within the provisions of section 11-1907 of the environmental conservation law.

i.e., electrocution, we have not attempted to identify all relevant state legislation on the subject of prohibited methods of animal killing, but have only noted, by way of example, state statutes which specifically include electrocution in their scope.

The inherent cruelty of electrocution of animals was recognized by at least one Federal Court in United States v. Moon Lake Electrical Ass'n, Inc., 45 F. Supp. 2d 1070 (U. S. Dist. Ct. Dist. Colo. 1999). There, the Court held that the company could be charged with the killing of protected birds in violation of the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act, although the electrocution of the protected birds by its power lines was accidental and the majority of the prosecutions under those statutes are against hunters and poachers. Further, in State v. Stanfield, 451 N. W. 2d 752 (1982), Wisconsin's highest appellate court affirmed the defendant dog trainer's conviction for animal cruelty inasmuch as he was proven to have used stun guns in his dog training programs, resulting in physical and emotional damage to the animals. (That case was overruled on procedural grounds, unrelated to its ruling on animal cruelty, in a subsequent case - People v. Poellinger, 451 N. W. 2d 752 (1990).) It should be noted that Florida's Attorney General issued an official opinion prohibiting all animal control officers from employing any method other than a chemical method to subdue or immobilize animals, thereby precluding non-chemical stun devices<sup>2</sup>. Moreover, as of June 2005, the AVMA stated policy is, "The AVMA does not support the use of electroimmobilization for animal restraint."

Cervical dislocation (neck-breaking) is another technique routinely used by the fur industry while the animal is conscious, causing suffocation, and also constitutes an inhumane and cruel method of killing. The AVMA has stated that this technique must only be used by "individuals with a demonstrated high degree of technical competency" and may only be used on certain poultry and other small animals below a certain weight (e.g., rats weighing less than 200 grams) and, even with this, loss of consciousness is not instantaneous. The AVMA conceded there are few scientific studies to confirm an observation that this technique is humane. In the context of fur production in particular, the AVMA has stated that both electrocution and cervical dislocation "techniques are unacceptable<sup>3</sup>." To the extent this practice of killing is used on fur-bearing animals, it is inconsistent with AVMA guidelines.

While the proposed legislation is not a substitute for eliminating all forms of inhumane methods of killing because of its narrow scope (i.e., its limitation to electrocution and stunning) it is proper step. It is particularly applicable to the fur industry, but is also relevant to killing conducted outside that industry. We acknowledge that there are available alternative methods of killing animals that may be considered non-cruel, such as carbon monoxide poisoning which, according to the AVMA, induces a loss of consciousness and results in a rapid death at correctly administered concentrations. It does not follow, however, that the Committee condones the killing of animals for their fur, or that there should be any cessation of efforts to educate people against wearing fur.

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<sup>2</sup> AGO2002-15, February 21, 2002

<sup>3</sup> American Veterinary Medical Association Panel, Vol. 218, No. 5, March 1, 2001, "2000 Report of the AVMA Panel on Killing", *The Journal of the American Veterinary Medical Association*, pp. 669-696

We strongly recommend that the proposed legislation be passed. We further strongly recommend that the proposed legislation also include a prohibition of cervical dislocation with respect to fur-bearing animals