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PERTAINING TO ANIMALS**

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REPORT ON LEGISLATION

A. 1835

S. 2142

M. of A. Grannis

Senator Padavan

An act to amend the environmental conservation law, in relation to municipalities regulating the use of traps.

THIS BILL IS APPROVED

This bill proposes adding a new section 11-1111 Municipal Regulation of Trapping, to the environmental conservation law, by which each county in the state may, by local law or ordinance, restrict, limit or prohibit trapping within its municipal limits.

In 1986 the Suffolk County legislature enacted Local Law 37, which stated that “[n]o person shall manufacture, sell, offer for sale, possess, import, or set an animal trap of the steel jaw leghold type, nor take or attempt to take within the County of Suffolk any animal by means of a trap of the steel jaw leghold type.”

In 1990, the Appellate Division found that the statute was unconstitutional in that it was preempted by, and inconsistent with state law (*State v County of Suffolk*, 165 AD2d 869 [2d Dept. 1990]), stating:

[T]he State Fish and Wildlife Law (ECL article 11, et seq.) expressly provides that "county legislative bodies shall not * * * exercise powers * * * to provide for the protection * * * of * * * wildlife * * * within the county, or to prescribe or enforce collection of penalties for the violation thereof" (ECL 11-0111). In addition, ECL 11-1101(5) and (6)(a) permit the use of limited types and sizes of leghold traps.

This bill would provide the counties the authority they need to enact local legislation appropriate to each county.

As was clearly demonstrated by the passage of Local Law 37 in Suffolk County, many local authorities believe that regulation of permissible trapping must be accomplished on a local level. Counties that are motivated to ban trapping are generally densely populated suburban areas with small pockets of wilderness. Such counties have a substantial incentive to maintain the availability of their recreational wilderness areas for all segments of their population, and reduce the dangers inherent in leghold traps for young children, companion animals, and non-target wildlife.

In an article in *Newsday* (Brand, R. "Trap Ban Ensnared in Controversy"; *Newsday*, Oct 14, 1986, at. 21) written at the time of the Suffolk County legislature's hearings regarding the proposed County law to prohibit trapping, the supervisor of a township animal shelter testified that "he has documented at least 45 cases of trap-caused injuries to dogs and cats, including loss of paws. He said the real number is higher but undocumented because pets caught in traps often are disposed of and never found." The article also described the testimony of a local veterinarian about a cat who limped home carrying the snare on a badly injured leg. In December 2005 a Suffolk County 75 pound mixed breed dog named Zephyr, who had been rescued from a hurricane in the Bahamas in 2004, was killed while walking with his guardian in a park near their home in Sag Harbor. While Zephyr was only a few feet off the trail, he walked into a spring-loaded grab trap that snapped its metal jaws shut around his head, and although his guardian tried to free him, he choked to death within two minutes. (*Newsday*, January 18, 2006, page A8) A few days after this incident, officials from a number of Suffolk County towns, including Oyster Bay, Riverhead and Southold, stated that they believe that the individual towns in the County need the right to legislate as to this issue based on their local needs.

Every year, dogs, cats, birds, and other animals, including endangered species, are crippled or killed by traps. Trappers call these animals "trash kills" because they have no economic value. Animals can suffer for days before they die or are rescued. A dog named Delilah was trapped for 48 hours in Pennsylvania after a steel-jaw trap snapped down on her leg; the local paper said she "used her free legs to scrape a hole to sleep in and gnawed on bark, hoping for nourishment." Her leg had to be amputated. David Reynolds, "Dog's Sweet Spirit Still Intact After Surviving Trap, Losing Leg," *Daily News-Record*, February 10, 2005. Another dog suffered for at least five days in Nebraska, where trappers are legally supposed to check traps daily. Connie Jo Discoe, "Negligent Trapper Puts Dog Through Ordeal," *McCook Daily Gazette*, December 11, 2003. A Montana couple's beloved Great Pyrenees was shot dead by a trapper when the man found the dog in one of his traps. Ginny Merriam, "Victor Couple Go on the Offensive After Tragic Trapping Death of Their Dog," *Missoulian*, February 9, 2005.

Since the Appellate Division struck down the Suffolk ordinance in 1990, the population density of counties surrounding urban centers has grown much greater and trapping is, as a result, even more inappropriate. In spite of this obvious reality, the Department of Environmental Conservation has been slow to respond to the changing demographics of these densely populated counties and has not taken the necessary action to prohibit trapping therein. Whether trapping should be impermissible in a certain area is a quintessentially local decision, dependent on population density and local culture. This bill would appropriately place the decisions in the hands of the various county legislators as to how much, if any, trapping should be allowed in each county.