



COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS

**S. 784
A.2612**

**Senator Padavan
M. of A. Glick**

An act to amend the Environmental Conservation Law, in relation to the prohibition on canned shoots.

THIS BILL IS APPROVED

This bill seeks to fill loopholes in Environmental Conservation Law §11-1733, which regulates the “canned hunt” industry in New York. Canned hunts may generally be defined as facilities which permit members of the public to shoot or spear animals, who are often captive-bred, exotic animals sold by zoos and circuses which no longer want them and who are therefore frequently familiar with humans and more or less tame. The level of captivity of the animals who are to be killed ranges from those who are actually caged or tied when shot to those who are “hunted” within confined areas of fairly substantial acreage. Section 11-1733 as currently enacted only prohibits New York State facilities from permitting the shooting or spearing of animals who are tied, hobbled, staked, or confined in an area of less than 10 acres. At the time that legislation was proposed, this Committee opposed its passage unless certain modifications were included that would have greatly expanded the activities that were prohibited by the legislation. While we were disappointed that such modifications were not included at that time, we are pleased that S.B. 784 and A.B. 2612, which would rectify one of the most significant flaws in the prior legislation, have now been introduced.

As we stated in our comment to the prior legislation, the passage of legislation regulating, or even outlawing, canned hunts, must be examined in light of the fact that canned hunts have long been illegal under New York State law, though they have rarely, if ever, been prosecuted. The activity that goes on at a canned hunt does not meet the statutory definition of “hunting” under the Environmental Conservation Law, i.e., “pursuing, shooting, killing or capturing wildlife” where “wildlife” is defined as “wild game and all other animals existing *in a wild state* ...” (emphasis supplied) (§§ 11-0103[6] and [10]). Since there is no other conceivable justification for canned hunts, they are therefore

within the prohibition of New York's anti-cruelty statute, which prohibits the unjustifiable injuring or killing of "any animal, whether wild or tame" (Agriculture and Markets Law § 353). Thus, most fundamentally, the Committee was opposed to the prior legislation because it sought to impose minimal regulations upon an activity that was already illegal but was not being prosecuted solely because of failures in enforcement.

Among the more specific reasons the Committee was opposed to passage of the current law was the fact that it was limited to facilities of less than 10 acres. As we stated at that time, particularly in light of the type of large animals often hunted at canned hunts, "When enclosed, 10 acres, 50 acres or even 100 acres would provide no meaningful opportunity to such animals to escape and would render a hunt therein not even arguably sporting, but rather a certain slaughter," citing Debra West, *Ranch Hunting: One Person's Sport, Another's Slaughter; Business Grows; So Does Opposition*, New York Times, May 11, 1999, at B1.

Additionally, we opposed the language in the current law that requires proof in order to establish a violation that the animal have had "no means" of escape from its enclosure, as this "would encourage an operator to allow a theoretical, albeit very unlikely, means of escape to avoid prosecution." Thus, even hunts held in enclosures of less than 10 acres, from which the animal had a difficult, but not impossible, means of escape, could be found to be legal.

We also opposed the limitation to "non-native big game animals," which, pursuant to Environmental Conservation Law § 11-0103(29) is defined to include, *inter alia*, only "captive-bred" North American big-game mammals. The statute, as written, would require the enforcement agency to establish that any such animal that was shot or speared in the canned hunt was captive-bred, a nearly impossible task given the difficulty in tracking the provenance of a particular animal.

Another flaw in the current legislation that we pointed to at the time was its applicability to only facility operators, rather than their customers. Since canned hunt facilities are often very lucrative operations, facility operators could frequently deal with the imposition of fines as merely a cost of doing business.

Finally, we also objected to the limitations on the amount of fines and the lack of enforcement mechanisms.

This proposed legislation would extend the prohibition on conducting a canned hunt in a confined area of less than 10 acres to conducting one in "a fenced or other area from which there is no means for such animal to escape." This provision would completely remove the acreage limitation, thereby effectively prohibiting the operation of canned hunts as to any animals to which it applies.

The proposed legislation represents an important step in addressing this Committee's concerns regarding the current law, and we therefore heartily approve of it.

We would note however that, in addition to the flaws in the current law pointed to above which are not addressed by this legislation, canned hunts are specifically made legal under certain circumstances by way of the Environmental Conservation Law, as to “domestic game birds” (§ 11-1903) and white tail deer (§§ 11-0103[4](b); 11-1905(4)). Hunting of those species in the wild is legal and widely available. This Committee strongly recommends that these provisions be amended to eliminate this cruel and unnecessary practice.