

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #26

September 15, 2020

S. 5807-A  
A. 8157-A

By: Senator Martinez  
By: M. of A. Santabarbara  
Senate Committee: Domestic Animals Welfare  
Assembly Committee: Agriculture  
Effective Date: 180<sup>th</sup> day after it shall have  
become a law

**AN ACT** to amend the agriculture and markets law, in relation to sentencing for the crime of aggravated cruelty to animals.

**LAW & SECTION REFERRED TO:** Subdivision 3 of section 353-a of the Agriculture and Markets Law.

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

This bill would amend the penalty for aggravated cruelty to animals defined in the Agriculture and Markets Law by amending subdivision 3 of section 353-a, which establishes the crime and states that aggravated cruelty to animals is a felony. The legislation provides that a defendant convicted of this crime shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the Penal Law which states, “any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony.” The amendment removes from Agriculture and Markets Law section 353-a (3) the language that requires any term of imprisonment imposed for a violation of this section to be treated as a definite sentence not to exceed two years. The amended law would be known as “Tucker’s Law.”

Under the current law, a person convicted of aggravated cruelty to animals is subject to a penalty of up to two years’ imprisonment. However, if a person is convicted of multiple counts of aggravated cruelty to animals, the maximum penalty remains two years’ imprisonment for all combined convictions. This penalty is different from, and must be contrasted to, penalties for other felony crimes defined in the Penal Law that carry a maximum sentence per crime. The current law and current penalties for aggravated cruelty to animals do little or nothing to distinguish between defendants who have been found guilty of a single count of aggravated

cruelty and those who have been convicted of multiple counts of aggravated cruelty, harming numerous animals. If, for example, a person is found guilty of ten separate charges of aggravated cruelty to animals relating to ten different animals, that person is subject to the maximum sentence of two years' imprisonment in the current law. Under the amendment in this bill, that same person would receive up to two years' imprisonment per charge, a maximum of twenty years' total imprisonment.

If the language creating a definite sentence not to exceed two years is removed from the law, animals will receive the justice they deserve, people will be deterred from abusing animals and those convicted on multiple counts of aggravated cruelty to animals will be held accountable for their crimes.

For the foregoing reasons, the NYSBA's Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.