



EMPIRE STATE HUMANE VOTERS
REPORT ON LEGISLATION

NYS A.5050
NYS S.620

M. of A. Rosenthal
Sen. Boyle

POSITION: SUPPORT

ESHV supports the enactment of NYS A.5050/S.620 to ensure that wild animals are protected under New York’s anti-cruelty laws.

Today, New York State law contains a loophole that excludes wildlife from protection under the state felony cruelty law. NYS A.5050/S.620 would eliminate this loophole by extending felony cruelty protection to wild animals.

Background

NY’s felony animal cruelty law (Agriculture and Markets Law § 353-a(1)) provides that “[a] person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty.”¹ Currently NY’s felony animal cruelty law applies only to “companion animals”² and therefore is inapplicable to wildlife. Under current law, even the most heinous cruelty to wildlife is a mere misdemeanor.

Wild animals are as capable of feeling pain and suffering as companion animals and deserve protection from aggravated cruelty. Over 38 other states include wildlife in their felony cruelty statutes. It’s time for NY to get serious about animal cruelty and do the same.

Due to this loophole, a number of egregious instances of aggravated cruelty against wild animals have occurred in New York with limited consequences:³

- May 2016: Porcupines were clubbed to death by teens Albany and Schoharie counties.⁴

¹ The term “aggravated cruelty” is defined to mean “conduct which: (i) is intended to cause extreme physical pain; or (ii) is done or carried out in an especially depraved or sadistic manner.” N.Y. AGM. LAW § 353-a(1)(i). Violation of § 353-a is an unclassified felony with a maximum penalty of a two-year definite sentence.

² The term “companion animal” is defined to mean “any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. ‘Pet’ or ‘companion animal’ shall not include a ‘farm animal’ as defined in this section.” N.Y. AGM. LAW § 350(5).

³ Under current law wildlife cruelty is a mere misdemeanor punishable by a maximum of one year in jail and/or not more than \$1,000 in fines. N.Y. AGM. LAW § 353; N.Y. Penal Law 70.15.



- February 2016: Baby raccoons were trapped in a cage for days without food, water or protection from the elements.⁵
- August 2011: a great blue heron was tortured and killed in Jay, NY.⁶
- July 2011: a turtle in Sag Harbor, NY was found with a rusty three-inch nail driven into his shell.⁷
- July 2011: the Suffolk County ASPCA reported several attacks against seagulls, including an incident in which a person bludgeoned a bird after luring the bird to the beach with bread, and incidents where birds were impaled with arrows and blow darts.⁸
- July 2011: a swan in Riverhead, NY was found with an arrow shot through her torso.⁹
- June 2010: a Canada goose in Prospect Park, Brooklyn was found with a crossbow arrow shot through his neck.¹⁰
- 2007: a snapping turtle was tortured and killed with a pipe bomb in Albany, NY.¹¹
- July 2007: a peacock was choked and bludgeoned to death by a man in a restaurant parking lot in Staten Island.¹²
- May 2005: two swans were beaten and stabbed at a park in the Bronx.¹³
- May 2006: a Canadian goose was strangled by a man at Hamburg, NY fairgrounds.¹⁴

Impact of the Proposed Legislation

⁴ *Porcupines found clubbed to death in Albany, Schoharie counties*, Times Union, May 26, 2016, <http://www.timesunion.com/local/article/Porcupines-found-beaten-in-Albany-Schoharie-7947494.php>.

⁵ *Staten Island man arrested for unlicensed wildlife trapping, leaving baby raccoons to die in cage*, Daily News, February 15, 2016 <http://www.nydailynews.com/new-york/s-man-arrested-cruel-unlicensed-wildlife-trapping-article-1.2532086>.

⁶ *Crime and Punishment*, The Adirondack Daily Enterprise, Oct. 26, 2011, <http://www.adirondackdailyenterprise.com/page/content.detail/id/527343/Crime-and-punishment.html?nav=5041>; see also *Adirondack men sentenced for great blue heron attack on Ausable River*, North Country Public Radio (Jan. 13, 2012), <http://blogs.northcountrypublicradio.org/inbox/2012/01/13/adirondack-men-sentenced-for-great-blue-heron-attack-on-ausable-river/>.

⁷ *'Demented' animal abusers shoot arrow through swan and nail turtle in Long Island*, New York Daily News (July 28, 2011) <http://www.nydailynews.com/new-york/demented-animal-abusers-shoot-arrow-swan-nail-turtle-long-island-article-1.161772>.

⁸ *Seagulls Impaled With Dart, Arrow In Suffolk County; Reward Offered For Arrest*, CBS Local (July 29, 2011), <http://newyork.cbslocal.com/2011/07/29/seagulls-impaled-with-dart-arrow-seen-in-suffolk-county>.

⁹ *Id.*

¹⁰ *A Tale of Two Waterfowl: a Canada Goose In Brooklyn and a Long Island Mute Swan* (Sept. 15, 2011) http://50.56.218.160/archive/category.php?category_id=10&id=46096.

¹¹ *Four Men Arraigned In Turtle Killing Case*, Times Union (December 24, 2009), <http://albarchive.merlinone.net/mweb/wmsql.wm.request?oneimage&imageid=9197473>.

¹² *Fowl Fiend Apprehended*, Gothamist (July 2, 2007), http://gothamist.com/2007/07/02/fowl_fiend_appr.php.

¹³ *2G Reward Posted For Swans' Killer*, New York Daily News (May 8, 2005), <http://www.nydailynews.com/archives/news/2g-reward-posted-swans-killer-article-1.586106>.

¹⁴ *Geese finding fairground is becoming inhospitable*, Buffalo News (May 27, 2006), <http://www.highbeam.com/doc/1P2-22992808.html>.



NYS A.5050/S.620 would protect wildlife from aggravated cruelty by amending section 353-a of the Agriculture and Markets law to expand the existing definition of aggravated cruelty to “wildlife” (other than insects) as defined in section 11-0103 of the Environmental Conservation Law.¹⁵ The proposed legislation would not prohibit otherwise lawful hunting, trapping, fishing or agricultural practices pursuant to N.Y. AGM. LAW §308.

Cracking down on animal cruelty protects animals as well as the entire community. There is a demonstrated connection between animal cruelty and violence against humans, including child abuse, domestic violence, and other family violence. By allowing law enforcement and our courts to treat animal cruelty to wildlife and other animals with the seriousness it deserves, we can deter violence against animals and people.

Take Action:

Call your NYS assembly member and senator and ask them to protect wildlife from cruelty by voting for A5050/S.620.

Questions:

Contact ESHV Executive Director, Allie Feldman Taylor at allie@eshv.org

Visit us on the web at <https://eshv.org/>

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¹⁵ The term “wildlife” is defined to include “wild game and all other animals existing in a wild state, except fish, shellfish, and crustacea.” N.Y. ENV. LAW § 11-0103