

5433

2011-2012 Regular Sessions

I N S E N A T E

May 20, 2011

Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the treatment and disposition of lost, stray or homeless dogs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 4 of section 113 of the agriculture and markets
2 law, as amended by section 8 of part T of chapter 59 of the laws of
3 2010, is amended to read as follows:
4 4. Every dog control officer, peace officer, when acting pursuant to
5 [his] THE OFFICER'S special duties or police officer, OR SUCH OFFICER'S
6 AGENT, FOLLOWING ANY SEIZURE OF A DOG, OR ANY DULY INCORPORATED SOCIETY
7 FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCI-
8 ETY, POUND OR SHELTER TAKING POSSESSION OF SUCH DOG shall [promptly
9 make]:
10 (A) AS SOON AS PRACTICABLE TAKE STEPS TO (1) CHECK THE DOG FOR ALL
11 CURRENTLY POSSIBLE FORMS OF IDENTIFICATION INCLUDING, BUT NOT LIMITED
12 TO, TAGS, MICROCHIPS, TATTOOS OR LICENSES; (2) COMPARE THE INFORMATION
13 KNOWN ABOUT THE DOG WITH RECORDS OF DOGS REPORTED TO BE LOST OR STOLEN
14 PURSUANT TO SECTION ONE HUNDRED TWELVE OF THIS ARTICLE; (3) MAKE AVAIL-
15 ABLE TO THE PUBLIC ON THE INTERNET ON A WEBSITE MAINTAINED BY OR OTHER-
16 WISE MADE AVAILABLE TO SUCH OFFICER, DULY INCORPORATED SOCIETY FOR THE
17 PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY,
18 POUND OR SHELTER BY THE MUNICIPAL OR COUNTY GOVERNMENT IN WHICH SUCH
19 OFFICER OR ORGANIZATION IS LOCATED, OR ORGANIZATION APPROVED PURSUANT TO
20 SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS CHAPTER,
21 AT LEAST DURING THE REDEMPTION PERIOD, A PHOTOGRAPH, IF PRACTICABLE, AND
22 A GENERAL DESCRIPTION OF THE DOG TO ASSIST THE OWNER(S) IN FINDING THE
23 DOG, INCLUDING THE BREED(S), IF KNOWN, THOUGH INFORMATION ABOUT THE DOG
24 MAY BE WITHHELD IF DEEMED APPROPRIATE TO FACILITATE FINDING THE OWNER(S)
25 OR OTHERWISE PROTECT THE SAFETY OF THE DOG. THE NOTICE REQUIRED BY THIS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD03308-05-1

1 PARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF THE
2 INTERNET IS IMPRACTICABLE.

3 (B) AS SOON AS PRACTICABLE AFTER THE OWNER(S) OF A DOG HAVE BEEN
4 DETERMINED, NOTIFY THE OWNER(S) OF SUCH DOG PERSONALLY OR BY CERTIFIED
5 MAIL, RETURN RECEIPT REQUESTED, OF THE FACTS OF THE DOG'S IMPOUNDMENT
6 AND THE PROCEDURE FOR REDEMPTION. IF NOTIFICATION IS PERSONALLY GIVEN,
7 SUCH DOG SHALL BE HELD FOR A PERIOD OF SEVEN DAYS AFTER SUCH NOTICE,
8 DURING WHICH PERIOD THE DOG MAY BE REDEEMED BY THE OWNER(S). IF SUCH
9 NOTIFICATION IS MADE BY MAIL, SUCH DOG SHALL BE HELD FOR A PERIOD OF
10 NINE DAYS FROM THE DATE OF MAILING, DURING WHICH PERIOD THE DOG MAY BE
11 REDEEMED BY THE OWNER(S). IN EITHER CASE, THE OWNER(S) MAY REDEEM SUCH
12 DOG UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR
13 OF SECTION ONE HUNDRED SEVENTEEN OF THIS ARTICLE AND BY PRODUCING PROOF
14 THAT SUCH DOG HAS BEEN LICENSED.

15 (C) MAKE and maintain a complete record of any seizure and subsequent
16 disposition of any dog. Such record shall include, but not be limited
17 to, [a description of] ANY IDENTIFICATION FOUND ON the dog, INCLUDING
18 TAG, MICROCHIP, TATTOO OR LICENSE NUMBERS; THE BREED(S), IF KNOWN,
19 APPROXIMATE SIZE AND WEIGHT, COLORING AND IDENTIFYING MARKS ON THE DOG,
20 the date and hour of seizure, the official identification number of such
21 dog, if any, the location where seized, the reason for seizure, and the
22 owner's name and address, if known.

23 S 2. Subdivisions 3 and 4 of section 117 of the agriculture and
24 markets law, subdivision 3 as added by chapter 220 of the laws of 1978,
25 such section as renumbered and subdivision 4 as amended by section 12 of
26 part T of chapter 59 of the laws of 2010, are amended to read as
27 follows:

28 3. [Each] FOR EACH dog seized in accordance with the provisions of
29 this article, THE DOG CONTROL OFFICER OR PEACE OFFICERS, ACTING PURSUANT
30 TO THEIR SPECIAL DUTIES, OR POLICE OFFICER IN THE EMPLOY OF OR UNDER
31 CONTRACT TO A MUNICIPALITY, OR ANY DULY INCORPORATED SOCIETY FOR THE
32 PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY,
33 POUND OR SHELTER TAKING POSSESSION OF SUCH DOG, IN ADDITION TO COMPLYING
34 WITH THE PROVISIONS OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN
35 OF THIS ARTICLE, shall [be]:

36 (A) INSPECT EACH DOG AS SOON AS PRACTICABLE FOLLOWING ANY SEIZURE AND
37 ENSURE DOGS ARE PROVIDED AT LEAST FOR THE REDEMPTION PERIOD WITH CARE
38 AND TREATMENT TO RELIEVE ANY PAIN AND SUFFERING, INCLUDING NECESSARY
39 IMMEDIATE VETERINARY CARE AND TREATMENT AND PARASITE CONTROL, AND APPRO-
40 PRIATE VACCINATIONS, AND

41 (B) properly [sheltered] SHELTER, [fed] FEED and [watered for the
42 redemption period as hereinafter provided] PROVIDE WATER.

43 4. Each dog which is not identified, whether or not licensed, shall be
44 held AT LEAST for a period of five days from the day seized during which
45 period the OFFICER, SOCIETY, POUND OR SHELTER SHALL COMPLY WITH THE
46 PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, AND IN THE EVENT THE
47 OWNER(S) IS IDENTIFIED, THE HOLDING PERIOD SHALL BE EXTENDED PURSUANT TO
48 PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN OF
49 THIS ARTICLE. THE dog may be redeemed by its owner, provided that such
50 owner produces proof that the dog has been licensed and has been identi-
51 fied pursuant to the provisions of this article and further provided
52 that the owner pays the following impoundment fees:

53 (a) not less than ten dollars for the first impoundment of any dog
54 owned by that person;

55 (b) not less than twenty dollars for the first twenty-four hours or
56 part thereof and three dollars for each additional twenty-four hours or

part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or

(c) not less than thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

S 3. Section 373 of the agriculture and markets law is amended by adding a new subdivision 1-b to read as follows:

1-B. ANY PEACE OFFICER, WHEN ACTING PURSUANT TO THE OFFICER'S SPECIAL DUTIES, POLICE OFFICER, OR SUCH OFFICER'S AGENT, ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND, OR SHELTER, TAKING POSSESSION OF A LOST, STRAY OR HOMELESS ANIMAL UNDER THE PROVISIONS OF THIS SECTION, SHALL:

A. AS SOON AS PRACTICABLE AFTER TAKING POSSESSION OF AN ANIMAL TAKE STEPS TO:

(1) CHECK THE ANIMAL FOR ALL CURRENTLY POSSIBLE FORMS OF IDENTIFICATION INCLUDING, BUT NOT LIMITED TO, TAGS, MICROCHIPS, TATTOOS OR LICENSES;

(2) COMPARE THE INFORMATION KNOWN ABOUT THE ANIMAL WITH RECORDS OF ANIMALS REPORTED TO BE LOST OR STOLEN PURSUANT TO SECTION ONE HUNDRED TWELVE OF THIS CHAPTER;

(3) MAKE AVAILABLE TO THE PUBLIC ON THE INTERNET ON A WEBSITE MAINTAINED BY OR OTHERWISE MADE AVAILABLE TO SUCH OFFICER, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER BY THE MUNICIPAL OR COUNTY GOVERNMENT IN WHICH SUCH OFFICER OR ORGANIZATION IS LOCATED, OR ORGANIZATION APPROVED PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, AT LEAST DURING THE REDEMPTION PERIOD, A PHOTOGRAPH, IF PRACTICABLE, AND A GENERAL DESCRIPTION OF THE ANIMAL TO ASSIST THE OWNER(S) IN FINDING THE ANIMAL, INCLUDING THE SPECIES, TYPE, AND BREED(S), IF KNOWN, THOUGH INFORMATION ABOUT THE ANIMAL MAY BE WITHHELD IF DEEMED APPROPRIATE TO FACILITATE FINDING THE OWNER(S) OR OTHERWISE TO PROTECT THE SAFETY OF THE ANIMAL. THE NOTICE REQUIRED BY THIS SUBPARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF THE INTERNET IS IMPRACTICABLE.

B. INSPECT EACH SUCH ANIMAL AS SOON AS PRACTICABLE AFTER TAKING POSSESSION AND PROVIDE THE ANIMAL AT LEAST FOR THE REDEMPTION PERIOD WITH CARE AND TREATMENT TO RELIEVE ANY PAIN AND SUFFERING, INCLUDING NECESSARY IMMEDIATE VETERINARY CARE AND TREATMENT AND PARASITE CONTROL, AND APPROPRIATE VACCINATIONS;

C. PROPERLY SHELTER, FEED, AND PROVIDE WATER TO THE ANIMAL;

D. AS SOON AS PRACTICABLE AFTER THE OWNER(S) OF AN ANIMAL HAS BEEN DETERMINED, NOTIFY THE OWNER(S) OF SUCH ANIMAL PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE FACTS OF THE ANIMAL'S IMPOUNDMENT AND THE PROCEDURE FOR REDEMPTION. IF NOTIFICATION IS PERSONALLY GIVEN, SUCH ANIMAL SHALL BE HELD FOR A PERIOD OF SEVEN DAYS AFTER DAY OF NOTICE, DURING WHICH PERIOD THE ANIMAL MAY BE REDEEMED BY THE OWNER. IF SUCH NOTIFICATION IS MADE BY MAIL, SUCH ANIMAL SHALL BE HELD FOR A PERIOD OF NINE DAYS FROM THE DATE OF MAILING, DURING WHICH PERIOD THE ANIMAL MAY BE REDEEMED BY THE OWNER. IN EITHER CASE, THE OWNER MAY REDEEM SUCH ANIMAL UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTEEN OF THIS

CHAPTER AND IN THE CASE OF A DOG, BY PRODUCING PROOF THAT THE DOG HAS BEEN LICENSED; AND

E. MAKE AND MAINTAIN A COMPLETE RECORD OF THE INTAKE AND SUBSEQUENT DISPOSITION OF SUCH ANIMAL. SUCH RECORD SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY IDENTIFICATION FOUND ON THE ANIMAL, INCLUDING TAG, MICROCHIP, TATTOO OR LICENSE NUMBERS, THE SPECIES, TYPE OR BREED(S) IF KNOWN, APPROXIMATE SIZE AND WEIGHT, COLORING AND IDENTIFYING MARKS ON THE ANIMAL, THE DATE AND HOUR OF INTAKE, THE OFFICIAL IDENTIFICATION NUMBER OF SUCH ANIMALS, THE LOCATION WHERE FOUND, THE REASON FOR INTAKE, AND THE OWNER'S NAME AND ADDRESS, IF KNOWN.

F. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, WHERE THE OWNER(S) OF AN ANIMAL HAS NOT BEEN IDENTIFIED, HOLD SUCH ANIMAL, WHETHER OR NOT LICENSED, AT LEAST FOR A REDEMPTION PERIOD OF FIVE DAYS, DURING WHICH PERIOD THE OFFICER, SOCIETY, POUND OR SHELTER SHALL COMPLY WITH PARAGRAPHS A THROUGH E OF THIS SUBDIVISION. IN THE EVENT THE OWNER(S) IS IDENTIFIED, THE HOLDING PERIOD SHALL BE EXTENDED PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION. THE ANIMAL MAY BE REDEEMED BY ITS OWNER, UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTEEN OF THIS CHAPTER AND IN THE CASE OF A DOG, BY PRODUCING PROOF THAT THE DOG HAS BEEN LICENSED OR BY PURCHASING A LICENSE AT THE SOCIETY, ANIMAL SHELTER, OR POUND FROM WHICH THE OWNER IS REDEEMING SUCH DOG. NOTWITHSTANDING THE FOREGOING, ANIMALS MAY BE PLACED SOONER THAN FIVE DAYS WITH AN ANIMAL RESCUE ORGANIZATION OR INDIVIDUAL ON THE REGISTRY AS PROVIDED IN SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, SUBJECT TO REDEMPTION BY THE OWNER AS DESCRIBED IN THIS PARAGRAPH.

S 4. Section 374 of the agriculture and markets law, as added by chapter 545 of the laws of 1971, subdivisions 1 and 2 as amended by chapter 449 of the laws of 2010, subdivisions 3, 4 and 5 as added and paragraph e of subdivision 8 as amended and subdivisions 6, 7 and 8 as renumbered by chapter 479 of the laws of 2009, subdivision 6 as amended by chapter 674 of the laws of 1980, subdivision 8 as added by chapter 569 of the laws of 1995, paragraph a of subdivision 8 as amended by chapter 594 of the laws of 2003, paragraph b of subdivision 8 as amended by chapter 419 of the laws of 2010, is amended to read as follows:

S 374. Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept. 1. Any agent or officer of any duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision [three] FOUR of this section) any animal found abandoned [and], OR not properly cared for, or any lost, strayed, homeless or unwanted animal[,] if upon examination a licensed veterinarian shall certify in writing, or if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find:

A. that the animal is so maimed, diseased, disabled, or infirm so as to be [unfit for any useful purpose] SUFFERING IRREMEDIAL PHYSICAL OR PSYCHOLOGICAL PAIN and that humane euthanasia is warranted; or [after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction]

B. THAT HUMANE EUTHANASIA IS NECESSARY TO ALLEVIATE A CONTAGIOUS, DEADLY HEALTH CONDITION; OR

C. EXCEPT AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION, THE OWNER OF SUCH ANIMAL HAS GIVEN HIS OR HER WRITTEN CONSENT TO SUCH DESTRUCTION TO SUCH AGENT, OFFICER OR POLICE OFFICER.

1 2. In the absence of such findings or certification, a duly incorpo-
2 rated humane society, a duly incorporated society for the prevention of
3 cruelty to animals, ANIMAL SHELTER, or any pound maintained by or under
4 contract or agreement with any county, city, town or village may after
5 five days make available for adoption, PLACE WITH AN ORGANIZATION ON A
6 REGISTRY OF APPROVED ORGANIZATIONS THAT IS MAINTAINED PURSUANT TO SUBDI-
7 VISION THREE OF THIS SECTION or have humanely destroyed SUBJECT TO AND
8 in accordance with the provisions of this section and [subject to] PARA-
9 GRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN, AND
10 subdivisions FOUR, six, eight and nine of section one hundred [eighteen]
11 SEVENTEEN of this chapter, AND PARAGRAPHS D AND E OF SUBDIVISION ONE-B
12 OF SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE, any animal of
13 which possession is taken as provided for in the preceding section,
14 unless the same is earlier redeemed by its owner.

15 3. a. ANY DULY INCORPORATED HUMANE SOCIETY, DULY INCORPORATED SOCIETY
16 FOR THE PREVENTION OF CRUELTY TO ANIMALS, ANIMAL SHELTER OR POUND MAIN-
17 TAINED BY OR UNDER CONTRACT OR AGREEMENT WITH ANY COUNTY, CITY, TOWN OR
18 VILLAGE, THAT TAKES POSSESSION OF ABANDONED, NOT PROPERLY CARED FOR,
19 LOST, STRAY OR HOMELESS ANIMALS, OR ANIMALS THAT HAVE BEEN SURRENDERED
20 BY THE OWNER(S), ("IMPOUNDING ORGANIZATION") SHALL MAINTAIN A REGISTRY
21 OF APPROVED ANIMAL RESCUE ORGANIZATIONS WILLING TO ACCEPT ANIMALS FOR
22 THE PURPOSE OF ADOPTION, INCLUDING BREED-SPECIFIC RESCUES, OR TO PROVIDE
23 THE ANIMALS WITH APPROPRIATE LONG-TERM PLACEMENT AND CARE.

24 B. THE REGISTRY SHALL INCLUDE THE FOLLOWING INFORMATION ABOUT EACH
25 SUCH ORGANIZATION:

26 (1) NAME, ADDRESS, PHONE NUMBER(S) AND EMAIL ADDRESS(ES); AND NAME(S)
27 AND CONTACT INFORMATION FOR THE PRIMARY PERSON TO BE CONTACTED PURSUANT
28 TO THE REQUIREMENTS OF THIS SUBDIVISION, AND FOR ONE ADDITIONAL PERSON
29 TO SERVE AS A SECONDARY PERSON IN THE EVENT THE PRIMARY PERSON IS
30 UNAVAILABLE;

31 (2) SPECIES, TYPES AND BREEDS OF ANIMALS THE ORGANIZATION IS WILLING
32 TO ACCEPT;

33 (3) ANY RESOURCES AVAILABLE TO THE ORGANIZATION INCLUDING VETERINARY,
34 REHABILITATIVE OR OTHER CARE; CARE FOR SPECIAL-NEEDS ANIMALS, TRAINING
35 OR BEHAVIOR MODIFICATION PROGRAMS, INCLUDING THE NAMES AND CREDENTIALS
36 OF TRAINERS OR BEHAVIORISTS; OR APPROPRIATE SANCTUARY OR LONG-TERM
37 PLACEMENT AND CARE;

38 (4) RECORD OF THE ORGANIZATION'S DESIGNATION UNDER SECTION 501(C)(3)
39 OF THE INTERNAL REVENUE CODE.

40 C. ANIMAL RESCUE ORGANIZATIONS THAT ARE DESIGNATED UNDER SECTION
41 501(C)(3) OF THE INTERNAL REVENUE CODE MAY BE MAINTAINED ON THE REGISTRY
42 BY PROVIDING CURRENT INFORMATION AS SET FORTH IN PARAGRAPH B OF THIS
43 SUBDIVISION AND SUBJECT TO APPROVAL BY THE IMPOUNDING ORGANIZATION AS
44 SET FORTH IN THIS SUBDIVISION. IT SHALL BE THE RESPONSIBILITY OF THE
45 ANIMAL RESCUE ORGANIZATION TO PROVIDE THE IMPOUNDING ORGANIZATIONS WITH
46 CURRENT INFORMATION REQUIRED BY PARAGRAPH B OF THIS SUBDIVISION.

47 D. THE IMPOUNDING ORGANIZATION SHALL MAKE THE CURRENT LIST OF ANIMAL
48 RESCUE ORGANIZATIONS ON THE REGISTRY AVAILABLE TO ALL STAFF AND THE
49 PUBLIC ON THE INTERNET ON A WEBSITE MAINTAINED BY OR OTHERWISE MADE
50 AVAILABLE TO SUCH IMPOUNDING ORGANIZATION BY THE MUNICIPAL OR COUNTY
51 GOVERNMENT IN WHICH SUCH IMPOUNDING ORGANIZATION IS LOCATED, OR ORGAN-
52 IZATION APPROVED PURSUANT TO THIS SUBDIVISION. THE NOTICE REQUIRED BY
53 THIS PARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF
54 THE INTERNET IS IMPRACTICABLE.

55 E. AN ORGANIZATION SHALL BE EXCLUDED FROM THE REGISTRY IF ANY OF THE
56 ORGANIZATION'S CURRENT DIRECTORS, MANAGERS OR EMPLOYEES, OR ANY OF THEIR

1 EMPLOYEES, HAS EVER BEEN CONVICTED OF OR PLEADED GUILTY TO OR IS
2 CURRENTLY CHARGED WITH ANY FELONY, CRIME INVOLVING VIOLENCE, OR ANY
3 FELONY, MISDEMEANOR, OFFENSE, INFRACTION, OR VIOLATION FOR FAILURE TO
4 COMPLY WITH THIS ARTICLE OR SIMILAR ANIMAL FIGHTING, ANIMAL CRUELTY OR
5 NEGLECT OR ANTI-HOARDING LAWS IN ANY FEDERAL, STATE OR LOCAL JURISDIC-
6 TION; IN THE PREVIOUS TEN YEARS, HAS HAD ANIMALS IN HIS OR HER CARE OR
7 CUSTODY SEIZED OR CONFISCATED FOR SUSPECTED VIOLATIONS OF SUCH LAWS; OR
8 HAS AT ANY TIME BEEN THE SUBJECT OF A RESTRAINING ORDER, INJUNCTION,
9 CEASE AND DESIST, STOP MOVEMENT ORDER, LICENSE DENIAL, REVOCATION OR
10 SUSPENSION, A SEIZURE OR CONFISCATION OF ANIMALS OR OTHER DISCIPLINARY
11 ACTION FOR VIOLATION OF THE ANIMAL WELFARE ACT, 7 U.S.C. SECTIONS 2131
12 ET SEQ. OR REGULATIONS ISSUED THEREUNDER, OR SIMILAR ANIMAL PROTECTION
13 LAWS IN ANY FEDERAL, STATE OR LOCAL JURISDICTION. THE RESCUING ORGANIZA-
14 TION SHALL COOPERATE IN PROVIDING INFORMATION ABOUT SUCH VIOLATIONS,
15 INCLUDING THE COST OF A CRIMINAL BACKGROUND CHECK BY THE COUNTY IN WHICH
16 SUCH ORGANIZATION IS LOCATED. ANY RESCUE ORGANIZATION WHICH KNOWINGLY
17 MAKES FALSE STATEMENTS OR MISREPRESENTATIONS IN PROVIDING INFORMATION
18 UNDER THIS SUBDIVISION SHALL NOT BE ELIGIBLE FOR INCLUSION ON THE REGIS-
19 TRY.

20 F. AN ANIMAL RESCUE ORGANIZATION SHALL BE EXCLUDED FROM THE REGISTRY
21 FOR ANY VIOLATION OF PARAGRAPH B OF SUBDIVISION EIGHT OF THIS SECTION.

22 G. EXCEPT AS SET FORTH IN PARAGRAPHS E, F AND O OF THIS SUBDIVISION,
23 APPROVAL FOR INCLUSION ON THE REGISTRY SHALL BE CONTINGENT ONLY UPON A
24 REASONABLE DETERMINATION BY THE IMPOUNDING ORGANIZATIONS THAT THE ANIMAL
25 RESCUE ORGANIZATION HAS THE RESOURCES TO PROVIDE THE ANIMALS REQUESTED
26 TO BE TRANSFERRED WITH CLEAN, SANITARY AND ADEQUATE SHELTER; FOOD,
27 WATER, APPROPRIATE EXERCISE, NECESSARY VETERINARY CARE AND TREATMENT,
28 INCLUDING VACCINATIONS AND PARASITE CONTROL; AND A SAFE ENVIRONMENT;
29 MAINTAINS A PROTOCOL FOR CONTAINING AND MANAGING CONTAGIOUS ILLNESS AND
30 DISEASE, MAINTAINS AN ACTIVE ADOPTION OR PLACEMENT PROGRAM OR FACILITIES
31 APPROPRIATE FOR LONG-TERM PLACEMENT, MANAGE ANIMALS TO MINIMIZE RISK OF
32 INJURY TO THE ANIMALS AND THE PUBLIC, AND AVOID BEHAVIOR THAT IS ABUSIVE
33 TO THE IMPOUNDING ORGANIZATION'S STAFF OR DISRUPTS OR INTERFERES WITH
34 THE IMPOUNDING ORGANIZATION'S LAWFUL OPERATIONS.

35 H. THE IMPOUNDING ORGANIZATION SHALL HAVE THE RIGHT TO INSPECT THE
36 FACILITIES, RECORDS THAT ARE RELATED TO THE ANIMALS AND ANIMAL CARE, AND
37 ANIMALS OF THE ANIMAL RESCUE ORGANIZATION, INCLUDING FOSTER HOMES, PERI-
38 ODICALLY, AT REASONABLE TIMES, TO DETERMINE WHETHER THE ORGANIZATION
39 SHOULD BE APPROVED AND ALSO MAINTAINED ON THE REGISTRY. THE FIRST SUCH
40 INSPECTION TO QUALIFY THE ANIMAL RESCUE ORGANIZATION FOR THE REGISTRY
41 INITIALLY MUST BE COMPLETED WITHIN FORTY-FIVE DAYS OF THE DAY THE ANIMAL
42 RESCUE ORGANIZATION SUBMITS A REQUEST FOR INCLUSION ON THE REGISTRY AND
43 INFORMATION AS DESCRIBED IN PARAGRAPHS B AND C OF THIS SUBDIVISION.

44 I. THE APPROVAL OF THE IMPOUNDING ORGANIZATION SHALL NOT BE UNREASON-
45 ABLY WITHHELD. THE IMPOUNDING ORGANIZATION SHALL STATE IN WRITING,
46 SIGNED BY THE MANAGING DIRECTOR OR OFFICER, OR THE APPOINTED AGENT OF
47 THE MANAGING DIRECTOR OR OFFICER, THE REASONS WHY AN ANIMAL RESCUE
48 ORGANIZATION DOES NOT MEET THE CRITERIA SET FORTH IN PARAGRAPH G OF THIS
49 SUBDIVISION AND IS NOT APPROVED OR IS NOT APPROVED FOR SOME OR ALL
50 ANIMALS, OR HAS BEEN REMOVED FROM THE REGISTRY. THE REASONS, INCLUDING
51 ANY ACTS OR OMISSIONS, THAT HAVE RESULTED IN DISAPPROVAL, SHOULD BE
52 STATED WITH SUFFICIENT SPECIFICITY TO INFORM THE ORGANIZATION OF THE
53 PARTICULAR CRITERIA THAT HAVE NOT BEEN MET AND ANY ACTS OR OMISSIONS
54 THAT HAVE RESULTED IN DISAPPROVAL, AND THE ACTIONS REQUIRED FOR
55 APPROVAL, IF POSSIBLE. AS SOON AS PRACTICABLE, A COPY OF SUCH WRITTEN

DOCUMENT SHALL BE PROVIDED TO THE ANIMAL RESCUE ORGANIZATION THAT IS NOT APPROVED OR THAT HAS BEEN REMOVED FROM THE REGISTRY.

J. THE ANIMAL RESCUE ORGANIZATION THAT IS NOT APPROVED OR REMOVED FROM THE REGISTRY PURSUANT TO PARAGRAPHS G, H AND I OF THIS SUBDIVISION, MAY, AT ANY TIME, DEMONSTRATE THAT THE REASONS STATED FOR DENYING APPROVAL HAVE BEEN REMEDIED AND REQUEST APPROVAL FOR PLACEMENT ON THE REGISTRY AS PROVIDED IN THIS SUBDIVISION. THE IMPOUNDING ORGANIZATION SHALL COOPERATE BY PROVIDING REINSPECTIONS, IF NECESSARY, AS SOON AS PRACTICABLE AFTER A REQUEST FOR RECONSIDERATION BY THE ANIMAL RESCUE ORGANIZATION, TO DETERMINE IF THE ORGANIZATION IS APPROVED. A DECISION TO CONTINUE TO DENY APPROVAL TO SUCH ORGANIZATION MUST BE IN WRITING CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPH I OF THIS SUBDIVISION AND A COPY OF SAME PROVIDED TO THE ORGANIZATION. AN IMPOUNDING ORGANIZATION SHALL NOT BE REQUIRED TO CONSIDER AN ANIMAL RESCUE ORGANIZATION FOR PLACEMENT ON THE REGISTRY MORE THAN TWICE ANNUALLY.

K. NO ANIMAL SHALL BE EUTHANIZED AS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION UNLESS THE IMPOUNDING ORGANIZATION CERTIFIES IN WRITING SIGNED BY THE IMPOUNDING ORGANIZATION'S MANAGING DIRECTOR OR OFFICER, OR THE APPOINTED AGENT OF THE MANAGING DIRECTOR OR OFFICER, THAT: (1) THE IMPOUNDING ORGANIZATION HAS CONTACTED EACH OF THE ORGANIZATIONS APPROVED FOR THE SPECIES, TYPE OR BREED OF ANIMAL; (2) THAT NONE OF THE ORGANIZATIONS CONTACTED WERE WILLING AND ABLE TO ACCEPT TRANSFER OF THE ANIMAL, OR IF AN ORGANIZATION CONTACTED DID NOT RESPOND OR FAILED TO PICK UP OR ACCEPT TRANSFER OF AN ANIMAL AFTER AGREEING TO DO SO, THAT THE ORGANIZATION WAS CONTACTED AT THE METHODS OF CONTACT PROVIDED IN THE REGISTRY PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF THIS SUBDIVISION, AND AT THE END OF THE REDEMPTION PERIOD OR AFTER TWO DAYS FOLLOWING THE LAST CONTACT, NOT INCLUDING THE DAY OF CONTACT, WHICHEVER IS LONGER, THERE WAS NO RESPONSE OR NO CONFIRMATION THAT THE ORGANIZATION WAS WILLING AND ABLE TO ACCEPT TRANSFER OF THE ANIMAL, OR THE ORGANIZATION FAILED TO PICK UP OR ACCEPT TRANSFER OF THE ANIMAL. A COPY OF SUCH CERTIFICATION SHALL BE MAINTAINED FOR TWO YEARS AND AVAILABLE TO THE PUBLIC UPON REQUEST. THIS PARAGRAPH SHALL NOT APPLY TO EUTHANASIA PERFORMED PURSUANT TO SUBDIVISIONS ONE AND FIVE OF THIS SECTION. AN IMPOUNDING ORGANIZATION IS NOT REQUIRED TO CONTACT AN ANIMAL RESCUE ORGANIZATION ON THE REGISTRY ABOUT TAKING ANIMALS THAT ARE A SPECIES, TYPE OR BREED THAT THE ORGANIZATION DID NOT PREVIOUSLY INDICATE PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH B OF THIS SUBDIVISION THAT THEY WOULD ACCEPT, OR ARE ANIMALS FOR WHICH THE IMPOUNDING ORGANIZATION DID NOT APPROVE THE ANIMAL RESCUE ORGANIZATION.

L. THE IMPOUNDING ORGANIZATION MAY CHARGE A REASONABLE ADOPTION FEE FOR EACH ANIMAL TRANSFERRED TO AN ANIMAL RESCUE ORGANIZATION ON THE REGISTRY AND WHICH DOES NOT EXCEED THE ADOPTION FEE THAT WOULD BE CHARGED TO ADOPTERS.

M. AN ANIMAL THAT HAS BEEN DETERMINED BY A COURT HAVING COMPETENT JURISDICTION TO BE DANGEROUS PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-THREE OF THIS CHAPTER, SHALL BE ELIGIBLE ONLY FOR TRANSFER TO AN ORGANIZATION THAT CAN MEET THE REQUIREMENTS AS ORDERED BY A COURT UNDER SECTION ONE HUNDRED TWENTY-THREE OF THIS CHAPTER FOR THE CARE AND HANDLING OF SUCH ANIMAL.

N. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO ANIMALS THAT IMPOUNDING ORGANIZATIONS HAVE ACCEPTED FROM OWNERS ONLY FOR THE PURPOSE OF HUMANE EUTHANASIA.

O. IMPOUNDING ORGANIZATIONS MAY BUT ARE NOT REQUIRED TO INCLUDE ON THE REGISTRY ANIMAL RESCUE ORGANIZATIONS LOCATED OUTSIDE OF THE IMPOUNDING ORGANIZATION'S COUNTY OR ADJOINING COUNTIES IN THE STATE OF NEW YORK.

P. NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBDIVISION, IMPOUNDING ORGANIZATIONS THAT IMPOUND, SEIZE, OR OTHERWISE TOOK IN FEWER THAN ONE HUNDRED ANIMALS IN THE PRECEDING CALENDAR YEAR SHALL NOT BE REQUIRED TO MAINTAIN MORE THAN THREE ANIMAL RESCUE ORGANIZATIONS ON THE REGISTRY AT ANY TIME.

Q. AN IMPOUNDING ORGANIZATION AND ITS EMPLOYEES AND VOLUNTEERS SHALL HAVE NO CRIMINAL OR CIVIL LIABILITY (1) IN CONNECTION WITH THE TRANSFER OF AN ANIMAL TO AN ANIMAL RESCUE ORGANIZATION ON THE REGISTRY, OR (2) FOR ANY ACTS OR OMISSIONS THAT WERE BASED, IN WHOLE OR IN PART, ON INFORMATION PROVIDED BY AN ANIMAL RESCUE ORGANIZATION THAT WAS REASONABLY RELIED UPON BY THE IMPOUNDING ORGANIZATION.

4. A. Except as provided in subdivision [four] FIVE of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available. Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

b. No animal shall be left unattended between the time that the euthanasia procedure begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.

[4.] 5. a. Any method of euthanasia other than that provided for in subdivision [three] FOUR of this section is prohibited except that euthanasia of an animal by gunshot is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal as provided in section one hundred [twenty-one-a] TWENTY-THREE-A of this chapter and where the use of a humane method of euthanasia prescribed in this section is rendered impossible or where a severely injured animal is suffering and cannot otherwise be aided.

b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the prem-

1 ises. Violations of this paragraph shall be punishable by a civil penal-
2 ty of not more than five hundred dollars.

3 [5.] 6. No person shall release any [dog or cat] ANIMAL from the
4 custody or control of any pound, shelter, DULY INCORPORATED society for
5 the prevention of cruelty to animals, DULY INCORPORATED humane society,
6 [dog] DULY INCORPORATED ANIMAL protective association, dog OR ANIMAL
7 control officer, peace officer or any agent thereof, for any purpose
8 except adoption or redemption by its owner, PLACEMENT WITH AN ORGANIZA-
9 TION ON A REGISTRY OF APPROVED ORGANIZATIONS THAT IS MAINTAINED PURSUANT
10 TO SUBDIVISION THREE OF THIS SECTION THAT IS WILLING TO ACCEPT THE
11 ANIMAL FOR PURPOSES OF ADOPTION OR APPROPRIATE LONG-TERM PLACEMENT AND
12 CARE; OR FOR THE PURPOSE OF PROVIDING TEMPORARY SHELTER PENDING RESOL-
13 UTION OF LITIGATION INVOLVING SUCH ANIMAL. Notwithstanding the penal-
14 ties set forth in paragraph b of subdivision [three] FOUR of this
15 section and paragraph b of subdivision [four] FIVE of this section, any
16 violation of this subdivision, subdivision two, [three or] four, OR FIVE
17 of this section, shall constitute a misdemeanor and shall be punishable
18 by imprisonment for not more than one year, or by a fine of not more
19 than one thousand dollars, or by both.

20 [6. In lieu of such destruction or redemption, such society may in its
21 discretion lawfully and without liability deliver such animal for
22 adoption to an individual other than the owner after the time for
23 redemption has expired.]

24 7. Prior to such destruction or other disposition, the owner of the
25 animal may redeem the same upon proving title to the satisfaction of
26 such society and paying such society such amount, approved by a magis-
27 trate, as may have been reasonably expended by such society in
28 connection with the care and maintenance thereof.

29 8. a. In addition to any other penalty provided by law, upon
30 conviction for any violation of section three hundred fifty-one, three
31 hundred fifty-three, three hundred fifty-three-a, three hundred fifty-
32 three-b, three hundred fifty-five, three hundred fifty-six, three
33 hundred fifty-nine, three hundred sixty, three hundred sixty-one, three
34 hundred sixty-five or three hundred sixty-eight of this article, the
35 convicted person may, after a duly held hearing pursuant to paragraph f
36 of this subdivision, be ordered by the court to forfeit, to a duly
37 incorporated society for the prevention of cruelty to animals or a duly
38 incorporated humane society or authorized agents thereof, the animal or
39 animals which are the basis of the conviction. Upon such an order of
40 forfeiture, the convicted person shall be deemed to have relinquished
41 all rights to the animals which are the basis of the conviction, except
42 those granted in paragraph d of this subdivision.

43 b. Pursuant to the provisions of subdivisions two, three, four [and],
44 five, AND SIX of this section, no animal in the custody of a duly incor-
45 porated society for the prevention of cruelty to animals, a duly incor-
46 porated humane society, duly incorporated animal protective association,
47 ANIMAL SHELTER OR pound or its authorized agents thereof, OR AN ANIMAL
48 RESCUE ORGANIZATION ON A REGISTRY AS DESCRIBED IN SUBDIVISION THREE OF
49 THIS SECTION, OR THEIR AUTHORIZED AGENTS, shall be sold, transferred or
50 otherwise made available to any person for the purpose of research,
51 experimentation or testing. No authorized agent of a duly incorporated
52 society for the prevention of cruelty to animals, nor of a duly incorpo-
53 rated humane society, duly incorporated animal protective association
54 [or], ANIMAL SHELTER, pound, OR SHELTER OR ANIMAL RESCUE ORGANIZATION ON
55 A REGISTRY AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, shall use
56 any animal placed in its custody by the duly incorporated society for

1 the prevention of cruelty to animals or duly incorporated humane
2 society, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATION, SHELTER,
3 POUND, OR ANIMAL RESCUE ORGANIZATION ON A REGISTRY AS DESCRIBED IN
4 SUBDIVISION THREE OF THIS SECTION, OR THEIR AGENTS, for the purpose of
5 research, experimentation or testing.

6 c. The court may additionally order that the convicted person or any
7 person dwelling in the same household who conspired, aided or abetted in
8 the unlawful act which was the basis of the conviction, or who knew or
9 should have known of the unlawful act, shall not own, harbor, or have
10 custody or control of any other animals, other than farm animals, for a
11 period of time which the court deems reasonable.

12 d. In the case of farm animals, the court may, in addition to the
13 forfeiture to a duly incorporated society for the prevention of cruelty
14 to animals or a duly incorporated humane society or authorized agents
15 thereof, and subject to the restrictions of sections three hundred
16 fifty-four and three hundred fifty-seven of this article, order the farm
17 animals which were the basis of the conviction to be sold. In no case
18 shall farm animals which are the basis of the conviction be redeemed by
19 the convicted person who is the subject of the order of forfeiture or by
20 any person dwelling in the same household who conspired, aided or abet-
21 ted in the unlawful act which was the basis of the conviction, or who
22 knew or should have known of the unlawful act. The court shall reimburse
23 the convicted person and any duly determined interested persons, pursu-
24 ant to paragraph f of this subdivision, any money earned by the sale of
25 the farm animals less any costs including, but not limited to, veteri-
26 nary and custodial care, and any fines or penalties imposed by the
27 court. The court may order that the subject animals be provided with
28 appropriate care and treatment pending the hearing and the disposition
29 of the charges. Any farm animal ordered forfeited but not sold shall be
30 remanded to the custody and charge of a duly incorporated society for
31 the prevention of cruelty to animals or duly incorporated humane society
32 or its authorized agent thereof and disposed of pursuant to paragraph e
33 of this subdivision.

34 e. A duly incorporated society for the prevention of cruelty to
35 animals or a duly incorporated humane society in charge of animals
36 forfeited pursuant to paragraph a of this subdivision may, in its
37 discretion, lawfully and without liability, adopt them to individuals
38 other than the convicted person or person dwelling in the same household
39 who conspired, aided or abetted in the unlawful act which was the basis
40 of the conviction, or who knew or should have known of the unlawful act,
41 PLACE THEM WITH AN ORGANIZATION ON THE REGISTRY AS PROVIDED IN SUBDIVI-
42 SION THREE OF THIS SECTION, or IF NO SUCH ORGANIZATION IS WILLING OR
43 ABLE TO ACCEPT THE ANIMALS AND THE SOCIETY HAS COMPLIED WITH THE
44 REQUIREMENTS OF PARAGRAPH K OF SUBDIVISION THREE OF THIS SECTION,
45 humanely dispose of them according to the provisions of subdivisions
46 two, [three,] four [and], five AND SIX of this section.

47 f. (1) Prior to an order of forfeiture of farm animals, a hearing
48 shall be held within thirty days of conviction, to determine the pecuni-
49 ary interests of any other person in the farm animals which were the
50 basis of the conviction. Written notice shall be served at least five
51 days prior to the hearing upon all interested persons. In addition,
52 notice shall be made by publication in a local newspaper at least seven
53 days prior to the hearing. For the purposes of this subdivision, inter-
54 ested persons shall mean any individual, partnership, firm, joint stock
55 company, corporation, association, trust, estate, or other legal entity

1 who the court determines may have a pecuniary interest in the farm
2 animals which are the subject of the forfeiture action.

3 (2) All interested persons shall be provided an opportunity at the
4 hearing to redeem their interest as determined by the court in the
5 subject farm animals and to purchase the interest of the convicted
6 person. The convicted person shall be entitled to be reimbursed his
7 interest in the farm animals, less any costs, fines or penalties imposed
8 by the court, as specified under paragraph d of this subdivision. In no
9 case shall the court award custody or control of the animals to any
10 interested person who conspired, aided or abetted in the unlawful act
11 which was the basis of the conviction, or who knew or should have known
12 of the unlawful act.

13 g. Nothing in this section shall be construed to limit or restrict in
14 any way the rights of a secured party having a security interest in any
15 farm animal described in this section. This section expressly does not
16 impair or subordinate the rights of such a secured lender having a secu-
17 rity interest in farm animals or in the proceeds from the sale of such
18 farm animals.

19 S 5. This act shall take effect on the one hundred eightieth day after
20 it shall have become a law.