

1594

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. GRISANTI -- 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 creating the animal abuser central registry, and to require that certain convicted animal abusers register with such registry

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

- 1     Section 1. The agriculture and markets law is amended by adding a new  
2     section 380 to read as follows:  
3     S 380. ANIMAL ABUSER REGISTRY. 1. THE COMMISSIONER SHALL ESTABLISH AND  
4     MAINTAIN A CENTRAL REGISTRY OF INDIVIDUALS CONVICTED OF ANIMAL ABUSE AND  
5     REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THIS SECTION.  
6     2. ANY PERSON OVER EIGHTEEN YEARS OF AGE WHO HAS BEEN CONVICTED OF ONE  
7     OR MORE OF THE FOLLOWING OFFENSES SHALL REGISTER WITH THE ANIMAL ABUSER  
8     REGISTRY:  
9     (A) A FELONY VIOLATION OF ANY PROVISION OF THIS ARTICLE;  
10    (B) A VIOLATION OF THE PROVISIONS OF SECTION THREE HUNDRED  
11    FIFTY-THREE, THREE HUNDRED FIFTY-THREE-B, THREE HUNDRED FIFTY-FOUR,  
12    THREE HUNDRED FIFTY-FIVE, THREE HUNDRED FIFTY-SIX, THREE HUNDRED FIFTY-  
13    SEVEN, THREE HUNDRED FIFTY-EIGHT, THREE HUNDRED FIFTY-EIGHT-A, THREE  
14    HUNDRED FIFTY-NINE, THREE HUNDRED FIFTY-NINE-A, THREE HUNDRED SIXTY-TWO,  
15    THREE HUNDRED SIXTY-FOUR, THREE HUNDRED SIXTY-FIVE, THREE HUNDRED  
16    SIXTY-SIX, THREE HUNDRED SIXTY-SIX-A, THREE HUNDRED SIXTY-EIGHT, THREE  
17    HUNDRED SIXTY-NINE OR THREE HUNDRED SEVENTY OF THIS ARTICLE;  
18    (C) A VIOLATION OF THE PROVISIONS OF SECTION 195.06, 195.11 OR 195.12  
19    OF THE PENAL LAW;  
20    (D) A VIOLATION OF ANY PROVISION OF ARTICLE TWO HUNDRED FORTY-TWO OF  
21    THE PENAL LAW;  
22    (E) A VIOLATION OF THE PROVISIONS OF SECTION 130.20 OF THE PENAL LAW;  
23    OR

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

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(F) A VIOLATION OF COMPARABLE STATUTES OF ANOTHER STATE.

3. UPON CONVICTION OF ANY OFFENSE SET FORTH IN PARAGRAPH (A), (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS SECTION, THE COURT SHALL CERTIFY THAT THE CONVICTED PERSON IS AN ANIMAL ABUSER AND SHALL INCLUDE THE CERTIFICATION IN THE JUDGMENT OF CONVICTION AND THE ORDER OF COMMITMENT, IF ANY. THE COURT SHALL PROVIDE A COPY OF THE JUDGMENT OF CONVICTION TO THE CENTRAL REGISTRY WITHIN FIVE DAYS OF THE ENTRY OF THE JUDGMENT OF CONVICTION. THE COURT SHALL ALSO ADVISE THE ANIMAL ABUSER OF HIS OR HER DUTIES UNDER THIS ARTICLE. FAILURE TO INCLUDE THE CERTIFICATION IN THE JUDGMENT OF CONVICTION OR THE ORDER OF COMMITMENT SHALL NOT RELIEVE AN ANIMAL ABUSER OF THE OBLIGATIONS IMPOSED BY THIS SECTION.

4. A PERSON CONVICTED OF A VIOLATION OF ANOTHER STATE'S ANIMAL ABUSE STATUTE AS PROVIDED IN PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION WHO SUBSEQUENTLY BECOMES A RESIDENT OF THIS STATE SHALL, WITHIN THIRTY DAYS OF ENTERING THE STATE, REGISTER WITH THE CENTRAL REGISTRY.

5. (A) EACH REGISTRANT SHALL PROVIDE THE FOLLOWING INFORMATION TO THE REGISTRY AT THE TIME OF REGISTRATION:

(1) THE REGISTRANT'S NAME, ALL ALIASES USED, DATE OF BIRTH, SEX, RACE, HEIGHT, WEIGHT, EYE COLOR, DRIVER'S LICENSE NUMBER AND CURRENT HOME ADDRESS AND/OR EXPECTED PLACE OF DOMICILE;

(2) A DESCRIPTION OF ANY TATTOOS, SCARS OR OTHER DISTINGUISHING FEATURES ON THE ANIMAL ABUSER'S BODY THAT WOULD ASSIST IN IDENTIFYING THE ANIMAL ABUSER;

(3) A DESCRIPTION OF THE OFFENSE FOR WHICH THE REGISTRANT WAS CONVICTED, THE DATE OF CONVICTION AND THE SENTENCE IMPOSED; AND

(4) ANY OTHER INFORMATION DEEMED PERTINENT BY THE CENTRAL REGISTRY.

(B) THE CENTRAL REGISTRY SHALL UTILIZE A STANDARDIZED REGISTRATION FORM IN A FORMAT DEVELOPED BY THE COMMISSIONER. SUCH FORM SHALL BE WRITTEN IN CLEAR AND CONCISE LANGUAGE AND SHALL ADVISE THE REGISTRANT OF HIS OR HER DUTIES AND OBLIGATIONS UNDER THIS ARTICLE. A COPY OF THE REGISTRATION FORM SHALL BE PROVIDED TO THE REGISTRANT AT THE TIME OF REGISTRATION.

6. (A) FOLLOWING A REGISTRANT'S INITIAL REGISTRATION PURSUANT TO THE PROVISIONS OF THIS SECTION, THE REGISTRANT SHALL ANNUALLY RENEW HIS OR HER REGISTRATION WITH THE CENTRAL REGISTRY PRIOR TO DECEMBER THIRTY-FIRST OF EACH SUBSEQUENT CALENDAR YEAR FOR A PERIOD OF FIVE YEARS.

(B) IF A PERSON HAS BEEN SUBSEQUENTLY CONVICTED OF AN OFFENSE SET FORTH IN PARAGRAPH (A), (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS SECTION, THE REGISTRANT SHALL ANNUALLY RENEW HIS OR HER REGISTRATION WITH THE CENTRAL REGISTRY PRIOR TO DECEMBER THIRTY-FIRST OF EACH SUBSEQUENT CALENDAR YEAR FOR A PERIOD OF TEN YEARS.

7. THE CENTRAL REGISTRY SHALL CHARGE AN ANNUAL FEE OF FIFTY DOLLARS AND A FEE OF TEN DOLLARS EACH TIME A REGISTRANT REGISTERS ANY CHANGE OF ADDRESS. THE FEES SHALL BE PAID TO THE CENTRAL REGISTRY BY THE REGISTRANT.

8. (A) A PERSON REQUIRED TO REGISTER PURSUANT TO THIS SECTION IS PROHIBITED FROM, POSSESSING, ADOPTING, OWNING, PURCHASING OR EXERCISING CONTROL OVER ANY ANIMAL FOR THE PERIOD SUCH PERSON IS REQUIRED TO REGISTER; PROVIDED, HOWEVER, THAT THE COURT MAY ALLOW SUCH PERSON TO POSSESS, ADOPT, OWN, PURCHASE OR EXERCISE CONTROL OVER A LIMITED NUMBER OF ANIMALS IN CERTAIN CASES.

(B) ALL ANIMAL SHELTERS AND PET DEALERS SHALL EXAMINE THE CENTRAL REGISTRY TO CONFIRM THAT ANY POTENTIAL OWNERS ARE NOT REGISTRANTS. NO ANIMAL SHALL BE SOLD, EXCHANGED OR OTHERWISE TRANSFERRED TO AN ANIMAL ABUSER LISTED ON THE REGISTRY.

1 9. (A) AN ANIMAL ABUSER WHO INTENTIONALLY OR KNOWINGLY FAILS TO COMPLY  
2 WITH THE REGISTRATION REQUIREMENTS, OR PROVIDES FALSE INFORMATION WHEN  
3 COMPLYING WITH THE REGISTRATION REQUIREMENTS SET FORTH IN THIS SECTION,  
4 OR WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION EIGHT OF  
5 THIS SECTION, IS GUILTY OF A FELONY:

6 (1) PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED FOUR YEARS,  
7 OR BY A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS, OR BY BOTH SUCH FINE  
8 AND IMPRISONMENT FOR A FIRST OFFENSE; AND

9 (2) PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED FOUR YEARS,  
10 OR BY A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BY BOTH SUCH FINE  
11 AND IMPRISONMENT FOR SUBSEQUENT OFFENSES.

12 (B) ANY ANIMAL SHELTER OR PET DEALER WHO VIOLATES PARAGRAPH (B) OF  
13 SUBDIVISION EIGHT OF THIS SECTION SHALL BE GUILTY OF A VIOLATION AND  
14 SUBJECT TO A FINE NOT TO EXCEED ONE THOUSAND DOLLARS. IT SHALL BE AN  
15 AFFIRMATIVE DEFENSE THAT THE ANIMAL SHELTER OR PET DEALER EXAMINED THE  
16 CENTRAL ANIMAL ABUSER REGISTRY AND THE NAME OF THE PERSON TO WHOM THEY  
17 SOLD OR TRANSFERRED AN ANIMAL DID NOT APPEAR THEREON.

18 10. REGISTRATION INFORMATION CONTAINED IN THE CENTRAL REGISTRY OF  
19 ANIMAL ABUSERS SHALL BE MADE AVAILABLE TO THE PUBLIC THROUGH INTERNET  
20 ACCESS, TELEPHONE ACCESS, WRITTEN ACCESS AND IN PERSON ACCESS. ALL OF  
21 THE INFORMATION CONTAINED IN AN ANIMAL ABUSER'S REGISTRATION SHALL BE  
22 MADE AVAILABLE. RECORDS OF EACH ANIMAL ABUSER'S REGISTRATION SHALL BE  
23 MAINTAINED FOR THE DURATION OF THE PERIOD IN WHICH THE ANIMAL ABUSER IS  
24 REQUIRED TO BE REGISTERED PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

25 11. NO OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY, WHETHER PUBLIC  
26 OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY FOR  
27 DAMAGES FOR ANY DECISION OR ACTION MADE IN THE ORDINARY COURSE OF BUSI-  
28 NESS OF THAT OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY, PROVIDED  
29 THAT SUCH OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY ACTED REASONABLY  
30 AND IN GOOD FAITH WITH RESPECT TO SUCH REGISTRY INFORMATION.

31 12. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS AS MAY BE  
32 NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS SECTION AND TO  
33 ENFORCE REGISTRATION, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF  
34 LAW.

35 13. FOR PURPOSES OF THIS SECTION:

36 (A) "ANIMAL SHELTER" MEANS PUBLIC OR PRIVATELY OWNED ORGANIZATION  
37 INCLUDING, BUT NOT LIMITED TO, ANY DULY INCORPORATED HUMANE SOCIETY,  
38 POUND, ANIMAL PROTECTIVE ASSOCIATION OR ANIMAL RESCUE GROUP WHICH MAIN-  
39 TAINS BUILDINGS, STRUCTURES OR OTHER PROPERTY FOR THE PURPOSE OF HARBOR-  
40 ING ANIMALS WHICH MAY BE STRAY, UNWANTED, LOST, ABANDONED OR ABUSED AND  
41 SEEKS TO FIND APPROPRIATE TEMPORARY OR PERMANENT HOMES FOR SUCH ANIMALS.

42 (B) "PET DEALER" MEANS ANY INDIVIDUAL, PERSON, PARTNERSHIP, FIRM,  
43 CORPORATION OR OTHER ENTITY WHICH OFFERS ANIMALS FOR SALE OR IS ENGAGED  
44 IN THE SALE, EXCHANGE OR OTHER TRANSFER OF OWNERSHIP OF ANIMALS.

45 S 2. This act shall take effect immediately.