

STATE OF NEW YORK

6703

2017-2018 Regular Sessions

IN ASSEMBLY

March 15, 2017

Introduced by M. of A. ENGLEBRIGHT, KAVANAGH, ROSENTHAL -- Multi-Sponsored by -- M. of A. AUBRY, COOK, DINOWITZ, HOOPER, RIVERA -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to authorizing district attorneys to petition for the posting of security for the care of impounded animals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs a and c of subdivision 6 of section 373 of the
2 agriculture and markets law, paragraph a as amended by chapter 531 of
3 the laws of 2013 and paragraph c as amended by chapter 256 of the laws
4 of 1997, are amended to read as follows:

5 a. If any animal is seized and impounded pursuant to the provisions of
6 this section, section three hundred fifty-three-d of this article or
7 section three hundred seventy-five of this article for any violation of
8 this article, upon arraignment of charges, or within a reasonable time
9 thereafter, the duly incorporated society for the prevention of cruelty
10 to animals, humane society, pound, animal shelter or any authorized
11 agents thereof, hereinafter referred to for the purposes of this section
12 as the "impounding organization", or the district attorney prosecuting
13 the charges or any agent thereof, acting on behalf of the impounding
14 organization, may, at or after arraignment on the charges, file a peti-
15 tion with the court requesting that the person from whom an animal is
16 seized or the owner of the animal be ordered to post a security. The
17 district attorney prosecuting the charges may file and obtain the
18 requested relief on behalf of the impounding organization if requested
19 to do so by the impounding organization. The security shall be in an
20 amount sufficient to secure payment for all reasonable expenses expected
21 to be incurred by the impounding organization in caring and providing
22 for the animal pending disposition of the charges. Reasonable expenses
23 shall include, but not be limited to, estimated medical care and board-

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

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ing of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition [~~from the impounding organization~~] pursuant to this subdivision, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

§ 2. Subparagraph 1 of paragraph b of subdivision 6 of section 373 of the agriculture and markets law, as amended by chapter 531 of the laws of 2013, is amended to read as follows:

(1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and, where the petitioner is not the district attorney, upon the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney acting on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

§ 3. This act shall take effect immediately.