S T A T E O F N E W Y O R K

S. 6412--D A. 9449--D

S E N A T E - A S S E M B L Y

(PREFILED)

January 6, 2010

IN SENATE -- Introduced by Sens. DUANE, ADAMS, ADDABBO, KRUEGER, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. KELLNER, SKARTADOS, PEOPLES-STOKES, MILLMAN, WEISENBERG, MAISEL, BROOK-KRASNY -- read once and referred to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to requiring the release of a shelter animal to a rescue group upon request of the rescue group prior to euthanasia of the animal

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

Section 1. Short title. This act shall be known and may be cited as "Oreo's law".

S 2. Section 374 of the agriculture and markets law is amended by adding a new subdivision 9 to read as follows:

9. A. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, NO ANIMAL IN THE CARE OR CUSTODY OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE

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

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SOCIETY, OR A POUND OR SHELTER MAINTAINED BY OR UNDER CONTRACT OR AGREEMENT WITH THE STATE OR ANY COUNTY, CITY, TOWN OR VILLAGE, OR AUTHORIZED AGENTS THEREOF, SHALL BE DESTROYED IF, PRIOR TO THE KILLING OF THAT ANIMAL FOR ANY REASON OTHER THAN IRREMEDIABLE PHYSICAL SUFFERING OF THE ANIMAL UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE, A NONPROFIT, AS DEFINED IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE ANIMAL RESCUE OR ADOPTION ORGANIZATION REQUESTS POSSESSION OF THE ANIMAL. IN ADDITION TO ANY REQUIRED SPAY OR NEUTER DEPOSIT, THE FACILITY HAVING POSSESSION OF THE ANIMAL, AT ITS DISCRETION, MAY ASSESS A FEE, NOT TO EXCEED THE STANDARD ADOPTION FEE, FOR ANIMALS RELEASED TO SUCH ORGANIZATIONS.

B. (1) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION INTERESTED IN TAKING POSSESSION OF ONE OR MORE ANIMALS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL NOTIFY THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE, OF ITS DESIRE TO DO SO AND SHALL PROVIDE THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER WITH CONTACT INFORMATION FOR THE ANIMAL RESCUE OR ADOPTION ORGANIZATION. AN ANIMAL RESCUE OR ADOPTION ORGANIZATION MAY, AT ITS OPTION, FILE ONE NOTICE WITH A SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, POUND OR SHELTER REQUESTING THAT IT BE NOTIFIED OF ALL ANIMALS HELD BY THAT FACILITY AND SCHEDULED FOR EUTHANASIA.

(2) AT LEAST ONE BUSINESS DAY PRIOR TO THE SCHEDULED EUTHANASIA OF AN ANIMAL, THE FACILITY HAVING POSSESSION OF THE ANIMAL SHALL PROVIDE NOTICE TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OF THE SCHEDULED EUTHANASIA BY:

(A) POSTING OF THE IDENTIFICATION NUMBER OF SUCH ANIMAL ON THE WEBSITE OF THE FACILITY HAVING POSSESSION OF THE ANIMAL BY DIRECT LINK FROM THE FACILITY'S WEBSITE HOME PAGE; AND

(B) BY CONTACTING THE ANIMAL RESCUE OR ADOPTION ORGANIZATION DIRECTLY BY ONE OR MORE OF THE FOLLOWING MEANS:

(I) E-MAIL TO THE E-MAIL ADDRESS ON FILE;

(II) PHONE TO THE PHONE NUMBER ON FILE;

(III) TEXT MESSAGE TO THE PHONE NUMBER ON FILE;

(IV) FAX TO THE FAX NUMBER ON FILE; OR

(V) ANY OTHER MEANS OF ELECTRONIC WRITTEN COMMUNICATION AS PROVIDED BY THE ANIMAL RESCUE OR ADOPTION ORGANIZATION.

(3) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION INTENDING TO TAKE POSSESSION OF AN ANIMAL SCHEDULED FOR EUTHANASIA SHALL NOTIFY THE FACILITY HAVING POSSESSION OF THE ANIMAL OF THE ANIMAL RESCUE OR ADOPTION ORGANIZATION'S INTENT TO TAKE POSSESSION OF THE ANIMAL, AT ANY TIME PRIOR TO THE ANIMAL'S EUTHANASIA, BY PHONE, E-MAIL, FAX, TEXT MESSAGE, OR OTHER ELECTRONIC WRITTEN REQUEST.

(4) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION TAKING POSSESSION OF AN ANIMAL PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL DO SO WITHIN TWO BUSINESS DAYS OF THE TIME THE ORGANIZATION NOTIFIES THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, OR A POUND OR SHELTER POSSESSING THE ANIMAL, AS APPLICABLE, THAT IT IS SEEKING CUSTODY OF THE ANIMAL, NOT INCLUDING THE DAY UPON WHICH THE NOTICE IS GIVEN.

C. UPON TAKING POSSESSION OF AN ANIMAL, AN ANIMAL RESCUE OR ADOPTION ORGANIZATION SHALL ASSUME ALL LIABILITY FOR THE ANIMAL; PROVIDED THAT THE ORGANIZATION SHALL NOT BE DEEMED RESPONSIBLE FOR HARM CAUSED TO THE ANIMAL THAT:

(1) OCCURRED PRIOR TO THE TIME THE ORGANIZATION ASSUMED POSSESSION OF THE ANIMAL; OR

(2) IS DUE TO THE ACTS OR OMISSIONS OF A PERSON NOT ASSOCIATED WITH THE ORGANIZATION;

D. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO:

(1) AN ANIMAL SUSPECTED TO CARRY AND EXHIBITING SIGNS OF RABIES, AS DETERMINED BY A LICENSED VETERINARIAN;

(2) SYMPTOMATIC DOGS WITH CONFIRMED CASES OF PARVOVIRUS UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE;

(3) SYMPTOMATIC CATS WITH CONFIRMED CASES OF PANLUEKOPENIA UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE; OR

(4) AN ANIMAL THAT HAS BEEN DETERMINED BY A COURT HAVING COMPETENT JURISDICTION TO BE DANGEROUS PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-ONE OF THIS CHAPTER.

E. (1) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION HAVING AN OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER WHO HAS BEEN CONVICTED OF A STATUTE HAVING AS ITS PRIMARY EFFECT THE PREVENTION OR PUNISHMENT OF ANIMAL NEGLECT OR ANIMAL CRUELTY OR DOG FIGHTING SHALL BE PROHIBITED FROM BEING AN ADOPTIVE ORGANIZATION UNDER THE TERMS OF THIS SUBDIVISION UNTIL SUCH TIME AS THAT OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER IS NO LONGER AN OFFICER OR BOARD MEMBER OF THE ORGANIZATION.

(2) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION HAVING AN OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER AGAINST WHOM CHARGES OF VIOLATING THE PROVISIONS OF A STATUTE HAVING AS ITS PRIMARY EFFECT THE PREVENTION OR PUNISHMENT OF ANIMAL NEGLECT OR ANIMAL CRUELTY OR DOG FIGHTING ARE PENDING IN A COURT OF LAW SHALL BE PROHIBITED FROM BEING AN ADOPTIVE ORGANIZATION UNDER THE TERMS OF THIS SUBDIVISION UNTIL SUCH TIME AS THAT OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER IS NO LONGER AN OFFICER OR BOARD MEMBER OF THE ORGANIZATION OR SUCH CHARGES ARE DISMISSED OR DROPPED.

F. AS USED IN THIS SUBDIVISION, "IRREMEDIABLE PHYSICAL SUFFERING" MEANS THAT THE ANIMAL SUFFERS FROM A MEDICAL CONDITION THAT HAS A POOR OR GRAVE PROGNOSIS AND THAT THE ANIMAL IS UNLIKELY TO BE ABLE TO LIVE WITHOUT PROLONGED, SEVERE AND UNREMITTING PAIN DESPITE NECESSARY VETERINARY CARE.

S 3. This act shall take effect immediately.