

7771

I N S E N A T E

May 7, 2010

Introduced by Sen. OPPENHEIMER -- 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 companion animal hoarding

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

1 Section 1. Legislative intent. Across the country, there is an
2 increasing incidence of cases where large numbers of companion animals
3 are seized from individuals who lack the ability to provide them with
4 the basics of life - clean place to live, adequate food and water and
5 necessary veterinary care. The living conditions in many of these cases
6 are not just marginal - frequently they fall well below accepted standards
7 for either companion animals or human beings. Severe overcrowding,
8 excessive feces, dirt, garbage, dangerous levels of ammonia from urine-saturated
9 surfaces, animals that plainly suffer from parasite infestation, upper
10 respiratory infections, and other ailments and owners or
11 custodians that neither fully recognize nor are capable of remedying the
12 situation.

13 Sadly, these companion animal "hoarding" cases are also frequently
14 accompanied by self neglect and neglect of other people living in the
15 household - particularly children and the elderly. When authorities do
16 intervene, the cost - in terms of both animal suffering and government
17 expenditure - is substantial. Animals removed from hoarding situations
18 are often too debilitated, sick or injured to be helped. When they are
19 able to be rehabilitated, the cost of housing, food and veterinary care
20 can be extremely high.

21 States around the country are responding to companion animal hoarding
22 with legislation that gives law enforcement the tools it needs for early
23 intervention - before the situation becomes a full-blown cruelty case.
24 This legislation defines companion animal hoarding, makes provision for
25 seizure of animals and requires that those deemed hoarders are evaluated
26 to determine whether they can receive services to assist them with their
27 problem. Provision is made for covering the cost of caring for animals
28 seized in hoarding cases and to ensure that those determined to be

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

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1 hoarders do not have custody of companion animals for a period of time
2 that the sentencing court deems reasonable and appropriate.

3 S 2. The agriculture and markets law is amended by adding a new
4 section 353-e to read as follows:

5 S 353-E. COMPANION ANIMAL HOARDING. 1. A PERSON IS GUILTY OF COMPANION
6 ANIMAL HOARDING WHEN HE OR SHE OWNS, POSSESSES, OR HAS CUSTODY OF MORE
7 COMPANION ANIMALS THAN HE OR SHE CAN PROPERLY CARE FOR AS EVIDENCED BY
8 OWNERSHIP, POSSESSION OR CUSTODY OF MORE THAN TWENTY-FIVE COMPANION
9 ANIMALS LIVING IN CONDITIONS THAT ARE LIKELY TO JEOPARDIZE THE HEALTH
10 AND WELL BEING OF THE ANIMALS AND/OR HUMAN BEINGS LIVING IN THE HOUSE-
11 HOLD AS EVIDENCED BY:

12 (A) KEEPING THE COMPANION ANIMALS IN A SEVERELY OVERCROWDED LIVING
13 ENVIRONMENT LIKELY TO ENDANGER THEIR HEALTH OR SAFETY;

14 (B) FAILURE BY THE PERSON WHO OWNS, POSSESSES OR HAS CUSTODY OF THE
15 COMPANION ANIMALS TO MAINTAIN HIS OR HER LIVING ENVIRONMENT IN A SANI-
16 TARY CONDITION SUCH AS TO POSE A SERIOUS RISK TO THE HEALTH OR SAFETY OF
17 THE COMPANION ANIMALS AND/OR PEOPLE LIVING IN THAT ENVIRONMENT. FAILURE
18 TO PROVIDE A SUFFICIENTLY SANITARY LIVING ENVIRONMENT MAY BE EVIDENCED
19 BY CONDITIONS SUCH AS EXCESSIVE FECES, URINE, DIRT, GARBAGE OR A LACK OF
20 BASIC SERVICES THAT MAKE A HOME HABITABLE SUCH AS HEAT, HOT WATER,
21 VENTILATION OR ELECTRICITY; AND

22 (C) THE PRESENCE OF COMPANION ANIMALS THAT, WITHOUT JUSTIFICATION,
23 HAVE NOT RECEIVED NECESSARY VETERINARY TREATMENT WITHIN A REASONABLE
24 PERIOD OF TIME.

25 2. IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION OF THIS
26 SECTION, THE COURT SHALL ORDER THE DEFENDANT TO UNDERGO A MENTAL HEALTH
27 EVALUATION BY A QUALIFIED PROFESSIONAL SELECTED BY THE COURT. WITH DUE
28 CONSIDERATION TO THE FINDINGS OF SUCH MENTAL HEALTH PROFESSIONAL, THE
29 COURT MAY ORDER THAT THE DEFENDANT UNDERGO AND COMPLETE A COURSE OF
30 TREATMENT, THERAPY AND/OR COUNSELING. ALSO WITH DUE CONSIDERATION TO THE
31 FINDINGS OF SUCH MENTAL HEALTH PROFESSIONAL, THE COURT MAY ALSO ORDER
32 THAT THE DEFENDANT BE PROHIBITED FROM OWNING COMPANION ANIMALS FOR A
33 PERIOD OF TIME DEEMED REASONABLE BY THE COURT. THE PROVISIONS OF
34 SECTIONS THREE HUNDRED SEVENTY-ONE, THREE HUNDRED SEVENTY-TWO, THREE
35 HUNDRED SEVENTY-THREE AND THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE
36 SHALL APPLY TO VIOLATIONS OF THIS SECTION.

37 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY
38 PROTECTIONS AFFORDED TO COMPANION ANIMALS UNDER ANY OTHER PROVISION OF
39 THIS ARTICLE.

40 S 3. Paragraph a of subdivision 8 of section 374 of the agriculture
41 and markets law, as amended by chapter 594 of the laws of 2003 and such
42 subdivision as renumbered by chapter 479 of the laws of 2009, is amended
43 to read as follows:

44 a. In addition to any other penalty provided by law, upon conviction
45 for any violation of section three hundred fifty-one, three hundred
46 fifty-three, three hundred fifty-three-a, three hundred fifty-three-b,
47 THREE HUNDRED FIFTY-THREE-E, three hundred fifty-five, three hundred
48 fifty-six, three hundred fifty-nine, three hundred sixty, three hundred
49 sixty-one, three hundred sixty-five or three hundred sixty-eight of this
50 article, the convicted person may, after a duly held hearing pursuant to
51 paragraph f of this subdivision, be ordered by the court to forfeit, to
52 a duly incorporated society for the prevention of cruelty to animals or
53 a duly incorporated humane society or authorized agents thereof, the
54 animal or animals which are the basis of the conviction. Upon such an
55 order of forfeiture, the convicted person shall be deemed to have relin-

1 quished all rights to the animals which are the basis of the conviction,
2 except those granted in paragraph d of this subdivision.
3 S 4. This act shall take effect on the same date and in the same
4 manner as chapter 479 of the laws of 2009, takes effect.