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

7850

I N S E N A T E

May 17, 2010

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to enacting the "monk parakeet protection act"

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

Section 1. Legislative intent. The legislature finds that the monk parakeet has been existing in a wild, undomesticated state in New York since the late 1960s. The ancestors of the current flocks are believed to have been imported legally into the United States from their native land in Argentina. Since then, monk parakeets have established colonies in parts of New York city and lower Westchester county. Their colonies are small, and the population of monk parakeets seems to be rather stabilized over the past 20 years. It is estimated that there are less than 1,000 wild monk parakeets in the state of New York. Reports of poaching and less than humane regard for nesting sites have led to the need for formal protection of this species, which is recognized as non-native, but not currently categorized as invasive, according to the report Regulatory System for Non-native Species (New York Invasive Species Council, 2010). The purpose of this act is to protect the wild monk parakeet (a/k/a Quaker parakeet), the parrot species Myiopsitta monachus, living in a wild state in various parts of the state of New York. This act shall also provide humane methods of relocation or removal, especially where threat to human life, private or public property, or agricultural concerns, are imminent.

S 2. This act shall be known and may be cited as the "monk parakeet protection act."

S 3. Article 11 of the environmental conservation law is amended by adding a new title 27 to read as follows:

TITLE 27

MONK PARAKEET PROTECTION ACT

SECTION 11-2701. DEFINITIONS.

11-2703. MONK PARAKEETS; PROTECTION.

S 11-2701. DEFINITIONS.

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

LBD17343-01-0

FOR PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "QUALIFIED INDIVIDUAL" SHALL MEAN A PERSON OR PERSONS WITH EITHER A DEGREE IN EARTH, BIOLOGICAL OR NATURAL SCIENCES, INCLUDING GEOLOGY, ENVIRONMENTAL SCIENCE, BIOLOGY, ZOOLOGY, OR A SPECIALIZATION IN ORNITHOLOGY;

2. "WILD MONK PARAKEET" SHALL MEAN A MONK PARAKEET THAT WAS BORN IN A NATURAL ENVIRONMENT WITHOUT HUMAN AID OR INTERVENTION, AND RAISED BY ITS OWN PARENTS. THE PROVISIONS OF THIS TITLE SHALL NOT APPLY TO ANY MONK PARAKEET THAT IS BANDED BY A BREEDER AND PREVIOUSLY EXISTED IN A DOMESTIC SITUATION AS A PET;

3. "QUALIFIED DESIGNATED AGENT OR AUTHORITY" SHALL MEAN EITHER A STATE AGENCY WITH QUALIFIED INDIVIDUALS, OR AN ORGANIZATION WITH MEMBERS WHO HAVE A MINIMUM OF FIVE YEARS EXPERIENCE IN THE RESCUE AND REHABILITATION OF PARROTS OR WILD BIRDS, AND HAVE AT LEAST TWO QUALIFIED INDIVIDUALS AS DEFINED IN SUBDIVISION ONE OF THIS SECTION. THE QUALIFIED DESIGNATED AGENT OR AUTHORITY SHALL BE AFFILIATED WITH ONE OR MORE AVIAN VETERINARIANS; AND

4. "BREEDING SEASON" SHALL MEAN THE PERIOD OF TIME BEGINNING APRIL FIRST AND ENDING OCTOBER FIRST OF A CALENDAR YEAR.

S 11-2703. MONK PARAKEETS; PROTECTION.

1. NO PERSON SHALL CAPTURE OR HARM A MONK PARAKEET CHICK, FLEDGLING, OR ADULT, OR TAKE OR SELL ITS EGGS, TO ANY RETAIL OR PRIVATE ESTABLISHMENT OR CONCERN.

2. NO PERSON SHALL REMOVE THE NEST OF A MONK PARAKEET, UNLESS THERE IS A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

3. THE COLLECTION OF EGGS, CHICKS, FLEDGLINGS, OR ADULT MONK PARAKEETS SHALL BE DONE ONLY UNDER THE SUPERVISION OF A DESIGNATED AND QUALIFIED INDIVIDUAL OR EXPERT.

4. THE REMOVAL OF THE NEST OF A MONK PARAKEET, IF NECESSARY, SHALL OCCUR OUTSIDE OF BREEDING SEASON, UNLESS THERE IS A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

5. THE STATE OR A QUALIFIED DESIGNATED AGENT OR AUTHORITY SHALL BE NOTIFIED AT LEAST FIVE DAYS IN ADVANCE OF ANY PROPOSAL TO REMOVE THE NEST OF A MONK PARAKEET. THE DESIGNATED AGENT OR AUTHORITY SHALL PROPOSE ALTERNATIVE ACTIONS, AND SHALL SUPERVISE ANY NEST REMOVALS IF AN ALTERNATIVE PLAN IS NOT POSSIBLE.

6. PRIVATE COMPANIES AND ORGANIZATIONS, UTILITY COMPANIES, AND GOVERNMENTAL AGENCIES, SHALL MAKE EVERY EFFORT TO SUPPLY AND ERECT ALTERNATIVE NESTING PLATFORMS WHERE REASONABLY POSSIBLE, IF CURRENT MONK PARAKEET NESTING SITES HAVE BEEN DEMONSTRATED TO BE A THREAT TO HUMAN LIFE, PRIVATE OR PUBLIC PROPERTY, OR AGRICULTURAL CONCERNS. EXAMPLE PLANS AND DRAWINGS FOR NESTING PLATFORMS SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE OFFICIAL WEBPAGE OF THE DEPARTMENT.

7. IF AN EFFORT TO PROVIDE MONK PARAKEETS WITH ALTERNATIVE NESTING PLATFORMS FAILS OR PROVES TO BE UNSUCCESSFUL, AN ENTITY MAY EMPLOY HUMANE MEANS TO REMOVE AND EUTHANIZE MONK PARAKEETS, ONLY AS A LAST RESORT. ALL OTHER METHODS TO PROVIDE ALTERNATIVE NESTING OPTIONS SHALL BE FIRST EXHAUSTED. SUCH ENTITY SHALL DEMONSTRATE IN WRITING AND DOCUMENTATION THAT ALL EFFORTS TO PROVIDE ALTERNATIVES HAVE FAILED, AND SHALL OUTLINE THE METHOD BY WHICH EUTHANASIA SHALL BE APPLIED. SUCH ENTITY SHALL ALSO DEMONSTRATE THAT THERE IS A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

8. FOR PURPOSES OF THIS TITLE:

A. THE USE OF CARBON MONOXIDE OR ANY OTHER GAS OR VAPOR AS A METHOD OF EUTHANASIA IS PROHIBITED;

B. THE ONLY ACCEPTABLE FORM OF EUTHANASIA SHALL BE BY INJECTION OF AN ANESTHETIC OR ANESTHETIC MIXTURE WHICH CAUSES IMMEDIATE AND PAINLESS CESSATION OF PULMONARY AND CORONARY FUNCTION; AND

C. ADMINISTRATION AND SUPERVISION OF THE EUTHANASIA PROCEDURE SHALL BE DONE BY A LICENSED VETERINARIAN, VETERINARY ASSISTANT OR VETERINARY TECHNICIAN.

9. THE DEPARTMENT MAY DESIGNATE A QUALIFIED ORGANIZATION TO CARRY OUT THE GENERAL ADMINISTRATION OF THE PROVISIONS OF THIS TITLE.

10. A QUALIFIED ORGANIZATION DESIGNATED PURSUANT TO SUBDIVISION NINE OF THIS SECTION SHALL BE ENTITLED TO REASONABLE REIMBURSEMENT FOR EXPENSES IN ASSOCIATION WITH NEST REMOVAL, FROM ANY ENTITY SO REQUESTING THE SERVICES OF SUCH QUALIFIED ORGANIZATION. THE REQUESTING ENTITY SHALL PROVIDE, AND OPERATE, ALL NECESSARY HEAVY EQUIPMENT, INCLUDING BUCKET LIFTS OR TRUCKS. IN ADDITION, ALL EXPENSES AND COSTS ASSOCIATED WITH THE USE OF VETERINARY SERVICES FOR EUTHANASIA SHALL BE IMMEDIATELY REIMBURSED TO THE ATTENDING VETERINARIAN BY THE REQUESTING ENTITY.

11. ANY VIOLATION OF THE PROVISIONS OF THIS TITLE SHALL BE A MISDEMEANOR.

S 4. This act shall take effect on the sixtieth day after it shall have become a law.