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

1961

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. BENJAMIN -- Multi-Sponsored by -- M. of A. CLARK, HOOPER, MILLER -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to owner liability for attacks by dogs

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

Section 1. Subdivisions 6, 7, 10 and 11 of section 121 of the agriculture and markets law, subdivisions 6 and 11 as amended and subdivision 10 as added by chapter 392 of the laws of 2004, subdivision 7 as amended by chapter 526 of the laws of 2005, are amended and a new subdivision 7-a is added to read as follows:

6. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite: (A) a person, service dog, guide dog or hearing dog causing physical injury shall be subject to a civil penalty not to exceed four hundred dollars in addition to any other applicable penalties; OR (B) ANOTHER DOG OR CAT CAUSING PHYSICAL INJURY TO SUCH DOG OR CAT SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS IN ADDITION TO ANY OTHER APPLICABLE PENALTIES, INCLUDING STRICT LIABILITY FOR SUCH DOG'S OR CAT'S MEDICAL EXPENSES.

7. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite: (A) a person causing serious physical injury shall be subject to a civil penalty not to exceed one thousand five hundred dollars in addition to any other applicable penalties; OR (B) ANOTHER DOG OR CAT CAUSING SERIOUS PHYSICAL INJURY SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FOUR HUNDRED DOLLARS IN ADDITION TO ANY OTHER APPLICABLE PENALTIES, INCLUDING STRICT LIABILITY FOR SUCH DOG'S OR CAT'S MEDICAL EXPENSES. Any such penalty may be reduced by any amount which is paid as restitution by the owner of the dog to the person or persons suffering serious physical injury as compensation for unreim-

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

LBD05381-01-9

bursed medical expenses, lost earnings and other damages resulting from such injury.

7-A. THE OWNER OF A DOG WHO, THROUGH ANY ACT OR OMISSION, NEGLIGENTLY PERMITS HIS OR HER DOG, WHICH HAD PREVIOUSLY CAUSED PHYSICAL INJURY OR SERIOUS PHYSICAL INJURY AS PROVIDED IN SUBDIVISIONS SIX AND SEVEN OF THIS SECTION, OR HAD BEEN DETERMINED TO BE DANGEROUS PURSUANT TO THIS ARTICLE, TO BITE ANOTHER DOG OR CAT SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN SEVEN HUNDRED FIFTY DOLLARS, OR BY A PERIOD OF IMPRISONMENT NOT TO EXCEED THIRTY DAYS, OR BOTH SUCH FINE AND IMPRISONMENT, IN ADDITION TO ANY OTHER APPLICABLE PENALTIES, INCLUDING STRICT LIABILITY FOR SUCH DOG'S OR CAT'S MEDICAL EXPENSES.

10. The owner or lawful custodian of a dangerous dog shall, except in the circumstances enumerated in subdivisions four and eleven of this section, be strictly liable for medical costs resulting from injury caused by such dog to a person, ANOTHER DOG OR CAT, companion animal, farm animal or domestic animal.

11. The owner shall not be liable pursuant to subdivision six, seven, SEVEN-A, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in subdivision one or two of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.