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

592--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, CUSICK, KAVANAGH, LUPARDO, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. HYER-SPENCER, McENENY, PHEFFER -- 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

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:

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

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

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

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States around the country are responding to companion animal hoarding with legislation that gives law enforcement the tools it needs for early intervention - before the situation becomes a full-blown cruelty case. This legislation defines companion animal hoarding, makes provision for seizure of animals and requires that those deemed hoarders are evaluated to determine whether they can receive services to assist them with their problem. Provision is made for covering the cost of caring for animals seized in hoarding cases and to ensure that those determined to be hoarders do not have custody of companion animals for a period of time that the sentencing court deems reasonable and appropriate.

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

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

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

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

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

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

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

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

a. In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, THREE HUNDRED FIFTY-THREE-E, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred

sixty-one, three hundred sixty-five or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.

S 4. This act shall take effect on the same date and in the same manner as chapter 479 of the laws of 2009, takes effect.