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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PAULIN, CUSICK, GALEF, ROSENTHAL, SPANO, PHEFFER
-- Multi-Sponsored by -- M. of A. MCENENY, SCHIMMINGER -- read once
and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the humane destruction or disposition of certain animals; and repealing certain provisions of such law relating thereto

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

1 Section 1. Subdivisions 2-a, 2-b, 2-c, 2-d and 2-e of section 374 of
2 the agriculture and markets law are REPEALED.
3 S 2. Subdivisions 1 and 2 of section 374 of the agriculture and
4 markets law, as added by chapter 545 of the laws of 1971, are amended to
5 read as follows:
6 1. Any agent or officer of [the American Society for the Prevention of
7 Cruelty to Animals, or of any society duly incorporated for that
8 purpose] A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO
9 ANIMALS, ANIMAL SHELTER, HUMANE SOCIETY, or any police officer, may
10 lawfully [and humanely destroy or] cause to be humanely destroyed (BY
11 MEANS PROVIDED FOR IN PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION)
12 any animal found abandoned and not properly cared for, or any lost,
13 strayed, homeless or unwanted animal, if upon examination a licensed
14 [veterinary surgeon] VETERINARIAN shall certify in writing, or if two
15 reputable citizens called [by him] UPON BY SUCH AGENT, OFFICER OR POLICE
16 OFFICER to view the same in his OR HER presence find that the animal is
17 so maimed, diseased, disabled, or infirm so as to be unfit for any
18 useful purpose OR SUCH THAT IN THE OPINION OF A LICENSED VETERINARIAN,
19 HUMANE EUTHANASIA IS WARRANTED; or after such agent [or], officer OR
20 POLICE OFFICER has obtained in writing from the owner of such animal his
21 OR HER consent to such destruction.

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

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2. In the absence of such findings or certificate [the American Society for the Prevention of Cruelty to Animals or any society duly incorporated for that purpose] A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, ANIMAL SHELTER, OR HUMANE SOCIETY may after five days [humanely destroy] MAKE AVAILABLE FOR ADOPTION OR HAVE HUMANELY DESTROYED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.

S 3. Subdivisions 3, 4 and 5 of section 374 of the agriculture and markets law are renumbered subdivisions 6, 7 and 8 and three new subdivisions 3, 4 and 5 are added to read as follows:

3. A. EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION, EUTHANASIA OF ANIMALS PURSUANT TO THIS SECTION SHALL BE ACCOMPLISHED SOLELY BY MEANS OF INJECTION OF SODIUM PENTOBARBITAL OR SODIUM PENTOBARBITAL SOLUTION ADMINISTERED BY A CERTIFIED EUTHANASIA TECHNICIAN, A LICENSED VETERINARIAN OR A LICENSED VETERINARY TECHNICIAN. EUTHANASIA BY INTRACARDIAC INJECTION OF SODIUM PENTOBARBITAL OR SODIUM PENTOBARBITAL SOLUTION SHALL ONLY BE PERFORMED UPON ANIMALS THAT ARE HEAVILY SEDATED, ANESTHETIZED, OR COMATOSE.

B. NO ANIMAL SHALL BE LEFT UNATTENDED BETWEEN THE TIME THAT THE EUTHANASIA PROCEDURE BEGINS AND THE TIME WHEN DEATH IS CONFIRMED. THE BODY OF A EUTHANIZED ANIMAL SHALL NOT BE DISPOSED OF IN ANY MANNER UNTIL DEATH IS CONFIRMED BY A LICENSED VETERINARIAN, A CERTIFIED EUTHANASIA TECHNICIAN OR A LICENSED VETERINARY TECHNICIAN. VIOLATIONS OF THIS PARAGRAPH SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS.

THE DEPARTMENT SHALL PROMULGATE REGULATIONS DEEMED NECESSARY FOR IMPLEMENTATION OF THE PROVISIONS OF THIS SUBDIVISION, INCLUDING REGULATIONS GOVERNING THE TRAINING AND CERTIFICATION OF CERTIFIED EUTHANASIA TECHNICIANS.

4. A. ANY METHOD OF EUTHANASIA OTHER THAN THAT PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION IS PROHIBITED EXCEPT THAT EUTHANASIA OF AN ANIMAL BY GUNSHOT IS PERMISSIBLE AS AN EMERGENCY MEASURE FOR AN ANIMAL THAT IS POSING AN IMMINENT THREAT OF SERIOUS PHYSICAL INJURY TO A PERSON OR TO ANOTHER ANIMAL AS PROVIDED IN SECTION ONE HUNDRED TWENTY-ONE-A OF THIS CHAPTER AND WHERE THE USE OF A HUMANE METHOD OF EUTHANASIA PRESCRIBED IN THIS SECTION IS RENDERED IMPOSSIBLE OR WHERE A SEVERELY INJURED ANIMAL IS SUFFERING AND CANNOT OTHERWISE BE AIDED.

B. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION, ANY CHAMBER USED TO INDUCE HYPOXIA BY MEANS OF A LETHAL GAS SHALL BE DISMANTLED, RENDERED INOPERABLE AND BEYOND REPAIR, AND REMOVED FROM THE PREMISES. VIOLATIONS OF THIS PARAGRAPH SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS.

5. NO PERSON SHALL RELEASE ANY DOG OR CAT FROM THE CUSTODY OR CONTROL OF ANY POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, DOG PROTECTIVE ASSOCIATION, DOG CONTROL OFFICER, PEACE OFFICER OR ANY AGENT THEREOF, FOR ANY PURPOSE EXCEPT ADOPTION OR REDEMPTION BY ITS OWNER. NOTWITHSTANDING THE PENALTIES SET FORTH IN PARAGRAPH B OF SUBDIVISION THREE OF THIS SECTION AND PARAGRAPH B OF SUBDIVISION FOUR OF THIS SECTION, ANY VIOLATION OF THIS SUBDIVISION, SUBDIVISIONS TWO, THREE OR FOUR OF THIS SECTION, SHALL CONSTITUTE A MISDEMEANOR AND SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH.

S 4. Paragraphs b and e of subdivision 8 of section 374 of the agriculture and markets law, as added by chapter 569 of the laws of 1995 and

1 such subdivision as renumbered by section three of this act, are amended
2 to read as follows:

3 b. Pursuant to the provisions of subdivisions [two-a, two-b, two-c and
4 two-d] TWO, THREE, FOUR AND FIVE of this section, no dog or cat in the
5 custody of a duly incorporated society for the prevention of cruelty to
6 animals, a duly incorporated humane society or its authorized agents
7 thereof, or a pound or shelter, shall be sold, transferred or otherwise
8 made available to any person for the purpose of research, experimenta-
9 tion or testing. No authorized agent of a duly incorporated society for
10 the prevention of cruelty to animals, nor of a duly incorporated humane
11 society, shall use any animal placed in its custody by the duly incorpo-
12 rated society for the prevention of cruelty to animals or duly incorpo-
13 rated humane society for the purpose of research, experimentation or
14 testing.

15 e. A duly incorporated society for the prevention of cruelty to
16 animals or a duly incorporated humane society in charge of animals
17 forfeited pursuant to paragraph a of this subdivision may, in its
18 discretion, lawfully and without liability, adopt them to individuals
19 other than the convicted person or person dwelling in the same household
20 who conspired, aided or abetted in the unlawful act which was the basis
21 of the conviction, or who knew or should have known of the unlawful act,
22 or humanely dispose of them according to the provisions of subdivisions
23 [two-a, two-b, two-c, and two-d] TWO, THREE, FOUR AND FIVE of this
24 section.

25 S 5. Section 332 of the agriculture and markets law, as amended by
26 chapter 674 of the laws of 1980, is amended to read as follows:

27 S 332. Disposition. Any person having in his care, custody, or control
28 any abandoned animal, as defined in section three hundred thirty-one of
29 this [chapter] ARTICLE, may deliver such animal to any humane society or
30 society for the prevention of cruelty to animals having facilities for
31 the care and eventual disposition of such animals, or, in the case of
32 dogs, cats and other small animals, to any pound maintained by or under
33 contract or agreement with any county, city, town, or village within
34 which such animal was abandoned. The person with whom the animal was
35 abandoned shall, however, on the day of divesting himself of possession
36 thereof, notify the person who had placed such animal in his custody of
37 the name and address of the animal society or pound to which the animal
38 has been delivered, such notice to be by registered letter mailed to the
39 last known address of the person intended to be so notified. If an
40 animal is not claimed by its owner within five days after being so
41 delivered to such humane society or society for the prevention of cruel-
42 ty to animals, or pound, such animal may at any time thereafter be
43 placed for adoption in a suitable home or euthanized IN ACCORDANCE WITH
44 THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS CHAPTER.
45 In no event, however, shall the use of a decompression chamber or decom-
46 pression device of any kind be used for the purpose of destroying or
47 disposing of such animal.

48 S 6. Subdivisions 7 and 7-a of section 118 of the agriculture and
49 markets law, subdivision 7 as amended by chapter 645 of the laws of 1988
50 and subdivision 7-a as amended by chapter 619 of the laws of 1987, are
51 amended to read as follows:

52 7. An owner shall forfeit title to any dog unredeemed at the expira-
53 tion of the appropriate redemption period, and the dog shall then be
54 made available for adoption or euthanized subject to the provisions [of
55 subdivisions two-a, two-b, two-c, two-d, and two-e] of section three
56 hundred seventy-four of this chapter. Provided that no dog in the custo-

1 dy of a pound or shelter shall be delivered for adoption unless it has
2 been licensed pursuant to the provisions of this article prior to its
3 release from the custody of a pound or shelter. Any municipality may by
4 local law or ordinance establish additional conditions for adoption
5 including the requirement that adopted dogs shall be spayed or neutered
6 before or after release from custody upon such terms and conditions as
7 the municipality may establish.

8 7-a. Any dog or cat in the custody of a pound or shelter shall be made
9 available for adoption or euthanized subject to the provisions [of
10 subdivisions two-a, two-b, two-c, two-d, and two-e] of section three
11 hundred seventy-four of this chapter after the time for redemption has
12 expired.

13 S 7. This act shall take effect on the three hundred sixty-fifth day
14 after it shall have become a law.