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

6218

2009-2010 Regular Sessions

I N S E N A T E

October 14, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the agriculture and markets law, in relation to disseminating information to persons adopting a dog or cat and imposing additional penalties for animal abuse and cruelty to animals; and to amend the social services law, in relation to reporting of animal abuse

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

Section 1. The agriculture and markets law is amended by adding a new section 377-b to read as follows:

S 377-B. DISSEMINATION OF INFORMATION TO PERSONS ADOPTING A DOG OR CAT. 1. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGULATIONS REQUIRING EVERY POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR DULY INCORPORATED ANIMAL PROTECTION ASSOCIATION, OR ANY AGENT THEREOF, TO PROVIDE A PERSON ADOPTING A DOG OR CAT WITH A PACKET OF INFORMATION INCLUDING, BUT NOT LIMITED TO, INFORMATION ON CARE AND TREATMENT OF SUCH ANIMALS, TRAINING, GROOMING, NURTURING AND INTERACTING WITH DOGS AND CATS. SUCH INFORMATION MAY BE IN THE FORM OF A PAMPHLET, BROCHURE, COMPACT DISC OR ANY OTHER FORMAT THAT THE COMMISSIONER DEEMS TO BE APPROPRIATE.

2. NO POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, OR DULY INCORPORATED ANIMAL PROTECTION ASSOCIATION, OR ANY AGENT THEREOF, SHALL RELEASE ANY DOG OR CAT FOR ADOPTION TO ANY PERSON UNLESS SUCH PERSON HAS BEEN PROVIDED WITH THE PACKET OF INFORMATION AUTHORIZED PURSUANT TO SUBDIVISION ONE OF THIS SECTION. EVERY POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, OR DULY INCORPORATED ANIMAL PROTECTION ASSOCIATION, OR ANY AGENT THEREOF, SHALL FURTHER REQUIRE THE PERSON ADOPTING SUCH DOG OR CAT UPON RECEIPT OF SUCH INFORMATION TO

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

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ACKNOWLEDGE SUCH RECEIPT BY PLACING HIS OR HER SIGNATURE ON AN INFORMATION STATEMENT. SUCH INFORMATION STATEMENT SHALL BE IN WRITING ON A SEPARATE SHEET AND SHALL LIST ALL INFORMATION RECEIVED BY SUCH PERSON ON THE DATE OF ADOPTION. THE SIGNED INFORMATION STATEMENT SHALL REMAIN ON FILE WITH ANY OTHER APPLICATION FORMS.

3. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT ANY TOWN, CITY, VILLAGE OR COUNTY IN NEW YORK STATE FROM ENACTING A LOCAL LAW OR ORDINANCE REQUIRING THAT EVERY POUND, SHELTER, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY OR DULY INCORPORATED ANIMAL PROTECTION ASSOCIATION WITHIN SUCH TOWN, CITY, VILLAGE OR COUNTY FROM PROVIDING A PERSON ADOPTING A DOG OR CAT WITH A PACKET OF INFORMATION CONTAINING MORE THAN WHAT IS REQUIRED BY THE PROVISIONS OF THIS SECTION.

S 2. Section 353 of the agriculture and markets law, as amended by chapter 458 of the laws of 1985 and the opening paragraph as amended by chapter 523 of the laws of 2005, is amended to read as follows:

S 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance. 1. A person who overdrives[,] OR overloads[, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills] any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, [tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed,] or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any SUCH act of cruelty to any animal, or any SUCH act tending to produce such cruelty[,]: (A) IF FOUND TO DO SO WITH NEGLIGENCE OR RECKLESSNESS, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law; OR (B) IF FOUND TO DO SO INTENTIONALLY, IS GUILTY OF A CLASS E FELONY AS DEFINED IN THE PENAL LAW.

2. THE COURT SHALL, IN ADDITION TO ANY OTHER PENALTY OTHERWISE IMPOSED BY LAW FOR A VIOLATION OF THIS SECTION, REQUIRE A PERSON WHO VIOLATES ANY OF SUCH PROVISIONS TO ENTER INTO AND SUCCESSFULLY COMPLETE ANY TREATMENT OR PROGRAM DEEMED HELPFUL IN MODIFYING BEHAVIOR PATTERNS OR TREATING ANY MENTAL ILLNESS WHICH MAY CAUSE OR CONTRIBUTE TO SUCH ILLEGAL ACTIVITIES.

3. Nothing [herein] contained IN THIS SECTION shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The [state] commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The [state] commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

4. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE IN ANY WAY WITH ANYONE LAWFULLY ENGAGED IN HUNTING, TRAPPING,

OR FISHING, AS PROVIDED IN ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW, THE DISPATCH OF RABID OR DISEASED ANIMALS, AS PROVIDED IN ARTICLE TWENTY-ONE OF THE PUBLIC HEALTH LAW, OR THE DISPATCH OF ANIMALS POSING A THREAT TO HUMAN SAFETY OR OTHER ANIMALS, WHERE SUCH ACTION IS OTHERWISE LEGALLY AUTHORIZED.

S 3. Subdivision 3 of section 353-a of the agriculture and markets law, as added by chapter 118 of the laws of 1999, is amended to read as follows:

3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be [sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years] CONVICTED OF A CLASS E FELONY AS DEFINED IN THE PENAL LAW.

S 4. Section 413 of the social services law is amended by adding a new subdivision 1-a to read as follows:

1-A. ANY PERSON SUBJECT TO THE REPORTING REQUIREMENTS OF THIS TITLE SHALL REPORT OR CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH THIS TITLE WHEN, AS A RESULT OF PERFORMING SUCH DUTIES, SUCH PERSON HAS REASONABLE CAUSE TO SUSPECT THAT ABUSE OR MALTREATMENT OF AN ANIMAL HAS BEEN CAUSED BY A PERSON ALSO SUSPECTED OF ABUSE OR MALTREATMENT OF A CHILD.

S 5. The social services law is amended by adding a new section 415-a to read as follows:

S 415-A. REPORTING PROCEDURE FOR SUSPECTED ANIMAL ABUSE OR MALTREATMENT. 1. REPORTS OF SUSPECTED ANIMAL ABUSE OR MALTREATMENT MADE PURSUANT TO THIS TITLE SHALL BE MADE IMMEDIATELY BY TELEPHONE OR BY TELEPHONE FACSIMILE MACHINE. ORAL REPORTS SHALL BE FOLLOWED BY A REPORT IN WRITING WITHIN FORTY-EIGHT HOURS AFTER SUCH ORAL REPORT. ORAL AND WRITTEN REPORTS SHALL BE MADE TO THE LOCAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR THE LOCAL POLICE DEPARTMENT.

2. SUCH WRITTEN REPORTS SHALL BE MADE IN A MANNER PRESCRIBED BY THE LOCAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS AND SHALL INCLUDE THE FOLLOWING INFORMATION: A DESCRIPTION OF THE ANIMAL; THE PRESENT LOCATION OF THE ANIMAL; A DESCRIPTION OF THE INJURY, ABUSE OR MALTREATMENT OF THE ANIMAL, INCLUDING ANY EVIDENCE OF PRIOR INJURIES, ABUSE OR MALTREATMENT OF SUCH ANIMAL OR OF OTHER ANIMALS; THE NAME AND ADDRESS OF THE PERSON OR PERSONS ALLEGED TO BE RESPONSIBLE FOR CAUSING THE INJURY, ABUSE OR MALTREATMENT; THE SOURCE OF THE REPORT; THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON MAKING THE REPORT; AND ANY ACTION TAKEN BY THE REPORTING SOURCE WITH REGARD TO THE INJURY, ABUSE OR MALTREATMENT OF THE ANIMAL.

3. WRITTEN REPORTS FROM PERSONS OR OFFICIALS REQUIRED BY THIS TITLE TO REPORT SHALL BE ADMISSIBLE IN ANY PROCEEDINGS RELATING TO ANIMAL ABUSE OR MALTREATMENT.

S 6. Subdivision 1 of section 420 of the social services law, as added by chapter 1039 of the laws of 1973, is amended to read as follows:

1. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment OR ANIMAL ABUSE OR MALTREATMENT who willfully fails to do so shall be guilty of a class A misdemeanor.

S 7. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.