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

1024

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. ORTIZ, MAYERSOHN, NOLAN, PERRY, TOWNS -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to animal diseases, quarantines and garbage restrictions; to amend the executive law, in relation to state of disaster emergency; and to amend the state finance law, in relation to creating the animal disease control fund

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 72-b to read as follows:

S 72-B. REGISTRATION AS GARBAGE FEEDING OPERATOR; FEES; CERTIFICATE OF REGISTRATION, EXPIRATION AND REVOCATION; DISPOSITION OF MONEYS. 1. EXCEPT AS OTHERWISE PROVIDED IN LAW, ANY PERSON, FIRM, PARTNERSHIP OR CORPORATION SHALL BE ALLOWED TO REGISTER AS A GARBAGE FEEDING OPERATOR.

2. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP OR CORPORATION TO FEED COOKED GARBAGE TO ANIMALS, OTHER THAN DOGS, AS PERMITTED IN THIS CHAPTER, UNLESS THE OPERATOR OF SUCH GARBAGE FEEDING ESTABLISHMENT SHALL HAVE FIRST REGISTERED AS A GARBAGE FEEDING OPERATOR WITH THE COMMISSIONER AND SHALL HAVE PAID THE ANNUAL REGISTRATION FEE UNDER THIS SECTION FOR EACH PLACE WHERE GARBAGE IS TO BE FED.

3. THE COMMISSIONER MAY ACCEPT APPLICATIONS FOR REGISTRATION ON A FORM TO BE SUPPLIED BY THE COMMISSIONER'S OFFICE. UPON THE ACCEPTANCE OF SUCH APPLICATION FOR REGISTRATION AND THE RECEIPT OF THE ANNUAL REGISTRATION FEE UNDER THIS SECTION FOR EACH PLACE WHERE GARBAGE IS TO BE FED, THE COMMISSIONER SHALL ISSUE TO SUCH APPLICANT AND OPERATOR A CERTIFICATE OF REGISTRATION FOR THE CURRENT OPERATION PERIOD. SUCH CERTIFICATE SHALL EXPIRE ON JUNE THIRTIETH EACH YEAR FOLLOWING THE DATE OF ISSUANCE OF THE CERTIFICATE OF REGISTRATION. THE APPLICATION FOR REGISTRATION MAY BE REJECTED AND DENIED IF THE APPLICANT DOES NOT SUPPLY ALL THE INFORMATION

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

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DEEMED ESSENTIAL BY THE COMMISSIONER AND IF THE APPLICANT'S GARBAGE FEEDING ESTABLISHMENT DOES NOT MEET THE REQUIREMENTS OF THIS CHAPTER, AND THE RULES AND REGULATIONS ADOPTED THEREUNDER.

4. THE COMMISSIONER SHALL FIX THE ANNUAL REGISTRATION FEE IN SUCH AMOUNT AS THE COMMISSIONER DEEMS DESIRABLE IN INTERESTS OF PUBLIC SERVICE, BUT NOT IN AN AMOUNT OF MORE THAN FIFTEEN DOLLARS PER REGISTRATION FOR EACH GARBAGE FEEDING ESTABLISHMENT.

5. THE CERTIFICATE OF REGISTRATION FOR GARBAGE FEEDING OPERATORS MAY BE REVOKED BY THE COMMISSIONER WHENEVER THE OPERATOR OF A GARBAGE FEEDING ESTABLISHMENT IS FOUND TO BE OPERATING IN VIOLATION OF LAW, OR RULES AND REGULATIONS ADOPTED THEREUNDER, OR IN AN UNSANITARY MANNER. ANY SUCH OPERATOR SHALL FIRST BE GIVEN NOTICE OF HEARING AND AN OPPORTUNITY TO APPEAR AND BE HEARD IN DEFENSE OF ANY PROCEEDING FOR THE REVOCATION OF ANY CERTIFICATE OF REGISTRATION IN ACCORDANCE WITH THE PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

6. THE COMMISSIONER SHALL REMIT ALL MONEYS RECEIVED BY OR FOR THE COMMISSIONER UNDER THIS ARTICLE TO THE COMPTROLLER AT LEAST MONTHLY. UPON RECEIPT OF ANY SUCH REMITTANCE, THE COMPTROLLER SHALL DEPOSIT THE ENTIRE AMOUNT THEREOF IN THE STATE TREASURY AND THE SAME SHALL BE CREDITED TO THE ANIMAL DISEASE CONTROL FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

S 2. Section 76 of the agriculture and markets law, is amended by adding five new subdivisions 1-a, 1-b, 1-c, 1-d and 1-e to read as follows:

1-A. WHEN THE COMMISSIONER DETERMINES THAT A QUARANTINE AND OTHER REGULATIONS ARE NECESSARY TO PREVENT THE SPREAD AMONG DOMESTIC ANIMALS OF ANY CONTAGIOUS OR INFECTIOUS DISEASE, THE COMMISSIONER SHALL NOTIFY THE GOVERNOR OF SUCH DETERMINATION, AND THE GOVERNOR SHALL ISSUE AN EXECUTIVE ORDER ANNOUNCING THE BOUNDARY OF SUCH QUARANTINE AND THE ORDERS AND RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER, EXCEPT THAT THE COMMISSIONER, IF THE AREA AFFECTED BY QUARANTINE IS LIMITED IN EXTENT, MAY DISPENSE WITH THE EXECUTIVE ORDER OF THE GOVERNOR AND GIVE SUCH NOTICE AS THE COMMISSIONER SHALL DEEM SUFFICIENT TO MAKE THE QUARANTINE EFFECTIVE.

1-B. UPON A DETERMINATION BY THE GOVERNOR THAT A QUARANTINE OR OTHER REGULATIONS ARE NECESSARY TO PREVENT THE SPREAD AMONG DOMESTIC ANIMALS OF ANY CONTAGIOUS OR INFECTIOUS DISEASE, THE GOVERNOR SHALL DIRECT THE COMMISSIONER TO ESTABLISH A QUARANTINE PURSUANT TO THIS SECTION.

1-C. THE GOVERNOR MAY REQUIRE AND DIRECT THE COOPERATION AND ASSISTANCE OF ANY STATE AGENCY IN ENFORCING SUCH QUARANTINE OR OTHER REGULATIONS PRESCRIBED PURSUANT TO SUBDIVISIONS ONE-A AND ONE-B OF THIS SECTION.

1-D. THE COMMISSIONER SHALL ESTABLISH SUCH QUARANTINE IMMEDIATELY AND SHALL GIVE AND ENFORCE SUCH DIRECTIONS, RULES AND REGULATIONS AS TO SEPARATING, ISOLATING, HANDLING AND TREATING, FEEDING AND CARING FOR SUCH DISEASED ANIMALS, ANIMALS EXPOSED TO THE DISEASE AND ANIMALS WITHIN THE QUARANTINE WHICH HAVE NOT BEEN IMMEDIATELY EXPOSED, AS THE COMMISSIONER DEEMS NECESSARY TO PREVENT THOSE CLASSES OF ANIMALS FROM COMING INTO CONTACT WITH ONE ANOTHER.

1-E. THE COMMISSIONER OR HIS OR HER DESIGNEE IS AUTHORIZED AND EMPOWERED TO ENTER ANY GROUNDS AND PREMISES TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 3. Section 85 of the agriculture and markets law is amended to read as follows:

S 85. Destruction of animals; disposition of carcasses. 1. The commissioner may prescribe rules for the destruction of animals affected

with infectious or communicable disease, and for the proper disposal of their hides and carcasses and all objects which might carry infection or contagion. Whenever in his judgment necessary for the more speedy and economical suppression or prevention of the spread of any such disease he may cause to be slaughtered and afterward disposed of, in such manner as he may deem expedient, any animal or animals which by contact or association with diseased animals or other exposure to infection or contagion may be considered or suspected to be liable to contract or communicate the disease sought to be suppressed or prevented. The commissioner may seize and cause to be destroyed a carcass or any portion thereof affected with any communicable disease.

2. (A) THE OPERATOR OF A LICENSED DISPOSAL PLANT SHALL DISPOSE OF THE CARCASSES OF DOMESTIC ANIMALS OR PACKINGHOUSE REFUSE BY COMPLYING WITH THE FOLLOWING STANDARDS AND REQUIREMENTS:

(I) THE SKINNING AND DISMEMBERING OF CARCASSES OF DOMESTIC ANIMALS SHALL BE PERFORMED WITHIN THE BUILDING WHERE THE CARCASSES ARE PROCESSED;

(II) THE COOKING VATS OR TANKS SHALL BE AIRTIGHT, EXCEPT PROPER ESCAPE FOR LIVE STEAM;

(III) STEAM SHALL BE SO DISPOSED OF AS NOT TO BE DETRIMENTAL TO PUBLIC HEALTH OR SAFETY;

(IV) THE MATERIALS NOT COOKED OR ENTIRELY CONSUMED BY BURNING WITHIN THE PLANT SHALL BE DISPOSED OF:

(A) BY BURYING TO SUCH A DEPTH THAT NO PART OF SUCH CARCASS SHALL BE NEARER THAN THREE FEET TO THE SURFACE OF THE GROUND, AND SHALL BE COVERED WITH QUICK-LIME AND WITH AT LEAST THREE FEET OF EARTH; OR

(B) IN SUCH MANNER AS MAY BE PRESCRIBED BY RULES AND REGULATIONS ADOPTED BY THE COMMISSIONER;

(V) ALL CARCASSES OF DOMESTIC ANIMALS OR PACKINGHOUSE REFUSE SHALL BE DISPOSED OF WITHIN FORTY-EIGHT HOURS AFTER DELIVERY TO THE DISPOSAL PLANT;

(VI) ALL CARCASSES, PARTS THEREOF, OR REFUSE UNDER PROCESS FOR MARKETING SHALL NOT BE PERMITTED TO COME IN CONTACT WITH ANY PART OF THE BUILDING OR EQUIPMENT USED IN CONNECTION WITH THE UNLOADING, SKINNING, DISMEMBERING AND GRINDING OF CARCASSES OR REFUSE AS ORIGINALLY RECEIVED AT THE DISPOSAL PLANT; AND

(VII) THE COOKING OF MATERIALS SHALL BE AT A TEMPERATURE OF 212°F FOR A PERIOD OF THIRTY MINUTES.

(B) THE COMMISSIONER MAY ISSUE A RELEASE FOR PORTIONS OF CARCASSES OF DEAD ANIMALS WHICH ARE UNCOOKED, OR WHICH ARE COOKED FOR A PERIOD SHORTER THAN THIRTY MINUTES OR AT A TEMPERATURE LESS THAN 212°F, OR BOTH. SUCH RELEASE REQUIRES THAT THE PRODUCTS SO RELEASED SHALL BE IDENTIFIED BY FREELY SLASHING AND COVERING ALL EXPOSED SURFACES OF SUCH PRODUCTS WITH AN EDIBLE GREEN DYE OR OTHER SUITABLE SUBSTANCE AS MAY BE APPROVED BY THE COMMISSIONER. SUCH PRODUCTS SHALL OTHERWISE MEET THE REQUIREMENTS OF THIS CHAPTER.

S 4. The agriculture and markets law is amended by adding a new section 85-a to read as follows:

S 85-A. UNLAWFUL TO CONTRACT FOR DISPOSAL OF UNPROCESSED GARBAGE. 1. IT SHALL BE UNLAWFUL FOR THE GOVERNING BODY OF ANY CITY, OR ANY OFFICIAL OR EMPLOYEE OF A CITY, TO ENTER INTO ANY CONTRACT OR AGREEMENT FOR THE COLLECTION OR DISPOSAL OF GARBAGE UNLESS SUCH CONTRACT OR AGREEMENT REQUIRES DISPOSAL OF GARBAGE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER, WHEN DISPOSED OF BY OTHER MEANS.

2. IT SHALL BE UNLAWFUL FOR ANY PERSON TO GIVE, SELL OR TRANSFER GARBAGE TO ANOTHER PERSON, IF SUCH PERSON KNOWS THAT SUCH OTHER PERSON IS COMMERCIALLY FEEDING THE GARBAGE TO A CLOVEN HOOFED ANIMAL.

S 5. Section 90-b of the agriculture and markets law is amended by adding four new subdivisions 24, 25, 26 and 27 to read as follows:

24. THE TERM "DISPOSAL PLANT" MEANS A PLACE OF BUSINESS OR A LOCATION WHERE THE CARCASSES OF DOMESTIC ANIMALS OR PACKINGHOUSE REFUSE IS PURCHASED, RECEIVED OR UNLOADED WHERE SUCH CARCASSES OR REFUSE ARE PROCESSED FOR THE PURPOSE OF OBTAINING HIDE, SKIN, GREASE, RESIDUE, OR ANY OTHER BYPRODUCT FROM THE ANIMAL OR REFUSE, IN ANY WAY WHATSOEVER.

25. THE TERM "SUBSTATION" MEANS A CONCENTRATION SITE EQUIPPED WITH AT LEAST ONE STORAGE BUILDING AND OPERATED AND MAINTAINED FOR THE TEMPORARY DEPOSIT OR STORAGE OF THE CARCASSES OF DOMESTIC ANIMALS PENDING FINAL DELIVERY OF THE CARCASSES TO THE DISPOSAL PLANT.

26. THE TERM "PLACE OF TRANSFER" MEANS A RELOADING SITE, AUTHORIZED FOR USE IN DIRECT TRANSFERRING OF CARCASSES OF DOMESTIC ANIMALS FROM VEHICLES MAKING ORIGINAL PICKUP OR LOADING TO A LINE VEHICLE FOR THE TRANSPORTATION OF THE CARCASSES TO THE DISPOSAL PLANT.

27. THE TERM "CARCASSES OF DOMESTIC ANIMALS" MEANS BODIES, OR ANY PART OR PORTION THEREOF, OF DEAD DOMESTIC ANIMALS NOT SLAUGHTERED FOR HUMAN FOOD.

S 6. Paragraph a of subdivision 2 of section 20 of the executive law, as amended by section 1 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

a. "disaster" means occurrence or imminent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, CONTAGIOUS OR INFECTIOUS DISEASE, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse.

S 7. Section 28 of the executive law is amended by adding a new subdivision 2-a to read as follows:

2-A. IN ADDITION TO THE OTHER POWERS AUTHORIZED BY THIS ARTICLE, THE GOVERNOR, UPON FINDING THAT A DISASTER HAS OCCURRED PURSUANT TO ARTICLE FIVE OF THE AGRICULTURE AND MARKETS LAW, AND THAT A QUARANTINE OR OTHER REGULATIONS ARE NECESSARY TO PREVENT THE SPREAD AMONG DOMESTIC ANIMALS OF ANY CONTAGIOUS OR INFECTIOUS DISEASE, MAY ISSUE AN EXECUTIVE ORDER DECLARING A STATE OF EMERGENCY. IF THE GOVERNOR SHALL ISSUE SUCH EXECUTIVE ORDER DECLARING A STATE OF EMERGENCY, THE ORDER SHALL REMAIN IN EFFECT FOR A PERIOD OF FIFTEEN DAYS BUT NOT TO EXCEED SIX MONTHS, UNLESS OTHERWISE RESCINDED BY THE GOVERNOR.

S 8. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. ANIMAL DISEASE CONTROL FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE "ANIMAL DISEASE CONTROL FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED PURSUANT TO SUBDIVISION SIX OF SECTION SEVENTY-TWO-B OF THE AGRICULTURE AND MARKETS LAW, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND SHALL BE EXPENDED FOR THE PURPOSES OF CARRYING OUT THE PROVISIONS OF SECTION SEVENTY-TWO-B OF THE AGRICULTURE AND

MARKETS LAW. MONEYS SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS APPROVED BY THE COMMISSIONER OF AGRICULTURE AND MARKETS. ANY INTEREST RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT IN THE ANIMAL DISEASE CONTROL FUND SHALL BE RETAINED IN AND BECOME PART OF SUCH FUND.

S 9. This act shall take effect on the one hundred twentieth day after it shall have become a law.