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

5449--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 18, 2011

Introduced by M. of A. PAULIN, MARKEY, SWEENEY, TITONE, ENGLEBRIGHT, MOYA, ORTIZ, N. RIVERA, GABRYSZAK -- Multi-Sponsored by -- M. of A. BOYLAND, CAHILL, GOTTFRIED, McENENY, MILLMAN, SCHIMEL, TEDISCO, THIELE -- read once and referred to the Committee on Agriculture -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to the treatment and disposition of lost, stray or homeless animals

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

Section 1. Subdivision 4 of section 113 of the agriculture and markets law, as amended by section 8 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

4. Every dog control officer, peace officer, when acting pursuant to [his] THE OFFICER'S special duties or police officer, OR SUCH OFFICER'S AGENT, FOLLOWING ANY SEIZURE OF A DOG, OR ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER TAKING POSSESSION OF SUCH DOG shall [promptly make]:

(A) AS SOON AS PRACTICABLE TAKE STEPS TO (1) CHECK THE DOG FOR ALL CURRENTLY POSSIBLE FORMS OF IDENTIFICATION INCLUDING, BUT NOT LIMITED TO, TAGS, MICROCHIPS, TATTOOS OR LICENSES; (2) COMPARE THE INFORMATION KNOWN ABOUT THE DOG WITH RECORDS OF DOGS REPORTED TO BE LOST OR STOLEN PURSUANT TO SECTION ONE HUNDRED TWELVE OF THIS ARTICLE; (3) MAKE AVAILABLE TO THE PUBLIC ON THE INTERNET ON A WEBSITE MAINTAINED BY OR OTHERWISE MADE AVAILABLE TO SUCH OFFICER, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER BY THE MUNICIPAL OR COUNTY GOVERNMENT IN WHICH SUCH OFFICER OR ORGANIZATION IS LOCATED, OR ORGANIZATION APPROVED PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS CHAPTER, AT LEAST DURING THE REDEMPTION PERIOD, A PHOTOGRAPH, IF PRACTICABLE, AND

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

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A GENERAL DESCRIPTION OF THE DOG TO ASSIST THE OWNER OR OWNERS IN FINDING THE DOG, INCLUDING THE BREED OR BREEDS, IF KNOWN, THOUGH INFORMATION ABOUT THE DOG MAY BE WITHHELD IF DEEMED APPROPRIATE TO FACILITATE FINDING THE OWNER OR OWNERS OR OTHERWISE PROTECT THE SAFETY OF THE DOG. THE NOTICE REQUIRED BY THIS PARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF THE INTERNET IS IMPRACTICABLE.

(B) AS SOON AS PRACTICABLE AFTER THE OWNER OR OWNERS OF A DOG HAVE BEEN DETERMINED, NOTIFY THE OWNER OR OWNERS OF SUCH DOG PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE FACTS OF THE DOG'S IMPOUNDMENT AND THE PROCEDURE FOR REDEMPTION. IF NOTIFICATION IS PERSONALLY GIVEN, SUCH DOG SHALL BE HELD FOR A PERIOD OF SEVEN DAYS AFTER THE DATE OF NOTICE, DURING WHICH PERIOD THE DOG MAY BE REDEEMED BY THE OWNER OR OWNERS. IF SUCH NOTIFICATION IS MADE BY MAIL, SUCH DOG SHALL BE HELD FOR A PERIOD OF NINE DAYS FROM THE DATE OF MAILING, DURING WHICH PERIOD THE DOG MAY BE REDEEMED BY THE OWNER OR OWNERS. IN EITHER CASE, THE OWNER OR OWNERS MAY REDEEM SUCH DOG UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTEEN OF THIS ARTICLE AND BY PRODUCING PROOF THAT SUCH DOG HAS BEEN LICENSED.

(C) MAKE and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, [a description of] ANY IDENTIFICATION FOUND ON the dog, INCLUDING TAG, MICROCHIP, TATTOO OR LICENSE NUMBERS, THE BREED OR BREEDS, IF KNOWN, APPROXIMATE SIZE AND WEIGHT, COLORING AND IDENTIFYING MARKS ON THE DOG, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

S 2. Subdivisions 3, 4 and 11 of section 117 of the agriculture and markets law, subdivisions 3 and 11 as added by chapter 220 of the laws of 1978, such section as renumbered and subdivision 4 as amended by section 12 of part T of chapter 59 of the laws of 2010, are amended to read as follows:

3. [Each] FOR EACH dog seized in accordance with the provisions of this article, THE DOG CONTROL OFFICER OR PEACE OFFICERS, ACTING PURSUANT TO THEIR SPECIAL DUTIES, OR POLICE OFFICER IN THE EMPLOY OF OR UNDER CONTRACT TO A MUNICIPALITY, OR ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER TAKING POSSESSION OF SUCH DOG, IN ADDITION TO COMPLYING WITH THE PROVISIONS OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN OF THIS ARTICLE, shall [be]:

(A) INSPECT EACH DOG AS SOON AS PRACTICABLE FOLLOWING ANY SEIZURE AND ENSURE DOGS ARE PROVIDED AT LEAST FOR THE REDEMPTION PERIOD WITH CARE AND TREATMENT TO RELIEVE ANY PAIN AND SUFFERING, INCLUDING NECESSARY IMMEDIATE VETERINARY CARE AND TREATMENT AND PARASITE CONTROL, AND APPROPRIATE VACCINATIONS, AND

(B) properly [sheltered] SHELTER, [fed] FEED and [watered for the redemption period as hereinafter provided] PROVIDE WATER.

4. Each dog which is not identified, whether or not licensed, shall be held AT LEAST for a period of five days from the day seized during which period the OFFICER, SOCIETY, POUND OR SHELTER SHALL COMPLY WITH THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, AND IN THE EVENT THE OWNER OR OWNERS IS IDENTIFIED, THE HOLDING PERIOD SHALL BE EXTENDED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN OF THIS ARTICLE. THE dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has

been identified pursuant to the provisions of this article and further provided that the owner pays the following impoundment fees:

(a) not less than ten dollars for the first impoundment of any dog owned by that person;

(b) not less than twenty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or

(c) not less than thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

11. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this article, OR ON ACCOUNT OF THE TRANSFER OF ANY DOG TO A RESCUE ORGANIZATION PURSUANT TO THIS ARTICLE AND SECTION THREE HUNDRED SEVENTY-FOUR OF THIS CHAPTER.

S 3. Section 373 of the agriculture and markets law is amended by adding a new subdivision 1-b to read as follows:

1-B. ANY PEACE OFFICER, WHEN ACTING PURSUANT TO THE OFFICER'S SPECIAL DUTIES, POLICE OFFICER, OR SUCH OFFICER'S AGENT, ANY DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER, TAKING POSSESSION OF A LOST, STRAY OR HOMELESS ANIMAL UNDER THE PROVISIONS OF THIS SECTION, SHALL:

A. AS SOON AS PRACTICABLE AFTER TAKING POSSESSION OF AN ANIMAL TAKE STEPS TO:

(1) CHECK THE ANIMAL FOR ALL CURRENTLY POSSIBLE FORMS OF IDENTIFICATION INCLUDING, BUT NOT LIMITED TO, TAGS, MICROCHIPS, TATTOOS OR LICENSES;

(2) COMPARE THE INFORMATION KNOWN ABOUT THE ANIMAL WITH RECORDS OF ANIMALS REPORTED TO BE LOST OR STOLEN PURSUANT TO SECTION ONE HUNDRED TWELVE OF THIS CHAPTER;

(3) MAKE AVAILABLE TO THE PUBLIC ON THE INTERNET ON A WEBSITE MAINTAINED BY OR OTHERWISE MADE AVAILABLE TO SUCH OFFICER, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED HUMANE SOCIETY, POUND OR SHELTER BY THE MUNICIPAL OR COUNTY GOVERNMENT IN WHICH SUCH OFFICER OR ORGANIZATION IS LOCATED, OR ORGANIZATION APPROVED PURSUANT TO SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, AT LEAST DURING THE REDEMPTION PERIOD, A PHOTOGRAPH, IF PRACTICABLE, AND A GENERAL DESCRIPTION OF THE ANIMAL TO ASSIST THE OWNER OR OWNERS IN FINDING THE ANIMAL, INCLUDING THE SPECIES, TYPE, AND BREED OR BREEDS, IF KNOWN, THOUGH INFORMATION ABOUT THE ANIMAL MAY BE WITHHELD IF DEEMED APPROPRIATE TO FACILITATE FINDING THE OWNER OR OWNERS OR OTHERWISE TO PROTECT THE SAFETY OF THE ANIMAL. THE NOTICE REQUIRED BY THIS SUBPARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF THE INTERNET IS IMPRACTICABLE.

B. INSPECT EACH SUCH ANIMAL AS SOON AS PRACTICABLE AFTER TAKING POSSESSION AND PROVIDE THE ANIMAL AT LEAST FOR THE REDEMPTION PERIOD WITH CARE AND TREATMENT TO RELIEVE ANY PAIN AND SUFFERING, INCLUDING NECESSARY IMMEDIATE VETERINARY CARE AND TREATMENT AND PARASITE CONTROL, AND APPROPRIATE VACCINATIONS;

C. PROPERLY SHELTER, FEED, AND PROVIDE WATER TO THE ANIMAL;

D. AS SOON AS PRACTICABLE AFTER THE OWNER OR OWNERS OF AN ANIMAL HAS BEEN DETERMINED, NOTIFY THE OWNER OR OWNERS OF SUCH ANIMAL PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE FACTS OF THE ANIMAL'S IMPOUNDMENT AND THE PROCEDURE FOR REDEMPTION. IF NOTIFICATION IS PERSONALLY GIVEN, SUCH ANIMAL SHALL BE HELD FOR A PERIOD OF SEVEN DAYS AFTER THE DATE OF NOTICE, DURING WHICH PERIOD THE ANIMAL MAY BE REDEEMED BY THE OWNER OR OWNERS. IF SUCH NOTIFICATION IS MADE BY MAIL, SUCH ANIMAL SHALL BE HELD FOR A PERIOD OF NINE DAYS FROM THE DATE OF MAILING, DURING WHICH PERIOD THE ANIMAL MAY BE REDEEMED BY THE OWNER OR OWNERS. IN EITHER CASE, THE OWNER OR OWNERS MAY REDEEM SUCH ANIMAL UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTEEN OF THIS CHAPTER AND IN THE CASE OF A DOG, BY PRODUCING PROOF THAT THE DOG HAS BEEN LICENSED; AND

E. MAKE AND MAINTAIN A COMPLETE RECORD OF THE INTAKE AND SUBSEQUENT DISPOSITION OF SUCH ANIMAL. SUCH RECORD SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY IDENTIFICATION FOUND ON THE ANIMAL, INCLUDING TAG, MICROCHIP, TATTOO OR LICENSE NUMBERS, THE SPECIES, TYPE OR BREED OR BREEDS, IF KNOWN, APPROXIMATE SIZE AND WEIGHT, COLORING AND IDENTIFYING MARKS ON THE ANIMAL, THE DATE AND HOUR OF INTAKE, THE OFFICIAL IDENTIFICATION NUMBER OF SUCH ANIMAL, THE LOCATION WHERE FOUND, THE REASON FOR INTAKE, AND THE OWNER'S NAME AND ADDRESS, IF KNOWN.

F. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, WHERE THE OWNER OR OWNERS OF AN ANIMAL HAS NOT BEEN IDENTIFIED, HOLD SUCH ANIMAL, WHETHER OR NOT LICENSED, AT LEAST FOR A REDEMPTION PERIOD OF FIVE DAYS, DURING WHICH PERIOD THE OFFICER, SOCIETY, POUND OR SHELTER SHALL COMPLY WITH PARAGRAPHS A THROUGH E OF THIS SUBDIVISION. IN THE EVENT THE OWNER OR OWNERS IS IDENTIFIED, THE HOLDING PERIOD SHALL BE EXTENDED PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION. THE ANIMAL MAY BE REDEEMED BY ITS OWNER OR OWNERS, UPON PAYMENT OF THE IMPOUNDMENT FEES PRESCRIBED BY SUBDIVISION FOUR OF SECTION ONE HUNDRED SEVENTEEN OF THIS CHAPTER AND IN THE CASE OF A DOG, BY PRODUCING PROOF THAT THE DOG HAS BEEN LICENSED OR BY PURCHASING A LICENSE AT THE SOCIETY, ANIMAL SHELTER, OR POUND FROM WHICH THE OWNER OR OWNERS IS REDEEMING SUCH DOG. NOTWITHSTANDING THE FOREGOING, ANIMALS MAY BE PLACED SOONER THAN FIVE DAYS WITH AN ANIMAL RESCUE ORGANIZATION OR INDIVIDUAL ON THE LIST AS PROVIDED IN SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, SUBJECT TO REDEMPTION BY THE OWNER OR OWNERS AS DESCRIBED IN THIS PARAGRAPH.

S 4. Section 374 of the agriculture and markets law, as added by chapter 545 of the laws of 1971, subdivisions 1 and 2 as amended by chapter 449 of the laws of 2010, subdivisions 3 and 4 as added, paragraph e of subdivision 8 as amended and subdivisions 7 and 8 as renumbered by chapter 479 of the laws of 2009, subdivisions 5 and 6 as amended by chapter 83 of the laws of 2011, subdivision 8 as added by chapter 569 of the laws of 1995, paragraph a of subdivision 8 as amended by chapter 594 of the laws of 2003 and paragraph b of subdivision 8 as amended by chapter 419 of the laws of 2010, is amended to read as follows:

S 374. Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept. 1. Any agent or officer of any duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision [three] FOUR of this section) any animal found abandoned [and], OR not properly cared for, or any lost, strayed, homeless or unwanted animal[,] if upon examination a licensed veterinarian shall certify in writing, or

if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find:

A. that the animal is so maimed, diseased, disabled, or infirm so as to be [unfit for any useful purpose] SUFFERING IRREMEDIABLE PHYSICAL OR PSYCHOLOGICAL PAIN and that humane euthanasia is warranted; or [after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction]

B. THAT HUMANE EUTHANASIA IS NECESSARY TO ALLEVIATE A CONTAGIOUS, DEADLY HEALTH CONDITION; OR

C. EXCEPT AS SET FORTH IN SUBDIVISION THREE OF THIS SECTION, THE OWNER OF SUCH ANIMAL HAS GIVEN HIS OR HER WRITTEN CONSENT TO SUCH DESTRUCTION TO SUCH AGENT, OFFICER OR POLICE OFFICER.

2. In the absence of such findings or certification, a duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, ANIMAL SHELTER, or any pound maintained by or under contract or agreement with any county, city, town or village may after five days make available for adoption, PLACE WITH AN ORGANIZATION ON A LIST OF APPROVED ORGANIZATIONS THAT IS MAINTAINED PURSUANT TO SUBDIVISION THREE OF THIS SECTION or have humanely destroyed SUBJECT TO AND in accordance with the provisions of this section and [subject to] PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED THIRTEEN, AND subdivisions FOUR, six, eight and nine of section one hundred [eighteen] SEVENTEEN of this chapter, AND PARAGRAPHS D AND E OF SUBDIVISION ONE-B OF SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.

3. a. ANY IMPOUNDING ORGANIZATION, AS DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE, SHALL MAINTAIN A LIST OF APPROVED ANIMAL RESCUE ORGANIZATIONS WILLING TO ACCEPT ANIMALS FOR THE PURPOSE OF ADOPTION, INCLUDING BREED-SPECIFIC RESCUES, OR TO PROVIDE THE ANIMALS WITH APPROPRIATE LONG-TERM PLACEMENT AND CARE.

B. THE LIST SHALL INCLUDE THE FOLLOWING INFORMATION ABOUT EACH SUCH ORGANIZATION:

(1) NAME, ADDRESS, PHONE NUMBER OR NUMBERS AND EMAIL ADDRESS OR ADDRESSES; AND NAME OR NAMES AND CONTACT INFORMATION FOR THE PRIMARY PERSON TO BE CONTACTED PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION, AND FOR ONE ADDITIONAL PERSON TO SERVE AS A SECONDARY PERSON IN THE EVENT THE PRIMARY PERSON IS UNAVAILABLE;

(2) SPECIES, TYPES AND BREEDS OF ANIMALS THE ORGANIZATION IS WILLING TO ACCEPT;

(3) ANY RESOURCES AVAILABLE TO THE ORGANIZATION INCLUDING VETERINARY, REHABILITATIVE OR OTHER CARE; CARE FOR SPECIAL-NEEDS ANIMALS, TRAINING OR BEHAVIOR MODIFICATION PROGRAMS, INCLUDING THE NAMES AND CREDENTIALS OF TRAINERS OR BEHAVIORISTS; OR APPROPRIATE SANCTUARY OR LONG-TERM PLACEMENT AND CARE;

(4) RECORD OF THE ORGANIZATION'S DESIGNATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE.

C. ANIMAL RESCUE ORGANIZATIONS THAT ARE DESIGNATED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE MAY BE MAINTAINED ON THE LIST BY PROVIDING CURRENT INFORMATION AS SET FORTH IN PARAGRAPH B OF THIS SUBDIVISION AND SUBJECT TO APPROVAL BY THE IMPOUNDING ORGANIZATION AS SET FORTH IN THIS SUBDIVISION. IT SHALL BE THE RESPONSIBILITY OF THE ANIMAL RESCUE ORGANIZATION TO PROVIDE THE IMPOUNDING ORGANIZATIONS WITH CURRENT INFORMATION REQUIRED BY PARAGRAPH B OF THIS SUBDIVISION.

D. THE IMPOUNDING ORGANIZATION SHALL MAKE THE CURRENT LIST OF ANIMAL RESCUE ORGANIZATIONS AVAILABLE TO ALL STAFF AND THE PUBLIC ON THE INTER-

NET ON A WEBSITE MAINTAINED BY OR OTHERWISE MADE AVAILABLE TO SUCH IMPOUNDING ORGANIZATION BY THE MUNICIPAL OR COUNTY GOVERNMENT IN WHICH SUCH IMPOUNDING ORGANIZATION IS LOCATED, OR ANIMAL RESCUE ORGANIZATION APPROVED PURSUANT TO THIS SUBDIVISION. THE NOTICE REQUIRED BY THIS PARAGRAPH MAY BE MADE BY MEANS OTHER THAN THE INTERNET IF USE OF THE INTERNET IS IMPRACTICABLE.

E. EXCEPT AS SET FORTH IN PARAGRAPH M OF THIS SUBDIVISION, IN CONSIDERING WHETHER TO INCLUDE AN ANIMAL RESCUE ORGANIZATION ON THE LIST, THE IMPOUNDING ORGANIZATION SHALL CONSIDER WHETHER SUCH ANIMAL RESCUE ORGANIZATION: (1) HAS THE RESOURCES TO PROVIDE AND WILL PROVIDE THE ANIMALS REQUESTED TO BE TRANSFERRED WITH CLEAN, SANITARY AND ADEQUATE SHELTER, FOOD, AND WATER, APPROPRIATE EXERCISE, NECESSARY VETERINARY CARE AND TREATMENT, INCLUDING VACCINATIONS AND PARASITE CONTROL, AND A SAFE ENVIRONMENT; (2) MAINTAINS A PROTOCOL FOR CONTAINING AND MANAGING CONTAGIOUS ILLNESS AND DISEASE; (3) MAINTAINS AN ACTIVE ADOPTION OR PLACEMENT PROGRAM OR FACILITIES APPROPRIATE FOR LONG-TERM PLACEMENT; (4) MANAGES ANIMALS TO MINIMIZE RISK OF INJURY TO THE ANIMALS AND THE PUBLIC; (5) MANAGES ITS OPERATIONS SO THAT ANIMALS ARE NOT AT RISK FOR ABUSE OR NEGLECT OR FOR USE IN ANIMAL FIGHTING OR RESEARCH, EXPERIMENTATION OR TESTING; (6) HAS KNOWINGLY MADE ANY MATERIAL MISREPRESENTATIONS OR MATERIAL FALSE STATEMENTS TO THE IMPOUNDING ORGANIZATION; AND (7) AVOIDS BEHAVIOR THAT IS ABUSIVE TO THE IMPOUNDING ORGANIZATION'S STAFF OR DISRUPTS OR INTERFERES WITH THE IMPOUNDING ORGANIZATION'S LAWFUL OPERATIONS.

F. THE IMPOUNDING ORGANIZATION SHALL HAVE THE RIGHT TO INSPECT THE FACILITIES, ANIMAL MAINTENANCE RECORDS AND ANIMALS OF THE ANIMAL RESCUE ORGANIZATION, INCLUDING REQUESTING TO VISIT FOSTER HOMES, FROM TIME TO TIME, AT REASONABLE TIMES, TO DETERMINE WHETHER THE ANIMAL RESCUE ORGANIZATION SHOULD BE APPROVED AND ALSO MAINTAINED ON THE LIST. THE ANIMAL RESCUE ORGANIZATION SHALL COOPERATE IN PROVIDING INFORMATION THE IMPOUNDING ORGANIZATION MAY REASONABLY REQUIRE TO MAKE THE DETERMINATION DESCRIBED IN THIS SUBDIVISION. THE FIRST SUCH INSPECTION TO QUALIFY THE ANIMAL RESCUE ORGANIZATION FOR THE LIST INITIALLY MUST BE COMPLETED WITHIN FORTY-FIVE DAYS OF THE DATE THE ANIMAL RESCUE ORGANIZATION SUBMITS A REQUEST FOR INCLUSION ON THE LIST AND INFORMATION AS DESCRIBED IN PARAGRAPHS B AND C OF THIS SUBDIVISION.

G. THE APPROVAL OF THE IMPOUNDING ORGANIZATION SHALL NOT BE UNREASONABLY WITHHELD. THE IMPOUNDING ORGANIZATION SHALL STATE IN WRITING, SIGNED BY THE MANAGING DIRECTOR OR OFFICER, OR THE APPOINTED AGENT OF THE MANAGING DIRECTOR OR OFFICER, THE REASONS WHY AN ANIMAL RESCUE ORGANIZATION DOES NOT MEET THE CRITERIA SET FORTH IN PARAGRAPH F OF THIS SUBDIVISION AND IS NOT APPROVED OR IS NOT APPROVED FOR SOME OR ALL ANIMALS, OR HAS BEEN REMOVED FROM THE LIST. THE REASONS, INCLUDING ANY ACTS OR OMISSIONS, THAT HAVE RESULTED IN DISAPPROVAL, SHOULD BE STATED WITH SUFFICIENT SPECIFICITY TO INFORM THE ANIMAL RESCUE ORGANIZATION OF THE PARTICULAR CRITERIA THAT HAVE NOT BEEN MET AND ANY ACTS OR OMISSIONS THAT HAVE RESULTED IN DISAPPROVAL, AND THE ACTIONS REQUIRED FOR APPROVAL, IF POSSIBLE. AS SOON AS PRACTICABLE, A COPY OF SUCH WRITTEN DOCUMENT SHALL BE PROVIDED TO THE ANIMAL RESCUE ORGANIZATION THAT IS NOT APPROVED OR THAT HAS BEEN REMOVED FROM THE LIST.

H. THE ANIMAL RESCUE ORGANIZATION THAT IS NOT APPROVED OR REMOVED FROM THE LIST PURSUANT TO PARAGRAPHS E, F AND G OF THIS SUBDIVISION, MAY, AT ANY TIME, DEMONSTRATE THAT THE REASONS STATED FOR DENYING APPROVAL HAVE BEEN REMEDIED AND REQUEST APPROVAL FOR PLACEMENT ON THE LIST AS PROVIDED IN THIS SUBDIVISION. THE IMPOUNDING ORGANIZATION SHALL COOPERATE BY PROVIDING REINSPECTIONS, IF NECESSARY, AS SOON AS PRACTICABLE AFTER A

REQUEST FOR RECONSIDERATION BY THE ANIMAL RESCUE ORGANIZATION, TO DETERMINE IF THE ANIMAL RESCUE ORGANIZATION IS APPROVED. A DECISION TO CONTINUE TO DENY APPROVAL TO SUCH ANIMAL RESCUE ORGANIZATION MUST BE IN WRITING CONSISTENT WITH THE REQUIREMENTS OF PARAGRAPH G OF THIS SUBDIVISION AND A COPY OF SAME PROVIDED TO THE ORGANIZATION. AN IMPOUNDING ORGANIZATION SHALL NOT BE REQUIRED TO CONSIDER AN ANIMAL RESCUE ORGANIZATION FOR PLACEMENT ON THE LIST MORE THAN TWICE ANNUALLY.

I. NO ANIMAL SHALL BE EUTHANIZED AS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION UNLESS THE IMPOUNDING ORGANIZATION CERTIFIES IN WRITING SIGNED BY THE IMPOUNDING ORGANIZATION'S MANAGING DIRECTOR OR OFFICER, OR THE APPOINTED AGENT OF THE MANAGING DIRECTOR OR OFFICER, THAT: (1) THE IMPOUNDING ORGANIZATION HAS CONTACTED EACH OF THE ANIMAL RESCUE ORGANIZATIONS APPROVED FOR THE SPECIES, TYPE OR BREED OF ANIMAL; AND (2) THAT NONE OF THE ANIMAL RESCUE ORGANIZATIONS CONTACTED WERE WILLING AND ABLE TO ACCEPT TRANSFER OF THE ANIMAL, OR IF AN ANIMAL RESCUE ORGANIZATION CONTACTED DID NOT RESPOND OR FAILED TO PICK UP OR ACCEPT TRANSFER OF AN ANIMAL AFTER AGREEING TO DO SO, THAT THE ANIMAL RESCUE ORGANIZATION WAS CONTACTED AT THE METHODS OF CONTACT PROVIDED IN THE LIST PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF THIS SUBDIVISION, AND AT THE END OF THE REDEMPTION PERIOD OR AFTER TWO DAYS FOLLOWING THE LAST CONTACT, NOT INCLUDING THE DAY OF CONTACT, WHICHEVER IS LONGER, THERE WAS NO RESPONSE OR NO CONFIRMATION THAT THE ANIMAL RESCUE ORGANIZATION WAS WILLING AND ABLE TO ACCEPT TRANSFER OF THE ANIMAL, OR THE ANIMAL RESCUE ORGANIZATION FAILED TO PICK UP OR ACCEPT TRANSFER OF THE ANIMAL. A COPY OF SUCH CERTIFICATION SHALL BE MAINTAINED FOR TWO YEARS AND AVAILABLE TO THE PUBLIC UPON REQUEST. THIS PARAGRAPH SHALL NOT APPLY TO EUTHANASIA PERFORMED PURSUANT TO SUBDIVISIONS ONE AND FIVE OF THIS SECTION. AN IMPOUNDING ORGANIZATION IS NOT REQUIRED TO CONTACT AN ANIMAL RESCUE ORGANIZATION ON THE LIST ABOUT TAKING ANIMALS THAT ARE A SPECIES, TYPE OR BREED THAT THE ANIMAL RESCUE ORGANIZATION DID NOT PREVIOUSLY INDICATE PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH B OF THIS SUBDIVISION THAT THEY WOULD ACCEPT, OR ARE ANIMALS FOR WHICH THE IMPOUNDING ORGANIZATION DID NOT APPROVE THE ANIMAL RESCUE ORGANIZATION.

J. THE IMPOUNDING ORGANIZATION MAY CHARGE A REASONABLE ADOPTION FEE FOR EACH ANIMAL TRANSFERRED TO AN ANIMAL RESCUE ORGANIZATION ON THE LIST AND WHICH DOES NOT EXCEED THE ADOPTION FEE THAT WOULD BE CHARGED TO ADOPTERS.

K. AN ANIMAL THAT HAS BEEN DETERMINED BY A COURT HAVING COMPETENT JURISDICTION TO BE DANGEROUS PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-THREE OF THIS CHAPTER, SHALL BE ELIGIBLE ONLY FOR TRANSFER TO AN ANIMAL RESCUE ORGANIZATION THAT CAN MEET THE REQUIREMENTS AS ORDERED BY A COURT UNDER SECTION ONE HUNDRED TWENTY-THREE OF THIS CHAPTER FOR THE CARE AND HANDLING OF SUCH ANIMAL.

L. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO ANIMALS THAT IMPOUNDING ORGANIZATIONS HAVE ACCEPTED FROM OWNERS ONLY FOR THE PURPOSE OF HUMANE EUTHANASIA.

M. IMPOUNDING ORGANIZATIONS MAY BUT ARE NOT REQUIRED TO INCLUDE ON THE LIST ANIMAL RESCUE ORGANIZATIONS LOCATED OUTSIDE OF THE IMPOUNDING ORGANIZATION'S COUNTY OR ADJOINING COUNTIES IN THE STATE OF NEW YORK.

N. NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBDIVISION, IMPOUNDING ORGANIZATIONS THAT IMPOUNDED, SEIZED, OR OTHERWISE TOOK IN FEWER THAN ONE HUNDRED ANIMALS IN THE PRECEDING CALENDAR YEAR SHALL NOT BE REQUIRED TO MAINTAIN MORE THAN THREE ANIMAL RESCUE ORGANIZATIONS ON THE LIST AT ANY TIME.

4. A. Except as provided in subdivision [four] FIVE 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 be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available. Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

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 of health 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.] 5. a. Any method of euthanasia other than that provided for in subdivision [three] FOUR 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] TWENTY-THREE-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.] 6. No person shall release any [dog or cat] ANIMAL from the custody or control of any pound, shelter, DULY INCORPORATED society for the prevention of cruelty to animals, DULY INCORPORATED humane society, [dog] DULY INCORPORATED ANIMAL protective association, dog OR ANIMAL control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, PLACEMENT WITH AN ANIMAL RESCUE ORGANIZATION ON A LIST MAINTAINED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, OR PLACEMENT FOR THE PURPOSE OF PROVIDING TEMPORARY SHELTER PENDING RESOLUTION OF LITIGATION INVOLVING SUCH ANIMAL; provided, however, that after the time for redemption has expired, release may be made to another such [pound, duly incorporated society

for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association] IMPOUNDING ORGANIZATION for the sole purpose of placing such animal in an adoptive home when such action is reasonably believed to improve the opportunity for adoption. Notwithstanding the penalties set forth in paragraph b of subdivision [three] FOUR of this section and paragraph b of subdivision [four] FIVE of this section, any violation of this subdivision, subdivision two, [three or] four, OR FIVE 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.

[6.] 7. In lieu of such destruction, redemption or other disposition pursuant to this section, such [pound, shelter, or society] IMPOUNDING ORGANIZATION may, in its discretion, lawfully and without liability, deliver such animal for adoption to an individual other than the owner OR AN ANIMAL RESCUE ORGANIZATION ON THE IMPOUNDING ORGANIZATION'S LIST AS REQUIRED BY THIS SECTION after the time for redemption has expired.

[7.] 8. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.

[8.] 9. 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-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.

b. Pursuant to the provisions of subdivisions two, three, four [and], five, AND SIX of this section, no animal in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, duly incorporated animal protective association, ANIMAL SHELTER OR pound or its authorized agents thereof, OR AN ANIMAL RESCUE ORGANIZATION ON A LIST AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, OR THEIR AUTHORIZED AGENTS, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, duly incorporated animal protective association [or], ANIMAL SHELTER, pound, OR ANIMAL RESCUE ORGANIZATION ON A LIST AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATION, ANIMAL SHELTER, POUND, OR ANIMAL RESCUE ORGANIZATION ON A LIST AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, OR THEIR AGENTS, for the purpose of research, experimentation or testing.

c. The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.

d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

e. A duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to paragraph a of this subdivision may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, PLACE THEM WITH AN ANIMAL RESCUE ORGANIZATION ON A LIST AS DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, or IF NO SUCH ANIMAL RESCUE ORGANIZATION IS WILLING OR ABLE TO ACCEPT THE ANIMALS AND THE SOCIETY HAS COMPLIED WITH THE REQUIREMENTS OF PARAGRAPH I OF SUBDIVISION THREE OF THIS SECTION, humanely dispose of them according to the provisions of subdivisions two, [three,] four [and], five AND SIX of this section.

f. (1) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(2) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his

interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

S 5. Section 350 of the agriculture and markets law is amended by adding a new subdivision 6 to read as follows:

6. "IMPOUNDING ORGANIZATION" MEANS ANY DULY INCORPORATED HUMANE SOCIETY, DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, ANIMAL SHELTER OR POUND MAINTAINED BY OR UNDER CONTRACT OR AGREEMENT WITH ANY COUNTY, CITY, TOWN OR VILLAGE, THAT TAKES POSSESSION OF ABANDONED, NOT PROPERLY CARED FOR, LOST, STRAY OR HOMELESS ANIMALS, OR ANIMALS THAT HAVE BEEN SURRENDERED BY THE OWNER OR OWNERS.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.