

8526

2011-2012 Regular Sessions

I N A S S E M B L Y

July 13, 2011

Introduced by M. of A. ROSENTHAL -- read once and referred to the  
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to  
enacting the "monk parakeet protection act"

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

1 Section 1. Legislative intent. The legislature finds that the monk  
2 parakeet has been existing in a wild, undomesticated state in New York  
3 since the late 1960s. The ancestors of the current flocks are believed  
4 to have been imported legally into the United States from their native  
5 land in Argentina. Since then, monk parakeets have established colonies  
6 in parts of New York city and lower Westchester county. Their colonies  
7 are small, and the population of monk parakeets seems to be rather  
8 stabilized over the past 20 years. It is estimated that there are less  
9 than 1,000 wild monk parakeets in the state of New York. Reports of  
10 poaching and less than humane regard for nesting sites have led to the  
11 need for formal protection of this species, which is recognized as non-  
12 native, but not currently categorized as invasive, according to the  
13 report Regulatory System for Non-native Species (New York Invasive  
14 Species Council, 2010). The purpose of this act is to protect the wild  
15 monk parakeet (a/k/a Quaker parakeet), the parrot species *Myiopsitta*  
16 *monachus*, living in a wild state in various parts of the state of New  
17 York. This act shall also provide humane methods of relocation or  
18 removal, especially where threat to human life, private or public prop-  
19 erty, or agricultural concerns, are imminent.

20 S 2. This act shall be known and may be cited as the "monk parakeet  
21 protection act."

22 S 3. Article 11 of the environmental conservation law is amended by  
23 adding a new title 27 to read as follows:

24 TITLE 27  
25 MONK PARAKEET PROTECTION ACT

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

LBD02027-01-1

1 SECTION 11-2701. DEFINITIONS.

2 11-2703. MONK PARAKEETS; PROTECTION.

3 S 11-2701. DEFINITIONS.

4 FOR PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOW-  
5 ING MEANINGS:

6 1. "QUALIFIED INDIVIDUAL" SHALL MEAN A PERSON OR PERSONS WITH EITHER A  
7 DEGREE IN EARTH, BIOLOGICAL OR NATURAL SCIENCES, INCLUDING GEOLOGY,  
8 ENVIRONMENTAL SCIENCE, BIOLOGY, ZOOLOGY, OR A SPECIALIZATION IN ORNI-  
9 THOLOGY;

10 2. "WILD MONK PARAKEET" SHALL MEAN A MONK PARAKEET THAT WAS BORN IN A  
11 NATURAL ENVIRONMENT WITHOUT HUMAN AID OR INTERVENTION, AND RAISED BY ITS  
12 OWN PARENTS. THE PROVISIONS OF THIS TITLE SHALL NOT APPLY TO ANY MONK  
13 PARAKEET THAT IS BANDED BY A BREEDER AND PREVIOUSLY EXISTED IN A DOMES-  
14 TIC SITUATION AS A PET;

15 3. "QUALIFIED DESIGNATED AGENT OR AUTHORITY" SHALL MEAN EITHER A STATE  
16 AGENCY WITH QUALIFIED INDIVIDUALS, OR AN ORGANIZATION WITH MEMBERS WHO  
17 HAVE A MINIMUM OF FIVE YEARS EXPERIENCE IN THE RESCUE AND REHABILITATION  
18 OF PARROTS OR WILD BIRDS, AND HAVE AT LEAST TWO QUALIFIED INDIVIDUALS AS  
19 DEFINED IN SUBDIVISION ONE OF THIS SECTION. THE QUALIFIED DESIGNATED  
20 AGENT OR AUTHORITY SHALL BE AFFILIATED WITH ONE OR MORE AVIAN VETERINA-  
21 RIANS; AND

22 4. "BREEDING SEASON" SHALL MEAN THE PERIOD OF TIME BEGINNING APRIL  
23 FIRST AND ENDING OCTOBER FIRST OF A CALENDAR YEAR.

24 S 11-2703. MONK PARAKEETS; PROTECTION.

25 1. NO PERSON SHALL CAPTURE OR HARM A MONK PARAKEET CHICK, FLEDGLING,  
26 OR ADULT, OR TAKE OR SELL ITS EGGS, TO ANY RETAIL OR PRIVATE ESTABLISH-  
27 MENT OR CONCERN.

28 2. NO PERSON SHALL REMOVE THE NEST OF A MONK PARAKEET, UNLESS THERE IS  
29 A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE  
30 PROPERTY.

31 3. THE COLLECTION OF EGGS, CHICKS, FLEDGLINGS, OR ADULT MONK PARAKEETS  
32 SHALL BE DONE ONLY UNDER THE SUPERVISION OF A DESIGNATED AND QUALIFIED  
33 INDIVIDUAL OR EXPERT.

34 4. THE REMOVAL OF THE NEST OF A MONK PARAKEET, IF NECESSARY, SHALL  
35 OCCUR OUTSIDE OF BREEDING SEASON, UNLESS THERE IS A DOCUMENTED AND IMME-  
36 DIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

37 5. THE STATE OR A QUALIFIED DESIGNATED AGENT OR AUTHORITY SHALL BE  
38 NOTIFIED AT LEAST FIVE DAYS IN ADVANCE OF ANY PROPOSAL TO REMOVE THE  
39 NEST OF A MONK PARAKEET. THE DESIGNATED AGENT OR AUTHORITY SHALL PROPOSE  
40 ALTERNATIVE ACTIONS, AND SHALL SUPERVISE ANY NEST REMOVALS IF AN ALTER-  
41 NATIVE PLAN IS NOT POSSIBLE.

42 6. PRIVATE COMPANIES AND ORGANIZATIONS, UTILITY COMPANIES, AND GOVERN-  
43 MENTAL AGENCIES, SHALL MAKE EVERY EFFORT TO SUPPLY AND ERECT ALTERNATIVE  
44 NESTING PLATFORMS WHERE REASONABLY POSSIBLE, IF CURRENT MONK PARAKEET  
45 NESTING SITES HAVE BEEN DEMONSTRATED TO BE A THREAT TO HUMAN LIFE,  
46 PRIVATE OR PUBLIC PROPERTY, OR AGRICULTURAL CONCERNS. EXAMPLE PLANS AND  
47 DRAWINGS FOR NESTING PLATFORMS SHALL BE MADE AVAILABLE TO THE PUBLIC ON  
48 THE OFFICIAL WEBPAGE OF THE DEPARTMENT.

49 7. IF AN EFFORT TO PROVIDE MONK PARAKEETS WITH ALTERNATIVE NESTING  
50 PLATFORMS FAILS OR PROVES TO BE UNSUCCESSFUL, AN ENTITY MAY EMPLOY  
51 HUMANE MEANS TO REMOVE AND EUTHANIZE MONK PARAKEETS, ONLY AS A LAST  
52 RESORT. ALL OTHER METHODS TO PROVIDE ALTERNATIVE NESTING OPTIONS SHALL  
53 BE FIRST EXHAUSTED. SUCH ENTITY SHALL DEMONSTRATE IN WRITING AND  
54 DOCUMENTATION THAT ALL EFFORTS TO PROVIDE ALTERNATIVES HAVE FAILED, AND  
55 SHALL OUTLINE THE METHOD BY WHICH EUTHANASIA SHALL BE APPLIED. SUCH

1 ENTITY SHALL ALSO DEMONSTRATE THAT THERE IS A DOCUMENTED AND IMMEDIATE  
2 THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

3 8. FOR PURPOSES OF THIS TITLE:

4 A. THE USE OF CARBON MONOXIDE OR ANY OTHER GAS OR VAPOR AS A METHOD OF  
5 EUTHANASIA IS PROHIBITED;

6 B. THE ONLY ACCEPTABLE FORM OF EUTHANASIA SHALL BE BY INJECTION OF AN  
7 ANESTHETIC OR ANESTHETIC MIXTURE WHICH CAUSES IMMEDIATE AND PAINLESS  
8 CESSATION OF PULMONARY AND CORONARY FUNCTION; AND

9 C. ADMINISTRATION AND SUPERVISION OF THE EUTHANASIA PROCEDURE SHALL BE  
10 DONE BY A LICENSED VETERINARIAN, VETERINARY ASSISTANT OR VETERINARY  
11 TECHNICIAN.

12 9. THE DEPARTMENT MAY DESIGNATE A QUALIFIED ORGANIZATION TO CARRY OUT  
13 THE GENERAL ADMINISTRATION OF THE PROVISIONS OF THIS TITLE.

14 10. A QUALIFIED ORGANIZATION DESIGNATED PURSUANT TO SUBDIVISION NINE  
15 OF THIS SECTION SHALL BE ENTITLED TO REASONABLE REIMBURSEMENT FOR  
16 EXPENSES IN ASSOCIATION WITH NEST REMOVAL, FROM ANY ENTITY SO REQUESTING  
17 THE SERVICES OF SUCH QUALIFIED ORGANIZATION. THE REQUESTING ENTITY SHALL  
18 PROVIDE, AND OPERATE, ALL NECESSARY HEAVY EQUIPMENT, INCLUDING BUCKET  
19 LIFTS OR TRUCKS. IN ADDITION, ALL EXPENSES AND COSTS ASSOCIATED WITH THE  
20 USE OF VETERINARY SERVICES FOR EUTHANASIA SHALL BE IMMEDIATELY REIM-  
21 BURSED TO THE ATTENDING VETERINARIAN BY THE REQUESTING ENTITY.

22 11. ANY VIOLATION OF THE PROVISIONS OF THIS TITLE SHALL BE A MISDEMEA-  
23 NOR.

24 S 4. This act shall take effect on the sixtieth day after it shall  
25 have become a law.