

3474

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

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

AN ACT to amend the agriculture and markets law, in relation to companion animal hoarding

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

1 Section 1. Legislative intent. Across the country, there is an
2 increasing incidence of cases where large numbers of companion animals
3 are seized from individuals who lack the ability to provide them with
4 the basics of life - clean place to live, adequate food and water and
5 necessary veterinary care. The living conditions in many of these cases
6 are not just marginal - frequently they fall well below accepted standards
7 for either companion animals or human beings. Severe overcrowding,
8 excessive feces, dirt, garbage, dangerous levels of ammonia from urine-saturated
9 surfaces, animals that plainly suffer from parasite infestation, upper
10 respiratory infections, and other ailments and owners or
11 custodians that neither fully recognize nor are capable of remedying the
12 situation.

13 Sadly, these companion animal "hoarding" cases are also frequently
14 accompanied by self neglect and neglect of other people living in the
15 household - particularly children and the elderly. When authorities do
16 intervene, the cost - in terms of both animal suffering and government
17 expenditure - is substantial. Animals removed from hoarding situations
18 are often too debilitated, sick or injured to be helped. When they are
19 able to be rehabilitated, the cost of housing, food and veterinary care
20 can be extremely high.

21 States around the country are responding to companion animal hoarding
22 with legislation that gives law enforcement the tools it needs for early
23 intervention - before the situation becomes a full-blown cruelty case.
24 This legislation defines companion animal hoarding, makes provision for
25 seizure of animals and requires that those deemed hoarders are evaluated

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

LBD00611-01-1

1 to determine whether they can receive services to assist them with their
2 problem. Provision is made for covering the cost of caring for animals
3 seized in hoarding cases and to ensure that those determined to be
4 hoarders do not have custody of companion animals for a period of time
5 that the sentencing court deems reasonable and appropriate.

6 S 2. The agriculture and markets law is amended by adding a new
7 section 353-e to read as follows:

8 S 353-E. COMPANION ANIMAL HOARDING. 1. A PERSON IS GUILTY OF COMPANION
9 ANIMAL HOARDING WHEN HE OR SHE OWNS, POSSESSES, OR HAS CUSTODY OF MORE
10 COMPANION ANIMALS THAN HE OR SHE CAN PROPERLY CARE FOR AS EVIDENCED BY
11 OWNERSHIP, POSSESSION OR CUSTODY OF MORE THAN TWENTY-FIVE COMPANION
12 ANIMALS LIVING IN CONDITIONS THAT ARE LIKELY TO JEOPARDIZE THE HEALTH
13 AND WELL BEING OF THE ANIMALS AND/OR HUMAN BEINGS LIVING IN THE HOUSE-
14 HOLD AS EVIDENCED BY:

15 (A) KEEPING THE COMPANION ANIMALS IN A SEVERELY OVERCROWDED LIVING
16 ENVIRONMENT LIKELY TO ENDANGER THEIR HEALTH OR SAFETY;

17 (B) FAILURE BY THE PERSON WHO OWNS, POSSESSES OR HAS CUSTODY OF THE
18 COMPANION ANIMALS TO MAINTAIN HIS OR HER LIVING ENVIRONMENT IN A SANI-
19 TARY CONDITION SUCH AS TO POSE A SERIOUS RISK TO THE HEALTH OR SAFETY OF
20 THE COMPANION ANIMALS AND/OR PEOPLE LIVING IN THAT ENVIRONMENT. FAILURE
21 TO PROVIDE A SUFFICIENTLY SANITARY LIVING ENVIRONMENT MAY BE EVIDENCED
22 BY CONDITIONS SUCH AS EXCESSIVE FECES, URINE, DIRT, GARBAGE OR A LACK OF
23 BASIC SERVICES THAT MAKE A HOME HABITABLE SUCH AS HEAT, HOT WATER,
24 VENTILATION OR ELECTRICITY; AND

25 (C) THE PRESENCE OF COMPANION ANIMALS THAT, WITHOUT JUSTIFICATION,
26 HAVE NOT RECEIVED NECESSARY VETERINARY TREATMENT WITHIN A REASONABLE
27 PERIOD OF TIME.

28 2. IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR A VIOLATION OF THIS
29 SECTION, THE COURT SHALL ORDER THE DEFENDANT TO UNDERGO A MENTAL HEALTH
30 EVALUATION BY A QUALIFIED PROFESSIONAL SELECTED BY THE COURT. WITH DUE
31 CONSIDERATION TO THE FINDINGS OF SUCH MENTAL HEALTH PROFESSIONAL, THE
32 COURT MAY ORDER THAT THE DEFENDANT UNDERGO AND COMPLETE A COURSE OF
33 TREATMENT, THERAPY AND/OR COUNSELING. ALSO WITH DUE CONSIDERATION TO THE
34 FINDINGS OF SUCH MENTAL HEALTH PROFESSIONAL, THE COURT MAY ALSO ORDER
35 THAT THE DEFENDANT BE PROHIBITED FROM OWNING COMPANION ANIMALS FOR A
36 PERIOD OF TIME DEEMED REASONABLE BY THE COURT. THE PROVISIONS OF
37 SECTIONS THREE HUNDRED SEVENTY-ONE, THREE HUNDRED SEVENTY-TWO, THREE
38 HUNDRED SEVENTY-THREE AND THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE
39 SHALL APPLY TO VIOLATIONS OF THIS SECTION.

40 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY
41 PROTECTIONS AFFORDED TO COMPANION ANIMALS UNDER ANY OTHER PROVISION OF
42 THIS ARTICLE.

43 S 3. Paragraph a of subdivision 8 of section 374 of the agriculture
44 and markets law, as amended by chapter 594 of the laws of 2003 and such
45 subdivision as renumbered by chapter 479 of the laws of 2009, is amended
46 to read as follows:

47 a. In addition to any other penalty provided by law, upon conviction
48 for any violation of section three hundred fifty-one, three hundred
49 fifty-three, three hundred fifty-three-a, three hundred fifty-three-b,
50 THREE HUNDRED FIFTY-THREE-E, three hundred fifty-five, three hundred
51 fifty-six, three hundred fifty-nine, three hundred sixty, three hundred
52 sixty-one, three hundred sixty-five or three hundred sixty-eight of this
53 article, the convicted person may, after a duly held hearing pursuant to
54 paragraph f of this subdivision, be ordered by the court to forfeit, to
55 a duly incorporated society for the prevention of cruelty to animals or
56 a duly incorporated humane society or authorized agents thereof, the

1 animal or animals which are the basis of the conviction. Upon such an
2 order of forfeiture, the convicted person shall be deemed to have relin-
3 quished all rights to the animals which are the basis of the conviction,
4 except those granted in paragraph d of this subdivision.

5 S 4. This act shall take effect immediately.