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

5363--B

2011-2012 Regular Sessions

I N S E N A T E

May 12, 2011

Introduced by Sens. ROBACH, AVELLA, BALL, LANZA, O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to establishing standards for the care of abandoned, stray or seized animals and to require the release of a shelter animal to a rescue group upon request of the rescue group prior to euthanasia of the animal

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

Section 1. Short title. This act shall be known and may be cited as the "companion animal access and rescue act".

S 2. Subdivisions 3, 4, 6, 7-a and 8 of section 117 of the agriculture and markets law, subdivisions 3 and 6 as added by chapter 220 of the laws of 1978, subdivision 4 as amended by section 12 of part T of chapter 59 of the laws of 2010, subdivision 7-a as amended by chapter 419 of the laws of 2010 and subdivision 8 as amended by chapter 221 of the laws of 1978 and such section as renumbered by section 12 of part T of chapter 59 of the laws of 2010, are amended to read as follows:

3. Each dog seized in accordance with the provisions of this article shall be properly sheltered, fed [and], watered [for the redemption period as hereinafter provided] AND CARED FOR IN ACCORDANCE WITH THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-THREE-A OF THIS CHAPTER.

4. (A) Each dog which is not identified, whether or not licensed, shall be held for a MINIMUM period of five days from the day seized during which period 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:

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

LBD10491-10-1

[(a)] (1) not less than ten dollars for the first impoundment of any dog owned by that person;

[(b)] (2) 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)] (3) 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.

(B) IN THE EVENT THE OWNER OF AN ANIMAL IS SUBSEQUENTLY IDENTIFIED, THE PROVISIONS OF SUBDIVISION SIX OF THIS SECTION SHALL APPLY WITH REGARD TO THE ANIMAL; PROVIDED THAT THE ANIMAL MAY BE PLACED WITH AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS PRIOR TO THE EXPIRATION OF THE FIVE DAY HOLDING PERIOD, SUBJECT TO REDEMPTION BY THE OWNER AS DESCRIBED IN SUBDIVISION SIX OF THIS SECTION.

(C) The impoundment fees set forth in [paragraphs (a), (b) and (c)] SUBPARAGRAPHS ONE, TWO AND THREE OF PARAGRAPH (A) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

6. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a MINIMUM period of [seven] NINE days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of [nine] TWELVE days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by subdivision four of this section and by producing proof that the dog has been licensed.

7-a. Any animal in the custody of a [pound] SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, POUND OR SHELTER shall be made available for adoption or euthanized subject to subdivisions six, eight and nine of this section and subject to the provisions of section three hundred seventy-four of this chapter after the time for redemption has expired[; provided, however, that such 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 for the sole purpose of placing such animal in an adoptive home, when such action is reasonably believed to improve the opportunity for adoption].

8. The redemption periods set forth above in this section notwithstanding, any municipality may establish the duration of such periods by local law or ordinance, provided that no such period shall be less than [three] FIVE days, except that where notice to the owner is given by mail, no such period shall be less than [seven] TWELVE days.

S 3. The agriculture and markets law is amended by adding a new section 373-a to read as follows:

S 373-A. CARE OF IMPOUNDED ANIMALS. 1. ANY OFFICER OR IMPOUNDING ORGANIZATION TAKING POSSESSION OF ANY ANIMAL IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, REGARDLESS OF WHETHER THE ANIMAL'S OWNER IS IDENTIFIED OR NOT IDENTIFIED, SHALL PROVIDE THE ANIMAL DURING THE ENTIRETY OF THE ANIMAL'S CUSTODY OR CONSTRUCTIVE CUSTODY WITH:

A. FRESH FOOD AND FRESH WATER ON AT LEAST A DAILY BASIS;

B. ENVIRONMENTAL ENRICHMENT SUCH AS SOCIALIZATION, TOYS AND TREATS TO PROMOTE THE ANIMAL'S PSYCHOLOGICAL WELL-BEING;

C. REGULAR DAILY EXERCISE SUITABLE TO THE ANIMAL'S PHYSICAL AND PSYCHOLOGICAL CONDITION;

D. CLEAN LIVING ENVIRONMENTS, INCLUDING BUT NOT LIMITED TO THE CAGE, KENNEL AND/OR SPACE WHERE THE ANIMAL IS HOUSED. SUCH AREAS SHALL PROMPTLY RECEIVE NECESSARY CLEANING TO ENSURE ENVIRONMENTS THAT ARE WELCOMING TO THE PUBLIC AND HYGIENIC FOR BOTH THE PUBLIC AND ANIMALS, AND TO PREVENT DISEASE. ALL ANIMALS SHALL BE TEMPORARILY REMOVED FROM THEIR CAGES, KENNELS, OR OTHER LIVING ENVIRONMENTS DURING THE PROCESS OF CLEANING TO PREVENT THEM FROM BEING EXPOSED TO WATER FROM HOSES OR SPRAYS, CLEANING SOLUTIONS, DETERGENTS, SOLVENTS, AND/OR CHEMICALS; AND

E. PROMPT AND NECESSARY VETERINARY CARE, INCLUDING BUT NOT LIMITED TO PREVENTATIVE VACCINATIONS, PARASITE CONTROL, CAGE REST, FLUID THERAPY, PAIN MANAGEMENT, AND/OR ANTIBIOTICS, SUFFICIENT TO ALLEVIATE ANY PAIN OR SUFFERING CAUSED BY DISEASE OR INJURY, TO PREVENT A CONDITION FROM WORSENING, AND TO ALLOW THE ANIMAL TO LEAVE THE SHELTER IN REASONABLE CONDITION, EVEN IF THE ANIMAL IS NOT A CANDIDATE FOR REDEMPTION, TRANSFER, OR ADOPTION.

2. UPON TAKING POSSESSION OF ANY ANIMAL, ANY OFFICER OR IMPOUNDING ORGANIZATION TAKING POSSESSION OF ANY ANIMAL IMPOUNDED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER SHALL:

A. ENSURE THAT THE ANIMAL IS CHECKED FOR ALL CURRENTLY ACCEPTABLE METHODS OF IDENTIFICATION, INCLUDING MICROCHIPS, IDENTIFICATION TAGS, COLLARS, TATTOOS, AND LICENSES;

B. MAINTAIN LISTS, UPDATED NOT LESS THAN ONCE DAILY, OF ANIMALS REPORTED LOST IN THE GEOGRAPHIC AREA SERVED BY THE FACILITY HAVING CUSTODY OF THE ANIMAL, AND COMPARE THE LOST REPORTS WITH ANIMALS REPORTED FOUND AND ANIMALS IN THE SHELTER; AND

C. POST A DESCRIPTION OF EACH STRAY ANIMAL ON THE INTERNET ON A WEBSITE MAINTAINED FOR THAT PURPOSE. THE DESCRIPTION SHALL BE SUFFICIENTLY DETAILED TO ALLOW THE ANIMAL TO BE RECOGNIZED AND CLAIMED BY ITS OWNER, AND SHALL INCLUDE BUT NOT BE LIMITED TO DESCRIPTIONS OF IDENTIFICATION FOUND ON THE ANIMAL, THE BREED, APPROXIMATE SIZE AND WEIGHT, COLORING AND IDENTIFYING MARKS, THE DATE AND HOUR OF SEIZURE, THE OFFICIAL IDENTIFICATION NUMBER OF SUCH ANIMAL, IF ANY, THE LOCATION WHERE FOUND, THE REASON FOR IMPOUND, AND THE OWNER'S NAME AND ADDRESS, IF KNOWN.

3. IF IDENTIFICATION IS FOUND ON AN ANIMAL, THE OFFICER OR IMPOUNDING ORGANIZATION SHALL, UPON TAKING POSSESSION OF THE ANIMAL, UNDERTAKE REASONABLE EFFORTS TO NOTIFY THE OWNER OR CARETAKER OF THE LOCATION OF THE ANIMAL AND THE PROCEDURES AVAILABLE FOR THE LAWFUL RECOVERY OF THE ANIMAL. THESE EFFORTS SHALL INCLUDE, BUT ARE NOT LIMITED TO, NOTIFYING THE POSSIBLE OWNER BY TELEPHONE, MAIL, OR PERSONAL SERVICE TO THE LAST KNOWN ADDRESS. THE OFFICER OR IMPOUNDING ORGANIZATION SHALL, FOLLOWING THE INITIATION OF EFFORTS TO NOTIFY THE OWNER OR CARETAKER, RETAIN CUSTODY OF THE ANIMAL FOR A MINIMUM PERIOD OF NINE DAYS TO ALLOW FOR REDEMPTION.

4. A. NO ANIMAL IN THE POSSESSION OF AN OFFICER OR IMPOUNDING ORGANIZATION SHALL BE DESTROYED EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AND SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE. BEFORE AN ANIMAL IS DESTROYED, ALL OF THE FOLLOWING CONDITIONS MUST BE MET:

(1) THERE ARE NO EMPTY CAGES, KENNELS, OR OTHER LIVING ENVIRONMENTS AT THE IMPOUNDING ORGANIZATION'S FACILITIES OR AT ANY ASSOCIATED FACILITIES; AND

(2) THE ANIMAL CANNOT SHARE A CAGE OR KENNEL WITH ANOTHER ANIMAL BECAUSE THE ANIMAL IS AGGRESSIVE TO OTHER ANIMALS, HAS A CONTAGIOUS ILLNESS THE OTHER ANIMAL DOES NOT HAVE, OR IS INJURED AND SHARING THE CAGE WITH ANOTHER ANIMAL WILL AGGRAVATE THE INJURY; AND

(3) A FOSTER HOME IS NOT AVAILABLE; AND

(4) ANIMAL RESCUE OR ADOPTION ORGANIZATIONS OR ORGANIZATIONS FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS HAVE BEEN NOTIFIED OF THE SCHEDULED EUTHANASIA PURSUANT TO THE PROVISIONS OF SUBDIVISION NINE OF SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE AND THERE ARE NO ANIMAL RESCUE OR ADOPTION ORGANIZATIONS OR ORGANIZATIONS FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS WILLING TO ACCEPT THE ANIMAL; AND

(5) ALL MANDATES, PROGRAMS AND SERVICES OF THIS CHAPTER HAVE BEEN MET; AND

(6) THE DIRECTOR OF THE IMPOUNDING ORGANIZATION HAVING CUSTODY OF THE ANIMAL CERTIFIES HE OR SHE HAS NO OTHER ALTERNATIVE.

B. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO:

(1) AN ANIMAL WHO IS EXPERIENCING IRREMEDIABLE PHYSICAL SUFFERING WITH A PROGNOSIS FOR RECOVERY THAT IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE, AS CERTIFIED IN WRITING BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE; OR

(2) AN ANIMAL SUSPECTED TO CARRY AND EXHIBITING SIGNS OF RABIES AS CERTIFIED IN WRITING BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE; OR

(3) A SYMPTOMATIC DOG WITH A CONFIRMED CASE OF PARVOVIRUS WITH A PROGNOSIS FOR RECOVERY THAT IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE AS CERTIFIED IN WRITING BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE; OR

(4) A SYMPTOMATIC CAT WITH A CONFIRMED CASE OF PANLEUKOPENIA WITH A PROGNOSIS FOR RECOVERY THAT IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE AS CERTIFIED IN WRITING BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THIS STATE; OR

(5) 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; OR

(6) A DOG WITH A HISTORY OF UNPROVOKED BITING THAT HAS RESULTED IN SEVERE INJURY TO A HUMAN BEING AND WHICH WAS DOCUMENTED BY THE OFFICER OR IMPOUNDING ORGANIZATION PRIOR TO THE CURRENT IMPOUND OF THE ANIMAL. DOCUMENTATION MUST CONSIST OF MEDICAL REPORTS MADE AT THE TIME THE PRIOR BITE INCIDENT OCCURRED OR WAS REPORTED, AS WELL AS MEDICAL REPORTS DOCUMENTING THE CIRCUMSTANCES OF THE BITE AND THE SEVERITY OF THE INJURY.

C. THE DETERMINATION THAT ALL CONDITIONS OF PARAGRAPH A OF THIS SUBDIVISION HAVE BEEN MET OR THAT ONE OR MORE OF THE EXCEPTIONS UNDER PARAGRAPH B OF THIS SUBDIVISION APPLY SHALL BE MADE IN WRITING, SIGNED BY THE DIRECTOR OF THE AGENCY, AND BE MADE AVAILABLE FOR FREE PUBLIC INSPECTION FOR NO LESS THAN THREE YEARS.

5. EACH OFFICER OR IMPOUNDING ORGANIZATION SHALL POST, IN A CONSPICUOUS PLACE AT THE LOCATION WHERE ANIMALS ARE BEING RELINQUISHED, A SIGN WHICH IS CLEARLY VISIBLE AND READABLE FROM ANY VANTAGE POINT IN THE AREA, CONTAINING THE FOLLOWING INFORMATION, IDENTIFIED BY SPECIES-TYPE, AND SHALL POST SUCH INFORMATION ON THE INTERNET IN A WEBSITE MAINTAINED FOR THAT PURPOSE, AND SHALL PROVIDE SUCH INFORMATION IN WRITING, AT NO COST, TO ANY PERSON REQUESTING THE INFORMATION:

A. THE NUMBER OF ANIMALS IMPOUNDED AT THE FACILITY DURING THE PRIOR CALENDAR YEAR; AND

B. THE NUMBER OF ANIMALS IMPOUNDED DURING THE PRIOR CALENDAR YEAR WHO WERE ADOPTED; AND

C. THE NUMBER OF ANIMALS IMPOUNDED DURING THE PRIOR CALENDAR YEAR WHO WERE TRANSFERRED TO OTHER AGENCIES FOR ADOPTION; AND

D. THE NUMBER OF ANIMALS IMPOUNDED DURING THE PRIOR CALENDAR YEAR WHO WERE RECLAIMED BY THEIR OWNERS; AND

E. THE NUMBER OF ANIMALS IMPOUNDED DURING THE PRIOR CALENDAR YEAR WHO DIED, WERE LOST, AND/OR WERE STOLEN; AND

F. THE NUMBER OF ANIMALS IMPOUNDED DURING THE PRIOR CALENDAR YEAR WHO WERE DESTROYED.

6. AS USED IN THIS SECTION:

A. "IMPOUNDING ORGANIZATION" SHALL HAVE THE MEANING DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE;

B. "OFFICER" MEANS A DOG CONTROL OFFICER OR PEACE OFFICER, ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR POLICE OFFICER IN THE EMPLOY OR UNDER CONTRACT TO A MUNICIPALITY;

C. "SEVERE INJURY" MEANS ANY PHYSICAL INJURY THAT RESULTS IN BROKEN BONES, PERMANENTLY DISFIGURING LACERATIONS REQUIRING MULTIPLE SUTURES OR COSMETIC SURGERY; AND

D. "UNPROVOKED BITE" MEANS A BITE THAT IS NOT PROVOKED. A BITE IS PROVOKED IF, AMONG OTHER THINGS, IT OCCURS BECAUSE THE DOG WAS BEING TAUNTED, OR THE DOG WAS ACTING IN DEFENSE OF SELF, A PERSON, ANOTHER ANIMAL, OR PROPERTY, OR THE DOG WAS ACTING FROM MATERNAL INSTINCT, OR THE DOG WAS REACTING TO HUNGER, PAIN, OR FEAR, OR THE DOG BITES ACCIDENTALLY, AS WHEN PLAYING.

S 4. Subdivision 2 of section 374 of the agriculture and markets law, as amended by chapter 449 of the laws of 2010, is amended to read as follows:

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, 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 or have humanely destroyed in accordance with the provisions of this section and subject to SUBDIVISION FOUR OF SECTION THREE HUNDRED SEVENTY-THREE-A OF THIS ARTICLE AND TO SUBDIVISION NINE OF THIS SECTION AND TO subdivisions six, eight and nine of section one hundred [eighteen] SEVENTEEN of this chapter, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.

S 5. Section 374 of the agriculture and markets law is amended by adding a new subdivision 9 to read as follows:

9. A. NO ANIMAL IN THE CARE OR CUSTODY OF A DULY INCORPORATED SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE SOCIETY, OR A POUND OR SHELTER, WHETHER SUCH ENTITY BE PUBLIC OR PRIVATE, SHALL BE DESTROYED IF, PRIOR TO THE KILLING OF THAT ANIMAL FOR ANY REASON OTHER THAN IRREMEDIABLE PHYSICAL SUFFERING OF THE ANIMAL UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE, A NONPROFIT, AS DEFINED IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS REQUESTS POSSESSION OF THE ANIMAL. ONLY FOR PURPOSES OF ESTABLISHING THE INITIAL RELATIONSHIP BETWEEN THE SHELTER AND THE ANIMAL ADOPTION OR RESCUE ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE SHELTER MAY REQUEST THAT THE ANIMAL ADOPTION OR RESCUE ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS PROVIDE ONE TIME PROOF THAT IT HAS BEEN IN EXISTENCE FOR AT LEAST ONE YEAR, AND THE ORGANIZATION HAS A

RELATIONSHIP WITH A LICENSED VETERINARIAN. PROOF OF THE ONE YEAR RESCUE THRESHOLD SHALL BE CONCLUSIVELY ESTABLISHED BY A COPY OF THE ORGANIZATION'S ARTICLES OF INCORPORATION SHOWING AN INCORPORATION DATE OF AT LEAST ONE YEAR PAST, OR A LETTER FROM A LICENSED VETERINARIAN STATING THAT THE VETERINARIAN HAS BEEN TREATING ANIMALS RESCUED BY THE ORGANIZATION FOR AT LEAST ONE YEAR, OR THROUGH OTHER OBJECTIVE CRITERIA SUCH AS A DATED ADVERTISEMENT CONCERNING THE RESCUE EFFORTS OF THE ORGANIZATION. PROOF OF A RELATIONSHIP WITH A LICENSED VETERINARIAN SHALL BE CONCLUSIVELY ESTABLISHED BY A LETTER FROM A LICENSED VETERINARIAN CONFIRMING THE RELATIONSHIP. IN ADDITION TO ANY REQUIRED SPAY OR NEUTER DEPOSIT, THE FACILITY HAVING POSSESSION OF THE ANIMAL, AT ITS DISCRETION, MAY ASSESS A FEE, NOT TO EXCEED THE STANDARD ADOPTION FEE, FOR ANIMALS RELEASED TO SUCH ORGANIZATIONS.

B. (1) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS INTERESTED IN TAKING POSSESSION OF ONE OR MORE ANIMALS PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL NOTIFY THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE, OF ITS DESIRE TO DO SO AND SHALL PROVIDE THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER WITH CONTACT INFORMATION FOR THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS. AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS MAY, AT ITS OPTION, FILE ONE NOTICE WITH A SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, POUND OR SHELTER REQUESTING THAT IT BE NOTIFIED OF ALL ANIMALS HELD BY THAT FACILITY AND SCHEDULED FOR EUTHANASIA.

(2) AT LEAST ONE BUSINESS DAY PRIOR TO THE SCHEDULED EUTHANASIA OF AN ANIMAL, THE FACILITY HAVING POSSESSION OF THE ANIMAL SHALL PROVIDE NOTICE TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS OF THE SCHEDULED EUTHANASIA BY:

(A) POSTING OF THE IDENTIFICATION NUMBER OF SUCH ANIMAL ON THE WEBSITE OF THE FACILITY HAVING POSSESSION OF THE ANIMAL BY DIRECT LINK FROM THE FACILITY'S WEBSITE HOME PAGE IF THEY CURRENTLY HAVE ONE; OR

(B) BY CONTACTING THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS DIRECTLY BY ONE OR MORE OF THE FOLLOWING MEANS:

(I) E-MAIL TO THE E-MAIL ADDRESS ON FILE;

(II) PHONE TO THE PHONE NUMBER ON FILE;

(III) TEXT MESSAGE TO THE PHONE NUMBER ON FILE;

(IV) FAX TO THE FAX NUMBER ON FILE; OR

(V) ANY OTHER MEANS OF ELECTRONIC WRITTEN COMMUNICATION AS PROVIDED BY THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS.

(3) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS INTENDING TO TAKE POSSESSION OF AN ANIMAL SCHEDULED FOR EUTHANASIA SHALL NOTIFY THE FACILITY HAVING POSSESSION OF THE ANIMAL OF THE ANIMAL RESCUE OR ADOPTION ORGANIZATION'S OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS' INTENT TO TAKE POSSESSION OF THE ANIMAL, AT ANY TIME PRIOR TO THE ANIMAL'S EUTHANASIA, BY PHONE, E-MAIL, FAX, TEXT MESSAGE, OR OTHER ELECTRONIC WRITTEN REQUEST.

(4) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS TAKING POSSESSION OF AN ANIMAL PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL DO SO WITHIN TWO

BUSINESS DAYS OF THE TIME THE ORGANIZATION NOTIFIES THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, OR A POUND OR SHELTER POSSESSING THE ANIMAL, AS APPLICABLE, THAT IT IS SEEKING CUSTODY OF THE ANIMAL, NOT INCLUDING THE DAY UPON WHICH THE NOTICE IS GIVEN.

C. UPON TAKING POSSESSION OF AN ANIMAL, AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS SHALL ASSUME ALL LIABILITY FOR THE ANIMAL WHILE THE ANIMAL IS IN THE CUSTODY AND CONTROL OF THE ORGANIZATION; PROVIDED THAT THE ORGANIZATION SHALL NOT BE DEEMED RESPONSIBLE FOR HARM CAUSED TO OR BY THE ANIMAL THAT:

(1) OCCURRED PRIOR TO THE TIME THE ORGANIZATION ASSUMED POSSESSION OF THE ANIMAL; OR

(2) IS DUE TO THE ACTS OR OMISSIONS OF A PERSON NOT ASSOCIATED WITH THE ORGANIZATION.

D. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO:

(1) AN ANIMAL SUSPECTED TO CARRY AND EXHIBITING SIGNS OF RABIES, AS DETERMINED BY A LICENSED VETERINARIAN;

(2) SYMPTOMATIC DOGS WITH CONFIRMED CASES OF PARVOVIRUS UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE;

(3) SYMPTOMATIC CATS WITH CONFIRMED CASES OF PANLEUKOPENIA UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE;

(4) 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; OR

(5) A DOG WITH A HISTORY OF UNPROVOKED BITING THAT HAS RESULTED IN SEVERE INJURY TO A HUMAN BEING AND WHICH WAS DOCUMENTED BY THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE, PRIOR TO THE CURRENT IMPOUND OF THE ANIMAL. DOCUMENTATION MUST CONSIST OF MEDICAL REPORTS MADE AT THE TIME THE PRIOR BITE INCIDENT OCCURRED OR WAS REPORTED, AS WELL AS MEDICAL RECORDS DOCUMENTING THE CIRCUMSTANCES OF THE BITE AND THE SEVERITY OF THE INJURY. THE DOCUMENTATION SHALL BE KEPT ON FILE WITH THE DOCUMENTING ENTITY FOR THREE YEARS.

(6) AS USED IN THIS SUBDIVISION: (A) "SEVERE INJURY" MEANS ANY PHYSICAL INJURY THAT RESULTS IN BROKEN BONES, PERMANENTLY DISFIGURING LACERATIONS REQUIRING MULTIPLE SUTURES OR COSMETIC SURGERY; AND

(B) "UNPROVOKED BITING" MEANS BITING THAT IS NOT PROVOKED. BITING IS PROVOKED IF, AMONG OTHER THINGS, IT OCCURS BECAUSE THE DOG WAS BEING TAUNTED, OR THE DOG WAS ACTING IN DEFENSE OF SELF, A PERSON, ANOTHER ANIMAL, OR PROPERTY, OR THE DOG WAS ACTING FROM MATERNAL INSTINCT, OR THE DOG WAS REACTING TO HUNGER, PAIN, OR FEAR, OR THE DOG BITES ACCIDENTALLY, AS WHEN PLAYING.

E. (1) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS HAVING AN OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER WHO HAS BEEN CONVICTED OF A CRIMINAL OFFENSE HAVING AS ITS PRIMARY EFFECT THE PREVENTION OR PUNISHMENT OF ANIMAL NEGLECT OR ANIMAL CRUELTY OR DOG FIGHTING SHALL BE PROHIBITED FROM BEING AN ADOPTIVE ORGANIZATION UNDER THE TERMS OF THIS SUBDIVISION UNTIL SUCH TIME AS THAT OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER IS NO LONGER ASSOCIATED WITH THE ORGANIZATION.

(2) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS HAVING AN OFFICER, BOARD

MEMBER, STAFF MEMBER OR VOLUNTEER AGAINST WHOM CHARGES OF VIOLATING THE PROVISIONS OF A STATUTE HAVING AS ITS PRIMARY EFFECT THE PREVENTION OR PUNISHMENT OF ANIMAL NEGLECT OR ANIMAL CRUELTY OR DOG FIGHTING ARE PENDING IN A COURT OF LAW SHALL BE PROHIBITED FROM BEING AN ADOPTIVE ORGANIZATION UNDER THE TERMS OF THIS SUBDIVISION UNTIL SUCH TIME AS THAT OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER IS NO LONGER ASSOCIATED WITH THE ORGANIZATION OR SUCH CHARGES ARE DISMISSED OR DROPPED.

(3)(A) IF THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER HAS LEGALLY SUFFICIENT REASONABLE SUSPICION TO BELIEVE THAT THE PLACEMENT OF AN ANIMAL WITH A PARTICULAR ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS WILL EXPOSE THE ANIMAL TO A SITUATION INVOLVING CRIMINAL NEGLECT OR CRUELTY TO ANIMALS, IT MAY CONDITION THE RELEASE OF THE ANIMAL TO SUCH ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS UPON THE CONDUCT OF AN INSPECTION OF THE ANIMAL RESCUE OR ADOPTION ORGANIZATION'S FACILITY TO WHICH THAT ANIMAL IS GOING.

(B) THE NEED FOR AND REASONABLE SUSPICION FOR REQUESTING SUCH INSPECTION MAY NOT BE DETERMINED SOLELY ON THE BASIS OF ANONYMOUS COMPLAINTS EXCEPT IF MADE BY A RELATIVE OF THE RESCUER. UPON REQUEST, THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE SHALL DIVULGE TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS ANY AND ALL INFORMATION PERTAINING TO ITS DETERMINATION OF REASONABLE SUSPICION FOR AN INSPECTION, PROVIDED THAT THE SHELTER CAN EXCISE THE NAME OF THE COMPLAINANT.

(C) THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS MAY AGREE TO OR REFUSE THE INSPECTION. IF THE ORGANIZATION AGREES TO AN INSPECTION, SUCH INSPECTION SHALL BE CONDUCTED WITHIN FORTY-EIGHT HOURS OF THE TIME THE ORGANIZATION AGREES TO THE INSPECTION. IF THE INSPECTION IS NOT CONDUCTED WITHIN THE FORTY-EIGHT HOUR PERIOD, THE RIGHT TO AN INSPECTION SHALL BE DEEMED TO HAVE BEEN WAIVED. IF THE ORGANIZATION REFUSED THE INSPECTION, THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE, MAY DECLINE TO PLACE THE ANIMAL WITH THE REFUSING ORGANIZATION.

(D) THE INSPECTION AUTHORIZED BY THE PROVISIONS OF THIS SUBPARAGRAPH SHALL BE CONDUCTED BY A PEACE OFFICER, AS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW, WHO IS AUTHORIZED TO INVESTIGATE CRIMES PURSUANT TO HIS OR HER REGULAR DUTIES.

(E) THE INSPECTED ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS SHALL BE NOTIFIED OF THE RESULTS OF THE INSPECTION AND WHETHER THE ANIMAL WILL BE RELEASED TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS WITHIN TWENTY-FOUR HOURS OF THE COMPLETION OF THE INSPECTION.

(F) A FILING OF CRIMINAL NEGLECT OR CRUELTY CHARGES FOLLOWING INSPECTION AS PROVIDED IN THIS SUBPARAGRAPH WILL CONSTITUTE A FAILED INSPECTION.

(G) NO ANIMAL SHALL BE DESTROYED UNTIL AT LEAST TWENTY-FOUR HOURS AFTER THE FILING OF CRIMINAL CHARGES AGAINST THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS AND PROVIDED NO OTHER ORGANIZATION HAS REQUESTED THE ANIMAL.

(H) AN ANIMAL WHOSE PLACEMENT IS THE SUBJECT OF AN INSPECTION AS PROVIDED IN THIS SUBPARAGRAPH MAY BE RELEASED PRIOR TO OR DURING THE

CONDUCT OF AN INSPECTION TO ANOTHER ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS THAT REQUESTS THE ANIMAL.

F. AS USED IN THIS SUBDIVISION, "IRREMEDIABLE PHYSICAL SUFFERING" MEANS THAT THE ANIMAL SUFFERS FROM A MEDICAL CONDITION THAT HAS A POOR OR GRAVE PROGNOSIS AND THAT THE ANIMAL IS UNLIKELY TO BE ABLE TO LIVE WITHOUT PROLONGED, SEVERE AND UNREMITTING PAIN DESPITE NECESSARY VETERINARY CARE.

S 6. This act shall take effect immediately.