

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, CUSICK, KAVANAGH, LUPARDO, ENGLEBRIGHT,
P. RIVERA -- Multi-Sponsored by -- M. of A. BUTLER, MARKEY, McENENY,
PHEFFER -- read once and referred 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-
9 saturated surfaces, animals that plainly suffer from parasite infestation,
10 upper 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.

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

LBD00611-01-1

1 This legislation defines companion animal hoarding, makes provision for
2 seizure of animals and requires that those deemed hoarders are evaluated
3 to determine whether they can receive services to assist them with their
4 problem. Provision is made for covering the cost of caring for animals
5 seized in hoarding cases and to ensure that those determined to be
6 hoarders do not have custody of companion animals for a period of time
7 that the sentencing court deems reasonable and appropriate.

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

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

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

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

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

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

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

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

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

1 a duly incorporated society for the prevention of cruelty to animals or
2 a duly incorporated humane society or authorized agents thereof, the
3 animal or animals which are the basis of the conviction. Upon such an
4 order of forfeiture, the convicted person shall be deemed to have relin-
5 quished all rights to the animals which are the basis of the conviction,
6 except those granted in paragraph d of this subdivision.

7 S 4. This act shall take effect immediately.