

3474

2011-2012 Regular Sessions

I N   S E N A T E

February 23, 2011

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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 for either companion animals or human beings. Severe overcrowding,  
7 excessive feces, dirt, garbage, dangerous levels of ammonia from urine-saturated surfaces, animals that plainly suffer from parasite infestation, upper respiratory infections, and other ailments and owners or  
8 custodians that neither fully recognize nor are capable of remedying the  
9 situation.  
10

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

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

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

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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.