

4835

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. AVELLA -- 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 requiring 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:

1 Section 1. Short title. This act shall be known and may be cited as
2 "Oreo's Law".
3 S 2. Section 374 of the agriculture and markets law is amended by
4 adding a new subdivision 9 to read as follows:
5 9. A. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
6 CONTRARY, NO ANIMAL IN THE CARE OR CUSTODY OF A DULY INCORPORATED SOCIE-
7 TY FOR THE PREVENTION OF CRUELTY TO ANIMALS, A DULY INCORPORATED HUMANE
8 SOCIETY, OR A POUND OR SHELTER MAINTAINED BY OR UNDER CONTRACT OR AGREE-
9 MENT WITH THE STATE OR ANY COUNTY, CITY, TOWN OR VILLAGE, OR AUTHORIZED
10 AGENTS THEREOF, SHALL BE DESTROYED IF, PRIOR TO THE KILLING OF THAT
11 ANIMAL FOR ANY REASON OTHER THAN IRREMEDIAL PHYSICAL SUFFERING OF THE
12 ANIMAL UPON A CERTIFICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN
13 LICENSED TO PRACTICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOV-
14 ERY IS POOR OR GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETER-
15 INARY CARE, A NONPROFIT, AS DEFINED IN SECTION 501(C)(3) OF THE INTERNAL
16 REVENUE CODE ANIMAL RESCUE OR ADOPTION ORGANIZATION REQUESTS POSSESSION
17 OF THE ANIMAL. IN ADDITION TO ANY REQUIRED SPAY OR NEUTER DEPOSIT, THE
18 FACILITY HAVING POSSESSION OF THE ANIMAL, AT ITS DISCRETION, MAY ASSESS
19 A FEE, NOT TO EXCEED THE STANDARD ADOPTION FEE, FOR ANIMALS RELEASED TO
20 SUCH ORGANIZATIONS.
21 B. (1) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION INTERESTED IN TAKING
22 POSSESSION OF ONE OR MORE ANIMALS PURSUANT TO THE PROVISIONS OF THIS
23 SUBDIVISION SHALL NOTIFY THE SOCIETY FOR THE PREVENTION OF CRUELTY TO
24 ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER, AS APPLICABLE, OF ITS

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

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1 DESIRE TO DO SO AND SHALL PROVIDE THE SOCIETY FOR THE PREVENTION OF
2 CRUELTY TO ANIMALS, THE HUMANE SOCIETY, POUND OR SHELTER WITH CONTACT
3 INFORMATION FOR THE ANIMAL RESCUE OR ADOPTION ORGANIZATION. AN ANIMAL
4 RESCUE OR ADOPTION ORGANIZATION MAY, AT ITS OPTION, FILE ONE NOTICE WITH
5 A SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY,
6 POUND OR SHELTER REQUESTING THAT IT BE NOTIFIED OF ALL ANIMALS HELD BY
7 THAT FACILITY AND SCHEDULED FOR EUTHANASIA.

8 (2) AT LEAST ONE BUSINESS DAY PRIOR TO THE SCHEDULED EUTHANASIA OF AN
9 ANIMAL, THE FACILITY HAVING POSSESSION OF THE ANIMAL SHALL PROVIDE
10 NOTICE TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION OF THE SCHEDULED
11 EUTHANASIA BY:

12 (A) POSTING OF THE IDENTIFICATION NUMBER OF SUCH ANIMAL ON THE WEBSITE
13 OF THE FACILITY HAVING POSSESSION OF THE ANIMAL BY DIRECT LINK FROM THE
14 FACILITY'S WEBSITE HOME PAGE; AND

15 (B) BY CONTACTING THE ANIMAL RESCUE OR ADOPTION ORGANIZATION DIRECTLY
16 BY ONE OR MORE OF THE FOLLOWING MEANS:

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

18 (II) PHONE TO THE PHONE NUMBER ON FILE;

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

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

21 (V) ANY OTHER MEANS OF ELECTRONIC WRITTEN COMMUNICATION AS PROVIDED BY
22 THE ANIMAL RESCUE OR ADOPTION ORGANIZATION.

23 (3) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION INTENDING TO TAKE
24 POSSESSION OF AN ANIMAL SCHEDULED FOR EUTHANASIA SHALL NOTIFY THE FACIL-
25 ITY HAVING POSSESSION OF THE ANIMAL OF THE ANIMAL RESCUE OR ADOPTION
26 ORGANIZATION'S INTENT TO TAKE POSSESSION OF THE ANIMAL, AT ANY TIME
27 PRIOR TO THE ANIMAL'S EUTHANASIA, BY PHONE, E-MAIL, FAX, TEXT MESSAGE,
28 OR OTHER ELECTRONIC WRITTEN REQUEST.

29 (4) AN ANIMAL RESCUE OR ADOPTION ORGANIZATION TAKING POSSESSION OF AN
30 ANIMAL PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL DO SO WITHIN
31 TWO BUSINESS DAYS OF THE TIME THE ORGANIZATION NOTIFIES THE SOCIETY FOR
32 THE PREVENTION OF CRUELTY TO ANIMALS, HUMANE SOCIETY, OR A POUND OR
33 SHELTER POSSESSING THE ANIMAL, AS APPLICABLE, THAT IT IS SEEKING CUSTODY
34 OF THE ANIMAL, NOT INCLUDING THE DAY UPON WHICH THE NOTICE IS GIVEN.

35 C. UPON TAKING POSSESSION OF AN ANIMAL, AN ANIMAL RESCUE OR ADOPTION
36 ORGANIZATION SHALL ASSUME ALL LIABILITY FOR THE ANIMAL; PROVIDED THAT
37 THE ORGANIZATION SHALL NOT BE DEEMED RESPONSIBLE FOR HARM CAUSED TO OR
38 BY THE ANIMAL THAT:

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

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

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

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

46 (2) SYMPTOMATIC DOGS WITH CONFIRMED CASES OF PARVOVIRUS UPON A CERTIF-
47 ICATION MADE IN WRITING AND SIGNED BY A VETERINARIAN LICENSED TO PRAC-
48 TICE MEDICINE IN THE STATE THAT THE PROGNOSIS FOR RECOVERY IS POOR OR
49 GRAVE EVEN WITH COMPREHENSIVE PROMPT AND NECESSARY VETERINARY CARE;

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

54 (4) AN ANIMAL THAT HAS BEEN DETERMINED BY A COURT HAVING COMPETENT
55 JURISDICTION TO BE DANGEROUS PURSUANT TO THE PROVISIONS OF SECTION ONE
56 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.

E. (1) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION HAVING AN OFFICER, BOARD MEMBER, STAFF MEMBER OR VOLUNTEER WHO HAS BEEN CONVICTED OF A STATUTE 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 AN OFFICER OR BOARD MEMBER OF THE ORGANIZATION.

(2) ANY ANIMAL RESCUE OR ADOPTION ORGANIZATION 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 AN OFFICER OR BOARD MEMBER OF 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, AS APPLICABLE, HAS LEGALLY SUFFICIENT PROBABLE CAUSE TO BELIEVE THAT THE PLACEMENT OF AN ANIMAL WITH A PARTICULAR ANIMAL RESCUE OR ADOPTION ORGANIZATION 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 UPON THE CONDUCT OF AN INSPECTION OF THE ANIMAL RESCUE OR ADOPTION ORGANIZATION'S PRIMARY FACILITY. SUCH INSPECTION MAY BE PERFORMED BY THE ENTITY POSSESSING THE ANIMAL OR BY A THIRD PARTY AT THE DIRECTION OR REQUEST OF THE POSSESSING ENTITY.

(B) THE NEED FOR AND PROBABLE CAUSE FOR REQUESTING SUCH INSPECTION MAY NOT BE DETERMINED SOLELY ON THE BASIS OF ANONYMOUS COMPLAINTS. 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 ANY AND ALL INFORMATION PERTAINING TO ITS DETERMINATION OF PROBABLE CAUSE FOR AN INSPECTION.

(C) THE ANIMAL RESCUE OR ADOPTION ORGANIZATION 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 INSPECTED ANIMAL RESCUE OR ADOPTION ORGANIZATION SHALL BE NOTIFIED OF THE RESULTS OF THE INSPECTION AND WHETHER THE ANIMAL WILL BE RELEASED TO THE ANIMAL RESCUE OR ADOPTION ORGANIZATION WITHIN TWENTY-FOUR HOURS OF THE COMPLETION OF THE INSPECTION.

1 (E) A FILING OF CRIMINAL NEGLIGENCE OR CRUELTY CHARGES FOLLOWING
2 INSPECTION AS PROVIDED IN THIS SUBPARAGRAPH WILL CONSTITUTE A FAILED
3 INSPECTION.

4 (F) NO ANIMAL SHALL BE DESTROYED UNTIL AT LEAST TWENTY-FOUR HOURS
5 AFTER THE FILING OF CRIMINAL CHARGES AGAINST THE ANIMAL RESCUE OR
6 ADOPTION ORGANIZATION AND PROVIDED NO OTHER ORGANIZATION HAS REQUESTED
7 THE ANIMAL.

8 (G) AN ANIMAL WHOSE PLACEMENT IS THE SUBJECT OF AN INSPECTION AS
9 PROVIDED IN THIS SUBPARAGRAPH MAY BE RELEASED PRIOR TO OR DURING THE
10 CONDUCT OF AN INSPECTION TO ANOTHER ANIMAL RESCUE OR ADOPTION ORGANIZA-
11 TION THAT REQUESTS THE ANIMAL.

12 F. AS USED IN THIS SUBDIVISION, "IRREDEMIABLE PHYSICAL SUFFERING"
13 MEANS THAT THE ANIMAL SUFFERS FROM A MEDICAL CONDITION THAT HAS A POOR
14 OR GRAVE PROGNOSIS AND THAT THE ANIMAL IS UNLIKELY TO BE ABLE TO LIVE
15 WITHOUT PROLONGED, SEVERE AND UNREMITTING PAIN DESPITE NECESSARY VETERI-
16 NARY CARE.

17 S 3. This act shall take effect immediately.