

2665--A

2013-2014 Regular Sessions

I N   S E N A T E

January 23, 2013

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Introduced by Sen. BALL -- 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

AN ACT to amend the agriculture and markets law, in relation to orders of restitution in certain cases

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

1     Section 1. Legislative purpose. Animal cruelty and animal fighting are  
2     serious crimes in New York state. Because crimes against animals often  
3     involve the seizure of the victimized animals, these cases pose unique  
4     challenges to law enforcement agencies throughout this state. These  
5     challenges involve arranging for the housing and care of the animals  
6     while the criminal case is pending. Private organizations, such as shel-  
7     ters, humane societies and societies for the prevention of cruelty to  
8     animals have traditionally assisted law enforcement agencies by provid-  
9     ing care for these animals (which preserves the "evidence" seized in  
10    criminal matters) with little or no reimbursement.  
11    It is imperative to the continued prosecution of animal cruelty cases  
12    that these private organizations be reimbursed for the care that they  
13    provide to these victimized animals. Many private organizations are  
14    declining to offer assistance in these cases because of the enormous  
15    financial burden of caring for a large number of animals for extended  
16    time periods with no assurance of reimbursement for these services. If  
17    there are no resources to care for the animals once they are seized, law  
18    enforcement is less likely to conduct the seizures in the first place.  
19    The legislature therefore intends to implement legislation that will  
20    improve the state's ability to ensure proper security and reimbursement  
21    for impounding organizations providing care on behalf of the state of  
22    abused animals.

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

LBD07156-02-3

1 S 2. Paragraph a of subdivision 6 of section 373 of the agriculture  
2 and markets law, as amended by chapter 586 of the laws of 2008, is  
3 amended to read as follows:

4 a. If any animal is seized and impounded pursuant to the provisions of  
5 this section, section three hundred fifty-three-d of this article or  
6 section three hundred seventy-five of this article for any violation of  
7 this article, upon arraignment of charges, OR WITHIN A REASONABLE TIME  
8 THEREAFTER, the duly incorporated society for the prevention of cruelty  
9 to animals, humane society, pound, animal shelter or any authorized  
10 agents thereof, hereinafter referred to for the purposes of this section  
11 as the "impounding organization", may file a petition with the court  
12 requesting that the person from whom an animal is seized or the owner of  
13 the animal be ordered to post a security[. The security] FOR THE REASON-  
14 ABLE COSTS OF CARING FOR SAID SEIZED ANIMALS FROM THE TIME OF SEIZURE  
15 AND IMPOUNDMENT. ANY SECURITY ORDERED FOLLOWING SUCH A HEARING shall be  
16 in an amount sufficient to secure payment for all reasonable expenses  
17 expected to be incurred by the impounding organization in caring and  
18 providing for the animal pending disposition of the charges. Reasonable  
19 expenses shall include, but not be limited to, estimated medical care  
20 and boarding of the animal for at least thirty days. The amount of the  
21 security, if any, shall be determined by the court after taking into  
22 consideration all of the facts and circumstances of the case including,  
23 but not limited to the recommendation of the impounding organization  
24 having custody and care of the seized animal and the cost of caring for  
25 the animal. If a security has been posted in accordance with this  
26 section, the impounding organization may draw from the security the  
27 actual reasonable costs to be incurred by such organization in caring  
28 for the seized animal.

29 S 3. Subparagraph 1 of paragraph b of subdivision 6 of section 373 of  
30 the agriculture and markets law, as amended by chapter 256 of the laws  
31 of 1997, is amended to read as follows:

32 (1) Upon receipt of a petition pursuant to paragraph a of this subdi-  
33 vision the court shall set a hearing on the petition to be conducted  
34 within ten business days of the filing of such petition. The petitioner  
35 shall serve a true copy of the petition upon the defendant and the  
36 district attorney. The petitioner shall also serve a true copy of the  
37 petition on any interested person. For purposes of this subdivision,  
38 interested person shall mean an individual, partnership, firm, joint  
39 stock company, corporation, association, trust, estate or other legal  
40 entity who the court determines may have a pecuniary interest in the  
41 animal which is the subject of the petition. The [petitioner] DISTRICT  
42 ATTORNEY shall have the burden of proving by a preponderance of the  
43 evidence that the person from whom the animal was seized violated a  
44 provision of this article, UNLESS THE IMPOUNDING ORGANIZATION APPEARS AT  
45 THE HEARING AND REQUESTS TO PRESENT SUCH EVIDENCE AND MEET SUCH BURDEN  
46 ON ITS OWN BEHALF. The court may waive for good cause shown the posting  
47 of security.

48 S 4. This act shall take effect on the ninetieth day after it shall  
49 have become a law.