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

6951

2013-2014 Regular Sessions

I N A S S E M B L Y

April 25, 2013

Introduced by M. of A. RYAN -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to creating the animal abuser central registry, and to require that certain convicted animal abusers register with such registry

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

Section 1. The agriculture and markets law is amended by adding a new section 380 to read as follows:

S 380. ANIMAL ABUSER REGISTRY. 1. THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN A CENTRAL REGISTRY OF INDIVIDUALS CONVICTED OF ANIMAL ABUSE AND REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THIS SECTION.

2. ANY PERSON OVER EIGHTEEN YEARS OF AGE WHO HAS BEEN CONVICTED OF ONE OR MORE OF THE FOLLOWING OFFENSES SHALL REGISTER WITH THE COUNTY SHERIFF FOR THE COUNTY IN WHICH THE ANIMAL ABUSER RESIDES:

(A) A FELONY VIOLATION OF ANY PROVISION OF THIS ARTICLE;

(B) A VIOLATION OF THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-THREE, THREE HUNDRED FIFTY-THREE-B, THREE HUNDRED FIFTY-FOUR, THREE HUNDRED FIFTY-FIVE, THREE HUNDRED FIFTY-SIX, THREE HUNDRED FIFTY-SEVEN, THREE HUNDRED FIFTY-EIGHT, THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED FIFTY-NINE, THREE HUNDRED FIFTY-NINE-A, THREE HUNDRED SIXTY-TWO, THREE HUNDRED SIXTY-FOUR, THREE HUNDRED SIXTY-FIVE, THREE HUNDRED SIXTY-SIX, THREE HUNDRED SIXTY-SIX-A, THREE HUNDRED SIXTY-EIGHT, THREE HUNDRED SIXTY-NINE OR THREE HUNDRED SEVENTY OF THIS ARTICLE;

(C) A VIOLATION OF THE PROVISIONS OF SECTION 195.06, 195.11 OR 195.12 OF THE PENAL LAW;

(D) A VIOLATION OF ANY PROVISION OF ARTICLE TWO HUNDRED FORTY-TWO OF THE PENAL LAW;

(E) A VIOLATION OF SUBDIVISION THREE OF SECTION 130.20 OF THE PENAL LAW; OR

(F) A VIOLATION OF COMPARABLE STATUTES OF ANOTHER STATE.

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

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3. UPON CONVICTION OF ANY OFFENSE SET FORTH IN PARAGRAPH (A), (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS SECTION, THE COURT SHALL CERTIFY THAT THE CONVICTED PERSON IS AN ANIMAL ABUSER AND SHALL INCLUDE THE CERTIFICATION IN THE JUDGMENT OF CONVICTION AND THE ORDER OF COMMITMENT, IF ANY. THE COURT SHALL PROVIDE A COPY OF THE JUDGMENT OF CONVICTION TO THE COUNTY SHERIFF WITHIN FIVE DAYS OF THE ENTRY OF THE JUDGMENT OF CONVICTION. THE COURT SHALL ALSO ADVISE THE ANIMAL ABUSER OF HIS OR HER DUTIES UNDER THIS ARTICLE. FAILURE TO INCLUDE THE CERTIFICATION IN THE JUDGMENT OF CONVICTION OR THE ORDER OF COMMITMENT SHALL NOT RELIEVE AN ANIMAL ABUSER OF THE OBLIGATIONS IMPOSED BY THIS SECTION.

4. A PERSON CONVICTED OF A VIOLATION OF ANOTHER STATE'S ANIMAL ABUSE STATUTE AS PROVIDED IN PARAGRAPH (F) OF SUBDIVISION TWO OF THIS SECTION WHO SUBSEQUENTLY BECOMES A RESIDENT OF THIS STATE SHALL, WITHIN THIRTY DAYS OF ENTERING THE STATE, REGISTER WITH THE CENTRAL REGISTRY.

5. (A) EACH REGISTRANT SHALL PROVIDE THE FOLLOWING INFORMATION TO THE COUNTY SHERIFF AT THE TIME OF REGISTRATION:

(1) THE REGISTRANT'S NAME, ALL ALIASES USED, DATE OF BIRTH, SEX, RACE, HEIGHT, WEIGHT, EYE COLOR, DRIVER'S LICENSE NUMBER AND CURRENT HOME ADDRESS AND/OR EXPECTED PLACE OF DOMICILE;

(2) A DESCRIPTION OF ANY TATTOOS, SCARS OR OTHER DISTINGUISHING FEATURES ON THE ANIMAL ABUSER'S BODY THAT WOULD ASSIST IN IDENTIFYING THE ANIMAL ABUSER;

(3) A DESCRIPTION OF THE OFFENSE FOR WHICH THE REGISTRANT WAS CONVICTED, THE DATE OF CONVICTION AND THE SENTENCE IMPOSED; AND

(4) ANY OTHER INFORMATION DEEMED PERTINENT BY THE CENTRAL REGISTRY.

(B) THE CENTRAL REGISTRY SHALL UTILIZE A STANDARDIZED REGISTRATION FORM IN A FORMAT DEVELOPED BY THE COMMISSIONER. SUCH FORM SHALL BE WRITTEN IN CLEAR AND CONCISE LANGUAGE AND SHALL ADVISE THE REGISTRANT OF HIS OR HER DUTIES AND OBLIGATIONS UNDER THIS ARTICLE. A COPY OF THE REGISTRATION FORM SHALL BE PROVIDED TO THE REGISTRANT AT THE TIME OF REGISTRATION.

6. (A) FOLLOWING A REGISTRANT'S INITIAL REGISTRATION PURSUANT TO THE PROVISIONS OF THIS SECTION, THE REGISTRANT SHALL ANNUALLY RENEW HIS OR HER REGISTRATION WITH THE COUNTY SHERIFF PRIOR TO DECEMBER THIRTY-FIRST OF EACH SUBSEQUENT CALENDAR YEAR FOR A PERIOD OF FIVE YEARS.

(B) IF A PERSON HAS BEEN SUBSEQUENTLY CONVICTED OF AN OFFENSE SET FORTH IN PARAGRAPH (A), (B), (C), (D) OR (E) OF SUBDIVISION TWO OF THIS SECTION, THE REGISTRANT SHALL ANNUALLY RENEW HIS OR HER REGISTRATION WITH THE CENTRAL REGISTRY PRIOR TO DECEMBER THIRTY-FIRST OF EACH SUBSEQUENT CALENDAR YEAR FOR A PERIOD OF TEN YEARS.

7. THE CENTRAL REGISTRY SHALL CHARGE AN ANNUAL FEE OF FIFTY DOLLARS AND A FEE OF TEN DOLLARS EACH TIME A REGISTRANT REGISTERS ANY CHANGE OF ADDRESS. THE FEES SHALL BE PAID TO THE COUNTY SHERIFF BY THE REGISTRANT.

8. (A) A PERSON REQUIRED TO REGISTER PURSUANT TO THIS SECTION IS PROHIBITED FROM, POSSESSING, ADOPTING, OWNING, PURCHASING OR EXERCISING CONTROL OVER ANY COMPANION ANIMAL FOR THE PERIOD SUCH PERSON IS REQUIRED TO REGISTER; PROVIDED, HOWEVER, THAT THE COURT MAY ALLOW SUCH PERSON TO POSSESS, ADOPT, OWN, PURCHASE OR EXERCISE CONTROL OVER A LIMITED NUMBER OF COMPANION ANIMALS WHERE SUCH PERSON IS DETERMINED TO BE A HOARDER OF COMPANION ANIMALS.

(B) ALL ANIMAL SHELTERS AND PET DEALERS SHALL EXAMINE THE CENTRAL REGISTRY TO CONFIRM THAT ANY POTENTIAL OWNERS ARE NOT REGISTRANTS. NO COMPANION ANIMAL SHALL BE SOLD, EXCHANGED OR OTHERWISE TRANSFERRED TO AN ANIMAL ABUSER LISTED ON THE REGISTRY.

9. (A) AN ANIMAL ABUSER WHO INTENTIONALLY OR KNOWINGLY FAILS TO COMPLY WITH THE REGISTRATION REQUIREMENTS, OR PROVIDES FALSE INFORMATION WHEN

COMPLYING WITH THE REGISTRATION REQUIREMENTS SET FORTH IN THIS SECTION, OR WHO VIOLATES THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION EIGHT OF THIS SECTION, IS GUILTY OF A FELONY:

(1) PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED FOUR YEARS, OR BY A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT FOR A FIRST OFFENSE; AND

(2) PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT TO EXCEED FOUR YEARS, OR BY A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BY BOTH SUCH FINE AND IMPRISONMENT FOR SUBSEQUENT OFFENSES.

(B) ANY ANIMAL SHELTER OR PET DEALER WHO VIOLATES PARAGRAPH (B) OF SUBDIVISION EIGHT OF THIS SECTION SHALL BE GUILTY OF A VIOLATION AND SUBJECT TO A FINE NOT TO EXCEED ONE THOUSAND DOLLARS. IT SHALL BE AN AFFIRMATIVE DEFENSE THAT THE ANIMAL SHELTER OR PET DEALER EXAMINED THE CENTRAL ANIMAL ABUSER REGISTRY AND THE NAME OF THE PERSON TO WHOM THEY SOLD OR TRANSFERRED A COMPANION ANIMAL DID NOT APPEAR THEREON.

10. EACH COUNTY SHERIFF SHALL MAINTAIN A LOCAL REGISTRY OF ANIMAL ABUSERS IN THE SHERIFF'S JURISDICTION.

11. A COUNTY SHERIFF SHALL FORWARD ALL REGISTRATION INFORMATION OBTAINED FROM ANIMAL ABUSERS TO THE CENTRAL REGISTRY OF ANIMAL ABUSERS.

12. REGISTRATION INFORMATION CONTAINED IN THE CENTRAL REGISTRY OF ANIMAL ABUSERS SHALL BE MADE AVAILABLE TO THE PUBLIC THROUGH INTERNET ACCESS, TELEPHONE ACCESS, WRITTEN ACCESS AND IN PERSON ACCESS. ALL OF THE INFORMATION CONTAINED IN AN ANIMAL ABUSER'S REGISTRATION SHALL BE MADE AVAILABLE WITH THE EXCEPTION OF THE ANIMAL ABUSER'S DRIVER'S LICENSE NUMBER. RECORDS OF EACH ANIMAL ABUSER'S REGISTRATION SHALL BE MAINTAINED FOR THE DURATION OF THE PERIOD IN WHICH THE ANIMAL ABUSER IS REQUIRED TO BE REGISTERED PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

13. NO OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY, WHETHER PUBLIC OR PRIVATE, SHALL BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY FOR DAMAGES FOR ANY DECISION OR ACTION MADE IN THE ORDINARY COURSE OF BUSINESS OF THAT OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY, PROVIDED THAT SUCH OFFICIAL, AGENCY, AUTHORIZED PERSON OR ENTITY ACTED REASONABLY AND IN GOOD FAITH WITH RESPECT TO SUCH REGISTRY INFORMATION.

14. THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS SECTION AND TO ENFORCE REGISTRATION, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

15. FOR PURPOSES OF THIS SECTION:

(A) "ANIMAL SHELTER" MEANS PUBLIC OR PRIVATELY OWNED ORGANIZATION INCLUDING, BUT NOT LIMITED TO, ANY DULY INCORPORATED HUMANE SOCIETY, POUND, ANIMAL PROTECTIVE ASSOCIATION OR ANIMAL RESCUE GROUP WHICH MAINTAINS BUILDINGS, STRUCTURES OR OTHER PROPERTY FOR THE PURPOSE OF HARBORING ANIMALS WHICH MAY BE STRAY, UNWANTED, LOST, ABANDONED OR ABUSED AND SEEKS TO FIND APPROPRIATE TEMPORARY OR PERMANENT HOMES FOR SUCH ANIMALS.

(B) "PET DEALER" MEANS ANY INDIVIDUAL, PERSON, PARTNERSHIP, FIRM, CORPORATION OR OTHER ENTITY WHICH OFFERS ANIMALS FOR SALE OR IS ENGAGED IN THE SALE, EXCHANGE OR OTHER TRANSFER OF OWNERSHIP OF ANIMALS.

16. THIS SECTION SHALL BE EXCLUSIVE AND SHALL PREEMPT ANY LOCAL LAW OR ORDINANCE RELATING TO ANIMAL ABUSER REGISTRATION.

S 2. This act shall take effect immediately.