

2665--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

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.

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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.