

540--A

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the "monk parakeet protection act"

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

1 Section 1. Legislative intent. The legislature finds that the monk
2 parakeet has been existing in a wild, undomesticated state in New York
3 since the late 1960s. The ancestors of the current flocks are believed
4 to have been imported legally into the United States from their native
5 land in Argentina. Since then, monk parakeets have established colonies
6 in parts of New York city and lower Westchester county. Their colonies
7 are small, and the population of monk parakeets seems to be rather
8 stabilized over the past 20 years. It is estimated that there are less
9 than 1,000 wild monk parakeets in the state of New York. Reports of
10 poaching and less than humane regard for nesting sites have led to the
11 need for formal protection of this species, which is recognized as non-
12 native, but not currently categorized as invasive, according to the
13 report Regulatory System for Non-native Species (New York Invasive
14 Species Council, 2010). The purpose of this act is to protect the wild
15 monk parakeet (a/k/a Quaker parakeet), the parrot species *Myiopsitta*
16 *monachus*, living in a wild state in various parts of the state of New
17 York. This act shall also provide humane methods of relocation or
18 removal, especially where threat to human life, private or public prop-
19 erty, or agricultural concerns, are imminent.
20 S 2. This act shall be known and may be cited as the "monk parakeet
21 protection act".

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

LBD04064-05-6

S 3. Article 11 of the environmental conservation law is amended by adding a new title 27 to read as follows:

TITLE 27

MONK PARAKEET PROTECTION ACT

SECTION 11-2701. DEFINITIONS.

11-2703. MONK PARAKEETS; PROTECTION.

S 11-2701. DEFINITIONS.

FOR PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "QUALIFIED INDIVIDUAL" SHALL MEAN A PERSON OR PERSONS WITH EITHER A DEGREE IN EARTH, BIOLOGICAL OR NATURAL SCIENCES, INCLUDING GEOLOGY, ENVIRONMENTAL SCIENCE, BIOLOGY, ZOOLOGY, OR A SPECIALIZATION IN ORNITHOLOGY;

2. "WILD MONK PARAKEET" SHALL MEAN A MONK PARAKEET THAT WAS BORN IN A NATURAL ENVIRONMENT WITHOUT HUMAN AID OR INTERVENTION, AND RAISED BY ITS OWN PARENTS. THE PROVISIONS OF THIS TITLE SHALL NOT APPLY TO ANY MONK PARAKEET THAT IS MAINTAINED IN A BREEDING FACILITY, OR BANDED BY A BREEDER, OR MICROCHIPPED BY A BREEDER OR PET OWNER, OR THAT IS ACQUIRED FROM A BREEDER OR PET STORE AND THAT IS KEPT IN A DOMESTIC SITUATION AS A PET;

3. "QUALIFIED DESIGNATED AGENT OR AUTHORITY" SHALL MEAN EITHER A STATE AGENCY WITH QUALIFIED INDIVIDUALS, OR AN ORGANIZATION WITH MEMBERS WHO HAVE A MINIMUM OF FIVE YEARS EXPERIENCE IN THE RESCUE AND REHABILITATION OF PARROTS OR WILD BIRDS, AND HAVE AT LEAST TWO QUALIFIED INDIVIDUALS AS DEFINED IN SUBDIVISION ONE OF THIS SECTION. THE QUALIFIED DESIGNATED AGENT OR AUTHORITY SHALL BE AFFILIATED WITH ONE OR MORE AVIAN VETERINARIANS; AND

4. "BREEDING SEASON" SHALL MEAN THE PERIOD OF TIME BEGINNING APRIL FIRST AND ENDING OCTOBER FIRST OF A CALENDAR YEAR.

S 11-2703. MONK PARAKEETS; PROTECTION.

1. NO PERSON SHALL CAPTURE OR HARM A WILD MONK PARAKEET CHICK, FLEDGLING, OR ADULT, OR TAKE OR SELL ITS EGGS, TO ANY RETAIL OR PRIVATE ESTABLISHMENT OR CONCERN.

2. NO PERSON SHALL REMOVE THE NEST OF A WILD MONK PARAKEET, UNLESS THERE IS A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

3. THE COLLECTION OF EGGS, CHICKS, FLEDGLINGS OF WILD MONK PARAKEETS, OR ADULT WILD MONK PARAKEETS SHALL BE DONE ONLY UNDER THE SUPERVISION OF A DESIGNATED AND QUALIFIED INDIVIDUAL OR EXPERT.

4. THE REMOVAL OF THE NEST OF A WILD MONK PARAKEET, IF NECESSARY, SHALL OCCUR OUTSIDE OF BREEDING SEASON, UNLESS THERE IS A DOCUMENTED AND IMMEDIATE THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

5. THE STATE OR A QUALIFIED DESIGNATED AGENT OR AUTHORITY SHALL BE NOTIFIED AT LEAST FIVE DAYS IN ADVANCE OF ANY PROPOSAL TO REMOVE THE NEST OF A WILD MONK PARAKEET. THE DESIGNATED AGENT OR AUTHORITY SHALL PROPOSE ALTERNATIVE ACTIONS, AND SHALL SUPERVISE ANY NEST REMOVALS IF AN ALTERNATIVE PLAN IS NOT POSSIBLE.

6. PRIVATE COMPANIES AND ORGANIZATIONS, UTILITY COMPANIES, AND GOVERNMENTAL AGENCIES, SHALL MAKE EVERY EFFORT TO SUPPLY AND ERECT ALTERNATIVE NESTING PLATFORMS WHERE REASONABLY POSSIBLE, IF CURRENT WILD MONK PARAKEET NESTING SITES HAVE BEEN DEMONSTRATED TO BE A THREAT TO HUMAN LIFE, PRIVATE OR PUBLIC PROPERTY, OR AGRICULTURAL CONCERNS. EXAMPLE PLANS AND DRAWINGS FOR NESTING PLATFORMS SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE OFFICIAL WEBPAGE OF THE DEPARTMENT.

7. IF AN EFFORT TO PROVIDE WILD MONK PARAKEETS WITH ALTERNATIVE NESTING PLATFORMS FAILS OR PROVES TO BE UNSUCCESSFUL, AN ENTITY MAY EMPLOY

1 HUMANE MEANS TO REMOVE AND EUTHANIZE WILD MONK PARAKEETS, ONLY AS A LAST
2 RESORT. ALL OTHER METHODS TO PROVIDE ALTERNATIVE NESTING OPTIONS SHALL
3 BE FIRST EXHAUSTED. SUCH ENTITY SHALL DEMONSTRATE IN WRITING AND
4 DOCUMENTATION THAT ALL EFFORTS TO PROVIDE ALTERNATIVES HAVE FAILED, AND
5 SHALL OUTLINE THE METHOD BY WHICH EUTHANASIA SHALL BE APPLIED. SUCH
6 ENTITY SHALL ALSO DEMONSTRATE THAT THERE IS A DOCUMENTED AND IMMEDIATE
7 THREAT TO HUMAN LIFE OR PUBLIC AND PRIVATE PROPERTY.

8 8. FOR PURPOSES OF THIS TITLE:

9 A. THE USE OF CARBON MONOXIDE OR ANY OTHER GAS OR VAPOR AS A METHOD OF
10 EUTHANASIA IS PROHIBITED;

11 B. THE ONLY ACCEPTABLE FORM OF EUTHANASIA SHALL BE BY INJECTION OF AN
12 ANESTHETIC OR ANESTHETIC MIXTURE WHICH CAUSES IMMEDIATE AND PAINLESS
13 CESSATION OF PULMONARY AND CORONARY FUNCTION; AND

14 C. ADMINISTRATION AND SUPERVISION OF THE EUTHANASIA PROCEDURE SHALL BE
15 DONE BY A LICENSED VETERINARIAN, VETERINARY ASSISTANT OR VETERINARY
16 TECHNICIAN.

17 9. THE DEPARTMENT MAY DESIGNATE A QUALIFIED ORGANIZATION TO CARRY OUT
18 THE GENERAL ADMINISTRATION OF THE PROVISIONS OF THIS TITLE.

19 10. A QUALIFIED ORGANIZATION DESIGNATED PURSUANT TO SUBDIVISION NINE
20 OF THIS SECTION SHALL BE ENTITLED TO REASONABLE REIMBURSEMENT FOR
21 EXPENSES IN ASSOCIATION WITH NEST REMOVAL, FROM ANY ENTITY SO REQUESTING
22 THE SERVICES OF SUCH QUALIFIED ORGANIZATION. THE REQUESTING ENTITY SHALL
23 PROVIDE, AND OPERATE, ALL NECESSARY HEAVY EQUIPMENT, INCLUDING BUCKET
24 LIFTS OR TRUCKS. IN ADDITION, ALL EXPENSES AND COSTS ASSOCIATED WITH THE
25 USE OF VETERINARY SERVICES FOR EUTHANASIA SHALL BE IMMEDIATELY REIM-
26 BURSED TO THE ATTENDING VETERINARIAN BY THE REQUESTING ENTITY.

27 11. ANY VIOLATION OF THE PROVISIONS OF THIS TITLE SHALL BE A MISDEMEA-
28 NOR.

29 12. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO PROHIBIT OR INTERFERE
30 WITH THE POSSESSION OF A PET MONK PARAKEET, OR A DOMESTICALLY BRED MONK
31 PARAKEET, IN THIS STATE, INCLUDING BUT NOT LIMITED TO, PROHIBITING OR
32 INTERFERING WITH THE POSSESSION, OWNERSHIP, BREEDING, SELLING, OR TRANS-
33 PORTING OF A PET OR DOMESTICALLY BRED MONK PARAKEET.

34 S 4. This act shall take effect on the sixtieth day after it shall
35 have become a law.