

5371

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

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 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:

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

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

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

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

10 (B) A VIOLATION OF THE PROVISIONS OF SECTION THREE HUNDRED
11 FIFTY-THREE, THREE HUNDRED FIFTY-THREE-B, THREE HUNDRED FIFTY-FOUR,
12 THREE HUNDRED FIFTY-FIVE, THREE HUNDRED FIFTY-SIX, THREE HUNDRED FIFTY-
13 SEVEN, THREE HUNDRED FIFTY-EIGHT, THREE HUNDRED FIFTY-EIGHT-A, THREE
14 HUNDRED FIFTY-NINE, THREE HUNDRED FIFTY-NINE-A, THREE HUNDRED SIXTY-TWO,
15 THREE HUNDRED SIXTY-FOUR, THREE HUNDRED SIXTY-FIVE, THREE HUNDRED
16 SIXTY-SIX, THREE HUNDRED SIXTY-SIX-A, THREE HUNDRED SIXTY-EIGHT, THREE
17 HUNDRED SIXTY-NINE OR THREE HUNDRED SEVENTY OF THIS ARTICLE;

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

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

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

24 (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.

LBD00430-02-5

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

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

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

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

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

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

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

26 (B) THE CENTRAL REGISTRY SHALL UTILIZE A STANDARDIZED REGISTRATION
27 FORM IN A FORMAT DEVELOPED BY THE COMMISSIONER. SUCH FORM SHALL BE WRIT-
28 TEN IN CLEAR AND CONCISE LANGUAGE AND SHALL ADVISE THE REGISTRANT OF HIS
29 OR HER DUTIES AND OBLIGATIONS UNDER THIS ARTICLE. A COPY OF THE REGIS-
30 TRATION FORM SHALL BE PROVIDED TO THE REGISTRANT AT THE TIME OF REGIS-
31 TRATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 15. FOR PURPOSES OF THIS SECTION:

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

45 (B) "PET DEALER" SHALL HAVE THE SAME MEANING AS SUCH MEANING IS
46 DEFINED IN SECTION FOUR HUNDRED OF THE AGRICULTURE AND MARKETS LAW.

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

49 S 2. This act shall take effect immediately.