STATE OF NEW YORK

10389

IN ASSEMBLY

April 18, 2018

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

AN ACT to amend the agriculture and markets law, in relation to the seizure of a dangerous dog

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 123 of the agriculture and markets law, as amended by section 18 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

2. **(a)** Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may, and any dog control officer or police officer as provided in subdivision one of this section shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack or threatened attack. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, [~~shall~~] **may** issue an order to any dog control officer, peace officer, acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. Whether or not the judge or justice finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. The petitioner shall have the burden at such hearing to prove the dog is a "dangerous dog" by clear and convincing evidence. If satisfied that the dog is a dangerous dog, the judge or justice shall [~~then~~] order neutering or spaying of the dog, microchipping of the dog and one or more of the following as deemed appropriate under the circumstances and as deemed necessary for the protection of the public:

[~~(a)~~] **(i)** evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all

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

LBD15345-01-8

costs associated with evaluations and training ordered under this section;

[~~(b)~~] **(ii)** secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section three hundred fifty-three-b of this chapter. Such confinement shall not include lengthy periods of tying or chaining;

[~~(c)~~] **(iii)** restraint of the dog on a leash by an adult of at least twenty-one years of age whenever the dog is on public premises;

[~~(d)~~] **(iv)** muzzling the dog whenever it is on public premises in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration; or

[~~(e)~~] **(v)** maintenance of a liability insurance policy in an amount determined by the court, but in no event in excess of one hundred thousand dollars for personal injury or death resulting from an attack by such dangerous dog.

(b) If the judge or justice finds that proof of compliance with an order of the court pursuant to this subdivision or subdivision three of this section is necessary for the protection of the public, the judge or justice may issue an order to any dog control officer, peace officer acting pursuant to his or her special duties, or police officer directing such officer to immediately seize the dog and hold the same until such time as the owner has produced proof of compliance satisfactory to the court.

§ 2. This act shall take effect immediately.