

STATE OF NEW YORK

62

2017-2018 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2017

Introduced by M. of A. PAULIN, McDONOUGH, SKOUFIS -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the posting of security by a person against whom certain criminal charges are pending

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

1 Section 1. Paragraph a and subparagraph 1 of paragraph b of subdivision 6 of section 373 of the agriculture and markets law, as amended by chapter 531 of the laws of 2013, is amended to read as follows:

2 a. If any animal is seized and impounded pursuant to the provisions of
3 this section, section three hundred fifty-three-d ~~[of this article]~~ or
4 ~~[section]~~ three hundred seventy-five of this article for any violation
5 of this article, ~~[upon arraignment of charges, or within a reasonable~~
6 ~~time thereafter,]~~ the duly incorporated society for the prevention of
7 cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization", may file a petition, with the court in which criminal charges have or will be brought, requesting that the person ~~[from whom an animal is seized or the owner of the animal]~~ against whom criminal charges are pending ("the defendant") be ordered to post a security. If the defendant is issued an appearance ticket, as defined in subdivision twenty-six of section 1.20 of the criminal procedure law, the petition may be filed upon the issuance of such appearance ticket or within a reasonable time thereafter. In all other circumstances, the petition may be filed upon arraignment of charges or within a reasonable time thereafter. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the impounding organization. The security shall be in an amount sufficient to secure payment

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

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1 for all reasonable expenses expected to be incurred by the impounding
2 organization in caring and providing for the animal pending disposition
3 of the charges. Reasonable expenses shall include, but not be limited
4 to, estimated medical care and boarding of the animal for at least thirty
5 days. The amount of the security, if any, shall be determined by the
6 court after taking into consideration all of the facts and circumstances
7 of the case including, but not limited to the recommendation of the
8 impounding organization having custody and care of the seized animal and
9 the cost of caring for the animal. If a security has been posted in
10 accordance with this section, the impounding organization may draw from
11 the security the actual reasonable costs to be incurred by such organization
12 in caring for the seized animal.

13 (1) Upon receipt of a petition pursuant to paragraph a of this subdivision
14 the court shall set a hearing on the petition to be conducted
15 within ten business days of the filing of such petition. The petitioner
16 shall serve a true copy of the petition upon the defendant and the
17 district attorney if the district attorney has not filed the petition on
18 behalf of the petitioner. If the petition is filed after the issuance
19 of an appearance ticket but prior to arraignment on charges, service may
20 be effectuated by serving a true copy thereof personally upon the
21 defendant, or by sending a true copy thereof by certified mail to the
22 address of the defendant. The petitioner shall also serve a true copy of
23 the petition on any interested person. For purposes of this subdivision,
24 interested person shall mean an individual, partnership, firm, joint
25 stock company, corporation, association, trust, estate or other legal
26 entity who the court determines may have [a] an ownership or pecuniary
27 interest in the animal which is the subject of the petition. Provided,
28 that, if a petition is filed after the issuance of an appearance ticket
29 but prior to arraignment on charges, and the defendant does not have
30 counsel at the time of arraignment, the court may assign counsel for
31 purposes of the petition if such defendant is otherwise eligible for
32 appointed counsel for the underlying criminal offense. The petitioner or
33 the district attorney acting on behalf of the petitioner, shall have the
34 burden of proving by a preponderance of the evidence that the [person
35 ~~from whom the animal was seized~~] defendant violated a provision of this
36 article. The court may waive for good cause shown the posting of security.
37

38 § 2. This act shall take effect on the ninetieth day after it shall
39 have become a law.