

# STATE OF NEW YORK

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4475

2019-2020 Regular Sessions

## IN ASSEMBLY

February 4, 2019

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

AN ACT to amend the agriculture and markets law, in relation to the humane destruction or other disposition of certain animals by a duly incorporated humane society or society for the prevention of cruelty to animals, dog control officer, or any police officer

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

1 Section 1. Subdivisions 6, 7, 7-a, 8, 9 and 11 of section 117 of the  
2 agriculture and markets law, such section as renumbered by section 12 of  
3 part T of chapter 59 of the laws of 2010, subdivisions 6, 9 and 11 as  
4 added by chapter 220 of the laws of 1978, subdivision 7 as amended by  
5 section 13 of part T of chapter 59 of the laws of 2010, subdivision 7-a  
6 as amended by chapter 83 of the laws of 2011 and subdivision 8 as  
7 amended by chapter 221 of the laws of 1978, are amended to read as  
8 follows:

9 6. Promptly upon seizure of any identified dog, the owner of record of  
10 such dog shall be notified personally or by certified mail, return  
11 receipt requested, of the facts of seizure and the procedure for redemp-  
12 tion. If notification is personally given, such dog shall be held for a  
13 period of seven days after day of notice, during which period the dog  
14 may be redeemed by the owner. If such notification is made by mail, such  
15 dog shall be held for a period of nine days from the date of mailing,  
16 during which period the dog may be redeemed by the owner. In either  
17 case, the owner may redeem such dog upon payment of the impoundment fees  
18 prescribed by subdivision four of this section and by producing proof  
19 that the dog has been licensed, provided, however, that the notification  
20 requirements and redemption rights provided by this subdivision are  
21 inapplicable if the owner relinquished possession and control of the dog  
22 pursuant to subdivision one of section three hundred seventy-four of  
23 this chapter and such dog shall be made available for adoption subject

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

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1 to subdivision seven, seven-a, eight and nine of this section and  
2 subject to the provisions of subdivisions two and three of section three  
3 hundred seventy-four of this chapter.

4 7. An owner shall forfeit title to any dog unredeemed at the expira-  
5 tion of the appropriate redemption period prescribed by subdivisions  
6 six, eight and nine of this section and subject to the provisions of  
7 section three hundred seventy-four of this chapter, and the dog shall  
8 then be made available for adoption [~~or euthanized~~] subject to [~~subdivi-~~  
9 ~~sions six, eight and nine~~] subdivision seven-a of this section and  
10 subject to the provisions of section three hundred seventy-four of this  
11 chapter or euthanized subject to the provisions of section three hundred  
12 seventy-four of this chapter. Any municipality may by local law or ordi-  
13 nance establish additional conditions for adoption including the  
14 requirement that adopted dogs shall be spayed or neutered before or  
15 after release from custody upon such terms and conditions as the munici-  
16 pality may establish.

17 7-a. Any animal in the custody of a pound or shelter shall, after the  
18 expiration of the appropriate redemption period prescribed by subdivi-  
19 sions six, eight and nine of this section and subject to the provisions  
20 of section three hundred seventy-four of this chapter, be made available  
21 for adoption or euthanized subject to [~~subdivisions six, eight and nine~~  
22 ~~of this section and subject to~~] the provisions of section three hundred  
23 seventy-four of this chapter [~~after the time for redemption has~~  
24 ~~expired~~]; provided, however, that such release may be made to another  
25 such pound, duly incorporated society for the prevention of cruelty to  
26 animals, duly incorporated humane society or duly incorporated animal  
27 protective association for the sole purpose of placing such animal in an  
28 adoptive home, when such action is reasonably believed to improve the  
29 opportunity for adoption.

30 8. The redemption periods set forth above in this section notwith-  
31 standing, any municipality may establish the duration of such periods by  
32 local law or ordinance, provided that no such period shall be less than  
33 [~~three~~] five days, except that where notice to the owner is given by  
34 mail, no such period shall be less than seven days.

35 9. Any dog, owned by a resident of any city having a population of  
36 over two million or by a non-resident of this state, seized and impound-  
37 ed pursuant to the provisions of this article, and whose owner can be  
38 identified, shall be subject to subdivision six of this section,  
39 provided, however, that the notification requirements and redemption  
40 rights provided by such subdivision are inapplicable if the owner relin-  
41 quished possession and control of the dog pursuant to subdivision one of  
42 section three hundred seventy-four of this chapter and such dog shall be  
43 made available for adoption pursuant to the provisions of subdivisions  
44 two and three of section three hundred seventy-four of this chapter. If  
45 the dog is licensed pursuant to the provisions of law of the area of the  
46 owner's residence, the licensing requirements of this article shall not  
47 apply provided such dog is not harbored within this state outside any  
48 city having a population of over two million for a period exceeding  
49 thirty days.

50 11. No liability in damages or otherwise shall be incurred on account  
51 of the seizure, euthanization or adoption of any dog pursuant to the  
52 provisions of this article or of section three hundred seventy-four of  
53 this chapter.

54 § 2. Subdivisions 1 and 2 of section 374 of the agriculture and  
55 markets law, as amended by chapter 449 of the laws of 2010, are amended  
56 to read as follows:

1 1. Any agent or officer of any duly incorporated humane society, a  
2 duly incorporated society for the prevention of cruelty to animals, any  
3 dog control officer, or any police officer, may lawfully cause to be  
4 humanely destroyed (by means provided for in paragraph a of subdivision  
5 three of this section) any animal found abandoned and not properly cared  
6 for, or any lost, strayed, homeless or unwanted animal, if upon examina-  
7 tion a licensed veterinarian shall certify in writing, or if two  
8 reputable citizens called upon by such agent, officer or police officer  
9 to view the same in his or her presence find that the animal is so  
10 maimed, diseased, disabled, or infirm so as to be unfit for any useful  
11 purpose and that humane euthanasia is warranted; or after such agent,  
12 officer or police officer has obtained in writing from the owner of such  
13 animal his or her consent to such destruction; provided however, that if  
14 an animal is not maimed, diseased, disabled or infirm such owner shall  
15 not consent to destruction of such animal and shall relinquish ownership  
16 and possession of such animal to a duly incorporated humane society, a  
17 duly incorporated society for the prevention of cruelty to animals, or  
18 any pound maintained by or under contract or agreement with any county,  
19 city, town or village.

20 2. In the absence of such findings or certification, a duly incorpo-  
21 rated humane society, a duly incorporated society for the prevention of  
22 cruelty to animals, or any pound maintained by or under contract or  
23 agreement with any county, city, town or village [~~may~~] shall after five  
24 days make available for adoption [~~or have humanely destroyed in accord-~~  
25 ~~ance with the provisions of this section and subject to~~], unless a long-  
26 er period is prescribed by subdivisions six, eight and nine of section  
27 one hundred [~~eighteen~~] seventeen of this chapter, any animal of which  
28 possession is taken as provided for in [~~the preceding~~] section three  
29 hundred seventy-three of this article, unless the same is earlier  
30 redeemed by its owner, provided that no owner who relinquished  
31 possession and ownership of an animal pursuant to subdivision one of  
32 this section shall be allowed to redeem such animal and such animal  
33 shall be immediately made available for adoption.

34 § 2-a. Subdivision 2 of section 374 of the agriculture and markets  
35 law, as amended by chapter 421 of the laws of 2018, is amended to read  
36 as follows:

37 2. In the absence of such findings or certification, a duly incorpo-  
38 rated humane society, a duly incorporated society for the prevention of  
39 cruelty to animals, or any pound maintained by or under contract or  
40 agreement with any county, city, town or village [~~may~~] shall after five  
41 days make available for adoption [~~or have humanely destroyed in accord-~~  
42 ~~ance with the provisions of this section and subject to~~], unless a long-  
43 er period is prescribed by subdivisions six, eight and nine of section  
44 one hundred seventeen of this chapter, any animal of which possession is  
45 taken as provided for in [~~the preceding~~] section three hundred seventy-  
46 three of this article, unless the same is earlier redeemed by its owner,  
47 provided that no owner who relinquished possession and ownership of an  
48 animal pursuant to subdivision one of this section shall be allowed to  
49 redeem such animal and such animal shall be immediately made available  
50 for adoption. Notwithstanding the redemption periods set forth above in  
51 this subdivision, any municipality may establish the duration of such  
52 periods by local law or ordinance for any cat whose owner cannot be  
53 identified by a collar, tag, microchip, tattoo or other identifying  
54 mark, provided that no such period shall be less than three days, and  
55 provided further that such cat be made available solely for the purposes  
56 of adoption and released to an adoptive owner following an examination

1 by a duly-licensed veterinarian, the details of which shall be provided  
2 to the adoptive owner. Notwithstanding the redemption periods set forth  
3 above in this subdivision, any municipality may establish the duration  
4 of such periods by local law or ordinance for any cat whose owner cannot  
5 be identified by a collar, tag, microchip, tattoo or other identifying  
6 mark, provided that no such period shall be less than three days, and  
7 provided further that such cat be made available solely for the purposes  
8 of adoption and released to an adoptive owner following an examination  
9 by a duly-licensed veterinarian, the details of which shall be provided  
10 to the adoptive owner.

11 § 3. Section 374 of the agriculture and markets law is amended by  
12 adding a new subdivision 2-a to read as follows:

13 2-a. Any animal of which possession is taken pursuant to subdivision  
14 one of this section that is in the possession of a duly incorporated  
15 humane society, a duly incorporated society for the prevention of cruel-  
16 ty to animals, or any pound maintained by or under contract or agreement  
17 with any county, city, town or village and has not been redeemed or  
18 adopted pursuant to subdivision two of this section, shall be made  
19 available for adoption for a reasonably practicable period that shall  
20 not be less than ninety days, which shall commence immediately after the  
21 expiration of the redemption period provided by subdivision two of this  
22 section provided that if during such period a veterinarian certifies  
23 that such animal is so maimed, diseased, disabled, or infirm as to be  
24 unfit for any useful purpose such animal may, in the discretion of the  
25 entity in possession of such animal, be humanely destroyed in accordance  
26 with the provisions of this section and subject to subdivisions six,  
27 eight and nine of section one hundred seventeen of this chapter prior to  
28 the expiration of such period. After the expiration of such period, such  
29 animal may, in the discretion of the entity in possession of such  
30 animal, be humanely destroyed in accordance with the provisions of this  
31 section and subject to subdivisions six, eight and nine of section one  
32 hundred seventeen of this chapter. For purposes of this subdivision,  
33 when determining a reasonably practicable period, consideration shall be  
34 given to the number of other animals at the shelter, the shelter's  
35 capacity for housing and caring for animals, the length of time that the  
36 animal has been in the shelter, and the animal's health.

37 § 4. This act shall take effect on the ninetieth day after it shall  
38 have become a law; provided, however, that if chapter 421 of the laws of  
39 2018 shall not have taken effect on or before such date then section  
40 two-a of this act shall take effect on the same date and in the same  
41 manner as such chapter of the laws of 2018 takes effect. Effective imme-  
42 diately, the addition, amendment and/or repeal of any rule or regulation  
43 necessary for the implementation of this act on its effective date are  
44 authorized and directed to be made and completed on or before such  
45 effective date.