STATE OF NEW YORK

4475

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

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:

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

6. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by subdivision four of this section and by producing proof that the dog has been licensed**, provided, however, that the notification requirements and redemption rights provided by this subdivision are inapplicable if the owner relinquished possession and control of the dog pursuant to subdivision one of section three hundred seventy-four of 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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to subdivision seven, seven-a, eight and nine of this section and subject to the provisions of subdivisions two and three of section three hundred seventy-four of this chapter.

7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period prescribed by subdivisions six, eight and nine of this section and subject to the provisions of section three hundred seventy-four of this chapter, and the dog shall then be made available for adoption [~~or euthanized~~] subject to [~~subdivisions six, eight and nine~~] subdivision seven-a of this section and subject to the provisions of section three hundred seventy-four of this chapter or euthanized subject to the provisions of section three hundred seventy-four of this chapter. Any municipality may by local law or ordinance establish additional conditions for adoption including the requirement that adopted dogs shall be spayed or neutered before or after release from custody upon such terms and conditions as the municipality may establish.

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

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

9. Any dog, owned by a resident of any city having a population of over two million or by a non-resident of this state, seized and impounded pursuant to the provisions of this article, and whose owner can be identified, shall be subject to subdivision six of this section, provided, however, that the notification requirements and redemption rights provided by such subdivision are inapplicable if the owner relinquished possession and control of the dog pursuant to subdivision one of section three hundred seventy-four of this chapter and such dog shall be made available for adoption pursuant to the provisions of subdivisions two and three of section three hundred seventy-four of this chapter. If the dog is licensed pursuant to the provisions of law of the area of the owner's residence, the licensing requirements of this article shall not apply provided such dog is not harbored within this state outside any city having a population of over two million for a period exceeding thirty days.

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

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

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

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

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

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

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

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

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

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