STATE OF NEW YORK

7155

2021-2022 Regular Sessions

IN ASSEMBLY

April 23, 2021

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

AN ACT to amend the agriculture and markets law, in relation to requiring the release of a shelter animal to a rescue group upon request of the rescue group prior to the euthanasia of such animal

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

Section 1. This act shall be known and may be cited as the "shelter animal rescue act".

§ 2. The agriculture and markets law is amended by adding a new section 374-a to read as follows:

§ 374-a. Shelter animal rescue act. 1. For the purposes of this section, the following terms shall have the following meanings:

a. "Animal shelter" shall mean a public or private facility located within the state that:

(1) has a physical structure that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals; and

(2) is operated, owned or maintained by a humane society, society for the prevention of cruelty to animals, non-profit organization, pound, dog control officer, government entity or contractor for a government entity.

b. "Licensed veterinarian" shall mean an individual who is licensed to practice veterinary medicine in the state.

c. (1) "Rescue organization" shall mean an organization that:

(a) is described pursuant to paragraph (3) of subsection (c) of section five hundred one of the federal Internal Revenue Code and exempt from taxation pursuant to subsection (a) of section five hundred one of the federal Internal Revenue Code;

(b) is an animal rescue organization, animal adoption organization, or organization formed for the prevention of cruelty to animals;

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

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(c) does not have an officer, board member, staff member, or volunteer who has been convicted of a criminal offense related to animal neglect, animal cruelty, or dog fighting; and

(d) has been in existence for at least one year.

(2) For animals within the ambit of their license, an individual licensed to rehabilitate wildlife by the New York state department of environmental conservation pursuant to subdivision three of section 11-0515 of the environmental conservation law shall also be considered a rescue organization, except where the release of a particular animal to such individual would violate a duly enacted department of environmental conservation regulation.

d. "Irremediable suffering" shall mean an animal who has an objectively grave prognosis to be able to live without severe, unremitting physical pain even with prompt, necessary, and comprehensive veterinary care, as certified in writing by a licensed veterinarian.

e. "Serious physical injury" shall mean a physical injury to an individual caused by a dog bite which creates a substantial risk of death, or which causes death or serious or protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

f. "Unprovoked biting" shall mean when an individual is bitten by a dog, and it did not occur as a result of:

(1) the taunting of a dog;

(2) a dog acting in defense of itself, a person, another animal or property;

(3) a dog acting from maternal instinct;

(4) a dog reacting to hunger, pain or fear; or

(5) an accidental bite as when playing.

g. "Unprovoked repeated biting" shall mean two or more bites of an individual or individuals by a dog resulting in physical injuries that were not provoked in the prior twenty-four months, documented by the agency charged with enforcing state and local animal laws prior to the current impound.

h. "Business day" shall mean any day an animal shelter is open to the public for adoption and redemption for a continuous period of at least four hours.

2. Notwithstanding any state or local law to the contrary:

a. Not less than two business days before the scheduled euthanasia of any animal in the custody or constructive custody of an animal shelter, such animal shelter shall:

(1) notify or make a reasonable attempt to notify by verifiable written or electronic communication any rescue organization that has previously requested to be notified before animals are euthanized; and

(2) allow any rescue organization who has been notified pursuant to subparagraph one of this paragraph to take possession of the animal if they so request in order to avoid such animal's death.

b. Any rescue organization who takes possession of an animal pursuant to paragraph a of this subdivision shall do so within forty-eight hours of giving notification to the animal shelter of their intent to take possession.

c. No animal shelter shall euthanize any animal without meeting the requirements of this subdivision, except for:

(1) an animal that is irremediably suffering;

(2) a dog adjudicated to be dangerous pursuant to section one hundred twenty-three of this chapter, and that has been ordered to be euthanized by the court;

(3) a dog with a documented history of unprovoked biting that has resulted in serious physical injury to an individual. Documentation shall consist of medical reports made at or around the time the prior bite incident occurred which describe the circumstances of such bite, the nature and severity of the injury, and treatments given for the injury;

(4) a dog with a documented history of unprovoked repeated biting that has resulted in physical injury of an individual or individuals. Documentation shall consist of medical reports made at or around the time the prior bite incidents occurred which describe the circumstances of the bites, the nature and severity of the injuries, and treatments given for the injuries;

(5) an animal which has bitten an individual and is suspected to carry and exhibiting signs of rabies, as determined by a licensed veterinarian.

d. Upon taking possession of an animal pursuant to this subdivision, a rescue organization shall assume all liability for such animal while such animal is in the custody and control of such organization and shall maintain liability insurance for that purpose, provided that such organization shall not be deemed responsible for harm caused to or by such animal that:

(1) occurred prior to the time such organization assumed possession of such animal; or

(2) is due to the acts or omissions of a person not associated with such organization.

§ 3. This act shall apply in all jurisdictions including cities with a population of two million or more.

§ 4. This act shall take effect immediately.