

STATE OF NEW YORK

4962--B

2009-2010 Regular Sessions

IN SENATE

April 27, 2009

Introduced by Sens. OPPENHEIMER, DIAZ, PARKER, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to the humane destruction or disposition of certain animals; and repealing certain provisions of such law relating thereto

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

1 Section 1. Subdivisions 2-a, 2-b, 2-c, 2-d and 2-e of section 374 of
2 the agriculture and markets law are REPEALED.
3 § 2. Subdivisions 1 and 2 of section 374 of the agriculture and
4 markets law, as added by chapter 545 of the laws of 1971, are amended to
5 read as follows:
6 1. Any agent or officer of [the American Society for the Prevention of
7 Cruelty to Animals, or of any society duly incorporated for that
8 purpose] a duly incorporated society for the prevention of cruelty to
9 animals, any dog control officer, or any police officer, may lawfully
10 [and humanely destroy or] cause to be humanely destroyed (by means
11 provided for in paragraph a of subdivision three of this section) any
12 animal found abandoned and not properly cared for, or any lost, strayed,
13 homeless or unwanted animal, if upon examination a licensed [veterinary
14 surgeon] veterinarian shall certify in writing, or if two reputable
15 citizens called [by him] upon by such agent, officer or police officer
16 to view the same in his or her presence find that the animal is so
17 maimed, diseased, disabled, or infirm so as to be unfit for any useful
18 purpose and that humane euthanasia is warranted; or after such agent
19 [or], officer or police officer has obtained in writing from the owner
20 of such animal his or her consent to such destruction.

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

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1 2. In the absence of such findings or [certificate the American Socie-
2 ty for the Prevention of Cruelty to Animals or any society duly incorpo-
3 rated for that purpose] certification a duly incorporated society for
4 the prevention of cruelty to animals, or any pound maintained by or
5 under contract or agreement with any county, city, town or village may
6 after five days [humanely destroy] make available for adoption or have
7 humanely destroyed in accordance with the provisions of this section and
8 subject to subdivisions six, eight and nine of section one hundred eigh-
9 teen of this chapter, any animal of which possession is taken as
10 provided for in the preceding section, unless the same is earlier
11 redeemed by its owner.

12 § 3. Subdivisions 3, 4 and 5 of section 374 of the agriculture and
13 markets law are renumbered subdivisions 6, 7 and 8 and three new subdi-
14 visions 3, 4 and 5 are added to read as follows:

15 3. a. Except as provided in subdivision four of this section, euthana-
16 sia of animals pursuant to this section shall be accomplished solely by
17 means of injection of sodium pentobarbital or sodium pentobarbital
18 solution administered by a certified euthanasia technician, a licensed
19 veterinarian or a licensed veterinary technician. Euthanasia by intra-
20 cardiac injection of sodium pentobarbital or sodium pentobarbital
21 solution shall be performed only upon animals that are heavily sedated,
22 anesthetized, or comatose. However, only a licensed veterinarian may
23 perform euthanasia by intracardiac injection of sodium pentobarbital or
24 sodium pentobarbital solution upon animals that are not heavily sedated,
25 anesthetized or comatose and only when such licensed veterinarian deter-
26 mines that such intracardiac injection is the most humane option avail-
27 able. Whenever a cardiac injection of sodium pentobarbital or sodium
28 pentobarbital solution is administered by a licensed veterinarian upon
29 an animal that is not heavily sedated, anesthetized or comatose, such
30 veterinarian must document, in writing, the administration of such
31 injection and the reason for its administration. Such documentation
32 shall be retained for at least three years. Under no circumstances shall
33 intracardiac injection be performed on animals that are not heavily
34 sedated, anesthetized or comatose where such animals are under the care
35 of any duly incorporated society for the prevention of cruelty to
36 animals, animal shelter, humane society or pound.

37 b. No animal shall be left unattended between the time that the eutha-
38 anasia procedure begins and the time when death is confirmed. The body
39 of a euthanized animal shall not be disposed of in any manner until
40 death is confirmed by a licensed veterinarian, a certified euthanasia
41 technician or a licensed veterinary technician. Violations of this
42 paragraph shall be punishable by a civil penalty of not more than five
43 hundred dollars.

44 The department of health shall promulgate regulations deemed necessary
45 for implementation of the provisions of this subdivision, including
46 regulations governing the training and certification of certified eutha-
47 nasia technicians.

48 4. a. Any method of euthanasia other than that provided for in subdi-
49 vision three of this section is prohibited except that euthanasia of an
50 animal by gunshot is permissible as an emergency measure for an animal
51 that is posing an imminent threat of serious physical injury to a person
52 or to another animal as provided in section one hundred twenty-one-a of
53 this chapter and where the use of a humane method of euthanasia
54 prescribed in this section is rendered impossible or where a severely
55 injured animal is suffering and cannot otherwise be aided.

1 b. Within ninety days of the effective date of this subdivision, any
2 chamber used to induce hypoxia by means of a lethal gas shall be disman-
3 tled, rendered inoperable and beyond repair, and removed from the prem-
4 ises. Violations of this paragraph shall be punishable by a civil
5 penalty of not more than five hundred dollars.

6 5. No person shall release any dog or cat from the custody or control
7 of any pound, shelter, society for the prevention of cruelty to animals,
8 humane society, dog protective association, dog control officer, peace
9 officer or any agent thereof, for any purpose except adoption or redemp-
10 tion by its owner. Notwithstanding the penalties set forth in paragraph
11 b of subdivision three of this section and paragraph b of subdivision
12 four of this section, any violation of this subdivision, subdivision
13 two, three or four of this section, shall constitute a misdemeanor and
14 shall be punishable by imprisonment for not more than one year, or by a
15 fine of not more than one thousand dollars, or by both.

16 § 4. Paragraphs b and e of subdivision 8 of section 374 of the agri-
17 culture and markets law, as added by chapter 569 of the laws of 1995 and
18 such subdivision as renumbered by section three of this act, are amended
19 to read as follows:

20 b. Pursuant to the provisions of subdivisions [two-a, two-b, two-c and
21 two-d] two, three, four and five of this section, no dog or cat in the
22 custody of a duly incorporated society for the prevention of cruelty to
23 animals, a duly incorporated humane society or its authorized agents
24 thereof, or a pound or shelter, shall be sold, transferred or otherwise
25 made available to any person for the purpose of research, experimenta-
26 tion or testing. No authorized agent of a duly incorporated society for
27 the prevention of cruelty to animals, nor of a duly incorporated humane
28 society, shall use any animal placed in its custody by the duly incorpo-
29 rated society for the prevention of cruelty to animals or duly incorpo-
30 rated humane society for the purpose of research, experimentation or
31 testing.

32 e. A duly incorporated society for the prevention of cruelty to
33 animals or a duly incorporated humane society in charge of animals
34 forfeited pursuant to paragraph a of this subdivision may, in its
35 discretion, lawfully and without liability, adopt them to individuals
36 other than the convicted person or person dwelling in the same household
37 who conspired, aided or abetted in the unlawful act which was the basis
38 of the conviction, or who knew or should have known of the unlawful act,
39 or humanely dispose of them according to the provisions of subdivisions
40 [two-a, two-b, two-c, and two-d] two, three, four and five of this
41 section.

42 § 5. Section 332 of the agriculture and markets law, as amended by
43 chapter 674 of the laws of 1980, is amended to read as follows:

44 § 332. Disposition. Any person having in his care, custody, or control
45 any abandoned animal, as defined in section three hundred thirty-one of
46 this [chapter] article, may deliver such animal to any [humane society
47 or] duly incorporated society for the prevention of cruelty to animals
48 having facilities for the care and eventual disposition of such animals,
49 or, in the case of dogs, cats and other small animals, to any pound
50 maintained by or under contract or agreement with any county, city,
51 town, or village within which such animal was abandoned. The person with
52 whom the animal was abandoned shall, however, on the day of divesting
53 himself of possession thereof, notify the person who had placed such
54 animal in his custody of the name and address of the animal society or
55 pound to which the animal has been delivered, such notice to be by
56 registered letter mailed to the last known address of the person

1 intended to be so notified. If an animal is not claimed by its owner
2 within five days after being so delivered to such [humane society or]
3 duly incorporated society for the prevention of cruelty to animals, or
4 pound, such animal may at any time thereafter be placed for adoption in
5 a suitable home or euthanized in accordance with the provisions of
6 section three hundred seventy-four of this chapter. In no event, howev-
7 er, shall the use of a decompression chamber or decompression device of
8 any kind be used for the purpose of destroying or disposing of such
9 animal.

10 § 6. Subdivisions 7 and 7-a of section 118 of the agriculture and
11 markets law, subdivision 7 as amended by chapter 645 of the laws of 1988
12 and subdivision 7-a as amended by chapter 619 of the laws of 1987, are
13 amended to read as follows:

14 7. An owner shall forfeit title to any dog unredeemed at the expira-
15 tion of the appropriate redemption period, and the dog shall then be
16 made available for adoption or euthanized subject to subdivisions six,
17 eight and nine of this section and subject to the provisions [of subdivi-
18 sions two-a, two-b, two-c, two-d, and two-e] of section three hundred
19 seventy-four of this chapter. Provided that no dog in the custody of a
20 pound or shelter shall be delivered for adoption unless it has been
21 licensed pursuant to the provisions of this article prior to its release
22 from the custody of a pound or shelter. Any municipality may by local
23 law or ordinance establish additional conditions for adoption including
24 the requirement that adopted dogs shall be spayed or neutered before or
25 after release from custody upon such terms and conditions as the munici-
26 pality may establish.

27 7-a. Any dog or cat in the custody of a pound or shelter shall be made
28 available for adoption or euthanized subject to subdivisions six, eight
29 and nine of this section and subject to the provisions [of subdivisions
30 two-a, two-b, two-c, two-d, and two-e] of section three hundred seven-
31 ty-four of this chapter after the time for redemption has expired.

32 § 7. This act shall take effect on the three hundred sixty-fifth day
33 after it shall have become a law.