

States' Animal Cruelty Statutes: New York

Current through L.2019, chapter 758 and L.2020, chapters 1 to 347.

§ 107. Application

1. This article shall apply to all areas of the state except any city having a population of over two million.
2. In the event that any dog owned by a resident of any city having a population of over two million or by a non-resident of this state is harbored within this state outside of any such city, the licensing municipality in which such animal is harbored may exempt such dog from the identification and licensing provisions of this article for a period of thirty days provided such dog is licensed pursuant to the provisions of law of the area of residence.
3. This article shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.
4. This article shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act.
5. Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed. Notwithstanding the provisions of subdivision one of this section, this subdivision and sections one hundred twenty-three, one hundred twenty-three-a and one hundred twenty-three-b of this article shall apply to all municipalities including cities of two million or more.
6. Nothing contained in this article shall be construed to prohibit a county from administering a dog licensing program for the municipalities within its jurisdiction.

§ 116. Spaying and neutering facilities authorized

1. Any municipality may, by local law or ordinance, provide for the establishment and operation of a facility to provide services for the alteration of the reproductive capacity through spaying or neutering of dogs and cats owned by the residents thereof.
2. Any animal which is presented at such facility for alteration must be accompanied by a notarized authorization signed by the owner thereof consenting to such alteration and agreeing to hold the municipality, its agents, servants and employees harmless for any damages arising therefrom or incidental thereto.
3. Any municipality enacting a local law or ordinance as authorized by this section shall further provide for the regulation of such facility with respect to the terms and conditions, including compensation, under which any animal will be maintained while the animal remains in the custody of the facility.

4. In no event shall any of the moneys or fees derived from, or collected pursuant to, the provisions of this article except as provided in subdivision three of section one hundred ten of this article and section one hundred seventeen-a of this article be used to subsidize the spaying or neutering of cats.

§ 117. Seizure of dogs; redemption periods; impoundment fees; adoption

1. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality shall seize:

- (a) any dog which is not identified and which is not on the owner's premises;
- (b) any dog which is not licensed, whether on or off the owner's premises;
- (c) any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is dangerous; and
- (d) any dog which poses an immediate threat to the public safety.

Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision two of section one hundred twenty-three of this article.

2. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality may seize any dog in violation of any local law or ordinance relating to the control of dogs, adopted by any municipality pursuant to the provisions of this article.

3. Each dog seized in accordance with the provisions of this article shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

4. Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this article and further provided that the owner pays the following impoundment fees:

- (a) not less than ten dollars for the first impoundment of any dog owned by that person;
- (b) not less than twenty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or
- (c) not less than thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

5. All impoundment fees shall be the property of the municipality to which they are paid and shall be used only for controlling dogs and enforcing this article and any rule, regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under section one hundred sixteen of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

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.

7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then 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. 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 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 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. 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.

10. The seizure of any dog shall not relieve any person from any violation provided for by section one hundred eighteen of this article.

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.

§ 117-a. Animal population control program

1. The commissioner shall submit a request for proposals from not-for-profit entities as described herein for the purpose of administering a state animal population control program. The entity chosen to administer such program shall enter into a contract with the state for a term of five years, which may be renewed subject to the approval of the commissioner. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing incidence of euthanasia and potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision three of this section. For purposes of this section, "low-cost" shall mean substantially less than the average cost in a particular region of the state for spaying or neutering services, including any and all ancillary changes¹ for services, including but not limited to, presurgical examinations, tests and immunizations, and other services related to the spay or neuter procedure. All veterinary services provided pursuant to this section must be performed by a veterinarian licensed in this state.

2. Eligible not-for-profit entities shall consist of duly incorporated societies for the prevention of cruelty to animals, duly incorporated humane societies, duly incorporated animal protective associations, or duly incorporated non-profit corporations that have received designation as 501(c)(3) entities by the Internal Revenue Service and which entities are operating as animal rescue organizations, animal adoption organizations, spay/neuter clinics, or other entities whose core mission predominantly includes statewide efforts to manage the companion animal population in New York state. In awarding the contract, the commissioner must consider the following criteria with respect to each applicant: its experience in providing low-cost spay-neuter services, the scope of services it provides, the length of time it has been operating, its financial history, its demonstrated ability to work with outside organizations and community groups, and the proposed cost of administering and promoting the program. In choosing such entity, the commissioner may establish other criteria for making his or her selection in consultation with veterinarians, representatives from animal advocacy and welfare organizations, and municipalities. The selection of the administrative entity overseeing the state animal population control fund must be completed no later than December thirty-first, two thousand ten.

(a) The administrative entity chosen by the commissioner shall review plans submitted for approval and funding of low-cost spay-neuter programs and award grants for the animal population control fund for implementation of such plans. In reviewing the plans, the entity shall consider the following criteria: the method of providing low-cost spay-neuter services, including an anticipated fee schedule for such services, the size and need of the population served, the plan for outreach and promotion of such services, experience in providing low-cost spay-neuter services and cost-effectiveness of the overall plan. In awarding grants, the entity shall use best efforts to provide statewide distribution of funding.

(b)(i) Upon approving a plan submitted pursuant to this section, the administrative entity shall award a grant for the creation and implementation of such plan.

(ii) Upon approving a plan submitted for approval and funding of all other spay-neuter programs, the administrative entity shall award grants for the ongoing administration of low-cost spay-neuter services. Payments against such grants shall be advanced quarterly. Any remaining funds at the end of the grant period shall be remitted to the animal population control fund.

(iii) Any grants made pursuant to this section may be discontinued if it is found by the administrative entity that funds previously disbursed were not used for their intended purpose or that services performed were not provided according to the terms and conditions as the administrative entity shall provide.

(c) An administrative entity selected pursuant to this section shall use proceeds from the animal population control fund to pay for reasonable expenses incurred in operating the low-cost spay-neuter program, but is hereby authorized to solicit funds from other public and private sources.

(d) Such administrative entity shall submit an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, and the commissioner. Such report shall include but not be limited to the balance of the fund, annual expenditures, annual income, the number of entities receiving funding and the amount received by each entity, the total number and type of low-cost spay-neuter services provided by each entity, the method of providing such services by each entity, the expenditure made for promoting the fund and description of marketing efforts, and recommendations regarding the implementation and financial viability of the fund.

(e) The administrative entity shall perform such other tasks as may be reasonable and necessary for the administration of such fund.

(f) If the administrative entity cannot perform its obligations pursuant to its contract, or if it is determined by the commissioner that it is not performing its obligations in a satisfactory manner, the commissioner may cancel such contract and issue another request for proposals from other entities to administer the program.

3. In order to be eligible to participate in the animal population control program, and therefore, be entitled to the low-cost spay/neuter services provided for herein, an owner of a dog or cat shall be a resident of New York state and shall submit proof to the entity providing such services as follows:

(a) in the form of an adoption agreement that their dog or cat was adopted from a pound, shelter maintained by or under contract or agreement with the state or any county, city, town, or village, duly incorporated society for the prevention of

cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association; or

(b) proof of participation in at least one of the following:

(i) the food stamp program authorized pursuant to 7 U.S.C. 2011, et seq.;

(ii) the supplemental security income for the aged, blind and disabled program authorized pursuant to 42 U.S.C. 1381 et seq.;

(iii) the low-income housing assistance program authorized pursuant to 42 U.S.C. 1437(f);

(iv) the Family Assistance program authorized pursuant to title ten of article five of the social services law;²

(v) the Safety Net Assistance program authorized pursuant to title three of article five of the social services law;³

(vi) the program of Medical Assistance authorized pursuant to title eleven of article five of the social services law;⁴ or

(vii) other similar programs identified by the administrative entity and approved by the commissioner; and

(c) in any city, town, village, or county which has enacted a local law or ordinance requiring spay/neuter of all dogs and cats prior to adoption from shelters, pounds, duly incorporated societies for the prevention of cruelty to animals, humane societies and duly incorporated dog or cat protective associations within such city, town, village or county, eligibility for participation in the animal population control program shall be determined based solely on the provisions of paragraph (b) of this subdivision.

4. Notwithstanding the provisions of paragraph (a) of subdivision three of this section, no resident, otherwise qualified pursuant to such paragraph, shall be entitled to participate in the low cost spay/neuter program implemented by this section if the animal to be spayed or neutered:

(a) was imported or caused to be imported from outside the state;

(b) was adopted from an otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association which included the cost of a spaying or neutering procedure in the cost of the adoption.

5. Any county is hereby authorized to establish and implement an animal population control program within its jurisdiction. Any county creating its own program may submit a plan to the administrative entity for such program for approval and to receive funding from the animal population control program. Such plan shall include but not be limited to the criteria described in paragraph (a) of subdivision two of this section.

6. Any county which has created its own program, which has been approved by the administrative entity pursuant to this section, may receive the funds collected by the

municipalities within the county pursuant to subdivision three of section one hundred nine of this article and subdivision three of section one hundred ten of this article for the sole purpose of administering such animal population control program. Such county program shall be subject to this article and the terms and conditions of the animal population control program, as may be amended from time to time.

7. Any municipality within a county that does not have its own program approved by the administrative entity pursuant to subdivision two of this section must submit the funds collected pursuant to subdivision three of section one hundred ten of this article to the animal population control fund pursuant to section ninety-seven-xx of the state finance law.

8. In the absence of a county animal population control program, entities described below within such county may, pursuant to subdivision two of this section, apply for funds from the animal population control fund described in section ninety-seven-xx of the state finance law for the sole purpose of providing low-cost spay and neuter services in their service area. In the event that the service area of an entity encompasses two or more counties, such entity may apply and receive funding from the animal population control fund to serve such portion of their service area that is not covered by an existing county animal population control program. Such entities shall include pounds, duly incorporated societies for the prevention of cruelty to animals, duly incorporated humane societies, duly incorporated animal protective associations and duly incorporated nonprofit corporations that have received designation as a 501(c)(3) organization by the Internal Revenue Service, which entities are operating as animal rescue or adoption organizations. Any such entity must also be in good standing with the charities bureau of the office of the attorney general and with the secretary of state.

9. The administrative entity shall establish reporting requirements for any entity awarded funding through the animal population control program, and any other protocols necessary to ensure appropriate and effective use of monies disbursed pursuant to this section.

§ 118. Violations

1. It shall be a violation, punishable as provided in subdivision two of this section, for:

- (a) any owner to fail to license any dog;
- (b) any owner to fail to have any dog identified as required by this article;
- (c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service, therapy or hearing dogs or purebred license tag;
- (d) any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;
- (e) any person to furnish any false or misleading information on any form required to be filed with any municipality pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto;

(f) the owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog;

(g) any owner of a dog to fail to notify the municipality in which his or her dog is licensed of any change of ownership or address as required by section one hundred twelve of this article.

2. It shall be the duty of the dog control officer of any municipality to bring an action against any person who has committed within such municipality any violation set forth in subdivision one of this section. Any municipality may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.

A violation of this section shall be punishable, subject to such an election, either:

(a) where prosecuted pursuant to the penal law, by a fine of not less than twenty-five dollars, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars or imprisonment for not more than fifteen days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty-five dollars, except that (i) when the person was found to have violated this section or this article within the preceding five years, the civil penalty may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than one hundred dollars.

3. A defendant charged with a violation of any provision of this article or any local law or ordinance promulgated pursuant thereto may plead guilty to the charge in open court. He or she may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he or she waives arraignment in open court and the aid of counsel, (b) that he or she pleads guilty to the offense charged, (c) that he or she elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he or she desires to make concerning the offense charged, and (e) that he or she makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

4. Any person who intentionally refuses, withholds, or denies a person, because he or she is accompanied by an on-duty police work dog, working search, war, or detection

dog as defined in section one hundred eight of this article, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to two hundred dollars for the first violation and up to four hundred dollars for each subsequent violation.

5. Any person who for the purpose of participating in the animal population control program shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure pursuant to section one hundred seventeen-a of this article, and any veterinarian who shall furnish false information concerning animal sterilization fees shall be guilty of a violation punishable by a fine of not less than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

§ 119. Disposition of fines

Notwithstanding any other provision of law, all moneys collected as fines or penalties by any municipality as a result of any prosecution for violations of the provisions of this article or any local law or ordinance and all bail forfeitures by persons charged with such violations shall be the property of the municipality and shall be paid to the financial officer of such municipality. Such moneys shall be used only for controlling dogs and enforcing this article and any rule, regulation, or local law or ordinance adopted pursuant thereto, including subsidizing the spaying or neutering of dogs and any facility as authorized under section one hundred sixteen of this article used therefor, and subsidizing public humane education programs in responsible dog ownership.

§ 120. Protection of deer

1. Whenever the governing body of any municipality shall determine that the deer population in the municipality or part thereof is suffering severe depredation due to dogs attacking, chasing or worrying deer, such governing body may by order require that all dogs in such municipality or part thereof shall be securely confined during the period of time designated in the order or, if no time is designated, until the order is revoked.

2. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order. Such order shall be in full force and effect at the expiration of twenty-four hours following publication of such notice.

3. If any dog is not confined as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize such dog. Any dog so seized shall be subject to the provisions of section one hundred eighteen of this article. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

4. If any dog, which is not confined as required by such order, shall attack, chase or worry any deer, any dog control officer, peace officer, acting pursuant to his special

duties, or police officer upon witnessing the same, shall destroy, or seize and destroy, such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

5. If any dog shall kill or cripple any deer, the owner shall be subject to a civil penalty in the amount of one hundred dollars for the first deer killed or crippled by the dog or by the pack of dogs, if any, of which the dog was a member, and in the amount of one hundred fifty dollars for each additional deer killed or crippled, to be recovered in an action brought by the commissioner of environmental conservation on behalf of the people of the state of New York.

6. This section and any order issued pursuant thereto shall not apply to dogs in special dog training areas or shooting preserves enclosed and licensed pursuant to the provisions of the environmental conservation law, while such dogs are under the control of the owner or trainer.

§ 123-b. Offenses against service animals and handlers

1. Definitions. For purposes of this section:

(a) "Service animal" shall mean any animal that has been partnered with a person who has a disability and has been trained or is being trained, by a qualified person, to aid or guide a person with a disability.

(b) "Disability" shall have the same meaning as provided in section two hundred ninety-two of the executive law.

(c) "Handler" shall mean a disabled person using a service animal.

(d) "Formal training program" or "certified trainer" shall mean an institution, group or individual who has documentation and community recognition as a provider of service animals.

2. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal shall be subject to a civil penalty not to exceed one thousand dollars in addition to any other applicable penalties.

3. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal, where the animal causing such injury has previously been determined to be dangerous pursuant to this article, shall be guilty of a violation punishable by a fine of not more than two thousand dollars, or by a period of imprisonment not to exceed fifteen days, or by both such fine and imprisonment in addition to any other applicable penalties.

4. The handler of the service animal incapacitated, injured or killed shall have the right to pursue any and all civil remedies available to recover damages for medical and veterinary expenses, rehabilitation or replacement of the service animal, and lost wages,

transportation expenses or other expenses directly related to the temporary or permanent loss of the service animal.

§ 173. Eradication of bee diseases and certain insects affecting bees

The commissioner may cause inspections to be made of apiaries in the state for the discovery of infectious, contagious or communicable diseases and for the discovery of insects and parasitic organisms adversely affecting bees, and for the discovery of species or subspecies of bees which have been determined by him to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants. He may also cause investigations to be made as to the best method for the eradication of diseases of bees, insects or parasitic organisms adversely affecting bees, or for the eradication of species or subspecies of bees which have been determined by him to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants and he may plan and execute appropriate methods for such eradication.

The commissioner shall have access to all apiaries, structures, appliances or premises where bees or honey or comb used in apiaries may be. He may open any hive, colony, package or receptacle of any kind containing or which he has reason to believe contains any bees, comb, bee products, used beekeeping appliances, or anything else which is capable of transmitting contagious or infectious diseases of bees or which is capable of harboring insects or parasitic organisms adversely affecting bees, or species or subspecies of bees which have been determined by him to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants.

§ 174. Keeping of diseased and banned bees prohibited; existence of disease to be reported

1. No person shall keep in his possession or under his care any colony of bees affected with a contagious or infectious disease or infested by insects or parasitic organisms adversely affecting bees, or by species or subspecies of bees which have been determined by the commissioner to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants. Any person who knows that any bees owned or controlled by him are affected with, or have been exposed to, any contagious or infectious disease, insects or parasitic organisms adversely affecting bees, or by species or subspecies of bees which have been determined by the commissioner to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants, shall at once report such fact to the commissioner, stating all facts known to him with reference to said contagion, infection, or exposure.

2. No person shall hide or conceal any bees or used beekeeping equipment from the inspector or give false information in any manner pertaining to this article. No person shall resist, impede or hinder the commissioner or his duly authorized representatives in the discharge of his or their duties.

3. Whenever the commissioner or his duly authorized representatives shall determine that any colony of bees, bee material, structures or appliances is infected with, or has been exposed to, contagious or infectious diseases of bees, or is infested with or has been exposed to insects or parasitic organisms adversely affecting bees, or to species or subspecies of bees which have been determined by the commissioner to cause injury,

directly or indirectly, to this state's useful bee population, crops, or other plants, said colonies of bees and material, structures or appliances shall be immediately placed under quarantine and a written notice thereof shall be served on the owner or caretaker. No person shall move, tamper with, handle, or otherwise disturb or molest or cause to be moved, tampered with, handled, or otherwise disturbed or molested any colonies, materials, or appliances so quarantined without a written permit from the commissioner or his duly authorized representatives.

4. All species and subspecies of bees which have been determined by the commissioner to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants and all bees, beehives, bee fixtures or appurtenances infected with, or exposed to, contagious or infectious diseases of bees, or infested with, or exposed to, insects or parasitic organisms adversely affecting bees, or with or to species or subspecies of bees which have been determined by him to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants, are hereby declared to be nuisances to be abated as hereinafter described.

5. If any inspection made by the commissioner or his duly authorized representative discloses that any apiary, appliances, structures, colonies or comb constitute a nuisance within the meaning of this section, the commissioner or his duly authorized representatives may with the co-operation and consent of the owner or person in charge immediately proceed to abate the nuisance by destroying or treating such colonies and equipment, or he may order the owner or person in charge to destroy or treat such colonies or equipment as may be deemed advisable. In case the owner or person in charge will not consent to the abatement of the nuisance by immediate destruction or treatment, the commissioner or his duly authorized representative shall notify in writing the owner, occupant or person in charge of the premises that such nuisance exists and order that the same be abated within five days after a date which shall be specified in said order. Such order shall contain directions setting forth the method or methods which shall be taken to abate the nuisance and shall be served upon the owner, occupant or person in charge of the premises either personally or by registered or certified mail.

6. If the order directs the destruction of any bees, hives, fixtures or appurtenances and the owner thereof considers himself to be aggrieved thereby, he may, within five days from the receipt of the order, present to the commissioner a request for a review. Written notice of such request must be served by mail upon the commissioner. Upon receipt of such notice, the commissioner shall cause an investigation to be made. The request for a review shall act to stay all proceedings until the matter has been investigated and a final determination rendered by the commissioner. During the time specified in the order and during any extended time permitted by reason of such review the quarantined colonies and equipment shall not be removed, molested or tampered with except by written permission of the commissioner or his duly authorized representative. No damage shall be awarded to the owner for the loss of any apiary, bees, hives, apiary appliance, or bee product destroyed under the provisions of this section or any regulation or order made in pursuance thereof.

7. Persons keeping bees shall keep them in hives of such construction that the frames and combs may be easily removed without damaging them for examination of the brood for the purpose of determining whether disease exists in the brood.

8. No person shall expose in any place to which bees have access any bee product, hive or other apiary appliance in such manner that contagious or infectious diseases of bees may be disseminated therefrom.

9. The commissioner may promulgate rules and regulations to establish appropriate tolerance levels for insects or parasitic organisms adversely affecting bees within hives, fixtures, structures or appurtenances. Beehives conforming with such established tolerance levels shall not be considered nuisances under this section. If upon inspection a hive is found to exceed such tolerance levels, the commissioner may consider such apiary to be a nuisance and may order the destruction or treatment of the apiary as set forth in subdivisions four, five and six of this section.

§ 175. Transportation of bees and bee material

1. No person shall transport, move, sell, barter, offer for sale or barter, deliver, or offer for transportation any colony of bees, used comb, used beekeeping material, or live bees unless it be within the beekeeper's own premises without a permit from the commissioner, except that colonies of bees and used beekeeping equipment which are not infected with or have not been exposed to bee disease, and which are not infested with and have not been exposed to insects or parasitic organisms adversely affecting bees, or to species or subspecies of bees which have been determined by the commissioner to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants may be moved or transported without a permit provided that the commissioner has been notified in writing of such intention not less than ten days before the bees and equipment are moved.

2. No person shall transport, move, buy, sell, possess, barter, offer for sale or barter, deliver, or offer for transportation any species or subspecies of bees which have been determined by the commissioner to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants, provided, that the commissioner may at his discretion exempt the transportation, sale, possession, movement, or delivery of such bees for scientific or educational purposes under such safeguards as he may deem necessary.

3. Every shipment of live bees in cages or packages without comb into this state from another state or foreign country, shall be accompanied by a permit issued by the commissioner, or by a certificate of freedom from disease executed by an official of such state or foreign country recognized by the commissioner.

4. Every shipment of a colony of bees, used comb, used beekeeping equipment, or live bees on comb into this state from another state or foreign country, shall be accompanied by a permit issued by the commissioner or by a certificate of freedom from disease, from insects and parasitic organisms adversely affecting bees and from species or subspecies of bees which have been determined by the commissioner to cause injury directly or indirectly, to this state's useful bee population, crops or other plants and certifying that a proper inspection was made not earlier than sixty days preceding the date of shipment. Such certificate shall be executed by an official of such state or foreign country recognized by the commissioner. A duplicate of such certificate shall be mailed to the commissioner before any such shipment enters this state. Every transportation

company upon receipt of such shipment shall immediately notify the commissioner thereof, giving the name and address of the consignor and consignee.

§ 175-b. Rules and regulations

The commissioner is hereby authorized, after public hearing, to adopt, promulgate and issue such rules and regulations as he may deem necessary to carry out and give full force and effect to the provisions of this article, including, but not limited to, the designation of species or subspecies of bees determined by him to cause injury, directly or indirectly, to this state's useful bee population, crops, or other plants. Such rules and regulations shall be filed and open for public inspection at the principal office of the department and shall have the force and effect of law.

§ 175-c. Review by court

The action of the commissioner on a request for review as authorized by section one hundred seventy-five¹ herein may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules, provided, however, that a stay shall not be granted by the court or a justice thereof pending final determination of the matter except on notice to the commissioner. The decision of the commissioner shall be final unless within thirty days from the receipt of written notice thereof a proceeding is instituted to review the same.

§ 175-d. Violations; remedies

The commissioner may institute such action at law or in equity as may be necessary to enforce compliance with any provision of this article or of any rule or regulation promulgated thereunder and in addition to any other remedy prescribed in article three of this chapter or otherwise may apply for relief by injunction if necessary to protect the public interest or abate a nuisance as defined in this article without alleging or proving that an adequate remedy at law does not exist. Such application may be made to the supreme court in any district or county as provided by the civil practice act and the rules of practice of the court, or to the supreme court in the third judicial district.

§ 175-m. Offering baby chicks for sale

Before any baby chicks are offered for sale at public auction or community sale, except baby chicks that have been duly entered and exhibited at public exhibitions, a permit shall be granted to offer such baby chicks for sale by the department of agriculture and markets as provided in this article. The term "baby chicks," as used in this article, means any domestic fowl under the age of six weeks.

§ 175-r. Violations

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars.

§ 331. Abandonment of certain animals

An animal is deemed to be abandoned when it is placed in the custody of a veterinarian, veterinary hospital, boarding kennel owner or operator, stable owner or operator, or any other person for treatment, board, or care and:

1. Having been placed in such custody for a specified period of time the animal is not removed at the end of such specified period and a notice to remove the animal within ten days thereafter has been given to the person who placed the animal in such custody, by means of registered letter mailed to the last known address of such person, or:
2. Having been placed in such custody for an unspecified period of time the animal is not removed within twenty days after notice to remove the animal has been given to the person who placed the animal in such custody, by means of a registered letter mailed to the last known address of such person.
3. The giving of notice as prescribed in this section shall be deemed a waiver of any lien on the animal for the treatment, board or care of the animal but shall not relieve the owner of the animal removed of his contractual liability for such treatment, board or care furnished.

§ 332. Disposition

Any person having in his or her care, custody, or control any abandoned animal, as defined in section three hundred thirty-one of this article, may deliver such animal to any duly incorporated society for the prevention of cruelty to animals or any duly incorporated humane society having facilities for the care and eventual disposition of such animals, or, in the case of dogs, cats and other small animals, to any pound maintained by or under contract or agreement with any county, city, town, or village within which such animal was abandoned. The person with whom the animal was abandoned shall, however, on the day of divesting himself or herself of possession thereof, notify the person who had placed such animal in his or her custody of the name and address of the animal society or pound to which the animal has been delivered, such notice to be by registered letter mailed to the last known address of the person intended to be so notified. If an animal is not claimed by its owner within five days after being so delivered to such duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or pound, such animal may at any time thereafter be placed for adoption in a suitable home or euthanized in accordance with the provisions of section three hundred seventy-four of this chapter. In no event, however, shall the use of a decompression chamber or decompression device of any kind be used for the purpose of destroying or disposing of such animal.

§ 350. Definitions

1. "Animal," as used in this article, includes every living creature except a human being;
2. "Torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.
3. "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.

4. "Farm animal", as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.

5. "Companion animal" or "pet" means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include a "farm animal" as defined in this section.

§ 351. Prohibition of animal fighting

1. For purposes of this section, the term "animal fighting" shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.

2. Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:

(a) For amusement or gain, causes any animal to engage in animal fighting; or

(b) Trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or

(c) Breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or

(d) Permits any act described in paragraph (a), (b) or (c) of this subdivision to occur on premises under his control; or

(e) Owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.

3. (a) Any person who engages in conduct specified in paragraph (b) of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed fifteen thousand dollars, or by both such fine and imprisonment.

(b) The owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting.

4. (a) Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment

(b) The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting is being conducted.

5. (a) Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a class B misdemeanor punishable by imprisonment for a period

not to exceed three months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator at any place where an exhibition of animal fighting is being conducted.

6. (a) Any person who intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting as defined in subdivision one of this section is guilty of a class B misdemeanor punishable by imprisonment for a period of up to ninety days, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in this subdivision after having been convicted within the previous five years of a violation of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) For purposes of this section, animal fighting paraphernalia shall mean equipment, products, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning or furtherance of animal fighting. Animal fighting paraphernalia includes the following:

(i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

(ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing places;

(iv) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;

(v) A fighting pit, which means a walled area, or otherwise defined area, designed to contain an animal fight;

(vi) Any other instrument commonly used in the furtherance of pitting an animal against another animal.

§ 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits

any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

§ 353-a. Aggravated cruelty to animals

1. A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which: (i) is intended to cause extreme physical pain; or (ii) is done or carried out in an especially depraved or sadistic manner.

2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.

3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.

§ 353-b. Appropriate shelter for dogs left outdoors

1. For purposes of this section:

(a) "Physical condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) "Inclement weather" shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.

(c) "Dogs that are left outdoors" shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2. (a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or

custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

§ 353-c. Electrocuting of fur-bearing animals prohibited

1. Notwithstanding any other provision of law, no person shall intentionally kill, or stun to facilitate the killing of, a fur-bearing animal by means of an electrical current. For the purpose of this section, "fur-bearing animal" means arctic fox, red fox, silver fox, chinchilla, mink, pine marten, muskrat, and those fur-bearing animals included within the provisions of section 11-1907 of the environmental conservation law.

2. A violation of subdivision one of this section is a class A misdemeanor.

§ 353-d. Confinement of companion animals in vehicles: extreme temperatures

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, peace officer acting as an agent of a duly incorporated humane society, emergency medical services personnel, paid firefighter, or volunteer firefighter who in the performance of such volunteer firefighter's duties are directed to respond to a call for assistance for such animal may take necessary steps to remove the animal or animals from the vehicle.

3. Police officers, peace officers, peace officers acting as agents of a duly incorporated humane society, emergency medical services personnel, paid firefighters, or volunteer firefighters who in the performance of such volunteer firefighters' duties or emergency medical services personnel are directed to respond to a call for assistance for such animal removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address and other contact information, if available, where the animal or animals will be taken.

4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.

5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.

6. Officers, emergency medical services personnel and firefighters shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.

7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

§ 353-e. Companion animal grooming facilities; prohibited practices

1. As used in this section:

(a) "Cage and box dryer" means a product that is attached to or near a cage or box for the purpose of drying or aiding in the drying of a companion animal contained in a cage or box, and which is capable of functioning without a person manually holding a dryer.

(b) "Companion animal grooming facility" means an establishment where a companion animal may be bathed, brushed, clipped or styled for a fee.

2. No person shall use a cage or box dryer which contains a heating element with the heating element turned on for the purpose of drying or aiding in the drying of a companion animal.

3. Any violation of this section shall be punishable by a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for each violation.

4. Nothing contained in this section shall limit or abrogate any claim or cause of action any person may have under common law or by statute. The provisions of this section shall be in addition to any such common law and statutory remedies.

§ 353-f. Companion animal piercing and tattooing prohibited

1. No person shall pierce or cause to have pierced a companion animal unless such piercing provides a medical benefit to the companion animal. Such piercing shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian. Nothing in this section shall be construed to apply to ear tags on rabbits and cavyes.

2. No person shall tattoo or cause to have tattooed a companion animal unless such tattoo:

(a) is done in conjunction with a medical procedure for the benefit of the companion animal and to indicate that such medical procedure has been done, provided that such tattoo is not for design purposes; or

(b) is done for the purpose of identification of the companion animal and not for design purposes, and such tattoo includes only such numbers and/or letters allotted by a corporation that, in the regular course of its business, maintains an animal tattoo identification registry.

3. For the purposes of this section, "tattoo" shall mean a mark on the body made with indelible ink or pigments injected beneath the outer layer of the skin.

4. Tattooing done in conjunction with a medical procedure for the benefit of a companion animal that indicates that such medical procedure has been done shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian.
5. Any person who knowingly violates the provisions of this section shall be guilty of a violation punishable pursuant to the penal law.

§ 354. Sale of baby chicks and baby rabbits

1. No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits unless such person provides proper brooder facilities where appropriate for the care of such baby chicks, ducklings or other fowl or baby rabbits during the time they are in the possession of such person. For the purposes of this section, a baby rabbit shall be a rabbit of less than two months of age.
2. No person shall sell, offer for sale, barter or display living baby chicks, ducklings or other fowl or baby rabbits which have been dyed, colored or otherwise treated so as to impart to them an artificial color.
 - 2-a. No provision of subdivision two shall be interpreted or applied to prevent or restrict teachers and qualified instructors of youth under the guidance and supervision of the New York state cooperative extension service from using eggs for non-profit educational purposes or from observing fowl hatched from such eggs for non-profit educational purposes.
3. No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits under two months of age in any quantity less than six.
4. A violation of the provisions of this section is a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both.

§ 355. Abandonment of animals

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

§ 356. Failure to provide proper food and drink to impounded animal

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall

not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

§ 357. Selling or offering to sell or exposing diseased animal

A person who willfully sells or offers to sell, uses, exposes, or causes or permits to be sold, offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the life or health of human beings, or animals, or which is diseased past recovery, or who refuses upon demand to deprive of life an animal affected with any such disease, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars or by both.

§ 358. Selling disabled horses

It shall be unlawful for any person holding an auctioneer's license knowingly to receive or offer for sale or to sell at public auction, other than at a sheriff's or judicial sale under a court order, any horse which by reason of debility, disease or lameness, or for any other cause, could not be worked in this state without violating the law against cruelty to animals. Any person violating any provision of this section shall be punishable by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

§ 358-a. Live animals as prizes prohibited

1. For the purposes of this section "livestock" shall mean any domesticated sheep, goat, horse, cattle or swine.
2. No person shall give or offer to give away as a prize, or exchange or offer to exchange for nominal consideration, any live animal other than purebred livestock or fish in any game, drawing, contest, sweepstakes or other promotion, except when any live animal is given away by individuals or organizations operating in conjunction with a cooperative extension education program or agricultural vocational program sanctioned by the state education department.
3. The commissioner shall promulgate rules and regulations which provide guidelines, conditions and requirements when any live animal is given away under the exceptions provided for in subdivision two of this section.
4. Any person who violates the provisions of this section shall be subject to civil penalty of not more than two hundred fifty dollars or in lieu thereof shall be guilty of a violation punishable solely by a fine of not more than two hundred fifty dollars.

§ 359. Carrying animal in a cruel manner

1. A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

2. A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by writing separate and apart from any printed bill of lading or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.

§ 359-a. Transportation of horses

1. Every vehicle utilized for the transportation of more than six horses shall meet the following requirements:

- a. The interiors of compartments containing horses shall be constructed of smooth materials, containing no sharp objects or protrusions which are hazardous;
- b. The floors shall be of such construction or covered with abrasive material so as to prevent horses from skidding or sliding;
- c. There shall be sufficient apertures to insure adequate ventilation;
- d. There shall be sufficient insulation or coverings to maintain an adequate temperature in the compartment containing horses;
- e. Partitions of sturdy construction shall be placed a maximum of ten feet apart in vehicles which do not have stalls;
- f. Doorways shall be of sufficient height to allow safe ingress and egress of each horse contained in the compartment;
- g. Each compartment containing horses shall be of such height so as to allow sufficient clearance above the poll and withers of each horse in the compartment;
- h. Ramps sufficient for loading and unloading horses shall be provided if the vertical distance from the floor of the compartment containing horses to the ground is greater than fifteen inches; and
- i. There shall be at least two doorways for ingress and egress, which shall not be on the same side.

2. Every vehicle utilized for the transportation of more than six horses over a highway shall have no more than one tier.

3. a. Transporting a horse in violation of this section shall be a violation punishable by a fine of not more than two hundred fifty dollars.

b. Any subsequent violation of this section on a date following a conviction under the provisions of this section shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.

4. The commissioner shall promulgate rules and regulations, including size specifications, and establish guidelines in order to facilitate compliance with the provisions of this section.

5. a. The term "horse" as used throughout this section shall apply to the entire family of equidae.

b. The term "vehicle" as used throughout this section shall apply to every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

6. The court in which a conviction under the provisions of this section is obtained, shall, within thirty days of such conviction, transmit a copy of the record of conviction to the department which shall maintain a record of such conviction for the purpose of identifying subsequent violations of this section.

§ 360. Poisoning or attempting to poison animals

A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal be the property of himself or another, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

§ 361. Interference with or injury to certain domestic animals

A person who willfully or unjustifiably interferes with, injures, destroys or tampers with or who willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse, mule, dog or any other domestic animal used for the purposes of racing, breeding or competitive exhibition of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any act tending to produce such interference, injury, destruction or tampering, whether such horse, mule, dog or other domestic animal be the property of himself or another, is guilty of a felony.

§ 362. Throwing substance injurious to animals in public place

A person who willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

§ 363. Unauthorized possession of dogs presumptive evidence of larceny

The unauthorized possession of a dog or dogs, by any person not the true owner, for a period exceeding ten days, without notifying either the owner, the local police authorities, or the superintendent of the state police at Albany, New York, of such possession, shall be presumptive evidence of larceny.

§ 364. Running horses on highway

A person driving any vehicle upon any plank road, turnpike or public highway, who unjustifiably runs the horses drawing the same, or causes or permits them to run, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both.

§ 365. Clipping or cutting the ears of dogs

1. Whoever clips or cuts off or causes or procures another to clip or cut off the whole or any part of an ear of any dog unless an anesthetic shall have been given to the dog and the operation performed by a licensed veterinarian, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or a fine of not more than one thousand dollars, or by both.

2. The provisions of this section shall not apply to any dog or person who is the owner or possessor of any dog whose ear or a part thereof has been clipped or cut off prior to September first, nineteen hundred twenty-nine.

3. Each applicant for a dog license must state on such application whether any ear of the dog for which he applies for such license has been cut off wholly or in part.

4. Nothing herein contained shall be construed as preventing any dog whose ear or ears shall have been clipped or cut off wholly or in part, not in violation of this section, from being imported into the state exclusively for breeding purposes.

§ 366. Companion animal stealing

It shall be unlawful for any person:

1. To remove or cause to be removed the collar, identification tag or any other identification by which the owner may be ascertained from any dog, cat or any other companion animal as defined in subdivision five of section three hundred fifty of this chapter, or to entice any identified dog, cat or other such companion animal into or out of any house or enclosure for the purpose of removing its collar, tag or any other identification, except with the owner's permission;

2. To entice, seize or molest any companion animal, while it is being held or led by any person or while it is properly muzzled or wearing a collar with an identification tag attached, except where such action is incidental to the enforcement of some law or regulation;

3. To transport any companion animal, not lawfully in his possession, for the purpose of killing or selling such companion animal.

Any person violating any of the provisions of this section, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not to exceed six months, or by both.

§ 366-a. Removing, seizing or transporting dogs for research purposes

It shall be unlawful for any person:

1. To remove, seize or transport or cause to remove, seize or transport any dog which belongs to or is licensed to another for the purpose of sale, barter or to give away said dog to a laboratory, hospital, research institute, medical school or any agency or organization engaged in research activity, without the express written permission of the owner or licensee.

2. Any person who violates the provision of this section, upon conviction thereof, shall be guilty of a misdemeanor, and is punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both.

§ 367. Leaving state to avoid provisions of this article

A person who leaves this state with intent to elude any of the provisions of this article or to commit any act out of this state which is prohibited by them or who, being a resident of this state, does any act without this state, pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed within this state.

§ 368. Operating upon tails of horses unlawful

1. 1. Any person who cuts the bone, tissues, muscles or tendons of the tail of any horse, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or who assists in or is voluntarily present at such cutting, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars or by both. If a horse is found with the bone, tissues, muscles or tendons of its tail cut as aforesaid and with the wound resulting therefrom unhealed, upon the premises or in the charge and custody of any person, such fact shall be prima facie evidence of a violation of this section by the owner or user of such premises or the person having such charge or custody, respectively.

2. Any person who shows or exhibits at any horse show or other like exhibition in this state a horse, mare or gelding, the tail of which has been cut or operated upon in the manner referred to in section one hereof, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both; provided that the provisions of this section shall not apply with respect to an animal the tail of which has been so cut or operated upon, if the owner thereof furnishes to the manager or other official having charge of the horse show or exhibition at which such animal is shown or exhibited an affidavit by the owner, or a licensed veterinarian, in a form approved by the state department of agriculture and markets, stating either that the tail of such horse was so cut prior to June first, nineteen hundred sixty-four, or that it was so cut in a state wherein such cutting was not then

specifically prohibited by the laws thereof. Said affidavit shall, to the best of affiant's knowledge, information and belief, identify the animal with respect to sex, age, markings, sire and dam, and state either that the cutting was done prior to June first, nineteen hundred sixty-four, or the time and place of such cutting and the name and address of the person by whom performed. The affidavit shall be subject to inspection at all reasonable times by any peace officer, acting pursuant to his special duties, or police officer of this state, or by a designated representative of the commissioner. In lieu of furnishing such affidavit to the manager or other official having charge of such horse show or exhibition, the owner of such horse may specify on the entry blank for the horse show or exhibition the name and address of a central registry office designated by the state department of agriculture and markets where such an affidavit has already been filed and is available for inspection.

§ 369. Interference with officers

Any person who shall interfere with or obstruct any constable or police officer or any officer or agent of any duly incorporated society for the prevention of cruelty to animals in the discharge of his duty to enforce the laws relating to animals shall be guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

§ 370. Protection of the public from attack by wild animals and reptiles

Any person owning, possessing or harboring a wild animal or reptile capable of inflicting bodily harm upon a human being, who shall fail to exercise due care in safeguarding the public from attack by such wild animal or reptile, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both. "Wild animal" within the meaning of this section, shall not include a dog or cat or other domestic animal.

Previous attacks upon a human being by such wild animal or reptile, or knowledge of the vicious propensities of such wild animal or reptile, on the part of the possessor or harbinger thereof, shall not be required to be proven by the people upon a prosecution hereunder; and neither the fact that such wild animal or reptile has not previously attacked a human being, nor lack of knowledge of the vicious propensities of such wild animal or reptile on the part of the owner, possessor or harbinger thereof shall constitute a defense to a prosecution hereunder.

§ 371. Powers of peace officers

A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.

§ 372. Issuance of warrants upon complaint

Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

§ 373. Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.

1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.

2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.

3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.

4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

6. a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges, or within a reasonable time thereafter, the duly incorporated society for the prevention of 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 been filed requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. 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 for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b. (1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney acting on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.

(3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane

society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement

officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

§ 374. Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept

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.

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 after five days make available for adoption or have 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, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its 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.

2-a to 2-e. Repealed by L.2009, c. 479, § 1, eff. Oct. 9, 2010.

3. a. Except as provided in subdivision four of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be

performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available. Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

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

The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.

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

b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the premises. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

5. No person shall release any dog or cat from the custody or control of any pound, shelter, society for the prevention of cruelty to animals, humane society, dog protective association, dog control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, provided, however, that after the time for redemption has expired, 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. Notwithstanding the penalties set forth in paragraph b of subdivision three of this section and paragraph b of subdivision four of this section, any violation of this subdivision, subdivision two, three or four of this section, shall constitute a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

6. In lieu of such destruction, redemption or other disposition pursuant to this section, such pound, shelter, or society may in its discretion lawfully and without liability deliver such animal for adoption to an individual other than the owner after the time for redemption has expired.

7. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.

8. a. In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred sixty-one, three hundred sixty-five or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.

b. Pursuant to the provisions of subdivisions two, three, four and five of this section, no animal in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, duly incorporated animal protective association, pound or its authorized agents thereof, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, duly incorporated animal protective association or pound shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.

c. The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of

the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.

d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

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

f. (1) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(2) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

§ 375. Officer may take possession of animals or implements used in fights among animals

Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also, the time and place at which the application provided for by the next section will be made.

§ 376. Disposition of animals or implements used in fights among animals

The officer, after taking possession of such animals, or implements, or other property, pursuant to the preceding section, shall apply to the magistrate before whom complaint is made against the offender violating such provision of law, for the order next hereinafter mentioned, and shall make and file an affidavit with such magistrate, stating therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person so named and designated in such order, shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other

property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge, without conviction, of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

§ 377. Disposal of dead animals

(1) The carcasses of large domestic animals, including but not limited to horses, cows, sheep, swine, goats and mules, which have died otherwise than by slaughter, shall be buried at least three feet below the surface of the ground or otherwise disposed of in a sanitary manner by the owner of such animals, whether the carcasses are located on the premises of such owner or elsewhere. Such disposal shall be completed within seventy-two hours after the owner is directed to do so by any peace officer, acting pursuant to his special duties, police officer, or by a designated representative of the commissioner.

(2) Notwithstanding section forty-one of this chapter, any violation of this section shall constitute a violation. This section shall not apply to animal carcasses used for experimental or teaching purposes.

§ 377-a. Spaying and neutering of dogs and cats

1. The legislature finds that the uncontrolled breeding of dogs and cats in the state results in an for them can be provided. This leads to many of such animals becoming stray and suffering privation and death, being impounded and destroyed at great expense to the community and constituting a public nuisance and health hazard. It is therefore declared to be the public policy of New York state that every feasible humane means of reducing the production of unwanted puppies and kittens be encouraged.

2. No animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals shall release any dog or cat for adoption to any person unless prior thereto:

(a) the dog or cat has been spayed or neutered; or

(b) the person intending to adopt the dog or cat shall have executed a written agreement with the animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals, to have the dog or cat spayed or neutered within thirty days from the adoption date, or in the case of a dog or cat which has not yet reached sexual maturity, within thirty days of the dog or cat reaching six months of age. The person intending to adopt the dog or cat shall deposit with the animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals, an amount of not less than thirty-five dollars. Not more than every two years, the commissioner, after holding a public hearing, may raise the amount to be deposited to reflect rising costs; or

(c) the person intending to adopt the dog or cat shall have executed a written agreement with the animal shelter, pound, dog control officer, humane society, dog or cat protective association or society for the prevention of cruelty to animals to have the dog or cat spayed or neutered within thirty days from the adoption date, or in the case of a dog or cat which has not yet reached sexual maturity, within thirty days of the dog or cat reaching six months of age. The person intending to adopt the dog or cat shall have paid an adoption fee which includes the cost of the spay or neuter procedure. The written agreement shall require that the animal shelter, pound, dog control officer, humane society, dog or cat protective association or society for the prevention of cruelty to animals from which the dog or cat is adopted bear the cost of the spay or neuter procedure.

3. For the purposes of this section, the age of the animal at the time of adoption shall be determined by the animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals that releases the animal for adoption and such age shall be clearly written on the written agreement by the animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals, prior to the agreement being executed by the person adopting the animal.

4. Any deposit collected pursuant to paragraph (b) of subdivision two of this section that is not claimed within ninety days of its collection, or if the deposit is for an animal under six months of age, within sixty days after the animal has reached six months of age, shall be deposited in the animal population control fund established pursuant to section ninety-seven-xx of the state finance law.

Deposits collected pursuant to paragraph (b) of subdivision two of this section shall be refunded to the adopter upon presentation to the animal shelter, pound, dog control officer, humane society, dog and cat protective association, or duly incorporated society for the prevention of cruelty to animals of written documentation from a licensed veterinarian that the dog or cat has been spayed or neutered, provided that the animal has been spayed or neutered within the time specified in the written agreement, or that because of old age or other health reasons, as certified by a licensed veterinarian examining the dog or cat, spaying or neutering would endanger the animal's life.

5. Nothing contained in this section shall prevent any town, city, village or county in New York state from enacting a local law or ordinance requiring that animal shelters, pounds, dog control officers, humane societies, dog or cat protective associations and duly incorporated societies for the prevention of cruelty to animals within such town, city, village or county spay or neuter dogs and cats prior to releasing such animals for adoption, provided that such local law or ordinance may require spaying or neutering at an age earlier, but in no event later than that required in this section, except where because of advanced age or other health reasons, as certified by a licensed veterinarian who has examined the dog or cat, spaying or neutering would endanger the life of the

animal. A town, city, village or county in New York state that enacts such a local law or ordinance shall be exempt from the provisions of this section.

§ 378. Unlawful tampering with animal research

1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

- (a) “Infectious agents” shall be limited to those organisms that cause serious physical injury or death to humans.
- (b) “Animal” means any warm or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, however, shall not include any animal held primarily as a pet.
- (c) “Facility” means any building, structure, laboratory, vehicle, pasture, paddock, pond, impoundment or premises where any scientific research, test, experiment, production, education, or investigation involving the use of any animal is carried out, conducted or attempted or where records or documents relating to an animal or animal research, tests, experiments, production, education or investigation are maintained.
- (d) “Release” means to intentionally set free from any facility any animal without any right, title, or claim thereto.
- (e) “Abandonment” means the intentional relinquishment or forsaking of possession or control of any animal released from a facility.
- (f) “Person” means any individual, firm, organization, partnership, association or corporation.
- (g) “Secret scientific material” means a sample, culture, micro-organism, specimen, record, recording, document, drawing or any other article, material, device or substance which constitutes, represents, evidences, reflects, or records a scientific or technical process, invention or formula or any part or phase thereof which is stored, tested, studied or examined in any facility, and which is not, and not intended to be, available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his or their consent, and when it accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof.
- (h) “Notice” means to provide information in such detail to make a reasonable person aware of the presence in a facility of infectious agents or secret scientific material.

2. Notice. Any person who, after notice has been given by:

- (a) actual notice in writing or orally to the person; or

(b) prominently posting written notice upon or immediately adjacent to the facility; or

(c) notice that is announced upon entry to the facility by any person:

(i) knowingly or intentionally releases an animal from a facility or causes the abandonment of an animal knowing that such animal was exposed to infectious agents prior to such release or abandonment and was capable of transmitting such infectious agents to humans; or

(ii) with intent to do so, causes loss or damage to secret scientific material, and having no right to do so nor any reasonable ground to believe that he has such right, causes loss of or damage to any secret scientific material in an amount in excess of two hundred fifty dollars at a facility, shall be guilty of unlawful tampering with animal research. Unlawful tampering with animal research is a class E felony punishable in accordance with the penal law.

3. Private right of action. Any person who violates any provision of this section shall be liable in any court of competent jurisdiction, including small claims court, in an amount equal to:

(a) Damages sustained as a result of such violation or fifty dollars, whichever is greater, for each violation;

(b) Such additional punitive damages as the court may allow;

(c) Attorney's fees and costs; and

(d) Cost of duplicating any experiment which was damaged by the unlawful tampering with animal research, if applicable.

In any action brought by any person to enforce this section, the court may, subject to its jurisdiction, issue an injunction to restrain or prevent any violation of this section or any continuance of any such violation.

§ 379. Prohibition of the selling of fur, hair, skin or flesh of a dog or cat

1. It shall be unlawful for any person, firm, partnership or corporation to knowingly import, sell, offer for sale, manufacture, distribute, transport or otherwise market or trade in the fur, hair, skin or flesh of a domesticated dog (*canis familiaris*) or domesticated cat (*felis catus* or *domesticus*), whether domestically raised or imported from another country, or any product or item containing or comprised of the fur, hair, skin or flesh of a dog or cat. As used in this section the term "domesticated dog or cat" shall not mean or include coyote (*canis latrans*), fox (*vulpes vulpes*, *vulpes cinereoargenteus*), lynx (*felis lynx*) or bobcat (*felis rufus*).

2. Manufacturers or suppliers shall provide certification to each retailer that any fur, hair, skin or flesh contained in such items is not derived from domesticated dog or domesticated cat.

3. The commissioner shall establish a standard for the certification required by the provisions of subdivision two of this section on the effective date of this section.

4. A violation of this section shall be punishable by a civil penalty of up to one thousand dollars for an individual and up to five thousand dollars for a corporation for the first violation. Any subsequent violation shall be punishable by a civil penalty of up to twenty-five thousand dollars.

5. Any civil penalties collected pursuant to this section of law are payable to the animal population control fund established pursuant to section ninety-seven-xx of the state finance law.

6. (a) No provision of this section shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations involving the use of dog or cat fur or flesh, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section three hundred fifty-three of this article.

(b) No provision of this section shall be construed to prohibit any person, firm, partnership or corporation from importing, selling, offering for sale, manufacturing, distributing, transporting, or otherwise marketing or trading in the fur, hair, skin, or flesh of a domesticated dog or cat for the purposes of conducting scientific tests, experiments or investigations that are to be performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section three hundred fifty-three of this article.

§ 380. Examination of seized animals or animals taken possession of

1. Consistent with the provisions of section one hundred seventeen of this chapter and sections three hundred seventy-three and three hundred seventy-four of this article, no later than twenty-four hours, or as soon as practicable, after a companion animal that is a dog or a cat has been seized or taken possession of, except for such animals that have been surrendered by the owner, by any dog control officer, animal control officer or peace officer acting pursuant to his or her special duties, or police officer in the employ of or under contract with a municipality, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, pound or shelter that is operated by or under contract to a municipality, such officer, society, pound or shelter shall take steps to:

(a) Check such animal for all forms of identification, including, but not limited to, tags, microchips, tattoos or licenses; and

(b) If practicable and if the necessary technology and equipment are available, for the purposes of this paragraph, make available to the public on the internet on a website or social media maintained by or otherwise made available to such officer, society, pound or shelter by the municipal or county government in which such officer, society, pound or shelter is located, a photograph, and a general description of the animal to assist the owner or owners in finding the animal, including the breed or breeds, if known. Information about the animal may be withheld if deemed appropriate to facilitate finding the owner or otherwise protect the safety of the animal. The notice required by this paragraph may be made by means other than the internet if use of the internet is impracticable.

2. No later than twenty-four hours or as soon as practicable after the seizure or taking possession of such animal potentially identifiable by a form of identification, including a license, tag, tattoo or microchip, or records or reports that are readily available of animals reported to be lost, reasonable efforts shall be made to identify and provide actual notice to the owner of the animal by any means reasonably calculated to provide actual notice to the owner.

§ 381. Prohibition of the declawing of cats

1. No person shall perform an onychectomy (declawing), partial or complete phalangectomy or tendonectomy procedure by any means on a cat within the state of New York, except when necessary for a therapeutic purpose. Therapeutic purpose means the necessity to address the physical medical condition of the cat, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the cat's health. Therapeutic purpose does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the cat.

2. Any person who performs an onychectomy, partial or complete phalangectomy or tendonectomy procedure on any cat within the state of New York in violation of the provisions of subdivision one of this section shall be punishable by a civil penalty not to exceed one thousand dollars.

§ 400. Definitions

As used in this article:

1. "Animal" means a dog or a cat.
2. "Consumer" means any individual purchasing an animal from a pet dealer. A pet dealer shall not be considered a consumer.
3. "Person" means any individual, corporation, partnership, association, municipality, or other legal entity.
4. "Pet Dealer" means any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; provided that it shall not include the following:

(a) Any breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder's residential premises;

(b) Any municipal pound or shelter dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged, established and maintained pursuant to subdivision one of section one hundred fourteen of this chapter; and

(c) Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is registered with the department pursuant to section four hundred eight of this article.

§ 401. Minimum standards of animal care

Pet dealers shall comply with the following minimum standards of care for every animal in their custody or possession.

1. Housing. (a) Animals shall be housed in primary enclosures or cages, which shall be constructed so as to be structurally sound. Such enclosures shall be maintained in good repair to contain the animal housed inside and protect it from injury. Surfaces shall have an impervious surface so as not to permit the absorption of fluids and which can be thoroughly and repeatedly cleaned and disinfected without retaining odors.

(b) Primary enclosures or cages housing the animals shall provide sufficient space to allow each animal adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around, and lie down with its limbs outstretched. If the flooring is constructed of metal strands, such strands must either be greater than one-eighth inch in diameter (nine gauge wire) or shall be coated with a material such as plastic or fiberglass, and shall be constructed so as not to allow passage of the animal's feet through any opening in the floor of the enclosure. Such flooring shall not sag or bend substantially between structural supports.

(c) Housing facilities shall be adequately ventilated at all times to provide for the health and well-being of the animal. Ventilation shall be provided by natural or mechanical means, such as windows, vents, fans, or air conditioners. Ventilation shall be established to minimize drafts, odors, and moisture condensation.

(d) The temperature surrounding the animal shall be compatible with the health and well-being of the animal. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and shall not be permitted to fall below or rise above ranges which would pose a health

hazard to the animal. This shall include supplying shade from sunlight by natural or artificial means.

(e) The indoor facilities housing the animals shall be provided with adequate lighting sufficient to permit routine inspection and cleaning and be arranged so that each animal is protected from excessive illumination which poses a health hazard to the animal. Animal areas must be provided with regular diurnal light cycles of either natural or artificial light.

(f) The indoor and outdoor facilities housing the animals, including the primary enclosure or cage, shall be designed to allow for the efficient elimination of animal waste and water in order to keep the animal dry and prevent the animal from coming into contact with these substances. If drains are used they shall be constructed in a manner to minimize foul odors and backup of sewage. If a drainage system is used it shall comply with federal, state, and local laws relating to pollution control.

(g) In the event that a pet dealer has a pregnant or nursing dog on his or her premises, the pet dealer shall provide a whelping box for such dog. Separate and apart from the whelping box, a pet dealer shall provide a pregnant or nursing dog with a separate space accessible to her that complies with the standards set forth in paragraph (b) of this subdivision. Each nursing dog shall be provided with a sufficient amount of floor space to nurse and care for her litter.

(h) Pet dealers shall designate and provide an isolation area for animals that exhibit symptoms of contagious disease or illness. The location of such designated area must be such as to prevent or reduce the spread of disease to healthy animals and must otherwise meet all housing requirements of this section.

2. Sanitation. Housing facilities, including primary enclosures and cages, shall be kept in a clean condition in order to maintain a healthy environment for the animal. This shall include removing and destroying any agents injurious to the health of the animal and periodic cleanings. Primary enclosures must be cleaned daily and sanitized at least once every two weeks by washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfectant product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste to permit effective sanitization, followed by a clean water rinse. The primary enclosure or cage shall be constructed so as to eliminate excess water, excretions, and waste material. Under no circumstances shall the animal remain inside the primary enclosure or cage while it is being cleaned with sterilizing agents or agents toxic to animals or cleaned in a manner likely to threaten the health and safety of the animal. Trash and waste products on the premises shall be properly contained and disposed of so as to minimize the risks of disease, contamination, and vermin.

3. Feeding and watering. (a) Animals shall be provided with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.

(b) Animals shall be adequately fed at intervals not to exceed twelve hours or at least twice in any twenty-four hour period in quantities appropriate for the animal species and age, unless determined otherwise by and under the direction of a duly licensed veterinarian.

(c) Sanitary food receptacles shall be provided in sufficient number, of adequate size, and so located as to enable each animal in the primary enclosure or cage to be supplied with an adequate amount of food.

(d) Animals shall be provided with regular access to clean, fresh water, supplied in a sanitary manner sufficient for its needs, except when there are instructions from a duly licensed veterinarian to withhold water for medical reasons.

4. Handling. Each animal shall be handled in a humane manner so as not to cause the animal physical injury or harm.

5. Veterinary care. (a) Any pet dealer duly licensed pursuant to this article shall designate an attending veterinarian, who shall provide veterinary care to the dealer's animals which shall include a written program of veterinary care and regular visits to the pet dealer's premises. Such program of veterinary care shall include:

(i) The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions of this article;

(ii) The use of methods determined to be appropriate by the attending veterinarian to prevent, control, and respond to diseases and injuries, and the availability of emergency, weekend, and holiday care;

(iii) Daily observation of all animals to assess their health and well-being; provided, however, that daily observation of animals may be accomplished by someone other than the attending veterinarian who has received the guidance identified in subparagraph (iv) of this paragraph; and provided, further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

(iv) Adequate guidance to personnel involved in the care and use of animals regarding handling and immobilization;

(v) Pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures; and

(vi) In the case of dealers who sell or offer to sell twenty-five or more dogs or cats per year to the public for profit that are born and raised on the dealer's residential premises, annual veterinary examinations, at a minimum, for all intact adult dogs or cats on such dealer's premises.

(b) All animals shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided without undue delay when necessary. Each animal shall be observed each day by the pet dealer or by a person working under the pet dealer's supervision.

(c) Within five business days of receipt, but prior to sale of any dog or cat, the pet dealer shall have a duly licensed veterinarian conduct an examination and tests appropriate to the age and breed to determine if the animal has any medical conditions apparent at the time of the examination that adversely affect the health of the animal. For animals eighteen months of age or older, such examination shall include a diagnosis of any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from healthy animals.

(d) If an animal suffers from a congenital or hereditary condition, disease, or illness which, in the professional opinion of the pet dealer's veterinarian, requires euthanasia, the veterinarian shall humanely euthanize such animal without undue delay.

(e) In the event an animal is returned to a pet dealer due to a congenital or hereditary condition, illness, or disease requiring veterinary care, the pet dealer shall, without undue delay, provide the animal with proper veterinary care.

6. Humane euthanasia. Humane euthanasia of an animal shall be carried out in accordance with section three hundred seventy-four of this chapter.

7. Exercise requirements. Pet dealers shall develop, maintain, document, and implement an appropriate plan to provide dogs with the opportunity for daily exercise. In developing such plan, consideration should be given to providing positive physical contact with humans that encourages exercise through play or other similar activities. Such plan shall be approved by the attending veterinarian, and must be made available to the department upon request.

8. Grooming. All animals shall be groomed regularly to prevent excessive matting of fur, overgrown toenails and flea and tick infestation.

§ 402. Records of purchase and sale

Each pet dealer shall keep and maintain records for each animal purchased, acquired, held, sold, or otherwise disposed of. The records shall include the following:

1. The name and address of the person from whom each animal was acquired. If the person from whom the animal was obtained is a dealer licensed by the United States department of agriculture, the person's name, address, and federal dealer identification number. If the person from whom the animal was obtained is a dealer licensed by the department, the person's name, address, and state dealer identification number. In the case of cats, if a cat is placed in the custody or possession of the pet dealer and the source of origin is unknown, the pet dealer shall state the source of origin as unknown, accompanied by the date, time, and location of receipt. Notwithstanding the provisions of this subdivision, no pet dealer shall knowingly buy, sell, exhibit, transport, or offer for sale, exhibition, or transportation any stolen animal. No pet dealer shall knowingly sell any cat or dog younger than eight weeks of age.

2. The original source of each animal if different than the person recorded in subdivision one of this section.

3. The date each animal was acquired.
4. A description of each animal showing age, color, markings, sex, breed, and any inoculation, worming, or other veterinary treatment or medication information available. Records shall also include any other significant identification, if known, for each animal, including any official tag number, tattoo, or implant.
5. The name and address of the person to whom any animal is sold, given, or bartered or to whom it is otherwise transferred or delivered. The records shall indicate the date and method of disposition.
6. Records for each animal shall be maintained for a period of two years from the date of sale or transfer, whichever occurs later. During normal business hours, the records shall be made available to persons authorized by law to enforce the provisions of this article.

§ 403. Licenses

1. No person shall operate as a pet dealer unless such person holds a license issued therefor by the commissioner. Notwithstanding the foregoing, a pet dealer, in operation on or before the effective date of this section, who has filed an application for an initial license under this article shall be authorized to operate without such license until the commissioner grants or, after notice and opportunity to be heard, declines to grant such license. Each application for a license shall be made on a form supplied by the department and shall contain such information as may be required by the department. Renewal applications shall be submitted to the commissioner at least thirty days prior to the commencement of the next license year.
2. The commissioner may delegate his or her authority pursuant to this section to issue pet dealer licenses to the county or city where the pet dealer seeking licensure is located. Such delegation shall be pursuant to an agreement entered into by the commissioner and such city or county.
3. Each application for a license shall be accompanied by a nonrefundable fee of one hundred dollars, except that those pet dealers who engage in the sale of less than twenty-five animals in a year, shall pay a nonrefundable fee of twenty-five dollars.
4. The moneys received by the commissioner pursuant to this section shall be deposited in the "pet dealer licensing fund" established pursuant to section ninety-seven-rr of the state finance law.
5. Where the authority to issue pet dealer licenses is delegated to the county or city pursuant to subdivision two of this section, that county or city shall, on or before the fifth day of each month, remit to the appropriate municipal financial officer one hundred percent of all license fees collected during the preceding month. The remittance shall be accompanied by a report of license sales made during such month. A copy of such report shall simultaneously be sent to the commissioner. All license fees so remitted shall be the property of the municipality, and shall be used solely for the purpose of carrying out and enforcing the provisions of this article and of article thirty-five-D of the general business law.¹

6. Inspection in accordance with section four hundred five of this article, the results of which establish compliance with the provisions of this article and with the provisions of article thirty-five-D of the general business law regarding recordkeeping and consumer disclosure requirements for pet dealers, shall precede issuance of a license or renewal thereof under this section.

7. Upon validation by the commissioner or the county or city authorized under this section to issue pet dealer licenses, the application shall become the license of the pet dealer.

8. The commissioner shall provide a copy of the license to the pet dealer. The commissioner shall also retain a copy of the license. In those counties where the commissioner has delegated the licensing authority to the county or city that county or city shall, provide a copy of the license to the pet dealer and a copy to the commissioner. The county or city shall also retain a copy of the license in its own records.

9. No pet dealer shall publish or advertise the sale or availability of any dog or cat unless the publication or advertisement is accompanied by the pet dealer's license number. Notwithstanding the foregoing, a pet dealer, in operation on or before the effective date of this section, who has filed an application for an initial license under this article may publish or advertise the sale or availability of any dog or cat without the publication or advertisement being accompanied by the pet dealer's license number until the commissioner grants or, after notice and opportunity to be heard, declines to grant such license.

10. Such license shall be renewable annually, together with the payment of a nonrefundable fee of one hundred dollars, or upon payment of a nonrefundable fee of twenty-five dollars for those pet dealers who engage in the sale of less than twenty-five animals in a year.

11. Pet dealers shall conspicuously display their license on the premises where the animals are kept for sale so that they may be readily seen by potential consumers.

§ 404. License refusal, suspension, or revocation

The commissioner may decline to grant or renew or may suspend or revoke a pet dealer license, on any one of the following grounds:

1. Material misstatement in the license application.
2. Material misstatement in or falsification of records required to be kept pursuant to this article, or under any regulation promulgated thereunder, or failure to allow the commissioner or his or her authorized agents to inspect records or pet dealer facilities.
3. Violation of any provision of this article or conviction of a violation of any provision of article twenty-six of this chapter or regulations promulgated thereunder pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal, or violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of

animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.

4. Before any license shall be suspended or revoked, the commissioner, or any hearing officer he or she may designate, shall hold a hearing, upon due notice to the licensee, in accordance with any regulations promulgated by the department and in accordance with articles three and four of the state administrative procedure act.² Where a licensee has three consecutive inspections in which the licensee has failed to correct deficiencies of a critical nature, pursuant to this section, the commissioner shall hold a hearing to consider the suspension or revocation of the pet dealer license. Nothing in this section shall prohibit the commissioner from taking additional actions as otherwise permitted by this section regarding such licenses prior to the occurrence of three consecutive inspections in which the licensee has failed to correct deficiencies of a critical nature.

5. Any action of the commissioner shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules.

§ 405. Inspection of pet dealers

1. The commissioner or his or her authorized agents shall, at a minimum, make yearly inspections of pet dealers' facilities to ensure compliance with the provisions of this article and with the provisions of article thirty-five-D of the general business law,¹ except for those pet dealers who engage in the sale of less than twenty-five animals in a year, in which case inspections shall be made whenever in the discretion of the commissioner or his or her authorized agents, a complaint warrants such investigation.

2. The commissioner may, pursuant to an agreement entered into with a county or city delegate the authority to conduct inspections of pet dealers and to respond to complaints concerning pet dealers to such county or city where the pet dealer is located; provided however such delegation of inspection authority shall only be permitted where the commissioner has delegated his or her authority to issue licenses pursuant to section four hundred three of this article.

3. Any person conducting an inspection of a pet dealer or responding to a complaint concerning a pet dealer shall be specifically trained in the proper care of cats and dogs and in the investigation and identification of cruelty to animals.

§ 406. Violations

1. In addition to the penalties provided for elsewhere in this section, a pet dealer who violates any provisions of this article may be subject to denial, revocation, suspension, or refusal of renewal of his or her license in accordance with the provisions of section four hundred four of this article.

2. Violation of any provision of this article, is a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation may be imposed.

3. The provisions of this article may be enforced concurrently by the department and by the county or city to which the commissioner has delegated his or her licensing and inspection authority pursuant to section four hundred three and four hundred five of this article, and all moneys collected thereunder shall be retained by such municipality or local government.

§ 407. Construction with other laws

Nothing in this article shall be construed to (a) limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing other provisions of article twenty-six of this chapter or any other law relating to the humane treatment of, or cruelty to, animals, (b) limit or restrict any municipality from enacting or enforcing any authorized local law, rule, regulation or ordinance of general application to businesses governing public health, safety or the rights of consumers, or (c) limit or restrict any municipality from enacting or enforcing a local law, rule, regulation or ordinance governing pet dealers, as such term is defined in this article, including a law, rule, regulation or ordinance governing the health or safety of animals acquired or maintained by pet dealers, the source of animals sold or offered for sale by pet dealers, and the spay or neuter of such animals; provided, however, that any such local law, rule, regulation or ordinance shall be no less stringent than the applicable provisions of this article and may not result in essentially banning all sales of dogs or cats raised and maintained in a healthy and safe manner. Where any penalty may be authorized for the violation of such a local law, rule, regulation or ordinance, the authorized penalty in such local law, rule, regulation or ordinance may not exceed a civil penalty of up to five hundred dollars. Where a municipality adopts such a local law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article, such municipality shall have sole responsibility for enforcement of such law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article.

§ 408. Exemption of certain entities from the definition of pet dealer; registration required

1. Any person eligible for exemption from the definition of pet dealer pursuant to paragraph (c) of subdivision four of section four hundred of this article shall be registered by the department pursuant to the provisions of this section. Such registration shall be renewable annually and be accompanied by a fee of one hundred dollars.

2. Application for registration as set forth in this section shall be made annually to the commissioner on a form prescribed by the commissioner. The applicant shall satisfy the commissioner of his or her character and responsibility and shall set forth such information as the commissioner shall require, including but not limited to the following:

(a) Proof of the applicant's tax exempt designation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended;

(b) Proof of the applicant's incorporation as a not-for-profit organization in this state pursuant to the not-for-profit corporation law, provided further that such

organization is in good standing with the attorney general and the department of state;

(c) Proof of the applicant's registration with the attorney general pursuant to article seven-A of the executive law;

(d) The name of the applicant and the name or names under which the applicant offers its services to the public, any name under which the applicant has offered its services to the public during the past five years, and whether the applicant has ever held a license issued pursuant to this article;

(e) The address and telephone number of the applicant and for any other premise owned or leased by such applicant's organization to carry out the purposes for which it was incorporated and by which it may be eligible for a licensing exemption pursuant to this section;

(f) The website and email address of the applicant;

(g) The number of animals taken in, adopted, placed into permanent or temporary homes, or otherwise transferred into, out of, or within the state by the applicant during the prior calendar year;

(h) The number of animals currently harbored by the applicant;

(i) The species of animal the applicant typically harbors for adoption, placement or transfer;

(j) A description of facilities by which the applicant carries out the purposes for which it was incorporated, including a statement regarding whether the applicant harbors the animals in its care in its own physical animal shelter or utilizes foster homes, commercial boarding kennels or other arrangements; and

(k) A sworn statement, signed by the applicant, declaring eligibility for a pet dealer licensing exemption pursuant to subdivision four of section four hundred of this article.

3. Upon approval by the commissioner, the registration shall be issued to the applicant and an exemption from the definition of pet dealer as defined in section four hundred of this article shall be granted. Written approval of such registration shall be provided to the applicant by the commissioner and shall be accompanied by a pet dealer exemption identification number, which shall be prominently displayed on the registrant's websites and accompany such registrant's publications or advertisements made available to the public following registration approval.

4. The commissioner may deny any application for registration as set forth in subdivisions one and two of this section or revoke any registration already granted, after written notice to the applicant or registrant and an opportunity to be heard, when:

(a) Any statement made on the application or to the commissioner found to be false or misleading;

(b) The applicant or registrant, or an officer or director has failed to comply with any of the provisions of this section or rules and regulations promulgated pursuant to subdivision six of this section;

(c) The applicant or registrant, or an officer or director has been convicted of a misdemeanor or felony animal cruelty offense by a court of the United States or any state or territory thereof, without subsequent pardon by the governor or other appropriate authority of the state or jurisdiction in which such conviction occurred, or receipt of a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law;

(d) The applicant or registrant is determined by the commissioner to be in violation of the department's dog and cat importation regulations pursuant to 1 NYCRR Part 65;

(e) The applicant or registrant is determined by the commissioner to be in violation of section twenty-one hundred forty-one of the public health law or any rule or regulation promulgated thereunder by the commissioner of health; and

(f) The applicant or registrant, or an officer or director has been responsible in whole or in part for any act on account of which an application for registration may be denied or a registration cancelled pursuant to the provisions of this article.

5. Any person receiving an exemption pursuant to this section shall be subject to the provisions prescribed in subdivision two of section four hundred six of this article for any violation of this section, provided further that whenever there shall be a violation of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not less than one hundred dollars and not more than one thousand dollars. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

6. The commissioner is hereby authorized to promulgate rules and regulations concerning the application, registration and revocation process described in this section.