



NEW YORK  
CITY BAR

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**REPORT ON LEGISLATION BY THE  
ANIMAL LAW COMMITTEE**

**A.2596-A  
S.1079-A**

**M. of A. Zebrowski  
Sen. Maziarz**

AN ACT to amend the Penal Law in relation to the intentional killing of a police dog or police horse.

**THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS**

**SUMMARY OF THE PROPOSED LEGISLATION**

The proposed legislation would create a new section 195.06-a to provide that a person who “intentionally kills a police dog or police work horse<sup>1</sup> while such dog or horse is in the performance of its duties and under the supervision of a police officer” shall be guilty of a Class E felony. The bill provides for an effective date of the first day of the month of November after its passage.

**THE COMMITTEE SUPPORTS THE PROPOSED LEGISLATION**

Under current law, the intentional killing or intentional infliction of injury on a police animal is a Class A misdemeanor. NY Penal Law Sec. 195.06. Such a penalty is inconsistent with the risks faced by police animals and their importance to the safety of police officers and the public.

In the 21<sup>st</sup> century age of homeland security and bomb threats from abroad and dissidents within, dogs are on the front lines detecting these very real dangers so they can literally be defused.<sup>2</sup>

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<sup>1</sup> The terms “police dog” and “police work horse” are defined to mean “any dog or horse owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.”

<sup>2</sup> Approximately 30,000 dogs were deployed during WWII. Their duties included carrying messages and ammunition and detecting explosives. Our current military uses about a third of its 3000 member canine unit in Afghanistan and Iraq. See Maureen Callahan, *The Dogs of War*, New York Post, Feb. 13, 2011, available at [http://www.nypost.com/p/news/national/the\\_dogs\\_war\\_BgUViZ30tXTWtPu8w6g6IP](http://www.nypost.com/p/news/national/the_dogs_war_BgUViZ30tXTWtPu8w6g6IP) (last visited May 8, 2013); Gardiner Harris, *A Bin Laden Hunter on Four Legs*, The New York Times, May 4, 2011, available at <http://www.nytimes.com/2011/05/05/science/05dog.html> (last visited May 8, 2013) (highlighting the importance of the military dog on the SEAL Team Six that participated in the raid and capture of Osama bin Laden); Marc Santora, *F.B.I. Dog Is Killed in Raid on Hideaway*, The New York Times, Mar. 14, 2013, available at [http://www.nytimes.com/2013/03/15/nyregion/fbi-dog-is-killed-in-raid-on-gunman.html?\\_r=0](http://www.nytimes.com/2013/03/15/nyregion/fbi-dog-is-killed-in-raid-on-gunman.html?_r=0) (last visited May 8, 2013) (noting the “increasing use of dogs by civilian law enforcement agencies in some of the most dangerous assignments . . . Dogs can now be found sniffing out everything from bed bugs to bombs.”).

Further, police animals have suffered injuries and death in the line of duty.<sup>3</sup> In recognition of the risks faced by animals in law enforcement, federal law prescribes a sentence of up to ten (10) years in prison for any person who “willfully and maliciously harms any police animal or attempts or conspires to do so.” *Federal Law Enforcement Animal Protection Act*, 18 U. S. C. Sec 1368. The statute defines “police animal” as a dog or horse employed by a Federal agency, in any branch of government, used for the “principal purpose” of detecting criminal activity, law enforcement, or apprehending criminal offenders. *See* 18 U. S. C. Sec. 1368(b). United States Senator Jon Kyl (R-AZ), a supporter of the federal bill, was quoted as saying: “Animals that serve in law enforcement shouldn’t be treated as mere property. The penalty for harming these animals should be greater than the penalty for denting a car.”<sup>4</sup>

Similarly, several states have increased penalties for infliction of serious injury and death to police animals from misdemeanors to felonies. *See e.g.*, Fla. Stat. Sec.843.19, willful infliction of serious injury or death on a police dog is a third degree felony; maximum prison term of five years; Ky. Rev. Stat. Sec. 525.010, penalizes as a Class D felony, punishable by a term of incarceration of between one and five years (Ky. Rev. Stat. Sec. 532.020 (1)(a)), intentionally causing the permanent disability or death of a service animal. “Service animal” is defined to include dogs and horses used by police and emergency services in rescue assistance as well as in a number of specified law enforcement capacities *e.g.*, bomb, narcotics, and cadaver detection). *See* Ky. Rev. Stat. Sec. 525.010 (6). Mo. Rev. Stat. Sec. 575.350 penalizes as a Class D felony, subject to imprisonment of up to four years (Sec. 558.011 (4)), intentionally killing or disabling a police animal in the course of its duties or while it is under the control of its assisted officer. Police animal is defined very broadly to include a dog, horse or any other animal assisting in rescue or crime detection. *See* Mo. Rev. Stat. Sec. 575.10 (8).

Expanding the scope of protection for police animals is necessary to give legal recognition to the serious risks that animals who work in law enforcement face on our behalf and the important role they play in protecting police officers and the public. As noted in the sponsor’s justification memo, “[s]tate and local law enforcement agencies and emergency services have increasingly relied on the use of dogs for assistance in crime solving, rescue and recovery operations. These animals serve the people of New York State through the use of their keen senses. In addition, State and local police and the emergency services invest a great deal of time and resources in the training of these crime and recovery assistants. The loss or injury of a police animal is not only a loss to the police or emergency services department but also the citizens of New York.” It is logical and just to give legal recognition to the risk that animals who work in law enforcement face on our behalf by increasing their protection and providing a greater deterrence.

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<sup>3</sup> Santora, *supra* note 2 (In March 2013 an FBI dog named Ape was shot and killed by a gunman during a 15-hour standoff with police in Herkimer, New York when he was sent into the building with a camera to track the gunman. In a statement released by the FBI, it was acknowledged that “Ape was doing what he was trained to do and made the ultimate sacrifice for his team . . . His actions were heroic and prevented his teammates from being seriously wounded or killed.”); *see also* Callahan, *supra* (noting that Sgt. Christopher Duke credits a stray, Rufus, adopted in Afghanistan and later brought to the United States, with saving his life there by blocking a suicide bomber, albeit both suffered severe shrapnel wounds).

<sup>4</sup> Scheiner, Craig, *Cruelty to Police Dog Laws Update*, 7 Animal L. Rev. 141, 142 (Apr. 18<sup>th</sup>, 2001).

## **RECOMMENDATIONS**

Although the Committee supports the proposed legislation as drafted, we recommend that it be amended to increase the penalty for the intentional infliction of serious harm or injury to a police dog or horse to a Class E felony.

## **CONCLUSION**

For the reasons stated, the Committee supports this legislation with recommendations.

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