

## **COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS**

### **REPORT ON LEGISLATION**

S. 2539  
A. 1641

Senator McGee  
M. of A. McEneny

An act to amend the Agriculture and Markets Law, in relation to abandonment of animals and repealing section 355 of such law relating thereto

#### **THIS BILL IS APPROVED**

This bill proposes an amendment to the Agriculture and Markets Law that will make it a class A misdemeanor to abandon an animal, whether such abandonment occurs in a public or a private place. This amendment is necessary because the current law only prohibits the abandonment of animals in public places and this proposal is meant to address a rash of cases where animals have been abandoned by their owners.

Section 355 of the Agriculture and Markets Law currently prohibits owners, possessors, or custodians of animals from “abandon[ing] . . . or leav[ing] an animal] to die in a street, road or public place” and from leaving a disabled animal “to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled.” The law itself does not actually provide a definition of the term abandonment.

The proposed legislation clearly defines abandonment and expands the scope of proscribed conduct by prohibiting a person from “desert[ing] or giv[ing] up possession of an animal in a public or private place, without transferring ownership or custody of such animal to another who voluntarily assumes such ownership or custody, and with the intention of not reclaiming the animal.”

The bill also provides that a person abandons an animal “when he or she has been notified or otherwise knows of the location of the animal in a public place and fails to retrieve or take reasonable efforts to retrieve the animal.” This provision apparently replaces the existing offense relating only to disabled animals, expanding the protection to all animals and changing the existing three hour rule with a reasonableness standard. This provision prevents an owner from escaping the penalties of the proposed law by

passively abandoning an animal (i.e. permitting an animal to escape and failing to take responsibility for his or her care once the animal is found).

For the purpose of clarity, it is recommended that a colon be inserted after the first occurrence of the word “animal” in paragraph 1, that subsection (a) be created starting with the first occurrence of the phrase “when he or she,” and that a subsection (b) be created starting with the second occurrence of the phrase “when he or she.”