

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #9

May 28, 2019

S. 4802

By: Senator Martinez

A. 6601

By: M. of A. Lupardo

Senate Committee: Domestic Animal Welfare

Assembly Committee: Ways and Means

Effective Date: Immediately

AN ACT to amend the agriculture and markets law, in relation to requiring the commissioner of agriculture and markets to identify and develop standards for therapy dogs.

LAW & SECTION REFERRED TO: A new subparagraph 2 is added to Section 124 of the Agriculture and Markets Law.

THE COMMITTEE ON ANIMALS AND THE LAW **SUPPORTS THIS LEGISLATION**

This bill would amend Section 124 of the Agriculture and Markets Law by adding a new subparagraph 2 relating to therapy dogs, authorizing the Commissioner of the Department of Agriculture and Markets (Commissioner), in cooperation with other relevant state agencies and stakeholders, to identify and, if necessary, develop guidance for therapy dogs, their handlers and facilities using the services of therapy dogs. Any such guidance would be publicly available on the website of the Department of Agriculture and Markets and provided to municipalities that issue special tags for therapy dogs.

This bill emanated from Chapter 497 of the Laws of 2017, which both acknowledged that therapy dogs were not service animals and required the Commissioner to develop standards for therapy dogs. When Governor Cuomo signed this legislation, he did so with the stipulation that the legislature amend the law the following year to transfer the responsibility for development of standards from the Commissioner to a working group convened by the Commissioner, and that change was made by Chapter 37 of the Laws of 2018. The working group issued a comprehensive report in October 2018 (Report) which is found on the website of the Department of Agriculture and Markets at https://www.agriculture.ny.gov/therapy_dog_working_group_report.pdf.

The legislative sponsors' justification for this bill discusses the need for awareness about the differences between service animals,¹ therapy animals² and emotional support animals.

¹ Section 108(22) of the New York Agriculture and Markets Law defines "service dog" as "any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability."

Presently, although both service and therapy dogs are defined in New York’s statutes, only service animals have legal status different than other animals under the law. For instance, New York State’s Human Rights Law³ and Transportation Law⁴ prohibit discriminating against a person using a service dog. Article 242 of the New York State Penal Law is devoted to addressing conduct that interferes with or harms a service animal. These sections of state law are consistent with provisions of the federal Americans with Disabilities Act, which provides that service dogs are allowed to accompany their disabled owners in most locations, except where there may be a health risk to others if an animal is present.

Therapy dogs have enormous value to society, working with students in schools, people in libraries, airports, medical or residential facilities (such as hospitals, rehabilitation centers, assisted living homes, veterans’ homes) and other institutional facilities, bringing the comfort and happiness which often only the non-judgmental attention and unconditional love of a dog can offer. Most recently, this was demonstrated very poignantly at Marjory Stoneman Douglas High School where the survivors of the Parkland school shooting demonstrated the importance of the therapy dogs to their school by giving them their own page in the school yearbook.⁵ These benefits have become widely recognized elsewhere,⁶ and the use of therapy dogs has been expanding. Given the growing importance of therapy dogs in our society, it becomes important for our laws to address them, recognize their significance, identify their roles, and clarify the standards that should pertain to them and to their handlers. Presently those standards are not universally understood or agreed upon, and may not be readily accessible to someone looking for that information. The guidance required to be developed by this legislation would benefit the people enjoying the company of therapy animals, the locations where they are used, the dogs’ handlers and the dogs themselves.

This bill responds to the need for guidance in the use of therapy dogs by identifying items to consider with respect not only to therapy dogs, but also to their handlers and the facilities using such dogs. It would require that any guidance should, at a minimum, include considerations of assessment and training of the dogs, risk management, animal welfare, and best practices for such dogs and their dog-handlers. Because the comprehensive Report issued at the end of last year covered all of these areas, it is already available to serve as a reference. The Report’s sections discuss: Organizations that register dogs as therapy dogs; Considerations for facilities using therapy dogs; Information for the public about therapy dogs; and Criteria for dogs used as therapy dogs.

² Section 108(26) of the New York Agriculture and Markets Law defines “therapy dog” as “any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing homes, retirement homes and other settings and is actually used for such purpose, or any dog during the period such dog is being trained or bred for such purpose, and does not qualify under federal or state law or regulations as a service dog.”

³ New York State Human Rights Law Section 296(14).

⁴ New York State Transportation Law Section 147.

⁵ <https://www.usatoday.com/story/news/nation/2019/05/18/parkland-students-honor-therapy-dogs-yearbook-page/3719321002/>

⁶ “The Value of Therapy Dogs” 6/15/2018 <https://www.therapydogs.com/therapy-dogs-2/>

The section pertaining to dog therapy registering organizations discusses handler training and responsibilities, best practices for handlers, educational requirements for and periodic assessment of handlers and the handler-canine teams, risk management for such organizations (insurance coverage, policies minimizing chance of infection of animals and humans, system for identifying, tracking and resolving any incidents that occur), and assessment of dogs, animal welfare, mandatory positive and non-coercive training techniques. The section pertaining to facilities using therapy dogs discusses minimum best practices concerning health considerations of the people and dogs, logistics for making therapy dogs available to people, and offers a suggested checklist for finding an animal therapy organization. The section of the Report discussing public information about therapy dogs includes suggested links to several resources describing the various roles of therapy animals, emotional support animals and service animals, and the differences between them under the law.

The breadth of topics covered by this Report indicates that using therapy animals presents many potential areas in which guidance can be of assistance to all concerned. The very definition of a Therapy Dog exemplifies the value of their service to many people in many different areas of our society. It is time that they are recognized as having special and important jobs to do, and that attention be given to the ways in which the welfare of the dogs, their handlers, those people interacting with the dogs, and the facilities which allow for such interaction can all be promoted.

For the foregoing reasons, the NYSBA's Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.