



Memorandum in Support

July 19, 2022

S. 8973
A. 9296

By: Senator Hinchey
By: M. of A. McDonald
Senate: Passed
Assembly: Passed
Effective Date: Immediately

AN ACT to amend the Agriculture and Markets Law, in relation to authorizing the return of a dog to its owner or custodian.

LAW & SECTION REFERRED TO: Amends the Agriculture and Markets Law Section, Chapter 69, Article 7, Section 117 by adding a new subdivision 1-a.

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

This bill allows a dog control officer, peace officer to return a dog seized by the officer to its owner of record instead of delivering the dog to a municipal pound or shelter. With a mere 75 words, this bill creates benefits for animals, humans, and the public purse.

The bill promotes efficiency, since a loose dog will not necessarily be transported to a pound or shelter, impounded there, and possibly euthanized or put up for adoption. Rather, the dog will have the chance to go directly home, a place that may well be close to where the dog was picked up by the officer. Savings of an officer's valuable time and governmental fuel usage are helpful in these times of pressures on municipal budgets and climate crisis.

This bill has the potential to decrease the time a dog is separated from their home and owner by hours or even days. Decreasing the time apart is apt to decrease the emotional impacts on both the dog and their concerned humans. It's apt to increase the dog's ability to survive. Many municipalities set minimum impoundment periods, typically five to seven days.¹ Animals held beyond impoundment

¹ New York State Department of State (official website of NYS), Local Laws, https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20150218075531_38/Content/090213438000c924.pdf (Town of Green Island, seven days) (last visited June 10, 2022).; https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20150218075528_39/Content/090213438000be36.pdf (Town of Massapequa Park, seven to 12 days) (last visited June 10, 2022).

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periods are at risk of being euthanized.² A dog returned directly home is at lower risk of being euthanized.

Returning a dog directly to their owner may create a valuable social welfare benefit. When the officer returns with the dog, the officer will observe the condition of the person to whom the dog is returned. If the dog is loose as a result of a health or safety crisis, returning the dog offers an opportunity for positive intervention to ameliorate the crisis or prevent a situation from becoming a crisis. Not only will this benefit a dog owner in need, it also presents the opportunity for enforcement officers to be seen as a positive force that can be employed to reunite lost or stray dogs with their owners instead of simply as an enforcer of the law.

Savings, often significant, will be accrued by owners of loose dogs. Owners will no longer be automatically subject to impoundment fees that statutorily start at a minimum of \$10 for the first, \$20 for the second, and \$30 for the third impoundments of a dog within a one-year period.³ These fees are merely the minimum fees a municipality may charge, since the statute provides that impoundment fees “may be set by local law or ordinance in any amount.”⁴ For instance, the Town of Rathbone (Steuben County) has impoundment fees of \$30, \$50, and \$75 for first, second, and third impoundments, respectively.⁵ In the Town of Ledyard (Cayuga County), impoundment fees start at \$50 and increase to between \$35-\$100 and between \$75-175 for second and third impoundments, respectively.⁶ Other municipalities such as the Town of Marcellus (Onondaga County) use the statutory minimums.⁷

One Westchester newspaper recently reported that a loose dog was returned to its owner rather than being delivered to the municipal shelter.⁸ Members of the Committee have reported incidents of a direct return of lost and stray dogs to owners occurring in their localities. This bill would help align New York law with reality and common sense – a boon to all of us. Further, this bill promotes respect for the law because no longer will these helpful actions of animal control officers, peace officers, and police officers violate the Agriculture and Markets Law.

This bill creates two incentives for responsible dog ownership. First, the benefits of the bill only apply “if there is no probable cause to believe the dog is dangerous.”⁹ This standard may encourage dog training and socialization so that when a dog is found loose its behavior will not be deemed

² See, for example, citations of local laws at notes 1, 5, 6, and 7.

³ N. Y. Agriculture and Markets Law, § 117(4)(a).

⁴ *Ibid.*

⁵ New York State Department of State (official website of NYS), Local Laws, https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20150218075530_22/Content/0902134380032ee5.pdf (last visited June 10, 2022).

⁶ New York State Department of State (official website of NYS), Local Laws, https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20150218075529_21/Content/0902134380038e8f.pdf (2003) (last visited June 10, 2022) and https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20211208124520/Content/0902134380309d96.pdf (2021) (last visited June 10, 2022).

⁷ New York State Department of State (official website of NYS), Local Laws, https://locallaws.dos.ny.gov/sites/default/files/drop_laws_here/ECMMDIS_appid_DOS20200324060021/Content/09021343802afa23.pdf (last visited June 10, 2022).

⁸ “Police Report-Bedford,” *The Bedford-Lewisboro-Pound Ridge Record-Review*, June 3, 2022, Vol. 27, No. 28, at page 2, col. 5, entry dated May 25, 2022, also available at <https://www.record-review.com/> (last visited June 10, 2022).

⁹ N.Y. S.8973, N.Y. A.9296 (2022) at lines 6-7.

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dangerous. Second, the benefits of the bill only apply to licensed dogs. This may encourage dog owners to license their dog. Informing dog owners of these benefits will be key for these incentives becoming reality.

Not all owners license their dogs as required by law, and a 2018 report cited that only eight to 20% of dogs in New York City were licensed;¹⁰ the percentage elsewhere in the state can be expected to be similar. The percentage of unlicensed dogs may have increased due to pandemic-fueled increases in pet ownership. Outreach of the benefits of this bill to dog owners might spur an increase in licensing and congruence of New York law and New Yorkers' behavior. If increased licensing occurs, so will increases, even if small, to municipalities' coffers. Similar argument and benefits apply to owners for keeping existing dog licenses current.

The Committee sees only benefits to passage of this bill.

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

¹⁰ "It's a dog's life as New Yorkers pack in the pooches," *Real Estate Weekly*, October 26, 2018, <https://rew-online.com/new-york-dogs-licenses/#:~:text=Dogs%20are%20required%20to%20be,percent%20of%20dogs%20are%20licensed> (last visited June 10, 2022).

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