

COAL LEGALease Pamphlet

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Introduction

This pamphlet is presented by the New York State Bar Association’s Committee on Animals and the Law. It is intended as a basic introduction to animal law and animal-related issues in New York State for both the public and lawyers. Each section will provide general information about the topic covered as well as the relevant New York State and federal laws that may apply. Always remember to check your local municipal laws or codes, as your municipality may have its own laws regarding a topic.

I. Animal Cruelty Statutes

New York has several statutes relating to the prohibition of cruelty to animals. This includes torturing and injuring animals; failing to provide animals proper sustenance; beating, maiming, mutilating or killing an animal; and instigating, engaging in, or in any way furthering any act of cruelty. Aggravated cruelty involves the intentional causing of serious injury to a companion animal. Statutes also provide for protection against leaving animals outside, or confining animals in a motor vehicle in extreme heat or cold without proper protection. There are also

several statutes relating to mutilation of certain animals including tails of horses, ears of dogs, declawing of cats, and de-finning sharks.

Agriculture & Markets Law §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. Furbearing 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.

Agriculture & Markets Law §353. Overdriving, torturing and injuring animals; failure to provide proper sustenance

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 willfully 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 anycase the approval shall be limited to a period not exceeding one year.

Agriculture & Markets §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.

Agriculture & Markets §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 repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in 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, turnaround 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.

Agriculture & Markets §353-C. Electrocution 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.

Agriculture & Markets §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.

Agriculture & Markets §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.

Agriculture & Markets §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 cavies.

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.

Agriculture & Markets Law §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 a 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.

Agriculture & Markets §365. Clipping or cutting the ears of dogs

1. Whoever clips or cutsoff 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.

Agriculture & Markets Law §368. Operating upon tails of horses unlawful

1. Any person who cuts the bone, tissues, muscles or tendons of the tail of any horse, mare orgelding, 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, orby 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.

Agriculture & Markets Law §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.

Agriculture & Markets Law §385. Prohibition of slaughtering horses for human or animal consumption

1. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity to slaughter or have another person, corporation, association, or other entity slaughter a horse if any part of such horse will be used for human or animal consumption.

2. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity who owns or is in the process of taking ownership of a horse to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept, or direct another person to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept a horse, with the intent of slaughtering or having another person, corporation, association, or other entity slaughter such horse for the purpose of human or animal consumption.

3. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity who owns or is in the process of taking ownership of horse flesh to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept, or direct another person to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept horse flesh, with the intent of slaughtering or having another person, corporation, association, or other entity slaughter such horse for the purpose of human or animal consumption.

4. For the purposes of this section:

(a) The term "horseflesh" shall mean the flesh of a dead horse, including the animal's viscera, skin, hide, hooves, and bones; and

(b) The term "slaughter" shall mean the intentional killing, or having another kill a horse if such person knows that the purpose of such killing is using any part of such horse for human or animal consumption.

5. A violation of this section is a misdemeanor punishable by a fine of not more than one thousand dollars per horse for an individual person, and up to two thousand five hundred dollars per horse for a corporation, association, or other entity, for the first violation. Any subsequent violation shall be punishable by a fine of up to two thousand dollars per horse for an individual person, and up to five thousand dollars per horse for a corporation, association, or other entity.

6. The provisions of this section shall be in addition to, and not in lieu of, any other laws protecting animal welfare. This section shall not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations. Nothing in this section shall prohibit a person from otherwise lawful disposition of a deceased horse or any part of such horse.

7. If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to such end the provisions of this section shall be severable.

Environmental Conservation Law § 13-0338. Sharks; department authority; finning prohibited

1. For purposes of this section:

a. "Shark" means any species of the subclass Elasmobranchii except species in the order Batoidei;

b. "Finning" means the removal of a fin or fins from a shark and not retaining the remainder of the shark's carcass; and

c. "Shark fin" means the raw, dried or otherwise processed detached fin including the tail.

2. No person shall engage in finning on the waters of the marine and coastal district.

3. a. No person shall possess, sell, offer for sale, trade or distribute a shark fin; provided, however, that this prohibition shall not apply to any shark fin that was taken from a spiny dogfish (*Squalus acanthias*) or a smooth dogfish (*Mustelus canis*) lawfully caught by a licensed commercial fisherman.

b. A shark fin may be possessed by any person if the shark was lawfully caught and the person has a recreational marine fishing registration or a license or permit from the department for bona fide scientific research or educational purposes.

4. The department may, until December thirty-first, two thousand twenty-six, fix by regulation measures for the management of sharks, including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations are no less restrictive than requirements set forth in this chapter and provided further that such regulations are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. §1800 et seq.).

II. Animal Abandonment / Seizure and Impoundment of Animals Improperly Kept Statutes

New York has statutes that relate to the abandonment of animals that are in a person's possession or custody, including making it illegal to abandon such animal, or leaving it to die in a street, road or public place, or who allowing such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled. The statutes also outline the powers of police officers or other agents to lawfully take possession of a lost, strayed, homeless, or abandoned animal.

Agriculture & Markets Law §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.

Agriculture & Markets Law §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 an animal.

Agriculture & Markets Law §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 becomes 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.

Agriculture & Markets Law §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.

Agriculture & Markets 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.
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.

Agriculture & Markets Law § 383. Examination of seized animals or animals taken possession of

This law goes into effect December 15, 2025

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.

III. Animal Sale/Transfer Statutes

New York prohibits a person from selling, offering for sale, bartering or giving away living baby chicks, ducklings or other fowl or baby rabbits unless such person provides proper brooder facilities. Prohibitions also apply to persons who 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 or domesticated cat, 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. Related environmental statutes also prohibit a person to knowingly possess, harbor, sell, barter, transfer, exchange or import any wild animal for use as a pet or to intentionally release or set at-large any wild animal. In particular, a new law taking effect December 15, 2024 makes it illegal for a retail pet shop to sell, lease, offer to lease, offer to sell, barter, auction, or other transfer ownership of any dog, cat, or rabbit.

Agriculture & Markets 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.

Agriculture & Markets Law §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

anyact 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.

Agriculture & Markets Law §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.

Agriculture & Markets Law §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 a 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.

Environmental Conservation Law §11-0512. Possession, sale, barter, transfer, exchange and import of wild animals as pets prohibited

1. It shall be prohibited for any person to:

- a. knowingly possesses, harbor, sell, barter, transfer, exchange or import any wild animal for use as a pet in New York state, except as provided in subdivision three of this section; or
- b. intentionally releases or set at-large any wild animal, authorized by this section for use as a pet, from the location where the animal is permitted to be possessed or harbored.

2. This section shall not apply to the following persons and entities with respect to wild animals owned or harbored by them solely for a purpose other than for use as a pet:

- a. Zoological facilities licensed pursuant to 7 USC. Sec. 2131 etseq.;
- b. Exhibitors licensed pursuant to the Animal Welfare Act, 7 USC. Sections 2132-2134 and reptile exhibitors who have demonstrated to the department, in accordance with regulations promulgated by the commissioner, that the sole purpose for which the wild animal or animals are used is for exhibition to the public for profit or compensation;
- c. Research facilities as defined in the Animal Welfare Act, 7 USC. Section 2132 (e), which are licensed by the United States Secretary of Agriculture;
- d. Licensed veterinarians and incorporated humane societies, animal shelters, societies for the prevention of cruelty to animals or animal welfare organizations in temporary possession of wild animals;
- e. State universities, private colleges or universities, or state agencies working with wild animals;
- f. Wildlife rehabilitators licensed pursuant to the provisions of subdivision three of section 11-0515 of this title and regulations promulgated thereunder, who are tending to sick or injured wild animals;
- g. A person having custody of a wild animal solely for the purpose of transporting it to a licensed veterinarian, wildlife rehabilitator, humane society or other entity authorized by this section to handle or treat wild animals;
- h. A wildlife sanctuary as defined in subdivision thirty-two of section 11-0103 of this article;
- i. A person who is not a resident of this state who is in the state only for the purpose of travelling between locations outside the state. In no event shall this time period exceed ten days;

j. A person who is paralyzed from the neck down who possesses a new world monkey trained to perform tasks for its owner by an organization described in section 501(c) of the Internal Revenue Code of 1986 and dedicated to improving the quality of life of persons paralyzed from the neck down.

3. Any person who possesses or harbors a wild animal for use as a pet at the time that this section takes effect may retain possession of such animal for the remainder of its life, provided that such person:

a. Has not been convicted of any offense relating to cruelty to animals or under a judicial order prohibiting possession of animals;

b. Applies to the department within six months of the effective date of this section, and obtains from the department, a license pursuant to subdivision four of this section;

c. Complies with all applicable federal, state, or local laws, including any ordinance, rule or regulation adopted by a local board of health, or any rules and regulations established by the department as requisites for ownership of such wild animal; and

d. Reports a release to the local police department and animal control immediately upon discovery of the release. Each escape during a twelve-month period of time will subject the possessor to penalties by the department pursuant to subdivisions eight and nine of this section.

4. The department shall be required to issue licenses authorizing possession of wild animals only to those persons who comply with the provisions of subdivision three of this section and with any regulations promulgated by the department thereunder. Such licenses shall be valid in any jurisdiction within the state where possession of a wild animal is not prohibited by local law or ordinance, rule or regulation adopted by a local board of health, and shall be renewable biennially during the life of the animal subject to continued compliance with the provisions of this section and with any regulations promulgated thereunder. The department shall forward copies of such licenses to the clerk of the city, town or village in which each wild animal is harbored.

a. License applications shall include, but shall not be limited to, the following:

(1) The name, address and telephone number of the person who owns, possesses or harbors the wild animal or animals, including an acknowledgment that the person who owns, possesses or harbors the wild animal or animals is twenty-one years of age or older.

(2) The address of the location where the wild animal or animals will be kept, if different from the above.

(3) A detailed description of each wild animal owned, possessed or harbored, including species, gender, age, any identifying characteristics, and an identification tag or tattoo if required by the department, with proof, acceptable to the department, that each such wild animal was acquired prior to the effective date of this section.

(4) The name, address and telephone number of the veterinarian, who has agreed to treat the wild animal.

(5) An acknowledgment indicating that the wild animal or animals will not be bred.

(6) A detailed certification establishing that the location in which the wild animal will be kept complies with all appropriate standards of care and at minimum complies with the standards for animal care set forth in the Federal Animal Welfare Act and other applicable federal, state and local standards, including, but not limited to housing, temperature, ventilation, drainage, sanitation, food, water, exercise and veterinary care appropriate to the species and sufficient to maintain the wild animal in good health.

(7) An acknowledgment that the wild animal will not be tied, tethered, or chained outdoors, allowed to run at large and that the wild animal will not be brought to any public park or commercial or retail establishment unless it is being brought to a veterinarian or veterinary clinic.

(8) An acknowledgment that possession, harboring or owning such wild animal does not violate any applicable federal, state or local law, including any ordinance, rule or regulation adopted by a local board of health.

b. The department shall set biennial license fees for the possession of wild animals pursuant to subdivision three of this section in an amount determined to be reasonable but not more than one hundred seventy-five dollars for two years for each wild animal. License fees shall be used solely for the implementation and enforcement of this section.

5. The provisions of the state administrative procedure act shall apply to the denial or revocation of a license.

6. Any person in possession of a wild animal as a pet that has been granted a license pursuant to subdivision four of this section shall not breed, or sell, trade, barter or exchange such wild animal.

7. A person possessing, owning or harboring a wild animal who is denied a license pursuant to subdivision four of this section, or whose license is revoked, shall surrender such wild animal to the department or an authorized agent thereof at a location designated by the department for such surrender or a police or peace officer of this state, a local animal control officer, or a duly incorporated society for the prevention of cruelty to animals, or provide proof that the animal has been humanely euthanized according to American Veterinary Medical Association standards by a licensed veterinarian.

8. The department, any police or peace officer of this state, a local animal control officer, or a duly incorporated society for the prevention of cruelty to animals is hereby authorized to enforce the provisions of this section and issue notices of violation to persons in violation of this section, and shall have the authority to seize any wild animal held in violation of this section. A county society for the prevention of cruelty to animals must obtain a warrant before seizing a wild animal or arresting a person who owns or possesses a wild animal under this section. Wild

animals seized or surrendered pursuant to the provisions of this section shall be transferred to a duly incorporated wildlife sanctuary as defined in this section, or a zoological facility, or shall be humanely euthanized. Any costs associated with seizing, transferring, recapturing or euthanizing a wild animal shall be borne by the person who owned, harbored or possessed the animal. The department shall also have the authority to seek injunctive relief in any court of appropriate jurisdiction to prevent continued violations of this section.

9. Notwithstanding any other provision of law, any person who knowingly breeds a wild animal or knowingly possesses, owns, harbors, sells, barter, transfers, exchanges, or imports a wild animal for use as a pet or intentionally releases or sets at-large any wild animal, authorized by this section for use as a pet, from the location where the animal is permitted to be possessed or harbored in violation of the provisions of this section shall be subject to a penalty of not more than five hundred dollars for the first offense and not more than one thousand dollars for a second and subsequent offenses. Each instance of breeding, owning, harboring, sale, barter, release, transfer, exchange, or import of a wild animal in violation of this section shall constitute a separate offense.

10. Nothing contained in this section shall prevent any city, town or county from enacting more restrictive provisions governing the possession of wild animals for use as pets.

General Business Law §375-F. Sale of dogs, cats and rabbits prohibited

This law goes into effect on December 15, 2024.

1. A retail pet shop as defined in this article shall not sell, lease, offer to lease, offer to sell, barter, auction, or otherwise transfer ownership of any dog, cat or rabbit. This section shall not be construed to prohibit a retail pet shop from collaborating with the following entities to provide space to showcase dogs, cats or rabbits owned by such entities for the purpose of adoption; 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 that:

(a) 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;

(b) is registered with the department pursuant to section four hundred eight of the agriculture and markets law;

(c) is not affiliated with, or housed on the premises of a breeder or broker that does not obtain dogs, cats or rabbits from a breeder or broker in exchange for payment or compensation; and

(d) does not resell dogs, cats or rabbits obtained from a breeder or broker or provide payment or compensation to such breeder or broker.

2. This section shall not prohibit a retail pet shop from receiving a reasonable rental fee for space to showcase dogs, cats or rabbits for adoption at such retail pet shop.

IV. Dangerous Dogs

New York provides municipalities with the power to address dangerous dogs within their jurisdictions. These actions are separate from civil lawsuits brought by injured plaintiffs but may affect ongoing and future actions brought against the owners of a dangerous dog. Proceeding can be brought by a dog control officer, police officer, or any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor. If there is probable cause to believe the dog is dangerous, municipal judge or justice shall issue an order to seize the dog and hold pending resolution of the matter. A Judge shall hold a hearing to determine whether the dog is dangerous within five days of the complaint. Complainant has burden to prove dog is dangerous by “clear and convincing evidence.” There is no specific definition of a “dangerous dog” in the statute.

Agriculture & Markets Law §123. Dangerous Dogs

1. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal as defined in section three hundred fifty of this chapter, farm animal as defined in such section three hundred fifty, or a domestic animal as defined in subdivision seven of section one hundred eight of this article to a dog control officer or police officer of the appropriate municipality. Such officer shall immediately inform the complainant of his or her right to commence a proceeding as provided in subdivision two of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself or herself.

2. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may, and any dog control officer or police officer as provided in subdivision one of this section shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack or threatened attack. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any dog control officer, peace officer, acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. Whether or not the judge or justice finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. The petitioner shall have the burden at such hearing to prove the dog is a "dangerous dog" by clear and convincing evidence. If satisfied that the dog is a dangerous dog, the judge or justice shall then order neutering or spaying of the dog, microchipping of the dog and one or more of the

following as deemed appropriate under the circumstances and as deemed necessary for the protection of the public:

- (a) evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with evaluations and training ordered under this section;
- (b) secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section three hundred fifty-three-b of this chapter. Such confinement shall not include lengthy periods of tying or chaining;
- (c) restraint of the dog on a leash by an adult of at least twenty-one years of age whenever the dog is on public premises;
- (d) muzzling the dog whenever it is on public premises in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration; or
- (e) maintenance of a liability insurance policy in an amount determined by the court, but in no event in excess of one hundred thousand dollars for personal injury or death resulting from an attack by such dangerous dog.

3. Upon a finding that a dog is dangerous, the judge or justice may order humane euthanasia or permanent confinement of the dog if one of the following aggravating circumstances is established at the judicial hearing held pursuant to subdivision two of this section:

- (a) the dog, without justification, attacked a person causing serious physical injury or death; or
- (b) the dog has a known vicious propensity as evidenced by a previous unjustified attack on a person, which caused serious physical injury or death; or
- (c) the dog, without justification, caused serious physical injury or death to a companion animal, farm animal or domestic animal, and has, in the past two years, caused unjustified physical injury or death to a companion or farm animal as evidenced by a "dangerous dog" finding pursuant to the provisions of this section. An order of humane euthanasia shall not be carried out until expiration of the thirty day period provided for in subdivision five of this section for filing a notice of appeal, unless the owner of the dog has indicated to the judge in writing, his or her intention to waive his or her right to appeal. Upon filing of a notice of appeal, the order shall be automatically stayed pending the outcome of the appeal.

4. A dog shall not be declared dangerous if the court determines the conduct of the dog (a) was justified because the threat, injury or damage was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog or upon the property of the owner or custodian of the dog; (b) was justified because the injured, threatened or killed person was tormenting, abusing, assaulting or physically threatening the dog or its offspring, or

has in the past tormented, abused, assaulted or physically threatened the dog or its offspring; (c) was justified because the dog was responding to pain or injury, or was protecting itself, its owner, custodian, or a member of its household, its kennels or its offspring; or was justified because the injured, threatened or killed companion animal, farm animal or domestic animal was attacking or threatening to attack the dog or its offspring. Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert shall be relevant to the court's determination as to whether the dog's behavior was justified pursuant to the provisions of this subdivision.

5. (a) The owner of a dog found to be a "dangerous dog" pursuant to this section may appeal such determination, and/or the court's order concerning disposition of the dog to the court having jurisdiction to hear civil appeals in the county where the "dangerous dog" finding was made. The owner shall commence such appeal by filing a notice of appeal with the appropriate court within thirty days of the final order pursuant to this section. Court rules governing civil appeals in the appropriate jurisdiction shall govern the appeal of a determination under this section.

(b) Upon filing a notice of appeal from an order of humane euthanasia pursuant to this section, such order shall be automatically stayed pending final determination of any appeal. In all other circumstances, the owner of the dog may make application to the court to issue a stay of disposition pending determination of the appeal.

6. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person, service dog, guide dog or hearing dog causing physical injury shall be subject to a civil penalty not to exceed four hundred dollars in addition to any other applicable penalties.

7. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person causing serious physical injury shall be subject to a civil penalty not to exceed one thousand five hundred dollars in addition to any other applicable penalties. Any such penalty may be reduced by any amount which is paid as restitution by the owner of the dog to the person or persons suffering serious physical injury as compensation for unreimbursed medical expenses, lost earnings and other damages resulting from such injury.

8. The owner of a dog who, through any act or omission, negligently permits his or her dog, which had previously been determined to be dangerous pursuant to this article, to bite a person causing serious physical injury, shall be guilty of a misdemeanor punishable by a fine of not more than three thousand dollars, or by a period of imprisonment not to exceed ninety days, or by both such fine and imprisonment in addition to any other applicable penalties. Any such fine may be reduced by any amount which is paid as restitution by the owner of the dog to the person or persons suffering serious physical injury as compensation for unreimbursed medical expenses, lost earnings and other damages resulting from such injury.

9. If any dog, which had previously been determined by a judge or justice to be a dangerous dog, as defined in section one hundred eight of this article, shall without justification kill or cause the death of any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, regardless of whether such dog escapes without fault of the owner, the owner shall be guilty of a class A misdemeanor in addition to any other penalties.

10. The owner or lawful custodian of a dangerous dog shall, except in the circumstances enumerated in subdivisions four and eleven of this section, be strictly liable for medical costs resulting from injury caused by such dog to a person, companion animal, farm animal or domestic animal.

11. The owner shall not be liable pursuant to subdivision six, seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in paragraph (a) or (b) of subdivision one, paragraph (a) or (b) of subdivision two or paragraph (a) or (b) of subdivision three of section 130.35 of the penal law, rape in the first degree as defined in the former subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

12. Nothing contained in this section shall limit or abrogate any claim or cause of action any person who is injured by a dog with a vicious disposition or a vicious propensity may have under common law or by statute. The provisions of this section shall be in addition to such common law and statutory remedies.

13. Nothing contained in this section shall restrict the rights and powers derived from the provisions of title four of article twenty-one of the public health law relating to rabies and any rule and regulation adopted pursuant thereto.

14. Persons owning, possessing or harboring dangerous dogs shall report the presence of such dangerous dogs pursuant to section two hundred nine-cc of the general municipal law.

General Municipal Law §209-CC. Notification of presence of wild animals and dangerous dogs

1. The knowledge of the presence of dangerous wild animals, and dangerous dogs, in the context of emergency services responses, is necessary to protect public safety and the safety of emergency services personnel.

2. As used in this section:

(a) the term "emergency services personnel" means fire, police, and ambulance personnel.

(b) the term "person" means any individual, partnership, corporation, association, or other entity.

(c) the term "wild animal" means any or all of the following orders and families:

(1) Nonhuman primates and prosimians;

(2) Felidae (with the exception of domesticated cats); (3) Canidae (with the exception of domesticated dogs);

(4) Ursidae;

(5) All venomous snakes and all constrictors and python snakes that are ten feet or greater in length; and

(6) Crocodilia that are five feet or greater in length.

(d) the term "dangerous dog" means a dog found dangerous pursuant to the provisions of section one hundred twenty-three of the agriculture and markets law.

3. The state fire administrator, in consultation with the department of environmental conservation, shall develop and maintain a list of the common names of wild animals to be reported.

4. Except for pet dealers as defined in section seven hundred fifty-two-a of the general business law and zoological facilities and other exhibitors licensed pursuant to title 7 U.S.C. sections 2133 and 2134, and in the case of dangerous dogs except for licensed veterinarians in temporary possession of such dogs, every person owning, possessing, or harboring a wild animal or a dangerous dog within this state shall report the presence thereof to the clerk of the city, town, or village in which such wild animal or dangerous dog is owned, possessed, or harbored. Such report shall be filed annually on a date to be determined by the state fire administrator in the manner prescribed by the state fire administrator. A separate report shall be filed for each street address at which any such wild animal or dangerous dog may be found.

5. Such clerk shall forward a copy of such report to each state police troop, county sheriff, and municipal police agency having jurisdiction over the location of such wild animal or dangerous dog. A copy thereof shall also be forwarded to each fire department, fire corporation, or fire company serving such location and to each ambulance or emergency medical service department, ambulance corporation, or ambulance or emergency medical service company serving such location. In lieu of forwarding a copy of each report, the clerk may compile the contents of the several reports, and forward the compilation.

6. Any person who fails to report the presence of a wild animal or dangerous dog as required in this section shall be subject to a civil penalty of not more than two hundred fifty dollars for the first offense, and upon being found guilty of a second or subsequent offense, by a civil penalty of not less than two hundred fifty dollars or more than one thousand dollars. Except as otherwise provided by law, such a violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of a person found guilty thereof.

V. Animal Fighting Statute

Separate from the laws prohibiting animal cruelty, New York also has a specific statute prohibiting animal fighting, which includes fights between cocks or other birds, dogs, bulls, bears, or any other animals, or between any such animal and a person or persons. This also

extends to the sale, transfer, possession, ownership, or manufacturing of animal fighting paraphernalia. There are also several exceptions to this statute, including for rodeos.

Agriculture & Markets Law §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 engages 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 engages 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 spring pole, 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.

VI. Companion Animals

New York has many statutes relating to companion animals, which are different and distinct from a service dog. It is important to note that a companion dog is not considered a service dog.

Under Public Health Law, companion dog shall mean a domesticated dog accompanying an individual or owner for the purpose of companionship or convenience of such individual or owner, and shall not include guide, hearing or service dogs. In order for a companion dog to be allowed in an outdoor dining area at a food service establishment, several conditions must be met including the owner of the food facility elects to allow companion dogs in its outdoor dining area or a designated portion of it, and subject to any restrictions that the owner of the facility may establish; food and water provided to companion dogs shall only be in single-use disposable containers; and the area maintained clean.

Agriculture & Markets Law §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.

Public Health Law §1352-E. Companion dogs at food service establishments

1. Companion dogs under the control of a person may be allowed in an outdoor dining area at a food service establishment if all of the following conditions are satisfied:

- (a) the owner of the food facility elects to allow companion dogs in its outdoor dining area or a designated portion of it, and subject to any restrictions that the owner of the facility may establish;
- (b) a separate outdoor entrance is present where companion dogs enter without going through the food establishment to reach the outdoor dining area and companion dogs are not allowed on chairs, benches, seats or other fixtures;
- (c) the outdoor dining area in which companion dogs are allowed is not used for food or drink preparation or the storage of utensils. A food employee may refill a beverage glass in the outdoor dining area from a pitcher or other container;
- (d) food and water provided to companion dogs shall only be in single-use disposable containers;

- (e) food employees are prohibited from having direct contact with companion dogs while on duty. A food employee who does have such prohibited direct contact shall wash his or her hands as required by law;
 - (f) the outdoor dining area is maintained clean. Surfaces that have been contaminated by dog excrement or other bodily fluids shall be cleaned and sanitized;
 - (g) the companion dog is on a leash or confined in a pet carrier and is under the control of the companion dog owner;
 - (h) there is reasonable signage indicating that companion dogs are allowed in the outdoor dining area or a designated portion of it. The signage shall state that restrictions on companion dogs do not apply to guide, hearing or service animals;
 - (i) the food facility owner ensures compliance with local ordinances related to sidewalks, public nuisance and sanitation; and
 - (j) such other control measures approved by the enforcement agency are complied with.
2. This section shall not impair or diminish the right of an individual to be accompanied by an animal where otherwise permitted bylaw, including but not limited to the rights of people with disabilities using guide, hearing or service animals.
3. For purposes of this section:
- (a) "Food service establishment" shall mean any business which has areas, including outdoor seating areas, in which food is sold for on-premises consumption.
 - (b) "Companion dog" shall mean a domesticated dog accompanying an individual or owner for the purpose of companionship or convenience of such individual or owner, and shall not include guide, hearing or service dogs.

VII. Licensing and Definitions of Animals

New York has specific definitions and licensing requirements of animals. New York also requires certain vaccinations.

Agriculture & Markets Law §108. Definitions

As used in this article, unless otherwise expressly stated or unless the context or subject matter requires otherwise:

5. "Dog" means any member of the species *canis familiaris*.

7. "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.

9. "Guide dog" means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog during the period such dog is being trained or bred for such purpose.

15. "Owner" means any person who harbors or keeps any dog.

21. "Hearing dog" means any dog that is trained to aid a person who is deaf or hard of hearing and is actually used for such purpose, or any dog during the period such dog is being trained or bred for such purpose.

22. "Service dog" means 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.

23. "Person with a disability" means any person with a disability as that term is defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

24. (a) "Dangerous dog" means any dog which (i) without justification attacks a person, companion animal as defined in subdivision five of section three hundred fifty of this chapter, farm animal as defined in subdivision four of section three hundred fifty of this chapter or domestic animal as defined in subdivision seven of this section and causes physical injury or death, or (ii) behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to one or more persons, companion animals, farm animals or domestic animals or (iii) without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

(b) "Dangerous dog" does not include a police work dog, as defined in subdivision eighteen of this section, which acts in the manner described in this paragraph while such police work dog is being used to assist one or more law enforcement officers in the performance of their official duties.

25. "Working search dog" means any dog that is trained to aid in the search for missing persons and is actually used for such purpose.

26. "Therapy dog" means 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.

Agriculture & Markets Law §109. Licensing of dogs required; rabies vaccination required

1. (a) The owner of any dog reaching the age of four months shall immediately make an application for a dog license. No license shall be required for any dog which is under the age of four months, and which is not at large, or that is residing in a pound or shelter maintained by or under contractor 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 protective association. Except as otherwise provided in this subdivision, a license shall be issued or renewed for a period of at least one year, provided, that no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued. In the event an applicant for a license presents, in lieu of a rabies certificate, a statement certified by a licensed veterinarian, as provided in subdivision two of this section, a license shall be issued or renewed for a period of one year from the date of said statement. Any municipality may establish a common renewal date for all such licenses. A license issued by a municipality that has established a common renewal date shall expire no later than the common renewal date prior to the expiration date of the rabies certificate for the dog being licensed.

(b) Application for a dog license shall be made to the clerk of the town, city, or county or, in the counties of Nassau and Westchester, incorporated village in which the dog is harbored or to the village clerk of those villages in the county of Rockland with a population of fifteen thousand or more which have elected to accept applications pursuant to the provisions of this paragraph or to the village clerk of the village of Newark in the county of Wayne upon the election of the village of Newark pursuant to the provisions of this paragraph. Provided, however, that in the counties of Nassau and Westchester, the board of trustees of any incorporated village may by resolution provide that applications for licenses shall no longer be made to the village clerk, but to the clerk of the town in which the village is situated. Provided further, however, that in the county of Rockland, the board of trustees of any incorporated village with a population of fifteen thousand or more may by resolution provide that application for licenses shall be made to the village clerk. Provided further, however, that in the county of Wayne, the board of trustees of the village of Newark may by resolution provide that application for licenses shall be made to the village clerk. Provided further, however, that in the county of Montgomery, the board of trustees of the village of St. Johnsville may by resolution provide that application for licenses shall be made to the village clerk. The governing body of any town or city or, in the counties of Nassau and Westchester, incorporated village or in the county of Rockland, those villages with a population of fifteen thousand or more which have so elected to accept applications, in the county of Wayne, the village of Newark if such village has so elected to accept applications or, in the county of Montgomery, the village of St. Johnsville if such village has so elected to accept applications may, on resolution of such body, authorize that such application be made to one or more named dog control officers of any such town, city or village. The issuance of any license by any such officer shall be under the control and supervision of the clerk. In the case of a seized dog being redeemed or a dog being otherwise obtained from a county animal shelter or pound, such application may be made to the county dog control officer in charge of such facility. In the case of a dog being redeemed or a dog being adopted from a shelter or pound established, maintained or contracted for, pursuant to section one hundred fourteen of this article, such application may

be made to the manager of such facility, provided such manager has been authorized by the municipality in which the prospective owner resides to accept such application. Such authorization shall be requested by the governing body of the pound or shelter and the granting or denial of such authorization shall be in the discretion of the municipality in which the prospective owner resides.

(c) The application shall state the sex, actual or approximate age, breed, color, and municipal identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town, city or village of residence of the owner. Municipalities may also require additional information on such application as deemed appropriate.

(d) The application shall be accompanied by the license fee prescribed by section one hundred ten of this article and a certificate of rabies vaccination or statement in lieu thereof, as required by subdivision two of this section. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the clerk or authorized dog control officer. In lieu of the spay or neuter certificate an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in subdivision one of section one hundred ten of this article.

(e) Upon validation by the clerk, authorized dog control officer or authorized pound or shelter manager, the application shall become a license for the dog described therein.

(f) The clerk, authorized dog control officer or authorized pound or shelter manager shall: (i) provide a copy of the license to the owner; (ii) retain a record of the license that shall be made available upon request to the commissioner for purposes of rabies and other animal disease control efforts and actions. In addition, the authorized pound or shelter manager shall send, within forty eight hours of validation, a copy of the license to the licensing municipality within which the dog is to be harbored.

(g) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

(h) Notwithstanding the provisions of any general, special or local law, or any rule or regulation to the contrary, the clerk, authorized dog control officer or authorized pound or shelter manager in municipalities having a population of less than one hundred thousand shall within five business days after the license has been validated, send a copy of the validated license to the licensing municipality in which the dog is to be harbored.

2. The clerk, authorized dog control officer or authorized pound or shelter manager, at the time of issuing any license pursuant to this article, shall require the applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of

old age or another reason, the life of the dog or dogs would be endangered by the administration of vaccine. The clerk, authorized dog control officer or authorized pound or shelter manager shall make or cause to be made from such statement a record of such information and shall file such record with a copy of the license. Such records shall be made available to the commissioner upon request for rabies and other animal disease control efforts.

3. Municipalities may provide for the establishment and issuance of purebred licenses and, in the event they do so, shall provide for the assessment of a surcharge of at least three dollars for the purposes of carrying out animal population control efforts as provided in section one hundred seventeen-a of this article. Municipalities which issue purebred licenses shall remit such surcharge collected to the commissioner.

Agriculture & Markets Law §110. Licensing Fees

1. The license fee for dog licenses issued pursuant to subdivision one of section one hundred nine of this article shall be determined by the municipality issuing the license, provided that the total fee for an unspayed or unneutered dog shall be at least five dollars more than the total fee for a spayed or neutered dog. All revenue derived from such fees shall be the sole property of the municipality setting the same 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.

2. Municipalities may exempt from their licensing fees any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each copy of any license for such dogs shall be conspicuously marked "Guide Dog", "Hearing Dog", "Service Dog", "Working Search Dog", "War Dog", "Detection Dog", "Police Work Dog", or "Therapy Dog", as may be appropriate, by the clerk or authorized dog control officer.

3. In addition to the fee charged pursuant to subdivision one of this section, all municipalities issuing dog licenses pursuant to this article are required to provide for the assessment of an additional surcharge of at least one dollar for altered dogs and at least three dollars for unaltered dogs for the purposes of carrying out animal population control efforts as provided in section one hundred seventeen-a of this article. Such surcharges shall be submitted by municipalities to the commissioner.

4. In addition to the fee charged pursuant to subdivision one of this section, any municipality issuing dog licenses pursuant to this article is hereby authorized to provide for the assessment of additional surcharges for the purpose of:

(a) recovering costs associated with enumeration conducted pursuant to subdivision six of section one hundred thirteen of this article should a dog be identified as unlicensed during such enumeration. Such additional fee shall be the property of the licensing municipality and shall be used to pay the expenses incurred by the municipality in conducting the enumeration. In the

event the additional fees collected exceed the expenses incurred by the municipality in conducting an enumeration in any year, such excess fees may be used by the municipality for enforcing this article and for spaying or neutering animals; and (b) offsetting costs associated with the provision and replacement of identification tags pursuant to section one hundred eleven of this article.

Agriculture & Markets Law §111. Identification of Dogs

1. Each dog licensed pursuant to subdivision one of section one hundred nine of this article shall be assigned, at the time the dog is first licensed, a municipal identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a municipality may exempt dogs participating in a dog show during such participation.
2. No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.
3. A municipality offering a purebred license may provide a licensee, at his or her expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that municipalities may exempt dogs participating in a dog show during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.
4. A municipality offering a license for any guide dog, service dog, hearing dog, therapy dog or detection dog may issue a special tag for identifying such dog, provided that such tag shall be in addition to the identification tag required by subdivision one of this section. The municipality may prescribe the shape, size, color, and form of imprint of the tag which shall be a different color and shape than the standard identification tag. Upon application, the commissioner shall furnish such tags without payment of a fee.

Agriculture & Markets Law §111-a. Microchipping Standards

1. The commissioner may adopt and promulgate rules and regulations that may provide for: standardization of technology used in microchips implanted in companion animals that are dogs or cats; and/or microchip readers so that such readers used by veterinarians, animal shelters, dog control officers, and animal control officers are capable of reading any chip to identify the animals and/or the owner of record; and/or the need for such veterinarians, animal shelters, dog control officers, and animal control officers to possess or have access to a microchip reader capable of reading any commercially available microchip implanted in a cat or dog. Such rules and regulations may also provide for the collection, sharing, and dissemination of chip identification information by entities that possess and manage such information solely to promote timely notification of owners when pets are lost while maintaining privacy protection of

personal information and providing for disclosure to such owners of the sharing of such information.

Environmental Conservation Law §11-0103. Definitions

As used in the Fish and Wildlife Law:

6. a. "Wildlife" means wild game and all other animal life existing in a wild state, except fish, shellfish and crustacea.

e. "Wild animal" shall not include "companion animal" as defined in section three hundred fifty of the agriculture and markets law. Wild animal includes, and is limited to, any or all of the following orders and families:

(1) Nonhuman primates and prosimians,

(2) Felidae and all hybrids thereof, with the exception of the species *Felis catus* (domesticated and feral cats, which shall mean domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, as well as offspring of such cats) and hybrids of *Felis catus* that are registered by the American Cat Fanciers Association or the International Cat Association provided that such cats be without any wild felid parentage for a minimum of five generations,

(3) Canidae (with the exception of domesticated dogs and captive bred fennec foxes (*vulpes zerda*)),

VIII. Pet Trusts

Under the Estates Powers and Trusts Laws, people can create a trust for the care of a designated domestic or pet animal. These trusts are not required to terminate upon the creator's death, ensuring that pets will be cared for even after one family member passes. The purpose, essentially, is to allow an owner the ability designate the wishes they have for their pet as well as allocate certain funds for their care.

Estates, Powers & Trusts Law § 7-8.1 Trusts for pets.

(a) A trust for the care of a designated domestic or pet animal is valid. The intended use of the principal or income may be enforced by an individual designated for that purpose in the trust instrument or, if none, by an individual appointed by a court upon application to it by an individual, or by a trustee. Such trust shall terminate when the living animal beneficiary or beneficiaries of such trust are no longer alive.

(b) Except as expressly provided otherwise in the trust instrument, no portion of the principal or income may be converted to the use of the trustee or to any use other than for the benefit of all covered animals.

(c) Upon termination, the trustee shall transfer the unexpended trust property as directed in the trust instrument or, if there are no such directions in the trust instrument, the property shall pass to the estate of the grantor.

(d) A court may reduce the amount of the property transferred if it determines that amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property pursuant to paragraph (c) of this section.

(e) If no trustee is designated or no designated trustee is willing or able to serve, a court shall appoint a trustee and may make such other orders and determinations as are advisable to carry out the intent of the transferor and the purpose of this section.

IX. Hunting/Sports Statutes

New York has various statutes in multiple areas in relation to the regulation of hunting, fishing, trapping, and the killing of wild animals. In addition to providing definitions, license requirements, and permit requirements, the statutes also regulate weaponry, traps, and other devices that can be used. Many of the statutes have been partially repealed or amended in recent years, with many having sections added that are set to take effect in the next few years. This is especially true as it relates to the taking of small game and hunting of migratory birds. For example, a new subsection of a statute set to take effect on November 1, 2024, makes it unlawful for any person to organize, sponsor, conduct, promote, or participate in any contest, competition, tournament, or derby with the objective of taking or hunting wildlife for prizes or other inducement, or for entertainment, with limited exceptions.

Environmental Conservation Law §11-103. Definitions.

As used in the Fish and Wildlife Law:

1. a. "Fish" means all varieties of the super-class Pisces.
- b. "Food fish" means all species of edible fish and squid (cephalopoda).
- c. "Migratory fish of the sea" means both catadromous and anadromous species of fish which live a part of their life span in salt water streams and oceans.
- d. "Fish protected by law" means fish protected, by law or by regulations of the department, by restrictions on open seasons or on size of fish that may be taken.

e. Unless otherwise indicated, "Trout" includes brook trout, brown trout, red-throat trout, rainbow trout and splake. "Trout", "landlocked salmon", "black bass", "pickerel", "pike", and "walleye" mean respectively, the fish or groups of fish identified by those names, with or without one or more other common names of fish belonging to the group. "Pacific salmon" means coho salmon, chinook salmon and pink salmon.

This portion of the statute is only in effect until June 1, 2026:

f. "Speargun" and "under-water gun" means any speargun that stores potential energy provided from the spear fisher's muscles only and is used while submerged under the water. Such gun may only release that amount of energy that the diver has provided to it from such diver's own muscles. Common temporary energy storing devices for spearguns shall include, but not be limited to: rubber bands, springs, and sealed air chambers.

2. "Game" is classified as (a) game birds; (b) big game; (c) small game.

a. "Game birds" are classified as (1) migratory game birds and (2) upland game birds.

(1) "Migratory game birds" means the Anatidae or waterfowl, commonly known as geese, brant, swans and river and sea ducks; the Rallidae, commonly known as rails, American coots, mud hens and gallinules; the Limicolae or shorebirds, commonly known as woodcock, snipe, plover, surfbirds, sandpipers, tattlers and curlews; the Corvidae, commonly known as jays, crows and magpies.

(2) "Upland game birds" (Gallinae) means wild turkeys, grouse, pheasant, Hungarian or European gray-legged partridge and quail. Grouse means ruffed grouse and every member of the grouse family. Pheasant means the ring-necked, dark-necked and mutant pheasants and all species and subspecies of the genus Phasianus representing the true or game pheasants.

b. "Big game" means deer, bear, moose, elk, except captive bred and raised North American elk (*Cervus elaphus*), caribou and antelope.

c. "Small game" means black, gray and fox squirrels, European hares, varying hares, cotton tail rabbits, native frogs, native salamanders, native turtles, native lizards, native snakes, coyotes, redfox (*Vulpes vulpes*) and gray fox (*Urocyon cinereoargenteus*) except captive bred redfox or gray fox, raccoon, opossum, or weasel, skunk, bobcat, lynx, muskrat, mink, except mink born in captivity, fisher, otter, beaver, sable and marten but does not include coydogs.

3. "Wild game" means all game, except (a) domestic game bird and domestic game animal as defined in subdivision 4; (b) carcasses of foreign game as defined in section 11-1717, imported from outside the United States; (c) game propagated or kept alive in captivity as provided in section 11-1907 of this article; (d) game imported alive pursuant to license of the department, or artificially propagated, until such game is liberated; and (e) game so imported or propagated when liberated for the purpose of a field trial and taken during the field trial for which it was liberated.

4. a. "Domestic game bird" means ducks, geese, brant, swans, pheasants, quail, wild turkey, ruffed grouse, Chukar partridge and Hungarian or European gray-legged partridge, propagated under a domestic game bird breeder's license pursuant to section 11-1901 or a shooting preserve

license pursuant to section 11-1903, or propagated on a preserve or island outside the state under a law similar in principle to title 19 of this article.

b. "Domestic game animal" means white-tailed deer propagated under a domestic game animal breeder's license pursuant to section 11-1905 or propagated on a preserve or island outside the state under a law similar in principle to title 19 of this article.

c. To qualify as such domestic game bird or domestic game animal, (1) live game must be held in private ownership, on such licensed premises, and in the case of deer must be held on a preserve which is fenced, or is an island, as provided in section 11-1905, or must be held in confinement in course of transportation, and (2) the carcasses or flesh of such game coming from outside the state must originate on premises operated by the holder of a domestic game certificate as provided in section 11-1715.

5. a. "Unprotected wild birds" means the English sparrow and starling, and also includes pigeons and psittacine birds existing in a wild state, not domesticated. b. "Protected birds" means all wildbirds except those named in paragraph a of this subdivision.

6. a. "Wildlife" means wild game and all other animal life existing in a wild state, except fish, shellfish and crustacea.

b. "Wild bird" means birds which are "wildlife".

c. "Protected wildlife" means wild game, protected wild birds, protected insects, species of special concern and endangered and threatened species of wildlife designated by the department pursuant to section 11-0535 of this article, species listed in section 11-0536 of this article and species protected pursuant to section 11-0311 of this article.

d. "Unprotected wildlife" means all wildlife which is not "protected wildlife".

e. "Wild animal" shall not include "companion animal" as defined in section three hundred fifty of the agriculture and markets law. Wild animal includes, and is limited to, any or all of the following orders and families:

(1) Nonhuman primates and prosimians,

(2) Felidae and all hybrids thereof, with the exception of the species *Felis catus* (domesticated and feral cats, which shall mean domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, as well as offspring of such cats) and hybrids of *Felis catus* that are registered by the American Cat Fanciers Association or the International Cat Association provided that such cats be without any wild felid parentage for a minimum of five generations,

(3) Canidae (with the exception of domesticated dogs and captive bred fennec foxes (*vulpeszerda*)),

(4) Ursidae,

(5) All reptiles that are venomous by nature, pursuant to department regulation, and the following species and orders: Burmese Python (*Pythonm. bivittatus*), Reticulated Python (*Pythonreticulatus*), African Rock Python (*Python sabae*), Green Anaconda (*Eunectes maurinus*), Yellow Anaconda (*Eunectes notaeus*), Australian Amethystine Python (*Moreliaamethystina* and *Moreliakinghorni*), Indian Python (*Python molurus*), Asiatic (water) Monitor (*Varanus salvator*), Nile Monitor (*Varanusnilocitus*), White Throat Monitor (*Varanus albigularis*), Black Throat Monitor (*Varanus albigularis ionides*) and Crocodile Monitor (*Varanussalvadori*), Komodo Dragon (*Varanus komodensis*) and any hybrid thereof,

(6) Crocodylia.

7. "Protected insect" means any insect with respect to the taking of which restrictions are imposed by the Fish and Wildlife Law or regulations of the department pursuant thereto.

8. "Plumage" is defined in section 11-1729.

9. "Shellfish" means oysters, scallops, and all kinds of clams and mussels.

10. "Hunting" means pursuing, shooting, killing or capturing (other than trapping as defined in subdivision 11) wildlife, except wildlife which has been lawfully trapped or otherwise reduced to possession, and includes all lesser acts such as disturbing, harrying or worrying, whether they result in taking or not, and every attempt to take and every act of assistance to anyother person in taking or attempting to take wildlife.

11. "Trapping" means taking, killing and capturing wildlife withtraps, deadfalls and other devices commonly used to take wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting or staking such traps, deadfalls and other devices whether they result in taking or not, and every attempt to take and every act of assistance to anyother person intaking or attempting to take wildlife with traps, deadfalls or other devices.

12. a. "Fishing" means the taking, killing, netting, capturing or withdrawal of fish from the waters of the state by any means, including every attempt to take and every act of assistance to any other person in taking or attempting to take fish.

b. "Angling" means taking fish by hook and line. It includes bait and fly fishing, casting, trolling and also includes the use of landing nets in completing the catch of fish taken by hook and line. To constitute "angling" the taking must be in accordance with the following requirements: (1) the operator must be present and in immediate attendance when lines are in the water;

The following portion of the statute is only in effect until December 31, 2025:

(2) one person may operate not more than two lines, with or without rod, except that one person may operate up to three lines in freshwater;

The following portion of the statute takes effect on December 31, 2025:

(2) one person may operate not more than two lines, with or without rod;

(3) each line shall have not more than five lures or baits, or a combination of both, and in addition each line shall have not exceeding fifteen single hooks, or seven double hooks, or five triple hooks, or any combination of such hooks, provided the total number of hook points thereof does not exceed fifteen. Angling does not include snatching or hooking or the use of tip-ups.

c. "Hooking", "snatching" or "snagging" means taking fish that have not taken or attempted to take a bait or artificial lure into their mouth, by impaling fish with one or more hooks or similar devices, whether or not baited, into any part of their body.

d. "Net" means a non-metallic fabric wrought or woven into meshes and includes the types known as seine, gill, pound, trap, scap, fyke, dip, scoop and stake net.

e. "Spear" means a hand-propelled single or multiple pronged pike, blade or harpoon, and does not include the mechanically propelled device commonly called a spear gun or under-water gun.

13. "Taking" and "take" include pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting fish, wildlife, game, shellfish, crustacea and protected insects, and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any net or other device commonly used to take any such animal. Whenever any provision of the Fish and Wildlife Law permits "taking", the taking permitted is a taking by lawful means and in a lawful manner.

14. "Baiting" means the placing, exposing, depositing, distributing or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed in such a manner as to lure, attract, or entice upland game birds to any area where hunters are attempting to take them; "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt or other feed whatsoever capable of luring, attracting, or enticing such birds is placed, exposed, deposited, distributed or scattered.

25. "Hunting related incident" means the injury to or death of a person caused by the discharge of a firearm, crossbow or longbow while the person causing such injury or death, or the person injured or killed, is taking or attempting to take game, wildlife or fish.

26. "Muzzle loading firearm" means a gun which is loaded through the muzzle, shooting a single projectile and having a minimum bore of .44 inch.

27. "Leashed tracking dog" means a leashed dog which has been certified by the department pursuant to section 11-0928 of this chapter to track and find wounded or injured big game.

28. "Captive bred" means born in captivity.

29. "Non-native big game mammal" means a mammal species presently found in the wild and hunted as big game that is:

a. Native or an original inhabitant of the continents of Africa, Asia, South America, Australia, or Europe, whether or not captive bred; or

b. A captive bred North American big game mammal including: cougar, wolf, bear, bison, big horn sheep, mountain goat, antelope, elk, muskox, mule deer, black tailed deer, caribou, and a domestic game animal as defined in paragraph b of subdivision four of this section, provided,

however, that nothing herein shall be deemed to expand, diminish, or alter the department's authority under existing statute or regulation to regulate the taking of big game as defined in paragraph b of subdivision two of this section or other protected wildlife as defined in paragraph c of subdivision six of this section.

31. "Pet" means an animal kept for the primary purpose of companionship that is normally maintained in or near the household of the owner or person who cares for such domesticated animal.

32. "Wildlife sanctuary" means an organization as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 and that is in compliance with all applicable provisions of the Animal Welfare Act, 7 USC Sec. 2131 et seq. and operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat, and, with respect to any animal owned by the organization, does not: a. Use the animal for any type of entertainment, recreational or commercial purpose except for the purpose of exhibition as defined by the department; b. Sell, trade, lend or barter the animal or the animal's body parts; or c. Breed the animal.

Environmental Conservation Law §11-0505. Interference with Fish and wildlife

1. a. Except as permitted by the department, no person shall obstruct the passage of fish in any stream or river by a screen or otherwise. The department may order such obstruction removed by the person erecting the same or by the owner of the land on which it is located. A copy of the order shall be served on such person or owner and failure to comply with its terms within ten days after service thereof shall be deemed a violation of this subdivision. This subdivision shall not apply to dams heretofore or hereafter erected.

b. Flumes or raceways in streams stocked with fish by the state shall be screened as the department may direct.

2. No person shall:

a. hold back or divert water in any stream which supplies a state hatchery so as to prevent the flow of sufficient water for hatchery purposes, or

b. take fish from the waters of any state hatchery operated by the department, except under the authority of the department.

The following portion of this statute is effective until January 1, 2027:

3. No deer or bear traps shall be made, set or used upon land inhabited by deer or bear. No salt lick shall be made, set or used up on land inhabited by deer or bear, except that:

a. the department may do so on state wildlife refuges and wildlife management areas; and

b. a certified nuisance wildlife specialist with a permit issued pursuant to section 11-0522 of this title may do so provided that such activities are in furtherance of the site-specific deer management plan.

The following portion of the statute is effective on January 1, 2027:

3. No deer or bear traps shall be made, set or used upon land inhabited by deer or bear. No salt lick shall be made, set or used upon land inhabited by deer or bear, except that the department may do so on state wildlife refuges and wildlife management areas.

4. No person shall use any device which prevents frogs from having free access to and egress from water.

5. No person shall rob or willfully destroy a nest of any protected birds unless a permit shall first be obtained from the department.

6. Except as permitted by the department, no person shall at any time disturb a beaver dam, house or den or a muskrat house or den or any structure constructed by a muskrat in which it can take shelter.

7. No person shall at any time disturb a nest box or any structure constructed for the purpose of harboring wild birds whether or not such structure is inhabited by wild birds, except for annual maintenance of such structure or when deemed necessary by the owner of the property whereupon such structure is located.

8. No person shall place, give, expose, deposit, distribute or scatter any substance with the intent to attract or entice deer to feed within three hundred feet of a public highway. Normal agricultural practice of planting, cultivating or harvesting and the feeding of deer held captive for agricultural purposes or the feeding of deer held captive in zoos and wildlife parks shall not be considered attracting or enticing deer to feed for the purposes of this section.

Environmental Conservation Law §11-0511. Possession and transportation of wildlife

Subject to the provisions of section 11-0512 of this article, no person shall, except under a license or permit first obtained from the department containing the prominent warning notice specified in subdivision nine of section 11-0917 of this article, possess, transport or cause to be transported, imported or exported any live wolf, wolfdog, coyote, coydog, fox, skunk, raccoon, venomous reptile, endangered species designated pursuant to section 11-0535 of this title, species named in section 11-0536 of this title or other species of native or non-native live wildlife or fish where the department finds that possession, transportation, importation or exportation of such species of wildlife or fish would present a danger to the health or welfare of the people of the state, an individual resident or indigenous fish or wildlife population. Environmental conservation officers, forest rangers and members of the state police may seize every such animal possessed without such license or permit. No action for damages shall lie for such seizure, and disposition of seized animals shall be at the discretion of the department.

Environmental Conservation Law §11-0901. Prohibitions

1. No person while in or on a motor vehicle, as defined in section 11-0931 of this chapter, shall take wildlife other than migratory game birds, or use any lights on any such vehicle for such purpose.

The following portion of this statute is effective until January 1, 2027:

2. Wildlife shall not be taken on or from any public highway, except: a. that in the forest preserve counties it may be taken from highways other than state, county or town highways; and b. by a certified nuisance wildlife specialist with a permit issued pursuant to section 11-0522 of this article provided that such activities are in furtherance of the site-specific deer management plan.

The following takes effect on January 1, 2027:

2. Wildlife shall not be taken on or from any public highway, except that in the forest preserve counties it may be taken from highways other than state, county or town highways.

3. a. Migratory game birds shall be taken only as permitted by regulations of the department adopted pursuant to section 11-0307.

b. Wild deer and bear shall not be taken except by gun, crossbow or by long bow. Where an open season, set forth in the table of open seasons in section 11-0907 of this title or otherwise established by law or fixed by regulation, is specified as an open season for taking such game by shotgun or long bow only, or is specified as an open season for taking such game by long bow only, they shall not be taken except as so specified.

c. Wild small game and wild upland game birds shall be taken only by longbow or gun, or by the use of raptors as provided in title 10 of this article, except that:

(1) skunk, raccoon, bobcat, coyote, fox, mink and muskrat may be taken in any manner not prohibited in this section or in title 11 of the Fish and Wildlife Law;

(2) frogs may also be taken by spearing, catching with the hands, or by the use of a club or hook; and

(3) crossbows may be used but only by licensees who are fourteen years of age or older.

d. Muskrat shall not be taken by the use of a spear and shall not be taken by shooting except that until the state of Vermont shall prohibit taking of muskrats on Lake Champlain by shooting, muskrats may be taken, by shooting with a firearm not larger than twenty-two caliber, on Lake Champlain, exclusive of the tributary streams flowing into such lake. Possession of pierced or stabbed muskrats shall be presumptive evidence that they were unlawfully taken. Wild mink shall not be taken by the use of firearms in the Northern Zone nor elsewhere within the state with a firearm larger than twenty-two caliber. Skunk, raccoon, bobcat, mink and muskrat shall not be taken by the use of smoke, chemicals, gas or poison. Beaver, fisher and otter shall not be hunted.

e. Wild pheasant shall be taken only by shotgun or long bow, or by the use of raptors as provided in title 10 of this article. Except as specifically authorized by regulation of the department adopted pursuant to section 11-1007 or whenever the department determines that the taking of hen pheasants will result in better pheasant management and not be detrimental to the natural propagation of such pheasants, only male wild pheasants shall be taken.

f. No wildlife shall be taken with an arrow with an explosive head or shaft, or with an arrow, dart or any device, propelled by any means, that is used for the purpose of injecting or delivering any type of drug into the blood system of such wildlife. Nothing in this paragraph shall be construed as prohibiting a wildlife biologist or employee of the department or anyone acting under a license from the department from using any method to take wildlife if he is doing so within the scope of his employment for the department, or pursuant to the license issued by the department.

g. Wildlife shall not be taken by the use of a device commonly called a spear gun.

4. a. Wild deer and bear shall not be taken in water. b. No person shall hunt deer:

(1) with the aid of a dog, or aircraft of any kind; or

(2) with the aid of a jacklight, spotlight, headlight or other type of artificial light; or

(3) with a pistol, revolver or rifle using rim-fire ammunition; or

(4) with a shotgun of less than twenty gauge or loaded with shells other than shells each carrying a single round ball or a single slug, provided however, the use of a shotgun of twenty gauge or larger having a rifled barrel or a smooth bore barrel fitted with a rifled choke, loaded with shells each carrying a single round ball or a single slug, shall not be prohibited so long as only shell shaving a non-metallic case, except for the base, are used; or

(5) with a long bow with a draw weight of less than thirty-five pounds; or

(6) with an arrow or bolt with an arrowhead that measures less than seven-eighths of an inch at its widest point or that has fewer than two sharp cutting edges; or

(7) with the aid of a pre-established bait pile other than those areas established by standard agricultural production practices; or

(8) with an arrow with a barbed broadhead arrowhead; or

(9) with a crossbow unless such crossbow shall consist of a bow and string, either compound or recurve, that launches a minimum fourteen inch bolt, not including point, mounted upon a stock with a trigger that holds the string and limbs under tension until released. The trigger unit of such crossbow must have a working safety. The minimum limb width of such crossbow shall be seventeen inches, have a minimum peak draw weight of one hundred pounds and a maximum peak draw weight of two hundred pounds. The minimum overall length of such crossbow from butt stock to front of limbs shall be twenty-four inches.

c. No person shall hunt bear:

(1) with the aid of a dog, or aircraft of any kind; or

- (2) with the aid of a jacklight, spotlight, headlight or other type of artificial light; or
 - (3) with a pistol, revolver or rifle using rim-fire ammunition; or
 - (4) with a shotgun of less than twenty gauge or loaded with shells other than shells each carrying a single round ball or a single slug, provided however, the use of a shotgun of twenty gauge or larger having a rifled barrel or a smooth bore barrel fitted with a rifled choke, loaded with shells each carrying a single round ball or a single slug, shall not be prohibited so long as only shell shaving a non-metallic case, except for the base, are used; or
 - (5) with a long bow with a draw weight of less than thirty-five pounds; or
 - (6) with an arrow or bolt with an arrowhead that measures less than seven-eighths of an inch at its widest point or that has fewer than two sharp cutting edges; or
 - (7) with the aid of a pre-established bait pile other than those areas established by standard agricultural production practices; or
 - (8) with an arrow with a barbed broadhead arrowhead; or
 - (9) with a crossbow unless such crossbow shall consist of a bow and string, either compound or recurve, that launches a minimum fourteen inch bolt, not including point, mounted upon a stock with a trigger that holds the string and limbs under tension until released. The trigger unit of such crossbow must have a working safety. The minimum limb width of such crossbow shall be seventeen inches, have a minimum peak draw weight of one hundred pounds and a maximum peak draw weight of two hundred pounds. The minimum overall length of such crossbow from buttstock to front of limbs shall be twenty-four inches.
- d. The use upon land inhabited by deer or bear of a jacklight, spotlight or other type of artificial light by any person who is or is accompanied by a person who is in possession, at the time of such use, of a long bow, a crossbow or firearm of any kind, shall be presumptive evidence that such person is hunting deer or bear with the aid of such light, in violation of this subdivision, unless:
- (1) such long bow or crossbow is unstrung, or such a firearm is taken down, or securely fastened in a case, or locked in the trunk of a vehicle, or
 - (2) the firearm is a pistol or revolver, or
 - (3) the firearm is not in or on a motor vehicle and is a rifle designed or adapted for use of rim-fire ammunition and neither the person in possession of the gun, nor any member of his party, has in his possession any twenty-two caliber ammunition other than twenty-two caliber rim-fire ammunition, or
 - (4) the firearm is not in or on a motor vehicle and is a shotgun and neither the person in possession of the gun, nor any member of his party, has in his possession ammunition other than shells loaded with scatter shot of size number four or smaller.

e. (1) No person shall use a jacklight, spotlight or other type of artificial light upon lands inhabited by deer or bear within five hundred feet from a dwelling house, farm building or farm structure actually occupied or used, for the purpose of locating, spotting, harrying, worrying or otherwise disturbing deer or bear.

(2) The prohibition contained in subparagraph one of this paragraph shall not apply to (i) the owner or lessee of the dwelling house, or members of his immediate family residing therein, or a person in his employ, or the guest of the owner or lessee of the dwelling house acting with the consent of said owner or lessee; provided however, that nothing herein shall be deemed to authorize such persons to use a jacklight, spotlight or other type of artificial light within five hundred feet from any other dwelling house, farm building or farm structure actually occupied or used, for the purpose of locating, spotting, harrying, worrying or otherwise disturbing deer or bear or (ii) the authorized use of a spotlight or other artificial light regularly operated and maintained by a police department or other law enforcement agency or by any local or state department or agency duly authorized to render services for the protection of life and property.

5. a. Varying hares shall not be taken by the use of ferrets, fitch-ferrets or fitch.

b. Cottontail rabbits shall not be taken by the use of ferrets, fitch-ferrets or fitch unless permitted by regulation of the department or unless a permit for such taking has first been obtained from the department.

c. The possession a field of ferrets, fitch-ferrets or fitch shall be presumptive evidence of their illegal use.

d. The department may adopt regulations specifying towns or counties in which ferrets, fitch ferrets or fitch may be used to take cottontail rabbits. Whenever cottontail rabbits are injuring property on occupied lands, the department, on request of the owner or occupant of such lands, may issue a permit to use ferrets, fitch-ferrets or fitch to take them if it is satisfied there exists sufficient damage to warrant its issuance.

6. Skunks shall not be taken from holes or dens by digging or by the aid of dogs.

7. Raccoons shall not be taken from dens or houses or by cutting dentrees.

8. Traps shall not be used except as permitted in title 5 or title 11 of the Fish and Wildlife Law.

9. No protected wild bird for which no open season is established bylaw or fixed by regulation shall be taken.

10. No wild game shall be taken except in an open season established by law as provided in section 11-0905, 11-0907 or 11-1103 or fixed by regulation as provided in section 11-0903, or in section 11-0307 in the case of migratory game birds, or in section 11-1103, in the areas for which such open seasons are established or fixed, and during the hours permitted for such taking; nor shall any wild game be taken in excess of bag limits specified in section 11-0905 or section 11-0907, or fixed by regulation as provided in section 11-0903 or section 11-0307.

11. No long bow equipped with a mechanical device which is used to draw, hold or release the bow string or arrow and which is attached to a portion of the bow other than the bow string maybe used or carried afield. The shooting of a long bow shall only be accomplished by holding the bow at arm's length, with arrow on the string, and may only be drawn, pulled or released by hand.

12. Upland game birds shall not be taken with the aid of baiting or on or over any baited area.

13. Persons engaged in hunting deer and/or bear with a longbow must possess a current bow hunting privilege or a valid certificate of qualification in responsible bow hunting practices issued or honored by the department.

14. It shall be unlawful for any person to organize, sponsor, conduct, promote, or participate in any contest, competition, tournament, or derby with the objective of taking or hunting wildlife for prizes or other inducement, or for entertainment. The remains of any wildlife killed during the course of a contest, competition, tournament, or derby conducted in violation of this subdivision shall be forfeited by every organizer, promoter, participant or any other person conducting or involved in such contest, competition, tournament, or derby and the remains of such wildlife shall become the property of the department. The provisions of this subdivision shall not apply to: (a) any contest, competition, tournament, or derby with the object of taking or hunting white-tailed deer, turkey, or bear; or (b) special dog training areas or field trials pursuant to sections 11-0925 and 11-0927 of this title, or any similar canine performance events.

15. This section does not: a. restrict the authority of any special permit or license issued by the department; b. limit title 11 or provisions of title 3, title 5, or title 19 authorizing taking of wildlife; c. limit prohibitions set forth in any other section of the Fish and Wildlife Law.

16. Notwithstanding any inconsistent provision of this section, the department may adopt regulations to allow the taking of big game or small game by the use of a long bow equipped with a mechanical device for holding and releasing the bowstring, attached to the handle section of an otherwise legal long bow, to any person with a physical disability who is physically incapable of drawing and holding a long bow because of a physical disability, subject to such restrictions as the department may adopt by regulation. For the purpose of this subdivision, a person with a physical disability shall mean any person who submits to the department a statement of a physician duly licensed to practice medicine that such person is physically incapable of arm movement sufficient to draw, hold and release a long bow as defined in subdivision four of this section or as otherwise defined in department regulation. The department is authorized to adopt regulations requiring documentation to establish that an applicant is eligible to use a mechanical device pursuant to this subdivision.

17. Notwithstanding any inconsistent provision of this section, the department may issue to a physically disabled person a permit to take big game or small game by the use of a cross-bow equipped with an apparatus permitting release of the bowstring by means of such person's discharge of breath. For the purposes of this subdivision, "physically disabled person" shall mean any person who submits to the department a statement of a physician duly licensed to practice

medicine in this state that such person is permanently physically incapable of arm movement sufficient to release a pre-drawn bow authorized under subdivision fifteen of this section.

X. Pet Custody (Separation/Divorce)

In New York, the “best interest of a companion animal must be considered when awarding possession in a divorce.” Companion animals may include dogs, cats, or any other domesticated animal living in or near the home and are cared for by the owners. An important caveat, however, is that this does not include any farm animals or livestock. Essentially, in any divorce or separation case, New York Family Courts must consider some additional factors when determining who gets possession of a companion animal, including but not limited to: (1) The pet’s well-being; (2) The relationship between the pet and each owner; (3) Who was responsible for attending to the pet’s daily needs; (4) Who spends more time with the pet, and (5) Each party’s physical and financial capabilities to support the pet.

Domestic Relations Law §236B(5)(d)(15)

In determining an equitable distribution of property, the court shall consider:

(15) in awarding the possession of a companion animal, the court shall consider the best interest of such animal. "Companion animal", as used in this subparagraph, shall have the same meaning as in AML 350.5.

XI. Service Animals

In addition to federal laws relating to persons with disability, New York has specific laws relating to the treatment, care, and licensing/training of service animals. In New York, a “Service dog” is 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. New York tracks the language used in the Americans with Disabilities Act’s definition, which reads in part: Dogs that are individually trained to do work or perform tasks for people with disabilities...Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. Most – but not all – New York State public transportation entities have a general prohibition against bringing any animal on or into any conveyance or facility unless enclosed in a container and carried in a manner which would not annoy other passengers. Generally, there is also an exception pertaining to service animals. In general, Service Animals

also must be permitted in: (1) In restaurants and other locations that serve food and in (2) Public facilities/businesses open to the public. However, Service Animals are specifically not pets or required to wear jackets or vests identifying them. As such, a facility may require the service dog to be removed if: (1) The dog is out of control and/or the handler cannot or does not take effective action to control it or (2) The dog is not housebroken. A service dog must be licensed (and certified).

NYCRR Title 21 Part 1044.10 – Animals

(a) No person, except as otherwise provided in subdivision (b) of this section, may bring any animal on or into any conveyance or facility unless enclosed in a container and carried in a manner which would not annoy other passengers.

(b) Subdivision (a) of this section does not apply to working dogs for law enforcement agencies, to service animals which have been trained or are being trained to aid or guide a person with a disability and are accompanying persons with disabilities, or to service animals which are being trained by a professional trainer. All service animals must be harnessed or leashed.

(c) Upon request by a police officer or other designated employee of MTABC or the authority, a trainer must display proof of affiliation with professional training school and that the animal is a licensed service animal or an animal being trained as a service animal. Upon request of a police officer or designated MTABC or authority personnel, a passenger must provide evidence that an animal claimed to be a service animal and thus exempt from the provisions of subdivision (a) of this section qualifies as such or is being trained as a service animal. Such evidence may be supplied through: the display of a service animal license issued by the New York City Department of Health, New York State Department of Agriculture and Markets or by other governmental agencies in New York or elsewhere authorized to issue such licenses, the display of an identification from a professional training school that the animal is a trained service animal, the presence of a harness or a marking on a harness, or the credible verbal assurances of the person with a disability using the service animal or animal being trained as such. For purposes of this paragraph, credible verbal assurances may include a description of one or more tasks that the animal performs or is being trained to perform for the benefit of the person with a disability.

(d) As an alternative to any of the methods described in subdivision (c) of this section for providing evidence that an animal meets the definition of service animal, persons with disabilities who use service animals who do not have a service animal license or other written documentation that the accompanying animal is a service animal may apply to the authority for a service animal identification card.

(e) Police officers or designated MTABC or authority personnel have the right to refuse admission to or eject any passenger accompanied by an animal, including a service animal, which poses a direct threat to the safety of other passengers.

NYCRR Title 21 Part 1085.10 - Animals barred from terminal

No person except a police officer or other person authorized by Metro-North shall enter a terminal, station or train with any animal except a seeing eye or hearing ear dog or an animal enroute to or from a train and under the direct control of the individual the animal is accompanying such as by leash, container or other device.

Civil Rights Law §47. Use of public facilities by persons with a disability

1. No person shall be denied admittance to and/or the equal use of and enjoyment of any public facility solely because said person is a person with a disability and is accompanied by a guide dog, hearing dog or service dog.
2. For the purposes of this section the term "public facility" shall include, but shall not be limited to, all modes of public and private transportation, all forms of public and private housing accommodations whether permanent or temporary, buildings to which the public is invited or permitted, including those maintained by the state or by any political subdivision thereof, all educational facilities and institutions, including those maintained by the state or by any political subdivision thereof, all places where food is offered for sale, all theatres, including both live playhouses and motion picture establishments and all other places of public accommodations, convenience, resort, entertainment, or business to which the general public or any classification of persons therefrom is normally or customarily invited or permitted.

Civil Rights Law §47-B

1. Persons with a disability accompanied by guide dogs, hearing dogs or service dogs shall be guaranteed the right to have such dogs in their immediate custody while exercising any of the rights and privileges set forth in this article, provided that in instances of employment pursuant to section forty-seven-a of this article, such dog has been trained by a qualified person. Blind persons shall, further, have the right to carry a cane in their immediate custody while exercising any of the rights and privileges set forth in this section.
2. No person or legal entity, public or private, shall attempt to impose or maintain any direct or indirect additional charge for the admittance of a guide dog, hearing dog or service dog accompanying a person with a disability, nor shall any conditions or restrictions not specifically set forth in this article be imposed on the person's rights as set forth herein.
3. A person engaged in training a dog to guide or otherwise aid persons with a disability, while engaged in such training activities, and a person with a disability for whom the dog is being trained, shall have the same rights and privileges set forth for persons with a disability in this article.
4. The term "guide dog", or "hearing dog" shall mean a dog that is under the control, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at 28

CFR36.302(c), of the person using or training it and has been or is being trained to guide or otherwise to aid a person with a disability.

5. For the purposes of this article the term "disability" shall have the same meaning as provided for in subdivision twenty-one of section two hundred ninety-two of the executive law.

6. Any law, rule, or regulation conflicting with any provision of this article is, to the extent of said conflict only, deemed to be superseded by the provisions of this article.

7. "Service dog" means any dog under the control, consistent with federal regulation implementing the Americans with Disabilities Act, Title III, at 28 CFR 36.302(c), of the person using or training it, and that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability.

Public Housing Law §223-a. Discrimination against persons who have certain household pets

No person who has been adjudged to be legally blind or who is a severely physically handicapped person or who is a mute shall be denied occupancy in a dwelling in any project or be subjected to eviction from any such dwelling on the sole ground that such person owns a dog or cat which will or does reside with such person therein, provided, however, that if after occupancy a health hazard results on account of such dog or cat, the public health officer having jurisdiction may take such corrective measures as are appropriate.

XII. Discrimination Against Certain Dog Breed

There are laws that limit or prohibit homeowner insurance policies, insurance companies, and underwriters from refusing to issue, renew, cancel, or charge an increased premium for a rate based on a specific breed of dog.

Insurance Law §3421. Homeowners' liability insurance; dogs

1. With respect to homeowners' insurance policies as defined in section two thousand three hundred fifty-one of this chapter, no insurer shall refuse to issue or renew, cancel, or charge or impose an increased premium or rate for such policy or contract, or exclude, limit, restrict, or reduce coverage under such policy or contract based solely upon harboring or owning any dog of a specific breed or mixture of breeds.

2. The provisions of this section shall not prohibit an insurer from refusing to issue or renew or from canceling any such contract or policy, nor from imposing a reasonably increased premium or rate for such a policy or contract based upon the designation of a dog of any breed or mixture of breeds as a dangerous dog pursuant to section one hundred twenty-three of the agriculture and

markets law, based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience subject to the applicable provisions of section three thousand four hundred twenty-five of this article.

Conclusion

The New York State Bar Association’s Committee on Animals and the Law hopes that this pamphlet has been a useful guide to introducing you to the field of animal law. Due to space limitations, not every animal-related law or topic is covered. For more information, please see the New York State Legislature’s website at:

<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>.

For more information regarding Animal Law, please visit the Committee on Animals and the Law on the New York State Bar Association’s website at:

<https://nysba.org/committees/committee-on-animals-and-the-law/>.

This pamphlet, which is based on New York law, is intended to inform, not provide advice. No one should attempt to interpret or apply any law without the aid of an attorney. For counsel, please contact your local bar association. This pamphlet is produced by the New York State Bar Association in cooperation with the Committee on Animals and the Law.

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