

Article 7

of the Agriculture and Markets Law
relating to

LICENSING, IDENTIFICATION AND CONTROL OF DOGS

NEW YORK CONSOLIDATED LAWS
2019

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Article 7

Animals

Agriculture & Markets (AGM)

SECTION 106

Purpose

Agriculture & Markets (AGM)

The purpose of this article is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

SECTION 107

Application

Agriculture & Markets (AGM)

1. This article shall apply to all areas of the state except any city having a population of over two million.
2. In the event that any dog owned by a resident of any city having a population of over two million or by a non-resident of this state is harbored within this state outside of any such city, the licensing municipality in which such animal is harbored may exempt such dog from the identification and licensing provisions of this article for a period of thirty days provided such dog is licensed pursuant to the provisions of law of the area of residence.
3. This article shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.
4. This article shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act.
5. Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and no such program shall regulate such dogs in a manner that is specific as to breed. Notwithstanding the provisions of subdivision one of this section, this subdivision and sections one hundred twenty-three, one hundred twenty-three-a and one hundred twenty-three-b of this article shall apply to all municipalities including cities of two million or more.

6. Nothing contained in this article shall be construed to prohibit a county from administering a dog licensing program for the municipalities within its jurisdiction.

SECTION 108

Definitions

Agriculture & Markets (AGM)

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

1. "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, seized or surrendered, or any cat.

3. "Clerk" means the clerk of any county, town, city or village where licenses are validated or issued pursuant to this article.

4. "Commissioner" means the state commissioner of agriculture and markets.

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

6. "Dog control officer" means any individual appointed by a municipality to assist in the enforcement of this article or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.

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.

8. "Euthanize" means to bring about death by a humane method.

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.

10. "Harbor" means to provide food or shelter to any dog.

11. "Identification tag" means a tag issued by the licensing municipality which sets forth an identification number, together with the name of the municipality, the state of New York, contact information, including telephone number, for the municipality and such other information as the licensing municipality deems appropriate.

12. "Identified dog" means any dog carrying an identification tag as provided in section one hundred eleven of this article.

13. "Municipality" means any county, town, city and village.

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

16. "Owner of record" means the person in whose name any dog was last licensed pursuant to this article, except that if any license is issued on application of a person under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of section one hundred twelve of this article, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under eighteen years of age, the owner of record shall be deemed to be the parent or guardian of such person.

17. "Person" means any individual, corporation, partnership, association or other organized group of persons, municipality, or other legal entity.

18. "Police work dog" means any dog owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

19. "Recognized registry association" means any registry association that operates on a nationwide basis and issues numbered registration certificates.

20. "War dog" means any dog which has been honorably discharged from the United States armed services.

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.

27. "Detection dog" means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

28. "Physical injury" means impairment of physical condition or substantial pain.

29. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious or protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. As used in this article, unless otherwise expressly stated or unless the context or subject matter requires otherwise:

SECTION 109

Licensing of dogs required; rabies vaccination required

Agriculture & Markets (AGM)

1. (a) The owner of any dog reaching the age of four months shall immediately make 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 contract or 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.

SECTION 110

License fees

Agriculture & Markets (AGM)

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.

SECTION 111

Identification of dogs

Agriculture & Markets (AGM)

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.

SECTION 111-A

Microchipping standards

Agriculture & Markets (AGM)

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.

* 2. The commissioner shall appoint an advisory committee which shall include, but shall not be limited to, representatives of the animal microchip industry and animal shelters who shall examine the issues described in subdivision one of this section and advise the commissioner on the need for such rules and regulations.

* N.B. Repealed December 18, 2019

SECTION 112

Change of ownership; lost or stolen dog

Agriculture & Markets (AGM)

1. In the event of a change in the ownership of any dog which has been licensed pursuant to this article or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the municipality in which the dog is licensed a written report of such change. Such owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the name of the new owner.

2. If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft file with the municipality in which the dog is licensed a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of this article committed after such report is filed.

3. In the case of a dog's death, the owner of record shall so notify the municipality in which the dog is licensed either prior to renewal of licensure or upon the time of such renewal as set forth by the municipality in which the the dog is licensed.

SECTION 113

Dog control officers

Agriculture & Markets (AGM)

1. Each town and city, and each village in which licenses are issued, shall appoint, and any other village and any county may appoint, one or more dog control officers for the purpose of assisting, within the appointing municipality, with the control of dogs and the enforcement of this article.

2. In lieu of or in addition to the appointment of a dog control officer or officers, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for dog control officer services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall appoint, jointly with one or more other municipalities, one or more dog control officers having jurisdiction in each of the cooperating municipalities.

3. Every dog control officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, to serve a summons and to serve and execute any other order or process in the execution of the provisions of this article. In addition, any dog control officer or any peace officer, when acting pursuant to his special duties, or police officer, who is authorized by a municipality to assist in the enforcement of this article may serve any process, including an appearance ticket, a uniform appearance ticket and a uniform appearance ticket and simplified information, related to any proceeding, whether criminal or civil in nature

undertaken in accord with the provisions of this article or any local law or ordinance promulgated pursuant thereto.

4. Every dog control officer, peace officer, when acting pursuant to his special duties or police officer shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

5. Every dog control officer shall file and maintain such records for not less than three years following the creation of such record, and shall make such reports available to the commissioner upon request.

6. The governing body of any municipality in which licenses are issued, may, either individually or in cooperation with other municipal entities, require its dog control officer or animal control officer or any other authorized agent to ascertain and list the names of all persons in the municipality owning or harboring dogs, or in lieu thereof, such municipality may contract to have the same done.

SECTION 114

Pounds and shelters

Agriculture & Markets (AGM)

1. Each town and city, and each village in which licenses are issued shall, and any other village and any county may, establish and maintain a pound or shelter for dogs.

2. In lieu of or in addition to establishing and maintaining such pound or shelter, any town or city, or any village in which licenses are issued shall, and any other village and any county may, contract for pound or shelter services with any other municipality or with any incorporated humane society or similar incorporated dog protective association, or shall establish and maintain, jointly or with one or more other municipalities, a pound or shelter.

SECTION 115

Funds expended by municipality for services

Agriculture & Markets (AGM)

No municipality shall be required to expend in any calendar year for dog control officer and pound or shelter services undertaken pursuant to this article, an amount of money greater than it receives during such year pursuant to this article and any local law or ordinance enacted pursuant thereto.

SECTION 116

Spaying and neutering facilities authorized

Agriculture & Markets (AGM)

1. Any municipality may, by local law or ordinance, provide for the establishment and operation of a facility to provide services for the alteration of the reproductive capacity through spaying or neutering of dogs and cats owned by the residents thereof.

2. Any animal which is presented at such facility for alteration must be accompanied by a notarized authorization signed by the owner thereof consenting to such alteration and agreeing to hold the municipality, its agents, servants and employees harmless for any damages arising therefrom or incidental thereto.

3. Any municipality enacting a local law or ordinance as authorized by this section shall further provide for the regulation of such facility with respect to the terms and conditions, including compensation, under which any animal will be maintained while the animal remains in the custody of the facility.

4. In no event shall any of the moneys or fees derived from, or collected pursuant to, the provisions of this article except as provided in subdivision three of section one hundred ten of this article and section one hundred seventeen-a of this article be used to subsidize the spaying or neutering of cats.

SECTION 117

Seizure of dogs; redemption periods; impoundment fees; adoption

Agriculture & Markets (AGM)

1. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality shall seize:

(a) any dog which is not identified and which is not on the owner's premises;

(b) any dog which is not licensed, whether on or off the owner's premises;

(c) any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is dangerous; and

(d) any dog which poses an immediate threat to the public safety.

Promptly upon seizure the dog control officer shall commence a proceeding as provided for in subdivision two of section one hundred twenty-three of this article.

2. Any dog control officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality may seize any dog in violation of any

local law or ordinance relating to the control of dogs, adopted by any municipality pursuant to the provisions of this article.

3. Each dog seized in accordance with the provisions of this article shall be properly sheltered, fed and watered for the redemption period as hereinafter provided.

4. Each dog which is not identified, whether or not licensed, shall be held for a period of five days from the day seized during which period the dog may be redeemed by its owner, provided that such owner produces proof that the dog has been licensed and has been identified pursuant to the provisions of this article and further provided that the owner pays the following impoundment fees:

(a) not less than ten dollars for the first impoundment of any dog owned by that person;

(b) not less than twenty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the second impoundment, within one year of the first impoundment, of any dog owned by that person; or

(c) not less than thirty dollars for the first twenty-four hours or part thereof and three dollars for each additional twenty-four hours or part thereof for the third and subsequent impoundments, within one year of the first impoundment, of any dog owned by that person.

The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set by local law or ordinance such fees in any amount.

5. All impoundment fees shall be the property of the municipality to which they are paid 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.

6. Promptly upon seizure of any identified dog, the owner of record of such dog shall be notified personally or by certified mail, return receipt requested, of the facts of seizure and the procedure for redemption. If notification is personally given, such dog shall be held for a period of seven days after day of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner. In either case, the owner may redeem such dog upon payment of the impoundment fees prescribed by subdivision four of this section and by producing proof that the dog has been licensed.

7. An owner shall forfeit title to any dog unredeemed at the expiration of the appropriate redemption period, and the dog shall then be made available for adoption or euthanized subject to subdivisions six, eight and nine of this section and subject to the provisions of section three hundred seventy-four of this chapter. Any municipality may by local law or ordinance establish additional conditions for adoption including the requirement that adopted dogs shall be

spayed or neutered before or after release from custody upon such terms and conditions as the municipality may establish.

7-a. Any animal in the custody of a pound or shelter shall be made available for adoption or euthanized subject to subdivisions six, eight and nine of this section and subject to the provisions of section three hundred seventy-four of this chapter after the time for redemption has expired; provided, however, that such release may be made to another such pound, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing such animal in an adoptive home, when such action is reasonably believed to improve the opportunity for adoption.

8. The redemption periods set forth above in this section notwithstanding, any municipality may establish the duration of such periods by local law or ordinance, provided that no such period shall be less than three days, except that where notice to the owner is given by mail, no such period shall be less than seven days.

9. Any dog, owned by a resident of any city having a population of over two million or by a non-resident of this state, seized and impounded pursuant to the provisions of this article, and whose owner can be identified, shall be subject to subdivision six of this section. If the dog is licensed pursuant to the provisions of law of the area of the owner's residence, the licensing requirements of this article shall not apply provided such dog is not harbored within this state outside any city having a population of over two million for a period exceeding thirty days.

10. The seizure of any dog shall not relieve any person from any violation provided for by section one hundred eighteen of this article.

11. No liability in damages or otherwise shall be incurred on account of the seizure, euthanization or adoption of any dog pursuant to the provisions of this article.

SECTION 117-A

Animal population control program

Agriculture & Markets (AGM)

1. The commissioner shall submit a request for proposals from not-for-profit entities as described herein for the purpose of administering a state animal population control program. The entity chosen to administer such program shall enter into a contract with the state for a term of five years, which may be renewed subject to the approval of the commissioner. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing incidence of euthanasia and potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision three of this section. For purposes of this section, "low-cost" shall mean substantially less than the average cost in a particular region of the state for spaying or neutering services, including any and all ancillary charges for services, including but not limited

to, presurgical examinations, tests and immunizations, and other services related to the spay or neuter procedure. All veterinary services provided pursuant to this section must be performed by a veterinarian licensed in this state.

2. Eligible not-for-profit entities shall consist of duly incorporated societies for the prevention of cruelty to animals, duly incorporated humane societies, duly incorporated animal protective associations, or duly incorporated non-profit corporations that have received designation as 501(c)(3) entities by the Internal Revenue Service and which entities are operating as animal rescue organizations, animal adoption organizations, spay/neuter clinics, or other entities whose core mission predominantly includes statewide efforts to manage the companion animal population in New York state. In awarding the contract, the commissioner must consider the following criteria with respect to each applicant: its experience in providing low-cost spay-neuter services, the scope of services it provides, the length of time it has been operating, its financial history, its demonstrated ability to work with outside organizations and community groups, and the proposed cost of administering and promoting the program. In choosing such entity, the commissioner may establish other criteria for making his or her selection in consultation with veterinarians, representatives from animal advocacy and welfare organizations, and municipalities. The selection of the administrative entity overseeing the state animal population control fund must be completed no later than December thirty-first, two thousand ten.

(a) The administrative entity chosen by the commissioner shall review plans submitted for approval and funding of low-cost spay-neuter programs and award grants for the animal population control fund for implementation of such plans. In reviewing the plans, the entity shall consider the following criteria: the method of providing low-cost spay-neuter services, including an anticipated fee schedule for such services, the size and need of the population served, the plan for outreach and promotion of such services, experience in providing low-cost spay-neuter services and cost-effectiveness of the overall plan. In awarding grants, the entity shall use best efforts to provide statewide distribution of funding.

(b) (i) Upon approving a plan submitted pursuant to this section, the administrative entity shall award a grant for the creation and implementation of such plan.

(ii) Upon approving a plan submitted for approval and funding of all other spay-neuter programs, the administrative entity shall award grants for the ongoing administration of low-cost spay-neuter services. Payments against such grants shall be advanced quarterly. Any remaining funds at the end of the grant period shall be remitted to the animal population control fund.

(iii) Any grants made pursuant to this section may be discontinued if it is found by the administrative entity that funds previously disbursed were not used for their intended purpose or that services performed were not provided according to the terms and conditions as the administrative entity shall provide.

(c) An administrative entity selected pursuant to this section shall use proceeds from the animal population control fund to pay for reasonable expenses incurred in operating the low-cost spay-neuter program, but is hereby authorized to solicit funds from other public and private

sources.

(d) Such administrative entity shall submit an annual report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, and the commissioner. Such report shall include but not be limited to the balance of the fund, annual expenditures, annual income, the number of entities receiving funding and the amount received by each entity, the total number and type of low-cost spay-neuter services provided by each entity, the method of providing such services by each entity, the expenditure made for promoting the fund and description of marketing efforts, and recommendations regarding the implementation and financial viability of the fund.

(e) The administrative entity shall perform such other tasks as may be reasonable and necessary for the administration of such fund.

(f) If the administrative entity cannot perform its obligations pursuant to its contract, or if it is determined by the commissioner that it is not performing its obligations in a satisfactory manner, the commissioner may cancel such contract and issue another request for proposals from other entities to administer the program.

3. In order to be eligible to participate in the animal population control program, and therefore, be entitled to the low-cost spay/neuter services provided for herein, an owner of a dog or cat shall be a resident of New York state and shall submit proof to the entity providing such services as follows:

(a) in the form of an adoption agreement that their dog or cat was adopted from a pound, shelter maintained by or under contract or 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 or cat protective association; or

(b) proof of participation in at least one of the following:

(i) the food stamp program authorized pursuant to 7 U.S.C. 2011, et seq.;

(ii) the supplemental security income for the aged, blind and disabled program authorized pursuant to 42 U.S.C. 1381 et seq.;

(iii) the low income housing assistance program authorized pursuant to 42 U.S.C. 1437(f)

(iv) the Family Assistance program authorized pursuant to title ten of article five of the social services law;

(v) the Safety Net Assistance program authorized pursuant to title three of article five of the social services law;

(vi) the program of Medical Assistance authorized pursuant to title eleven of article five of the social services law; or

(vii) other similar programs identified by the administrative entity and approved by the commissioner; and

(c) in any city, town, village, or county which has enacted a local law or ordinance requiring spay/neuter of all dogs and cats prior to adoption from shelters, pounds, duly incorporated societies for the prevention of cruelty to animals, humane societies and duly incorporated dog or cat protective associations within such city, town, village or county, eligibility for participation in the animal population control program shall be determined based solely on the provisions of paragraph (b) of this subdivision.

4. Notwithstanding the provisions of paragraph (a) of subdivision three of this section, no resident, otherwise qualified pursuant to such paragraph, shall be entitled to participate in the low cost spay/neuter program implemented by this section if the animal to be spayed or neutered:

(a) was imported or caused to be imported from outside the state;

(b) was adopted from an otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association which included the cost of a spaying or neutering procedure in the cost of the adoption.

5. Any county is hereby authorized to establish and implement an animal population control program within its jurisdiction. Any county creating its own program may submit a plan to the administrative entity for such program for approval and to receive funding from the animal population control program. Such plan shall include but not be limited to the criteria described in paragraph (a) of subdivision two of this section.

6. Any county which has created its own program, which has been approved by the administrative entity pursuant to this section, may receive the funds collected by the municipalities within the county pursuant to subdivision three of section one hundred nine of this article and subdivision three of section one hundred ten of this article for the sole purpose of administering such animal population control program. Such county program shall be subject to this article and the terms and conditions of the animal population control program, as may be amended from time to time.

7. Any municipality within a county that does not have its own program approved by the administrative entity pursuant to subdivision two of this section must submit the funds collected pursuant to subdivision three of section one hundred ten of this article to the animal population control fund pursuant to section ninety-seven-xx of the state finance law.

8. In the absence of a county animal population control program, entities described below within such county may, pursuant to subdivision two of this section, apply for funds from the animal population control fund described in section ninety-seven-xx of the state finance law for the sole purpose of providing low-cost spay and neuter services in their service area. In the event that the service area of an entity encompasses two or more counties, such entity may apply

and receive funding from the animal population control fund to serve such portion of their service area that is not covered by an existing county animal population control program. Such entities shall include pounds, duly incorporated societies for the prevention of cruelty to animals, duly incorporated humane societies, duly incorporated animal protective associations and duly incorporated nonprofit corporations that have received designation as a 501(c)(3) organization by the Internal Revenue Service, which entities are operating as animal rescue or adoption organizations. Any such entity must also be in good standing with the charities bureau of the office of the attorney general and with the secretary of state.

9. The administrative entity shall establish reporting requirements for any entity awarded funding through the animal population control program, and any other protocols necessary to ensure appropriate and effective use of monies disbursed pursuant to this section.

SECTION 118

Violations

Agriculture & Markets (AGM)

1. It shall be a violation, punishable as provided in subdivision two of this section, for:

(a) any owner to fail to license any dog;

(b) any owner to fail to have any dog identified as required by this article;

(c) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service, therapy or hearing dogs or purebred license tag;

(d) any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose pursuant to this article;

(e) any person to furnish any false or misleading information on any form required to be filed with any municipality pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto;

(f) the owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog;

(g) any owner of a dog to fail to notify the municipality in which his or her dog is licensed of any change of ownership or address as required by section one hundred twelve of this article.

2. It shall be the duty of the dog control officer of any municipality to bring an action against any person who has committed within such municipality any violation set forth in subdivision one of this section. Any municipality may elect either to prosecute such action as a violation under the penal law or to commence an action to recover a civil penalty.

A violation of this section shall be punishable, subject to such an election, either:

(a) where prosecuted pursuant to the penal law, by a fine of not less than twenty-five dollars, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than one hundred dollars or imprisonment for not more than fifteen days, or both; or

(b) where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty-five dollars, except that (i) when the person was found to have violated this section or this article within the preceding five years, the civil penalty may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than one hundred dollars.

3. A defendant charged with a violation of any provision of this article or any local law or ordinance promulgated pursuant thereto may plead guilty to the charge in open court. He or she may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he or she waives arraignment in open court and the aid of counsel, (b) that he or she pleads guilty to the offense charged, (c) that he or she elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he or she desires to make concerning the offense charged, and (e) that he or she makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

4. Any person who intentionally refuses, withholds, or denies a person, because he or she is accompanied by an on-duty police work dog, working search, war, or detection dog as defined in section one hundred eight of this article, any accommodations, facilities, or privileges thereof shall be subject to a civil penalty of up to two hundred dollars for the first violation and up to four hundred dollars for each subsequent violation.

5. Any person who for the purpose of participating in the animal population control program shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a spaying or neutering procedure pursuant to section one hundred seventeen-a of this article, and any veterinarian who shall furnish false information concerning animal sterilization fees shall be guilty of a violation punishable by a fine of not less than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars.

SECTION 119

Disposition of fines

Agriculture & Markets (AGM)

Notwithstanding any other provision of law, all moneys collected as fines or penalties by any municipality as a result of any prosecution for violations of the provisions of this article or any local law or ordinance and all bail forfeitures by persons charged with such violations shall be the property of the municipality and shall be paid to the financial officer of such municipality. Such moneys 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.

SECTION 120

Protection of deer

Agriculture & Markets (AGM)

1. Whenever the governing body of any municipality shall determine that the deer population in the municipality or part thereof is suffering severe depredation due to dogs attacking, chasing or worrying deer, such governing body may by order require that all dogs in such municipality or part thereof shall be securely confined during the period of time designated in the order or, if no time is designated, until the order is revoked.

2. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order. Such order shall be in full force and effect at the expiration of twenty-four hours following publication of such notice.

3. If any dog is not confined as required by such order, any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall seize such dog. Any dog so seized shall be subject to the provisions of section one hundred eighteen of this article. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

4. If any dog, which is not confined as required by such order, shall attack, chase or worry any deer, any dog control officer, peace officer, acting pursuant to his special duties, or police officer upon witnessing the same, shall destroy, or seize and destroy, such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

5. If any dog shall kill or cripple any deer, the owner shall be subject to a civil penalty in the amount of one hundred dollars for the first deer killed or crippled by the dog or by the pack of dogs, if any, of which the dog was a member, and in the amount of one hundred fifty dollars for each additional deer killed or crippled, to be recovered in an action brought by the commissioner of environmental conservation on behalf of the people of the state of New York.

6. This section and any order issued pursuant thereto shall not apply to dogs in special dog training areas or shooting preserves enclosed and licensed pursuant to the provisions of the environmental conservation law, while such dogs are under the control of the owner or trainer.

SECTION 121

Night quarantine

Agriculture & Markets (AGM)

1. The governing body of any municipality may at any time by order require that all dogs in such municipality shall be securely confined between sunset and one hour after sunrise during the period of time designated in the order, or, if no time is so designated, until the order is revoked.

2. Notice of such order shall be given by publication in a newspaper or newspapers of general circulation in said municipality which shall be designated by such governing body and by filing a copy of the order in the office of each clerk in the area affected by such order.

3. Any dog control officer, peace officer, acting pursuant to his special duties, or police officer shall destroy or seize any dog not confined as required by such order, and no liability in damages or otherwise shall be incurred on account of such destruction or seizure. Any dog so seized shall be subject to the provisions of section one hundred eighteen of this article. A dog shall not be deemed to be in violation of such order if accompanied by and under the full control of the owner.

SECTION 122

Local laws or ordinances

Agriculture & Markets (AGM)

1. Any municipality may enact a local law or ordinance upon the keeping or running at large of dogs and the seizure thereof, provided no municipality shall vary, modify, enlarge or restrict the provisions of this article relating to rabies vaccination and euthanization.

2. Such local law or ordinance may:

(a) impose penalties for violation of such restrictions to be recovered in a civil action in the name of such municipality;

(b) provide for enforcement by fine or imprisonment for any such violation; or

(c) provide for the issuance pursuant to the criminal procedure law of an appearance ticket, or in lieu thereof, a uniform appearance ticket, or in lieu thereof, a uniform appearance ticket and simplified information, as provided in section one hundred thirteen of this article, by any dog control officer, peace officer, acting pursuant to his special duties, or police officer, who is authorized by any municipality to assist in the enforcement of this article for any such violation.

SECTION 123

Dangerous dogs

Agriculture & Markets (AGM)

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 subdivision one or two of section 130.35 of the penal law, criminal sexual act in the first degree as 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.

SECTION 123-A

Exemption from civil liability

Agriculture & Markets (AGM)

1. If any dog shall, without justification, attack a person, or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury to a person, when such person is peaceably conducting himself in a place where he may lawfully be, such person or any other person witnessing the attack or threatened attack may destroy such dog while so attacking, and no liability in damages or otherwise shall be incurred on account of such destruction.

2. If any dog shall, without justification, attack a companion animal, farm animal or domestic animal, or shall behave in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a companion animal, farm animal or domestic animal, where such animal is in any place where it may lawfully be, the owner or caretaker of such animal, or any other person witnessing the attack, may destroy such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

SECTION 123-B

Offenses against service animals and handlers

Agriculture & Markets (AGM)

1. Definitions. For purposes of this section:

(a) "Service animal" shall mean any animal that has been partnered with a person who has a disability and has been trained or is being trained, by a qualified person, to aid or guide a person with a disability.

(b) "Disability" shall have the same meaning as provided in section two hundred ninety-two of the executive law.

(c) "Handler" shall mean a disabled person using a service animal.

(d) "Formal training program" or "certified trainer" shall mean an institution, group or individual who has documentation and community recognition as a provider of service animals.

2. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal shall be subject to a civil penalty not to exceed one thousand dollars in addition to any other applicable penalties.

3. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal, where the animal causing such injury has previously been determined to be dangerous pursuant to this article, shall be guilty of a violation punishable by a fine of not more than two thousand dollars, or by a period of imprisonment not to exceed fifteen days, or by both such fine and imprisonment in addition to any other applicable penalties.

4. The handler of the service animal incapacitated, injured or killed shall have the right to pursue any and all civil remedies available to recover damages for medical and veterinary expenses, rehabilitation or replacement of the service animal, and lost wages, transportation expenses or other expenses directly related to the temporary or permanent loss of the service animal.

SECTION 124

Powers of commissioner

Agriculture & Markets (AGM)

The commissioner is hereby authorized to:

1. (a) promulgate, after public hearing, such rules and regulations as are necessary to supplement and give full effect to the provisions of sections one hundred thirteen, one hundred fourteen and one hundred seventeen of this article; and

(b) exercise all other powers and functions as are necessary to carry out the duties and purposes set forth in sections one hundred thirteen, one hundred fourteen and one hundred seventeen of this article.

2. in cooperation with other relevant state agencies and stakeholders identify, and develop as necessary, guidance for therapy dogs, their handlers and facilities using such dogs, including, but not limited to, assessment and training, risk management, animal welfare, and best practices for such dogs and their dog-handlers. Such guidance shall be made available on the department's website and provided to municipalities that issue special tags for therapy dogs pursuant to section one hundred eleven of this article.