

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals # 21

May 24, 2018

S. 4273

By: Senator Tedisco

A. 10049

By: M. of A. Ortiz

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 30<sup>th</sup> day after it shall have become a law

**AN ACT** to amend the agriculture and markets law, in relation to establishing a public registry for persons convicted of violating “Buster’s Law.”

**LAW AND SECTIONS REFERRED TO:** New Section 352 of the Agriculture and Markets Law.

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

This bill would add a new section 352 to the Agriculture and Markets Law to create a registry of individuals who have been convicted of certain crimes against animals, specifically, any violation of Section 351 of the Agriculture and Markets Law, the prohibition against animal fighting, or Section 353-a of the Agriculture and Markets Law, aggravated animal cruelty, a felony offense known as “Buster’s Law.” Individuals convicted under either referenced section of the law must register with the Division of Criminal Justice Services (DCJS). The bill would authorize DCJS to determine the manner and form of registration, which shall include at a minimum the name and address of each individual. In accordance with the provisions of the bill, individuals required to register with DCJS must register annually and each time the individual moves to a new address. An annual surcharge to the registrant of \$50.00 shall be used to pay for the expense of establishing and maintaining the registry.

Under the provisions of the bill, individuals required to submit their names and other information to DCJS for inclusion in the registry must continue to do so until receiving a court order directing removal of their names from the registry. No court may issue such an order until the person required to register demonstrates that he or she has undergone psychiatric or psychological testing, the results of which indicate by clear and convincing evidence that the individual is of sound mental capacity and is able to own and care for an animal in a humane manner.

The bill dictates that for the period of time that individuals are required to register with DCJS, they would not be permitted to own a companion animal or to be employed at an animal shelter, pound, pet store, zoo or other business establishment where companion animals are present.

In addition, the bill lists the individuals with access to the registry: the general public, law enforcement entities, district attorneys, humane societies, societies for the prevention of cruelty to animals, dog or cat protective associations, animal control officers, animal breeders, animal rescues and pet stores doing business in New York state.

Finally, the statewide registry that would be established by this bill supersedes any local law, rule, regulation, code or ordinance establishing an animal cruelty or abuser registry within a specific locality.

Cruelty to animals is not just a minor deviation from the norms of society, but instead constitutes a criminal conduct that is, under the laws of New York, investigated, prosecuted and punished like other crimes. Recognition of the seriousness of animal cruelty crimes is nationwide; the FBI added animal abuse to its National Incident-Based Reporting System (NIBRS) in 2016, based upon the recognition that abuse of animals is a serious crime and is a crime against society.<sup>1</sup>

The goal of the Animal Abusers Registry proposed by this bill is intended to be protective. It is intended to keep those people convicted of serious crimes against animals having ready access to animals again for a period of time.<sup>2</sup> Making information about convicted felony animal abusers available to the public and to law enforcement in a central statewide registry will enable animal shelters, humane societies, SPCAs, pet dealers and others to screen all prospective employees, volunteers, pet adopters, and potential animal purchasers. While businesses and facilities where animals kept are intent on keeping animals safe while they are there, and when they are sent to a permanent home, the lack of any database of animal abusers makes it impossible to adequately screen potential employees, volunteers, pet adopters and purchasers. This bill would remedy that deficit.

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<sup>1</sup> “Tracking Animal Cruelty: FBI Collecting Data on Crimes against Animals” (February 1, 2016, located at <https://www.fbi.gov/news/stories/-tracking-animal-cruelty>) in which the National Sheriffs’ Association’s John Thompson urged people to shed the mindset that animal cruelty is a crime only against animals. “It’s a crime against society,” he said, urging all law enforcement agencies to participate in NIBRS. “By paying attention to [these crimes], we are benefiting all of society.”

<sup>2</sup> The animal abuser registry created by this legislation would operate in a manner similar to the sex offender registry, created to protect children from those who have been convicted of crimes and are determined to pose a continuing risk to children.

There have already been animal abuser registries adopted by multiple counties within the state (including Putnam, Ulster, Cattaraugus, New York, Suffolk, Nassau, Broome and Onondaga Counties, to name just a few). However, while those registries may help to protect animals within those individual counties, they are restricted to those counties' boundaries. Therefore, a convicted animal abuser can easily evade municipality-specific registries by leaving that municipality and obtaining an animal in a county which does not have such a registry. Thus, lack of statewide uniformity eviscerates existing registries and thwarts the goal of protecting animals. The pre-emption of local laws contained in this legislation addresses that important purpose.

Many other states have either adopted or are considering adopting animal abuse registries, as follows: Tennessee adopted one in 2016, and Hawaii, Indiana, Maryland, Massachusetts, Mississippi, New Jersey, Oklahoma, Rhode Island, Virginia and Washington are all considering adopting animal abuse registries at this time. Particularly given the currently existing patchwork of local legislation on the subject, each with its own particular rules and regulations, the Committee on Animals and the Law supports a statewide, uniform standard such as the animal cruelty registry that would be created by this bill.

While the Committee on Animals and the Law supports this bill, we would respectfully urge the sponsors to consider the following recommendations, which would further promote the animal protective intent of this bill:

1. All people required to be registered are prohibited from owning a companion animal but they should also be prohibited from living in a household where a companion animal is present; and
2. The bill lists organizations that have access to the information on the registry, and has a separate list of organizations where an individual who must register may not work. These two lists should correspond, and both should include zoos, other animal exhibitors, veterinary facilities and animal grooming and boarding facilities.

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