

Today, people are more aware of the need to plan for their pet in the event of their death. New York State Law as set forth in Article 7 of the Estates Powers and Trusts Law gives people the ability to establish honorary trusts for their pets. A pet trust can be set up under a person's will or as a living trust. The trust is then funded with a portion of the decedents' assets after they pass away. Like any other trust, the trust then must provide for a trustee to administer the trust and make arrangements for the care and maintenance of the pet with the appointed guardian. The trustee and the guardian or caregiver can be two different people. Having a trustworthy and able caregiver and trustee is very important to avoid unwanted deceptive and unpleasant consequences.

Access Right of Individuals with Disabilities and their Service Animals Legal Protection for Service Animals

The rights of persons with disabilities to use their service animals are protected under a network of federal, state and local laws and regulations. Federal regulations under the ADA specify that a service animal is any guide dog, signal dog or other animal that has been trained to perform tasks for individuals with disabilities. The New York Civil Rights law specifically protects individuals who use guide dogs, hearing dogs and service dogs. Discrimination against persons with disabilities is prohibited under other New York Laws, which may protect all service animals in addition to service dogs. Furthermore, because the law giving the broadest protection applies, the ADA protects the use of all service animals in New York regardless of the limitation of the New York Civil Rights law to dogs.

Both New York State and federal laws protect the rights of individuals with disabilities to bring a service animal into the workplace.



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Animal Law in New York State



LEGALease



INTRODUCTION

This pamphlet is presented by the New York State Bar Association Committee on Animals & the Law and is intended as a basic introduction to animal law and animal related issues in New York State for both the public and lawyers alike. Each section will provide the reader with general information on the topic covered as well as noting the relevant New York State and Federal laws that may apply. Always remember to check your local county or city laws or codes, as your county or city may have their own laws in addition to New York State law.

*"The greatness of a nation and its moral progress can be judged by the way its animals are treated" --
Mahatma Gandhi*

Dog Licensing Agriculture and Markets Law, Article 7 (NYS, excluding NYC)

Dogs four months of age or older must be licensed. License applications must be accompanied by the license fee and a certificate of rabies vaccination. In the case of spayed/neutered dogs, the application must be accompanied by a certificate signed by a veterinarian or an affidavit signed by the owner showing that the dog has been spayed or neutered. The license tag shall be worn by the dog at all times, except that dogs participating in a dog show are exempt from this requirement during such participation.

Leash Law

There is no statewide leash law but many localities have adopted leash laws.

Spay/Neuter Laws Section 377-a, Agriculture and Markets Law

This law provides that animal shelters, dog control officers, and humane organizations may not release a dog or cat for adoption unless:

1. The dog or cat has been spayed or neutered, or
2. The adopter of the dog or cat signs a written agreement to have the dog or cat spayed or neutered within 30 days of adoption or 30 days from the date the animal reaches six months of age. The adopter must also deposit no less than \$35 with the adoption entity. The \$35 amount may be raised by the commissioner of

Agriculture and Markets to reflect rising costs, or

3. The adopter signs an agreement to have the dog or cat spayed or neutered within 30 days of adoption or 30 days from the date the animal reaches six months of age and the adopter pays an adoption fee which includes the cost of the spay or neuter procedure.

Deposits may be refunded upon proof of spaying/neutering or if a veterinarian certifies that spaying or neutering would endanger the animal's life.

This law specifically states that towns, cities, villages or counties may enact a local law or ordinance requiring animal shelters and humane organizations to spay/ neuter dogs and cats prior to releasing them for adoption. In New York City, for example, the law prohibits shelters from releasing dogs and cats eight weeks of age or older for adoption or to their owners unless the dog or cat is spayed or neutered. Exceptions are made if a veterinarian certifies that the spay/neuter procedure would endanger the life of the animal, or the dog or cat has a recent breed ring show record, or has completed registry requirements for the title of Champion or its equivalent . (Section 17-804, NYC Administrative Code).

Purchasing a Dog or Cat General Business Law, Article 35 D

Consumers who purchase sick dogs or cats from pet dealers, including pet stores and breeders who sell more than nine dogs or cats per year to the public, have certain remedies under the law in the event the animal becomes ill. The remedies are as follows:

1. The right to keep the animal and to receive reimbursement in an amount not to exceed the purchase price of the animal for veterinary services by a veterinarian of the consumer's choosing for the purpose of curing or attempting to cure the animal;
2. The right to return the animal and receive a refund of the purchase price and reasonable veterinary costs related to the veterinarian's certification that the animal is unfit for purchase, or
3. The right to return the animal and to receive another animal of the consumer's choice of

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equivalent value and reasonable veterinary costs related to the veterinarian's certification that the animal is unfit for purchase.

Consumers must exercise their rights under this law within fourteen business days of the purchase date of the dog or cat or within fourteen business days of the receipt from the pet dealer of a written notice which informs consumers of their rights under this law, whichever occurs later. A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for sale unless the animal is clinically ill due to such condition.

This law does not apply to animals adopted from duly incorporated humane societies whether or not a fee for such adoption is charged.

This law is intended to provide specific rights to consumers but consumers should be aware that they may have additional rights under other more general laws, such as the Uniform Commercial Code which concerns the sale of goods.

Pet dealers who represents that an animal is registered or capable of registration with an animal pedigree registry organization shall provide the purchaser with necessary documents within 120 days following sale.

New York Laws Providing Penalties for Animal Cruelty/Abandonment/Neglect **Agriculture and Markets Law § 353-b** **Appropriate Shelter for Dogs Left Outdoors**

Section 353-b of the Agriculture and Markets Law requires that owners and caretakers of dogs left outdoors provide them with appropriate shelter. Violations can trigger a series of escalating fines, which the court can reduce by an amount the owner or custodian proves he or she has spent to correct the deficiencies in the dog's shelter.

Agriculture and Markets Law § 353. **Overdriving, Torturing and Injuring Animals**

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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 misdemeanor.

Note: Please see New York State Consolidated Laws for the above section in its entirety by visiting the New York State Assembly online at [www.](http://assembly.state.ny.us/)
<http://assembly.state.ny.us/>

Agriculture and Markets Law § 353-a

Aggravated Cruelty to Animals

Popularly known as "Buster's Law," Agriculture and Markets Law 353-a was enacted by the Legislature in 1999 after a Schenectady cat named "Buster" was doused with kerosene and set on fire. The law was enacted to "increase the penalty for intentionally and without just cause seriously injuring or killing dogs, cats and other domesticated animals." (Assembly Memo in Support of L. 1999, ch. 118, 1999 McKinney's Session Laws of N.Y. [N.Y. Assembly Memo] at 1584-85).

Agriculture and Markets Law § 353-a provides that 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. Aggravated cruelty to animals is a felony.

Note: Please see New York State Consolidated Laws for the above section in its entirety by visiting the New York

State Assembly online at [www.](http://assembly.state.ny.us/)
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Agriculture and Markets Law § 355 **Abandonment of Animals**

Abandonment of an animal is a misdemeanor.

Note: Please see New York State Consolidated Laws for the above section in its entirety by visiting the New York State Assembly online at [www.](http://assembly.state.ny.us/)
<http://assembly.state.ny.us/>.

Important Federal Laws **"Animal Welfare Act" as Amended (7 USC, 2131-2156)** **(7 U.S.C. §§ 2131 et. seq.)**

The Animal Welfare Act is administered by the United States Department of Agriculture and regulates the purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research, experimental purposes, exhibition purposes or holding them for sale as pets or for any such purpose or use. The act also establishes minimum standards for animal care including, but not limited to, handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds it necessary for humane handling, exercise for dogs, and for a physical environment adequate to promote the psychological well-being of primates.

Note: Please see the Animal Welfare Act in its entirety by visiting the United States Department of Agriculture at <http://www.nal.usda.gov/awic/legislat/usdaleg1.htm>

Reporting Animal Cruelty

To report animal cruelty please contact your local county SPCA or other humane enforcement agency or contact your local police department by calling 911. The agency you call must have police powers to investigate, file a report, and arrest. Usually, each county has one agency that possesses these powers in addition to the police. For assistance in locating your local SPCA you may contact The American Society for the Prevention of Cruelty to

Animals ("ASPCA") at (212)-876-7700. You can also access the ASPCA's website at www.aspc.org or write to the ASPCA at: 424 E. 92nd Street, New York, New York 10128 - 6804. The ASPCA only has law enforcement powers in New York State. Remember to give your local humane officers as much detailed information as possible including names, addresses, witnesses, dates, times and pictures if possible.

Dangerous Dogs **New York State Agriculture and Markets Law § 121**

Any person who witnesses an attack or threatened attack upon a person or a companion animal, farm or domestic animal may complain to a dog control officer or police officer, who shall immediately tell the complaining person of his right to start a legal action. If there is reason to believe the dog is a dangerous dog, the officer shall immediately begin an action himself.

The judge who hears the dispute must decide whether there is probable cause to believe the dog is dangerous. A hearing must be held within 5 days, with at least 2 days written notice to the dog's owner. At the judicial hearing the person who brings the complaint must prove, by clear and convincing evidence, that the dog is a "dangerous dog." A dog shall not be declared dangerous if its conduct was justified because the person who was injured, threatened or killed was then or had previously tormented, abused, assaulted or physically threatened the dog or its offspring.

A dog shall not be declared dangerous if the conduct of the dog was justified because the dog was responding to pain or injury, or was protecting itself, its people, its kennels or its offspring; or was justified because the companion animal, farm animal or domestic animal that was injured, threatened or killed was attacking or threatening to attack the dog or its offspring.

Note: Some counties and cities also have their own laws or codes regarding Dangerous Dogs in addition to the New York state law.

Pet Trusts

Article 7 of the Estates Powers and Trusts law