

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2389

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2014

The Assembly Agriculture and Natural Resources Committee reports favorably and with committee amendments Assembly Bill No. 2389.

This bill, as amended and designated as “Moose’s Law,” prohibits a person who has been convicted of a criminal animal cruelty offense in this State, or in any other state or jurisdiction, from:

1) commencing, operating, applying for employment, being employed, or volunteering at, or participating in any capacity in, an “animal-related enterprise” (enterprise), as that term is defined in the bill; or

2) acquiring or owning any domestic companion animal for a definitive period of time, as specified by a court.

Any person who violates the bill’s prohibitions would be guilty of a disorderly persons offense.

This bill, as amended, further specifies that no owner or operator of an animal-related enterprise may employ or allow to volunteer at the enterprise person who has been convicted of a criminal animal cruelty offense, and specifies actions to be taken to ensure such employment or volunteering does not occur. This prohibition applies only to persons responsible for the care or handling of, or in direct contact with, any animal during the course of the person’s employment, volunteering, or participation with the enterprise.

The bill, as amended, authorizes a court, upon a person’s conviction for a criminal animal cruelty offense, to order the forfeiture of any domestic companion animal owned by the offender, or, if determined to be appropriate, to appoint a receiver to whom ownership and custody of the animal would be transferred. The bill specifies, however, that the court may not appoint as a receiver, any person who shares a place of residence with the offender. The bill further authorizes the court to issue an order prohibiting the offender from acquiring or owning any domestic companion animal for:

1) a period of not less than two years following the date of the offender’s conviction for the present offense, or following the date of

the offender's release from incarceration for the present offense, whichever is later;

2) the duration of the probationary period imposed by the court for the present offense, if that period will last for two years or longer; or

3) any more extended period of time, which the court, in its discretion, determines to be appropriate based on the nature and severity of the offense, the offender's prior history of animal cruelty offenses, and any other relevant factor.

The bill, as amended, provides for the owner or operator of the enterprise to determine the person does not have a criminal conviction by:

1) requesting and receiving in writing a determination by the Commissioner of Health that the person is not identified on the list, established pursuant to section 3 of P.L.1983, c.525 (C.4:19-15.16a), of persons who are ineligible to be certified animal control officers, or if the person is identified on the list, the person was not convicted of a criminal animal cruelty offense; and

2) performing, having performed, or requesting the Commissioner of Health to perform a criminal background check that confirms the employee, volunteer, or applicant for employment or a volunteer position has not been convicted of a criminal animal cruelty offense.

The owner or operator of the enterprise would be allowed to provisionally employ a person or allow a person to provisionally volunteer for no more than 90 days pending the results of the criminal background check and the commissioner's determination concerning the list of persons who are ineligible to be certified animal control officers. Furthermore, the owner or operator of the animal-related enterprise may:

1) determine the person's eligibility based on a criminal background check only, without waiting for the commissioner's action, provided that the criminal background check is completed no later than 90 days after the effective date of the bill for existing employees and existing volunteers, and for a provisional employee or provisional volunteer, no later than 90 days after receiving an application for employment or to volunteer; or

2) request, within 30 days of the bill's effective date for existing employees and existing volunteers and within two weeks of employment or volunteering for provisional employees and provisional volunteers, the Commissioner of Health to perform a complete State Police and Federal Bureau of Investigation (FBI) criminal background check at the owner's or operator's expense.

The owner or operator of the animal-related enterprise would be:

1) required to perform a criminal background check or to request a Commissioner of Health criminal background check only once for any employee or volunteer; and

2) directed to annually request and receive a follow-up review by the commissioner of the list of persons who are ineligible to be

certified animal control officers in order to confirm that the enterprise's employees and volunteers are still eligible to work or volunteer as applicable.

The bill, as amended, authorizes the Commissioner of Health to perform a complete State Police and FBI criminal background check if requested to do so. The bill, as amended, also specifies that all names, addresses, and other information submitted to the Commissioner of Health to complete a criminal background check and any records developed therefrom are to be considered criminal investigatory records for the purposes of compliance with P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act, and cannot be disclosed as a government record. Any employee or volunteer of an enterprise refusing to cooperate with the requirements under the bill may be immediately dismissed. Any person who is considered ineligible to apply because of a criminal animal cruelty offense conviction may apply if the conviction is reversed.

Finally, the bill, as amended, exempts from the provisions of the bill:

1) any farm, livestock operation, or other business where domestic livestock are raised, kept, treated, marketed, or sold, and any owner, operator, or employee thereof; and

2) any academic research institution and any owner, operator, or employee thereof.

COMMITTEE AMENDMENTS

The committee amendments:

1) clarify definitions and terms used in the bill;

2) remove civil liability for animal cruelty offenses as a disqualifying factor for employment or volunteering at an animal-related enterprise;

3) prohibit volunteering as well as employment for disqualified persons;

4) require criminal background checks of existing employees, existing volunteers, provisional employees, and provisional volunteers;

5) allow criminal background checks to be completed by the owner or operator of the animal-related enterprise or by the Department of Health at the owner or operator's request and expense;

6) require the criminal background check conducted by the owner or operator to be completed:

a) no later than 90 days after the effective date of the bill for existing employees and existing volunteers, and

b) for a provisional employee or provisional volunteer, no later than 90 days after receiving an application for employment or to volunteer;

7) require the owner or operator, if requesting the Commissioner of Health to perform a complete State Police and Federal Bureau of Investigation (FBI) criminal background check, to make the request:

a) within 30 days of the bill's effective date for existing employees and existing volunteers, and

b) within two weeks of employment or volunteering for provisional employees and provisional volunteers, at the owner's or operator's expense;

8) require the owner or operator to perform or request a criminal background check only once for any employee or volunteer;

9) direct the owner or operator to confirm that employees and volunteers continue to be eligible to work or volunteer by annually requesting and receiving a follow-up review of the list of persons who are ineligible to be certified animal control officers;

10) authorize the Commissioner of Health to perform a complete State Police and FBI criminal background check if requested to do so;

11) specify that all information and records submitted for, or developed from, a Commissioner of Health criminal background check are to be considered criminal investigatory records and cannot be disclosed as a government record under the open public records act;

12) exempt from the provisions of the bill:

a) any farm, livestock operation, or other business where domestic livestock are raised, kept, treated, marketed, or sold, and any owner, operator, or employee thereof, or

b) any academic research institution and any owner, operator, or employee thereof; and

13) make technical and clarifying corrections to the bill.