

[First Reprint]

ASSEMBLY, No. 308

STATE OF NEW JERSEY
217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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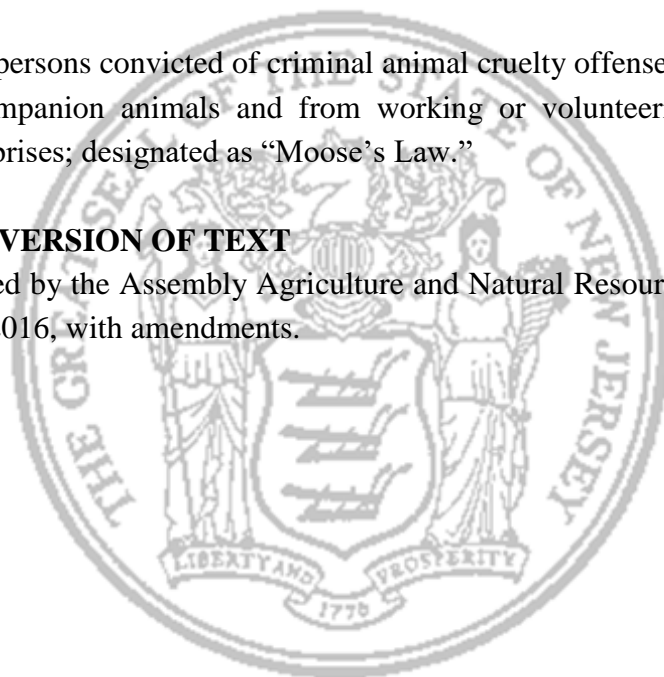
Assemblywoman Lampitt and Assemblyman O'Scanlon

SYNOPSIS

Prohibits persons convicted of criminal animal cruelty offenses from owning domestic companion animals and from working or volunteering at animal-related enterprises; designated as "Moose's Law."

CURRENT VERSION OF TEXT

As reported by the Assembly Agriculture and Natural Resources Committee on May 19, 2016, with amendments.



(Sponsorship Updated As Of: 12/20/2016)

1 AN ACT concerning animal cruelty violators and their direct
 2 involvement with animals, designated as “Moose’s Law,”
 3 supplementing Title 4 of the Revised Statutes, and amending
 4 P.L.1983, c.525.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. (New section) As used in P.L. , c. (C.) (pending
 10 before the Legislature as this bill):

11 “Animal-related enterprise” means any for-profit or non-profit
 12 industry, business, enterprise, or endeavor that requires or involves
 13 hands-on contact or other direct interaction with animals, including,
 14 but not limited to: a zoo, aquarium, or other animal exhibition; an
 15 animal care or veterinary operation; an animal training operation; an
 16 animal breeding operation; an animal shelter or pound; an animal
 17 kennel or boarding operation; a pet shop; an animal adoption or
 18 sales service; or an animal transport service.

19 “Commissioner” means the Commissioner of Health.

20 “Criminal animal cruelty offense” means, in New Jersey, any
 21 crime or disorderly persons offense under chapter 22 of Title 4 of
 22 the Revised Statutes ¹, P.L.2002, c.102 (C.4:19-38 et seq.), section
 23 1 of P.L.1983, c.261 (C.2C:29-3.1); section 1 of P.L.2013, c.205
 24 (C.2C:29-3.2), P.L.2015, c.85 (C.2C:33-31 et seq.), or R.S.39:4-
 25 23¹; or in any other state or jurisdiction, conduct which, if
 26 committed in New Jersey, would constitute a crime or disorderly
 27 persons offense under chapter 22 of Title 4 of the Revised Statutes
 28 ¹, P.L.2002, c.102 (C.4:19-38 et seq.), section 1 of P.L.1983, c.261
 29 (C.2C:29-3.1); section 1 of P.L.2013, c.205 (C.2C:29-3.2),
 30 P.L.2015, c.85 (C.2C:33-31 et seq.), or R.S.39:4-23¹.

31 “Criminal background check” means a determination of whether
 32 a person has a criminal record by cross-referencing that person's
 33 name with an appropriate database or compilation of records,
 34 whether performed through a State department or agency, privately
 35 by the owner or operator of an animal-related enterprise, or by other
 36 means. “Criminal background check” includes any criminal history
 37 record background check provided pursuant to section 5 of
 38 P.L. , c. (C.) (pending before the Legislature as this
 39 bill).

40 “Domestic companion animal” means any animal commonly
 41 referred to as a pet, or one that has been bought, bred, raised or
 42 otherwise acquired, in accordance with local ordinances and State
 43 and federal law, for the primary purpose of providing

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAN committee amendments adopted May 19, 2016.

1 companionship to the owner, rather than for business or agricultural
2 purposes.

3 “Employ” means to use the services of a person, or to hire a
4 person for paid work.

5 “Existing employee” means a person who is employed by an
6 animal-related enterprise on the date of enactment of P.L. ,
7 c. (C.) (pending before the Legislature as this bill).

8 “Existing volunteer” means a person who is volunteering at an
9 animal-related enterprise on the date of enactment of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11 “Own” means to have a legal right of possession in, or any legal
12 title to ownership of, a domestic companion animal.

13 “Provisional employee” means a person who is employed by an
14 animal-related enterprise on a provisional basis, in accordance with
15 the provisions of section 3 of P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 “Provisional volunteer” means a person who is volunteering at
18 an animal-related enterprise on a provisional basis, in accordance
19 with the provisions of section 3 of P.L. , c. (C.) (pending
20 before the Legislature as this bill).

21 “Volunteer” means a person who is not an employee that
22 provides services to an animal-related enterprise without
23 expectation of compensation, and without coercion or intimidation
24 to provide such services, or the act of providing such services on
25 such a basis.

26

27 2. (New section) a. Except as may be otherwise provided by
28 subsection d. of this section, no person who is convicted of a
29 criminal animal cruelty offense shall:

30 (1) commence, operate, apply for employment, be employed, or
31 volunteer at, or participate in any capacity in, an animal-related
32 enterprise; or

33 (2) acquire or own any domestic companion animal for the
34 period of time specified by the court pursuant to subsection c. of
35 this section.

36 b. Any person who violates subsection a. of this section shall
37 be guilty of a disorderly persons offense.

38 c. Upon a person’s conviction for a criminal animal cruelty
39 offense, the court may:

40 (1) order the forfeiture of any domestic companion animal
41 owned by the offender, or, if deemed appropriate, appoint a receiver
42 to whom ownership and custody of the animal shall be transferred;

43 (2) order the offender to refrain from acquiring or owning any
44 domestic companion animal for: (a) a period of not less than two
45 years following the date of the offender’s conviction for the present
46 criminal animal cruelty offense, or following the date of the
47 offender’s release from incarceration for the present criminal
48 animal cruelty offense, whichever is later; (b) the duration of the

1 probationary period imposed by the court for the present criminal
2 animal cruelty offense, if that period will last for two years or
3 longer; or (c) any more extended period of time, which the court, in
4 its discretion, determines to be appropriate based on the nature and
5 severity of the criminal animal cruelty offense and the offender's
6 prior history of animal cruelty offenses; and

7 (3) order the offender from commencing, operating, applying for
8 employment or volunteering at, or participating in, an animal-
9 related enterprise for a period of time, which the court, in its
10 discretion, determines to be appropriate based on the nature and
11 severity of the criminal animal cruelty offense and the offender's
12 prior history of animal cruelty offenses.

13 No person who shares a place of residence with the offender
14 shall be appointed as a receiver pursuant to paragraph (1) of this
15 subsection.

16 d. The provisions of paragraph (1) of subsection a. of this
17 section shall not apply to any person who engages in community
18 service at an animal-related enterprise in compliance with a court
19 order issued pursuant to R.S.4:22-17.

20
21 3. (New section) a. The owner or operator of an animal-
22 related enterprise shall not employ, or allow to volunteer or
23 participate in any animal-related activities, any person at the
24 enterprise who has been convicted of a criminal animal cruelty
25 offense. The owner or operator of the animal-related enterprise shall
26 determine the person does not have such a conviction by:

27 (1) requesting and receiving in writing a determination by the
28 Commissioner of Health that the person is not identified on the list,
29 established pursuant to section 3 of P.L.1983, c.525 (C.4:19-
30 15.16a), of persons who are ineligible to be certified animal control
31 officers, or if the person is identified on the list, the person was not
32 convicted of a criminal animal cruelty offense; and

33 (2) performing, having performed, or requesting pursuant to
34 section 5 of P.L. , c. (C.) (pending before the Legislature
35 as this bill) the Commissioner of Health to perform, a criminal
36 background check that confirms the existing employee, existing
37 volunteer, provisional employee, or provisional volunteer has not
38 been convicted of a criminal animal cruelty offense.

39 The owner or operator of the animal-related enterprise may
40 determine the person's eligibility based on a criminal background
41 check only, without waiting for the commissioner's action pursuant
42 to paragraph (1) of this section, but shall complete the criminal
43 background check for existing employees and existing volunteers
44 no later than 90 days after the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill), and for a provisional
46 employee or provisional volunteer no later than 90 days after
47 receiving an application for employment or to volunteer.

1 b. Notwithstanding the provisions of this section to the
2 contrary, an animal-related enterprise may provisionally employ a
3 person or provisionally allow a person to volunteer for a period not
4 exceeding 90 days, pending the results of the investigation and
5 criminal background check pursuant to subsection a. of this section.
6 Following confirmation that there is no record of the person being
7 convicted of a criminal animal cruelty offense, the person may be
8 employed or allowed to volunteer on an on-going basis.

9 c. No existing employee, existing volunteer, provisional
10 employee, or provisional volunteer at an animal-related enterprise
11 shall be left alone as the only person caring for an animal until the
12 investigation and criminal background check pursuant to subsection
13 a. of this section is complete and the results confirm that such
14 person is not disqualified from employment or as a volunteer on the
15 basis of a conviction for a criminal animal cruelty offense.

16 d. (1) The owner or operator of an animal-related enterprise
17 requesting an investigation or a criminal background check from the
18 Commissioner of Health pursuant to paragraph (1) or (2) of
19 subsection a. of this section, shall submit the request to the
20 Commissioner of Health with the name and address of:

21 (a) each existing employee or existing volunteer within 30 days
22 after the effective date of P.L. , c. (C.) (pending before the
23 Legislature as this bill); and

24 (b) each provisional employee or provisional volunteer at the
25 enterprise within two weeks after a person is provisionally
26 employed or provisionally allowed to volunteer pursuant to
27 subsection b. of this section.

28 (2) In addition, and as deemed necessary for the purposes of
29 determining continuing employment or volunteering in accordance
30 with P.L. , c. (C.) (pending before the Legislature as this
31 bill), the owner or operator of an animal-related enterprise shall
32 request and receive annually from the commissioner follow-up
33 reviews of the list established pursuant to section 3 of P.L.1983,
34 c.525 (C.4:19-15.16a), in order to determine the inclusion thereon
35 of any employee or volunteer for convictions for criminal animal
36 cruelty offenses. However, an owner or operator of an animal-
37 related enterprise shall be required to perform a criminal
38 background check or to request a criminal background check
39 pursuant to section 5 of P.L. , c. (C.) (pending before the
40 Legislature as this bill) only once for any employee or volunteer.

41 e. If an existing employee, existing volunteer, provisional
42 employee, or provisional volunteer refuses to comply with the
43 investigation or criminal background check performed pursuant to
44 subsection a. of this section; or if any employee or volunteer refuses
45 to comply with any follow-up investigation authorized by paragraph
46 (2) of subsection d. of this section, the owner or operator of the
47 animal-related enterprise shall immediately terminate the person as
48 an employee or a volunteer at the animal-related enterprise.

1 f. Any person who is disqualified from employment or as a
2 volunteer pursuant to P.L. , c. (C.) (pending before the
3 Legislature as this bill) shall be entitled to reapply for employment
4 or as a volunteer at an animal-related enterprise if the disqualifying
5 conviction is reversed.

6 g. This section shall apply only to an existing employee,
7 existing volunteer, provisional employee, provisional volunteer, or
8 applicant for employment, as a volunteer, or for participation with
9 an animal-related enterprise who is, or would be responsible for, the
10 care or handling of, or would otherwise come into direct contact
11 with, any animal during the course of the person's employment,
12 volunteering, or participation with an animal-related enterprise.

13
14 4. (New section) a. The Commissioner of Health shall
15 complete the investigation required by paragraph (1) of subsection
16 a. of section 3 of P.L. , c. (C.) (pending before the
17 Legislature as this bill, and shall notify the person who is the
18 subject of the investigation and the owner or operator of the animal-
19 related enterprise of the results of the investigation, in writing,
20 within 90 days after the receipt of the person's name and address,
21 which have been submitted in accordance with subsection d. of
22 section 3 of P.L. , c. (C.) (pending before the Legislature as
23 this bill), or as soon thereafter as may be reasonably practicable.
24 The written notice shall: (1) expressly identify any offenses which
25 constitute the basis for disqualification; and (2) afford the person
26 the opportunity for a hearing, in the manner provided for contested
27 cases pursuant to the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.), in order to contest the person's
29 inclusion on the ineligibility list, or in order to challenge the history
30 of offenses that was used by the commissioner to support the
31 person's inclusion on the list.

32 b. If requested to do so pursuant to section 5 of P.L. , c. (C.)
33 (pending before the Legislature as this bill), the Commissioner of
34 Health, in cooperation with the State Police and the Federal Bureau
35 of Investigation, shall complete the criminal background check and
36 shall notify the person who is the subject of the criminal
37 background check and the owner or operator of the animal-related
38 enterprise of the results, in writing, within 90 days after the receipt
39 of the person's name and address, which have been submitted in
40 accordance with subsection d. of section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill), or as soon thereafter as
42 may be reasonably practicable. The written notice shall: (1)
43 expressly identify any offenses which constitute the basis for
44 disqualification; and (2) afford the person the opportunity for a
45 hearing, in the manner provided for contested cases pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), in order to challenge the history of offenses used for
48 disqualification.

1 5. (New section) The Commissioner of Health is authorized to
2 exchange criminal history record information with the Federal
3 Bureau of Investigation and the State Bureau of Identification in the
4 Division of State Police consistent with applicable State and federal
5 laws, rules and regulations for use in implementing the employment
6 restrictions imposed pursuant to P.L. , c. (C.) (pending
7 before the Legislature as this bill). Each owner or operator of an
8 animal-related enterprise requesting the commissioner to perform a
9 criminal background check to satisfy the requirements pursuant to
10 section 3 of P.L. , c. (C.) (pending before the Legislature
11 as this bill), shall submit to the Department of Health the name,
12 address, fingerprints of, and written consent for a criminal history
13 record background check to be performed on, the person, as
14 applicable. The owner or operator of the animal-related enterprise
15 making the request of the department shall bear the cost for the
16 criminal history record background check, including all
17 administering and processing costs.

18

19 6. (New section) All names, addresses, and other information
20 submitted to the Commissioner of Health to complete a criminal
21 background check requested pursuant to sections 3 and 5 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), and any
23 records developed therefrom, shall be considered criminal
24 investigatory records for the purposes of compliance with P.L.1963,
25 c.73 (C.47:1A-1 et seq.), commonly known as the open public
26 records act, and shall not be disclosed as a government record.
27 Nothing contained in this section shall be construed to prevent the
28 Commissioner of Health from posting a list pursuant to subsection
29 c. of section 3 of P.L.1983, c.525 (C.4:19-15.16a) of all persons
30 whose certificate, issued pursuant to subsection b. of section 3 of
31 P.L.1983, c.525 (C.4:19-15.16a), has been revoked, or who have
32 been convicted of a criminal violation of any provision of chapter
33 22 of Title 4 of the Revised Statutes.

34

35 7. (New section) The provisions of P.L. , c. (C.)
36 (pending before the Legislature as this bill) shall not apply to any
37 farm, livestock operation, or other business where domestic
38 livestock are raised, kept, treated, marketed, or sold, or to any
39 owner, operator, or employee thereof, or to any academic research
40 institution or to any owner, operator, or employee thereof.

41

42 8. Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is amended to
43 read as follows:

44 3. a. The Commissioner of Health shall, within 120 days after
45 the effective date of P.L.1983, c.525, and pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), adopt rules and regulations concerning the training and
48 educational qualifications for the certification of animal control

1 officers, including, but not limited to, a course of study approved by
2 the commissioner and the Police Training Commission, in
3 consultation with the New Jersey Certified Animal Control Officers
4 Association, which acquaints a person with:

5 (1) The law as it affects animal control, animal welfare, and
6 animal cruelty;

7 (2) Animal behavior and the handling of stray or diseased
8 animals;

9 (3) Community safety as it relates to animal control; and

10 (4) The law enforcement methods and techniques required for
11 an animal control officer to properly exercise the authority to
12 investigate and sign complaints and arrest without warrant pursuant
13 to section 8 of P.L.1997, c.247 (C.4:19-15.16c), including, but not
14 limited to, those methods and techniques which relate to search,
15 seizure, and arrest. The training in law enforcement methods and
16 techniques described pursuant to this paragraph shall be part of the
17 course of study for an animal control officer only when required by
18 the governing body of a municipality pursuant to section 4 of
19 P.L.1983, c.525 (C.4:19-15.16b).

20 Any person 18 years of age or older may satisfy the courses of
21 study established pursuant to this subsection at that person's own
22 time and expense; however, nothing in this section shall be
23 construed as authorizing a person to exercise the powers and duties
24 of an animal control officer absent municipal appointment or
25 authorization pursuant to section 4 of P.L.1983, c.525 (C.4:19-
26 15.16b).

27 b. (1) The commissioner shall provide for the issuance of a
28 certificate to a person who possesses, or acquires, the training and
29 education required to qualify as a certified animal control officer
30 pursuant to paragraphs (1) through (3) of subsection a. of this
31 section and to a person who has been employed in the State of New
32 Jersey in the capacity of, and with similar responsibilities to those
33 required of, a certified animal control officer pursuant to the
34 provisions of P.L.1983, c.525, for a period of three years before
35 January 17, 1987. The commissioner shall not issue a certificate to
36 any person convicted of, or found civilly liable for, a violation of
37 any provision of chapter 22 of Title 4 of the Revised Statutes.

38 (2) The commissioner shall revoke the certificate of any person
39 convicted of, or found civilly liable for, a violation of any provision
40 of chapter 22 of Title 4 of the Revised Statutes **],** and shall place
41 the name of the person on the list established pursuant to subsection
42 c. of this section **].**

43 c. (1) The commissioner shall establish a list of all persons
44 **[issued a certificate pursuant to subsection b. of this section] :** (a)
45 for whom **[that] a certificate , issued pursuant to subsection b. of**
46 **this section**, has been revoked, or (b) who have been convicted of,
47 or found civilly liable for, a violation of any provision of chapter 22
48 of Title 4 of the Revised Statutes. The commissioner shall provide

1 each municipality in the State with a copy of this list within 30 days
2 after the list is established and not less often than annually
3 thereafter if no revised list required pursuant to paragraph (2) of this
4 subsection has been issued in the interim. The commissioner shall
5 also post the list, together with a statement identifying the list's
6 proper use and purpose, at a publicly accessible and readily
7 identifiable location on the Department of Health's Internet
8 website.

9 (2) Upon receipt of a notice required pursuant to section 3 or 4
10 of P.L.2003, c.67 (C.4:22-57 or C.2B:12-17.1) **【involving a person**
11 **who has been issued a certificate pursuant to subsection b. of this**
12 **section】**, the commissioner shall add to the list the name of the
13 person convicted of, or found civilly liable for, a violation of any
14 provision of chapter 22 of Title 4 of the Revised Statutes according
15 to the notice, and shall issue a copy of the revised list to each
16 municipality and post a copy of the revised list at a publicly
17 accessible and readily identifiable location on the Department of
18 Health's Internet website within 30 days after receipt of any notice.
19 (cf: P.L.2012, c.17, s.8)

20

21 9. This act shall take effect immediately.