

ASSEMBLY, No. 308

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywomen Vainieri Huttle, Jimenez and Assemblyman Coughlin

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

Introduced Pending Technical Review by Legislative Counsel.



A308 SINGLETON, CONAWAY

2

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; or in any other state or jurisdiction, conduct
23 which, if committed in New Jersey, would constitute a crime or
24 disorderly persons offense under chapter 22 of Title 4 of the
25 Revised Statutes.

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

35 “Domestic companion animal” means any animal commonly
36 referred to as a pet, or one that has been bought, bred, raised or
37 otherwise acquired, in accordance with local ordinances and State
38 and federal law, for the primary purpose of providing
39 companionship to the owner, rather than for business or agricultural
40 purposes.

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

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

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.

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

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

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

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

14 “Volunteer” means a person who is not an employee that
15 provides services to an animal-related enterprise without
16 expectation of compensation, and without coercion or intimidation
17 to provide such services, or the act of providing such services on
18 such a basis.

19

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

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

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

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

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

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

36 (2) order the offender to refrain from acquiring or owning any
37 domestic companion animal for: (a) a period of not less than two
38 years following the date of the offender’s conviction for the present
39 criminal animal cruelty offense, or following the date of the
40 offender’s release from incarceration for the present criminal
41 animal cruelty offense, whichever is later; (b) the duration of the
42 probationary period imposed by the court for the present criminal
43 animal cruelty offense, if that period will last for two years or
44 longer; or (c) any more extended period of time, which the court, in
45 its discretion, determines to be appropriate based on the nature and
46 severity of the criminal animal cruelty offense and the offender’s
47 prior history of animal cruelty offenses; and

1 (3) order the offender from commencing, operating, applying for
2 employment or volunteering at, or participating in, an animal-
3 related enterprise for a period of time, which the court, in its
4 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.

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

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

14
15 3. (New section) a. The owner or operator of an animal-
16 related enterprise shall not employ, or allow to volunteer or
17 participate in any animal-related activities, any person at the
18 enterprise who has been convicted of a criminal animal cruelty
19 offense. The owner or operator of the animal-related enterprise shall
20 determine the person does not have such a conviction by:

21 (1) requesting and receiving in writing a determination by the
22 Commissioner of Health that the person is not identified on the list,
23 established pursuant to section 3 of P.L.1983, c.525 (C.4:19-
24 15.16a), of persons who are ineligible to be certified animal control
25 officers, or if the person is identified on the list, the person was not
26 convicted of a criminal animal cruelty offense; and

27 (2) performing, having performed, or requesting pursuant to
28 section 5 of P.L. , c. (C.) (pending before the Legislature
29 as this bill) the Commissioner of Health to perform, a criminal
30 background check that confirms the existing employee, existing
31 volunteer, provisional employee, or provisional volunteer has not
32 been convicted of a criminal animal cruelty offense.

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

42 b. Notwithstanding the provisions of this section to the contrary,
43 an animal-related enterprise may provisionally employ a person or
44 provisionally allow a person to volunteer for a period not exceeding
45 90 days, pending the results of the investigation and criminal
46 background check pursuant to subsection a. of this section.
47 Following confirmation that there is no record of the person being

1 convicted of a criminal animal cruelty offense, the person may be
2 employed or allowed to volunteer on an on-going basis.

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

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

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

18 (b) each provisional employee or provisional volunteer at the
19 enterprise within two weeks after a person is provisionally
20 employed or provisionally allowed to volunteer pursuant to
21 subsection b. of this section.

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

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

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

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

8
9 4. (New section) a. The Commissioner of Health shall
10 complete the investigation required by paragraph (1) of subsection
11 a. of section 3 of P.L. , c. (C.) (pending before the
12 Legislature as this bill, and shall notify the person who is the
13 subject of the investigation and the owner or operator of the animal-
14 related enterprise of the results of the investigation, in writing,
15 within 90 days after the receipt of the person's name and address,
16 which have been submitted in accordance with subsection d. of
17 section 3 of P.L. , c. (C.) (pending before the Legislature as
18 this bill), or as soon thereafter as may be reasonably practicable.
19 The written notice shall: (1) expressly identify any offenses which
20 constitute the basis for disqualification; and (2) afford the person
21 the opportunity for a hearing, in the manner provided for contested
22 cases pursuant to the "Administrative Procedure Act," P.L.1968,
23 c.410 (C.52:14B-1 et seq.), in order to contest the person's
24 inclusion on the ineligibility list, or in order to challenge the history
25 of offenses that was used by the commissioner to support the
26 person's inclusion on the list.

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

44
45 5. (New section) The Commissioner of Health is authorized to
46 exchange criminal history record information with the Federal
47 Bureau of Investigation and the State Bureau of Identification in the
48 Division of State Police consistent with applicable State and federal

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

14

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

30

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

37

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

40 3. a. The Commissioner of Health shall, within 120 days after
41 the effective date of P.L.1983, c.525, and pursuant to the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), adopt rules and regulations concerning the training and
44 educational qualifications for the certification of animal control
45 officers, including, but not limited to, a course of study approved by
46 the commissioner and the Police Training Commission, in
47 consultation with the New Jersey Certified Animal Control Officers
48 Association, which acquaints a person with:

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

3 (2) Animal behavior and the handling of stray or diseased
4 animals;

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

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

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

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

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

39 c. (1) The commissioner shall establish a list of all persons
40 **]**issued a certificate pursuant to subsection b. of this section**]** ; (a)
41 for whom **]**that**]** a certificate , issued pursuant to subsection b. of
42 this section, has been revoked, or (b) who have been convicted of,
43 or found civilly liable for, a violation of any provision of chapter 22
44 of Title 4 of the Revised Statutes. The commissioner shall provide
45 each municipality in the State with a copy of this list within 30 days
46 after the list is established and not less often than annually
47 thereafter if no revised list required pursuant to paragraph (2) of this
48 subsection has been issued in the interim. The commissioner shall

1 also post the list, together with a statement identifying the list's
2 proper use and purpose, at a publicly accessible and readily
3 identifiable location on the Department of Health's Internet
4 website.

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

16

17 9. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill, designated as "Moose's Law," prohibits a person who
23 has been convicted of a criminal animal cruelty offense in this State, or
24 in any other state or jurisdiction, from:

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

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

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

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

41 The bill authorizes a court, upon a person's conviction for a
42 criminal animal cruelty offense, to order the forfeiture of any domestic
43 companion animal owned by the offender, or, if determined to be
44 appropriate, to appoint a receiver to whom ownership and custody of
45 the animal would be transferred. The bill specifies, however, that the
46 court may not appoint as a receiver, any person who shares a place of
47 residence with the offender. The bill further authorizes the court to

1 issue an order prohibiting the offender from acquiring or owning any
2 domestic companion animal for:

3 1) a period of not less than two years following the date of the
4 offender's conviction for the present offense, or following the date of
5 the offender's release from incarceration for the present offense,
6 whichever is later;

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

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

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

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

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

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

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

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

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

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

1 2) directed to annually request and receive a follow-up review by
2 the commissioner of the list of persons who are ineligible to be
3 certified animal control officers in order to confirm that the
4 enterprise's employees and volunteers are still eligible to work or
5 volunteer as applicable.

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

19 Finally, the bill exempts from the provisions of the bill:

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

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