

SENATE, No. 861

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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.



(Sponsorship Updated As Of: 11/19/2019)

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

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
44 companionship to the owner, rather than for business or agricultural
45 purposes.

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

1 longer; or (c) any more extended period of time, which the court, in
2 its discretion, determines to be appropriate based on the nature and
3 severity of the criminal animal cruelty offense and the offender's
4 prior history of animal cruelty offenses; and

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

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

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

18

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

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

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

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

46 b. Notwithstanding the provisions of this section to the
47 contrary, an animal-related enterprise may provisionally employ a
48 person or provisionally allow a person to volunteer for a period not

1 exceeding 90 days, pending the results of the investigation and
2 criminal background check pursuant to subsection a. of this section.
3 Following confirmation that there is no record of the person being
4 convicted of a criminal animal cruelty offense, the person may be
5 employed or allowed to volunteer on an on-going basis.

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

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

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

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

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

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

46 f. Any person who is disqualified from employment or as a
47 volunteer pursuant to P.L. , c. (C.) (pending before the
48 Legislature as this bill) shall be entitled to reapply for employment

1 or as a volunteer at an animal-related enterprise if the disqualifying
2 conviction is reversed.

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

10

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

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

46

47 5. (New section) The Commissioner of Health is authorized to
48 exchange criminal history record information with the Federal

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

16

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

32

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

39

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

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

1 consultation with the New Jersey Certified Animal Control Officers
2 Association, which acquaints a person with:

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

5 (2) Animal behavior and the handling of stray or diseased
6 animals;

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

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

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

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

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

41 c. (1) The commissioner shall establish a list of all persons
42 **【issued a certificate pursuant to subsection b. of this section】**; (a)
43 for whom **【that】 a certificate , issued pursuant to subsection b. of**
44 **this section, has been revoked, or (b) who have been convicted of,**
45 or found civilly liable for, a violation of any provision of chapter 22
46 of Title 4 of the Revised Statutes. The commissioner shall provide
47 each municipality in the State with a copy of this list within 30 days
48 after the list is established and not less often than annually

1 thereafter if no revised list required pursuant to paragraph (2) of this
2 subsection has been issued in the interim. The commissioner shall
3 also post the list, together with a statement identifying the list's
4 proper use and purpose, at a publicly accessible and readily
5 identifiable location on the Department of Health's Internet
6 website.

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

18

19 9. This act shall take effect immediately.

20

21

22

STATEMENT

23

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

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

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

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

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

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

1 residence with the offender. The bill further authorizes the court to
2 issue an order prohibiting the offender from acquiring or owning any
3 domestic companion animal for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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