



Legislation Text

File #: Res 1638-2013, **Version:** *

Res. No. 1638

Resolution calling on the New York State Legislature to pass and the Governor to sign A.9917A/S.6730A, relating to updating and clarifying animal cruelty laws in New York.

By Council Members Vallone, Chin, Dickens, Gentile, James, Koo, Koppell, Mendez, Rose and Ulrich

Whereas, Currently, the New York State Agriculture and Markets Law sets forth the law prohibiting animal cruelty; and

Whereas, In order to strengthen existing laws against animal cruelty, Assemblywoman Linda Rosenthal and Senator Charles J. Fuschillo introduced legislation in the New York State Legislature, A.9917A/S.6730A, to transfer certain sections of the Agriculture and Markets Law that relate to animal abuse to the Penal Code; and

Whereas, If adopted, this legislation will provide greater training to new police officers, increase sentences for certain felony crimes against animals, and allow certain offenders to be classified as “Violent Felony Offender” for purposes of sentencing; and

Whereas, If adopted, A.9917A/S.6730A would also clarify existing provisions contained in the Agriculture and Markets Law, because as the law is currently written, law enforcement agencies and the courts are unable to fully maximize the law to protect animals; and

Whereas, For example, due to vague wording, section 353 of the Agriculture and Markets Law raises potential constitutional problems; and

Whereas, In at least two cases involving animal cruelty, the constitutional vagueness of section 353 has been raised; and

Whereas, In 2009, a defendant pled guilty to animal cruelty but appealed on the grounds that section

353 is constitutionally vague; the Appellate Division for the Third Department did not address the constitutional question, finding that the conviction could be upheld on other grounds; and

Whereas, In 2004, a Kings County Criminal Court judge granted a defendant's motion to dismiss animal cruelty charges, finding that "section 353 is unconstitutionally vague as applied to the facts of this case"; and

Whereas, The Kings County Criminal Court also noted that while it would not address whether section 353 was unconstitutionally vague on its face, "the language of the statute is not an example of precision and clarity"; and

Whereas, Animal cruelty is a problem in New York as illustrated by several recent cases;

Whereas, For example, in June 2012 a Bronx resident was arrested for a pit bull fighting operation that involved 50 dogs; and

Whereas, In September 2012, a man was arrested by the NYPD for allegedly beating a dog inside an elevator; and

Whereas, The adoption of A.9917A/S.6730A would provide greater tools with which to protect animals by clarifying existing law to aid law enforcement and by strengthening the penalties against those who commit offenses against animals; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to enact and the Governor to sign A.9917A/S.6730A, relating to updating and clarifying animal cruelty laws in New York.

LS# 3779
12/28/2012
GZ