

[First Reprint]

ASSEMBLY, No. 2389

STATE OF NEW JERSEY
216th LEGISLATURE

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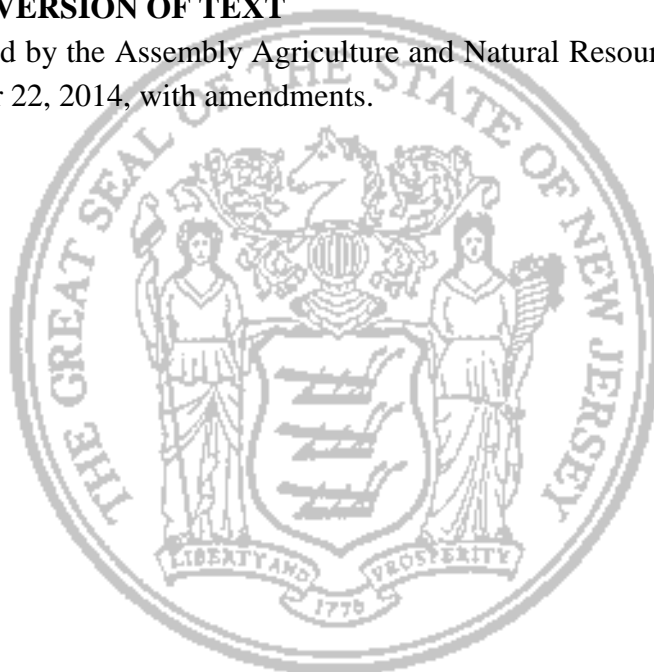
Assemblywomen Vainieri Huttle and Jimenez

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 September 22, 2014, with amendments.



(Sponsorship Updated As Of: 9/12/2014)

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 ¹【“Animal cruelty offense” means, in New Jersey, any crime or
 12 disorderly persons offense under chapter 22 of Title 4 of the
 13 Revised Statutes, or any civil violation under R.S.4:22-26; or in any
 14 other state or jurisdiction, conduct which, if committed in New
 15 Jersey, would constitute a crime or disorderly persons offense under
 16 chapter 22 of Title 4 of the Revised Statutes or a civil violation
 17 under R.S.4:22-26.】¹

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

26 ¹【“Applicant” means an existing employee or provisional
 27 employee whose name and address are submitted to the
 28 Commissioner of Health pursuant to subsection d. of section 3 of
 29 P.L. , c. (C.) (pending before the Legislature as this bill).】¹

30 “Commissioner” means the Commissioner of Health.

31 ¹【“Criminal animal cruelty offense” means, in New Jersey, any
 32 crime or disorderly persons offense under chapter 22 of Title 4 of
 33 the Revised Statutes; or in any other state or jurisdiction, conduct
 34 which, if committed in New Jersey, would constitute a crime or
 35 disorderly persons offense under chapter 22 of Title 4 of the
 36 Revised Statutes. “Criminal background check” means a
 37 determination of whether a person has a criminal record by cross-
 38 referencing that person's name with an appropriate database or
 39 compilation of records, whether performed through a State
 40 department or agency, privately by the owner or operator of an
 41 animal-related enterprise, or by other means. “Criminal background
 42 check” includes any criminal history record background check
 43 provided pursuant to section 5 of P.L. , c. (C.) (pending
 44 before the Legislature as this bill).¹

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 September 22, 2014.

1 “Domestic companion animal” means any animal commonly
2 referred to as a pet, or one that has been bought, bred, raised or
3 otherwise acquired, in accordance with local ordinances and State
4 and federal law, for the primary purpose of providing
5 companionship to the owner, rather than for business or agricultural
6 purposes.

7 “Employ” means to use the services of a person, or to hire a
8 person for paid ¹**【or unpaid】**¹ work.

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

12 ¹**【“Non-provisional employee” means an existing employee or**
13 **provisional employee who is authorized to engage in on-going, non-**
14 **provisional employment at an animal-related enterprise following**
15 **the receipt of written notice from the Commissioner of Health,**
16 **pursuant to section 4 of P.L. , c. (C.) (pending before the**
17 **Legislature as this bill), confirming an absence of disqualifying**
18 **animal cruelty offense violations.】**

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

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

24 “Provisional employee” means a person who is employed by an
25 animal-related enterprise on a provisional basis, in accordance with
26 the provisions of ¹**【subsection b. of】**¹ section 3 of P.L. , c. (C.)
27 (pending before the Legislature as this bill).

28 ¹“Provisional volunteer” means a person who is volunteering at
29 an animal-related enterprise on a provisional basis, in accordance
30 with the provisions of section 3 of P.L. , c. (C.) (pending
31 before the Legislature as this bill).

32 “Volunteer” means a person who is not an employee that
33 provides services to an animal-related enterprise without
34 expectation of compensation, and without coercion or intimidation
35 to provide such services, or the act of providing such services on
36 such a basis.¹

37
38 2. (New section) a. Except as may be otherwise provided by
39 subsection d. of this section, no person who is convicted of ¹**【**, or
40 found civilly liable for, an**】** a criminal¹ animal cruelty offense shall:

41 (1) commence, operate, apply for employment ¹, be employed,
42 or volunteer¹ at, or participate in any capacity in, an animal-related
43 enterprise; or

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

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

3 c. Upon a person's conviction ¹【, or finding of civil liability,】¹
4 for ¹【an】 a criminal¹ animal cruelty offense, the court may:

5 (1) order the forfeiture of any domestic companion animal
6 owned by the offender, or, if deemed appropriate, appoint a receiver
7 to whom ownership and custody of the animal shall be transferred;
8 ¹【and】¹

9 (2) order the offender to refrain from acquiring or owning any
10 domestic companion animal for: (a) a period of not less than two
11 years following the date of the offender's conviction ¹【or finding of
12 civil liability】¹ for the present ¹criminal animal cruelty¹ offense, or
13 following the date of the offender's release from incarceration for
14 the present ¹criminal animal cruelty¹ offense, whichever is later; (b)
15 the duration of the probationary period imposed by the court for the
16 present ¹criminal animal cruelty¹ offense, if that period will last for
17 two years or longer; or (c) any more extended period of time, which
18 the court, in its discretion, determines to be appropriate based on
19 the nature and severity of the ¹criminal animal cruelty¹ offense and
20 the offender's prior ¹【animal cruelty offense】¹ history ¹of animal
21 cruelty offenses; and

22 (3) order the offender from commencing, operating, applying for
23 employment or volunteering at, or participating in, an animal-
24 related enterprise for a period of time, which the court, in its
25 discretion, determines to be appropriate based on the nature and
26 severity of the criminal animal cruelty offense and the offender's
27 prior history of animal cruelty offenses¹.

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

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

35
36 3. (New section) a. The owner or operator of an animal-
37 related enterprise shall not employ ¹, or allow to volunteer or
38 participate in any animal-related activities,¹ any person at the
39 enterprise ¹【unless】 who has been convicted of a criminal animal
40 cruelty offense. The owner or operator of the animal-related
41 enterprise shall determine the person does not have such a
42 conviction by:

43 (1) requesting and receiving in writing a determination by¹ the
44 Commissioner of Health ¹【has first determined】¹ that the person is
45 not identified on the list, established pursuant to section 3 of
46 P.L.1983, c.525 (C.4:19-15.16a), of persons who are ineligible to be

1 certified animal control officers ¹ **[**on the basis of their conviction,
2 or finding of civil liability, for an **]** , or if the person is identified on
3 the list, the person was not convicted of a criminal¹ animal cruelty
4 offense¹; and

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

11 The owner or operator of the animal-related enterprise may
12 determine the person's eligibility based on a criminal background
13 check only, without waiting for the commissioner's action pursuant
14 to paragraph (1) of this section, but shall complete the criminal
15 background check for existing employees and existing volunteers
16 no later than 90 days after the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill), and for a provisional
18 employee or provisional volunteer no later than 90 days after
19 receiving an application for employment or to volunteer.¹

20 b. Notwithstanding the provisions of this section to the contrary,
21 an animal-related enterprise may provisionally employ a person ¹ or
22 provisionally allow a person to volunteer¹ for a period not
23 exceeding 90 days, pending the results of the investigation
24 ¹ **[**required by **]** and criminal background check pursuant to¹
25 subsection a. of this section. ¹ **[**Continued, non-provisional
26 employment shall be contingent upon the completion of the
27 investigation required by subsection a. of this section, and shall be
28 authorized only if the Commissioner of Health confirms that the
29 applicant has not been convicted of, or found civilly liable for, an **]**
30 Following confirmation that there is no record of the person being
31 convicted of a criminal¹ animal cruelty offense¹, the person may be
32 employed or allowed to volunteer on an on-going basis¹ .

33 c. No existing employee, ¹ **[**or **]** existing volunteer,¹ provisional
34 employee ¹ , or provisional volunteer¹ at an animal-related
35 enterprise shall be left alone as the only person caring for an animal
36 until the investigation ¹ **[**required by **]** and criminal background
37 check pursuant to¹ subsection a. of this section is complete and the
38 results confirm that such person is not disqualified from
39 employment ¹ or as a volunteer¹ on the basis of a conviction ¹ **[**, or
40 finding of civil liability, **]** ¹ for ¹ **[**an **]** a criminal¹ animal cruelty
41 offense.

42 d. (1) The owner or operator of an animal-related enterprise
43 ¹ requesting an investigation or a criminal background check from
44 the Commissioner of Health pursuant to paragraph (1) or (2) of
45 subsection a. of this section,¹ shall ¹ **[**provide **]** submit the request
46 to¹ the Commissioner of Health with the name and address of ¹ :

1 (a)¹ each existing employee ¹**and** or existing volunteer within
2 30 days after the effective date of P.L. , c. (C.) (pending
3 before the Legislature as this bill); and

4 (b)¹ each provisional employee ¹or provisional volunteer¹ at the
5 enterprise ¹**].** The owner or operator shall submit such identifying
6 information¹ within two weeks after a person ¹**commences**
7 provisional employment¹ is provisionally employed or
8 provisionally allowed to volunteer¹ pursuant to subsection b. of this
9 section ¹**or, for existing employees, within 90 days after the date**
10 of enactment of P.L. , c. (C.) (pending before the
11 Legislature as this bill)¹.

12 (2) In addition, and as deemed necessary for the purposes of
13 determining ¹**the**¹ continuing employment **[eligibility of non-**
14 **provisional employees]** or volunteering¹ in accordance with P.L. ,
15 c. (C.) (pending before the Legislature as this bill), the owner
16 or operator of an animal-related enterprise ¹**may** shall¹ request
17 and receive ¹annually¹ from the commissioner ¹**], periodic**¹
18 follow-up reviews of the list established pursuant to section 3 of
19 P.L.1983, c.525 (C.4:19-15.16a), in order to determine the inclusion
20 thereon of any ¹**non-provisional**¹ employee ¹or volunteer for
21 convictions for criminal animal cruelty offenses. However, an
22 owner or operator of an animal-related enterprise shall be required
23 to perform a criminal background check or to request a criminal
24 background check pursuant to section 5 of P.L. , c. (C.)
25 (pending before the Legislature as this bill) only once for any
26 employee or volunteer¹.

27 e. If an existing employee ¹**or** , existing volunteer,¹
28 provisional employee ¹, or provisional volunteer¹ refuses to comply
29 with the investigation ¹**required by** or criminal background check
30 performed pursuant to¹ subsection a. of this section; or if ¹**a non-**
31 **provisional**¹ any¹ employee ¹or volunteer¹ refuses to comply with
32 any follow-up investigation authorized by paragraph (2) of
33 subsection d. of this section, the owner or operator of the animal-
34 related enterprise shall immediately terminate the ¹**person's**
35 employment¹ person as an employee or a volunteer¹ at the animal-
36 related enterprise.

37 f. Any person who is disqualified from employment ¹or as a
38 volunteer¹ pursuant to P.L. , c. (C.) (pending before the
39 Legislature as this bill) shall be entitled to reapply for employment
40 ¹or as a volunteer¹ at an animal-related enterprise if the
41 disqualifying conviction ¹**or finding of civil liability**¹ is reversed.

42 g. This section shall apply only to an existing employee,
43 ¹existing volunteer,¹ provisional employee, ¹provisional volunteer,¹
44 or applicant for employment ¹, as a volunteer,¹ or ¹for¹ participation
45 with an animal-related enterprise who is, or would be responsible

1 for, the care or handling of, or would otherwise come into direct
2 contact with, any animal during the course of the person's
3 employment ¹, volunteering,¹ or participation with an animal-
4 related enterprise.

5
6 4. (New section) ¹a.¹ The Commissioner of Health shall
7 complete the investigation required by ¹paragraph (1) of¹ subsection
8 a. of section 3 of P.L. , c. (C.) (pending before the
9 Legislature as this bill, and shall notify the ¹**["applicant"]** person who
10 is the subject of the investigation¹ and the owner or operator of the
11 animal-related enterprise of the results of the investigation, in
12 writing, within ¹**["60"]** 90¹ days after the receipt of the
13 ¹**["applicant's"]** person's¹ name and address, which have been
14 submitted in accordance with subsection d. of section 3 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), or as soon
16 thereafter as may be reasonably practicable. The written notice
17 shall: (1) expressly identify any offenses which constitute the basis
18 for disqualification; and (2) afford the ¹**["applicant"]** person¹ the
19 opportunity for a hearing, in the manner provided for contested
20 cases pursuant to the "Administrative Procedure Act," P.L.1968,
21 c.410 (C.52:14B-1 et seq.), in order to contest the ¹**["employee's"]**
22 person's¹ inclusion on the ineligibility list, or in order to challenge
23 the ¹**["offense"]**¹ history ¹of offenses¹ that was used by the
24 commissioner to support the ¹**["employee's"]** person's¹ inclusion on
25 the list.

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

43
44 ¹5. (New section) The Commissioner of Health is authorized to
45 exchange criminal history record information with the Federal
46 Bureau of Investigation and the State Bureau of Identification in the
47 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.¹

14
15 ^{16.} (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.¹

30
31 ^{17.} (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.¹

37
38 ^{1[5.] 8.}¹ Section 3 of P.L.1983, c.525 (C.4:19-15.16a) is
39 amended to 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

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 ¹**【6.】** 9.¹ This act shall take effect immediately.