

1 as described in sections nineteen and nineteen-a, article eight,
2 chapter sixty-one of this code.

3 (b) The owner or persons in possession, if his or her identity
4 and residence are known, of any animal seized pursuant to
5 subsection (a) of this section shall be provided written notice of
6 the seizure, his or her liability for the cost and care of the
7 animal seized as provided in this section and the right to request
8 a hearing in writing before a magistrate in the county where the
9 animal was seized. The magistrate court shall schedule any hearing
10 requested within ten working days of the receipt of the request.
11 The failure of an owner or person in possession to request a
12 hearing within five working days of the seizure is prima facie
13 evidence of the abandonment of the animal. At the hearing, if
14 requested, the magistrate shall determine by a preponderance of the
15 evidence if the animal was abandoned, neglected or deprived of
16 necessary sustenance, shelter, medical care or reasonable
17 protection from fatal freezing or heat exhaustion or otherwise
18 treated or used cruelly as set forth in this section.

19 (c) (1) If a hearing is requested and the magistrate finds by
20 a preponderance of the evidence that the owner did abandon, neglect
21 or cruelly treat the animal, or if no hearing is requested and the
22 magistrate finds by a preponderance of the evidence, based upon the
23 affidavit of the humane officer, that the owner did abandon,
24 neglect or cruelly treat the animal, the magistrate shall enter an

1 order awarding custody of the animal to any humane officer for
2 further disposition in accordance with reasonable practices for the
3 humane treatment of animals. After hearing the evidence, if the
4 magistrate is not convinced the animal was neglected or cruelly
5 treated, he or she may dismiss the action and order the animal be
6 returned to the owner. If the magistrate finds in favor of the
7 humane officer, the owner of the animal shall post a bond with the
8 court in an amount sufficient to provide for the reasonable costs
9 of care, medical treatment and provisions for the animal for at
10 least thirty days. The bond shall be filed with the court within
11 five days following the court's finding against the owner. At the
12 end of the time for which expenses are covered by the original bond
13 if the animal remains in the care of the humane officer and the
14 owner desires to prevent disposition of the animal by the humane
15 officer, the owner shall post an additional bond with the court
16 within five days of the expiration of the original bond. During
17 this period the humane officer is authorized to place the animal in
18 a safe private home or other safe private setting in lieu of
19 retaining the animal in an animal shelter. The person whose animal
20 is seized is liable for all costs of the care of the seized animal.

21 (2) If a bond has been posted in accordance with subdivision
22 (1) of this subsection, the custodial animal care agency may draw
23 from the bond the actual reasonable costs incurred by the agency in
24 providing care, medical treatment and provisions to the impounded

1 animal from the date of the initial impoundment to the date of the
2 final disposition of the animal.

3 (d) Any person whose animal is seized and against whom the
4 magistrate enters a finding pursuant to this section is liable
5 during any period it remains in the possession of the humane
6 officer for the reasonable costs of care, medical treatment and
7 provisions for the animal not covered by the posting of the bond as
8 provided in subdivision (1), subsection (c) of this section. The
9 magistrate shall require the person liable for these costs to post
10 bond to provide for the maintenance of the seized animal. This
11 expense, if any, becomes a lien on the animal and must be
12 discharged before the animal is released to the owner. Upon
13 dismissal or withdrawal of the complaint, any unused portion of
14 posted bonds shall be returned to the owner. Upon a finding in
15 favor of the humane officer, all interest in the impounded animal
16 shall transfer to the humane officer for disposition in accordance
17 with reasonable practices for the humane treatment of animals. Any
18 additional expense above the value of the animal may be recovered
19 by the humane officer or custodial agency.

20 (e) After the humane officer takes possession of the animal
21 pursuant to a finding by a magistrate that the animal has been
22 abandoned, neglected or cruelly treated and a licensed veterinarian
23 determines that the animal should be humanely destroyed to end its
24 suffering, the veterinarian may order the animal to be humanely

1 destroyed and neither the humane officer, animal euthanasia
2 technician nor the veterinarian is subject to any civil or criminal
3 liability as a result of the action.

4 (f) (1) The term "humanely destroyed" as used in this section
5 means:

6 (A) Humane euthanasia of an animal by hypodermic injection by
7 a licensed veterinarian or by an animal euthanasia technician
8 certified in accordance with the provisions of article ten-a,
9 chapter thirty of this code; or

10 (B) Any other humane euthanasia procedure approved by the
11 American Veterinary Medical Association, the Humane Society of the
12 United States or the American Humane Association.

13 (2) The term "humanely destroyed" does not include euthanizing
14 an animal by means of a gas chamber: *Provided*, That any county
15 which has a gas chamber in operation as of ~~the effective date of~~
16 ~~this section~~ August 27, 2009, may continue to operate the gas
17 chamber subject to the following: (1) The gas chamber ~~shall be~~ is
18 operated by an animal euthanasia technician certified pursuant to
19 article ten-a, chapter thirty of this code; and (2) the gas chamber
20 ~~shall have been~~ was manufactured and installed by a person who
21 regularly manufactures and installs gas chambers. The Board of
22 Veterinary Medicine shall promulgate emergency rules regarding the
23 inspection of gas chambers, pursuant to section fifteen, article
24 three, chapter twenty-nine-a of this code.

1 (g) In case of an emergency in which an animal cannot be
2 humanely destroyed in an expeditious manner, an animal may be
3 destroyed by shooting if:

4 (1) The shooting is performed by someone trained in the use of
5 firearms with a weapon and ammunition of suitable caliber and other
6 characteristics designed to produce instantaneous death by a single
7 shot; and

8 (2) Maximum precaution is taken to minimize the animal's
9 suffering and to protect other persons and animals.

10 (h) (1) Except as provided by subdivision (2) of this
11 subsection, the provisions of this section do not apply to farm
12 livestock, as defined in subsection (d), section two, article
13 ten-b, chapter nineteen of this code; poultry, gaming fowl or
14 wildlife kept in private or licensed game farms if kept and
15 maintained according to usual and accepted standards of livestock;
16 poultry, gaming fowl, wildlife or game farm production and
17 management; nor to the humane use of animals or activities
18 regulated under and in conformity with the provisions of 7 U.S.C.
19 §2131, *et seq.*, and the regulations promulgated thereunder.

20 (2) In the case of livestock, as defined in section two,
21 article ten-b of chapter nineteen:

22 (A) Each county commission shall establish a livestock
23 committee, to handle complaints of inhumane livestock treatment.

24 The committee shall be appointed by the county commission and shall

1 include three recognized farmers within the county.

2 (B) If during the course of an investigation a humane officer
3 finds livestock in dire or extreme condition, the humane officer
4 shall contact a licensed veterinarian for further examination. If
5 the veterinarian finds that the livestock are in such poor
6 condition to be at imminent risk, the humane officer shall notify
7 the county commission and the livestock committee of the situation
8 and make a recommendation to the county commission and livestock
9 committee.

10 (C) If during the course of an investigation the humane
11 officer finds livestock to be in an unacceptable condition but not
12 in imminent danger and is unable to rectify the situation with the
13 owner without legal action, the humane officer shall notify the
14 county commission for assistance. The county commission shall then
15 remedy the situation with the owner. The humane officer shall
16 assist the county commission and follow up to ensure that the
17 problems have been remedied.

18 (i) All persons or entities in the state performing euthanasia
19 under this article shall register with the Board of Veterinary
20 Medicine by December 31, 2009, in a manner to be prescribed by the
21 board. The Board of Veterinary Medicine shall promulgate emergency
22 rules relating to the registration of those performing animal
23 euthanasia, pursuant to section fifteen, article three, chapter
24 twenty-nine-a of this code.

NOTE: The purpose of this bill is to provide a procedure to protect livestock that are in dire or extreme condition.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.