



# NAIA Trust for the Protection of Animals, Animal Owners and Animal Enterprises

*Supporting the people who care for America's animals*

May 10, 2007

The Honorable Jeff Van Drew  
21 North Main Street  
Cape May Court House, NJ 08210

RE: Letter in Opposition to Assembly Substitute for Assembly Committee Substitute for  
Assembly, No. 2649

Dear Assemblyman Van Drew:

I am writing on behalf of the New Jersey members of the National Animal Interest Alliance Trust (NAIA Trust) to express our opposition to the New Jersey Assembly Substitute for Assembly Committee Substitute for Assembly Bill, No. 2649 (AS for A2649).

The NAIA Trust is a coalition of animal owners and organizations dedicated to animal welfare, animal health and well-being, responsible animal ownership, and maintaining the rights of citizens to keep and enjoy pets. We support reasonable laws that promote the well-being of animals and strongly oppose laws that ignore science and interfere with decisions that should be made by pet owners and their veterinarians.

The provisions of this Assembly substitute are unreasonable and unconstitutional and would produce severe unintended consequences if passed. This legislation creates new criminal offenses with mandatory sentencing and restitution which are unnecessary and excessive. The NAIA Trust opposes numerous provisions of this assembly bill substitution, which are discussed below.

## Many of the Provisions are Unconstitutional (Fourteenth and Fourth Amendments)

Current law defines animals as the "property" of the owner. The United States constitution guarantees and protects the fundamental right of property ownership, preventing others from taking it away. Some provisions of this bill prevent an individual from owning an animal for the remainder of his and her life. This raises constitutional property right infringement concerns.

The Constitution guarantees that individuals may possess and feel secure in their homes and property; that they may make important decisions regarding their property. This legislative proposal would give unconstitutional warrant-less search and seizure authority to nongovernmental employees/private citizens to enter homes and businesses and seize property. This exceeds the legal discretion that other police officers now have.

## Interferes with Judicial Discretion

Based on current law a judicial officer has the authority to make discretionary decisions in adjudicating a court proceeding. This legislation takes away a judge's ability to make final decisions based upon his or her determination as to what restitution and punishment is fair. The

*Patti Strand, Trustee, NAIA Trust, PO Box 66579 Portland, OR 97290  
503-761-1139 naia@involved.com*



## NAIA Trust for the Protection of Animals, Animal Owners and Animal Enterprises

*Supporting the people who care for America's animals*

proposal requires a “violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by the owner of the animal” based upon the cost determination by a nongovernmental entity instead of a judge. The New Jersey Society for the Prevent of Cruelty to Animals (NJSPCA) is named in this proposal to not only act as animal control/criminal officers but also to be the recipient of restitution amounts that they determine.

Furthermore, there is no government oversight regulating the amount of money that NJSPCA can request for restitution. NJSPCA employees who act improperly are granted immunity from lawsuits.

### Interferes with the Veterinarian/Client Relationship

This legislative proposal needlessly and recklessly interferes with the traditional relationship between New Jersey-licensed veterinarians and their animal patients' owners' ability to make decisions regarding an individual animal's health and wellbeing. A person “deemed necessary by a reasonably prudent person” could take animal health and care decisions from the owner to some other third party instead of their veterinarian. Veterinarians will be statutorily prohibited from making qualified professional decisions about the method of euthanasia to use.

### Impedes and Interferes with New Jersey State Agencies

The New Jersey Department of Agriculture adopted humane standards, for raising, care, keeping treating of livestock to ensure humane treatment. This legislation would significantly change current laws and standards, creating potential situations in which an individual possessing no formal veterinary or animal husbandry training could mistakenly report an animal being abused and remove that animal from its owner when in fact it is sick. The provisional requirement that any government employee visiting a home is required to report any perceived animal abuse is unreasonable. Any government employee who visits a home and believes based on their knowledge that an animal is being abused is required to report the alleged abuse to Health and Senior Services. This places additional burdens on individuals who have other employment duties and do not have animal husbandry or criminal law training. Their opinion will be based on subjective beliefs, not educated, qualified objective ones; and false reports will likely result.

### Grants Additional Police Authority to those who are Not Police Officers

This proposal requires that the Commissioner of Health and Senior Services adopt rules and regulations concerning the training and educational qualifications for the certification of animal control officers who will have the authority to investigate and sign complaints; make arrest without warrant; to search; and to seize private property. These individuals will make discretionary decisions resulting in the forfeiture of an animal prior to a conviction. This unnecessary and extraordinary authority exceeds what law enforcement now exercises in addressing felonies against people.



## NAIA Trust for the Protection of Animals, Animal Owners and Animal Enterprises

*Supporting the people who care for America's animals*

Because of the newly mandated requirements, government employees may make reports based upon their substantive understanding of the health and wellbeing of an animal due to their lack of training and understanding of animal husbandry. As a result, some animal owners will be needlessly and falsely charged with animal cruelty by untrained people. Present law does not prohibit any individual from reporting any animal abuse observation. This required reporting is not necessary because there is no current prohibition to prevent individuals reporting abuse.

### Would have Detrimental Economic Impact upon the New Jersey Economy and its Citizens

AS for A2649 would discourage New Jersey citizens from owning pets and livestock due to the additional potential legal and economic liabilities created. The unforeseen consequences of this legislation would negatively impact those individuals who enhance the lives of others who benefit from animal ownership and production. Many New Jersey citizens who own and produce animals should be commended for their efforts to feed others and develop new medical technologies to improve lives.

It would also be illegal for any business or other entity that sells merchandise to hold an animal exhibition on their property. Furthermore, it would be illegal to hold, on shopping mall or store property or any other establishment used to offer merchandise for sale, any animal exhibition or show including exhibitions in which a percentage of the profits are for charity or community purposes.

Many animal exhibitions and events, farms and pharmaceutical industries that use animals bring tens of millions of dollars to the New Jersey economy each year. This legislation if enacted would threaten those entities that contribute so much to the people of New Jersey.

The NAIA Trust strongly opposes the AS for, A2649.

Sincerely,

Patti Strand, National Director