

740--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ROSENTHAL, DINOWITZ, TITONE, ROSA, GOTTFRIED, ENGLEBRIGHT, MOSLEY, KELLNER, BROOK-KRASNY, MAISEL, ESPINAL, BENEDETTO, KIM, MOYA, SKARTADOS, WEPRIN, RAIA, JOHNS, MALLIOTAKIS, BORELLI -- Multi-Sponsored by -- M. of A. BRAUNSTEIN, GIBSON, HEVESI, McDONOUGH, MILLMAN -- read once and referred to the Committee on Agriculture -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law and the general business law, in relation to the preemption of local laws; and to repeal section 400-a of the agriculture and markets law and section 753-e of the general business law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 400-a of the agriculture and markets law is
2 REPEALED.
3 S 2. Section 407 of the agriculture and markets law, as added by chap-
4 ter 259 of the laws of 2000, is amended to read as follows:
5 S 407. Construction with other laws. Nothing in this article shall be
6 construed to (A) limit or restrict agents or officers of societies for
7 the prevention of cruelty to animals or the police from enforcing other
8 provisions of article twenty-six of this chapter or any other law relat-
9 ing to the humane treatment of or cruelty to animals, (B) LIMIT OR
10 RESTRICT ANY MUNICIPALITY FROM ENACTING OR ENFORCING ANY AUTHORIZED
11 LOCAL LAW, RULE, REGULATION OR ORDINANCE OF GENERAL APPLICATION TO BUSI-
12 NESSES GOVERNING PUBLIC HEALTH, SAFETY OR THE RIGHTS OF CONSUMERS, OR
13 (C) LIMIT OR RESTRICT ANY MUNICIPALITY FROM ENACTING ANY LOCAL LAW,
14 RULE, REGULATION OR ORDINANCE GOVERNING PET DEALERS, INCLUDING THE
15 SOURCE OF ANIMALS OFFERED FOR SALE BY PET DEALERS, WHETHER SPAYING OR
16 NEUTERING OF SUCH ANIMALS IS REQUIRED BEFORE SALE, AND THE HEALTH OR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 SAFETY OF ANIMALS MAINTAINED BY PET DEALERS PROVIDED, HOWEVER, THAT NO
2 SUCH LOCAL LAW, RULE, REGULATION OR ORDINANCE SHALL BE LESS STRINGENT
3 THAN THE APPLICABLE PROVISIONS OF THIS ARTICLE OR ESSENTIALLY RESULT IN
4 THE BANNING OF ALL SALES OF DOGS OR CATS RAISED AND MAINTAINED IN A
5 HEALTHY AND SAFE MANNER AND PROVIDED, FURTHER, THAT WHERE A PENALTY MAY
6 BE AUTHORIZED FOR THE VIOLATION OF SUCH A LOCAL LAW, RULE, REGULATION OR
7 ORDINANCE, THE AUTHORIZED PENALTY IN SUCH LOCAL LAW, RULE, REGULATION OR
8 ORDINANCE MAY NOT EXCEED A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS.
9 WHERE A MUNICIPALITY ADOPTS SUCH A LOCAL LAW, RULE, REGULATION OR ORDINANCE
10 THAT IS MORE STRINGENT THAN THE APPLICABLE PROVISIONS OF THIS
11 ARTICLE, SUCH MUNICIPALITY SHALL HAVE SOLE RESPONSIBILITY FOR ENFORCE-
12 MENT OF SUCH SPECIFIC LAW, RULE, REGULATION OR ORDINANCE THAT IS MORE
13 STRINGENT THAN THE APPLICABLE PROVISIONS OF THIS ARTICLE.

14 S 3. Section 753-d of the general business law, as added by chapter
15 259 of the laws of 2000, is amended to read as follows:

16 S 753-d. Construction with other laws. Nothing in this article shall
17 be construed to (A) limit or restrict agents or officers of societies
18 for the prevention of cruelty to animals or the police from enforcing
19 articles twenty-six and twenty-six-A of the agriculture and markets law
20 or any other law relating to the humane treatment of, or cruelty to,
21 animals, (B) LIMIT OR RESTRICT ANY MUNICIPALITY FROM ENACTING OR ENFORC-
22 ING ANY AUTHORIZED LOCAL LAW, RULE, REGULATION OR ORDINANCE OF GENERAL
23 APPLICATION TO BUSINESSES GOVERNING PUBLIC HEALTH, SAFETY OR THE RIGHTS
24 OF CONSUMERS, OR (C) LIMIT OR RESTRICT ANY MUNICIPALITY FROM ENACTING
25 ANY LOCAL LAW, RULE, REGULATION OR ORDINANCE GOVERNING PET DEALERS,
26 INCLUDING THE SOURCE OF ANIMALS OFFERED FOR SALE BY PET DEALERS, WHETHER
27 SPAYING OR NEUTERING OF SUCH ANIMALS IS REQUIRED BEFORE SALE, AND THE
28 HEALTH OR SAFETY OF ANIMALS MAINTAINED BY PET DEALERS PROVIDED, HOWEVER,
29 THAT NO SUCH LOCAL LAW, RULE, REGULATION OR ORDINANCE SHALL BE LESS
30 STRINGENT THAN THE APPLICABLE PROVISIONS OF THIS ARTICLE OR ESSENTIALLY
31 RESULT IN THE BANNING OF ALL SALES OF DOGS OR CATS RAISED AND MAINTAINED
32 IN A HEALTHY AND SAFE MANNER AND PROVIDED, FURTHER, THAT WHERE A PENALTY
33 MAY BE AUTHORIZED FOR THE VIOLATION OF SUCH A LOCAL LAW, RULE, REGU-
34 LATION OR ORDINANCE, THE AUTHORIZED PENALTY IN SUCH LOCAL LAW, RULE,
35 REGULATION OR ORDINANCE MAY NOT EXCEED A CIVIL PENALTY OF UP TO FIVE
36 HUNDRED DOLLARS. WHERE A MUNICIPALITY ADOPTS SUCH A LOCAL LAW, RULE,
37 REGULATION OR ORDINANCE THAT IS MORE STRINGENT THAN THE APPLICABLE
38 PROVISIONS OF THIS ARTICLE, SUCH MUNICIPALITY SHALL HAVE SOLE RESPONSI-
39 BILITY FOR ENFORCEMENT OF SUCH SPECIFIC LAW, RULE, REGULATION OR ORDI-
40 NANCE THAT IS MORE STRINGENT THAN THE APPLICABLE PROVISIONS OF THIS
41 ARTICLE.

42 S 4. Section 753-e of the general business law is REPEALED.

43 S 5. This act shall take effect immediately.