

STATE OF NEW YORK

7329

2017-2018 Regular Sessions

IN ASSEMBLY

April 24, 2017

Introduced by M. of A. TITONE, COLTON, CUSICK, ZEBROWSKI, ENGLEBRIGHT, McDONOUGH -- Multi-Sponsored by -- M. of A. COOK, GOTTFRIED, KOLB, MALLIOTAKIS, PERRY, THIELE -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the state finance law, in relation to the registration and regulation of animal breeders

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The agriculture and markets law is amended by adding a new article 26-C to read as follows:

ARTICLE 26-C

CARE OF ANIMALS BY BREEDERS

Section 420. Definitions.

421. Preemption of local laws.

422. Minimum standards of animal care.

423. Records of purchase and sale.

424. Licenses.

425. License refusal, suspension or revocation.

426. Inspection of breeders.

427. Violations.

428. Construction with other laws.

§ 420. Definitions. As used in this article:

1. "Animal" means a dog or a cat.

2. "Consumer" means any individual purchasing an animal from a breeder. A breeder shall not be considered a consumer.

3. "Person" means any individual, corporation, partnership, limited liability company, association, municipality or other legal entity.

4. "Breeder" means any person who breeds three or more animals for sale per year for profit. Such term shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make

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

LBD11012-01-7

1 such animals available for adoption whether or not a fee for such
2 adoption is charged.

3 § 421. Preemption of local laws. The provisions of this article shall
4 apply to all municipalities, including cities with a population of one
5 million or more, and shall supersede any local law, rule, regulation or
6 ordinance regulating or licensing breeders. Nothing in this section
7 shall be construed to limit or restrict any municipality from enforcing
8 any local law, rule, regulation or ordinance of general application to
9 businesses governing public health, safety or the rights of consumers.

10 § 422. Minimum standards of animal care. Breeders shall comply with
11 the following minimum standards of care for every animal in their custo-
12 dy or possession.

13 1. Housing. (a) Animals shall be housed in primary enclosures or
14 cages, which shall be constructed so as to be structurally sound. Such
15 enclosures shall be maintained in good repair to contain the animal
16 housed inside and protect it from injury. Surfaces shall have an imper-
17 vious surface so as not to permit the absorption of fluids and which can
18 be thoroughly and repeatedly cleaned and disinfected without retaining
19 odors.

20 (b) Primary enclosures or cages housing the animals shall provide
21 sufficient space to allow each animal adequate freedom of movement to
22 make normal postural adjustments, including the ability to stand up,
23 turn around, and lie down with its limbs outstretched. If the flooring
24 is constructed of metal strands, such strands shall either be greater
25 than one-eighth inch in diameter (nine gauge wire) or shall be coated
26 with material such as plastic or fiberglass, and shall be constructed so
27 as to not allow passage of the animal's feet through any opening in the
28 floor of the enclosure. Such flooring shall not sag or bend substantial-
29 ly between structural supports.

30 (c) Housing facilities shall be adequately ventilated at all times to
31 provide for the health and well-being of the animal. Ventilation shall
32 be provided by natural or mechanical means, such as windows, vents,
33 fans, or air conditioners. Ventilation shall be established to minimize
34 drafts, odors, and moisture condensation.

35 (d) The temperature surrounding the animal shall be compatible with
36 the health and well-being of the animal. Temperature shall be regulated
37 by heating and cooling to sufficiently protect each animal from extremes
38 of temperature and shall not be permitted to fall below or rise above
39 ranges which would pose a health hazard to the animal. This shall
40 include supplying shade from sunlight by natural or artificial means.

41 (e) The indoor facilities housing the animals shall be provided with
42 adequate lighting sufficient to permit routine inspection and cleaning
43 and be arranged so that each animal is protected from excessive illumi-
44 nation which poses a health hazard to the animal.

45 (f) The indoor and outdoor facilities housing the animals, including
46 the primary enclosure or cage, shall be designed to allow for the effi-
47 cient elimination of animal waste and water in order to keep the animal
48 dry and prevent the animal from coming into contact with these
49 substances. If drains are used they shall be constructed in a manner to
50 minimize foul odors and backups of sewage. If a drainage system is used
51 it shall comply with federal, state and local laws relating to pollution
52 control.

53 (g) In the event that a breeder has a pregnant or nursing dog on his
54 or her premises, the breeder shall provide a whelping box for such dog.

55 2. Sanitation. Housing facilities, including primary enclosures and
56 cages, shall be kept in a clean condition in order to maintain a healthy

1 environment for the animal. This shall include removing and destroying
2 any agents injurious to the health of the animal and periodic cleaning.
3 The primary enclosure or cage shall be constructed so as to eliminate
4 excess water, excretions, and waste material. Under no circumstances
5 shall the animal remain inside the primary enclosure or cage while it is
6 being cleaned with sterilizing agents or agents toxic to animals or
7 cleaned in a manner likely to threaten the health and safety of the
8 animal. Trash and waste products on the premises shall be properly
9 contained and disposed of so as to minimize the risks of disease,
10 contamination, and vermin.

11 3. Feeding and watering. (a) Animals shall be provided with wholesome
12 and palatable food, free from contamination and of nutritional value
13 sufficient to maintain each animal in good health.

14 (b) Animals shall be adequately fed at intervals not to exceed twelve
15 hours or at least twice in any twenty-four hour period in quantities
16 appropriate for the animal species' age, unless determined otherwise by
17 and under the direction of a duly licensed veterinarian.

18 (c) Food receptacles shall be provided in sufficient number, of
19 adequate size, and so located as to enable each animal in the primary
20 enclosure or cage to be supplied with an adequate amount of food.

21 (d) Animals shall be provided with regular access to clean, fresh
22 water, supplied in a sanitary manner sufficient for its needs, except
23 when there are instructions from a duly licensed veterinarian to with-
24 hold water for medical reasons.

25 4. Handling. Each animal shall be handled in a humane manner so as not
26 to cause the animal physical injury or harm.

27 5. Veterinary care. (a) All animals shall be inoculated as required by
28 state or local law. Veterinary care appropriate to the species shall be
29 provided without undue delay when necessary. Each animal shall be
30 observed each day by the breeder or by a person working under the
31 breeder's supervision.

32 (b) If an animal suffers from a congenital or hereditary condition,
33 disease or illness which, in the professional opinion of the breeder's
34 veterinarian, requires euthanasia, the veterinarian shall humanely
35 euthanize such animal without undue delay.

36 (c) In the event an animal is returned to a breeder due to a congen-
37 ital or hereditary condition, illness, or disease requiring veterinary
38 care, the breeder shall, without undue delay, provide the animal with
39 the proper veterinary care.

40 6. Humane euthanasia. Humane euthanasia of an animal shall be carried
41 out in accordance with section three hundred seventy-four of this chap-
42 ter.

43 § 423. Records of purchase and sale. Each breeder shall keep and main-
44 tain records for each animal purchased, acquired, held, sold or other-
45 wise disposed of. The records shall include the following:

46 1. The name and address of the person from whom each animal was
47 acquired. If the person from whom the animal was obtained is a breeder
48 licensed by the United States department of agriculture, the person's
49 name, address, and federal breeder identification number. In the case of
50 cats, if a cat is placed in the custody or possession of the breeder and
51 the source of origin is unknown, the breeder shall state that the source
52 of origin is unknown, accompanied by the date, time, and location of
53 receipt. Notwithstanding the provisions of this subdivision, no breeder
54 shall knowingly buy, sell, exhibit, transport, or offer for sale, exhi-
55 bition or transportation any stolen animal. No breeder shall knowingly
56 sell any cat or dog younger than eight weeks of age.

1 2. The original source of each animal if different than the person
2 recorded in subdivision one of this section.

3 3. The date each animal was acquired.

4 4. A description of each animal showing age, color, markings, sex,
5 breed, and any inoculation, worming or other veterinary treatment or
6 medication information available. Records shall also include any other
7 significant identification, if known, for each animal, including any
8 official tag number, tattoo or implant.

9 5. The name and address of the person to whom any animal is sold,
10 given or bartered, or to whom it is otherwise transferred or delivered.
11 The records shall indicate the date and method of disposition.

12 6. Records for each animal shall be maintained for a period of two
13 years from the date of sale or transfer, whichever occurs later. During
14 normal business hours, the records shall be made available to persons
15 authorized by law to enforce the provisions of this article.

16 § 424. Licenses. 1. No person shall operate as a breeder unless such
17 person holds a license issued therefor by the commissioner. Notwith-
18 standing the forgoing, a breeder, in operation on or before the effec-
19 tive date of this section, who has filed an application for an initial
20 license under this article shall be authorized to operate without such
21 license until the commissioner grants or, after notice and opportunity
22 to be heard, declines to grant such license. Each application for a
23 license shall be made on a form supplied by the department and shall
24 contain such information as may be required by the department. Renewal
25 applications shall be submitted to the commissioner at least thirty days
26 prior to the commencement of the next license year.

27 2. The commissioner may delegate his or her authority pursuant to this
28 section to issue breeder licenses to the county or city where the breed-
29 er is seeking licensure is located. Such delegation shall be pursuant to
30 an agreement entered into by the commissioner and such city or county.

31 3. Each application for a license shall be accompanied by a non-re-
32 fundable fee of one hundred dollars, except that those breeders who
33 engage in the sale of less than twenty-five animals in a year, shall pay
34 a non-refundable fee of twenty-five dollars.

35 4. The moneys received by the commissioner pursuant to this section
36 shall be deposited in the "breeder licensing fund" established pursuant
37 to section ninety-eight-d of the state finance law.

38 5. Where the authority to issue breeder licenses is delegated to a
39 county or city pursuant to subdivision two of this section, that county
40 or city shall, on or before the fifth day of each month, remit to the
41 appropriate municipal financial officer one hundred percent of all
42 license fees collected during the preceding month. The remittance shall
43 be accompanied by a report of license sales made during such month. A
44 copy of such report shall simultaneously be sent to the commissioner.
45 All license fees so remitted shall be the property of the municipality,
46 and shall be used solely for the purpose of carrying out and enforcing
47 the provisions of this article and of article thirty-five-D of the
48 general business law.

49 6. Inspection in accordance with section four hundred twenty-six of
50 this article, the results of which establish compliance with the
51 provisions of this article and with the provisions of article thirty-
52 five-D of the general business law regarding recordkeeping and consumer
53 disclosure requirements for breeders, shall precede issuance of a
54 license or renewal thereof under this section.

1 7. Upon validation by the commissioner or the county or city author-
2 ized under this section to issue breeder licenses, the application shall
3 become the license of the breeder.

4 8. The commissioner shall provide a copy of the license to the breed-
5 er. The commissioner shall also retain a copy of the license. In those
6 counties where the commissioner has delegated the licensing authority to
7 the county or city that county or city shall, provide a copy of the
8 license to the breeder and a copy to the commissioner. The county or
9 city shall also retain a copy of the license in its own records.

10 9. No breeder shall publish or advertise the sale or availability of
11 any dog or cat unless the publication or advertisement is accompanied by
12 the breeder's license number. Notwithstanding the foregoing, a breeder,
13 in operation on or before the effective date of this section, who has
14 filed an application for the initial license under this article may
15 publish or advertise the sale of availability of any animal without the
16 publication or advertisement being accompanied by the breeder's license
17 number until the commissioner grants or, after notice and opportunity to
18 be heard, declines to grant such license.

19 10. Such license shall be renewable annually, together with the
20 payment of a non-refundable fee of one hundred dollars, or upon payment
21 of a non-refundable fee of twenty-five dollars for those breeders who
22 engage in the sale of less than twenty-five animals in a year.

23 11. Breeders shall conspicuously display their license on the premises
24 where the animals are kept for sale so that they may be readily seen by
25 potential consumers.

26 § 425. License refusal, suspension or revocation. The commissioner may
27 decline to grant or renew or may suspend or revoke a breeder license, on
28 any of the following grounds:

29 1. Material misstatement in license application; or

30 2. Material misstatement in or falsification of records required to be
31 kept pursuant to this article or under any regulation promulgated there-
32 under, or failure to allow the commissioner or his or her authorized
33 agents to inspect records or breeder facilities.

34 3. Violation of any provision of this article or conviction of a
35 violation of any provision of article twenty-six of this chapter or
36 regulations promulgated thereunder pertaining to humane treatment of
37 animals, cruelty to animals, endangering the life or health of an
38 animal, or violation of any federal, state or local law pertaining to
39 the care, treatment, sale, possession or handling of animals or any
40 regulation or rule promulgated pursuant thereto relating to the endan-
41 germent of the life or health of an animal.

42 4. Before any license shall be suspended or revoked, the commissioner,
43 or any hearing officer he or she may designate, shall hold a hearing or
44 upon due notice to the licensee, in accordance with any regulations
45 promulgated by the department and in accordance with articles three and
46 four of the state administrative procedure act.

47 5. Any action of the commissioner shall be subject to judicial review
48 in a proceeding under article seventy-eight of the civil practice law
49 and rules.

50 § 426. Inspection of breeders. The breeder shall, at the breeder's
51 expense, have a veterinarian licensed pursuant to article one hundred
52 thirty-five of the education law at a minimum of six month intervals
53 inspect his or her records, facilities and animals to ensure compliance
54 with the provisions of this article. The veterinarian engaged in this
55 inspection shall certify that the breeder is in compliance with this

1 section and that the veterinarian does not otherwise provide veterinary
2 services to or have a financial interest with the breeder.

3 § 427. Violations. 1. In addition to the penalties provided for in
4 this section, a breeder who violates any provisions of this article may
5 be subject to the denial, revocation, suspension or refusal of renewal
6 of his or her license in accordance with the provisions of section four
7 hundred twenty-five of this article.

8 2. Violation of any provision in this article, is a civil offense, for
9 which a penalty of not less than fifty dollars and not more than one
10 thousand dollars for each violation may be imposed.

11 3. The provisions of this article may be enforced concurrently by the
12 department and by a county or city to which the commissioner has deleg-
13 ated his or her licensing and inspection authority pursuant to sections
14 four hundred twenty-four and four hundred twenty-six of this article,
15 and all moneys collected thereafter shall be retained by such municipi-
16 ality or local government.

17 § 428. Construction with other laws. 1. Nothing in this article shall
18 be construed to limit or restrict agents or officers of societies for
19 the prevention of cruelty to animals or the police from enforcing other
20 provisions of article twenty-six of this chapter or any other law relat-
21 ing to the humane treatment of or cruelty to animals.

22 2. The provisions of this article shall not pertain to not-for-profit
23 organizations.

24 § 2. The state finance law is amended by adding a new section 98-d to
25 read as follows:

26 § 98-d. Breeder licensing fund. 1. There is hereby established in the
27 joint custody of the state comptroller and the commissioner of taxation
28 and finance a fund to be known as the "breeder licensing fund".

29 2. Such fund shall consist of all monies collected pursuant to article
30 twenty-six-C of the agriculture and markets law, except for monies
31 collected pursuant to subdivision five of section four hundred twenty-
32 four of such article, and all other monies credited or transferred ther-
33 eto from any other fund or source pursuant to law.

34 3. Monies of the fund shall be expended solely for the purposes of
35 carrying out the provisions of article thirty-five-D of the general
36 business law and article twenty-six-C of the agriculture and markets
37 law. Monies shall be paid out of the fund on the audit and warrant of
38 the state comptroller on vouchers approved by the commissioner of agri-
39 culture and markets. Any interest received by the comptroller on monies
40 on deposit in the breeder licensing fund shall be retained in and become
41 part of such fund.

42 § 3. Section 401 of the agriculture and markets law is amended by
43 adding a new subdivision 8 to read as follows:

44 8. Selling pets. Pet dealers shall only sell pets obtained from
45 licensed breeders pursuant to article twenty-six-C of this chapter.

46 § 4. Subdivision 6 of section 402 of the agriculture and markets law
47 is renumbered subdivision 7 and a new subdivision 6 is added to read as
48 follows:

49 6. For all animals bought by the pet dealer, the pet dealer must have
50 a record that such purchase came from a breeder which is either licensed
51 or exempt pursuant to article twenty-six-C of this chapter.

52 § 5. This act shall take effect April 1, 2019; provided, however, that
53 any rules and/or regulations necessary for the timely implementation of
54 this act on its effective date shall be promulgated on or before such
55 date.