

# STATE OF NEW YORK

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6870--B

2021-2022 Regular Sessions

## IN SENATE

May 19, 2021

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Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to standards of care for animals held in, or being transported by, animal shelters; to amend the general business law, in relation to pet dealers; to amend the state finance law, in relation to establishing an animal shelter regulation fund; and to repeal certain provisions of the agriculture and markets law relating to pet dealers

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

1 Section 1. Legislative intent. The department of agriculture and  
2 markets holds statutory responsibility for the oversight of municipal  
3 animal shelters and any duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals or duly incorporated animal protective association providing contractual animal sheltering services for local governments in this state. The department also  
4 holds statutory responsibility for registering not-for-profit animal  
5 shelters or rescue organizations as entities exempt from licensure and  
6 inspection under the agency's pet dealer program. Currently however, no  
7 statutory facility or animal care standards exist in law to which these  
8 organizations must conform to adequately and uniformly ensure animal  
9 health and wellbeing at and in transport to and from such facilities.  
10 The legislature finds that the universe of entities harboring homeless  
11 dogs and cats in our communities and providing animal transport in-state  
12 and across state lines has evolved and grown exponentially over the past  
13 several decades, rendering the existing statutory framework for the  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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oversight of such entities deficient and benefiting neither the adoptive families of dogs and cats in need nor the organizations that work so diligently to find safe, loving homes for them.

Therefore, it is the stated purpose of this legislation to establish responsible, uniform and effective standards for the care of dogs and cats in animal shelters as defined herein to improve state oversight, ensure public trust and provide for increased protections for such animals while in the care of such facilities.

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

**ARTICLE 26-C**  
**REGULATION OF ANIMAL SHELTERS**

**Section 420. Definitions.**

**421. License required and inspection of facilities.**

**422. Personnel training requirements.**

**423. Recordkeeping and protocols.**

**424. General facility standards.**

**425. Animal housing.**

**426. Sanitation.**

**427. Shelter management protocols.**

**428. Animal husbandry.**

**429. Veterinary care.**

**430. Behavior.**

**431. Transportation.**

**432. Foster care provider requirements.**

**433. Violations.**

**434. Waiving of requirements authorized.**

**§ 420. Definitions. For purposes of this article, the following terms shall have the following meanings:**

**1. "Adoption" means the transfer of legal ownership to and possession by any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, owned by the animal shelter regardless of whether a fee is involved.**

**2. "Adult" shall mean cats and dogs five months of age and older, for the purposes of determining appropriate housing within an animal shelter.**

**3. "Animal" shall mean a dog or cat as defined in this section, but shall not be construed to diminish or restrict the mission of any animal shelter defined in this section or other entity duly incorporated pursuant to section fourteen hundred three of the not-for-profit corporation law solely to the care of dogs or cats.**

**4. "Air handling system" shall mean the device or equipment used to regulate, circulate, exchange, heat, and/or cool the air inside a building.**

**5. "Ambient temperature" shall mean the temperature of the environment inside a room or building.**

**6. "Animal shelter" shall mean a public or not-for-profit entity owning, operating, or otherwise maintaining a building, structure, or facility where temporary or permanent housing and care is provided to stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals regardless of whether or not such facility also serves as a personal residence. This includes but is not limited to: facilities owned, operated, or maintained by a duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society dog or cat protective association, or pound; any person in the employ of, or organization operated by or under contract to a municipi-**

1 pality to provide care for seized or impounded animals; or any other  
2 not-for-profit organization involved in the protection, care, or rehoming  
3 of animals. Unless otherwise provided in this article, the term  
4 "animal shelter" shall not include the personal residence of any foster  
5 care provider as defined in this section; a facility commonly known as a  
6 boarding kennel, where the ownership of the animal is not transferred;  
7 any entity licensed as a pet dealer pursuant to article twenty-six-A of  
8 this chapter; any duly incorporated animal hospital owned, operated or  
9 supervised by a duly licensed veterinarian; or any facility where the  
10 owner or operator is licensed by the New York state department of envi-  
11 ronmental conservation as a nuisance wildlife control agent or wildlife  
12 rehabilitator.

13 7. "Aseptic" shall mean procedures or techniques performed in a manner  
14 sufficient to exclude harmful bacteria, viruses, or other microorgan-  
15 isms.

16 8. "Behavioral evaluation" shall mean an ordered series of inter-  
17 actions with an animal to determine their behavioral response to various  
18 stimuli likely to be encountered in a typical home environment.

19 9. "Cat" shall mean any member of the species Felis catus, regardless  
20 of age, sex, breed, ownership status or behavior around humans.

21 10. "Chemical capture" shall mean the use of drugs administered to an  
22 animal by a remote delivery system in order to immobilize it for the  
23 purposes of capture.

24 11. "Cleaning" shall mean the physical removal of debris and organic  
25 material from an environment.

26 12. "Conspecific" shall mean another member of the same species.

27 13. "Control pole" shall mean a restraint device consisting of a rigid  
28 metal pole with an adjustable wire noose used for handling and restraint  
29 of dogs, also commonly referred to as a catch pole or rabies pole.

30 14. "Death", for the purposes of describing the disposition of an  
31 animal, shall mean those animals who die but are not euthanized, regard-  
32 less of cause.

33 15. "Disinfection" shall mean the process where microorganisms are  
34 killed or inactivated, typically through the application of a chemical  
35 or by some physical process (e.g. steam, heat, etc).

36 16. "Dog" shall mean any member of the species Canis lupis familiaris,  
37 regardless of age, sex, breed, ownership status, or behavior around  
38 humans.

39 17. "Drop boxes" shall mean unattended enclosures at an animal shelter  
40 that are accessible to the public and used to contain animals brought to  
41 the animal shelter outside of regular business hours.

42 18. "Enclosure" shall be defined as an area of confinement used for  
43 housing a single animal or group of animals housed together. An enclo-  
44 sure may be a cage, run, kennel, room, or other such confining area.

45 19. "Enriched" shall mean environment that reduces stress and promotes  
46 the physical health and behavioral well-being of an animal.

47 20. "Enrichment" shall mean a process for improving the environment  
48 and behavioral care of confined animals in order to reduce stress and  
49 improve well-being. Enrichment shall include, but not be limited to,  
50 providing physical and mental stimulation, encouraging species-typical  
51 behaviors, and modifying the animal's housing environment.

52 21. "Foster care provider" shall mean any individual voluntarily  
53 providing temporary care for one or more animals in their home that  
54 remain in the custody and under the responsibility of an animal shelter.

1 22. "Infectious disease" shall mean a disease or condition caused by  
2 bacteria, viruses, fungi or parasites that can be transmitted, directly  
3 or indirectly, from one animal or individual to another.

4 23. "Intracardiac" shall mean an injection made directly into one of  
5 the chambers of the heart.

6 24. "Intrahepatic" shall mean an injection made into the liver.

7 25. "Intrarenal" shall mean an injection made into the kidney.

8 26. "Intrasplenic" shall mean an injection made into the spleen.

9 27. "Juvenile" shall mean any cat or dog between two and five months  
10 of age for the purposes of determining appropriate housing within an  
11 animal shelter.

12 28. "Loss" for the purposes of describing the disposition of an  
13 animal, shall mean those animals who escape or go missing while in the  
14 care of an animal shelter.

15 29. "Long-term stay" shall mean any duration of care in an animal  
16 shelter of fourteen days or longer.

17 30. "Neonate" shall mean any cat or dog less than two months of age,  
18 for the purposes of determining appropriate housing within an animal  
19 shelter.

20 31. "Pathogen" shall mean a biologic organism capable of causing  
21 disease in an animal, such as a bacteria, virus, or fungus.

22 32. "Primary enclosure" shall mean the area of confinement used for  
23 housing an animal and where the animal spends the majority of its time  
24 in an animal shelter.

25 33. "Thermoregulation" shall mean the ability of an animal to maintain  
26 its internal body temperature within a normal physiologic range.

27 34. "Transport" shall mean the physical movement of an animal from one  
28 location to another, regardless of purpose and whether or not custody or  
29 responsibility for such animal changes as a result, when carried out by  
30 the shelter or an agent thereof.

31 35. "Transfer" shall mean the transfer of ownership and physical  
32 custody of an animal for an animal's care and well-being from an animal  
33 shelter to another organization as authorized pursuant to subdivision  
34 five of section three hundred seventy-four of this chapter.

35 36. "Unenveloped virus" shall mean those viruses without an outer  
36 lipid layer that are more difficult to inactivate through sanitation  
37 procedures. Unenveloped viruses of concern in an animal shelter envi-  
38 ronment include canine and feline parvoviruses, feline calicivirus, and  
39 canine adenovirus-2.

40 37. "Zoonotic" shall mean any disease that may be transmitted between  
41 humans and animals.

42 § 421. License required and inspection of facilities. 1. Any person  
43 eligible for exemption from the definition of pet dealer pursuant to  
44 paragraphs (b) and (c) of subdivision four of section four hundred of  
45 this chapter shall be licensed by the department pursuant to the  
46 provisions of this section. Notwithstanding the foregoing, any person,  
47 operating an animal shelter on or before the effective date of this  
48 section, who has filed an application for an initial license under this  
49 article is hereby authorized to operate without such license until the  
50 commissioner grants or, after notice of an opportunity to be heard,  
51 declines to grant such license. Each application for license shall be  
52 made on a form supplied by the department and shall contain such infor-  
53 mation as required by the commissioner. Renewal applications shall be  
54 submitted to the commissioner at least thirty days prior to the  
55 commencement of the next license year.

1 2. Application for licensure as set forth in this section shall be  
2 made annually to the commissioner on a form prescribed by the commis-  
3 sioner. Such form shall include but not be limited to the following  
4 information, provided however that paragraphs (a), (b) and (c) of this  
5 subdivision shall not apply to municipal pounds or shelters as defined  
6 in paragraph (b) of subdivision four of section four hundred of this  
7 chapter;

8 (a) Proof of the applicant's tax exempt designation pursuant to para-  
9 graph 3 of subsection (c) of section 501 of the federal Internal Revenue  
10 Code, 26 U.S.C. 501, or any subsequent corresponding sections of the  
11 federal Internal Revenue Code, as from time to time amended;

12 (b) Proof of the applicant's incorporation as a not-for-profit organ-  
13 ization in this state pursuant to the not-for-profit corporation law,  
14 provided further that such organization is in good standing with the  
15 attorney general and the department of state;

16 (c) Proof of the applicant's registration with the attorney general  
17 pursuant to article seven-A of the executive law;

18 (d) If the applicant is a municipal pound or shelter as defined in  
19 paragraph (b) of subdivision four of section four hundred of this chap-  
20 ter, a copy of the applicant's employer identification number;

21 (e) The name of the applicant and the name or names under which the  
22 applicant offers its services to the public, any name under which the  
23 applicant has offered such services to the public during the past five  
24 years, and whether the applicant has ever held a pet dealer license  
25 issued pursuant to article twenty-six-A of this chapter;

26 (f) The address and telephone number of the applicant and for any  
27 other premises owned or leased by such applicant's organization to carry  
28 out the purposes for which it was incorporated and by which it is eligi-  
29 ble for a licensing exemption pursuant to paragraphs (b) and (c) of  
30 subdivision four of section four hundred of this chapter;

31 (g) The website and email address of the applicant;

32 (h) The number of animals taken in, adopted, placed into permanent or  
33 temporary homes, or otherwise transferred into, out of, or within the  
34 state by the applicant during the prior calendar year;

35 (i) The number of animals currently harbored by the applicant;

36 (j) The species of animal the applicant typically harbors for  
37 adoption, placement or transfer;

38 (k) A description of facilities by which the applicant carries out the  
39 purposes for which it was incorporated, including a statement regarding  
40 whether the applicant harbors the animals in its care in its own phys-  
41 ical animal shelter or utilizes foster care provider homes, commercial  
42 boarding kennels or other arrangements;

43 (l) A sworn statement, signed by the applicant, declaring an exemption  
44 from the definition of pet dealer pursuant to section four hundred of  
45 this chapter;

46 (m) Current training protocol and procedural practices as prescribed  
47 pursuant to sections four hundred twenty-two and four hundred twenty-  
48 three of this article; and

49 (n) Other information as deemed necessary to satisfy the commissioner  
50 of the applicant's character and responsibility.

51 3. The commissioner shall conduct an inspection of the applicant's  
52 facilities prior to the issuance of a license pursuant to this section,  
53 and annual inspections of the applicant's facilities licensed pursuant  
54 to this section prior to renewal of such license. The commissioner may  
55 periodically conduct unannounced inspections of such facilities, and  
56 whenever, in the discretion of the commissioner, a complaint warrants

1 such investigation. Animal shelters licensed pursuant to this section  
2 shall provide open hours to the commissioner so that inspections can  
3 occur in a timely manner. Renewal of an animal shelter license shall not  
4 be granted until all outstanding violations issued pursuant to this  
5 article are corrected and any outstanding monetary penalties assessed  
6 pursuant to this article are paid in full.

7 4. Upon validation by the commissioner, the application shall become  
8 the license of the animal shelter and an exemption from the definition  
9 of pet dealer as defined in section four hundred of this chapter shall  
10 be granted. The commissioner shall retain a copy of such license and  
11 provide a copy of the license to the animal shelter. Animal shelters  
12 licensed pursuant to this section shall conspicuously display their  
13 license on the premises where its animals are harbored. The commissioner  
14 shall also provide the licensee with a pet dealer exemption identifica-  
15 tion number. The licensee's pet dealer exemption identification number  
16 shall be prominently displayed on the licensee's websites and any publi-  
17 cations or advertisements made available to the public.

18 5. Such license shall be renewable annually, upon the payment of a  
19 nonrefundable fee of one hundred fifty dollars.

20 6. The moneys received by the commissioner pursuant to this section  
21 shall be deposited in the "animal shelter regulation fund" established  
22 pursuant to section ninety-nine-pp of the state finance law.

23 7. The commissioner may decline to grant or renew, or may suspend or  
24 revoke an animal shelter license, on any one or more of the following  
25 grounds, provided that before any of the aforementioned actions are  
26 taken pursuant to this section, the commissioner shall hold a hearing,  
27 upon due notice to the licensee in accordance with any regulations  
28 promulgated by the department and in accordance with articles three and  
29 four of the state administrative procedure act, and provided further  
30 that any action of the commissioner is subject to judicial review in a  
31 proceeding under article seventy-eight of the civil practice law and  
32 rules:

33 (a) material misstatement in the license application;

34 (b) material misstatement in or falsification of records required to  
35 be kept pursuant to this article, or under any regulation promulgated  
36 thereunder, or failure to allow the commissioner to inspect records of  
37 animal shelter facilities;

38 (c) violation of any provision of this article or conviction of a  
39 violation of any provision of article twenty-six of this chapter or  
40 regulations promulgated thereunder pertaining to humane treatment of  
41 animals, cruelty to animals, endangering the life or health of an  
42 animal, or violation of any federal, state, or local law pertaining to  
43 the care, treatment, sale, possession, or handling of animals or any  
44 regulation or rule relating to the endangerment of the life or health of  
45 an animal;

46 (d) failure to comply with any of the provisions of this article or  
47 the licensing exemption requirements of section four hundred of this  
48 chapter; 1 NYCRR Part 65 regarding the importation of dogs and cats;  
49 section twenty-one hundred forty-one of the public health law or any  
50 rule or regulation promulgated thereunder; or any rule or regulation  
51 promulgated by the commissioner following the effective date of this  
52 article to effectuate the purposes of this article;

53 (e) failure to renew a license within the period prescribed in subdi-  
54 vision one of this section; or

55 (f) the applicant or registrant was previously licensed as a pet deal-  
56 er pursuant to article twenty-six-A of this chapter.

1 § 422. Personnel training requirements. 1. Each animal shelter  
2 licensed pursuant to this article shall provide training to all staff  
3 members and volunteers having direct animal care responsibilities. Such  
4 training shall be provided within the first sixty days of employment and  
5 at least annually thereafter and shall be in addition to any and all  
6 training otherwise required by federal, state, or local law or regu-  
7 lation.

8 2. Acceptable training modalities shall include, but not be limited  
9 to, online webinars, on-site lectures or seminars, off-site conferences  
10 for animal shelter staff, or other formal training modalities as author-  
11 ized by the commissioner.

12 3. Training topics shall include, but not be limited to, the follow-  
13 ing:

- 14 (a) humane handling techniques;
- 15 (b) infectious diseases commonly found in animal shelters;
- 16 (c) zoonotic diseases;
- 17 (d) animal cruelty;
- 18 (e) sanitation procedures;
- 19 (f) body language and normal behaviors for all species regularly  
20 handled; and
- 21 (g) required documentation and data entry.

22 4. Complete documentation of training sessions shall be maintained for  
23 a period of not less than three years from the date of training  
24 completion. Such documentation shall include, but not be limited to, the  
25 following:

- 26 (a) the date of training delivery and the date of completion;
- 27 (b) the topic or topics of the training session; and
- 28 (c) the provider of the training and a list of training course attend-  
29 ees.

30 § 423. Recordkeeping and protocols. 1. Each animal shelter shall exam-  
31 ine an animal upon intake for unique identifiers and any other form of  
32 identification that may allow for reunification with an owner, as  
33 prescribed in sections one hundred seventeen and three hundred eighty-  
34 two of this chapter.

35 2. Each animal shelter shall create and maintain a record for each  
36 animal in their custody or possession which shall minimally include:

37 (a) Unique identifiers and any other identification associated with  
38 the animal upon examination at entry, including but not limited to a  
39 tattoo, a permanent official identification number as prescribed in  
40 section one hundred twelve of this chapter or other identification tags,  
41 rabies tags and numbers, or a microchip number, if present;

42 (b) The name, address and telephone number of the person surrendering  
43 an animal or from whom an animal is seized, and additional contact  
44 information as the commissioner may require, or the address or cross-  
45 streets and city, town, or village where the animal was located or found  
46 prior to intake, if known;

47 (c) The date of intake into and departure from the animal shelter;

48 (d) Whether the animal was adopted, transferred, redeemed by its  
49 owner, died or was humanely euthanized, and, if applicable, the name,  
50 address, and phone number of the receiving individual or agency;

51 (e) Basic descriptors including species, age, gender, physical  
52 description including color, and the spay or neuter status at entry if  
53 determinable with reasonable certainty;

54 (f) Any available behavioral or health history or information other-  
55 wise obtained at intake, including bite history and rabies vaccination  
56 status, when known; and

(g) All veterinary and behavioral examinations, treatments, procedures, or medications occurring during the animal's time under the care of the shelter.

3. Notwithstanding any other provision of law or regulation to the contrary, records for each animal shall be maintained for not less than three years from the date of animal departure.

4. Previous bite history shall be fully disclosed in writing to an adopter, transfer partner, or reclaiming owner and provided in any reports regarding the animal, as applicable.

5. Nothing in this section shall preclude or otherwise supersede record disclosure requirements prescribed in section sixty-seven hundred fourteen of the education law, or any requirement regarding the creation, maintenance, or retention of veterinary medical records in state or federal law or veterinary practice guideline.

6. Each animal shelter shall maintain a record of its designated foster care providers that shall include the written agreement established between such animal shelter and such providers pursuant to section four hundred thirty-two of this article, each provider's name, address, telephone number, email address if available, types of animals for which the provider is willing to provide care, inspection reports, and current number of animals in the care of a designated foster care provider. Such records shall be updated immediately in the event any contact information for a given foster care provider changes.

7. Each animal shelter shall maintain summary records of their total annual animal intake and dispositions by species, by source of intake, and by type of disposition. Such records shall be made available to the commissioner upon request. The commissioner shall make such records available to the public upon request pursuant to article six of the public officers law.

8. Each animal shelter shall develop and maintain written protocols sufficiently detailed to achieve and maintain the standards prescribed in this section. These shall include, but not be limited to, the following:

- (a) animal handling;
- (b) behavioral assessment;
- (c) enrichment and stress reduction;
- (d) management of bite/scratch cases; and
- (e) sanitation.

9. Each animal shelter shall also develop and maintain the following written protocols, approved by a duly licensed veterinarian and sufficiently detailed to achieve and maintain the standards prescribed in this article:

- (a) nutrition and feeding;
- (b) physical examination;
- (c) emergency veterinary care;
- (d) pain management;
- (e) vaccinations;
- (f) parasite control;
- (g) anesthesia and surgery, if performed on-site by the organization;
- (h) humane euthanasia; and
- (i) outbreak management/control of infectious diseases.

10. Protocols established by each animal shelter pursuant to this section shall be reviewed annually and updated as necessary by designated administrative and managerial staff. Such protocols shall be made readily accessible to appropriate staff and volunteers.

§ 424. General facility standards. 1. All facilities and all interior components of each animal shelter shall be constructed of materials that ensure a sound physical structure, and shall be maintained so as to protect animals from injury, ensure containment of animals within the property, and restrict unauthorized entry of other animals and humans to the building.

2. Indoor building surfaces in direct contact with animals shall be constructed of materials that are non-porous, water resistant, non-toxic and able to withstand regular cleaning and disinfection. Adequate drainage shall prevent the accumulation of water or other liquids on floors.

3. Electrical power and running water shall be maintained to all parts of the facility that house animals, with written emergency plans for back-up sources or relocation of the animals to a safe environment in the event of outages lasting more than four hours.

4. Readily accessible sinks shall be convenient to all animal care areas. Single service soap and towels or electric hand dryers shall be available at all hand-washing locations.

5. Ambient temperatures in all indoor animal housing areas shall be routinely maintained between sixty and eighty degrees fahrenheit.

6. Each animal shall be monitored and provided with an environment allowing maintenance of normal body temperature based on species, breed, body condition, medical condition, and age.

7. Each animal shelter shall document regular maintenance of air handling systems according to the manufacturer's recommendations.

8. Ammonia levels shall be kept at less than two parts per million.

9. Each animal shelter shall provide separate housing areas, segregated by species and from uninfected, unexposed animals, for the housing of any animal with an infectious disease that may be transmitted within the shelter environment and requiring isolation as determined by a licensed veterinarian. Doors separating such rooms from the remainder of the facility shall be kept closed.

10. Each animal shelter shall minimize continuous exposure of personnel and animals to sound levels exceeding eighty-five decibels. Active measures shall be taken and documented to minimize sound levels in housing areas. Such measures may include modified kennel design, relocation of particularly loud animals, or use of visual barriers, sound baffling, and behavioral enrichment protocols. Each animal shelter shall use a decibel-meter at a minimum of once weekly to measure the level of sound in their kennels during cleaning and resting times. A record of such measurements and the date such measurements were recorded shall be maintained by each animal shelter.

11. Each animal shelter shall provide animal housing areas that provide adequate lighting and a means to maintain diurnal light cycles pursuant to an established schedule. All animals shall have a minimum of eight hours each of light and darkness within a twenty-four-hour cycle.

12. Each animal shelter shall establish and maintain a written plan for pest and vermin control including the following:

(a) Method of controlling rodent infestation that is effective and safe for both humans, and animals housed in the facility;

(b) A record or copies of service reports from outside service providers related to pest and vermin control that documents dates, methods, locations, and outcomes, if applicable; and

(c) Food stored in rodent proof containers to prevent spoilage, contamination, and infestation once opened, if packaging has been damaged, or as otherwise required by such plan.

1 13. The use of unattended drop boxes for intake of animals is prohib-  
2 ited.

3 § 425. Animal housing. 1. Each licensed animal shelter shall provide  
4 each animal in its custody or possession with a suitable primary enclo-  
5 sure that meets the requirements prescribed in this section.

6 2. Unsupervised tethering for periods exceeding thirty minutes is  
7 prohibited.

8 3. Animal housing shall meet the following requirements:

9 (a) materials used in housing construction shall be non-porous,  
10 water-resistant, non-toxic, and able to withstand regular cleaning and  
11 disinfection;

12 (b) drainage shall prevent accumulation of water or other liquids on  
13 floors; and

14 (c) housing shall be structurally sound, in good repair and maintained  
15 in a safe, working condition to properly confine animals, prevent inju-  
16 ry, keep animals safe from predation, keep other animals out, and allow  
17 animals to remain dry and clean.

18 4. Wire or slat-bottom cages are prohibited unless a solid tray is  
19 provided for the cage bottom to prevent injury to the animal.

20 5. Animal populations shall be segregated appropriately, in accordance  
21 with the following requirements:

22 (a) dogs and cats shall be housed in separate rooms with efforts made  
23 to minimize the exposure of cats to the barking of dogs to the extent  
24 practicable;

25 (b) animals of the same species shall be separated by age groups (e.g.  
26 neonates and juveniles; adults) except that nursing animals may be  
27 housed with their offspring;

28 (c) animals with known or suspected infectious diseases shall be  
29 housed in isolation areas as prescribed in subdivision nine of section  
30 four hundred twenty-four of this article;

31 (d) nothing in this subdivision shall be construed to prevent the  
32 temporary housing of animals in areas without such segregation for  
33 medical care and in pre- and post-operative surgical areas.

34 6. Well-socialized, healthy animals may be housed with one or more  
35 conspecifics. Animals housed together shall be compatible and have  
36 similar environmental requirements. Such housing shall not allow expo-  
37 sure to numerous different animals on a frequently changing basis.

38 7. Prior to being housed with one or more other animals the following  
39 conditions shall apply:

40 (a) all animals are vaccinated and dewormed against the pathogens  
41 specified in section four hundred twenty-nine of this article;

42 (b) physical examinations verifying the absence of clinical signs of  
43 infectious diseases have been performed;

44 (c) surgical sterilization or housing in same-sex groupings, except  
45 littermates under twelve weeks of age; and

46 (d) the animal has a collar or tag to facilitate visual identifica-  
47 tion, unless the animal's age or condition is such that application of  
48 visual identification is not practicable or would be detrimental to the  
49 animal's health.

50 8. Animals that are poorly socialized, fearful, or aggressive towards  
51 other animals or that are ill, injured, or within a week of whelping or  
52 queening shall be housed individually in a suitably sized, enriched  
53 primary enclosure.

54 (a) Littermates under the age of twelve weeks may be co-housed in an  
55 isolation area if all individuals are infected with the same infectious,  
56 contagious, parasitic or communicable disease.

(b) Dogs and cats within a week of giving birth or until separation from the offspring shall be provided with a box with a solid floor large enough to allow the animal to lie fully stretched on its side, permitting all offspring to nurse and to accommodate all offspring until weaned; and an area large enough to allow the dam or queen to leave the whelping box.

9. Each enclosure shall clearly indicate the identities of all animals contained within, specifying each animal's unique identifier as required under section four hundred twenty-three of this article. Each animal shall also be individually identified.

10. All primary enclosures shall provide sufficient space to allow each animal, regardless of species, to:

(a) make all normal postural adjustments;

(b) fully stretch its body and have sufficient room to circle, lie down, and stand upright without the head or tail touching the sides of the enclosure even with the presence of water and food bowls, beds, litter boxes, and other normal cage objects; and

(c) allow animals to sit, sleep and eat away from areas of their enclosure where they defecate and urinate.

11. Any primary enclosure housing two or more animals shall provide the following:

(a) sufficient space and quality of environment to allow all animals to maintain social distances;

(b) adequate areas for hiding, resting, feeding, and elimination with sufficient space to separate areas and the ability for all animals to access those areas.

12. Regardless of the size of the primary enclosure, the number of animals cohoused in a primary enclosure at one time shall not exceed the following thresholds:

(a) twelve adult cats;

(b) two litters of kittens not to exceed ten kittens total;

(c) five adult dogs; or

(d) one litter of puppies.

13. Puppies and kittens less than sixteen weeks of age shall not be housed in the same enclosure with adults other than their dam or queen, or foster or surrogate dam or queen.

14. All animals housed with one or more conspecifics shall be separated for feeding or observed at feeding times for antagonistic interactions that pose a safety and welfare concern.

15. Animals shall not be housed outdoors for more than twelve hours within a twenty-four-hour period, with the exception of free-roaming cats under the care of the animal shelter.

16. Outdoor primary enclosures shall comply with all housing requirements prescribed in this section and shall provide the following:

(a) protection from the elements at all times;

(b) adequate drainage to prevent the accumulation of excess water in or around the enclosures;

(c) a moisture-proof, insulated shelter structure large enough to simultaneously accommodate all animals in the enclosure, unless immediate entry to an indoor portion of the enclosure is accessible;

(d) security from unauthorized entry of other animals into the enclosure;

(e) a separate, shaded area sufficient to simultaneously accommodate all animals, except when animals have immediate access to an indoor portion of the enclosure;

(f) clean dry bedding at all times and a heat source when the outdoor temperature falls below fifty degrees fahrenheit; and

(g) enclosures that allow outdoor access for cats shall be fully enclosed to prevent escape from the enclosure.

17. For any animal in the custody or possession of any animal shelter for fourteen days or longer, alternative housing shall be provided in one of the following formats:

(a) enriched cages at least twice the size otherwise required for an animal's size;

(b) foster care in a private home, office, or other suitable off-site location; or

(c) room housing.

§ 426. Sanitation. Any animal shelter licensed pursuant to this article shall establish and maintain sanitation protocols that include the following:

1. use of one or more agents that have cleaning and disinfectant properties that are effective under conditions present in a given environment and with demonstrated effectiveness against the pathogens for which animals are at risk;

2. removal of animals from enclosures and placement in another appropriate enclosure or separation from the area being cleaned or disinfected by a functional compartment door when water, cleaning, or disinfecting agents are sprayed in or near an animal's enclosure;

3. dedicated equipment for cleaning and disinfection for use in each separate area of the shelter designated as cat or dog isolation, holding, adoptions or other functionally separate areas within the facility;

4. cleaning and disinfecting in between each use of items and surfaces that come into contact with animals, including but not limited to food and water bowls, litter boxes and exam tables, or procedures to discard and replace with new items for each animal;

5. cleaning and disinfecting all enclosures for temporary or permanent housing before a new animal enters such enclosure;

6. daily cleaning and at least once weekly disinfecting of enclosures that house the same animal or animals during a long-term stay;

7. cleaning and disinfecting enclosures when the enclosure becomes heavily soiled or otherwise contaminated or a new animal is added to the enclosure;

8. laundering of all animal bedding in a machine with detergent when soiled and thoroughly drying such bedding before reuse, or removing and disposing of such bedding appropriately;

9. cleaning of outdoor premises from clutter that may pose a safety concern and fecal material removed at least once daily;

10. appropriate use and disposal of protective garments worn during cleaning and intensive animal-handling activities within an animal shelter; and

11. proper hygiene of shelter staff, volunteers, and visitors, including signage, supervision, and hand sanitation.

§ 427. Shelter management protocols. 1. Each animal shelter shall have a clear, written, management structure that defines staff authority, reporting structure and responsibilities, and is readily accessible to all staff and volunteers.

2. Staffing shall be sufficient to allow adequate time, per animal, for cleaning and daily feeding, and to meet the minimum requirements for socialization and exercise of animals as prescribed in section four hundred thirty of this article.

1 3. The total number of animals housed in an animal shelter facility or  
2 foster home shall not exceed the number of housing units available at  
3 the facility as required by section four hundred twenty-five of this  
4 article; provided, however, that exceptions to the provisions of this  
5 subdivision shall be permissible for periods not to exceed forty-five  
6 contiguous days in the event of an animal seizure pursuant to article  
7 twenty-six of this chapter or a natural disaster where an official  
8 declaration of the disaster or emergency has been made.

9 4. All animals shall be observed daily by a manager or designee to  
10 identify each animal's needs for care, housing and service and to ensure  
11 that each animal has a plan to advance efficiently through the shelter.

12 § 428. Animal husbandry. 1. (a) Each animal shelter shall provide each  
13 animal under its care with fresh, potable water at all times unless  
14 otherwise directed by a duly licensed veterinarian.

15 (b) Each animal shelter shall feed each animal under its care a  
16 complete and nutritionally balanced, species-specific and life-stage-ap-  
17 propriate diet as indicated by the animal's age, weight, and medical  
18 health, or as directed by a duly licensed veterinarian in accordance  
19 with the written protocols required by section four hundred twenty-three  
20 of this article.

21 (c) Food shall be provided at least once daily for adult animals, at  
22 least twice daily for animals less than six months of age, and at least  
23 three times daily for animals less than two months of age.

24 (d) Perishable animal food shall be refrigerated.

25 (e) Animal food and water containers shall be present in sufficient  
26 number and location to safely enable each animal in the enclosure to  
27 access an adequate supply of food and water. Food and water bowls shall  
28 be of the type that can be easily sanitized, be kept clean and shall be  
29 cleaned and disinfected prior to use by a different animal, unless  
30 disposable bowls are used and replaced between animals.

31 (f) Each animal shall be observed during or following each feeding  
32 time to ensure daily food intake, or at least once every twenty-four  
33 hours for animals continually offered food. Such observations shall be  
34 recorded.

35 2. (a) Humane and safe physical restraint to limit some or all normal  
36 voluntary movement of any animal in each animal shelter's care shall  
37 minimize fear, pain, stress and suffering for the animal, protect both  
38 the animal and personnel from harm, and be of the least intensity and  
39 duration required to allow the specific procedure or procedures to be  
40 performed properly.

41 (b) (i) Frightened or fractious animals may be appropriately tranqui-  
42 lized, under the orders and supervision of a duly licensed veterinarian,  
43 if they cannot be restrained safely and humanely.

44 (ii) No physical force shall be used as punishment or in anger.

45 (iii) Handling methods shall minimize the chance of escape and ensure  
46 the safety of both humans and animals.

47 (c) Restraint devices and handling techniques employed by each animal  
48 shelter shall be used in a manner that minimizes animal stress and risk  
49 of injury to both animals and personnel, in the event such devices and  
50 techniques are necessary for the safe handling of the animal.

51 (i) All equipment shall be maintained in good working order.

52 (ii) Cats shall not be restrained with control poles. Humane traps,  
53 cat boxes, nets, towels, or other equipment appropriate for handling  
54 fractious animals may be used. Squeeze cages, feral cat boxes, or  
55 humane traps with dividers shall be used for restraining cats and admin-  
56 istering tranquilizers prior to handling.

1     § 429. Veterinary care. 1. Prescription medications and treatments  
2 shall be administered by each animal shelter under the advisement of or  
3 in accordance with written protocols provided by a duly licensed veteri-  
4 narian.

5     2. All drugs shall be documented and dispensed by each animal shelter  
6 in accordance with applicable local, state, and federal laws and regu-  
7 lations.

8     3. All incoming animals shall be assessed within two hours after  
9 intake by a trained animal shelter staff member to determine if any  
10 physical abnormalities exist that require immediate veterinary attention  
11 in accordance with the shelter's written protocol for emergency care, as  
12 required by section four hundred twenty-three of this article.

13     4. Each animal shelter shall have the ability to provide for veteri-  
14 nary assessment and humane care in a timely fashion through in-house  
15 facilities or at an off-site location.

16     5. Pursuant to the written protocol for emergency veterinary care  
17 required by section four hundred twenty-three of this article, each  
18 animal shelter shall provide appropriate and timely veterinary care for  
19 any animal that is in distress, experiencing pain, or showing signs of  
20 significant illness or injury.

21     6. Each animal shelter shall recognize and treat acute and chronic  
22 pain appropriately, as set forth in article twenty-six of this chapter.  
23 The legal status regarding the ownership of any animal shall not prevent  
24 treatment to relieve suffering.

25     7. Each animal shelter shall provide a complete physical examination  
26 of all animals in its custody or possession by trained shelter staff  
27 within twenty-four hours of intake to identify medical or behavioral  
28 conditions that require further evaluation and care. Animals shall  
29 specifically be examined for bite wounds; animals that have potentially  
30 been exposed to rabies shall be managed in accordance with applicable  
31 local and state laws. Each animal shelter shall comply with the rabies  
32 reporting requirements prescribed in 10 NYCRR 2.14.

33     8. Each animal shelter shall vaccinate each animal in its custody or  
34 possession with core vaccines as recommended by national standards and  
35 guidelines specific to animal shelters as established, endorsed or  
36 approved by the American Association of Feline Practitioners (AAFP),  
37 American Animal Hospital Association (AAHA), or the Association of Shel-  
38 ter Veterinarians (ASV).

39     9. Each animal shelter shall provide all dogs, cats, and ferrets in  
40 its custody or possession with a rabies vaccination prior to release in  
41 accordance with local public health laws. Each animal shelter shall be  
42 in compliance at all times with section one hundred nine of this chapter  
43 and title four of article twenty-one of the public health law.

44     10. At a minimum, each animal shelter shall treat all animals in its  
45 custody or possession for hookworms and roundworms prior to release  
46 and/or placement in foster care.

47     11. When a physical or behavioral abnormality is identified at the  
48 time of intake or at any time during any animal's shelter stay, staff  
49 members shall follow written medical protocols required by section four  
50 hundred twenty-three of this article, to determine if and when any  
51 animal in its custody or possession needs to be examined by a duly  
52 licensed veterinarian. If the animal is in foster care, the foster care  
53 provider shall follow written medical protocols to determine whether the  
54 animal needs to be examined by a duly licensed veterinarian.

55     12. Any animal in the custody or possession of any animal shelter for  
56 more than thirty days shall be examined and weighed at least monthly by

1 a trained staff member. Animals in foster care shall be examined and  
2 weighed at least once every six months by a trained staff member.

3 13. Any apparently healthy animal remaining within the custody or  
4 possession of any animal shelter shall be examined by a duly licensed  
5 veterinarian at least every six months, or more frequently if problems  
6 are identified.

7 14. Each animal shelter shall provide regular grooming to prevent  
8 discomfort or injury to each animal in its custody or possession.  
9 Matted, soiled, or otherwise unkempt animals shall be provided with  
10 timely grooming to alleviate discomfort and prevent injury within  
11 forty-eight hours of intake or identification of condition. Severe  
12 matting that prevents normal movement, an animal's ability to eat,  
13 drink, urinate, or defecate, or that compromises tissue health shall be  
14 treated as a medical emergency requiring immediate care.

15 15. (a) No animal shelter shall release any dog or cat for adoption to  
16 any person unless the dog or cat has been spayed or neutered, in accord-  
17 ance with section three hundred seventy-seven-a of this chapter.

18 (b) Prior to performing spay/neuter surgery at any animal shelter:

19 (i) All animals in such shelter's custody or possession shall receive  
20 an examination by a duly licensed veterinarian within twenty-four hours  
21 of surgery and anesthesia. Such examination may be performed under  
22 sedation or anesthesia if, due to the animal's behavior, an examination  
23 is not possible while awake.

24 (ii) Balanced anesthetic protocols that include sedation, the  
25 provision of pre- and post-operative analgesia, stress reduction, muscle  
26 relaxation and controlled, reversible loss of consciousness shall be  
27 utilized for all animals.

28 (iii) While surgery is being performed, the operating area shall be  
29 dedicated to surgery and contain the necessary equipment for anesthesia  
30 and patient monitoring.

31 (iv) Aseptic surgical technique shall be required, and separate ster-  
32 ile instruments shall be used for each patient. All instruments and  
33 equipment shall be maintained in proper working condition.

34 (v) A permanent tattoo shall be placed on the ventral abdomen of shel-  
35 ter-owned cats and dogs at the time of spay or neuter.

36 (vi) Each animal shelter shall provide adoptive owners instructions in  
37 both written and verbal forms for ten-day post-operative care of recent-  
38 ly spayed or neutered animals.

39 (c) Written protocols required by section four hundred twenty-three of  
40 this chapter, shall be followed to handle related post-operative emer-  
41 gencies.

42 § 430. Behavior. 1. Each animal shelter shall take measures, by way of  
43 written questionnaire, personal interview or other means deemed neces-  
44 sary by the commissioner, to collect a behavioral history for each  
45 animal in its custody or possession at the time of intake.

46 2. Routine care and handling of any animal in the custody or  
47 possession of each animal shelter, including the timing of feeding and  
48 sanitation procedures shall be performed on a regular daily schedule.

49 3. At least twenty minutes of positive social interactions, in addi-  
50 tion to time spent providing feeding, cleaning, basic husbandry or care  
51 with people shall be provided by each animal shelter on a daily basis  
52 for any animal in such shelter's custody or possession except those so  
53 poorly socialized to humans that such contact would be unpleasant,  
54 stressful or pose a safety risk to other animals or humans. Daily handl-  
55 ing and positive exposure to people and other animals shall be provided  
56 for any dog or cat less than four months of age, while taking appropri-

1 ate precautions to limit infectious disease. Positive social inter-  
2 actions shall include but not be limited to petting an animal, walking,  
3 reward based training or interactive play with toys. Time spent provid-  
4 ing basic husbandry and animal care shall not be used to offset the  
5 social interaction time requirements of this subdivision.

6 4. Each animal shelter shall provide each animal in its custody or  
7 possession opportunity for exercise and exploration in the following  
8 manner:

9 (a) all cats housed in a cage, kennel, or room that provides less than  
10 eighteen square feet of floor space per cat for fourteen days or longer  
11 shall be permitted at least fifteen minutes per day at least five days  
12 per week outside of their primary enclosure to exercise and explore;

13 (b) all dogs residing in the shelter for fourteen days or longer shall  
14 be permitted time outside of their primary enclosure to exercise and  
15 explore for at least twenty minutes per day five days per week; or

16 (c) in the event such activities are not possible due to any animal's  
17 health, behavior, order of the commissioner or legal restriction, the  
18 condition and reason shall be documented in such animal's medical  
19 record.

20 5. Each animal shelter shall implement additional measures for enrich-  
21 ment and stress reduction for any animal in its custody or possession  
22 showing persistent hiding, hostile interactions with other animals,  
23 reduced activity, depression or social withdrawal, barrier frustration  
24 or aggression, self-injurious behavior, repetitive non goal-oriented  
25 movement, or stereotypic behaviors. Such measures shall be documented in  
26 such animal's medical record created pursuant to section four hundred  
27 twenty-three of this article.

28 6. Use of aversive methods in animal training or behavioral modifica-  
29 tion is prohibited except in reward-based method situations, where  
30 skilled application of the least aversive method that is expected to  
31 succeed may be appropriate.

32 7. Animal shelters may perform a systematic behavioral evaluation on  
33 animals prior to rehoming or other placement. In the event such evalu-  
34 ations are performed, the following requirements shall apply:

35 (a) staff performing such evaluations shall receive, in advance,  
36 adequate training in the performance and interpretation of the behav-  
37 ioral evaluation or evaluations; and

38 (b) documentation of the results of every behavior evaluation  
39 performed shall be added to the animal's record created pursuant to  
40 section four hundred twenty-three of this article.

41 8. Each licensed animal shelter shall fully disclose all available  
42 information regarding the behavior of any animal in its custody or  
43 possession prior to such animal's transfer to an individual or another  
44 organization as authorized pursuant to section three hundred seventy-  
45 four of this chapter. Such information shall include, but not be limited  
46 to prior history, observed behaviors in the shelter, and the results of  
47 any systematic behavioral evaluations performed.

48 9. Any animal in the custody or possession of a licensed animal shel-  
49 ter that is observed to be experiencing mental suffering or behavioral  
50 deterioration shall be assessed and appropriately treated.

51 § 431. Transportation. 1. Vehicle requirements. (a) Vehicles and oper-  
52 ators employed by or otherwise serving as an agent of any animal shelter  
53 to transport animals shall adhere to all applicable federal, state, and  
54 local laws.

1 (b) Any animal transported by an animal shelter or its agent shall not  
2 be placed unconfined or tethered in the back of an open pick-up or  
3 flatbed truck.

4 (c) Any animal shelter or its agent transporting any animal shall  
5 safely and securely confine such animal in an enclosure such as a crate,  
6 carrier, or cage within the vehicle. Foster care providers serving as  
7 an agent of any animal shelter for purposes of this section may be  
8 authorized to provide secure alternatives to enclosures for transport of  
9 large dogs.

10 (d) Any transport vehicle transporting dogs or cats for any animal  
11 shelter shall have adequate space, comfortable environmental conditions,  
12 and good air quality. The animal compartment of the transport vehicle  
13 shall provide fresh air, free of vehicle exhaust fumes.

14 (e) Each transport vehicle, including cargo spaces, shall be heated  
15 and cooled as necessary to provide for normal thermoregulation of the  
16 animals being transported.

17 (f) Each transport vehicle shall have a thermometer placed in the  
18 animal compartment. The ambient temperature in the cargo space shall be  
19 maintained between sixty and eighty-five degrees fahrenheit, unless the  
20 health of the animal necessitates an ambient temperature that exceeds or  
21 is less than such parameters. The operator of such vehicle shall monitor  
22 cargo area temperatures at least every four hours to ensure such temper-  
23 atures are maintained.

24 2. General responsibilities of animal shelters of origin prior to  
25 transport. (a) It is the responsibility of the animal shelter of origin  
26 to reasonably ensure that its destination animal shelters have the abil-  
27 ity to meet the requirements of subdivision four of this section prior  
28 to transporting any animal. A written contract or memorandum of under-  
29 standing between the animal shelter of origin, any intermediate animal  
30 shelter, the destination animal shelter and any transporting agent not  
31 directly employed by such shelters, shall be executed for each animal  
32 transfer of one or more animals. Such document shall include the respon-  
33 sibilities of each party and shall be revised or updated as necessary to  
34 ensure that information is current.

35 (b) A contact person shall be designated for each animal shelter and  
36 any intermediate transfer points.

37 (c) Each transporting organization identified in any agreement estab-  
38 lished pursuant to subparagraph (i) of paragraph (d) of this subdivision  
39 shall adhere to all public health laws and local laws for source  
40 location, intermediate transfer points, and final destination.

41 (d) (i) For dogs or cats imported into the state, the animal shelter  
42 of origin shall ensure that each dog or cat to be transported aged three  
43 months of age or older has been vaccinated against rabies not more than  
44 twelve months prior to the date of transport when using a one-year  
45 vaccine, or not more than thirty-six months prior to the date of trans-  
46 port when using a three-year vaccine, as evidenced by a valid certif-  
47 icate of immunization signed by a duly licensed veterinarian. Such  
48 vaccine shall be approved by the United States department of agricul-  
49 ture. The immunization requirement shall not apply if a veterinarian  
50 certifies in writing that because of old age or other reason, the life  
51 of the dog would be endangered by the administration of the rabies  
52 vaccine.

53 (ii) At a minimum, the animal shelter of origin shall administer the  
54 following core vaccinations to each dog or cat to be transported that is  
55 four weeks of age or older:

1 (1) For dogs, a modified live product for Distemper virus, Adenovirus,  
2 and Parvovirus as well as an intranasal or oral avirulent culture Borde-  
3 tella bronchiseptica vaccination prior to departing from the animal  
4 shelter of origin.

5 (2) For cats, a modified live product for Feline Viral Rhinotracheit-  
6 is, Feline Calici Virus, and Feline Panleukopenia.

7 (iii) The animal shelter of origin shall treat each animal for inter-  
8 nal and external parasites as appropriate for the age, species, and  
9 medical condition.

10 (iv) (1) The animal shelter of origin shall examine each dog and cat  
11 for medical or behavioral concerns at most twenty-four hours prior to  
12 initiation of transport. All medical and behavioral observations shall  
13 be recorded and communicated to any intermediate animal shelter, the  
14 destination animal shelter and any transporting agent not directly  
15 employed by such shelters.

16 (2) A health record shall accompany each animal to be transported.

17 (3) A health certificate is required for each animal to be transported  
18 into the state in accordance with part sixty-five of the commissioner's  
19 rules and regulations. Such certificate shall accompany each animal  
20 during transport and be completed and signed by a duly licensed veteri-  
21 narian.

22 (v) Each animal shall be individually identified with a collar, tag,  
23 tattoo, microchip or combination of such identifiers. All animals shall  
24 have, at a minimum, one form of visual identification.

25 3. General responsibilities during transport. (a) Each animal trans-  
26 ported shall be provided with absorbent bedding.

27 (b) No animal shall be sedated or tranquilized unless recommended by a  
28 duly licensed veterinarian and veterinary guidance is provided for such  
29 animal's care during transport.

30 (c) The maximum transport time to an intermediate animal shelter or a  
31 destination animal shelter for dogs and cats shall include not more than  
32 fourteen hours confined to the transport vehicle, including load time.  
33 Transports exceeding fourteen hours must include an overnight stop at an  
34 intermediary location, where the dogs and cats being transported shall  
35 be allowed the opportunity to exercise and eliminate outside of the  
36 transport vehicle.

37 (d) The transporting animal shelter or its agent shall observe each  
38 animal being transported as often as circumstances allow, but not less  
39 than once every four hours. During such observations, animals should be  
40 watered and fed consistent with paragraphs (g) and (h) of this subdivi-  
41 sion, and the transport area cleaned as appropriate.

42 (e) Each dog shall be provided with the opportunity to exercise and  
43 eliminate at least once every twelve hours while confined to the trans-  
44 port vehicle, including load time. Each dog being transported that is  
45 less than twelve weeks of age shall be removed from their enclosure and  
46 allowed to exercise and eliminate at least every two hours.

47 (f) No dog or cat shall be left unattended in any transport vehicle  
48 for more than one hour, regardless of whether heating, ventilation and  
49 air conditioning (HVAC) is provided in such vehicle.

50 (g) The transporting animal shelter or its agent shall provide each  
51 animal being transported with wholesome and palatable food except when  
52 there are instructions from a duly licensed veterinarian to withhold  
53 food for medical reasons. Such food shall be free from contamination, of  
54 nutritional value sufficient to maintain each animal in good health and  
55 be provided at least every twelve hours for adult animals; at least

1 every eight hours for animals less than six months of age; and at least  
2 every six hours for animals less than four months of age.

3 (h) If water cannot be provided at all times, the transporting animal  
4 shelter or its agent shall provide clean, fresh water to each animal  
5 being transported at least every four hours during observation stops  
6 required pursuant to paragraph (b) of subdivision four of this section.  
7 Such water shall be supplied in a sanitary manner sufficient for its  
8 needs, except where there are instructions from a duly licensed veteri-  
9 narian to withhold water for medical reasons.

10 (i) Animal enclosure requirements. (i) Animal enclosures in transport  
11 vehicles shall be suitable to allow the animal to stand, sit erect, turn  
12 around while standing, and to lie in a natural position. If more than  
13 one animal occupies any enclosure during transport, such enclosure shall  
14 provide adequate space for each to lie down comfortably at the same time  
15 without lying on top of each other.

16 (ii) Unfamiliar animals shall not be contained together in the same  
17 enclosure.

18 (iii) Crates, carriers or cages shall not be stacked in the transport  
19 vehicle in a manner that increases animal stress or discomfort, compro-  
20 mises ventilation, allows waste material to pass between cages, inter-  
21 feres with care and observation, or hinders emergency removal.

22 (iv) All animal enclosures and compartments shall be free of sharp  
23 edges or other hazardous materials.

24 (v) The floor of any enclosure shall prevent injury, discomfort, and  
25 leakage of fluids into other enclosures.

26 (vi) The animal shelter or its agent shall ensure that each animal  
27 transported is safely and securely confined within each enclosure as  
28 prescribed by this section and that enclosure doors are secured to  
29 prevent accidental opening.

30 (vii) The animal shelter or its agent shall secure each primary enclo-  
31 sure to prevent movement within the transport vehicle.

32 (viii) Each dog or cat less than eight weeks of age shall be trans-  
33 ported in an enclosure with their mother, with adequate space to allow  
34 the mother to lie down on her side with legs extended to facilitate  
35 nursing unless such dog or cat is orphaned, a duly licensed veterinarian  
36 directs otherwise, the transport period does not exceed one hour, or  
37 transport with the mother is deemed to pose a significant safety risk.  
38 In the event such dog or cat is not transported with its mother, the  
39 animal shelter or its agent shall ensure an adequate environment and  
40 temperature for the offspring. The transporting animal shelter or its  
41 agent shall transport animals with known or suspected infectious  
42 diseases that could be spread during transport in separate compartments  
43 from healthy animals.

44 (ix) The transporting animal shelter or its agent shall clean animal  
45 enclosures and replace litter as often as necessary to prevent soiling  
46 any animal being transported. If any animal must be removed from an  
47 enclosure to facilitate cleaning, the transporting animal shelter or its  
48 agent shall employ safeguards to ensure animal safety and prevent  
49 escape.

50 (j) Transport vehicle operators. (i) Transport vehicle operators and  
51 individuals who assist in the transport of animals shall have training  
52 in animal health, animal care, and safety issues to recognize and  
53 respond to animal needs during transport.

54 (ii) Transport vehicle operators shall avoid unnecessary sudden accel-  
55 eration, deceleration, excessive lateral movement, noise and vibration.

(iii) Transport vehicle operators and individuals who assist in the transport of animals shall observe dogs and cats for any medical or behavioral concerns during each stop and shall respond appropriately to any concerns identified.

(iv) Transport vehicle operators and individuals who assist in the transport of animals shall clean and disinfect each enclosure after use in transporting an animal and before transporting different animals in the same enclosure.

4. General requirements of destination animal shelters. Each destination animal shelter shall provide the following:

(a) Adequately trained personnel ready to receive and medically evaluate each animal received from any transporting animal shelter or its agent upon arrival;

(b) A physical examination of each animal received from any transporting animal shelter with corresponding documentation performed by trained personnel pursuant to section four hundred twenty-three of this article within four hours of arrival;

(c) Veterinary care in accordance with section four hundred twenty-nine of this article for each animal received from any transporting animal shelter requiring such care and additional reasonable care.

(d) Adequate housing for arriving animals prepared in advance of arrival, including:

(i) Housing in a quarantine area if needed, based on assessment of health status, animal source, and risk of infectious, contagious, parasitic or communicable disease; and

(ii) Isolation areas for animals with known or suspected contagious diseases, as required under sections four hundred twenty-four and four hundred twenty-five of this article.

5. No animal shelter or its agents shall transport any dog or cat less than one year of age whose point of origin is any breeder licensed by the United States department of agriculture pursuant to the provisions of U.S.P.L. 89-544 as of August twenty-fourth, nineteen sixty-six, or any subsequent corresponding sections of the federal Animal Welfare Act, as from time to time amended.

§ 432. Foster care provider requirements. 1. No person may operate as a foster care provider in this state without first having signed a written agreement with an animal shelter licensed pursuant to this article stating that such person may operate as a foster care provider with the approval and under the responsibility of such animal shelter. Such agreement shall be renewed not less than once every two years, and a copy of such agreement shall be kept by both the animal shelter and foster care provider and made available for inspection by the commissioner upon request. It shall be the responsibility of the animal shelter entering into such agreement with any foster care provider pursuant to this article to ensure that such foster care provider is able to responsibly harbor and provide necessary sustenance for any animal placed in their care by such animal shelter in a manner that promotes the good health, safety and welfare of such animals. No animal shelter shall knowingly enter into any agreement pursuant to this subdivision with any person who has been previously convicted of a violation of any provision of article twenty-six of this chapter or regulations promulgated thereunder pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal, or violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule relating to the endangerment of the life or health of an animal.

1 2. Foster care providers may harbor animals owned by a licensed animal  
2 shelter but shall not own such animals and shall keep a copy of the  
3 current record of each animal harbored under any agreement established  
4 pursuant to subdivision one of this section. Such record shall be main-  
5 tained at the physical premises where such foster care providers harbor  
6 such animals. Animal shelters may, if appropriate to protect the identi-  
7 ty of the source of any animal, provide their foster care providers with  
8 a partial animal record that excludes the name and address of the organ-  
9 ization or individual from whom such animal was obtained and the date of  
10 receipt, so long as such animal shelters keep a copy of the complete  
11 record at the location where it maintains such records pursuant to  
12 section four hundred twenty-three of this article. It is the responsi-  
13 bility of the animal shelter with which such foster care provider has  
14 established an agreement pursuant to subdivision one of this section to  
15 ensure compliance with this subdivision.

16 3. Any animal harbored by a foster care provider pursuant to this  
17 section that is affected by an infectious or contagious disease shall be  
18 handled in a manner that prevents the spread of such disease in accord-  
19 ance with subdivision nine of section four hundred twenty-four of this  
20 article. It shall be the responsibility of the animal shelter with which  
21 such foster care provider has established an agreement pursuant to  
22 subdivision one of this section to ensure compliance with this subdivi-  
23 sion.

24 § 433. Violations. 1. Any animal shelter that violates any provision  
25 of this article may be subject to licensure denial, revocation, suspen-  
26 sion, or refusal of license renewal in accordance with the provisions of  
27 subdivision seven of section four hundred twenty-one of this article.

28 2. Violation of any provision of this article shall be a civil  
29 offense, for which a penalty of not less than one hundred dollars and  
30 not more than one thousand dollars for each violation may be imposed by  
31 the commissioner; provided, that whenever there shall be a violation of  
32 this article, application may be made by the attorney general in the  
33 name of the people of the state of New York to a court or justice having  
34 jurisdiction by a special proceeding to issue an injunction, and upon  
35 notice to the defendant of not less than five days, to enjoin and  
36 restrain the continuance of such violations; and if it shall appear to  
37 the satisfaction of the court or justice that the defendant has, in  
38 fact, violated this article, an injunction may be issued by such court  
39 or justice, enjoining and restraining any further violation, without  
40 requiring proof that any person has, in fact, been injured or damaged  
41 thereby. In any such proceeding, the court may make allowances to the  
42 attorney general as provided in paragraph six of subdivision (a) of  
43 section eighty-three hundred three of the civil practice law and rules,  
44 and direct restitution. Whenever the court shall determine that a  
45 violation of this article has occurred, the court may impose a civil  
46 penalty of not less than one hundred dollars and not more than one thou-  
47 sand dollars. In connection with any such proposed application, the  
48 attorney general is authorized to take proof and make a determination of  
49 the relevant facts and to issue subpoenas in accordance with the civil  
50 practice law and rules.

51 3. Any animal shelter that violates any provisions of this article  
52 shall correct such violations to the satisfaction of the commissioner  
53 within a period not to exceed ten days; provided, however, that where  
54 such violation poses a severe or immediate threat to public health or  
55 animal safety or well-being, such violation shall be corrected to the

1 satisfaction of the commissioner within a period not to exceed seventy-  
2 two hours.

3 4. Nothing in this section shall preclude the commissioner from taking  
4 additional actions to address violations related to the immediate threat  
5 to animal safety or well-being, including but not limited to, suspension  
6 of animal shelter operations until such violations are corrected to the  
7 satisfaction of the commissioner.

8 5. Upon identification of one of more violations, the commissioner  
9 shall provide the animal shelter with a written description of all  
10 violations issued and the steps necessary to correct such deficiencies.

11 § 434. Waiving of requirements authorized. The commissioner is hereby  
12 authorized to waive the requirements established pursuant to this arti-  
13 cle during a disaster emergency, provided that an official declaration  
14 of such disaster emergency has been made by the governor or his or her  
15 delegated state official pursuant to section twenty-eight of the execu-  
16 tive law.

17 § 3. The agriculture and markets law is amended by adding a new  
18 section 384 to read as follows:

19 § 384. Special provisions related to the importation of dogs and cats  
20 into the state for sale, resale or adoption. 1. Any dog or cat imported  
21 into this state for the purposes of sale, resale or adoption shall be  
22 held by the consignee for a period of not less than forty-eight hours.  
23 Such dog or cat shall be vaccinated in accordance with section twenty-  
24 one hundred forty-one of the public health law and part sixty-five of  
25 the commissioner's rules and regulations.

26 2. If, during the holding period prescribed in subdivision one of this  
27 section, any dog or cat imported into the state for sale, resale or  
28 adoption exhibits signs of infectious, contagious, parasitic or communi-  
29 cable disease, including but not limited to coughing, sneezing, vomit-  
30 ing, diarrhea or bloody stool, such dog or cat must be isolated and  
31 examined by a duly licensed attending veterinarian immediately. Any dogs  
32 or cats that have been deemed exposed to such dog or cat must be quaran-  
33 tined, if necessary, under the direction of such attending veterinarian  
34 and held until such attending veterinarian declares them to be free of  
35 disease.

36 3. Any dog or cat passing through the state to points beyond, or  
37 brought into the state for temporary residence for purposes of exhibi-  
38 tion, or which enters the state for delivery to research institutions,  
39 for fifteen days or fewer, shall be exempt from the provisions of this  
40 section, provided that such dog or cat is at all times properly  
41 restrained and under the immediate control of the owner or custodian,  
42 and that such dog or cat that is in the state for more than fifteen days  
43 is accompanied with proof of proper immunization against rabies. It  
44 shall be an affirmative defense to the offense of failure to have accom-  
45 panied proof of proper immunization against rabies of such dog or cat,  
46 upon the presentation of proof that such dog or cat had in fact been  
47 immunized against rabies at the time of the infraction.

48 4. Violation of any provision of this section shall be a civil  
49 offense, for which a penalty of not less than one hundred dollars and  
50 not more than one thousand dollars for each violation shall be imposed.  
51 Any person licensed pursuant to article twenty-six-A or twenty-six-C of  
52 this chapter who violates any provision of this section may be subject  
53 to denial, revocation, suspension, or refusal of renewal of his or her  
54 license in accordance with the provisions of section four hundred twen-  
55 ty-one of this chapter.

§ 4. Paragraphs (b) and (c) of subdivision 4 of section 400 of the agriculture and markets law, as added by chapter 168 of the laws of 2017, are amended to read as follows:

(b) Any municipal pound or shelter dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged, established and maintained pursuant to subdivision one of section one hundred fourteen of this chapter, and that is duly licensed as an animal shelter pursuant to article twenty-six-C of this chapter; and

(c) Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is ~~[registered with the department]~~ duly licensed as an animal shelter pursuant to [section four hundred eight] article twenty-six-C of this [article] chapter.

§ 5. Subdivision 3 of section 403 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

3. Each application for a license shall be accompanied by a nonrefundable fee of one hundred fifty dollars~~[, except that those pet dealers who engage in the sale of less than twenty five animals in a year, shall pay a nonrefundable fee of twenty five dollars]~~.

§ 6. Section 408 of the agriculture and markets law is REPEALED.

§ 7. Section 380 of the agriculture and markets law, as added by chapter 470 of the laws of 2017, is renumbered section 383.

§ 8. Subdivision 3 of section 752 of the general business law, as amended by chapter 168 of the laws of 2017, is amended to read as follows:

3. For purposes of section seven hundred fifty-three of this article, a "pet dealer" shall mean any person who, in the ordinary course of business, engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders of animals who sell or offer for sale animals directly to a consumer but it shall not include any municipal pound or shelter established and maintained pursuant to subdivision one of section one hundred fourteen of the agriculture and markets law and duly licensed as an animal shelter pursuant to article twenty-six-C of the agriculture and markets law, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization that is tax exempt pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that ~~[is registered with the department]~~ duly licensed as an animal shelter pursuant to [section four hundred eight] article twenty-six-C of the agriculture and markets law. For purposes of sections seven hundred fifty-three-a, seven hundred fifty-three-b, seven hundred fifty-three-c and seven hundred fifty-three-d of this article, "pet dealer" shall mean any person who engages in the sale or offering for sale of more than

1 nine animals per year for profit to the public. Such definition shall  
2 include breeders who sell animals; but it shall not include the follow-  
3 ing:

4 (a) Any breeder who sells or offers to sell directly to the consumer  
5 fewer than twenty-five animals per year that are born and raised on the  
6 breeders residential premises.

7 (b) Any municipal pound or shelter established and maintained pursuant  
8 to subdivision one of section one hundred fourteen of the agriculture  
9 and markets law and duly licensed as an animal shelter pursuant to arti-  
10 cle twenty-six-C of the agriculture and markets law.

11 (c) Any duly incorporated society for the prevention of cruelty to  
12 animals, duly incorporated humane society, duly incorporated animal  
13 protective association or other duly incorporated animal adoption or  
14 animal rescue organization that is exempt from taxes pursuant to para-  
15 graph (3) of subsection (c) of section 501 of the federal Internal  
16 Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of  
17 the federal Internal Revenue Code, as from time to time amended, that is  
18 ~~[registered with the department]~~ duly licensed as an animal shelter  
19 ~~pursuant to [section four hundred eight]~~ article twenty-six-C of the  
20 agriculture and markets law.

21 § 9. The state finance law is amended by adding a new section 99-pp to  
22 read as follows:

23 § 99-pp. Animal shelter regulation fund. 1. There is hereby estab-  
24 lished in the joint custody of the state comptroller and the commission-  
25 er of taxation and finance, a fund to be known as the animal shelter  
26 regulation fund.

27 2. Such fund shall consist of all monies collected pursuant to article  
28 twenty-six-C of the agriculture and markets law, and all other monies  
29 credited or transferred thereto from any other fund or source pursuant  
30 to law.

31 3. Monies of the fund shall be expended solely for the purposes of  
32 carrying out the provisions of article twenty-six-C of the agriculture  
33 and markets law. Monies shall be paid out of the fund on the audit and  
34 warrant of the state comptroller on vouchers approved by the commission-  
35 er of agriculture and markets. Any interest received by the comptroller  
36 on monies on deposit in the pet dealer licensing fund shall be retained  
37 in and become part of such fund.

38 § 10. This act shall take effect three years after it shall have  
39 become a law. Effective immediately, the addition, amendment and/or  
40 repeal of any rule or regulation necessary for the implementation of  
41 this act on its effective date are authorized to be made and completed  
42 by the commissioner of agriculture and markets on or before such effec-  
43 tive date.