

S T A T E      O F      N E W      Y O R K

2069

## 2009-2010 Regular Sessions

# I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BENJAMIN, ALFANO -- Multi-Sponsored by -- M. of  
A. BARRA, HOOPER, MILLER -- read once and referred to the Committee on  
Health

AN ACT to amend the public health law, in relation to requiring pet kennels to obtain and post certificates of health

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

Section 1. Article 13 of the public health law is amended by adding a new title 7-A to read as follows:

TITLE VII-A

## BOARDING KENNEL HEALTH AND SAFETY

SECTION 1349. DECLARATION OF PUBLIC POLICY.

1349-A. BOARDING KENNELS; POWERS OF THE COMMISSIONER; DEFINITION.

1349-B. BOARDING KENNELS; DUTY TO PERMIT INSPECTIONS.

1349-C. BOARDING KENNELS; LICENSING REQUIREMENTS.

1349-D. BOARDING KENNELS; POSTING OF SIGNS.

1349-E. BOARDING KENNELS; VIOLATIONS AND SANCTIONS.

1349-F. SEPARABILITY.

S 1349. DECLARATION OF PUBLIC POLICY. IT IS DECLARED PUBLIC POLICY OF THE STATE OF NEW YORK TO PROTECT THE HEALTH AND SAFETY OF PET ANIMALS IN BOARDING KENNELS FROM THE SPREAD OF DISEASE TO OTHER ANIMALS AND PEOPLE.

S 1349-A. BOARDING KENNELS; POWERS OF THE COMMISSIONER; DEFINITION. 1. THE COMMISSIONER SHALL HAVE FULL POWER AND AUTHORITY, IN CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS, CORNELL UNIVERSITY OR THE NEW YORK STATE VETERINARY COLLEGE AT CORNELL TO PROMULGATE RULES AND REGULATIONS REGARDING THE HEALTH AND SAFETY OF BOARDING KENNELS TO PREVENT THE SPREAD OF DISEASE BETWEEN ANIMALS AND PEOPLE, AND TO LICENSE AND INSPECT SUCH BOARDING KENNELS.

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

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2. THE COMMISSIONER MAY APPOINT AND DESIGNATE, FROM TIME TO TIME, PERSONS TO MAKE THE INSPECTIONS AUTHORIZED BY THIS SECTION AND SECTION THIRTEEN HUNDRED FORTY-NINE-B OF THIS TITLE.

3. FOR THE PURPOSES OF THIS TITLE, "BOARDING KENNEL" MEANS AN ESTABLISHMENT OPERATED AND MAINTAINED FOR THE CARE OR CUSTODY OF PET ANIMALS FOR BOARDING, TRAINING, OR SIMILAR PURPOSES, FOR VARYING PERIODS OF TIME, FOR PROFIT OR COMPENSATION.

S 1349-B. BOARDING KENNELS; DUTY TO PERMIT INSPECTIONS. EVERY OWNER, OPERATOR, LESSOR, LESSEE OR PERSON IN CHARGE OF ANY BOARDING KENNEL ENGAGED IN CUSTODY AND CARE OF PET ANIMALS IN THIS STATE, SHALL PERMIT THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED AGENTS OR EMPLOYEES TO HAVE ACCESS TO ALL PARTS OF ANY AND ALL OF SUCH BOARDING KENNELS FOR THE PURPOSE OF ENSURING THE HEALTH AND SAFETY STANDARDS AND LICENSING REQUIREMENTS OF THIS TITLE, AND THE PROVISIONS OF LOCAL ORDINANCES OR REGULATIONS ARE BEING OBSERVED.

S 1349-C. BOARDING KENNELS; LICENSING REQUIREMENTS. 1. NO PERSON, OWNER, FIRM, CORPORATION, OR ASSOCIATION SHALL OPERATE A BOARDING KENNEL WITHOUT OBTAINING A LICENSE FROM THE LOCAL HEALTH DEPARTMENT. THE COMMISSIONER SHALL PROMULGATE HEALTH AND SAFETY STANDARDS FOR SUCH BOARDING KENNELS, INCLUDING BUT NOT LIMITED TO, THE FOLLOWING:

(A) STRUCTURAL LAYOUT OF FACILITIES, INCLUDING SOURCES OF NATURAL AND ARTIFICIAL LIGHTING FOR HOUSING PET ANIMALS, ADEQUATE AND HEALTHY VENTILATION, AND TEMPERATURE CONTROL AND MAINTENANCE;

(B) AVAILABILITY OF POTABLE WATER, FOOD SUPPLIES, SANITIZATION OF FEEDING UTENSILS, STORAGE OF EQUIPMENT AND BEDDING, PROTECTION AGAINST VERMIN INFESTATION AND CONTAMINATION;

(C) PROOF OF VACCINATION REQUIREMENTS FOR ALL BOARDERS, AVAILABILITY OF VETERINARY SERVICES, AND AVAILABILITY OF SPACE FOR THE ISOLATION AND TREATMENT OF PET ANIMALS SUSPECTED OF HARBORING COMMUNICABLE DISEASES;

(D) DISINFECTION, DISPOSAL OF EXCRETA, BEDDING, AND DEAD ANIMALS, DISPOSAL FACILITIES TO MINIMIZE DISEASE HAZARDS, OFFENSIVE ODORS, AND VERMIN INFESTATION; AND

(E) CARETAKER CLEANLINESS.

2. THE LOCAL HEALTH DEPARTMENT SHALL ISSUE A LICENSE IF, AFTER INSPECTION, THE BOARDING KENNEL IS IN COMPLIANCE WITH THE HEALTH AND SAFETY STANDARDS PROMULGATED BY THE COMMISSIONER AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION. THE LICENSE SHALL BE ISSUED FOR ONE YEAR, RENEWABLE UPON ANNUAL INSPECTION, AND IN A FORM AS DETERMINED BY THE COMMISSIONER. THERE SHALL BE A NOMINAL FEE FOR SUCH LICENSE AND LICENSE RENEWALS TO BE DETERMINED BY THE COMMISSIONER. THE LICENSE SHALL BE POSTED IN PLAIN VIEW OF THE PUBLIC UPON ENTERING THE BOARDING KENNEL. THE FEE FOR SUCH LICENSE SHALL BE FIFTY DOLLARS.

3. UPON APPLICATION TO THE DEPARTMENT, WAIVERS TO CERTAIN STANDARDS MAY BE OBTAINED ON A CASE BY CASE BASIS. SUCH WAIVERS SHALL ONLY BE GRANTED TO BOARDING KENNELS WHERE SUCH APPLICATION IS ACCOMPANIED BY A WRITTEN CERTIFICATION BY THE LOCAL HEALTH OFFICER OF ITS NEED TO AVOID AN IMMEDIATE UNDUE HARDSHIP UPON THE OWNER OR OPERATOR OF A BOARDING KENNEL THAT HAD BEEN IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS TITLE. WAIVERS MAY BE ACCOMPANIED WITH A TIME TABLE FOR SUCH KENNEL'S COMPLIANCE WITH THE RULES AND REGULATIONS PROMULGATED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION.

S 1349-D. BOARDING KENNELS; POSTING OF SIGNS. EVERY BOARDING KENNEL SHALL CONSPICUOUSLY POST SIGNS AND PROVIDE PROSPECTIVE PATRONS WITH A WRITTEN COPY OF STATE REGULATIONS AND KENNEL POLICIES REGARDING HEALTH AND SAFETY OF ITS PET ANIMAL BOARDERS.

1 S 1349-E. BOARDING KENNELS; VIOLATIONS AND SANCTIONS. 1. A VIOLATION  
2 OF THIS TITLE OR OF THE HEALTH AND SAFETY REGULATIONS PROMULGATED BY THE  
3 COMMISSIONER SHALL CONSTITUTE A PUBLIC NUISANCE WHICH MAY BE ENJOINED OR  
4 RESTRAINED. IF SUCH VIOLATION CONSTITUTES A PUBLIC HEALTH HAZARD AND  
5 CONTINUES FOR MORE THAN ONE WEEK FROM THE DATE OF NOTICE OF VIOLATION,  
6 AND A WRITTEN DEMAND FOR DISCONTINUANCE AND ABATEMENT OF SUCH VIOLATION  
7 HAS BEEN DELIVERED UPON THE OPERATOR OF SUCH BOARDING KENNEL IN THE  
8 MANNER PRESCRIBED FOR SERVICE OF SUMMONS SET FORTH IN THE CIVIL PRACTICE  
9 LAW AND RULES, A LOCAL PUBLIC HEALTH OFFICER MAY MAKE AN EX PARTE APPLI-  
10 CATION TO A COURT OF COMPETENT JURISDICTION FOR A TEMPORARY RESTRAINING  
11 ORDER WHICH SUCH COURT MAY GRANT WHEN IT DETERMINES THAT THERE IS A  
12 VIOLATION WHICH REQUIRES IMMEDIATE RELIEF.

13 2. THE OWNER OR OPERATOR OF A BOARDING KENNEL CITED FOR VIOLATIONS  
14 CONSTITUTING A PUBLIC HEALTH HAZARD FOR WHICH A TEMPORARY RESTRAINING  
15 ORDER HAS BEEN ISSUED AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION,  
16 SHALL:

17 (A) HAVE AN OPPORTUNITY TO CORRECT SUCH VIOLATION AS SOON AS PRACTICA-  
18 BLE; OR

19 (B) BE PROVIDED WITH A HEARING WITHIN FIFTEEN DAYS. UPON A FINDING OF  
20 A VIOLATION, AN OWNER OR OPERATOR OF SUCH BOARDING KENNEL MAY BE ORDERED  
21 TO CORRECT SUCH VIOLATION WITHIN ONE WEEK AND FINED NO MORE THAN ONE  
22 HUNDRED DOLLARS PER VIOLATION. UPON A FINDING OF A REPEAT OR SUBSEQUENT  
23 VIOLATION, SUCH OWNER OR OPERATOR SHALL BE FINED NO MORE THAN FIVE  
24 HUNDRED DOLLARS.

25 S 1349-F. SEPARABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVI-  
26 SION, SECTION OR PART OF THIS TITLE SHALL BE ADJUDGED BY ANY COURT OF  
27 COMPETENT JURISDICTION TO BE INVALID, THE JUDGMENT SHALL NOT AFFECT,  
28 IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS  
29 OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION OR  
30 PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH THE JUDGMENT  
31 SHALL HAVE BEEN RENDERED.

32 S 2. This act shall take effect on the one hundred twentieth day after  
33 it shall have become a law; provided, however, that effective immediate-  
34 ly, the addition, amendment and/or repeal of any rule or regulation  
35 necessary for the implementation of this act on its effective date are  
36 authorized and directed to be made and completed on or before such  
37 effective date.