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

6353

2009-2010 Regular Sessions

I N A S S E M B L Y

March 2, 2009

Introduced by M. of A. KAVANAGH, RAIA -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the animal population control program

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

Section 1. The section heading and subdivisions 1, 3, 4 and 7 of section 117-a of the agriculture and markets law, the section heading and subdivision 3 as added by chapter 473 of the laws of 1995, subdivisions 1, 4 and 7 as amended by chapter 205 of the laws of 2000 and paragraph (c) of subdivision 3 as amended by chapter 534 of the laws of 2005, are amended to read as follows:

Animal population control program; PURPOSE. 1. The department shall establish and implement an animal population control program. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision two of this section. The department shall use its best efforts to encourage every adoption facility that qualifies for participation in the low-cost spay-neuter program to do so to the maximum possible extent AND TO INFORM LOW INCOME PET OWNERS OF THEIR ELIGIBILITY FOR LOW COST SPAY AND NEUTER SERVICES REGARDLESS OF WHERE THEY OBTAINED THEIR PETS AS WELL AS THE PROCEDURES TO APPLY FOR AND OBTAIN SUCH SERVICES.

3. Any person submitting a dog or cat for spaying or neutering pursuant to the provisions of this section shall:

(a) Furnish any licensed veterinarian of this state participating in the program with proof that the owner meets the eligibility criteria

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

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pursuant to the provisions of subdivisions two and two-a of this section;

(b) Sign a consent form certifying that the person is the owner of the dog or cat or is authorized by the owner to present the dog or cat for the procedure;

(c) (1) Pay a fee of thirty dollars to the veterinarian participating in the program if such dog or cat was adopted from a duly incorporated pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or duly incorporated dog or cat protective association, (2) or pay a fee of twenty dollars to the veterinarian participating in the program if such person participates in any of the programs enumerated in paragraph (b) of subdivision two of this section[.]; AND

(D) When eligibility to participate in the animal population control program is based upon participation in a program enumerated in paragraph (b) of subdivision two of this section, the department shall issue vouchers to dog and cat owners upon provision of requisite proof required under paragraph (b) of subdivision two of this section and in accordance with any rules and regulations promulgated by the commissioner.

4. (a) Any licensed veterinarian of this state including, but not limited to, licensed veterinarians working at municipal facilities which provide dog and cat spaying and neutering services, other than with respect to animals who would not be eligible pursuant to subdivision two-a of this section may participate in the program upon filing with the commissioner an application therefor, on forms prescribed by the commissioner, which application shall certify, in addition to any other information requested by the commissioner, an animal sterilization fee schedule listing the fees charged for spaying and neutering in the normal course of business and for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies, or if deemed necessary for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be on the first day of January two thousand one and the first day of January each third year thereafter and the number of spay/neuter procedures done by such facility during such period. Additionally, such licensed veterinarian shall certify that the fees [charged for procedures and vaccinations for which reimbursement is sought] FILED WITH THE COMMISSIONER are equal to or less than the lowest fees charged to a private client for such procedures during the previous year. The veterinarian shall also provide the name of the veterinarian, animal hospital, veterinary clinic or other entity to which [such] reimbursement is to be made. These fees may vary with the animal's weight, sex and species. The commissioner may, however, disqualify from participation in the program any veterinarian whose fees are deemed unreasonable. THE FEES FOR STERILIZATION AND VACCINATIONS PERFORMED PURSUANT TO THIS SECTION SHALL BE SET TRIENNIALLY BY THE COMMISSIONER BASED UPON THE AVERAGE OF THE FEES SET FORTH ON THE CERTIFIED FEE SCHEDULES FILED WITH THE COMMISSIONER BY PARTICIPATING VETERINARIANS. Nothing contained in this subdivision shall limit the right of the state education department to undertake such actions as it may deem necessary to enforce the provisions of article one hundred thirty-five of the education law.

(b) Licensed veterinarians of this state participating in the program shall provide, if deemed necessary, for the presurgical immunization of dogs against distemper, hepatitis, leptospirosis, parvovirus and rabies,

or if deemed necessary, for the presurgical immunization of cats against feline panleukopenia, calici, pneumonitis, rhinotracheitis and rabies, as the case may be. Charges for such services to the owner or person submitting the dog or cat for spaying or neutering shall be no more than fifty percent of the amount [certified] SET BY THE COMMISSIONER pursuant to paragraph (a) of this subdivision. In addition to other reimbursement to which a licensed veterinarian may be entitled under this section, a veterinarian may seek reimbursement for expenses incurred as a direct result of extraordinary circumstances which occurred during the course of a spay/neuter procedure up to an amount approved by the department which shall not exceed twenty percent of [such veterinarian's] THE fee SET BY THE COMMISSIONER for performing such procedure.

(c) The state comptroller upon the submission of vouchers by the commissioner shall, to the extent that monies are available from the animal population control fund, reimburse participating veterinarians for eighty percent of the balance of the fee charged pursuant to paragraph (a) of this subdivision, and after deducting that portion of the fee already paid to the veterinarian by those persons participating in the program pursuant to paragraph (c) of subdivision three of this section, for each animal spaying and neutering procedure administered after the submission to the commissioner of an animal sterilization certificate, prescribed by the commissioner, signed by the veterinarian and the owner of the animal or person authorized by the owner, for each spaying and neutering procedure performed in conjunction with the animal population control program. Notwithstanding the foregoing provisions, the state comptroller shall not reimburse veterinarians for any voucher which shall have been issued by the commissioner more than one year prior to the date upon which it is submitted to the commissioner unless the commissioner shall indicate good cause for the payment of such voucher. If the moneys are not immediately available from such fund, the commissioner shall give priority to approving reimbursement to participating veterinarians from counties from which the amount of fees deposited in such fund, after taking into consideration the administrative expenses to which the department is entitled, exceeds the money paid out to participating veterinarians in such counties. The participating veterinarian shall submit to the commissioner within sixty days of each animal spaying and neutering procedure an animal sterilization certificate for the purposes of reimbursement. FOR PURPOSES OF REIMBURSEMENT UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, THE PARTICIPATING VETERINARIAN SHALL, IN ADDITION, SUBMIT PROOF OF ELIGIBILITY AS PROVIDED IN THIS SECTION. Notwithstanding the provisions of this paragraph, the commissioner shall not approve reimbursement to municipal facilities, not-for-profit organizations, pounds, shelters, duly incorporated societies for the prevention of cruelty to animals, humane societies or dog or cat protective associations except to the extent that they shall have performed spay/neuter procedures in excess of the number of such procedures done by it during nineteen hundred ninety-four.

7. The commissioner shall, in consultation with such professional organizations as the commissioner deems appropriate, develop a list of veterinarians approved [by the commissioner] to participate in the low-cost spay/neuter program who provide care, including, but not limited to, spay/neuter procedures, to dogs and cats. Any otherwise qualifying pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society, or dog or cat protective association shall distribute such list of approved veterinarians to persons adopting a dog or a cat as a precondition to reimbursement under the low-cost

spay/neuter program established in this section. THE DEPARTMENT SHALL DISTRIBUTE SUCH LIST TO THE STATE AND LOCAL AGENCIES RESPONSIBLE FOR ADMINISTERING PROGRAMS ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION. In addition to such distribution, [such pound, shelter, duly incorporated society] NEITHER THE DEPARTMENT NOR THE PARTICIPATING POUNDS, SHELTERS, DULY INCORPORATED SOCIETIES for the prevention of cruelty to animals, humane [society] SOCIETIES or dog or cat protective [association] ASSOCIATIONS shall [not] discriminate against any veterinarian on such list or directly or indirectly require, direct or recommend the utilization or non-utilization of any such veterinarian for any procedure for which reimbursement is to be sought under this program. Such discrimination may, in the discretion of the commissioner, constitute grounds for the revocation of the right of such facility to participate in the program.

S 2. This act shall take effect immediately.