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

8146

2011-2012 Regular Sessions

I N A S S E M B L Y

June 2, 2011

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

AN ACT to amend the agriculture and markets law, in relation to permitting and regulating backyard animal breeding; and to amend the state finance law, in relation to the backyard breeder permit fund

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

Section 1. The agriculture and markets law is amended by adding a new section 403-a to read as follows:

S 403-A. BACKYARD BREEDERS. 1. ANY PERSON, EXCEPT FOR SOMEONE HAVING A VALID PET DEALER LICENSE PURSUANT TO SECTION FOUR HUNDRED THREE OF THIS ARTICLE, WHO, FOR PAY OR OTHER COMPENSATION, BREEDS A FEMALE DOG OR ANY OTHER ANIMAL MUST OBTAIN AN ANIMAL BREEDING PERMIT FROM THE COMMISSIONER.

2. EACH APPLICATION FOR A PERMIT SHALL INCLUDE A NON-REFUNDABLE FEE OF ONE HUNDRED FIFTEEN DOLLARS. EACH PERMIT WHEN ISSUED IS VALID FOR ONE YEAR FROM THE DATE OF ISSUE AND AUTHORIZES THE WHELPING OF NO MORE THAN ONE LITTER PER FEMALE ANIMAL IN ANY TWELVE MONTH PERIOD. RENEWAL APPLICATIONS SHALL BE SUBMITTED TO THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE EXPIRATION OF A CURRENTLY HELD PERMIT.

3. THE COMMISSIONER MAY DELEGATE HIS OR HER AUTHORITY PURSUANT TO THIS SECTION TO ISSUE BACKYARD BREEDER PERMITS TO THE COUNTY OR CITY WHERE THE PET BREEDER SEEKING LICENSURE IS LOCATED. SUCH DELEGATION SHALL BE PURSUANT TO AN AGREEMENT ENTERED INTO BY THE COMMISSIONER AND SUCH CITY OF COUNTY.

4. MONIES RECEIVED BY THE COMMISSIONER FOR A PERMIT PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE BACKYARD BREEDER PERMIT FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-U OF THE STATE FINANCE LAW. ALL FUNDS DEPOSITED INTO SUCH FUND SHALL BE TRANSFERRED ON A YEARLY BASIS TO THE DEPARTMENT.

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

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5. WHERE THE AUTHORITY TO ISSUE A BACKYARD BREEDER PERMIT IS DELEGATED TO THE COUNTY OR CITY PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THAT COUNTY OR CITY MAY DEDUCT ANY ACTUAL AND NECESSARY COSTS ASSOCIATED WITH OPERATION OF THE PROGRAM BEFORE REMITTING TO THE COMPTROLLER ALL FEES COLLECTED DURING THE PRECEDING YEAR. THE REMITTANCE SHALL OCCUR ON THE FIFTH DAY OF EACH YEAR AND BE ACCOMPANIED BY A REPORT OF PERMIT SALES MADE DURING THE YEAR AND ANY REDUCTIONS MADE FOR ACTUAL COSTS OR PROGRAM OPERATION EXPENSES. A COPY OF SUCH REPORT SHALL SIMULTANEOUSLY BE SENT TO THE COMMISSIONER. ALL LICENSE FEES SO REMITTED SHALL BE DEPOSITED IN THE BACKYARD BREEDER PERMIT FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-U OF THE STATE FINANCE LAW.

6. THE COMMISSIONER SHALL PROVIDE A COPY OF THE LICENSE TO THE BACK-YARD BREEDER. THE COMMISSIONER SHALL ALSO RETAIN A COPY OF THE LICENSE. IN THOSE COUNTIES WHERE THE COMMISSIONER HAS DELEGATED THE LICENSING AUTHORITY TO THE COUNTY OR CITY THAT COUNTY OR CITY SHALL, PROVIDE A COPY OF THE LICENSE TO THE PET DEALER AND A COPY TO THE COMMISSIONER. THE COUNTY OR CITY SHALL ALSO RETAIN A COPY OF THE LICENSE IN ITS OWN RECORDS.

7. NO BACKYARD BREEDER SHALL PUBLISH OR ADVERTISE THE SALE OR AVAIL-ABILITY OF ANY ANIMAL UNLESS THE PUBLICATION OR ADVERTISEMENT IS ACCOM-PANIED BY THE BACKYARD BREEDER PERMIT NUMBER. NOTWITHSTANDING THE FORE-GOING, A BACKYARD BREEDER IN OPERATION ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION, WHO HAS FILED AN APPLICATION FOR AN INITIAL LICENSE UNDER THIS ARTICLE MAY PUBLISH OR ADVERTISE THE SALE OR AVAILABILITY OF ANY ANIMAL WITHOUT THE PUBLICATION OR ADVERTISEMENT BEING ACCOMPANIED BY THE BACKYARD BREEDER PERMIT NUMBER THE COMMISSIONER GRANTS OR, AFTER NOTICE AND OPPORTUNITY TO BE HEARD, DECLINES TO GRANT SUCH PERMIT.

8. BACKYARD BREEDERS SHALL KEEP A COPY OF THEIR PERMIT ON THE PREMISES WHERE THE ANIMALS ARE KEPT FOR SALE SO THAT THEY MAY BE READILY SEEN BY POTENTIAL CONSUMERS.

9. BACKYARD BREEDERS SHALL BE REQUIRED TO MAINTAIN THE MINIMUM STAND-ARDS OF ANIMAL CARE PURSUANT TO SECTION FOUR HUNDRED ONE OF THIS ARTICLE AND SHALL ADDITIONALLY BE SUBJECT TO INSPECTION PURSUANT TO SECTION FOUR HUNDRED FIVE OF THIS ARTICLE.

10. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO FARM, LIVESTOCK OR OTHER AGRICULTURAL ANIMALS REGULATED UNDER OTHER PROVISIONS OF THIS CHAPTER. NOR SHALL THEY ALLOW BACKYARD BREEDING WHERE SUCH ACTIVITY IS PROHIBITED BY OTHER LAWS.

S 2. The state finance law is amended by adding a new section 99-u to read as follows:

S 99-U. BACKYARD BREEDER PERMIT FUND. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF AGRI-CULTURE AND MARKETS A SPECIAL FUND TO BE KNOWN AS THE "BACKYARD BREEDER PERMIT FUND".

SUCH FUND SHALL CONSIST OF ALL MONEYS COLLECTED FOR THE PURPOSE OF SUCH FUND AND ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW. ANY INTEREST EARNED BY THE INVESTMENT OF MONEYS IN SUCH FUND SHALL BE ADDED TO SUCH FUND, BECOME A PART OF SUCH FUND, AND BE USED FOR THE PURPOSE OF SUCH FUND.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the commissioner of agricul-ture and markets is authorized to promulgate any rules and regulations necessary to implement this act on or before its effective date.