

7230

I N S E N A T E

May 2, 2012

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

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

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

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

3 ARTICLE 26-C

4 CARE OF ANIMALS BY BREEDERS

5 SECTION 420. DEFINITIONS.

6 421. PREEMPTION OF LOCAL LAWS.

7 422. MINIMUM STANDARDS OF ANIMAL CARE.

8 423. RECORDS OF PURCHASE AND SALE.

9 424. LICENSES.

10 425. LICENSE REFUSAL, SUSPENSION OR REVOCATION.

11 426. INSPECTION OF BREEDERS.

12 427. VIOLATIONS.

13 428. CONSTRUCTION WITH OTHER LAWS.

14 S 420. DEFINITIONS. AS USED IN THIS ARTICLE:

15 1. "ANIMAL" MEANS A DOG OR A CAT.

16 2. "CONSUMER" MEANS ANY INDIVIDUAL PURCHASING AN ANIMAL FROM A BREED-
17 ER. A BREEDER SHALL NOT BE CONSIDERED A CONSUMER.

18 3. "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, PARTNERSHIP, LIMITED
19 LIABILITY COMPANY, ASSOCIATION, MUNICIPALITY OR OTHER LEGAL ENTITY.

20 4. "BREEDER" MEANS ANY PERSON WHO BREEDS THREE OF MORE ANIMALS FOR
21 SALE PER YEAR FOR PROFIT. SUCH TERM SHALL NOT INCLUDE DULY INCORPORATED
22 HUMANE SOCIETIES DEDICATED TO THE CARE OF UNWANTED ANIMALS WHICH MAKE
23 SUCH ANIMALS AVAILABLE FOR ADOPTION WHETHER OR NOT A FEE FOR SUCH
24 ADOPTION IS CHARGED.

25 S 421. PREEMPTION OF LOCAL LAWS. THE PROVISIONS OF THIS ARTICLE SHALL
26 APPLY TO ALL MUNICIPALITIES, INCLUDING CITIES WITH A POPULATION OF ONE
27 MILLION OR MORE, AND SHALL SUPERSEDE ANY LOCAL LAW, RULE, REGULATION OR
28 ORDINANCE REGULATING OR LICENSING BREEDERS. NOTHING IN THIS SECTION

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

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1 SHALL BE CONSTRUED TO LIMIT OR RESTRICT ANY MUNICIPALITY FROM ENFORCING
2 ANY LOCAL LAW, RULE, REGULATION OR ORDINANCE OF GENERAL APPLICATION TO
3 BUSINESSES GOVERNING PUBLIC HEALTH, SAFETY OR THE RIGHTS OF CONSUMERS.

4 S 422. MINIMUM STANDARDS OF ANIMAL CARE. BREEDERS SHALL COMPLY WITH
5 THE FOLLOWING MINIMUM STANDARDS OF CARE FOR EVERY ANIMAL IN THEIR CUSTO-
6 DY OR POSSESSION.

7 1. HOUSING. (A) ANIMALS SHALL BE HOUSED IN PRIMARY ENCLOSURES OR
8 CAGES, WHICH SHALL BE CONSTRUCTED SO AS TO BE STRUCTURALLY SOUND. SUCH
9 ENCLOSURES SHALL BE MAINTAINED IN GOOD REPAIR TO CONTAIN THE ANIMAL
10 HOUSED INSIDE AND PROTECT IT FROM INJURY. SURFACES SHALL HAVE AN IMPER-
11 VIOUS SURFACE SO AS NOT TO PERMIT THE ABSORPTION OF FLUIDS AND WHICH CAN
12 BE THOROUGHLY AND REPEATEDLY CLEANED AND DISINFECTED WITHOUT RETAINING
13 ODORS.

14 (B) PRIMARY ENCLOSURES OR CAGES HOUSING THE ANIMALS SHALL PROVIDE
15 SUFFICIENT SPACE TO ALLOW EACH ANIMAL ADEQUATE FREEDOM OF MOVEMENT TO
16 MAKE NORMAL POSTURAL ADJUSTMENTS, INCLUDING THE ABILITY TO STAND UP,
17 TURN AROUND, AND LIE DOWN WITH ITS LIMBS OUTSTRETCHED. IF THE FLOORING
18 IS CONSTRUCTED OF METAL STRANDS, SUCH STRANDS SHALL EITHER BE GREATER
19 THAN ONE-EIGHTH INCH IN DIAMETER (NINE GAUGE WIRE) OR SHALL BE COATED
20 WITH MATERIAL SUCH AS PLASTIC OR FIBERGLASS, AND SHALL BE CONSTRUCTED SO
21 AS TO NOT ALLOW PASSAGE OF THE ANIMAL'S FEET THROUGH ANY OPENING IN THE
22 FLOOR OF THE ENCLOSURE. SUCH FLOORING SHALL NOT SAG OR BEND SUBSTANTIAL-
23 LY BETWEEN STRUCTURAL SUPPORTS.

24 (C) HOUSING FACILITIES SHALL BE ADEQUATELY VENTILATED AT ALL TIMES TO
25 PROVIDE FOR THE HEALTH AND WELL-BEING OF THE ANIMAL. VENTILATION SHALL
26 BE PROVIDED BY NATURAL OR MECHANICAL MEANS, SUCH AS WINDOWS, VENTS,
27 FANS, OR AIR CONDITIONERS. VENTILATION SHALL BE ESTABLISHED TO MINIMIZE
28 DRAFTS, ODORS, AND MOISTURE CONDENSATION.

29 (D) THE TEMPERATURE SURROUNDING THE ANIMAL SHALL BE COMPATIBLE WITH
30 THE HEALTH AND WELL-BEING OF THE ANIMAL. TEMPERATURE SHALL BE REGULATED
31 BY HEATING AND COOLING TO SUFFICIENTLY PROTECT EACH ANIMAL FROM EXTREMES
32 OF TEMPERATURE AND SHALL NOT BE PERMITTED TO FALL BELOW OR RISE ABOVE
33 RANGES WHICH WOULD POSE A HEALTH HAZARD TO THE ANIMAL. THIS SHALL
34 INCLUDE SUPPLYING SHADE FROM SUNLIGHT BY NATURAL OR ARTIFICIAL MEANS.

35 (E) THE INDOOR FACILITIES HOUSING THE ANIMALS SHALL BE PROVIDED WITH
36 ADEQUATE LIGHTING SUFFICIENT TO PERMIT ROUTINE INSPECTION AND CLEANING
37 AND BE ARRANGED SO THAT EACH ANIMAL IS PROTECTED FROM EXCESSIVE ILLUMI-
38 NATION WHICH POSES A HEALTH HAZARD TO THE ANIMAL.

39 (F) THE INDOOR AND OUTDOOR FACILITIES HOUSING THE ANIMALS, INCLUDING
40 THE PRIMARY ENCLOSURE OR CAGE, SHALL BE DESIGNED TO ALLOW FOR THE EFFI-
41 CIENT ELIMINATION OF ANIMAL WASTE AND WATER IN ORDER TO KEEP THE ANIMAL
42 DRY AND PREVENT THE ANIMAL FROM COMING INTO CONTACT WITH THESE
43 SUBSTANCES. IF DRAINS ARE USED THEY SHALL BE CONSTRUCTED IN A MANNER TO
44 MINIMIZE FOUL ODORS AND BACKUPS OF SEWAGE. IF A DRAINAGE SYSTEM IS USED
45 IT SHALL COMPLY WITH FEDERAL, STATE AND LOCAL LAWS RELATING TO POLLUTION
46 CONTROL.

47 (G) IN THE EVENT THAT A BREEDER HAS A PREGNANT OR NURSING DOG ON HIS
48 OR HER PREMISES, THE BREEDER SHALL PROVIDE A WHELPING BOX FOR SUCH DOG.

49 2. SANITATION. HOUSING FACILITIES, INCLUDING PRIMARY ENCLOSURES AND
50 CAGES, SHALL BE KEPT IN A CLEAN CONDITION IN ORDER TO MAINTAIN A HEALTHY
51 ENVIRONMENT FOR THE ANIMAL. THIS SHALL INCLUDE REMOVING AND DESTROYING
52 ANY AGENTS INJURIOUS TO THE HEALTH OF THE ANIMAL AND PERIODIC CLEANING.
53 THE PRIMARY ENCLOSURE OR CAGE SHALL BE CONSTRUCTED SO AS TO ELIMINATE
54 EXCESS WATER, EXCRETIONS, AND WASTE MATERIAL. UNDER NO CIRCUMSTANCES
55 SHALL THE ANIMAL REMAIN INSIDE THE PRIMARY ENCLOSURE OR CAGE WHILE IT IS
56 BEING CLEANED WITH STERILIZING AGENTS OR AGENTS TOXIC TO ANIMALS OR

1 CLEANED IN A MANNER LIKELY TO THREATEN THE HEALTH AND SAFETY OF THE
2 ANIMAL. TRASH AND WASTE PRODUCTS ON THE PREMISES SHALL BE PROPERLY
3 CONTAINED AND DISPOSED OF SO AS TO MINIMIZE THE RISKS OF DISEASE,
4 CONTAMINATION, AND VERMIN.

5 3. FEEDING AND WATERING. (A) ANIMALS SHALL BE PROVIDED WITH WHOLESOME
6 AND PALATABLE FOOD, FREE FROM CONTAMINATION AND OF NUTRITIONAL VALUE
7 SUFFICIENT TO MAINTAIN EACH ANIMAL IN GOOD HEALTH.

8 (B) ANIMALS SHALL BE ADEQUATELY FED AT INTERVALS NOT TO EXCEED TWELVE
9 HOURS OR AT LEAST TWICE IN ANY TWENTY-FOUR HOUR PERIOD IN QUANTITIES
10 APPROPRIATE FOR THE ANIMAL SPECIES AGE, UNLESS DETERMINED OTHERWISE BY
11 AND UNDER THE DIRECTION OF A DULY LICENSED VETERINARIAN.

12 (C) FOOD RECEPTACLES SHALL BE PROVIDED IN SUFFICIENT NUMBER, OF
13 ADEQUATE SIZE, AND SO LOCATED AS TO ENABLE EACH ANIMAL IN THE PRIMARY
14 ENCLOSURE OR CAGE TO BE SUPPLIED WITH AN ADEQUATE AMOUNT OF FOOD.

15 (D) ANIMALS SHALL BE PROVIDED WITH REGULAR ACCESS TO CLEAN, FRESH
16 WATER, SUPPLIED IN A SANITARY MANNER SUFFICIENT FOR ITS NEEDS, EXCEPT
17 WHEN THERE ARE INSTRUCTIONS FROM A DULY LICENSED VETERINARIAN TO WITH-
18 HOLD WATER FOR MEDICAL REASONS.

19 4. HANDLING. EACH ANIMAL SHALL BE HANDLED IN A HUMANE MANNER SO AS NOT
20 TO CAUSE THE ANIMAL PHYSICAL INJURY OR HARM.

21 5. VETERINARY CARE. (A) ALL ANIMALS SHALL BE INOCULATED AS REQUIRED BY
22 STATE OR LOCAL LAW. VETERINARY CARE APPROPRIATE TO THE SPECIES SHALL BE
23 PROVIDED WITHOUT UNDUE DELAY WHEN NECESSARY. EACH ANIMAL SHALL BE
24 OBSERVED EACH DAY BY THE BREEDER OR BY A PERSON WORKING UNDER THE
25 BREEDER'S SUPERVISION.

26 (B) IF AN ANIMAL SUFFERS FROM A CONGENITAL OR HEREDITARY CONDITION,
27 DISEASE OR ILLNESS WHICH, IN THE PROFESSIONAL OPINION OF THE BREEDER'S
28 VETERINARIAN, REQUIRES EUTHANASIA, THE VETERINARIAN SHALL HUMANELY
29 EUTHANIZE SUCH ANIMAL WITHOUT UNDUE DELAY.

30 (C) IN THE EVENT AN ANIMAL IS RETURNED TO A BREEDER DUE TO A CONGEN-
31 ITAL OR HEREDITARY CONDITION, ILLNESS, OR DISEASE REQUIRING VETERINARY
32 CARE, THE BREEDER SHALL, WITHOUT UNDUE DELAY, PROVIDE THE ANIMAL WITH
33 THE PROPER VETERINARY CARE.

34 6. HUMANE EUTHANASIA. HUMANE EUTHANASIA OF AN ANIMAL SHALL BE CARRIED
35 OUT IN ACCORDANCE WITH SECTION THREE HUNDRED SEVENTY-FOUR OF THIS CHAP-
36 TER.

37 S 423. RECORDS OF PURCHASE AND SALE. EACH BREEDER SHALL KEEP AND MAIN-
38 TAIN RECORDS FOR EACH ANIMAL PURCHASED, ACQUIRED, HELD, SOLD OR OTHER-
39 WISE DISPOSED OF. THE RECORDS SHALL INCLUDE THE FOLLOWING:

40 1. THE NAME AND ADDRESS OF THE PERSON FROM WHOM EACH ANIMAL WAS
41 ACQUIRED. IF THE PERSON FROM WHOM THE ANIMAL WAS OBTAINED IS A BREEDER
42 LICENSED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE PERSON'S
43 NAME, ADDRESS, AND FEDERAL BREEDER IDENTIFICATION NUMBER. IN THE CASE OF
44 CATS, IF A CAT IS PLACED IN THE CUSTODY OR POSSESSION OF THE BREEDER AND
45 THE SOURCE OF ORIGIN IS UNKNOWN, THE BREEDER SHALL STATE THAT THE SOURCE
46 OF ORIGIN IS UNKNOWN, ACCOMPANIED BY THE DATE, TIME, AND LOCATION OF
47 RECEIPT. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, NO BREEDER
48 SHALL KNOWINGLY BUY, SELL, EXHIBIT, TRANSPORT, OR OFFER FOR SALE, EXHI-
49 BITION OR TRANSPORTATION ANY STOLEN ANIMAL. NO BREEDER SHALL KNOWINGLY
50 SELL ANY CAT OR DOG YOUNGER THAN EIGHT WEEKS OF AGE.

51 2. THE ORIGINAL SOURCE OF EACH ANIMAL IF DIFFERENT THAN THE PERSON
52 RECORDED IN SUBDIVISION ONE OF THIS SECTION.

53 3. THE DATE EACH ANIMAL WAS ACQUIRED.

54 4. A DESCRIPTION OF EACH ANIMAL SHOWING AGE, COLOR, MARKINGS, SEX,
55 BREED, AND ANY INOCULATION, WORMING OR OTHER VETERINARY TREATMENT OR
56 MEDICATION INFORMATION AVAILABLE. RECORDS SHALL ALSO INCLUDE ANY OTHER

1 SIGNIFICANT IDENTIFICATION, IF KNOWN, FOR EACH ANIMAL, INCLUDING ANY
2 OFFICIAL TAG NUMBER, TATTOO OR IMPLANT.

3 5. THE NAME AND ADDRESS OF THE PERSON TO WHOM ANY ANIMAL IS SOLD,
4 GIVEN OR BARTERED, OR TO WHO IT IS OTHERWISE TRANSFERRED OR DELIVERED.
5 THE RECORDS SHALL INDICATE THE DATE AND METHOD OF DISPOSITION.

6 6. RECORDS FOR EACH ANIMAL SHALL BE MAINTAINED FOR A PERIOD OF TWO
7 YEARS FROM THE DATE OF SALE OR TRANSFER, WHICHEVER OCCURS LATER. DURING
8 NORMAL BUSINESS HOURS, THE RECORDS SHALL BE MADE AVAILABLE TO PERSONS
9 AUTHORIZED BY LAW TO ENFORCE THE PROVISIONS OF THIS ARTICLE.

10 S 424. LICENSES. 1. NO PERSON SHALL OPERATE AS A BREEDER UNLESS SUCH
11 PERSON HOLDS A LICENSE ISSUED THEREFOR BY THE COMMISSIONER. NOTWITH-
12 STANDING THE FORGOING, A BREEDER, IN OPERATION ON OR BEFORE THE EFFEC-
13 TIVE DATE OF THIS SECTION, WHO HAS FILED AN APPLICATION FOR AN INITIAL
14 LICENSE UNDER THIS ARTICLE SHALL BE AUTHORIZED TO OPERATE WITHOUT SUCH
15 LICENSE UNTIL THE COMMISSIONER GRANTS OR, AFTER NOTICE AND OPPORTUNITY
16 TO BE HEARD, DECLINES TO GRANT SUCH LICENSE. EACH APPLICATION FOR A
17 LICENSE SHALL BE MADE ON A FORM SUPPLIED BY THE DEPARTMENT AND SHALL
18 CONTAIN SUCH INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT. RENEWAL
19 APPLICATIONS SHALL BE SUBMITTED TO THE COMMISSIONER AT LEAST THIRTY DAYS
20 PRIOR TO THE COMMENCEMENT OF THE NEXT LICENSE YEAR.

21 2. THE COMMISSIONER MAY DELEGATE HIS OR HER AUTHORITY PURSUANT TO THIS
22 SECTION TO ISSUE BREEDER LICENSES TO THE COUNTY OR CITY WHERE THE BREED-
23 ER IS SEEKING LICENSURE IS LOCATED. SUCH DELEGATION SHALL BE PURSUANT TO
24 AN AGREEMENT ENTERED INTO BY THE COMMISSIONER AND SUCH CITY OR COUNTY.

25 3. EACH APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY A NON-RE-
26 FUNDABLE FEE OF ONE HUNDRED DOLLARS, EXCEPT THAT THOSE BREEDERS WHO
27 ENGAGE IN THE SALE OF LESS THAN TWENTY-FIVE ANIMALS IN A YEAR, SHALL PAY
28 A NON-REFUNDABLE FEE OF TWENTY-FIVE DOLLARS.

29 4. THE MONEYS RECEIVED BY THE COMMISSIONER PURSUANT TO THIS SECTION
30 SHALL BE DEPOSITED IN THE "BREEDER LICENSING FUND" ESTABLISHED PURSUANT
31 TO SECTION NINETY-EIGHT-D OF THE STATE FINANCE LAW.

32 5. WHERE THE AUTHORITY TO ISSUE BREEDER LICENSES IS DELEGATED TO A
33 COUNTY OR CITY PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THAT COUNTY
34 OR CITY SHALL, ON OR BEFORE THE FIFTH DAY OF EACH MONTH, REMIT TO THE
35 APPROPRIATE MUNICIPAL FINANCIAL OFFICER ONE HUNDRED PERCENT OF ALL
36 LICENSE FEES COLLECTED DURING THE PRECEDING MONTH. THE REMITTANCE SHALL
37 BE ACCOMPANIED BY A REPORT OF LICENSE SALES MADE DURING SUCH MONTH. A
38 COPY OF SUCH REPORT SHALL SIMULTANEOUSLY BE SENT TO THE COMMISSIONER.
39 ALL LICENSE FEES SO REMITTED SHALL BE THE PROPERTY OF THE MUNICIPALITY,
40 AND SHALL BE USED SOLELY FOR THE PURPOSE OF CARRYING OUT AND ENFORCING
41 THE PROVISIONS OF THIS ARTICLE AND OF ARTICLE THIRTY-FIVE-D OF THE
42 GENERAL BUSINESS LAW.

43 6. INSPECTION IN ACCORDANCE WITH SECTION FOUR HUNDRED TWENTY-SIX OF
44 THIS ARTICLE, THE RESULTS OF WHICH ESTABLISH COMPLIANCE WITH THE
45 PROVISIONS OF THIS ARTICLE AND WITH THE PROVISIONS OF ARTICLE
46 THIRTY-FIVE-D OF THE GENERAL BUSINESS LAW REGARDING RECORDKEEPING AND
47 CONSUMER DISCLOSURE REQUIREMENTS FOR BREEDERS, SHALL PRECEDE ISSUANCE OF
48 A LICENSE OR RENEWAL THEREOF UNDER THIS SECTION.

49 7. UPON VALIDATION BY THE COMMISSIONER OR THE COUNTY OR CITY AUTHOR-
50 IZED UNDER THIS SECTION TO ISSUE BREEDER LICENSES, THE APPLICATION SHALL
51 BECOME THE LICENSE OF THE BREEDER.

52 8. THE COMMISSIONER SHALL PROVIDE A COPY OF THE LICENSE TO THE BREED-
53 ER. THE COMMISSIONER SHALL ALSO RETAIN A COPY OF THE LICENSE. IN THOSE
54 COUNTIES WHERE THE COMMISSIONER HAS DELEGATED THE LICENSING AUTHORITY TO
55 THE COUNTY OR CITY THAT COUNTY OR CITY SHALL, PROVIDE A COPY OF THE

LICENSE TO THE BREEDER AND A COPY TO THE COMMISSIONER. THE COUNTY OR CITY SHALL ALSO RETAIN A COPY OF THE LICENSE IN ITS OWN RECORDS.

9. NO BREEDER SHALL PUBLISH OR ADVERTISE THE SALE OR AVAILABILITY OF ANY DOG OR CAT UNLESS THE PUBLICATION OR ADVERTISEMENT IS ACCOMPANIED BY THE BREEDER'S LICENSE NUMBER. NOTWITHSTANDING THE FOREGOING, A BREEDER, IN OPERATION ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION, WHO HAS FILED AN APPLICATION FOR THE INITIAL LICENSE UNDER THIS ARTICLE MAY PUBLISH OR ADVERTISE THE SALE OF AVAILABILITY OF ANY ANIMAL WITHOUT THE PUBLICATION OR ADVERTISEMENT BEING ACCOMPANIED BY THE BREEDER'S LICENSE NUMBER UNTIL THE COMMISSIONER GRANTS OR, AFTER NOTICE AND OPPORTUNITY TO BE HEARD, DECLINES TO GRANT SUCH LICENSE.

10. SUCH LICENSE SHALL BE RENEWABLE ANNUALLY, TOGETHER WITH THE PAYMENT OF A NON-REFUNDABLE FEE OF ONE HUNDRED DOLLARS, OR UPON PAYMENT OF A NON-REFUNDABLE FEE OF TWENTY-FIVE DOLLARS FOR THOSE BREEDERS WHO ENGAGE IN THE SALE OF LESS THAN TWENTY-FIVE ANIMALS IN A YEAR.

11. BREEDERS SHALL CONSPICUOUSLY DISPLAY THEIR LICENSE ON THE PREMISES WHERE THE ANIMALS ARE KEPT FOR SALE SO THAT THEY MAY BE READILY SEEN BY POTENTIAL CONSUMERS.

S 425. LICENSE REFUSAL, SUSPENSION OR REVOCATION. THE COMMISSIONER MAY DECLINE TO GRANT OR RENEW OR MAY SUSPEND OR REVOKE A BREEDER LICENSE, ON ANY OF THE FOLLOWING GROUNDS:

1. MATERIAL MISSTATEMENT IN LICENSE APPLICATION; OR
2. MATERIAL MISSTATEMENT IN OR FALSIFICATION OF RECORDS REQUIRED TO BE KEPT PURSUANT TO THIS ARTICLE OR UNDER ANY REGULATION PROMULGATED THEREUNDER, OR FAILURE TO ALLOW THE COMMISSIONER OR HIS OR HER AUTHORIZED AGENTS TO INSPECT RECORDS OR BREEDER FACILITIES.

3. VIOLATION OF ANY PROVISION OF THIS ARTICLE OR CONVICTION 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 PROMULGATED PURSUANT THERETO RELATING TO THE ENDANGERMENT OF THE LIFE OR HEALTH OF AN ANIMAL.

4. BEFORE ANY LICENSE SHALL BE SUSPENDED OR REVOKED, THE COMMISSIONER, OR ANY HEARING OFFICER HE OR SHE MAY DESIGNATE, SHALL HOLD A HEARING OR UPON DUE NOTICE TO THE LICENSEE, IN ACCORDANCE WITH ANY REGULATIONS PROMULGATED BY THE DEPARTMENT AND IN ACCORDANCE WITH ARTICLES THREE AND FOUR OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

5. ANY ACTION OF THE COMMISSIONER SHALL BE SUBJECT TO JUDICIAL REVIEW IN A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 426. INSPECTION OF BREEDERS. THE BREEDER SHALL, AT THE BREEDER'S EXPENSE, HAVE A VETERINARIAN LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-FIVE OF THE EDUCATION LAW AT A MINIMUM OF SIX MONTH INTERVALS INSPECT HIS OR HER RECORDS, FACILITIES AND ANIMALS TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. THE VETERINARIAN ENGAGED IN THIS INSPECTION SHALL CERTIFY THAT THE BREEDER IS IN COMPLIANCE WITH THIS SECTION AND THAT THE VETERINARIAN DOES NOT OTHERWISE PROVIDE VETERINARY SERVICES TO OR HAVE A FINANCIAL INTEREST WITH THE BREEDER.

S 427. VIOLATIONS. 1. IN ADDITION TO THE PENALTIES PROVIDED FOR IN THIS SECTION, A BREEDER WHO VIOLATES ANY PROVISIONS OF THIS ARTICLE MAY BE SUBJECT TO THE DENIAL, REVOCATION, SUSPENSION OR REFUSAL OF RENEWAL OF HIS OR HER LICENSE IN ACCORDANCE WITH THE PROVISIONS OF SECTION FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

1 2. VIOLATION OF ANY PROVISION IN THIS ARTICLE, IS A CIVIL OFFENSE, FOR
2 WHICH A PENALTY OF NOT LESS THAN FIFTY DOLLARS AND NOT MORE THAN ONE
3 THOUSAND DOLLARS FOR EACH VIOLATION MAY BE IMPOSED.

4 3. THE PROVISIONS OF THIS ARTICLE MAY BE ENFORCED CONCURRENTLY BY THE
5 DEPARTMENT AND BY A COUNTY OR CITY TO WHICH THE COMMISSIONER HAS DELEG-
6 ATED HIS OR HER LICENSING AND INSPECTION AUTHORITY PURSUANT TO SECTION
7 FOUR HUNDRED TWENTY-FOUR AND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE,
8 AND ALL MONEYS COLLECTED THEREAFTER SHALL BE RETAINED BY SUCH MUNICI-
9 PALITY OR LOCAL GOVERNMENT.

10 S 428. CONSTRUCTION WITH OTHER LAWS. 1. NOTHING IN THIS ARTICLE SHALL
11 BE CONSTRUED TO LIMIT OR RESTRICT AGENTS OR OFFICERS OF SOCIETIES FOR
12 THE PREVENTION OF CRUELTY TO ANIMALS OR THE POLICE FROM ENFORCING OTHER
13 PROVISIONS OF ARTICLE TWENTY-SIX OF THIS CHAPTER OR ANY OTHER LAW RELAT-
14 ING TO THE HUMANE TREATMENT OF OR CRUELTY TO ANIMALS.

15 2. THE PROVISIONS OF THIS ARTICLE SHALL NOT PERTAIN TO NOT-FOR-PROFIT
16 ORGANIZATIONS.

17 S 2. The state finance law is amended by adding a new section 98-d to
18 read as follows:

19 S 98-D. BREEDER LICENSING FUND. 1. THERE IS HEREBY ESTABLISHED IN THE
20 JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION
21 AND FINANCE A FUND TO BE KNOWN AS THE "BREEDER LICENSING FUND".

22 2. SUCH FUND SHALL CONSIST OF ALL MONIES COLLECTED PURSUANT TO ARTICLE
23 TWENTY-SIX-C OF THE AGRICULTURE AND MARKETS LAW, EXCEPT FOR MONIES
24 COLLECTED PURSUANT TO SUBDIVISION FIVE OF SECTION FOUR HUNDRED
25 TWENTY-FOUR OF SUCH ARTICLE, AND ALL OTHER MONIES CREDITED OR TRANS-
26 FERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

27 3. MONIES OF THE FUND SHALL BE EXPENDED SOLELY FOR THE PURPOSES OF
28 CARRYING OUT THE PROVISIONS OF ARTICLE THIRTY-FIVE-D OF THE GENERAL
29 BUSINESS LAW AND ARTICLE TWENTY-SIX-C OF THE AGRICULTURE AND MARKETS
30 LAW. MONIES SHALL BE PAID OUT OF THE FUND ON THE AUDIT AND WARRANT OF
31 THE STATE COMPTROLLER ON VOUCHERS APPROVED BY THE COMMISSIONER OF AGRI-
32 CULTURE AND MARKETS. ANY INTEREST RECEIVED BY THE COMPTROLLER ON MONIES
33 ON DEPOSIT IN THE BREEDER LICENSING FUND SHALL BE RETAINED IN AND BECOME
34 PART OF SUCH FUND.

35 S 3. Section 401 of the agriculture and markets law is amended by
36 adding a new subdivision 7 to read as follows:

37 7. PET DEALERS SHALL ONLY SELL PETS OBTAINED FROM LICENSED BREEDERS
38 PURSUANT TO ARTICLE TWENTY-SIX-C OF THIS CHAPTER.

39 S 4. Subdivision 6 of section 402 of the agriculture and markets law
40 is renumbered subdivision 7 and a new subdivision 6 is added to read as
41 follows:

42 6. FOR ALL ANIMALS BOUGHT BY THE PET DEALER, THE PET DEALER MUST HAVE
43 A RECORD THAT SUCH PURCHASE CAME FROM A BREEDER WHICH IS EITHER LICENSED
44 OR EXEMPT PURSUANT TO ARTICLE TWENTY-SIX-C OF THIS CHAPTER.

45 S 5. This act shall take effect April 1, 2013; provided, however, that
46 any rules and/or regulations necessary for the timely implementation of
47 this act on its effective date shall be promulgated on or before such
48 date.