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

3478--B

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

Introduced by Sens. OPPENHEIMER, LANZA -- 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 and the general business law, in relation to penalties and fees for pet dealers

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

Section 1. Section 404 of the agriculture and markets law is amended by adding a new subdivision 6 to read as follows:

6. THE REFUSAL, SUSPENSION, OR REVOCATION OF A PET DEALER'S LICENSE UNDER THIS SECTION SHALL NOT PREVENT THE LEVYING OF ADDITIONAL CIVIL PENALTIES, AS PROVIDED IN SECTION FOUR HUNDRED SIX OF THIS ARTICLE, FOR VIOLATIONS.

S 2. Subdivision 2 of section 406 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

2. Violation of any provision of this article, is a civil offense, for which a penalty of not less than fifty dollars and not more than [one] TWO thousand FIVE HUNDRED dollars for each violation may be imposed. THE COMMISSIONER SHALL, AMONG OTHER FACTORS HE OR SHE DEEMS APPROPRIATE, CONSIDER THE SEVERITY OF THE VIOLATION AND THE SALES VOLUME OF THE LICENSEE IN VIOLATION IN DETERMINING THE AMOUNT OF THE PENALTY.

S 3. Subdivision 1 of section 755 of the general business law, as amended by chapter 259 of the laws of 2000, is amended to read as follows:

1. In addition to the other remedies provided, whenever there shall be a violation of this article, application may be made by the attorney

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

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general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not less than fifty dollars and not more than [one] TWO thousand FIVE HUNDRED dollars. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.