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

5048

2013-2014 Regular Sessions

I N S E N A T E

May 7, 2013

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

AN ACT to amend chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, in relation to licensing of dogs in a certain city; to amend the administrative code of the city of New York, in relation to the animal population control fund; and to repeal certain provisions of chapter 115 of the laws of 1894, relating to the better protection of lost or strayed animals and for securing the rights of owners thereof, relating to licensing of dogs in a certain city

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

Section 1. Sections 1, 2, 2-a, 3, 3-a and 4 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, are REPEALED and four new sections 1, 2, 3 and 4 are added to read as follows:

SECTION 1. THE PROVISIONS OF THIS ACT SHALL APPLY IN THE CITY OF NEW YORK.

S 2. (1) EVERY PERSON WHO OWNS OR HARBORS ONE OR MORE DOGS WITHIN THE CORPORATE LIMITS OF SUCH CITY, SHALL PROCURE A LICENSE FOR EACH DOG AS PROVIDED IN THIS ACT. IN APPLYING FOR SUCH LICENSE TO BE ISSUED OR RENEWED, THE APPLICANT SHALL PROVIDE IN WRITING THE NAME, SEX, BREED, AGE, COLOR AND MARKINGS OF THE DOG FOR WHICH THE LICENSE IS TO BE PROCURED OR RENEWED AND SUCH INFORMATION THAT THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OF SUCH CITY DEEMS NECESSARY TO NOTIFY THE APPLICANT WHEN THE LICENSE IS DUE TO BE RENEWED OR TO CONTACT THE APPLICANT IN THE EVENT THE DOG IS FOUND AFTER BECOMING LOST OR STRAYED. SUCH COMMISSIONER MAY ISSUE RULES REQUIRING PROOF OF RABIES VACCINATION, OR AN AFFIRMATION THAT SUCH VACCINE HAS BEEN ADMINISTERED, AS PART OF THE APPLICATION FOR SUCH LICENSE TO BE ISSUED OR RENEWED.

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

LBD03124-01-3

(2) LICENSES ISSUED OR RENEWED UNDER THIS ACT SHALL BE VALID FOR A TERM OF ONE YEAR OR, PURSUANT TO RULES ISSUED BY SUCH COMMISSIONER, FOR A PERIOD GREATER THAN ONE YEAR.

(3) THE FEES FOR A LICENSE ISSUED OR RENEWED UNDER THIS ACT SHALL BE SET BY LOCAL LAW, SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION. THERE SHALL BE A BASE FEE FOR A LICENSE TO BE ISSUED OR RENEWED FOR ANY DOG. THERE SHALL BE AN ADDITIONAL FEE FOR A LICENSE TO BE ISSUED OR RENEWED FOR A NON-STERILIZED DOG. THE AMOUNT OF SUCH ADDITIONAL FEE SHALL BE AT LEAST EIGHTY-FIVE PERCENT OF THE AMOUNT OF THE BASE FEE. APPLICANTS SHALL PAY THE ADDITIONAL FEE UNLESS THEIR APPLICATION IS ACCOMPANIED BY: (I) A STATEMENT SIGNED BY A LICENSED VETERINARIAN PROVIDING THAT THE DOG HAS BEEN STERILIZED OR THAT SUCH VETERINARIAN HAS EXAMINED THE DOG AND FOUND THAT BECAUSE OF OLD AGE OR OTHER PERMANENT MEDICAL CONDITION, THE LIFE OF THE DOG WOULD BE ENDANGERED BY STERILIZATION, OR (II) A STATEMENT, APPROVED AS TO FORM BY SUCH COMMISSIONER AND AFFIRMED BY THE APPLICANT, THAT THE DOG HAS BEEN STERILIZED.

(4) THE AMOUNT COLLECTED FOR THE ADDITIONAL FEE CHARGED FOR A LICENSE TO BE ISSUED OR RENEWED FOR AN UNSTERILIZED DOG AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION SHALL BE FORWARDED TO THE CITY COMPTROLLER FOR DEPOSIT IN THE ANIMAL POPULATION CONTROL FUND CREATED PURSUANT TO SECTION 17-812 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

(5) WHEN A LICENSE IS ISSUED OR RENEWED FOR A TERM OTHER THAN ONE YEAR, THE FEES SHALL BE A PRORATED AMOUNT OF THE FEES PER YEAR SET AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

(6) ANY PERSON WHO FAILS TO RENEW A LICENSE PRIOR TO ITS DATE OF EXPIRATION MAY BE REQUIRED TO PAY A LATE FEE UPON RENEWAL OF A LICENSE, WITH THE AMOUNT OF SUCH LATE FEE SET BY LOCAL LAW. SUCH AMOUNT SHALL BE NO MORE THAN TWENTY PERCENT OF THE AMOUNT OF THE BASE FEE FOR A LICENSE TO BE ISSUED OR RENEWED AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

(7) THE APPLICATION FOR A LICENSE TO BE ISSUED OR RENEWED SHALL BE ACCOMPANIED BY A STATEMENT AS PRESCRIBED BY SUCH COMMISSIONER, NOTIFYING THE APPLICANT THAT HE OR SHE MAY SUBMIT, ALONG WITH THE FEES REQUIRED BY THIS SECTION, AN ADDITIONAL AMOUNT TO BE UTILIZED FOR THE PURPOSE OF FUNDING LOW-COST STERILIZATION SERVICES FROM THE ANIMAL POPULATION CONTROL FUND CREATED PURSUANT TO SECTION 17-812 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK. ANY ADDITIONAL AMOUNT SUBMITTED PURSUANT TO THIS SUBDIVISION SHALL BE DEPOSITED IN SUCH FUND.

(8) FROM THE FEES COLLECTED PURSUANT TO THIS ACT FOR EACH DOG LICENSE ISSUED OR RENEWED, THE SUM OF TEN CENTS ANNUALLY FOR THE TERM OF SUCH LICENSE SHALL BE REMITTED BY SUCH CITY TO THE COMMISSIONER OF AGRICULTURE AND MARKETS ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, WITH SUCH SUM TO BE USED TO FUND RESEARCH INTO DISEASES OF DOGS AND THE SEARCH FOR AND THE STUDY OF VIRUSES THAT AFFECT PEOPLE AND ANIMALS.

(9) THE AMOUNT OF ANY FEE CHARGED PURSUANT TO THIS ACT SHALL NOT BE BASED IN WHOLE OR PART ON THE BREED OF THE DOG.

S 3. (1) ANY PERSON WHO IS REQUIRED TO OBTAIN OR RENEW A DOG LICENSE PURSUANT TO THIS ACT BUT FAILS TO DO SO MAY BE ISSUED A NOTICE OF VIOLATION, RETURNABLE TO THE ENVIRONMENTAL CONTROL BOARD OR HEALTH TRIBUNAL OF THE OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS OF THE CITY OF NEW YORK, AND MAY BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN SEVENTY-FIVE DOLLARS FOR THE FIRST VIOLATION AND NO MORE THAN ONE HUNDRED DOLLARS WHEN SUCH PERSON WAS FOUND TO HAVE VIOLATED THIS SECTION WITHIN THE PRECEDING FIVE YEARS. SUCH NOTICE OF VIOLATION MAY BE ISSUED BY ANY OFFICER OR AGENT OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY, OR ANY OTHER AGENCY OR ENTITY DESIGNATED BY THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OR SUCH CITY, WHEN SUCH OFFICER OR

AGENT OBSERVES THE DOG FOR WHICH SUCH LICENSE HAS NOT BEEN OBTAINED OR RENEWED.

(2) NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, SUCH NOTICE OF VIOLATION MAY NOT BE ISSUED TO A PERSON WHEN SUCH PERSON IS IN THE COURSE OF OBTAINING OR RENEWING A LICENSE FOR THE DOG FOR WHICH THE NOTICE OF VIOLATION WOULD BE ISSUED. IT SHALL BE AN AFFIRMATIVE DEFENSE TO ANY SUCH VIOLATION THAT: (I) THE PERSON REQUIRED TO OBTAIN OR RENEW A DOG LICENSE DULY APPLIED FOR SUCH LICENSE OR RENEWAL PRIOR TO THE DATE OF THE VIOLATION BUT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY HAD NOT ISSUED OR RENEWED SUCH LICENSE; OR (II) SUCH PERSON HAD PREVIOUSLY PROCURED A LICENSE THAT WAS VALID FOR A TERM THAT ENDED NOT MORE THAN THIRTY DAYS BEFORE SUCH NOTICE OF VIOLATION WAS ISSUED AND SUCH PERSON DULY APPLIED FOR RENEWAL OF SUCH LICENSE SUBSEQUENT TO SUCH NOTICE OF VIOLATION BEING ISSUED.

(3) THREE QUARTERS OF ANY AMOUNT PAID AS A PENALTY FOR A VIOLATION PURSUANT TO THIS SECTION SHALL BE FORWARDED TO THE CITY COMPTROLLER FOR DEPOSIT IN THE ANIMAL POPULATION CONTROL FUND CREATED PURSUANT TO SECTION 17-812 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND THE REMAINDER SHALL BE USED SOLELY FOR CARRYING OUT THE PROVISIONS OF THIS ACT, ESTABLISHING, MAINTAINING, OR FUNDING SHELTERS FOR LOST, STRAYED, OR HOMELESS ANIMALS, PROVIDING OR FUNDING PUBLIC EDUCATION REGARDING RESPONSIBLE ANIMAL CARE AND DOG LICENSING REQUIREMENTS, AND CONDUCTING OTHER ANIMAL CARE AND CONTROL ACTIVITIES.

S 4. (1) WITH EACH LICENSE ISSUED OR RENEWED UNDER THIS ACT, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY SHALL SUPPLY THE APPLICANT WITH A CERTIFICATE OF LICENSE OR RENEWAL STATING THE NAME AND ADDRESS OF THE OWNER OF THE DOG AND THE NUMBER OF SUCH LICENSE OR RENEWAL.

(2) EVERY DOG LICENSED UNDER THIS ACT SHALL, AT ALL TIMES, HAVE A COLLAR ABOUT ITS NECK WITH A TAG MADE OF METAL OR OTHER DURABLE MATERIAL ATTACHED THERETO, BEARING THE NUMBER OF THE LICENSE. SUCH TAG SHALL BE SUPPLIED TO THE OWNER BY SUCH DEPARTMENT. SUCH DEPARTMENT SHALL PROVIDE NOTICE WITH EACH SUCH TAG THAT ANYONE WHO SHALL USE A LICENSE TAG ON A DOG FOR WHICH IT WAS NOT ISSUED SHALL BE DEEMED GUILTY OF A MISDEMEANOR AS PROVIDED IN SECTION NINE OF THIS ACT. NOTHING IN THIS ACT SHALL PREVENT SUCH DEPARTMENT FROM ISSUING SPECIALTY TAGS WHICH, FOR AN ADDITIONAL COST SET BY LOCAL LAW, OWNERS MAY PURCHASE IN LIEU OF THE STANDARD TAGS ISSUED PURSUANT TO THIS SECTION. THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OF SUCH CITY MAY ISSUE RULES REQUIRING THAT DOGS LICENSED UNDER THIS ACT SHALL HAVE ATTACHED TO SUCH COLLAR A TAG INDICATING THAT A RABIES VACCINATION HAS BEEN ADMINISTERED.

(3) SUCH DEPARTMENT MAY ISSUE REPLACEMENTS FOR TAGS THAT ARE LOST AND MAY REQUIRE REASONABLE PROOF OF LOSS OF THE ORIGINAL AND PAYMENT OF A SUM, SET BY LOCAL LAW, EQUAL TO THE COST OF REPLACEMENT.

(4) ON OR ABOUT THE THIRTIETH DAY BEFORE THE END OF THE TERM FOR WHICH A LICENSE ISSUED OR RENEWED UNDER THIS ACT SHALL BE VALID, SUCH DEPARTMENT SHALL NOTIFY THE LICENSEE BY MAIL OR OTHER MEANS, USING THE CONTACT INFORMATION PROVIDED PURSUANT TO SUBDIVISION ONE OF SECTION TWO OF THIS ACT, OF THE DATE BY WHICH RENEWAL IS REQUIRED, THE MANNER IN WHICH THE LICENSEE MAY APPLY FOR RENEWAL, THE FEES ASSOCIATED WITH ON-TIME AND LATE RENEWAL RESPECTIVELY, AND THE PENALTIES TO WHICH THE LICENSEE MAY BE SUBJECT UNDER SECTION THREE OF THIS ACT IN THE EVENT HE OR SHE FAILS TO RENEW SUCH LICENSE.

S 2. Section 8 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, is amended to read as follows:

S 8. The [American society for the prevention of cruelty to animals] DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY is hereby empowered and authorized to carry out the provisions of this act, and [the said society] SUCH DEPARTMENT is further authorized to issue AND RENEW licenses [and renewals], and to collect the fees [for such,] SET FORTH IN THIS ACT OR OTHERWISE ESTABLISHED as [is herein] prescribed[, which fees are to] IN THIS ACT. SUCH FEES, EXCLUDING THE ADDITIONAL FEES CHARGED FOR LICENSES TO BE ISSUED OR RENEWED FOR UNSTERILIZED DOGS PURSUANT TO SUBDIVISION THREE OF SECTION TWO OF THIS ACT AND THE AMOUNTS SPECIFIED IN SUBDIVISION EIGHT OF SECTION TWO OF THIS ACT, SHALL be used [by said society towards defraying the] TO DEFRAY SUCH CITY'S cost of carrying out the provisions of this act [and mainatining a shelter], ESTABLISHING, MAINTAINING, OR FUNDING SHELTERS for lost, strayed or homeless animals, AND PROVIDING OR FUNDING PUBLIC EDUCATION REGARDING RESPONSIBLE ANIMAL CARE AND DOG LICENSING REQUIREMENTS.

S 3. Sections 8-a and 8-c of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, are REPEALED and section 8-b, as added by chapter 152 of the laws of 1971, is renumbered 8-a and amended to read as follows:

S 8-a. (1) No person holding a permit issued pursuant to section 161.09 of the New York city health code OR A LICENSE ISSUED PURSUANT TO ARTICLE 26-A OF THE AGRICULTURE AND MARKETS LAW shall sell OR TRANSFER OWNERSHIP OF a dog IN SUCH CITY without first requiring the purchaser OR OTHER NEW OWNER to submit an application for a dog license and to pay all required fees, unless such purchaser OR OTHER NEW OWNER shall execute and submit to such seller OR TRANSFEROR a written statement that the dog to be purchased OR TRANSFERRED is to be harbored outside [the] SUCH city. Such applications and written statements shall be on forms furnished by the [society] DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY and shall, within ten days after execution by a purchaser OR OTHER NEW OWNER, be forwarded by the seller OR TRANSFEROR to [the society] SUCH DEPARTMENT.

(2) Any seller OR TRANSFEROR processing an application pursuant to SUBDIVISION ONE OR THREE OF this section shall, on or before the tenth day of the month next succeeding the month in which collected, remit to [the society] SUCH DEPARTMENT the amount of fees collected less [one dollar] TEN PERCENT OF THE BASE FEES SET PURSUANT TO SUBDIVISION THREE OF SECTION TWO OF THIS ACT for each application processed.

(3) THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OF SUCH CITY MAY DESIGNATE ANY OTHER PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO A PERSON OR ENTITY WHO PROVIDES CARE, TREATMENT, SERVICES, OR MERCHANDISE FOR ANIMALS, TO PROCESS APPLICATIONS FOR DOG LICENSES, COLLECT FEES, AND REMIT THE AMOUNT OF FEES COLLECTED LESS TEN PERCENT OF SUCH BASE FEE IN ACCORDANCE WITH THIS SECTION AND OTHERWISE CONSISTENT WITH THE PROVISIONS OF THIS ACT.

S 4. Section 9 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, as amended by section 32 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

S 9. Any person or persons, who shall hinder or molest or interfere with any officer or agent of [said society] THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY in the performance of any duty enjoined by this act, or who shall use a license tag on a dog for which it was not issued, shall be deemed guilty of a misdemeanor. [Any person who owns or harbors a dog without complying with the provisions of this act shall be

deemed guilty of disorderly conduct, and upon conviction thereof before any magistrate shall be fined for such offense any sum not exceeding ten dollars, and in default of payment of such fine may be committed to prison by such magistrate until the same be paid, but such imprisonment shall not exceed ten days.] Any person who for the purpose of participating in the "animal population control program" shall falsify proof of adoption from a pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association or who shall furnish any licensed veterinarian of this state with inaccurate information concerning his or her residency or the ownership of an animal or such person's authority to submit an animal for a [spaying or neutering] STERILIZATION procedure established pursuant to section 17-812 of the administrative code of the city of New York and any veterinarian who shall furnish false information concerning an animal sterilization fee schedule or an animal sterilization certificate shall be guilty of a violation punishable by a fine of not more than two hundred fifty dollars where prosecuted pursuant to the penal law, or where prosecuted as an action to recover a civil penalty of not more than two hundred fifty dollars. NOTICES OF VIOLATION MAY BE ISSUED PURSUANT TO THIS ACT BY ANY OFFICER OR AGENT OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OF SUCH CITY, OR ANY OTHER AGENCY OR ENTITY DESIGNATED BY THE COMMISSIONER OF HEALTH AND MENTAL HYGIENE OF SUCH CITY, AND SUCH NOTICES OF VIOLATION SHALL BE RETURNABLE TO THE ENVIRONMENTAL CONTROL BOARD OR TO THE HEALTH TRIBUNAL OF THE OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS OF THE CITY OF NEW YORK.

S 5. Section 13 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, as renumbered by chapter 179 of the laws of 1987, is amended to read as follows:

S 13. [None of the provisions of this act shall apply to dogs owned by] (1) AN EXEMPTION FROM THE DOG LICENSING REQUIREMENTS OF THIS ACT SHALL BE PROVIDED FOR THE FOLLOWING PERSONS, ORGANIZATIONS, AND BUSINESSES:

(A) INDIVIDUALS WHO ARE non-residents [passing through the] OF SUCH city, [nor to dogs brought to the city and entered for exhibition at any dog show] OR WHO ARE TEMPORARILY RESIDING IN SUCH CITY FOR A PERIOD NOT TO EXCEED THIRTY DAYS;

(B) INDIVIDUALS FOR THE FIRST THIRTY DAYS AFTER BECOMING A RESIDENT OF SUCH CITY; AND

(C) FOR DOGS IN THEIR TEMPORARY CUSTODY FOR THE PURPOSES OF REDEMPTION BY AN OWNER, PLACEMENT FOR ADOPTION, BOARDING, GROOMING, TRAINING, VETERINARY TREATMENT OR PROVISION OF OTHER SERVICES: ANIMAL SHELTERS, DULY INCORPORATED HUMANE SOCIETIES, DULY INCORPORATED SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS, DULY INCORPORATED ANIMAL PROTECTIVE ASSOCIATIONS, BOARDING KENNELS, GROOMING PARLORS, SALONS, PET SHOPS, TRAINING ESTABLISHMENTS OR SIMILAR BUSINESSES OR ESTABLISHMENTS.

(2) An exemption from the dog license fees of section two of this act shall be provided for guide dogs, hearing dogs, service dogs or police work dogs, as such terms are defined in section 108 of the agriculture and markets law.

S 6. Subdivision 2 of section 17-812 of the administrative code of the city of New York, as added by section 28 of part T of chapter 59 of the laws of 2010, is amended to read as follows:

2. Such fund shall consist of all moneys collected from the animal population control program established pursuant to section 17-811 of this chapter [and], ALL MONEYS COLLECTED FOR THE ADDITIONAL FEE CHARGED

FOR A LICENSE TO BE ISSUED OR RENEWED FOR AN UNSTERILIZED DOG PURSUANT TO SUBDIVISION THREE OF section [three-a] TWO of chapter one hundred fifteen of the laws of eighteen hundred ninety-four, THAT PORTION OF ANY PENALTIES ASSESSED UNDER SECTION THREE OF SUCH CHAPTER DUE TO BE PAID TO SUCH FUND, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

S 7. This act shall take effect on the sixtieth day after it shall have become a law, provided that upon the repeal of sections 1, 2, 2-a, 3, 3-a and 4 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, pursuant to section one of this act, any existing licenses or renewals thereof issued under the provisions of such sections shall continue to be valid for such terms as they were issued under such provisions; and provided further that such licenses shall be renewable pursuant to the new provisions added by section one of this act; and provided further that upon the repeal of sections 1, 2, 2-a, 3, 3-a and 4 of chapter 115 of the laws of 1894, relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, any license or renewal fees previously authorized and in effect pursuant to such sections as of the date this act takes effect shall remain in effect until new fees shall be adopted and take effect pursuant to local law enacted in accordance with this act; and provided further that notices of violation may not be issued pursuant to section three of chapter 115 of the laws of 1894, relating to better protection of lost and strayed animals and for securing the rights of owners thereof, until the one hundred twentieth day after this act shall have become a law.