STATE OF NEW YORK

8142

2017-2018 Regular Sessions

IN ASSEMBLY

May 31, 2017

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

AN ACT to amend the agriculture and markets law and the general business law, in relation to establishing minimum requirements for residential breeders of cats and/or dogs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph and subdivision 4 of section 400 of the agriculture and markets law, the opening paragraph as added by chapter 259 of the laws of 2000 and subdivision 4 as amended by chapter 687 of the laws of 2006, are amended and a new subdivision 5 is added to read as follows:

As used in this article **and article twenty-six-C of this chapter**:

4. "Pet [~~Dealer"~~] **dealer"** means any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; provided**, however,** that [~~a breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder's residential premises shall not be considered a pet dealer as a result of selling or offering to sell such animals. Such definition~~] **such term** shall [~~further~~] not include **a residential breeder or** duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged.

5. "Residential breeder" means a breeder who sells or offers to sell directly to consumers fewer than thirty animals per year, that are born or raised on the breeder's residential premises. A residential breeder shall not be deemed to be a pet dealer as a result of selling or offering to sell such animals.

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

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

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ARTICLE 26-C

MINIMUM REQUIREMENTS FOR RESIDENTIAL BREEDERS

Section 420. Minimum standards of care.

421. Records of sale.

422. Inspections of residential breeders.

423. Violations.

424. Preemption of local laws.

§ 420. Minimum standards of care. 1. Each residential breeder shall provide animals, except when there are instructions from a veterinarian, licensed pursuant to article one hundred thirty-five of the education law, to withhold food for medical reasons, with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.

2. Water shall be supplied by a residential breeder to animals in a sanitary manner sufficient for each animal's needs, except when there are instructions from a veterinarian, licensed pursuant to article one hundred thirty-five of the education law, to withhold water for medical reasons.

3. In the event that a residential breeder has a pregnant or nursing dog on his or her premises, he or she shall provide a whelping area or box for such dog.

4. Residential breeders shall ensure that all animals in their care are vaccinated as required by state or local law. Each residential breeder shall make certain that veterinary care appropriate to each breed of animal is provided without undue delay when necessary. Each animal shall be observed each day by the residential breeder or by a person working under the residential breeder's supervision.

5. No residential breeder shall knowingly sell any animal that has a diagnosed congenital condition or contagious disease that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.

§ 421. Records of sale. 1. Each residential breeder shall keep and maintain records for each animal sold. The records shall include the name and address of the consumer to whom any animal is sold and the date of sale.

2. Records of sale for each animal shall be maintained for a period of two years from the date of sale.

§ 422. Inspections of residential breeders. Inspections of residential breeders shall be made whenever in the discretion of the commissioner or his or her authorized agents, a complaint warrants investigation. Any person conducting an inspection of a residential breeder or responding to a complaint concerning a residential breeder shall be a state official, police officer or peace officer specifically trained in the proper care of dogs and in the investigation and identification of cruelty to animals.

§ 423. Violations. In addition to any other penalty provided in this chapter, a residential breeder who violates any provisions of this article shall be guilty of a civil offense, for which a fine of not less than one hundred dollars, nor more than one thousand dollars for each violation may be imposed.

§ 424. Preemption of local laws. The provisions of this article shall apply to all municipalities, including cities with a population of one million or more, and shall supersede any local law, rule, regulation or ordinance regulating or licensing breeders. Nothing in this section shall be construed to limit or restrict any municipality from enforcing

any local law, rule, regulation or ordinance of general application to businesses governing public health, safety or the rights of consumers.

§ 3. Subdivision 3 of section 752 of the general business law, as amended by chapter 687 of the laws of 2006, is amended to read as follows:

3. For purposes of [~~section~~] sections seven hundred fifty-three and seven hundred fifty-three-c of this article, a "pet dealer" shall mean any person who, in the ordinary course of business, engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders of animals who sell or offer for sale animals directly to a consumer but it shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged. For purposes of sections seven hundred fifty-three-a, seven hundred fifty-three-b[~~, seven hundred fifty-three-c,~~] and seven hundred fifty-three-d [~~and seven hundred fifty-three-e~~] of this article, "pet dealer" shall mean any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell animals; provided , however, that a residential breeder [~~who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeders residential premises~~] , as defined in subdivision five of section four hundred of the agriculture and markets law, shall not be considered a pet dealer as a result of selling or offering to sell such animals. Such definition shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law.