STATE OF NEW YORK

6870--B

2021-2022 Regular Sessions

IN SENATE

May 19, 2021

Introduced by Sen. ADDABBO -- 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, in relation to standards of care for animals held in, or being transported by, animal shelters; to amend the general business law, in relation to pet dealers; to amend the state finance law, in relation to establishing an animal shelter regulation fund; and to repeal certain provisions of the agriculture and markets law relating to pet dealers

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

Section 1. Legislative intent. The department of agriculture and markets holds statutory responsibility for the oversight of municipal animal shelters and any duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals or duly incorporated animal protective association providing contractual animal sheltering services for local governments in this state. The department also holds statutory responsibility for registering not-for-profit animal shelters or rescue organizations as entities exempt from licensure and inspection under the agency's pet dealer program. Currently however, no statutory facility or animal care standards exist in law to which these organizations must conform to adequately and uniformly ensure animal health and wellbeing at and in transport to and from such facilities. The legislature finds that the universe of entities harboring homeless dogs and cats in our communities and providing animal transport in-state and across state lines has evolved and grown exponentially over the past several decades, rendering the existing statutory framework for the

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

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oversight of such entities deficient and benefiting neither the adoptive families of dogs and cats in need nor the organizations that work so diligently to find safe, loving homes for them.

Therefore, it is the stated purpose of this legislation to establish responsible, uniform and effective standards for the care of dogs and cats in animal shelters as defined herein to improve state oversight, ensure public trust and provide for increased protections for such animals while in the care of such facilities.

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

ARTICLE 26-C

REGULATION OF ANIMAL SHELTERS

Section 420. Definitions.
421. License required and inspection of facilities.
422. Personnel training requirements.
423. Recordkeeping and protocols.
424. General facility standards.
425. Animal housing.
426. Sanitation.
427. Shelter management protocols.
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430. Behavior.
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434. Waiving of requirements authorized.

§ 420. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Adoption" means the transfer of legal ownership to and possession by any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, owned by the animal shelter regardless of whether a fee is involved.

2. "Adult" shall mean cats and dogs five months of age and older, for the purposes of determining appropriate housing within an animal shelter.

3. "Animal" shall mean a dog or cat as defined in this section, but shall not be construed to diminish or restrict the mission of any animal shelter defined in this section or other entity duly incorporated pursuant to section fourteen hundred three of the not-for-profit corporation law solely to the care of dogs or cats.

4. "Air handling system" shall mean the device or equipment used to regulate, circulate, exchange, heat, and/or cool the air inside a building.

5. "Ambient temperature" shall mean the temperature of the environment inside a room or building.

6. "Animal shelter" shall mean a public or not-for-profit entity owning, operating, or otherwise maintaining a building, structure, or facility where temporary or permanent housing and care is provided to stray, abandoned, abused, seized, impounded, owner-surrendered or otherwise unwanted animals regardless of whether or not such facility also serves as a personal residence. This includes but is not limited to: facilities owned, operated, or maintained by a duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society dog or cat protective association, or pound; any person in the employ of, or organization operated by or under contract to a munici-

pality to provide care for seized or impounded animals; or any other not-for-profit organization involved in the protection, care, or rehoming of animals. Unless otherwise provided in this article, the term "animal shelter" shall not include the personal residence of any foster care provider as defined in this section; a facility commonly known as a boarding kennel, where the ownership of the animal is not transferred; any entity licensed as a pet dealer pursuant to article twenty-six-A of this chapter; any duly incorporated animal hospital owned, operated or supervised by a duly licensed veterinarian; or any facility where the owner or operator is licensed by the New York state department of environmental conservation as a nuisance wildlife control agent or wildlife rehabilitator.

7. "Aseptic" shall mean procedures or techniques performed in a manner sufficient to exclude harmful bacteria, viruses, or other microorganisms.

8. "Behavioral evaluation" shall mean an ordered series of interactions with an animal to determine their behavioral response to various stimuli likely to be encountered in a typical home environment.

9. "Cat" shall mean any member of the species Felis catus, regardless of age, sex, breed, ownership status or behavior around humans.

10. "Chemical capture" shall mean the use of drugs administered to an animal by a remote delivery system in order to immobilize it for the purposes of capture.

11. "Cleaning" shall mean the physical removal of debris and organic material from an environment.

12. "Conspecific" shall mean another member of the same species.

13. "Control pole" shall mean a restraint device consisting of a rigid metal pole with an adjustable wire noose used for handling and restraint of dogs, also commonly referred to as a catch pole or rabies pole.

14. "Death", for the purposes of describing the disposition of an animal, shall mean those animals who die but are not euthanized, regardless of cause.

15. "Disinfection" shall mean the process where microorganisms are killed or inactivated, typically through the application of a chemical or by some physical process (e.g. steam, heat, etc).

16. "Dog" shall mean any member of the species Canis lupis familiaris, regardless of age, sex, breed, ownership status, or behavior around humans.

17. "Drop boxes" shall mean unattended enclosures at an animal shelter that are accessible to the public and used to contain animals brought to the animal shelter outside of regular business hours.

18. "Enclosure" shall be defined as an area of confinement used for housing a single animal or group of animals housed together. An enclosure may be a cage, run, kennel, room, or other such confining area.

19. "Enriched" shall mean environment that reduces stress and promotes the physical health and behavioral well-being of an animal.

20. "Enrichment" shall mean a process for improving the environment and behavioral care of confined animals in order to reduce stress and improve well-being. Enrichment shall include, but not be limited to, providing physical and mental stimulation, encouraging species-typical behaviors, and modifying the animal's housing environment.

21. "Foster care provider" shall mean any individual voluntarily providing temporary care for one or more animals in their home that remain in the custody and under the responsibility of an animal shelter.

22. "Infectious disease" shall mean a disease or condition caused by bacteria, viruses, fungi or parasites that can be transmitted, directly or indirectly, from one animal or individual to another.

23. "Intracardiac" shall mean an injection made directly into one of the chambers of the heart.

24. "Intrahepatic" shall mean an injection made into the liver.

25. "Intrarenal" shall mean an injection made into the kidney.

26. "Intrasplenic" shall mean an injection made into the spleen.

27. "Juvenile" shall mean any cat or dog between two and five months of age for the purposes of determining appropriate housing within an animal shelter.

28. "Loss" for the purposes of describing the disposition of an animal, shall mean those animals who escape or go missing while in the care of an animal shelter.

29. "Long-term stay" shall mean any duration of care in an animal shelter of fourteen days or longer.

30. "Neonate" shall mean any cat or dog less than two months of age, for the purposes of determining appropriate housing within an animal shelter.

31. "Pathogen" shall mean a biologic organism capable of causing disease in an animal, such as a bacteria, virus, or fungus.

32. "Primary enclosure" shall mean the area of confinement used for housing an animal and where the animal spends the majority of its time in an animal shelter.

33. "Thermoregulation" shall mean the ability of an animal to maintain its internal body temperature within a normal physiologic range.

34. "Transport" shall mean the physical movement of an animal from one location to another, regardless of purpose and whether or not custody or responsibility for such animal changes as a result, when carried out by the shelter or an agent thereof.

35. "Transfer" shall mean the transfer of ownership and physical custody of an animal for an animal's care and well-being from an animal shelter to another organization as authorized pursuant to subdivision five of section three hundred seventy-four of this chapter.

36. "Unenveloped virus" shall mean those viruses without an outer lipid layer that are more difficult to inactivate through sanitation procedures. Unenveloped viruses of concern in an animal shelter environment include canine and feline parvoviruses, feline calicivirus, and canine adenovirus-2.

37. "Zoonotic" shall mean any disease that may be transmitted between humans and animals.

§ 421. License required and inspection of facilities. 1. Any person eligible for exemption from the definition of pet dealer pursuant to paragraphs (b) and (c) of subdivision four of section four hundred of this chapter shall be licensed by the department pursuant to the provisions of this section. Notwithstanding the foregoing, any person, operating an animal shelter on or before the effective date of this section, who has filed an application for an initial license under this article is hereby authorized to operate without such license until the commissioner grants or, after notice of an opportunity to be heard, declines to grant such license. Each application for license shall be made on a form supplied by the department and shall contain such information as required by the commissioner. Renewal applications shall be submitted to the commissioner at least thirty days prior to the commencement of the next license year.

2. Application for licensure as set forth in this section shall be made annually to the commissioner on a form prescribed by the commissioner. Such form shall include but not be limited to the following information, provided however that paragraphs (a), (b) and (c) of this subdivision shall not apply to municipal pounds or shelters as defined in paragraph (b) of subdivision four of section four hundred of this chapter:

(a) Proof of the applicant's tax exempt designation pursuant to paragraph 3 of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended;

(b) Proof of the applicant's incorporation as a not-for-profit organization in this state pursuant to the not-for-profit corporation law, provided further that such organization is in good standing with the attorney general and the department of state;

(c) Proof of the applicant's registration with the attorney general pursuant to article seven-A of the executive law;

(d) If the applicant is a municipal pound or shelter as defined in paragraph (b) of subdivision four of section four hundred of this chapter, a copy of the applicant's employer identification number;

(e) The name of the applicant and the name or names under which the applicant offers its services to the public, any name under which the applicant has offered such services to the public during the past five years, and whether the applicant has ever held a pet dealer license issued pursuant to article twenty-six-A of this chapter;

(f) The address and telephone number of the applicant and for any other premises owned or leased by such applicant's organization to carry out the purposes for which it was incorporated and by which it is eligible for a licensing exemption pursuant to paragraphs (b) and (c) of subdivision four of section four hundred of this chapter;

(g) The website and email address of the applicant;

(h) The number of animals taken in, adopted, placed into permanent or temporary homes, or otherwise transferred into, out of, or within the state by the applicant during the prior calendar year;

(i) The number of animals currently harbored by the applicant;

(j) The species of animal the applicant typically harbors for adoption, placement or transfer;

(k) A description of facilities by which the applicant carries out the purposes for which it was incorporated, including a statement regarding whether the applicant harbors the animals in its care in its own physical animal shelter or utilizes foster care provider homes, commercial boarding kennels or other arrangements;

(l) A sworn statement, signed by the applicant, declaring an exemption from the definition of pet dealer pursuant to section four hundred of this chapter;

(m) Current training protocol and procedural practices as prescribed pursuant to sections four hundred twenty-two and four hundred twenty-three of this article; and

(n) Other information as deemed necessary to satisfy the commissioner of the applicant's character and responsibility.

3. The commissioner shall conduct an inspection of the applicant's facilities prior to the issuance of a license pursuant to this section, and annual inspections of the applicant's facilities licensed pursuant to this section prior to renewal of such license. The commissioner may periodically conduct unannounced inspections of such facilities, and whenever, in the discretion of the commissioner, a complaint warrants

such investigation. Animal shelters licensed pursuant to this section shall provide open hours to the commissioner so that inspections can occur in a timely manner. Renewal of an animal shelter license shall not be granted until all outstanding violations issued pursuant to this article are corrected and any outstanding monetary penalties assessed pursuant to this article are paid in full.

4. Upon validation by the commissioner, the application shall become the license of the animal shelter and an exemption from the definition of pet dealer as defined in section four hundred of this chapter shall be granted. The commissioner shall retain a copy of such license and provide a copy of the license to the animal shelter. Animal shelters licensed pursuant to this section shall conspicuously display their license on the premises where its animals are harbored. The commissioner shall also provide the licensee with a pet dealer exemption identification number. The licensee's pet dealer exemption identification number shall be prominently displayed on the licensee's websites and any publications or advertisements made available to the public.

5. Such license shall be renewable annually, upon the payment of a nonrefundable fee of one hundred fifty dollars.

6. The moneys received by the commissioner pursuant to this section shall be deposited in the "animal shelter regulation fund" established pursuant to section ninety-nine-pp of the state finance law.

7. The commissioner may decline to grant or renew, or may suspend or revoke an animal shelter license, on any one or more of the following grounds, provided that before any of the aforementioned actions are taken pursuant to this section, the commissioner shall hold a hearing, 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, and provided further that any action of the commissioner is subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules:

(a) material misstatement in the license application;

(b) 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 to inspect records of animal shelter facilities;

(c) 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 relating to the endangerment of the life or health of an animal;

(d) failure to comply with any of the provisions of this article or the licensing exemption requirements of section four hundred of this chapter; 1 NYCRR Part 65 regarding the importation of dogs and cats; section twenty-one hundred forty-one of the public health law or any rule or regulation promulgated thereunder; or any rule or regulation promulgated by the commissioner following the effective date of this article to effectuate the purposes of this article;

(e) failure to renew a license within the period prescribed in subdivision one of this section; or

(f) the applicant or registrant was previously licensed as a pet dealer pursuant to article twenty-six-A of this chapter.

§ 422. Personnel training requirements. 1. Each animal shelter licensed pursuant to this article shall provide training to all staff members and volunteers having direct animal care responsibilities. Such training shall be provided within the first sixty days of employment and at least annually thereafter and shall be in addition to any and all training otherwise required by federal, state, or local law or regulation.

2. Acceptable training modalities shall include, but not be limited to, online webinars, on-site lectures or seminars, off-site conferences for animal shelter staff, or other formal training modalities as authorized by the commissioner.

3. Training topics shall include, but not be limited to, the following:

(a) humane handling techniques;

(b) infectious diseases commonly found in animal shelters;

(c) zoonotic diseases;

(d) animal cruelty;

(e) sanitation procedures;

(f) body language and normal behaviors for all species regularly handled; and

(g) required documentation and data entry.

4. Complete documentation of training sessions shall be maintained for a period of not less than three years from the date of training completion. Such documentation shall include, but not be limited to, the following:

(a) the date of training delivery and the date of completion;

(b) the topic or topics of the training session; and

(c) the provider of the training and a list of training course attendees.

§ 423. Recordkeeping and protocols. 1. Each animal shelter shall examine an animal upon intake for unique identifiers and any other form of identification that may allow for reunification with an owner, as prescribed in sections one hundred seventeen and three hundred eighty-two of this chapter.

2. Each animal shelter shall create and maintain a record for each animal in their custody or possession which shall minimally include:

(a) Unique identifiers and any other identification associated with the animal upon examination at entry, including but not limited to a tattoo, a permanent official identification number as prescribed in section one hundred twelve of this chapter or other identification tags, rabies tags and numbers, or a microchip number, if present;

(b) The name, address and telephone number of the person surrendering an animal or from whom an animal is seized, and additional contact information as the commissioner may require, or the address or cross-streets and city, town, or village where the animal was located or found prior to intake, if known;

(c) The date of intake into and departure from the animal shelter;

(d) Whether the animal was adopted, transferred, redeemed by its owner, died or was humanely euthanized, and, if applicable, the name, address, and phone number of the receiving individual or agency;

(e) Basic descriptors including species, age, gender, physical description including color, and the spay or neuter status at entry if determinable with reasonable certainty;

(f) Any available behavioral or health history or information otherwise obtained at intake, including bite history and rabies vaccination status, when known; and

(g) All veterinary and behavioral examinations, treatments, procedures, or medications occurring during the animal's time under the care of the shelter.

3. Notwithstanding any other provision of law or regulation to the contrary, records for each animal shall be maintained for not less than three years from the date of animal departure.

4. Previous bite history shall be fully disclosed in writing to an adopter, transfer partner, or reclaiming owner and provided in any reports regarding the animal, as applicable.

5. Nothing in this section shall preclude or otherwise supersede record disclosure requirements prescribed in section sixty-seven hundred fourteen of the education law, or any requirement regarding the creation, maintenance, or retention of veterinary medical records in state or federal law or veterinary practice guideline.

6. Each animal shelter shall maintain a record of its designated foster care providers that shall include the written agreement established between such animal shelter and such providers pursuant to section four hundred thirty-two of this article, each provider's name, address, telephone number, email address if available, types of animals for which the provider is willing to provide care, inspection reports, and current number of animals in the care of a designated foster care provider. Such records shall be updated immediately in the event any contact information for a given foster care provider changes.

7. Each animal shelter shall maintain summary records of their total annual animal intake and dispositions by species, by source of intake, and by type of disposition. Such records shall be made available to the commissioner upon request. The commissioner shall make such records available to the public upon request pursuant to article six of the public officers law.

8. Each animal shelter shall develop and maintain written protocols sufficiently detailed to achieve and maintain the standards prescribed in this section. These shall include, but not be limited to, the following:

(a) animal handling;

(b) behavioral assessment;

(c) enrichment and stress reduction;

(d) management of bite/scratch cases; and

(e) sanitation.

9. Each animal shelter shall also develop and maintain the following written protocols, approved by a duly licensed veterinarian and sufficiently detailed to achieve and maintain the standards prescribed in this article:

(a) nutrition and feeding;

(b) physical examination;

(c) emergency veterinary care;

(d) pain management;

(e) vaccinations;

(f) parasite control;

(g) anesthesia and surgery, if performed on-site by the organization;

(h) humane euthanasia; and

(i) outbreak management/control of infectious diseases.

10. Protocols established by each animal shelter pursuant to this section shall be reviewed annually and updated as necessary by designated administrative and managerial staff. Such protocols shall be made readily accessible to appropriate staff and volunteers.

§ 424. General facility standards. 1. All facilities and all interior components of each animal shelter shall be constructed of materials that ensure a sound physical structure, and shall be maintained so as to protect animals from injury, ensure containment of animals within the property, and restrict unauthorized entry of other animals and humans to the building.

2. Indoor building surfaces in direct contact with animals shall be constructed of materials that are non-porous, water resistant, non-toxic and able to withstand regular cleaning and disinfection. Adequate drainage shall prevent the accumulation of water or other liquids on floors.

3. Electrical power and running water shall be maintained to all parts of the facility that house animals, with written emergency plans for back-up sources or relocation of the animals to a safe environment in the event of outages lasting more than four hours.

4. Readily accessible sinks shall be convenient to all animal care areas. Single service soap and towels or electric hand dryers shall be available at all hand-washing locations.

5. Ambient temperatures in all indoor animal housing areas shall be routinely maintained between sixty and eighty degrees fahrenheit.

6. Each animal shall be monitored and provided with an environment allowing maintenance of normal body temperature based on species, breed, body condition, medical condition, and age.

7. Each animal shelter shall document regular maintenance of air handling systems according to the manufacturer's recommendations.

8. Ammonia levels shall be kept at less than two parts per million.

9. Each animal shelter shall provide separate housing areas, segregated by species and from uninfected, unexposed animals, for the housing of any animal with an infectious disease that may be transmitted within the shelter environment and requiring isolation as determined by a licensed veterinarian. Doors separating such rooms from the remainder of the facility shall be kept closed.

10. Each animal shelter shall minimize continuous exposure of personnel and animals to sound levels exceeding eighty-five decibels. Active measures shall be taken and documented to minimize sound levels in housing areas. Such measures may include modified kennel design, relocation of particularly loud animals, or use of visual barriers, sound baffling, and behavioral enrichment protocols. Each animal shelter shall use a decibel-meter at a minimum of once weekly to measure the level of sound in their kennels during cleaning and resting times. A record of such measurements and the date such measurements were recorded shall be maintained by each animal shelter.

11. Each animal shelter shall provide animal housing areas that provide adequate lighting and a means to maintain diurnal light cycles pursuant to an established schedule. All animals shall have a minimum of eight hours each of light and darkness within a twenty-four-hour cycle.

12. Each animal shelter shall establish and maintain a written plan for pest and vermin control including the following:

(a) Method of controlling rodent infestation that is effective and safe for both humans, and animals housed in the facility;

(b) A record or copies of service reports from outside service providers related to pest and vermin control that documents dates, methods, locations, and outcomes, if applicable; and

(c) Food stored in rodent proof containers to prevent spoilage, contamination, and infestation once opened, if packaging has been damaged, or as otherwise required by such plan.

13. The use of unattended drop boxes for intake of animals is prohibited.

§ 425. Animal housing. 1. Each licensed animal shelter shall provide each animal in its custody or possession with a suitable primary enclosure that meets the requirements prescribed in this section.

2. Unsupervised tethering for periods exceeding thirty minutes is prohibited.

3. Animal housing shall meet the following requirements:

(a) materials used in housing construction shall be non-porous, water-resistant, non-toxic, and able to withstand regular cleaning and disinfection;

(b) drainage shall prevent accumulation of water or other liquids on floors; and

(c) housing shall be structurally sound, in good repair and maintained in a safe, working condition to properly confine animals, prevent injury, keep animals safe from predation, keep other animals out, and allow animals to remain dry and clean.

4. Wire or slat-bottom cages are prohibited unless a solid tray is provided for the cage bottom to prevent injury to the animal.

5. Animal populations shall be segregated appropriately, in accordance with the following requirements:

(a) dogs and cats shall be housed in separate rooms with efforts made to minimize the exposure of cats to the barking of dogs to the extent practicable;

(b) animals of the same species shall be separated by age groups (e.g. neonates and juveniles; adults) except that nursing animals may be housed with their offspring;

(c) animals with known or suspected infectious diseases shall be housed in isolation areas as prescribed in subdivision nine of section four hundred twenty-four of this article;

(d) nothing in this subdivision shall be construed to prevent the temporary housing of animals in areas without such segregation for medical care and in pre- and post-operative surgical areas.

6. Well-socialized, healthy animals may be housed with one or more conspecifics. Animals housed together shall be compatible and have similar environmental requirements. Such housing shall not allow exposure to numerous different animals on a frequently changing basis.

7. Prior to being housed with one or more other animals the following conditions shall apply:

(a) all animals are vaccinated and dewormed against the pathogens specified in section four hundred twenty-nine of this article;

(b) physical examinations verifying the absence of clinical signs of infectious diseases have been performed;

(c) surgical sterilization or housing in same-sex groupings, except littermates under twelve weeks of age; and

(d) the animal has a collar or tag to facilitate visual identification, unless the animal's age or condition is such that application of visual identification is not practicable or would be detrimental to the animal's health.

8. Animals that are poorly socialized, fearful, or aggressive towards other animals or that are ill, injured, or within a week of whelping or queening shall be housed individually in a suitably sized, enriched primary enclosure.

(a) Littermates under the age of twelve weeks may be co-housed in an isolation area if all individuals are infected with the same infectious, contagious, parasitic or communicable disease.

(b) Dogs and cats within a week of giving birth or until separation from the offspring shall be provided with a box with a solid floor large enough to allow the animal to lie fully stretched on its side, permitting all offspring to nurse and to accommodate all offspring until weaned; and an area large enough to allow the dam or queen to leave the whelping box.

9. Each enclosure shall clearly indicate the identities of all animals contained within, specifying each animal's unique identifier as required under section four hundred twenty-three of this article. Each animal shall also be individually identified.

10. All primary enclosures shall provide sufficient space to allow each animal, regardless of species, to:

(a) make all normal postural adjustments;

(b) fully stretch its body and have sufficient room to circle, lie down, and stand upright without the head or tail touching the sides of the enclosure even with the presence of water and food bowls, beds, litter boxes, and other normal cage objects; and

(c) allow animals to sit, sleep and eat away from areas of their enclosure where they defecate and urinate.

11. Any primary enclosure housing two or more animals shall provide the following:

(a) sufficient space and quality of environment to allow all animals to maintain social distances;

(b) adequate areas for hiding, resting, feeding, and elimination with sufficient space to separate areas and the ability for all animals to access those areas.

12. Regardless of the size of the primary enclosure, the number of animals cohoused in a primary enclosure at one time shall not exceed the following thresholds:

(a) twelve adult cats;

(b) two litters of kittens not to exceed ten kittens total;

(c) five adult dogs; or

(d) one litter of puppies.

13. Puppies and kittens less than sixteen weeks of age shall not be housed in the same enclosure with adults other than their dam or queen, or foster or surrogate dam or queen.

14. All animals housed with one or more conspecifics shall be separated for feeding or observed at feeding times for antagonistic interactions that pose a safety and welfare concern.

15. Animals shall not be housed outdoors for more than twelve hours within a twenty-four-hour period, with the exception of free-roaming cats under the care of the animal shelter.

16. Outdoor primary enclosures shall comply with all housing requirements prescribed in this section and shall provide the following:

(a) protection from the elements at all times;

(b) adequate drainage to prevent the accumulation of excess water in or around the enclosures;

(c) a moisture-proof, insulated shelter structure large enough to simultaneously accommodate all animals in the enclosure, unless immediate entry to an indoor portion of the enclosure is accessible;

(d) security from unauthorized entry of other animals into the enclosure;

(e) a separate, shaded area sufficient to simultaneously accommodate all animals, except when animals have immediate access to an indoor portion of the enclosure;

(f) clean dry bedding at all times and a heat source when the outdoor temperature falls below fifty degrees fahrenheit; and

(g) enclosures that allow outdoor access for cats shall be fully enclosed to prevent escape from the enclosure.

17. For any animal in the custody or possession of any animal shelter for fourteen days or longer, alternative housing shall be provided in one of the following formats:

(a) enriched cages at least twice the size otherwise required for an animal's size;

(b) foster care in a private home, office, or other suitable off-site location; or

(c) room housing.

§ 426. Sanitation. Any animal shelter licensed pursuant to this article shall establish and maintain sanitation protocols that include the following:

1. use of one or more agents that have cleaning and disinfectant properties that are effective under conditions present in a given environment and with demonstrated effectiveness against the pathogens for which animals are at risk;

2. removal of animals from enclosures and placement in another appropriate enclosure or separation from the area being cleaned or disinfected by a functional compartment door when water, cleaning, or disinfecting agents are sprayed in or near an animal's enclosure;

3. dedicated equipment for cleaning and disinfection for use in each separate area of the shelter designated as cat or dog isolation, holding, adoptions or other functionally separate areas within the facility;

4. cleaning and disinfecting in between each use of items and surfaces that come into contact with animals, including but not limited to food and water bowls, litter boxes and exam tables, or procedures to discard and replace with new items for each animal;

5. cleaning and disinfecting all enclosures for temporary or permanent housing before a new animal enters such enclosure;

6. daily cleaning and at least once weekly disinfecting of enclosures that house the same animal or animals during a long-term stay;

7. cleaning and disinfecting enclosures when the enclosure becomes heavily soiled or otherwise contaminated or a new animal is added to the enclosure;

8. laundering of all animal bedding in a machine with detergent when soiled and thoroughly drying such bedding before reuse, or removing and disposing of such bedding appropriately;

9. cleaning of outdoor premises from clutter that may pose a safety concern and fecal material removed at least once daily;

10. appropriate use and disposal of protective garments worn during cleaning and intensive animal-handling activities within an animal shelter; and

11. proper hygiene of shelter staff, volunteers, and visitors, including signage, supervision, and hand sanitation.

§ 427. Shelter management protocols. 1. Each animal shelter shall have a clear, written, management structure that defines staff authority, reporting structure and responsibilities, and is readily accessible to all staff and volunteers.

2. Staffing shall be sufficient to allow adequate time, per animal, for cleaning and daily feeding, and to meet the minimum requirements for socialization and exercise of animals as prescribed in section four hundred thirty of this article.

3. The total number of animals housed in an animal shelter facility or foster home shall not exceed the number of housing units available at the facility as required by section four hundred twenty-five of this article; provided, however, that exceptions to the provisions of this subdivision shall be permissible for periods not to exceed forty-five contiguous days in the event of an animal seizure pursuant to article twenty-six of this chapter or a natural disaster where an official declaration of the disaster or emergency has been made.

4. All animals shall be observed daily by a manager or designee to identify each animal's needs for care, housing and service and to ensure that each animal has a plan to advance efficiently through the shelter.

§ 428. Animal husbandry. 1. (a) Each animal shelter shall provide each animal under its care with fresh, potable water at all times unless otherwise directed by a duly licensed veterinarian.

(b) Each animal shelter shall feed each animal under its care a complete and nutritionally balanced, species-specific and life-stage-appropriate diet as indicated by the animal's age, weight, and medical health, or as directed by a duly licensed veterinarian in accordance with the written protocols required by section four hundred twenty-three of this article.

(c) Food shall be provided at least once daily for adult animals, at least twice daily for animals less than six months of age, and at least three times daily for animals less than two months of age.

(d) Perishable animal food shall be refrigerated.

(e) Animal food and water containers shall be present in sufficient number and location to safely enable each animal in the enclosure to access an adequate supply of food and water. Food and water bowls shall be of the type that can be easily sanitized, be kept clean and shall be cleaned and disinfected prior to use by a different animal, unless disposable bowls are used and replaced between animals.

(f) Each animal shall be observed during or following each feeding time to ensure daily food intake, or at least once every twenty-four hours for animals continually offered food. Such observations shall be recorded.

2. (a) Humane and safe physical restraint to limit some or all normal voluntary movement of any animal in each animal shelter's care shall minimize fear, pain, stress and suffering for the animal, protect both the animal and personnel from harm, and be of the least intensity and duration required to allow the specific procedure or procedures to be performed properly.

(b) (i) Frightened or fractious animals may be appropriately tranquilized, under the orders and supervision of a duly licensed veterinarian, if they cannot be restrained safely and humanely.

(ii) No physical force shall be used as punishment or in anger.

(iii) Handling methods shall minimize the chance of escape and ensure the safety of both humans and animals.

(c) Restraint devices and handling techniques employed by each animal shelter shall be used in a manner that minimizes animal stress and risk of injury to both animals and personnel, in the event such devices and techniques are necessary for the safe handling of the animal.

(i) All equipment shall be maintained in good working order.

(ii) Cats shall not be restrained with control poles. Humane traps, cat boxes, nets, towels, or other equipment appropriate for handling fractious animals may be used. Squeeze cages, feral cat boxes, or humane traps with dividers shall be used for restraining cats and administering tranquilizers prior to handling.

§ 429. Veterinary care. 1. Prescription medications and treatments shall be administered by each animal shelter under the advisement of or in accordance with written protocols provided by a duly licensed veterinarian.

2. All drugs shall be documented and dispensed by each animal shelter in accordance with applicable local, state, and federal laws and regulations.

3. All incoming animals shall be assessed within two hours after intake by a trained animal shelter staff member to determine if any physical abnormalities exist that require immediate veterinary attention in accordance with the shelter's written protocol for emergency care, as required by section four hundred twenty-three of this article.

4. Each animal shelter shall have the ability to provide for veterinary assessment and humane care in a timely fashion through in-house facilities or at an off-site location.

5. Pursuant to the written protocol for emergency veterinary care required by section four hundred twenty-three of this article, each animal shelter shall provide appropriate and timely veterinary care for any animal that is in distress, experiencing pain, or showing signs of significant illness or injury.

6. Each animal shelter shall recognize and treat acute and chronic pain appropriately, as set forth in article twenty-six of this chapter. The legal status regarding the ownership of any animal shall not prevent treatment to relieve suffering.

7. Each animal shelter shall provide a complete physical examination of all animals in its custody or possession by trained shelter staff within twenty-four hours of intake to identify medical or behavioral conditions that require further evaluation and care. Animals shall specifically be examined for bite wounds; animals that have potentially been exposed to rabies shall be managed in accordance with applicable local and state laws. Each animal shelter shall comply with the rabies reporting requirements prescribed in 10 NYCRR 2.14.

8. Each animal shelter shall vaccinate each animal in its custody or possession with core vaccines as recommended by national standards and guidelines specific to animal shelters as established, endorsed or approved by the American Association of Feline Practitioners (AAFP), American Animal Hospital Association (AAHA), or the Association of Shelter Veterinarians (ASV).

9. Each animal shelter shall provide all dogs, cats, and ferrets in its custody or possession with a rabies vaccination prior to release in accordance with local public health laws. Each animal shelter shall be in compliance at all times with section one hundred nine of this chapter and title four of article twenty-one of the public health law.

10. At a minimum, each animal shelter shall treat all animals in its custody or possession for hookworms and roundworms prior to release and/or placement in foster care.

11. When a physical or behavioral abnormality is identified at the time of intake or at any time during any animal's shelter stay, staff members shall follow written medical protocols required by section four hundred twenty-three of this article, to determine if and when any animal in its custody or possession needs to be examined by a duly licensed veterinarian. If the animal is in foster care, the foster care provider shall follow written medical protocols to determine whether the animal needs to be examined by a duly licensed veterinarian.

12. Any animal in the custody or possession of any animal shelter for more than thirty days shall be examined and weighed at least monthly by

a trained staff member. Animals in foster care shall be examined and weighed at least once every six months by a trained staff member.

13. Any apparently healthy animal remaining within the custody or possession of any animal shelter shall be examined by a duly licensed veterinarian at least every six months, or more frequently if problems are identified.

14. Each animal shelter shall provide regular grooming to prevent discomfort or injury to each animal in its custody or possession. Matted, soiled, or otherwise unkempt animals shall be provided with timely grooming to alleviate discomfort and prevent injury within forty-eight hours of intake or identification of condition. Severe matting that prevents normal movement, an animal's ability to eat, drink, urinate, or defecate, or that compromises tissue health shall be treated as a medical emergency requiring immediate care.

15. (a) No animal shelter shall release any dog or cat for adoption to any person unless the dog or cat has been spayed or neutered, in accordance with section three hundred seventy-seven-a of this chapter.

(b) Prior to performing spay/neuter surgery at any animal shelter:

(i) All animals in such shelter's custody or possession shall receive an examination by a duly licensed veterinarian within twenty-four hours of surgery and anesthesia. Such examination may be performed under sedation or anesthesia if, due to the animal's behavior, an examination is not possible while awake.

(ii) Balanced anesthetic protocols that include sedation, the provision of pre- and post-operative analgesia, stress reduction, muscle relaxation and controlled, reversible loss of consciousness shall be utilized for all animals.

(iii) While surgery is being performed, the operating area shall be dedicated to surgery and contain the necessary equipment for anesthesia and patient monitoring.

(iv) Aseptic surgical technique shall be required, and separate sterile instruments shall be used for each patient. All instruments and equipment shall be maintained in proper working condition.

(v) A permanent tattoo shall be placed on the ventral abdomen of shelter-owned cats and dogs at the time of spay or neuter.

(vi) Each animal shelter shall provide adoptive owners instructions in both written and verbal forms for ten-day post-operative care of recently spayed or neutered animals.

(c) Written protocols required by section four hundred twenty-three of this chapter, shall be followed to handle related post-operative emergencies.

§ 430. Behavior. 1. Each animal shelter shall take measures, by way of written questionnaire, personal interview or other means deemed necessary by the commissioner, to collect a behavioral history for each animal in its custody or possession at the time of intake.

2. Routine care and handling of any animal in the custody or possession of each animal shelter, including the timing of feeding and sanitation procedures shall be performed on a regular daily schedule.

3. At least twenty minutes of positive social interactions, in addition to time spent providing feeding, cleaning, basic husbandry or care with people shall be provided by each animal shelter on a daily basis for any animal in such shelter's custody or possession except those so poorly socialized to humans that such contact would be unpleasant, stressful or pose a safety risk to other animals or humans. Daily handling and positive exposure to people and other animals shall be provided for any dog or cat less than four months of age, while taking appropri-

ate precautions to limit infectious disease. Positive social interactions shall include but not be limited to petting an animal, walking, reward based training or interactive play with toys. Time spent providing basic husbandry and animal care shall not be used to offset the social interaction time requirements of this subdivision.

4. Each animal shelter shall provide each animal in its custody or possession opportunity for exercise and exploration in the following manner:

(a) all cats housed in a cage, kennel, or room that provides less than eighteen square feet of floor space per cat for fourteen days or longer shall be permitted at least fifteen minutes per day at least five days per week outside of their primary enclosure to exercise and explore;

(b) all dogs residing in the shelter for fourteen days or longer shall be permitted time outside of their primary enclosure to exercise and explore for at least twenty minutes per day five days per week; or

(c) in the event such activities are not possible due to any animal's health, behavior, order of the commissioner or legal restriction, the condition and reason shall be documented in such animal's medical record.

5. Each animal shelter shall implement additional measures for enrichment and stress reduction for any animal in its custody or possession showing persistent hiding, hostile interactions with other animals, reduced activity, depression or social withdrawal, barrier frustration or aggression, self-injurious behavior, repetitive non goal-oriented movement, or stereotypic behaviors. Such measures shall be documented in such animal's medical record created pursuant to section four hundred twenty-three of this article.

6. Use of aversive methods in animal training or behavioral modification is prohibited except in reward-based method situations, where skilled application of the least aversive method that is expected to succeed may be appropriate.

7. Animal shelters may perform a systematic behavioral evaluation on animals prior to rehoming or other placement. In the event such evaluations are performed, the following requirements shall apply:

(a) staff performing such evaluations shall receive, in advance, adequate training in the performance and interpretation of the behavioral evaluation or evaluations; and

(b) documentation of the results of every behavior evaluation performed shall be added to the animal's record created pursuant to section four hundred twenty-three of this article.

8. Each licensed animal shelter shall fully disclose all available information regarding the behavior of any animal in its custody or possession prior to such animal's transfer to an individual or another organization as authorized pursuant to section three hundred seventy-four of this chapter. Such information shall include, but not be limited to prior history, observed behaviors in the shelter, and the results of any systematic behavioral evaluations performed.

9. Any animal in the custody or possession of a licensed animal shelter that is observed to be experiencing mental suffering or behavioral deterioration shall be assessed and appropriately treated.

§ 431. Transportation. 1. Vehicle requirements. (a) Vehicles and operators employed by or otherwise serving as an agent of any animal shelter to transport animals shall adhere to all applicable federal, state, and local laws.

(b) Any animal transported by an animal shelter or its agent shall not be placed unconfined or tethered in the back of an open pick-up or flatbed truck.

(c) Any animal shelter or its agent transporting any animal shall safely and securely confine such animal in an enclosure such as a crate, carrier, or cage within the vehicle. Foster care providers serving as an agent of any animal shelter for purposes of this section may be authorized to provide secure alternatives to enclosures for transport of large dogs.

(d) Any transport vehicle transporting dogs or cats for any animal shelter shall have adequate space, comfortable environmental conditions, and good air quality. The animal compartment of the transport vehicle shall provide fresh air, free of vehicle exhaust fumes.

(e) Each transport vehicle, including cargo spaces, shall be heated and cooled as necessary to provide for normal thermoregulation of the animals being transported.

(f) Each transport vehicle shall have a thermometer placed in the animal compartment. The ambient temperature in the cargo space shall be maintained between sixty and eighty-five degrees fahrenheit, unless the health of the animal necessitates an ambient temperature that exceeds or is less than such parameters. The operator of such vehicle shall monitor cargo area temperatures at least every four hours to ensure such temperatures are maintained.

2. General responsibilities of animal shelters of origin prior to transport. (a) It is the responsibility of the animal shelter of origin to reasonably ensure that its destination animal shelters have the ability to meet the requirements of subdivision four of this section prior to transporting any animal. A written contract or memorandum of understanding between the animal shelter of origin, any intermediate animal shelter, the destination animal shelter and any transporting agent not directly employed by such shelters, shall be executed for each animal transfer of one or more animals. Such document shall include the responsibilities of each party and shall be revised or updated as necessary to ensure that information is current.

(b) A contact person shall be designated for each animal shelter and any intermediate transfer points.

(c) Each transporting organization identified in any agreement established pursuant to subparagraph (i) of paragraph (d) of this subdivision shall adhere to all public health laws and local laws for source location, intermediate transfer points, and final destination.

(d) (i) For dogs or cats imported into the state, the animal shelter of origin shall ensure that each dog or cat to be transported aged three months of age or older has been vaccinated against rabies not more than twelve months prior to the date of transport when using a one-year vaccine, or not more than thirty-six months prior to the date of transport when using a three-year vaccine, as evidenced by a valid certificate of immunization signed by a duly licensed veterinarian. Such vaccine shall be approved by the United States department of agriculture. The immunization requirement shall not apply if a veterinarian certifies in writing that because of old age or other reason, the life of the dog would be endangered by the administration of the rabies vaccine.

(ii) At a minimum, the animal shelter of origin shall administer the following core vaccinations to each dog or cat to be transported that is four weeks of age or older:

(1) For dogs, a modified live product for Distemper virus, Adenovirus, and Parvovirus as well as an intranasal or oral avirulent culture Bordetella bronchiseptica vaccination prior to departing from the animal shelter of origin.

(2) For cats, a modified live product for Feline Viral Rhinotracheitis, Feline Calici Virus, and Feline Panleukopenia.

(iii) The animal shelter of origin shall treat each animal for internal and external parasites as appropriate for the age, species, and medical condition.

(iv) (1) The animal shelter of origin shall examine each dog and cat for medical or behavioral concerns at most twenty-four hours prior to initiation of transport. All medical and behavioral observations shall be recorded and communicated to any intermediate animal shelter, the destination animal shelter and any transporting agent not directly employed by such shelters.

(2) A health record shall accompany each animal to be transported.

(3) A health certificate is required for each animal to be transported into the state in accordance with part sixty-five of the commissioner's rules and regulations. Such certificate shall accompany each animal during transport and be completed and signed by a duly licensed veterinarian.

(v) Each animal shall be individually identified with a collar, tag, tattoo, microchip or combination of such identifiers. All animals shall have, at a minimum, one form of visual identification.

3. General responsibilities during transport. (a) Each animal transported shall be provided with absorbent bedding.

(b) No animal shall be sedated or tranquilized unless recommended by a duly licensed veterinarian and veterinary guidance is provided for such animal's care during transport.

(c) The maximum transport time to an intermediate animal shelter or a destination animal shelter for dogs and cats shall include not more than fourteen hours confined to the transport vehicle, including load time. Transports exceeding fourteen hours must include an overnight stop at an intermediary location, where the dogs and cats being transported shall be allowed the opportunity to exercise and eliminate outside of the transport vehicle.

(d) The transporting animal shelter or its agent shall observe each animal being transported as often as circumstances allow, but not less than once every four hours. During such observations, animals should be watered and fed consistent with paragraphs (g) and (h) of this subdivision, and the transport area cleaned as appropriate.

(e) Each dog shall be provided with the opportunity to exercise and eliminate at least once every twelve hours while confined to the transport vehicle, including load time. Each dog being transported that is less than twelve weeks of age shall be removed from their enclosure and allowed to exercise and eliminate at least every two hours.

(f) No dog or cat shall be left unattended in any transport vehicle for more than one hour, regardless of whether heating, ventilation and air conditioning (HVAC) is provided in such vehicle.

(g) The transporting animal shelter or its agent shall provide each animal being transported with wholesome and palatable food except when there are instructions from a duly licensed veterinarian to withhold food for medical reasons. Such food shall be free from contamination, of nutritional value sufficient to maintain each animal in good health and be provided at least every twelve hours for adult animals; at least

every eight hours for animals less than six months of age; and at least every six hours for animals less than four months of age.

(h) If water cannot be provided at all times, the transporting animal shelter or its agent shall provide clean, fresh water to each animal being transported at least every four hours during observation stops required pursuant to paragraph (b) of subdivision four of this section. Such water shall be supplied in a sanitary manner sufficient for its needs, except where there are instructions from a duly licensed veterinarian to withhold water for medical reasons.

(i) Animal enclosure requirements. (i) Animal enclosures in transport vehicles shall be suitable to allow the animal to stand, sit erect, turn around while standing, and to lie in a natural position. If more than one animal occupies any enclosure during transport, such enclosure shall provide adequate space for each to lie down comfortably at the same time without lying on top of each other.

(ii) Unfamiliar animals shall not be contained together in the same enclosure.

(iii) Crates, carriers or cages shall not be stacked in the transport vehicle in a manner that increases animal stress or discomfort, compromises ventilation, allows waste material to pass between cages, interferes with care and observation, or hinders emergency removal.

(iv) All animal enclosures and compartments shall be free of sharp edges or other hazardous materials.

(v) The floor of any enclosure shall prevent injury, discomfort, and leakage of fluids into other enclosures.

(vi) The animal shelter or its agent shall ensure that each animal transported is safely and securely confined within each enclosure as prescribed by this section and that enclosure doors are secured to prevent accidental opening.

(vii) The animal shelter or its agent shall secure each primary enclosure to prevent movement within the transport vehicle.

(viii) Each dog or cat less than eight weeks of age shall be transported in an enclosure with their mother, with adequate space to allow the mother to lie down on her side with legs extended to facilitate nursing unless such dog or cat is orphaned, a duly licensed veterinarian directs otherwise, the transport period does not exceed one hour, or transport with the mother is deemed to pose a significant safety risk. In the event such dog or cat is not transported with its mother, the animal shelter or its agent shall ensure an adequate environment and temperature for the offspring. The transporting animal shelter or its agent shall transport animals with known or suspected infectious diseases that could be spread during transport in separate compartments from healthy animals.

(ix) The transporting animal shelter or its agent shall clean animal enclosures and replace litter as often as necessary to prevent soiling any animal being transported. If any animal must be removed from an enclosure to facilitate cleaning, the transporting animal shelter or its agent shall employ safeguards to ensure animal safety and prevent escape.

(j) Transport vehicle operators. (i) Transport vehicle operators and individuals who assist in the transport of animals shall have training in animal health, animal care, and safety issues to recognize and respond to animal needs during transport.

(ii) Transport vehicle operators shall avoid unnecessary sudden acceleration, deceleration, excessive lateral movement, noise and vibration.

(iii) Transport vehicle operators and individuals who assist in the transport of animals shall observe dogs and cats for any medical or behavioral concerns during each stop and shall respond appropriately to any concerns identified.

(iv) Transport vehicle operators and individuals who assist in the transport of animals shall clean and disinfect each enclosure after use in transporting an animal and before transporting different animals in the same enclosure.

4. General requirements of destination animal shelters. Each destination animal shelter shall provide the following:

(a) Adequately trained personnel ready to receive and medically evaluate each animal received from any transporting animal shelter or its agent upon arrival;

(b) A physical examination of each animal received from any transporting animal shelter with corresponding documentation performed by trained personnel pursuant to section four hundred twenty-three of this article within four hours of arrival;

(c) Veterinary care in accordance with section four hundred twenty-nine of this article for each animal received from any transporting animal shelter requiring such care and additional reasonable care.

(d) Adequate housing for arriving animals prepared in advance of arrival, including:

(i) Housing in a quarantine area if needed, based on assessment of health status, animal source, and risk of infectious, contagious, parasitic or communicable disease; and

(ii) Isolation areas for animals with known or suspected contagious diseases, as required under sections four hundred twenty-four and four hundred twenty-five of this article.

5. No animal shelter or its agents shall transport any dog or cat less than one year of age whose point of origin is any breeder licensed by the United States department of agriculture pursuant to the provisions of U.S.P.L. 89-544 as of August twenty-fourth, nineteen sixty-six, or any subsequent corresponding sections of the federal Animal Welfare Act, as from time to time amended.

§ 432. Foster care provider requirements. 1. No person may operate as a foster care provider in this state without first having signed a written agreement with an animal shelter licensed pursuant to this article stating that such person may operate as a foster care provider with the approval and under the responsibility of such animal shelter. Such agreement shall be renewed not less than once every two years, and a copy of such agreement shall be kept by both the animal shelter and foster care provider and made available for inspection by the commissioner upon request. It shall be the responsibility of the animal shelter entering into such agreement with any foster care provider pursuant to this article to ensure that such foster care provider is able to responsibly harbor and provide necessary sustenance for any animal placed in their care by such animal shelter in a manner that promotes the good health, safety and welfare of such animals. No animal shelter shall knowingly enter into any agreement pursuant to this subdivision with any person who has been previously convicted 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 relating to the endangerment of the life or health of an animal.

2. Foster care providers may harbor animals owned by a licensed animal shelter but shall not own such animals and shall keep a copy of the current record of each animal harbored under any agreement established pursuant to subdivision one of this section. Such record shall be maintained at the physical premises where such foster care providers harbor such animals. Animal shelters may, if appropriate to protect the identity of the source of any animal, provide their foster care providers with a partial animal record that excludes the name and address of the organization or individual from whom such animal was obtained and the date of receipt, so long as such animal shelters keep a copy of the complete record at the location where it maintains such records pursuant to section four hundred twenty-three of this article. It is the responsibility of the animal shelter with which such foster care provider has established an agreement pursuant to subdivision one of this section to ensure compliance with this subdivision.

3. Any animal harbored by a foster care provider pursuant to this section that is affected by an infectious or contagious disease shall be handled in a manner that prevents the spread of such disease in accordance with subdivision nine of section four hundred twenty-four of this article. It shall be the responsibility of the animal shelter with which such foster care provider has established an agreement pursuant to subdivision one of this section to ensure compliance with this subdivision.

§ 433. Violations. 1. Any animal shelter that violates any provision of this article may be subject to licensure denial, revocation, suspension, or refusal of license renewal in accordance with the provisions of subdivision seven of section four hundred twenty-one of this article.

2. Violation of any provision of this article shall be a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation may be imposed by the commissioner; provided, that whenever there shall be a violation of this article, application may be made by the attorney 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 one hundred dollars and not more than one thousand 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.

3. Any animal shelter that violates any provisions of this article shall correct such violations to the satisfaction of the commissioner within a period not to exceed ten days; provided, however, that where such violation poses a severe or immediate threat to public health or animal safety or well-being, such violation shall be corrected to the

satisfaction of the commissioner within a period not to exceed seventy-two hours.

4. Nothing in this section shall preclude the commissioner from taking additional actions to address violations related to the immediate threat to animal safety or well-being, including but not limited to, suspension of animal shelter operations until such violations are corrected to the satisfaction of the commissioner.

5. Upon identification of one of more violations, the commissioner shall provide the animal shelter with a written description of all violations issued and the steps necessary to correct such deficiencies.

§ 434. Waiving of requirements authorized. The commissioner is hereby authorized to waive the requirements established pursuant to this article during a disaster emergency, provided that an official declaration of such disaster emergency has been made by the governor or his or her delegated state official pursuant to section twenty-eight of the executive law.

§ 3. The agriculture and markets law is amended by adding a new section 384 to read as follows:

§ 384. Special provisions related to the importation of dogs and cats into the state for sale, resale or adoption. 1. Any dog or cat imported into this state for the purposes of sale, resale or adoption shall be held by the consignee for a period of not less than forty-eight hours. Such dog or cat shall be vaccinated in accordance with section twenty-one hundred forty-one of the public health law and part sixty-five of the commissioner's rules and regulations.

2. If, during the holding period prescribed in subdivision one of this section, any dog or cat imported into the state for sale, resale or adoption exhibits signs of infectious, contagious, parasitic or communicable disease, including but not limited to coughing, sneezing, vomiting, diarrhea or bloody stool, such dog or cat must be isolated and examined by a duly licensed attending veterinarian immediately. Any dogs or cats that have been deemed exposed to such dog or cat must be quarantined, if necessary, under the direction of such attending veterinarian and held until such attending veterinarian declares them to be free of disease.

3. Any dog or cat passing through the state to points beyond, or brought into the state for temporary residence for purposes of exhibition, or which enters the state for delivery to research institutions, for fifteen days or fewer, shall be exempt from the provisions of this section, provided that such dog or cat is at all times properly restrained and under the immediate control of the owner or custodian, and that such dog or cat that is in the state for more than fifteen days is accompanied with proof of proper immunization against rabies. It shall be an affirmative defense to the offense of failure to have accompanied proof of proper immunization against rabies of such dog or cat, upon the presentation of proof that such dog or cat had in fact been immunized against rabies at the time of the infraction.

4. Violation of any provision of this section shall be a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation shall be imposed. Any person licensed pursuant to article twenty-six-A or twenty-six-C of this chapter who violates any provision of this section may be subject to denial, revocation, suspension, or refusal of renewal of his or her license in accordance with the provisions of section four hundred twenty-one of this chapter.

§ 4. Paragraphs (b) and (c) of subdivision 4 of section 400 of the agriculture and markets law, as added by chapter 168 of the laws of 2017, are amended to read as follows:

(b) Any municipal pound or shelter dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged, established and maintained pursuant to subdivision one of section one hundred fourteen of this chapter**, and that is duly licensed as an animal shelter pursuant to article twenty-six-C of this chapter**; and

(c) Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is [~~registered with the department~~] **duly licensed as an animal shelter** pursuant to [~~section four hundred eight~~] **article twenty-six-C** of this [~~article~~] **chapter**.

§ 5. Subdivision 3 of section 403 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

3. Each application for a license shall be accompanied by a nonrefundable fee of one hundred **fifty** dollars[~~, except that those pet dealers who engage in the sale of less than twenty-five animals in a year, shall pay a nonrefundable fee of twenty-five dollars~~].

§ 6. Section 408 of the agriculture and markets law is REPEALED.

§ 7. Section 380 of the agriculture and markets law, as added by chapter 470 of the laws of 2017, is renumbered section 383.

§ 8. Subdivision 3 of section 752 of the general business law, as amended by chapter 168 of the laws of 2017, is amended to read as follows:

3. For purposes of section seven hundred fifty-three 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 any municipal pound or shelter established and maintained pursuant to subdivision one of section one hundred fourteen of the agriculture and markets law **and duly licensed as an animal shelter pursuant to article twenty-six-C of the agriculture and markets law**, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization that is tax exempt pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that [~~is registered with the department~~] **duly licensed as an animal shelter** pursuant to [~~section four hundred eight~~] **article twenty-six-C** of the agriculture and markets law. 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 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; but it shall not include the following:

(a) Any 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.

(b) Any municipal pound or shelter established and maintained pursuant to subdivision one of section one hundred fourteen of the agriculture and markets law **and duly licensed as an animal shelter pursuant to article twenty-six-C of the agriculture and markets law**.

(c) Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is [~~registered with the department~~] **duly licensed as an animal shelter** pursuant to [~~section four hundred eight~~] **article twenty-six-C** of the agriculture and markets law.

§ 9. The state finance law is amended by adding a new section 99-pp to read as follows:

§ 99-pp. Animal shelter regulation fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance, a fund to be known as the animal shelter regulation fund.

2. Such fund shall consist of all monies collected pursuant to article twenty-six-C of the agriculture and markets law, and all other monies credited or transferred thereto from any other fund or source pursuant to law.

3. Monies of the fund shall be expended solely for the purposes of carrying out the provisions of article twenty-six-C of the agriculture and markets law. Monies shall be paid out of the fund on the audit and warrant of the state comptroller on vouchers approved by the commissioner of agriculture and markets. Any interest received by the comptroller on monies on deposit in the pet dealer licensing fund shall be retained in and become part of such fund.

§ 10. This act shall take effect three years after it shall have become a law. 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 and completed by the commissioner of agriculture and markets on or before such effective date.