



NEW YORK
CITY BAR

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**REPORT ON LEGISLATION BY THE
ANIMAL LAW COMMITTEE**

**A.3906
S.1028**

**M. of A. Glick
Sen. Serrano**

AN ACT to amend the agriculture and markets law, in relation to establishing a twelve percent surcharge on the sale of animals by pet dealers; and to amend the state finance law, in relation to establishing the "New York animal shelter and wildlife rehabilitator account"

THIS LEGISLATION IS APPROVED

A. SUMMARY OF THE PROPOSED LAW

The proposed law adds a new section 380 of the Agriculture and Markets Law to impose a twelve-percent surcharge on pet dealers for the sale of any animal and products that the pet dealer sells to the purchaser on the same day as the purchase of the animal. It also establishes the New York Animal Shelter and Wildlife Rehabilitator Account ("S & R Account") to which the surcharge will be deposited by adding a new section 99-t to the New York Finance Law. Funds from the S & R Account will be used to subsidize animal shelters and licensed wildlife rehabilitators.

B. POLICY RATIONALE OF THE PROPOSED LAW

1. The law would shift a portion of the financial burden of caring for unwanted animals to persons benefiting from pet sales

The surcharge and distributions to shelters and wildlife rehabilitators from the S & R Account would shift a portion of the financial burden currently borne by taxpayers, donors, and wildlife rehabilitators onto pet stores and the people who purchase animals from pet stores. This surcharge is similar to other surcharges and sales and use taxes designed to address public needs related to the taxed activity or to discourage behaviors that impose a financial burden on society or both. For example, Tax Law section 471-a imposes a use tax on the sale of cigarettes, a portion of which is deposited to the Tobacco Control and Insurance Initiatives Pool and distributed for use in health-related activities. Article 6 of the New York County Law imposes a surcharge on wireless communications that is distributed for the purpose of establishing Emergency 911 systems. Several counties impose special taxes on stays in hotels and motels that are distributed for the purpose of increasing tourism. See Tax Law §§ 1202-a – 1202-aa.

Funding from pet dealers is necessary to partially cover costs inherent in caring for a large number of animals in shelters. In 2009, New York City Animal Care and Control ("NYACC")

adopted or transferred roughly 25,750 cats and dogs and euthanized roughly 13,620 animals. NYACC and other animal shelters are 501(c)(3) organizations that are generally supported in part by donations.

Wildlife rehabilitators rescue and rehabilitate animals both born wild and those who were released to the wild from captivity and this can be quite costly. For example, in 2009, wildlife rehabilitators rescued and rehabilitated dozens of white ringneck doves that were purchased at a pet store and released at a ceremony.¹ Their rescue and subsequent rehabilitation cost volunteers associated with New York City Pigeon Rescue, Empty Cages Collective, and the Wild Bird Fund hundreds of hours in time and funds associated with their veterinary care, medicine, housing, food, and transport to homes and sanctuaries.² Regulations bar wildlife rehabilitators from charging a fee for their services,³ therefore, they often personally assume the cost of providing care to abandoned pet store animals or request voluntary donations.

2. The law would discourage pet sales and encourage adoptions by increasing the cost of buying an animal at a pet store

The sponsors' memo states that a second purpose of the bill is to reduce the demand for puppies that, unbeknownst to many consumers, were born in horrific conditions in puppy mills and sold through pet stores. By increasing the cost of buying an animal from a pet store, the sponsors seek to promote the adoption of animals from shelters. This Committee has decried the conditions in puppy mills before—conditions that keep animals confined in small cages, often exposed to the elements, without exercise, proper veterinary care or adequate time between pregnancies for rest.⁴ We note that many other kinds of animals, such as birds, reptiles, and guinea pigs, that are sold commercially come from animal mills that keep animals in deplorable conditions.⁵ Therefore, to the extent this measure makes purchasing an animal born in an animal mill less attractive, it is highly welcome.

C. CONCLUSION

For the reasons explained above, the Committee approves this legislation.

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¹ Erin Calabrese and Tom Topousis, *Tragic Doves Left at Altar*, NY POST (July 28, 2009), available at http://www.nypost.com/seven/07282009/news/regionalnews/tragic_doves_left_at_altar_181723.htm. (Last visited February 1, 2013).

² Email from Jennifer Chong a licensed wildlife rehabilitator involved in the rescue (Aug. 1, 2009); Interview with P.J. McKosky, volunteer for Empty Cages Collective (July 31, 2009).

³ 6 NYCRR § 184.6(a)(3).

⁴ See Legislative Report of the Committee on Legal Issues Pertaining to Animals, New York City Bar at http://www.nycbar.org/pdf/report/Puppy_Mills_Animal_Report060309.pdf. (Last visited February 1, 2013).

⁵ See Lindsay Barnett, *Texas exotic animal dealer accused of animal cruelty is now considered a fugitive*, LOS ANGELES TIMES (May 26, 2010), available at <http://latimesblogs.latimes.com/unleashed/2010/05/us-global-exotics-fugitive.html> (last visited February 1, 2013)(describing the overcrowding and lack of proper food and care in one of the nation's largest animal mills).