



**NEW YORK
CITY BAR**

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

**REPORT ON LEGISLATION BY THE
COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS**

**A.7502-B
S.5702-A**

**M. of A. Paulin
Sen. Klein**

AN ACT to amend the agriculture and markets law in relation to prohibiting dangerous practices at companion animal grooming facilities.

THIS BILL IS APPROVED WITH RECOMMENDATIONS

1. SUMMARY OF THE PROPOSED LAW

A.7502-B/S.5702-A adds a new section 353-e to the Agriculture and Markets Law that would ban the use of a cage or box dryer which contains a heating element if the heating element is turned on “for the purpose of drying or aiding in the drying of a companion animal.” The bill defines a cage or box dryer as “a product that is attached to or near a cage or box for the purpose of drying or aiding in the drying of a companion animal contained in a cage or box, and which is capable of functioning without a person manually holding a dryer.” Violation of the law is punishable by a civil penalty of not less than \$250 nor more than \$500 per occurrence.

2. REASONS FOR APPROVAL

The Committee on Legal Issues Pertaining to Animals (“LIPTA”) of the New York City Bar Association (“City Bar”) approves the bill with recommendations because the use of a cage or box dryer which emits heat to assist in the drying of companion animals is inherently dangerous and, in many instances, has resulted in serious injury to and the death of such animals. This bill, however, does not ban the use of a cage or box dryer with a heating element altogether, but rather, requires that the heating element merely be turned off. As discussed below, the possibility exists that groomers may either inadvertently turn the heating element on or, without knowledge of the law, utilize the heating element. We therefore recommend that the bill be amended to prohibit the use of any cage or box dryer that contains a heating element. Such a prohibition may be phased in allowing the grooming facilities a period of time to attain compliance with the law without experiencing financial hardship.

3. BACKGROUND

According to the American Pet Products Association,¹ Americans spent an estimated \$3.6 billion on grooming and boarding services for their pets in 2011, up from an approximate \$2.5 billion in 2005.² It has been suggested that the rising demand for pet grooming services has resulted in an influx of inexperienced groomers into the market, as well as heightened pressure for workers to groom more animals in a shorter period of time in order to keep up with competitors and maximize profit.³ In turn, these trends, in an already under-regulated industry, have contributed to an increase in accidents resulting in serious death or injury to the animals entrusted to the care of these grooming facilities.

A significant number of incidents involving animals dying or being seriously injured at grooming facilities involve the use of cage or box dryers with heating elements. These dryers attach to cages in which pets are kept after their bath and contain a heating element which can reach temperatures of 135 degrees.⁴ Unlike towel drying which limits a groomer to drying one animal at a time, the heated cage or box dryers enable groomers to service multiple animals at one time.⁵

While these dryers may be convenient for the groomers, they pose substantial risk of injury or death to the animals exposed to these devices due to lack of proper monitoring of the animals in the cage dryers, lack of proper use of the cage dryers, and/or electrical or other mechanical malfunction of the cage dryers. These risks are compounded by the fact that groomers are typically responsible for multiple animals at one time, reducing the amount of time each individual animal is monitored while exposed to the heated cage or box dryers.

Numerous incidents have been reported in which animals have overheated in their cages, whether due to the excessive heat or the amount of time the animal is exposed to the heat, including several publicized incidents in New York State. For example, in 2008 Bailey, a two year old “Puggle” (Pug/Beagle mix), succumbed to heat stroke and died after being put in a drying cage at a full service “doggie day care and spa” facility in Hicksville, New York.⁶ Similarly, the story of

¹ The American Pet Products Association is a not-for-profit trade association serving the interests of the pet products industry. See http://www.americanpetproducts.org/about_background.asp. (Last visited March 20, 2012).

² See http://www.americanpetproducts.org/press_industrytrends.asp. (Last visited March 20, 2012).

³ Sara Schaefer Munoz, *Deadly incidents prompt concern about pet salons*, THE WALL STREET JOURNAL (Aug 2, 2006), available at <http://www.post-gazette.com/pg/06214/710496-338.stm>. (Last visited March 20, 2012).

⁴ *Id.*

⁵ Bob Considine, *Dog’s death is a warning about groomers, expert says*, TODAY Pets & Animals (Aug. 1, 2008), available at http://today.msnbc.msn.com/id/25966380/ns/today-today_pets_and_animals/t/dogs-death-warning-about-groomers-expert-says/. (Last visited March 20, 2012).

⁶ Ridgely Ochs, *After dog dies, LI man pushes for strong groomer rules*, Newsday.com (April 14, 2009), available at http://badgroomer.com/Blog/Entries/2009/4/14_Newsday_Article.html. (Last visited March 20, 2012). The manager of the grooming facility admitted that Bailey had been placed in a drying cage with forced air but denied that the cage was heated. Experts say, however, that small dogs, as well as those with short hair or a short snout, should not be placed in a drying cage at all. *Id.*

Sushi, a healthy two year old Labrador retriever who died after confinement in a heated cage/box dryer at a grooming facility in New York, gained public notoriety when it was featured on the *Today* show in 2008. It was determined that the dryer's control panel was set at 100 degrees for 30 minutes, causing the dog's death.⁷

Accounts similar to those described above have been reported across the country. For example, in 2009, a toy poodle died after being left in a heated drying cage for almost one hour at a grooming facility in Ohio⁸ and in 2007, a five year old greyhound succumbed to heat stroke and died after being placed in a heated cage dryer at a grooming facility in Gloucester, Massachusetts.⁹ Most recently, a lawsuit was filed in California against PETCO when a healthy six year old Lhasa Apso suffered heat stroke and died after being placed in a heated cage dryer at one of PETCO's grooming facilities.¹⁰ PETCO has since stopped the use of heated cage dryers but has denied any wrongdoing on the part of its employees.¹¹

4. RECOMMENDATION

LIPTA supports the bill as a means of prohibiting the use of heating elements on cage and box dryers thereby protecting companion animals from harm and preventing the ensuing emotional and financial hardships to their guardians. It is recommended that the bill be amended to include a specified date by which the use of all cage and box dryers containing heating elements will be banned, thus providing grooming facilities sufficient time to replace the existing units with drying implementations that do not emanate heat. Non-costly alternatives to heated cage/box dryers are on the market which provide groomers with a suitable option to hand drying animals.¹² LIPTA further recommends that the penalty provision of the bill be amended to reflect an increased penalty for any person who has committed more than one statutory violation.

March 2012

⁷ *Supra* note 5.

⁸ See FoxNews.com (Aug. 13, 2009), available at <http://www.foxnews.com/story/0,2933,539289,00.html>. (Last visited March 20, 2012).

⁹ Douglas A. Moser, Staff Writer, *Couple file suit, say dog was neglected in 'drying box'*, GLOUCESTER TIMES (April 17, 2007), available at <http://www.gloucestertimes.com/local/x645267152/Couple-file-suit-say-dog-was-neglected-in-drying-box>. The medical records of the attending veterinarian stated that the dog had a temperature of 108.7 degrees. *Id.* (Last visited March 20, 2012).

¹⁰ Laura Northrup, *Dog Dies After Visit To Petco Groomer, Owner Wants Hair Dryer Cages Banned*, THE CONSUMERIST (July 28, 2011), available at <http://consumerist.com/2011/07/dog-dies-after-visit-to-petco-groomer-owner-wants-hair-dryer-cages-banned.html>. It was reported that the dog suffered internal burn injuries and had a body temperature of 107 degrees (the normal body temperature for a dog is between 100 and 102 degrees). *Id.* (Last visited March 20, 2012).

¹¹ *Id.*

¹² See <http://www.cagedryers.com/>. This website alone offers eight varieties of non-heated cage dryers with prices beginning as low as \$120.00. (Last visited March 20, 2012).