



**NEW YORK
CITY BAR**

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

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

**A.739-D
S.6769-C**

**M. of A. Rosenthal
Sen. Libous**

AN ACT to amend the agriculture and markets law, in relation to prohibiting piercing and tattooing of companion animals.

THIS LEGISLATION IS APPROVED

SUMMARY OF THE PROPOSED LEGISLATION

The proposed law would amend New York State’s animal cruelty law to add a new section, Agricultural & Markets Law § 353-f, prohibiting piercing and tattooing companion animals,¹ except in certain specified cases. Specifically, piercing a companion animal would be prohibited except when it provides a medical benefit to the animal and is performed by a licensed veterinarian (or under the supervision of a licensed veterinarian). Tattooing would be prohibited except when it (1) provides a medical benefit to the animal and is performed by a licensed veterinarian (or under the supervision of a licensed veterinarian)²; or (2) is done for identification, not design, purposes and includes only numbers and letters allotted by a corporation that in the regular course of business maintains an animal tattoo identification registry.

The proposed law would take effect one-hundred twenty days after enactment.

JUSTIFICATION

A number of recent events have drawn public attention to the cruel practice of tattooing and piercing companion animals. For example, in 2014 a Brooklyn man raised public outcries after tattooing his dog with a heart-shaped design with an arrow through it and a ribbon around it

¹ Under N.Y. AGRIC. & MKTS. LAW § 350(5) (McKinney 2014), “[c]ompanion animal’ or ‘pet’ means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. ‘Pet’ or ‘companion animal’ shall not include a ‘farm animal’ as defined in this section.”

² The prohibition does not apply to ear tags on rabbits and cavies.

reading “Alex” and “Mel” on the same day that the dog had surgery to remove a spleen tumor.³ A North Carolina man similarly caused controversy last year after tattooing a multi-colored coat of arms on the belly of his five-month-old puppy.⁴

Not just dogs, but cats and other companion animals have suffered from this inhumane practice. In 2010 a Pennsylvania dog groomer was discovered selling “gothic cats” online: three-month-old kittens whose ears and necks the groomer had pierced—up to ten times with a 14-gauge needle.⁵ Other reports have documented people tattooing horses, cows, pigs, and even fish, purportedly for artistic, cosmetic, novelty and other non-medical and non-identification purposes.⁶

For humans, tattooing and piercing can be painful procedures with serious health risks.⁷ New York law accordingly allows only consenting adults (or, in the case of body-piercing, young persons with the consent of a parent or legal guardian) to undergo these procedures. And when consent is in question, or when the procedure involves a vulnerable group—as with minors—New York law imposes serious penalties. Tattooing a person under eighteen years old, for instance, constitutes a class B misdemeanor.⁸ Body-piercing a minor without the written consent of a parent or legal guardian can similarly subject a person to civil penalties of several thousand dollars or, in some cases, imprisonment.⁹ Such laws “exist to protect those most

³ Erik Badia & Bill Hutchinson, *Brooklyn Tattoo Artist Inks Own Dog and Posts Photo on Internet, Sparking Outrage*, DAILY TIMES, <http://www.nydailynews.com/new-york/brooklyn-tattoo-artist-inks-dog-article-1.1712037> (last visited April 2, 2014).

⁴ WXII12.com, *Man Tattoos Dog in Stokes County, Generates Controversy*, March 29, 2013, <http://www.wxii12.com/news/local-news/piedmont/Man-tattoos-dog-in-Stokes-County-generates-controversy/-/10703612/19509922/-/item/0/-/7cyv8r/-/index.html> (last visited April 2, 2014).

⁵ MAIL ONLINE, *Gothic Kittens: Woman Charged with Animal Cruelty for Selling Pierced Cats Online*, Feb. 3, 2010, <http://www.dailymail.co.uk/news/article-1248211/Gothic-kittens-Holly-Crawford-accused-piercing-cats-selling-online-goes-trial-animal-cruelty.html> (last visited June 3, 2013); John Schwartz, *Piercing Cats Is Cruelty, Judge Rules*, N.Y. TIMES, June 15, 2011, <http://www.nytimes.com/2011/06/16/us/16goth.html> (last visited April 2, 2014).

⁶ PetsLady.com, *Stunning Tattooed Pets Blur the Line Between Art, Ownership and Abuse*, April 10, 2012, http://petslady.com/articles/tattooed_pets_blur_line_between_art_ownership_and_abuse (last visited April 2, 2014); MAIL ONLINE, *Inky and perky: But Poor Tattooed Pigs Have Animal Rights Campaigners Sizzling in Anger*, Feb. 16, 2011, <http://www.dailymail.co.uk/news/article-1357635/Inky-perky-Tattooed-pigs-anger-animal-rights-campaigners.html> (last visited April 2, 2014).

⁷ For instance, the FDA has flagged numerous safety concerns involving tattoos generally, including the risk of transmitting diseases or infections through dirty needles and allergic reactions to ink pigments, and other harmful effects. U.S. Food and Drug Administration, FDA Consumer Health Information, “Think Before You Ink: Are Tattoos Safe?,” October 2009, available at <http://www.fda.gov/downloads/ForConsumers/ConsumerUpdates/UCM143401.pdf> (last visited April 2, 2014).

⁸ N.Y. PENAL LAW § 260.21 (McKinney 2014).

⁹ See N.Y. PUB. HEALTH LAW § 460-a(1) (McKinney 2014) (providing that “[n]o owner, operator or employee of a body piercing studio shall permit body piercing on a person under eighteen years of age unless such person provides the body piercing studio with the written consent, in a form prescribed by the commissioner, of a parent or legal guardian to use such body piercing studio”); N.Y. PUB. HEALTH LAW § 12 (McKinney 2014) (establishing penalties

vulnerable, such as children who are not yet mature enough to understand the potential danger involved and the latent consequences from having their flesh tattooed or pierced.”¹⁰

Companion animals cannot consent to tattooing or piercing. As noted in the sponsor’s justification memo, animals, like children, “are also a vulnerable population, as they have no means of expression and must live on the whim of their owners.”¹¹ Companion animals are accordingly defenseless if their caretakers choose to tattoo or pierce them. Piercing in particular can cause lasting harm to the animal: a neck or tail piercing can impede balance and jumping; an ear piercing can damage hearing.¹²

Considering these harmful consequences, the proposed law appropriately seeks to prohibit piercing except when it provides a medical benefit to the animal and is performed by a licensed veterinarian (or under the supervision of a licensed veterinarian). The bill would similarly prohibit tattooing except when it (1) provides a medical benefit to the animal and is performed by a licensed veterinarian (or under the supervision of a licensed veterinarian); or (2) is done for identification, not design, purposes and includes only numbers and letters allotted by a corporation that in the regular course of business maintains an animal tattoo identification registry. While New York’s existing laws prohibit various cruel acts against animals,¹³ the proposed law would clarify that—apart from two limited exceptions—tattooing and piercing are also prohibited.

CONCLUSION

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

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for violations of health laws or regulations); N.Y. PUB. HEALTH LAW § 12-b(McKinney 2014) (establishing penalties for willful violations of health laws or regulations).

¹⁰ See Sponsor’s justification memo, Assembly Bill No. 739-C.

¹¹ *Id.*

¹² MAIL ONLINE, *Gothic Kittens*, *supra*.

¹³ See, e.g., N.Y. AGRIC. & MKTS. LAW § 353 (McKinney 2014) (establishing a class A misdemeanor for any person “who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal . . . or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed”); N.Y. AGRIC. & MKTS. LAW § 353-a (McKinney 2014) (establishing a felony for any person who “with no justifiable purpose” “intentionally causes serious physical injury to a companion animal”).