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

**A.1655-A
S.4799**

**M. of A. Rosenthal
Sen. Martins**

AN ACT to amend the Agriculture and Markets Law in relation to the care of animals by pet dealers.

THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS

SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend sections 400 through 405 of the Agriculture and Markets Law to expand the definition of the term “pet dealer” to include wholesale pet breeders, define the term “retail pet store,” improve humane housing and care standards for animals maintained by pet dealers, and add new recordkeeping, licensing and inspection provisions with respect to pet dealers. Additionally, the proposed legislation would create a new section 408 of the Agriculture and Markets Law to provide a severability provision.

Amendments Concerning the Expansion of the Definition of “Pet Dealer” and the Definition of “Retail Pet Store”

The proposed legislation would amend section 400 of the Agriculture and Markets Law to create a new subsection A of subdivision 4 to expand the definition of “pet dealer” to include “any person who has possession of more than ten sexually intact female dogs over the age of one year for the purpose of breeding those animals and selling any offspring as household pets” in addition to the categories of persons deemed to be “pet dealers” under existing law.¹ Additionally, the proposed legislation would create a new subdivision 5 to define the term “retail pet store” to mean “a person or retail establishment open to the public where dogs are bought,

¹ Under current law, the term “Pet Dealer” is defined as follows: “‘Pet Dealer’ means any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; provided that a breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder’s residential premises shall not be considered a pet dealer as a result of selling or offering to sell such animals. Such definition shall further not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged.” N.Y. AGRIC. & MKTS. LAW §400(4). Under the proposed legislation, the existing definition of “pet dealer” would be transferred to section 404(4)(B) and would serve as an alternative category of persons deemed to be a “pet dealer” under new section 404(4)(A).

sold, exchanged, or offered for retail sale directly to the public to be kept as pets, but that does not engage in any breeding of dogs for the purpose of selling any offspring for use as a household pet.”

Amendments to Improve Humane Housing and Care Standards

The proposed legislation would amend various subsections of section 401 of the Agriculture and Markets Law to improve humane housing and care standards for animals maintained by pet dealers. Specifically, the proposed legislation would amend section 401(1)(a) to require that “all dogs shall have constant and unfettered access to an indoor enclosure.” Additionally, section 401(1)(b) would be amended to require that all dogs shall be provided with “sufficient indoor space for each dog to turn in a complete circle without any impediment (including a tether); enough space for each dog to lie down and fully extend his or her limbs and stretch freely without touching the side of an enclosure or another dog” and provide indoor floor space specifications depending on the size of the dogs maintained by the pet dealer.²

Section 401(1)(b) would also be amended to prohibit the use of wire flooring in primary enclosures by requiring that the “flooring of primary enclosures shall consist of a solid, impermeable material,” and to prohibit the housing of animals in vertical stacked cages by requiring that “primary enclosure[s] shall not be stacked or placed on top of another primary enclosure.”³

The proposed legislation would also amend section 401(1)(d) regarding the regulation of temperatures at which animals are maintained, by specifying that with respect to dogs, “the temperature shall not fall below forty-five degrees Fahrenheit or rise above eighty-five degrees Fahrenheit.”

The proposed legislation would also amend section 401(2) regarding sanitation in pet housing facilities by requiring that pet dealers implement the “removal of waste material from primary enclosures at least once per day, and the cleaning of primary enclosures with sterilizing agents at least once per week.” Additionally, the proposed legislation would amend section 401(2) to expand the circumstances in which animals must not be present during the cleaning of the primary enclosure or cage to include those instances where the enclosure or cage is being cleaned with pressurized water or steam.⁴

The proposed legislation would also amend section 401(3) regarding the feeding and provision of water to animals to require that each animal shall be provided with adequate food “at least twice a day” and that each animal shall be provided “continuous” access to clean, fresh water “that is not frozen, and is free of debris, feces, algae and other contaminants.”

² Note that these requirements would apply only to pet dealers that are not also retail pet stores.

³ See footnote 2, *supra*.

⁴ Current law provides that “Under no circumstances shall the animal remain inside the primary enclosure or cage while it is being cleaned with sterilizing agents or agents toxic to animals or cleaned in a manner likely to threaten the health and safety of the animal.” N.Y. AGRIC. & MKTS. LAW §401(2).

Additionally, section 401(5)(a) regarding the provision of veterinary care would be amended to specify that the veterinary care “shall, at minimum provide an annual examination and prompt treatment of any illness or injury.” Section 401(6)(a) regarding humane euthanasia⁵ would be amended to specify that “humane euthanasia of animals shall be accomplished only by a licensed veterinarian using lawful techniques deemed ‘acceptable’ for dogs by the American Veterinary Medical Association and in accordance with section three hundred seventy-four of this Chapter.” Additionally, a new section 401(6)(b) would be implemented to require that no animal be left unattended between the start of the euthanasia procedure and the confirmation of death and that the body of the euthanized animal shall not be disposed of until death is confirmed by a licensed veterinarian, certified euthanasia technician, or a licensed veterinary technician.

The proposed legislation would also add a new section 401(5)(g) to require that “no dog shall be bred to produce more than two litters in any eighteen month period” and that “no dog may be bred if the animal is younger than one year or older than eight years of age.”

Additionally, the proposed legislation would expand the existing daily exercise requirements set forth in section 401⁶ to require that for dogs maintained by pet dealers who are not a retail pet store, “such exercise shall consist of constant and unfettered access to an outdoor exercise area that is composed of a solid, ground level surface with adequate drainage, provides adequate protection from the elements, and provides each dog with at least twice the indoor square footage of the indoor floor space provided to that dog.”⁷

The proposed legislation would also amend section 401 to create a requirement that “each animal shall be provided with basic grooming sufficient to prevent curling of nails or matting of fur.”

Amendments Concerning Recordkeeping, Licensing, and Inspection of Pet Dealers

The proposed legislation would amend section 402 of the Agriculture and Markets Law concerning the recordkeeping requirements of pet dealers to require that pet dealers maintain records regarding “the dates on which each animal was bred, identification of each dog used in the breeding, the dates on which each female animal whelped a litter, and the number of puppies in each litter.”

⁵ Current law provides that “Humane euthanasia of an animal shall be carried out in accordance with section three hundred seventy-four of this chapter.” N.Y. AGRIC. & MKTS. LAW §401(6). Section 374 in turn prohibits the use of certain methods of euthanasia but does not require that the euthanasia be performed by a licensed veterinarian or related licensed professional. N.Y. AGRIC. & MKTS. LAW §374.

⁶ The current law provides that “pet dealers shall develop, maintain, document, and implement an appropriate plan to provide dogs with the opportunity for daily exercise,” however it does not specify the size, structure or any other details concerning the exercise space to be implemented. N.Y. AGRIC. & MKTS. LAW §401(7).

⁷ The proposed legislation contains an exception to this exercise requirement where a “licensed veterinarian states in writing that such exercise would be detrimental to the animal’s health.”

The proposed legislation would amend section 403(1) regarding the licensing of pet dealers to remove the allowance for pet dealers to operate without a license while their pet dealer license applications are pending. Section 403(3) would also be amended to provide a uniform application fee for all pet dealers regardless of the number of animals to be sold by the pet dealer.⁸

The proposed legislation would also amend section 404 of the Agriculture and Markets Law regarding the license refusal, suspension, and revocation of pet dealer licenses,⁹ by providing that “the Commissioner [of Agriculture] shall, consistent with Article 23-A of the Correction Law, decline to grant, or shall suspend, decline to renew or revoke a pet dealer license” where the pet dealer has (a) been convicted of a violation of Article 26 “pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal” or (b) violation of any federal, state, or local law relating to the endangerment of the life or health of an animal. As with the permissive suspension and revocation power of the Commissioner contained in the current section 404, this new subsection of section 404 pertaining to the Commissioner’s mandatory suspension and revocation powers would also be subject to the existing provisions of section 404 providing for a hearing with notice in accordance with Articles 3 and 4 of the Administrative Procedure Act and judicial review pursuant to Article 78.¹⁰

The proposed legislation would also amend section 404(5) to provide that “the Commissioner may suspend a pet dealer’s license pending a determination in an Article seventy-eight proceeding.” Additionally, the proposed legislation would create a new section 404(6) to provide that “[t]he refusal, suspension, or revocation of a pet dealer’s license under this section shall not prevent the levying of additional civil penalties, as provided in section four hundred six of this Article, for violations.”

The proposed legislation would amend section 405 regarding the inspection of pet dealers to require that all pet dealers are subject to an annual inspection to ensure compliance with the humane care standards of New York state law.¹¹ The proposed legislation would also create a

⁸ Current law provides that “[e]ach application for a license shall be accompanied by a nonrefundable fee of one hundred 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.” N.Y. AGRIC. & MKTS. LAW §403(3).

⁹ The current law provides that the revocation, suspension, nonrenewal or refusal to grant a pet dealer license is permissible in the following circumstances: (a) a material misstatement in the license application; (b) a material misstatement in or falsification of records; (c) violation of any provision of Article 26-A, conviction of a violation of Article 26 regarding the humane treatment of animals, or violation of any state, federal or local law or regulation concerning the care, treatment, sale, possession or handling of animals. N.Y. AGRIC. & MKTS. LAW §404(3). Any such suspension revocation must be preceded by “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.” N.Y. AGRIC. & MKTS. LAW §404(4). Additionally, any such action by the Commissioner is subject to judicial review in an Article 78 proceeding. N.Y. AGRIC. & MKTS. LAW §404(5).

¹⁰ See footnote 9, *supra*.

¹¹ Under current law, only pet dealers selling twenty-five or more animals per year are subject to the annual inspection while pet dealers selling fewer than twenty-five animals are inspected “whenever in the discretion of the Commissioner or his or her authorized agents, a complaint warrants such investigation.” N.Y. AGRIC. & MKTS. LAW §405(1).

new section 405(4) to provide that “any person conducting an inspection of a pet dealer shall, upon belief that Article twenty-six of this Chapter or regulations promulgated thereunder pertaining to the humane treatment of animals, cruelty to animals, or endangering the life or health of an animal have been violated, report the suspected violation to duly authorized law enforcement agent and to the Commissioner in writing immediately, or as soon as reasonably possible.”¹²

The proposed legislation would also amend section 405 by creating a new subsection (5) to provide that “the Commissioner or any county or city agent duly authorized to conduct inspections of pet dealers may require pet dealers to pay an annual inspection fee to be paid within thirty days of an annual inspection” and that any monies generated by the fees or penalties collected by the Commissioner shall be deposited in the “‘pet dealer licensing fund’ established pursuant to section ninety-seven-RR of the State Finance Law” or if collected by a city or county, then the city or county has discretion to use the monies for their general funds, funds created for the purpose of administering pet dealer inspections, or for any und providing for animal welfare generally.

Severability Provision

Lastly, the proposed legislation would create a new section 408 of the Agriculture and Markets Law to provide a severability provision, providing that “[i]f any provision of this article, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this Article that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Article are severable.”

JUSTIFICATION

Dogs at commercial breeding facilities, also known as “puppy mills,” are often kept 24-hours a day in small outdoor cages (often stacked) open to the elements with wire floors so that urine and feces drop from the cage. This housing is detrimental to the dogs’ health and many have serious foot and other health problems because of the wire flooring. Dogs get little to no exercise or socialization, many never leaving their cages for their entire lives. Female dogs are constantly bred until the point of exhaustion. When, after a few years, they are physically depleted to the point that they no longer can reproduce, breeding females are often killed. Many adult dogs, as well as puppies, die on puppy mills from substandard care and lack of adequate veterinary care. Dogs are not provided basic grooming such that their nails commonly curl to the

¹² The current law provides for mandatory inspections of pet dealers by the Commissioner of Agriculture, authorized agents of the Commissioner or other delegated authorities “to ensure compliance with this article and with the provisions of article thirty-five-D of the general business law” and requires that “[a]ny person conducting an inspection of a pet dealer or responding to a complaint concerning a pet dealer shall be specifically trained in the proper care of cats and dogs and in the investigation and identification of cruelty to animals.” N.Y. AGRIC. & MKTS. LAW §405(1)-(3).

point of deformity and their fur becomes matted and filthy. Humane euthanasia is rarely practiced.¹³

Although existing New York law provides some minimum standards of care for dogs and cats maintained by pet dealers, it is deficient in two significant respects. First, as noted in the Bill's justification memo, there is a loophole in the current definition of 'pet dealer,' which only encompasses those breeders who sell directly to the public, and excludes those who sell animals wholesale to pet stores or brokers. Animals maintained by breeders selling wholesale to pet stores and brokers are no less deserving of basic standards of care than those animals sold directly the public. If anything, there is a greater need to institute humane care standards for breeders selling wholesale to pet stores and brokers because these facilities are often hidden from public scrutiny.

Next, many of the minimum care standards in existing New York law contain very general language which, as demonstrated by a number of investigations of puppy mills and other commercial breeders, is insufficient to ensure the provision of humane care to animals maintained by pet dealers. For example, existing law does not limit the number of times a dog may be bred, does not require euthanasia by a licensed veterinarian, permits the use of wire flooring shown to be detrimental to dogs' health as well as the vertical stacking of cages, does not provide specific feeding requirements for individual animals, does not specify the temperatures at which facilities must be kept or the specific amounts of cage and exercise space to be provided to each animal.¹⁴ As noted in the Bill's justification memo and as documented in

¹³ See USDA Office of Inspector General Audit Report 33002-4-SF, "Animal and Plant Health Inspection Service Animal Care Program, Inspection of Problematic Dealers, May 2010, available at <http://www.usda.gov/oig/webdocs/33002-4-SF.pdf> (last visited Mar. 21, 2013) (citing various cases of repeat violations of the Animal Welfare Act by large-scale dogs breeders and brokers throughout the United States "demonstrat[ing] the agency's leniency toward violators, the ineffectiveness of its enforcement process, and the harmful effect they had on the animals," including cases in which there was "lack of adequate veterinary care for three dogs with hair loss over their entire bodies and raw, irritated spots on their skin," a dog with bite wounds "left untreated for at least 7 days, which resulted in the flesh around the wound rotting away to the bone;" "numerous dogs infested with ticks" including one case in which "the ticks completely covered the dog's body;" citing a case in which "large amounts of feces and urine was pooled under the kennels producing an overpowering odor;" as well as a case in which an inspector "found five dead dogs and other starving dogs that had resorted to cannibalism." See also "USDA Inspection Report Quotes: Examples of Severe Violations," Humane Society of the United States, available at http://www.humanesociety.org/assets/pdfs/pets/puppy_mills/usda_severe_violations_pm.pdf (last visited Mar. 21, 2013) (quoting USDA inspection of Kimberly Alexander, 71-A-1284, Gamaliel, Ark., Sept. 15, 2010: euthanasia of dogs was performed by breeder who "would 'bend the head a certain way and the neck would break.;" quoting USDA inspection of Jason Hoover/Jay Dar Pugs, 21-A-0104, Clyde, N.Y., Sept. 28, 2010: "The records indicate that over the summer 6 female dogs died a few days to week after whelping puppies. The licensee never contacted the attending veterinarian to get guidance on the situation or determine a possible diagnosis why the dogs died."); "Puppy Mill FAQ," ASPCA, available at <http://www.aspc.org/Fight-Animal-Cruelty/puppy-mills/puppy-mill-faq> (last visited Mar. 21, 2013); "Puppy Mills: Frequently Asked Questions," Humane Society of the United States, Aug. 12, 2013, available at http://www.humanesociety.org/issues/puppy_mills/qa/puppy_mill_FAQs.html#definition (last visited Mar. 21, 2013).

¹⁴ We note that in 2008 Pennsylvania passed legislation similar to that proposed in Assembly Bill 1655 to effectively improve conditions for dogs on puppy mills. Among other protections for dogs, the statute doubles the minimum floor space for dogs, eliminates wire flooring, and requires access to an outdoor exercise area twice the size of the dog's primary enclosure. The law also requires veterinary examinations for each dog at least once per year and

numerous inspection reports, commercial breeding facilities have “escaped proper inspection and oversight by local counties and cities, due to significant issues in the current law.” Thus, without such specific requirements, there is no guarantee that basic humane standards will be provided to these animals.

The amendments to the licensing provisions of the Agriculture and Markets Laws concerning recordkeeping, licensing, and inspection of pet dealers are also necessary to ensure implementation of these minimum humane standards. Under current law there is no requirement that animal identification and breeding records be maintained. Especially given that dog breeding facilities may maintain hundreds of dogs at a time, requiring the creation and retention of such records is necessary to ensure compliance with humane care standards.

The amendments to the licensing provisions are equally sensible. Providing a uniform licensing fee for dealers regardless of the number of animals sold is appropriate for several reasons. First, under existing law, the annual licensing fee for dealers selling fewer than twenty-five animals per year is a de minimis fee of \$25. The fee for all other dealers is \$100. Given that a dealer who sells even twenty-four animals per year may charge thousands of dollars in the sale of each animal and remains responsible for a significant percentage of our state’s overburdened animal shelter system, increasing the licensing fee to \$100 for such dealers would not be unduly burdensome. Next, an initial applicant may intend to sell fewer than twenty-five animals per year, but following issuance of a license, may in fact sell more than twenty-five and as such escape the higher licensing fee assessed on dealers selling twenty-five animals or more per year. Additionally, the number of animals actually sold by a dealer is not an accurate indication of the number of animals a dealer may have in his or her care at any given time. Thus, a dealer who sells fewer than twenty-five animals per year may still have hundreds of breeding dogs. All dealers, regardless of the number of animals sold per year, are subject to inspections at the tax payers’ expense. By applying a uniform licensing fees to all dealers, additional revenues will be generated that can be applied to fund inspections and to implement animal population control measures.

The proposed amendment to remove the allowance for pet dealers to operate without a license while their pet dealer license applications are pending is a necessary and commonsense provision to ensure the humane treatment of animals. A pre-condition of a pet dealer license is a satisfactory inspection of the applicant’s facility to ensure compliance with the humane care standards of Article 26-A.¹⁵ By allowing dealers to operate animal facilities prior to a determination that they have the appropriate provisions in place to comply with humane care standards, there is a significant risk that such persons may in fact operate in violation of the humane care standards, threatening the health and well-being of the animals in their care.

during each pregnancy, and euthanasia must be done by a veterinarian. *See* 3 Pa. Stat. Ann. §§ 459-101 to 459-1205 (2009), amended by Act 119 (Oct. 2008) (Pennsylvania state kennel licensing and enforcement laws).

¹⁵ *See* New York State Department of Agriculture & Markets Division of Animal Industry Pet Dealer Licensing Program Guidelines, March 2013, available at http://www.agriculture.ny.gov/AI/Pet_Dealer_Booklet_109.pdf (last visited Mar. 21, 2013).

The proposed amendment to require the mandatory revocation, suspension, nonrenewal or refusal to grant a pet dealer license where such dealer or applicant has been convicted of animal cruelty or neglect under Article 26 of the Agriculture and Markets Laws is also necessary to ensure humane treatment of animals and is consistent with New York State law concerning the mandatory revocation or suspension of licensees in other professions where the licensee has been convicted of a crime that threatens the health, safety or well-being of people or animals (note the Recommendations section below).¹⁶ The due process interests of dealers or applicants whose licenses or applications are so affected are appropriately protected by the requirement that any revocation, suspension, nonrenewal or refusal to grant be made consistent with Articles 3 and 4 of the Administrative Procedure Act and Article 78 of the CPLR.¹⁷

The proposed amendment to require that all pet dealers be subject to an annual inspection is likewise necessary to ensure the humane treatment of animals maintained by pet dealers. Animals maintained by a dealer selling fewer than twenty-five animals per year are no less deserving of basic standards of care, including annual inspections to ensure compliance, than those animals sold by dealers selling more than twenty-five animals per year. Additionally, the number of animals actually sold by a dealer per year is not an accurate indication of the number of animals a dealer may have in his or her care at any given time. For example, a dealer who sells fewer than twenty-five animals per year may still have hundreds of breeding dogs. Thus, the need for annual inspections to determine humane care compliance is necessary regardless of the number of animals sold per year.

Additionally, the proposed amendment to require that a person conducting an official inspection of a pet dealer who has reason to believe that the pet dealer has violated the humane care standards of Article 26 or other animal cruelty law shall report the suspected violation to

¹⁶ For example, New York Social Services Law § 390-b(3)(b)(i) provides that “where the criminal history record of a current operator of a child day care facility or program reveals a conviction for a crime set forth in subparagraph (i) of paragraph (a) of section 390-b of the Social Services Law . . . The Office *shall deny, limit, suspend, revoke, reject or terminate the license or registration based on such a conviction* unless the Office determines, in its discretion, that the continued operation of the center, home or program will not in any way jeopardize the health, safety or welfare of the children in care.” (emphasis added). Similarly New York Vehicle & Traffic Law § 510(2)(a)-(b) provides that a driver’s license “*shall be revoked* and such registrations may also be revoked where the holder is convicted” of certain enumerated crimes and that “[*s*uch licenses shall be suspended, and such registrations may also be suspended” upon conviction of certain enumerated violations.” (emphasis added). New York Environmental Conservation Law § 71-0927(1)-(3) provides that anyone convicted of violating New York Environmental Conservation laws concerning the harvesting, taking, possessing or transporting of certain marine fish, shellfish or crustacea “*shall have his license to take and land [such species] revoked and shall not be relicensed for a minimum of five years thereafter*, in addition to any other sanctions imposed pursuant to this article.” (emphasis added). Similarly, New York General Business Law § 89-ggg(2) regarding the licensing of armored car carriers provides that “[t]he secretary *shall revoke a license issued* to a person pursuant to this section upon proof that, on or after the date such licensee applied for such license, the licensee was convicted of one or more serious offenses.” (emphasis added).

¹⁷ The Court of Appeals has recognized that “the due process protection of an article 78 proceeding suffices” where a person’s driving license has been subjected to mandatory revocation, reasoning that on an Article 78 proceeding, “petitioner may challenge the action on grounds such as: (1) misidentification of the person subject to one or more of the convictions; (2) reversal or dismissal on appeal of one or more of the convictions” *Horodner v. Fisher*, 382 N.Y.S. 2d 28, 31 (1976); *see also Cadieux v. MacDuff*, 159 N.Y.S.2d 138, 140 (3rd Dep’t 1956), *appeal dismissed*, 153 N.Y.S.2d 209 (1956); *Arcuri v. MacDuff*, 141 N.Y.S.2d 1, 7 (3rd Dep’t 1955).

law enforcement and to the Department of Agriculture is also necessary to ensure humane treatment of animals. Existing law already requires that “[a]ny persons conducting an inspection of a pet dealer or responding to a complaint concerning a pet dealer shall be specifically trained in the proper care of cats and dogs and in the investigation and identification of cruelty to animals.” N.Y. AGRIC. & MKTS. LAW §405(3). Thus, given that such inspectors already have the specific training and ability to identify violations of humane care standards and animal abuse, and given that in many instances the inspectors are the only persons able to witness or evaluate the standards of such facilities given that the facilities are generally not open to the public, it is entirely appropriate and necessary that such inspectors immediately report any suspected violations of humane care standards or animal cruelty to ensure that such suspected violations are promptly and appropriately investigated.¹⁸

Lastly, the proposed amendment to allow local municipalities to assess annual inspection fees to be used for the purpose of funding pet dealer inspection, general animal welfare purposes or general municipality funds is necessary to ensure that local municipalities have sufficient funding to implement pet dealer inspections. Under existing law, the Commissioner of Agriculture may delegate inspection responsibilities to local municipalities. N.Y. AGRIC. & MKTS. LAW §405(2). Thus, to the extent that such municipalities are required to carry out such inspections, this amendment is necessary to ensure that municipalities have enough funding to carry out such inspections. Because the funds may be generated from the pet dealers for whom the municipality is required to inspect, the amendment appropriately places the burden of funding on the pet dealers as opposed to the local municipalities.

RECOMMENDATIONS

We note that the proposed revisions to N.Y. AGRIC. & MKTS. LAW §404(2) does not incorporate a uniform standard under which mandatory suspension, revocation or refusal to grant pet dealer license is required. To wit: the proposed section 404(2)(a) requires “conviction of a violation” of a specified animal cruelty law while section 404(2)(b) merely requires “violation” of a specified animal cruelty law. Accordingly, we recommend that the proposed legislation be amended to require the same standard of “conviction for violating”¹⁹ for both subsections of section 404(2).

We also note that other New York laws that provide for the permissive or mandatory revocation or suspension of a person’s license incorporate specific time durations for the revocation or suspension and/or provide that a license shall not be reissued to a person following a certain number of license revocations with respect to that person.²⁰ Accordingly, we

¹⁸ See USDA Office of Inspector General Audit Report 33002-4-SF, *supra* (recommending the development of “procedure [for APHIS inspectors] to refer suspected animal cruelty incidents to appropriate authorities.”).

¹⁹ Additionally we recommend use of the phrase “conviction for violating” as opposed to “conviction of a violation” to avoid confusion as to applicability of the mandatory revocation provision to convictions arising out of misdemeanor or felony charges.

²⁰ See, e.g., New York Environmental Conservation Law § 71-0927(1)-(3) (license for taking of fish and wildlife subject to mandatory revocation “shall not be relicensed for a minimum of five years thereafter”); New York General Business Law § 410 (license for Nail Specialty, Natural Hair Styling, Esthetics and Cosmetology subject to

recommend that the proposed legislation be amended to provide a minimum and maximum time duration for the revocation or suspension of a pet dealer's license as well as a provision specifying that a pet dealer shall not be reissued after two revocations based on a conviction of animal cruelty or neglect pursuant to N.Y. AGRIC. & MKTS. LAW §404(2).

CONCLUSION

For the foregoing reasons, the Committee supports the proposed legislation subject to the recommendations set forth above.

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permissive revocation “shall not be reinstated or reissued until after the expiration of a period of one year from the date of such revocation. No license shall be issued after a second revocation.” (emphasis added); New York Vehicle & Traffic Law § 510(6) provides that a personal driver's license subject to mandatory revocation shall not be reissued “*for at least six months or, in certain cases a longer period*” and in the case of mandatory revocation of a commercial driver's “*no new commercial driver's license shall be issued for at least one year nor thereafter except in the discretion of the commissioner*” and “*shall be permanent*” in certain circumstances. (emphasis added).