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

Int. No. 0136-A 2014 **Council Members Crowley, Arroyo, Dickens, Johnson, Koo, Levine, Palma, Rose, Vallone, Mendez, Koslowitz, Cornegy, Rosenthal, Levin, Rodriguez, Torres, Lander, Weprin and Ulrich**

A LOCAL LAW to amend the New York City Administrative Code in relation to spaying, neutering and licensing of animals sold in pet shops.

THIS LEGISLATION IS APPROVED

SUMMARY OF THE PROPOSED LAW

Spay and Neuter Requirements

The proposed legislation would amend section 17-804(b) of the New York City Administrative Code to remove the veterinary letter exception to the requirement that all dogs and cats sold in pet stores must be spayed or neutered by a licensed veterinarian prior to release to a purchaser. Under the existing veterinary letter exception, an animal may be released without sterilization when a purchaser presents a letter and certification from a licensed veterinarian to the pet shop rendering a professional opinion that the animal should not be sterilized until a later date.

The proposed legislation would also amend section 17-804(c) to expand the length of time which pet shops must maintain records of all sales of dogs and cats, sterilization procedures and veterinarian records to a period of five years.

Licensing Requirements

The proposed legislation would add new Section 17-814 to the Administrative Code to provide that a pet shop¹ or animal rescue group cannot sell or release a dog to a purchaser or

¹ We note that the licensing requirements would not apply to a pet shop that allows an animal shelter or non-profit rescue group to use the pet shop's premises for the purpose of making animals available for adoption, provided that the pet shop does not have an ownership interest in such animals.

adopter unless the purchaser or adopter first completes an application for a dog license² and pays the dog license fees.³ The license application would require the disclosure of the following information: (i) the name and address of the source from which the pet shop obtained the dog; (ii) the license number of the source and the dog's United States Department of Agriculture ("USDA") tag number, if the source is licensed by the USDA; (iii) the name and address of the pet shop and the pet shop's permit number. The pet shop would then be required to forward the completed application and license fees to the Department. The licensing requirements of this proposed section would not apply to a pet shop that has received a written statement from the purchaser that the dog to be purchased will not be harbored in the City.

The proposed legislation would also require every pet shop operator, on at least a monthly basis, to report to the City Department of Health and Mental Hygiene (the "Department"), on a form provided by the Department, information on all dogs which have been sold and adopted, indicating for each dog whether or not the pet shop submitted a license application to the Department. The form would include the name and address of the dog's purchaser or adopter, the license or license application number (if known), as well as any other descriptive information about the dog as the Department may require.

THE COMMITTEE SUPPORTS THE PROPOSED LEGISLATION

Spay and Neuter

Under existing section 17-804 of the City's Administrative Code, pet shops are required to sterilize all dogs and cats prior to purchase by a consumer (unless a letter and certification is received by the pet shop from a licensed veterinarian rendering a professional opinion that the animal should not be sterilized until a later date).⁴ Until the enactment of A.740-A/S.3753-A (the "Preemption Bill"),⁵ the City was precluded from enforcing this law due to preemption language in the New York State Pet Dealer Law which prevented municipalities from enacting pet dealer laws that were more stringent than those provided by state law. With the passage of the Preemption Bill, the City and all New York State municipalities are now able to enact and enforce laws that more strictly regulate pet dealers within their localities, including laws mandating the spay and neuter of animals sold by pet stores to consumers.

New York City has long recognized the importance of spaying and neutering as a way to control the City's rampant animal overpopulation problem and ultimately lower the number of homeless animals entering the City's animal shelter system. Sterilization of dogs and cats sold by

² Existing law provides that all persons who own or possess a dog in New York City must obtain a dog license for such dog. Rules of the City of New York § 161.04(a). *See also* N.Y. AGRIC. & MKTS. LAW § 109.

³ We note that existing law only requires "permitted" pet shops to obtain a completed license application and collect the appropriate license fees prior to release. *See* 24 RCNY § 161.15(b). Because New York City pet shops that sell only dogs and cats are exempted from the City's pet shop permitting requirements (*See* 24 RCNY § 161.09(a)(1)), the proposed legislation is necessary to ensure that all pet stores are required to comply with this licensing requirement.

⁴ NYC Administrative Code §§ 17-804(b), 17-802(e)-(f).

⁵ NYS L. 2013, Chp. 553

pet stores to consumers is necessary to reduce dog and cat overpopulation and shelter intake in New York City.

We support the removal of the veterinary letter exception from section 17-804 as the veterinary exception does not require that the veterinarian's medical opinion be based on the best health or welfare interests of the animal in question following a medical examination of the animal.

Licensing

Section 17-814 of the proposed legislation would provide the City with a new means of enforcing the requirement to obtain a dog license.⁶ Under current law, a dog license must be obtained by every person who owns, possesses, keeps, harbors, adopts, purchases, or cares for a dog in New York City for each dog owned, possessed or controlled by such person.⁷ Despite the law, a low percentage of City dog owners actually obtain licenses for their dogs.⁸ Additionally, pet shops that are required to hold a permit under New York City Law are also required to obtain a completed dog license application and collect the appropriate licensing fees prior to releasing a dog to a purchaser. *See* 24 RCNY § 161.15(b). However, as noted above there is a significant loophole in the existing law that exempts City pet shops that sell only dogs and cats from this licensing requirement.⁹ Accordingly, a significant number of dogs sold in New York City pet shops are not subject to this licensing requirement.

By requiring all pet shops and animal rescue groups to collect a dog license application and fee before dogs are released to a purchaser or adopter and then transmit the application and fee to the Department, Section 17-814 would help enforce the dog license requirement while also increasing funding to the Animal Population Control Fund.¹⁰

CONCLUSION

For the aforementioned reasons, the Committee supports the proposed legislation.

Animal Law Committee
Christine Mott, Chair

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⁶ Licensing is one of the best ways to increase a pet's chances of being reunited with his or her family in the event that the pet is lost or stolen.

⁷ *See* FN 1, *supra*.

⁸ *See* <http://www.wnyc.org/story/264283-nyc-dogs-small-unlicensed-and-sometimes-named-jeter/> (reporting that the Department estimates that only one in five dogs in the City are licensed) (last visited November 11, 2014); and <http://newyork.cbslocal.com/2010/09/28/health-dept-80-of-nyc-dogs-not-licensed/> (reporting that 80% of dogs in the City are not licensed) (last visited November 11, 2014).

⁹ *See* FN 3, *supra*.

¹⁰ *See* New York City Health Code §29-01.