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**TESTIMONY OF ELIZABETH STEIN
MEMBER, ANIMAL LAW COMMITTEE OF THE
NEW YORK CITY BAR ASSOCIATION
IN SUPPORT OF INT. 0055-2014, 0136-2014, AND 0146-2014**

**NEW YORK CITY COUNCIL
COMMITTEE ON HEALTH
April 30, 2014 - 1:00 P.M.**

Good afternoon. My name is Elizabeth Stein and I am testifying on behalf of the New York City Bar Association's Committee on Animal Law.

Chairman Johnson, Council Member Crowley and members of the Health Committee thank you for this opportunity to testify on Intros. No. 0055, 0136, and 0146. For your reference, attached to my written testimony are copies of the Animal Law Committee's full reports on these pieces of legislation.

INTRO. NO. 0055-2014 - PROHIBITING THE SALE OF PUPPIES AND KITTENS BRED IN PUPPY AND KITTEN MILLS

We vigorously support the Council's efforts to enact legislation to ensure that puppies or kittens purchased by consumers from a City pet shop are not sourced from inhumane dog or cat breeders and we applaud the Council for acting so quickly after legislation (the "Preemption Bill") was enacted in January to allow New York municipalities the ability to enact stricter local laws governing pet dealers within their jurisdictions.¹

Among other things, this law (codified at Ag. & Mkts. Law §407) now permits New York City to impose restrictions or requirements concerning the source of dogs and cats offered for sale to the public by pet stores (provided that such restrictions do not constitute an outright ban on all sales of dogs and cats) as well as greater standards of care for dogs and cats maintained by pet stores and breeders.²

¹ A.740-A/S.3753-A, NYS L. 2013, Chp. 553. See Report on A.740-A/S.3753-A, Animal Law Committee, New York City Bar Association, June 2013, available at <http://www2.nycbar.org/pdf/report/uploads/20072516-PetDealerPreemption.pdf>.

² Ag. & Mkts. Law Section 704(c) provides that "no such local law, rule, regulation or ordinance shall . . . essentially result in the banning of all sales of dogs or cats raised and maintained in a healthy and safe manner". The New York City Bar Association approved the passage of this law with the recommendation that the language barring an outright ban on the sale of dogs and cats be removed for being unduly vague (as the phrase "raised and maintained in a healthy and safe manner" is not defined) and because the prerogative to enact such a ban would fall within the recognized police powers of New York state municipalities. *Id.*

It is well documented that many of the puppies and kittens sold at retail pet stores, including those in New York City, come from puppy and kitten mills where the so called “breeding stock”, the mothers and fathers of the puppies produced for sale, are subjected to such cruel and inhumane practices as inbreeding, overbreeding, minimal to non-existent veterinary care, lack of adequate food, water and shelter, lack of socialization, lack of adequate space and the inhumane euthanization of unwanted animals.³ These conditions oftentimes result in health and behavioral issues in the animals purchased by unwitting consumers, who have no idea that these puppies and kittens are the products of puppy mills or kitten mills.

The ability of the City to limit the sale of puppies and kittens by pet stores to only those animals raised in a healthy and safe environment will severely curtail if not abolish the sourcing of these animals from puppy and kitten mills. The inability to purchase puppy-mill dogs and kitten-mill cats in New York City will ultimately result in a greater demand by the public for animals bred in compliance with those humane standards imposed by the Council as well as increased adoption of the homeless animals in the City’s shelters.

We believe, however, that as drafted Intro. No. 0055 does not do enough to accomplish the laudable goal of ensuring that puppies or kittens purchased by consumers from a City pet shop are not sourced from inhumane dog or cat breeders and we therefore offer a number of recommendations to improve the bill.

First, under the proposed bill, it would be unlawful for a pet shop to sell a dog or cat from a high volume breeder. The term “high volume breeder”, however, is defined as any person who has custody of or an ownership interest in one or more breeding females and sells more than 50 of the offspring of such breeding females in a one year period; or any person that has custody of or an ownership interest in 20 or more breeding females. As drafted, such a definition would exclude many puppy mill and kitten mill breeders from the definition of high volume breeder and would thus allow such breeders to continue to sell their puppies and kittens to pet stores in New York City. We suggest that these numbers be reduced significantly so as to allow the sale of puppies and kittens from only reputable and responsible breeders. A total of four litters in a breeding female’s lifetime would seem an appropriate limit. Similarly, we suggest that the number of breeding females in which a person has an ownership interest should be significantly fewer than 20. Additionally, the term “person” as used in the definition of high volume breeder is not defined in the bill. We recommend that the term “person” be defined to include both organizations as well as individuals.

Lastly, we recommend that the bill be amended such that pet stores may only sell puppies and kittens from licensed USDA dealers who have not been found in violation of the Animal

³ See Report on A.1655-A/S.4799, Animal Law Committee, New York City Bar Association, June 2013 (would 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 record keeping, licensing and inspection provisions with respect to pet dealers), *available at* <http://www2.nycbar.org/pdf/report/uploads/20072530-PetDealerDefinitionExpansion.pdf>.

Welfare Act (AWA) for the past three years (as opposed to merely one year as presently drafted). We recognize that the standards for compliance under the AWA are minimal at best and that inspections of the dealers and enforcement of the law are inadequate.⁴ It is for these reasons that we believe it is crucial for the onus on the breeders to be far greater than mere compliance with the AWA for one year.

Although the City is now permitted to enact enhanced requirements for the standards of care of animals by pet dealers, we note that the minimum standards of care included in the bill are merely a codification of State law standards. We recommend that the bill be amended to provide enhanced standards of care for animals (applicable to both pet stores and breeders), above and beyond state law standards, including additional requirement for housing (including ventilation, lighting, temperature, flooring and space requirements), sanitation, feeding and watering, handling, veterinary care, exercise requirements, grooming and fire safety.⁵

We also recommend that pet stores be required to obtain certification from the breeders attesting to compliance with these standards and that pet stores be prohibited from selling dogs and cats from breeders that are not in compliance with these standards. By requiring such compliance from any breeder selling puppies and kittens to NYC pet stores, the Council will be eliminating the market for puppies and kittens bred in mills.

We urge the Council to amend the Intro. No. 0055 to take into consideration the above recommendations.

INTRO. NO. 0136-2014 - SPAYING, NEUTERING AND LICENSING OF ANIMALS SOLD IN PET SHOPS

We support the enactment of Intro. No. 0136 as an important means of strengthening the City laws regarding spay and neuter requirements as well as pet licensing and identification.

By requiring a pet shop to collect a dog license application and fee before it can sell or release a dog to a purchaser or adopter and then transmit the application and fee to the Department, Intro. No. 0136 would help enforce the dog license requirement while also increasing funding to the Animal Population Control Fund. The burden herein is well placed on the pet stores, which remain responsible for a significant portion of our City's overburdened shelter system.

The 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

⁴ See Report on H.R.847/S.395 ("The Puppy Uniform Protection and Safety Act"), Animal Law Committee, New York City Bar Association, June 2013 (would amend the Animal Welfare Act to expand the definition of the term dealer to include high volume retail breeders, improve exercise standards for animals maintained by dealers, and add new licensing provisions with respect to dealers), *available at* <http://www2.nycbar.org/pdf/report/uploads/20072517-PUPSAAct.pdf>.

⁵ See Report on A.1655-A/S.4799, *supra*.

animals entering the City's animal shelter system. We note that it was only with the recent enactment of the Preemption Bill that New York City has been able to enforce Section 17-804 of the City's Code requiring pet shops to sterilize all dogs and cats prior to purchase by a consumer. Now that it is able to do so, we urge the City to vigorously enforce this important law.

We support the amendment of the City Code to expand the pet store sterilization requirement to rabbits, which comprise a large number of the City's lost, strayed and abandoned animals and are able to reproduce in significant numbers in short periods of time.

However, we recommend that Intro. No. 0136 be amended to exclude guinea pigs as well as other small animals, which do not present a significant overpopulation problem and are not burdening the City's animal shelter system in the same manner as dogs, cats and rabbits. Further, the spaying or neutering of such small animals is potentially dangerous and uncommon.

We also recommend that the legislation be amended to address the age requirements triggering the mandatory pet store sterilization based on the established advice of veterinarian and humane organizations. First, we recommend that the sterilization requirement should apply to any dog or cat that is at least eight weeks of age and at least two pounds in weight (the age and weight range for such animals at which the procedure can safely be performed). In the case of rabbits, we recommend that the mandatory sterilization requirement only apply to rabbits that are four months of age or older as the procedure is unsafe for rabbits younger than four months.

We also recommend an amendment to the City Code regarding the exception to the current dog and cat sterilization requirements of Section 17-804, as well as the identical exception found in Intro. No. 0136, which permits pet stores to release unsterilized animals "to a consumer who presents to the pet shop a letter from such consumer's licensed veterinarian . . . stating the reason(s) why, in the opinion of such veterinarian, such dog, cat or other animal, should not be sterilized until a later specified date . . ." Such an exception is not narrowly tailored to 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. As practical matter, it is unclear how a veterinarian would have the opportunity to examine an animal offered for sale by a pet store prior to purchase by a consumer. For these reasons we recommend that Section 17-804 (and the corresponding portion of Intro. No. 0136) be amended to either remove this exception or make clear that any such exception may only be based on a letter from a licensed veterinarian who has examined the animal in question within the last 15 days and issued a medical opinion recommending deferred sterilization based on his or her professional experience and the best interest of the health or welfare of the animal in question.

In conclusion, we support Intro. No. 0136 and recommend that the Council consider amendments to implement our comments.

INTRO. NO. 0146-2014 - MICROCHIPPING ANIMALS SOLD IN PET SHOPS

We support the enactment of Intro. No. 0146 as an important means of strengthening City laws regarding pet licensing and identification, which will have positive collateral impacts on City residents – both human and animal – and the City's shelter system.

Although existing City law requires licensing of dogs as a method of identifying a pet's owner, many dog owners do not comply, and many of those that do license their animals do not physically maintain the license information on their pet (such as on a collar) so that the animal could be identified when not in the owner's care. Notably, existing law does not apply to cats, which make up a very significant number of lost and abandoned animals in City shelters. Microchipping is a simple process that yields 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 by providing a permanent form of identification. We applaud the Council for seeking to require City pet stores – which collectively bear responsibility for a significant percentage of our City's overburdened animal shelter system – to microchip dogs and cats, and ensure the registration of such microchip by the consumer at the time of release of such dog or cat.

We offer the following recommendations to strengthen Intro. No. 0146:

First, we recommend an amendment to clarify that the mandatory microchip registration by the pet store prior to sale be effectuated by the pet store with a bonafide microchip registering company. We also recommend that the proposed legislation be amended to clarify that the usage instructions to be provided to the consumer by the pet store should include the usage instructions provided by the manufacturer/registering company for the microchip implanted in the animal. The usage instructions should include such company's contact information as well as information regarding the necessity of maintaining current microchip registration and pet owner contact information with a microchip registering company.

Finally, we recommend that the proposed legislation be amended to increase the period in which the pet store must maintain the record of the usage instructions and consumer acknowledgement accompanying each pet sale. Given that the vast majority of dogs and cats sold by pet shops are puppies and kittens with a life span of more than five years, it is sensible to increase the record retention period to a time span that more closely tracks the animal's life span.

In conclusion, we support Intro. No. 0146 and recommend that the Council consider making the aforementioned amendments.

* * *

On behalf of the City Bar's Animal Law Committee, thank you for the opportunity to speak to you about this legislation.



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

Int. No. 0055-2014

**Council Members Crowley, Johnson, Arroyo, Constantinides,
Levine, Palma, Vacca, Koslowitz, Espinal, Rosenthal**

A LOCAL LAW to amend the administrative code of the city of New York, in relation to prohibiting the sale of puppies and kittens bred in puppy and kitten mills.

THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS

BACKGROUND

In January, Governor Cuomo signed into law a bill which now allows municipalities throughout New York to enact local laws governing pet dealers within their jurisdictions, provided such local laws are consistent with State law.¹ Among other things, this law (codified at Ag. & Mkts. Law §407) now permits New York City to impose restrictions or requirements concerning the source of dogs and cats offered for sale to the public by pet stores as well as greater standards of care for dogs and cats maintained by pet stores and breeders. It should be noted that the new State law does not allow the outright ban on all sales of puppies and kittens in pet stores provided these animals have been raised and kept in a healthy and safe manner.² One interpretation of the law would allow for the ban on some, but not all, sales of dogs and cats.

The New York City Bar Association approved the passage of this law with the recommendation that the language barring an outright ban on the sale of dogs and cats be removed for being unduly vague (as the phrase “raised and maintained in a healthy and safe manner” is not defined) and because the prerogative to enact such a ban would fall within the recognized police powers of New York state municipalities.³

It is well documented that many of the puppies and kittens sold at retail pet stores, including those in New York City, come from puppy and kitten mills where the so called “breeding stock”, the mothers and fathers of the puppies produced for sale, are subjected to such cruel and inhumane practices as inbreeding, overbreeding, minimal to non-existent veterinary care, lack of adequate food, water and shelter, lack of socialization, lack of adequate space and

¹ A.740-A/S.3753-A, NYS L. 2013, Chp. 553.

² Ag. & Mkts. Law Section 704(c) provides that “no such local law, rule, regulation or ordinance shall . . . essentially result in the banning of all sales of dogs or cats raised and maintained in a healthy and safe manner”.

³ See Report on A.740-A/S.3753-A, Animal Law Committee, New York City Bar Association, June 2013, available at <http://www2.nycbar.org/pdf/report/uploads/20072516-PetDealerPreemption.pdf>.

the inhumane euthanization of unwanted animals.⁴ These conditions oftentimes result in health and behavioral issues in the animals purchased by unwitting consumers, who have no idea that these puppies and kittens are the products of puppy mills or kitten mills.

RECOMMENDATIONS

The ability of the City to limit the sale of puppies and kittens by pet stores to only those animals raised in a healthy and safe environment will severely curtail if not abolish the sourcing of these animals from puppy and kitten mills. The inability to purchase puppy-mill dogs and kitten-mill cats in New York City will ultimately result in a greater demand by the public for animals bred in compliance with those humane standards imposed by the Council as well as increased adoption of the homeless animals in the City's shelters.

The Council therefore has the opportunity to enact legislation to ensure that puppies or kittens purchased by consumers from a City pet shop are not sourced from inhumane dog or cat breeders. We believe, however, that the Council bill as drafted does not do enough to accomplish this laudable goal for several reasons.

First, under the proposed bill, it would be unlawful for a pet shop to sell a dog or cat from a high volume breeder. The term "high volume breeder", however, is defined as any person who has custody of or an ownership interest in one or more breeding females and sells more than 50 of the offspring of such breeding females in a one year period; or any person that has custody of or an ownership interest in 20 or more breeding females. We respectfully submit that, as drafted, such a definition would exclude many puppy mill and kitten mill breeders from the definition of high volume breeder and would thus allow such breeders to continue to sell their puppies and kittens to pet stores in New York City. We suggest that these numbers be reduced significantly so as to allow the sale of puppies and kittens from only reputable and responsible breeders. A total of four litters in a breeding female's lifetime would seem an appropriate limit. Similarly, we suggest that the number of breeding females in which a person has an ownership interest should be significantly fewer than 20. Again, the purpose of this bill should be to ensure that dogs and cats sold in City pet stores are not being sourced from puppy and kitten mills.

Next, we would further like to point out that the term "person" in the definition of high volume breeder is not defined in the bill. So as to avoid confusion and ensure that organizations as well as individuals fall within the purview of the bill, we suggest that the term "person" be defined as such.

Lastly, we recommend that the bill be amended such that pet stores may only sell puppies and kittens from licensed USDA dealers who have not been found in violation of the Animal Welfare Act (AWA) for the past three years (as opposed to merely one year as presently drafted). We recognize that the standards for compliance under the AWA are minimal at best and that

⁴ See Report on A.1655-A/S.4799, Animal Law Committee, New York City Bar Association, June 2013 (would 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 record keeping, licensing and inspection provisions with respect to pet dealers), *available at* <http://www2.nycbar.org/pdf/report/uploads/20072530-PetDealerDefinitionExpansion.pdf>.

inspections of the dealers and enforcement of the law are inadequate.⁵ It is for these reasons that we believe it is crucial for the onus on the breeders to be far greater than mere compliance with the AWA for one year.

The Council also has the opportunity to pass legislation imposing enhanced standards of care for dogs and cats both in pet stores and at breeders. As the bill is currently drafted, however, the proposed minimum standards of care are merely a codification of those contained in Section 401 of the Agriculture and Markets Law which are already applicable to pet stores in New York City. Such standards of care should include additional requirement for housing (including ventilation, lighting, temperature, flooring and space requirements), sanitation, feeding and watering, handling, veterinary care, exercise requirements, grooming and fire safety.⁶ We recommend that the bill be amended to require that not only pet stores but also breeders comply with these enhanced standards of care.

We also recommend that pet stores be required to obtain certification from the breeders attesting to compliance with these standards and that pet stores be prohibited from selling dogs and cats from breeders that are not in compliance with these standards. By requiring such compliance from any breeder selling puppies and kittens to NYC pet stores, the Council will be eliminating the market for puppies and kittens bred in mills.

CONCLUSION

For the aforementioned reasons, the Committee urges the Council to amend the Intro. No. 0055 to take into consideration the above recommendations.

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⁵ See Report on H.R.847/S.395 (“The Puppy Uniform Protection and Safety Act”), Animal Law Committee, New York City Bar Association, June 2013 (would amend the Animal Welfare Act to expand the definition of the term dealer to include high volume retail breeders, improve exercise standards for animals maintained by dealers, and add new licensing provisions with respect to dealers), *available at* <http://www2.nycbar.org/pdf/report/uploads/20072517-PUPSAAct.pdf>.

⁶ See Report on A.1655-A/S.4799, *supra*.



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

Int. No. 0136-2014 **Council Members Crowley, Arroyo, Dickens, Johnson, Koo,
Levine, Palma, Rose, Vallone, Mendez Koslowitz, 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 WITH RECOMMENDATIONS

SUMMARY OF THE PROPOSED LAW

Spay and Neuter Requirements

The proposed legislation would amend chapter 8 of title 17 of the New York City Administrative Code to expand the types of animals sold in pet stores that must be spayed or neutered by a licensed veterinarian before released to 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). Currently, cats and dogs are covered by City law; this bill would encompass rabbits, guinea pigs and “any other animal designated by rule by the [Department of Health and Mental Hygiene]” that are 8 weeks of age or older.

The proposed legislation would also expand Section 17-804(c) of the Administrative Code to provide that every pet shop must maintain records of all sales of, sterilization procedures and veterinarian letters/certifications received pursuant to the Code’s spay/neuter requirements for 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 shop cannot sell or release a dog to a purchaser or adopter unless the person first completes an application for a dog license and pays the dog license fees.¹ The pet shop would then be required to forward the completed application and license fees to the Department, unless the purchaser or adopter provides the pet shop with a written statement that the dog to be purchased or adopted will not be harbored in the City. Every pet shop operator would have to, on at least a monthly basis, report to the Department (on a form provided by the Department)

¹ 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.

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.

Animal Shelters Excluded

The proposed legislation also provides a definition for "animal shelter"² in Section 17-802(h). Animal shelters are specifically excluded from the definition of "pet shop" in Section 17-802(e) and therefore not subject to the licensing and sterilization requirements of the proposed legislation.³

THE COMMITTEE SUPPORTS THE PROPOSED LEGISLATION

Spay and Neuter

Section 17-804 of the City's Administrative Code requires pet shops 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 are 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. Although dogs and cats make up the majority of lost, strayed and abandoned animals in New York City, rabbits also comprise a large

² The term "animal shelter" is defined under the proposed legislation to mean "a not-for-profit facility holding a permit in accordance with §161.09 of the New York City Health Code where homeless, lost, stray, abandoned, seized, surrendered or unwanted animals are received, harbored, maintained and made available for adoption to the general public, redemption by their owners or other lawful disposition, and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other organization devoted to the welfare, protection or humane treatment of animals."

³ Sections 17-804 and 161.23 of the New York City Health Code prohibit (with limited exception) a full-service shelter or other licensed shelter from releasing a dog or cat to a person claiming ownership thereof or to a person adopting such dog or cat, unless the animal has been sterilized by a licensed veterinarian. These City laws are far more stringent than the requirements set forth in Section 377-a of the New York Agriculture and Markets Law which do not even apply to the reclamation of dogs and cats by their owners and authorize the adoption of dogs and cats from designated entities prior to sterilization provided the adopter has signed an agreement to have the animal spayed or neutered within a specified amount of time and leaves a deposit of not less than \$35.

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

⁵ NYS L. 2013, Chp. 553

number of these lost, strayed and abandoned animals and are able to reproduce in significant numbers in short periods of time.⁶ Thus, for the same reasons that sterilization of dogs and cats sold by pet stores to consumers is necessary to reduce dog and cat overpopulation and shelter intake in New York City, mandatory sterilization of rabbits sold by pet stores to consumers is also necessary to reduce rabbit overpopulation and shelter intake.

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. 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 By requiring a pet shop to collect a dog license application and fee before it can sell or release a dog 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.⁹

RECOMMENDATIONS

We note that although dogs, cats, and rabbits enter the City's animal shelter system in significant numbers,¹⁰ smaller animals such as guinea pigs do not present a significant overpopulation problem and are not burdening the City's animal shelter system. Further, the spaying or neutering of such small animals is potentially dangerous and uncommon.¹¹ For these reasons, we recommend that the spay/neuter requirements of Int. No. 136 be amended to exclude guinea pigs and other small animals (accordingly, we recommend that the language, "any other animal designated by rule by the department" be removed).

⁶ Rabbits are the third most commonly abandoned animal in the United States. See House Rabbit Society, at <http://www.rabbit.org/journal/4-9/bridges.html> (last visited April 20, 2014). Rabbits reach sexual maturity by 3-6 months of age and can produce a litter of 6-12 rabbits every three months. See Dana Krempels, Ph.D., *Why spay or neuter my rabbit? Some Scary Numbers*, House Rabbit Adoption, Rescue and Education, Inc., at <http://www.bio.miami.edu/hare/scary.html> (last visited April 20, 2014). See also "The Easter Bunny Problem," Pet Media Group, Inc., Mar. 29, 2013, at <http://www.tailsinc.com/2013/03/the-easter-bunny-problem-infographic/> (last visited April 20, 2014).

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 Apr 19, 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 Apr 19, 2014).

⁹ See New York City Health Code §29-01.

¹⁰ See <https://www.nycacc.org/Statistics.htm> (last visited Apr 19, 2014).

¹¹ See <http://www.cavyspirit.com/neutering.htm> ("Neutering a guinea pig inherently carries more risk than neutering cats, dogs or other larger animals. The guinea pig is smaller, the operation is complicated by the nature of the scrotal area and open inguinal canal. They are harder to surgically prepare. They are more susceptible to anesthesia reactions, stress, and post-op infections.") (last visited Apr 19, 2014).

Veterinarian and humane organizations agree that spay/neuter procedures for dogs or cats can safely be performed as early as 8 weeks of age.¹² In addition to meeting the age requirement, a dog or cat should be at least 2 pounds in weight before being spayed or neutered.¹³ Therefore, we recommend that the spay/neuter requirements in Int. No. 136 should apply to any dog or cat that is at least 8 weeks of age and at least 2 pounds in weight. In the case of rabbits, however, spay/neuter procedures have been found to be too risky if the animal is younger than four months old.¹⁴ Therefore, we recommend that the spay/neuter requirements in Int. No. 136 as they pertain to rabbits should apply only when the rabbit is at least four months old.

Lastly, we have serious concerns about the appropriateness of the exception set forth in Section 17-804 of the City's Administrative Code whereby the sterilization of a dog, cat or rabbit prior to sale by a pet store "shall not apply to a consumer who presents to the pet shop a letter from such consumer's licensed veterinarian . . . stating the reason(s) why, in the opinion of such veterinarian, such dog, cat or other animal, should not be sterilized until a later specified date . . ." Such an exception is not narrowly tailored to 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. Indeed as a practical matter, it is unclear how a veterinarian would have the opportunity to examine an animal offered for sale by a pet store prior to purchase by a consumer. For these reasons we recommend that Section 17-804 be amended to either remove this exception or make clear that any such exception may only be based on a letter from a licensed veterinarian who has examined the animal in question within the last 15 days and issued a medical opinion recommending deferred sterilization based on his or her professional experience and the best interest of the health or welfare of the animal in question.

CONCLUSION

For the aforementioned reasons, the Committee supports the proposed legislation subject to the recommendations discussed above.

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¹² Vet Med Today: Special Report "The Association of Shelter Veterinarians Veterinary Medical Care Guidelines for Spay-Neuter Programs", JAVMA, Vol. 233, No. 1, Jul 1, 2008; Vet Med Today: Reference Point "Determining the Optimal Age for Gonadectomy of Dogs and Cats" JAVMA, Vol. 231 No. 11, Dec. 1, 2007; at <http://www.aspcapro.org/resource/shelter-health-animal-care/pediatric-spayneuter> (last visited Apr 21, 2014).

¹³ *Id.*; see also "Why Spay or Neuter," ASPCA, at <http://www.petfinder.com/dogs/dog-health/why-spay-or-neuter> (last visited Apr 21, 2014).

¹⁴ *Spaying and Neutering*, House Rabbit Society, at <http://rabbit.org/faq-spaying-and-neutering> (last visited Apr 19, 2014); *Spaying or Neutering Your Pet Bunny*, My House Rabbit, http://www.myhouserabbit.com/tip_spayneuter.php (last visited Apr 19, 2014).



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

Int. No. 0146-2014

**Council Members Johnson, Crowley, Arroyo, Chin, Koo, Levine,
Rose, Vallone, Mendez and Ulrich**

A LOCAL LAW to amend the New York City Administrative Code in relation to the microchipping of dogs and cats sold in pet shops.

THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS

SUMMARY OF LEGISLATION

The proposed legislation would amend chapter 8 of title 17 of the New York City Administrative Code to provide that no pet store may release a dog or cat to a consumer unless (1) such dog or cat has been be microchipped by a licensed veterinarian; (2) the pet store has registered such animal's microchip with the consumer's contact information; and (3) the pet store has provided the consumer with written usage instructions for the microchip acknowledged by signature by the consumer. The proposed legislation would also require that the pet store maintain a record of the usage instructions and consumer acknowledgement accompanying each pet sale for a period of five years.

JUSTIFICATION

Currently, the City of New York requires licensing of dogs as a method of identifying a pet's owner.¹ Unfortunately, not all owners comply with this requirement, and even if an owner complies with this requirement, not all owners physically maintain the license information on their pet (such as on a collar) so that the animal could be identified when not in the owner's care. Microchipping 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.

Microchipping is a simple process in which a veterinarian injects a 12mm microchip, about the size of a grain of rice, beneath the surface of the animal's skin between the shoulder blades. The process is similar to a routine vaccination and no anesthetic is required.² The

¹ 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.

² "How Microchipping Works," Home Again Co., available at <http://public.homeagain.com/how-pet-microchipping-works.html> (last visited April 22, 2014).

microchip is then registered with the microchip manufacturer or another microchip registering company,³ which will then maintain the owner's contact information for use in the event that the pet is separated from the owner. The microchip, unlike dog tags and collars which can fall off or be removed, provides unique identification code that cannot be altered or removed, except by surgery, and has no internal energy source, so it will last the life of the animal in which it is injected. The microchip is read by passing a microchip scanner over the pet's shoulder blades. Activated and currently registered microchips may be identified by a scanner and can provide owner contact information in the event that a pet is lost.

Including microchipping as a legal requirement for dogs and cats purchased from pet shops in addition to the existing licensing requirement for dogs in the city of New York will (1) increase the chances of lost and stolen pets being reunited with their owners, thus reducing the population of stray animals in city-maintained shelters and, as a consequence, euthanasia rates and (2) deter abandonment of pets by owners into the city streets, pet abuse and the use of certain dog breeds in dogfighting by pet owners because the owners of these abandoned, abused and injured pets can easily be identified and thus, where responsible, may face consequences such as fines or jail.

Currently, several cities in California and Texas make microchipping of dogs and cats mandatory.⁴

RECOMMENDATIONS

We recommend that the proposed legislation be amended to clarify that the mandatory microchip registration by the pet store prior to sale be effectuated by the pet store with a bonafide microchip registering company.

We also recommend that the proposed legislation be amended to clarify that the usage instructions to be provided to the consumer by the pet store shall include the usage instructions provided by the manufacturer/registering company for the microchip implanted in the animal and shall include such company's contact information as well as information regarding the necessity of maintaining current microchip registration and pet owner contact information with a microchip registering company.

Finally, we recommend that the proposed legislation be amended to increase the period in which the pet store must maintain the record of the usage instructions and consumer acknowledgement accompanying each pet sale. Given that the vast majority of dogs and cats sold by pet shops are puppies and kittens with a life span of more than five years, it is sensible to increase the record retention period to a time span that more closely tracks the animal's life span.

³ Microchips are "universal" in the sense that any brand of microchip may be registered by any registering company and with multiple registering companies. *See 5 Things You Didn't Know About Microchips, available at <http://blog.adoptandshop.org/5-things-you-didnt-know-microchips/>* (last visited April 22, 2014).

⁴ *See e.g., Riverside Municipal Code, §8.21.030, Santa Cruz County Code §6.08.005, El Paso City Code §7.12.020.*

CONCLUSION

For the aforementioned reasons, the Committee supports the proposed legislation and urges the Council to amend Intro. No. 0146-2014 in accordance with the above recommendations.

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