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

**A.2778
S.1081**

**M. of A. McDonald
Sen. Marchione**

AN ACT to amend the agriculture and markets law, in relation to community based initiatives for the purpose of trapping, neutering, vaccinating and returning feral cats to the area from which they were trapped.

THIS LEGISLATION IS APPROVED

SUMMARY OF PROPOSED LAW

The proposed legislation would amend subdivision 1 of section 117-a of the New York Agriculture and Markets Law to expand the scope of the Animal Population Control Program (“APCP”) to include funding to eligible entities, in coordination with community-based initiatives, for the purpose of trapping, neutering, vaccinating and returning to the area from which they were trapped, feral cats as defined by section 11-0103(6)(e)(2) of the environmental conservation law. A new subdivision 10 would be added authorizing the allocation of twenty percent of the APCP fund balance annually for grants to such eligible entities to carry out these activities. Additionally, subdivision 3 would be amended by adding a new paragraph (d) which provides that the funding authorized by the new subdivision 10 is not available to those eligible entities receiving funding pursuant to subdivision 8 of section 117-a.

BACKGROUND

Enacted in 1995, the APCP was initially created to reduce the homeless animal population in New York State animal shelters by providing low-cost spay/neuter for dogs and cats adopted from shelters, pounds, SPCAs, humane societies and animal protective associations through a voucher/veterinary reimbursement program administered by the New York State Department of Agriculture and Markets. Recognizing the importance of spay/neuter as the means to control animal overpopulation and subsequently lower euthanasia, the law was amended in 2006 to offer such services to eligible low-income residents, regardless of where they obtained their pet.¹

¹ Section 117-a(1) provides in pertinent part as follows: “The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats thereby reducing incidence of euthanasia and potential threats to public health and safety posed by the large population of these animals. This program shall seek to accomplish its

While the legislative intent of the APCP remained the same, the law was significantly changed with the enactment of Part T of Chapter 59 of the Laws of 2010 which required the Commissioner of Agriculture and Markets to award the administration of the APCP to an eligible not-for-profit entity² and transformed the program to one in which the chosen administrative entity disbursed grants to eligible spay/neuter programs.³ As of January 1, 2011, the American Society for the Prevention of Cruelty to Animals (“ASPCA”) became the organization responsible for the administration of the APCP as a low-cost spay/neuter grant program.

Under the current law, the allocation of APCP grants is restricted to entities providing low-cost spay/neuter services for dogs and cats *owned* by New York State residents who receive public assistance⁴ or who have adopted an animal from a qualified “designated beneficiary” (i.e. qualified nonprofit or government organization).⁵ Although the statutory purpose of the law is to reduce the population of homeless dogs and cats thereby reducing the incidence of euthanasia of cats and dogs in shelters, the APCP does not provide authority to award grants for the trap-neuter-return (“TNR”) of feral cats⁶ thereby excluding an ever increasing portion of the stray animal population. Accordingly, there is no state funding for TNR programs in New York State.

JUSTIFICATION

The number of feral cats has been reaching epidemic proportions throughout New York State and across the country.⁷ Because many of these cats are not socialized with humans, they are not candidates for adoption and therefore are almost always euthanized if and when they become part of the overcrowded animal shelter system.

purpose by encouraging residents of New York state who are the owners of dogs and cats to have them spayed or neutered by providing low-cost spaying and neutering services to such owners meeting the criteria enumerated in subdivision three of this section.”

² Section 117-a(2) provides in pertinent part as follows: “Eligible not-for-profit entities shall consist of duly incorporated societies for the prevention of cruelty to animals, duly incorporated humane societies, duly incorporated animal protective associations, or duly incorporated non-profit corporations that have received designation as 501(c)(3) entities by the Internal Revenue Service and which entities are operating as animal rescue organizations, animal adoption organizations, spay/neuter clinics, or other entities whose core mission predominantly includes statewide efforts to manage the companion animal population in New York state.”

³ Section 117-a(2)(a)(b).

⁴ Section 117-a(3)(b).

⁵ Section 117-a(3)(a).

⁶ A feral cat is generally defined as a cat who has been born and raised in the wild and therefore never had any human contact or whose contact with humans has so diminished over time that he/she is no longer socialized and is unlikely to adapt to the indoors. See “Feral Cats FAQ,” ASPCA, <http://www.aspcapro.org/adopt/feral-cats-faq#1> (last visited May 18, 2014). The Additional Guidelines for Proposals issued by the ASPCA specifically state that “only feral cats who are owned by New York residents who qualify for accepted forms of public assistance may receive spay/neuter services through APCP grants.” See “New York State Animal Population Control Program,” ASPCA, http://www.aspcapro.org/sites/pro/files/aspcapro_guidelines_apcp.pdf (last visited May 18, 2014). Because feral cats are rarely “owned,” they are not eligible beneficiaries of the spay/neuter services subsidized by the APCP grants.

⁷ It is estimated that the number of feral cats in the United States is in the tens of millions. See “Feral Cats FAQ,” *supra*. Less than 3% of the stray and feral cats are sterilized. See *New Scientific Study Finds Vast Majority of Pet Cats Are Neutered*, Ally Cat Allies, <http://www.alleycat.org/page.aspx?pid=650> (last visited May 18, 2014).

As noted in the legislative findings of the proposed legislation, it is now widely accepted that TNR is the only humane and scientifically proven effective method of controlling the overpopulation of feral cats.⁸ The TNR process involves humanely trapping a feral cat, having the cat spayed or neutered, vaccinated for rabies, identified through an ear-tip and then returned to the area where he or she was trapped. TNR provides benefits both to the cats and the community by stabilizing and then dramatically reducing over time the overall number of homeless cats and kittens through low or zero birth rate and attrition, improving the health of the cats, and eliminating nuisance behavior often attributed to unneutered cats. Such a decrease in the population ultimately results in a decline in the number of feral cats euthanized in animal shelters and a reduction in the costs to shelters and municipalities associated with handling these homeless animals.

Both individuals and private not-for-profit organizations are performing TNR activities throughout New York State, oftentimes in conjunction with local government, and are reporting a decline in the overall number of cats in those areas.⁹ In 2012, New York City recognized the concept of TNR when it adopted Local Law 59 which defines the terms “feral cat”¹⁰ and “Trap-neuter-return”¹¹ and requires the NYC Department of Health and Mental Hygiene to post on its website the names of organizations that offer TNR information and conduct TNR activities.¹²

Thus, the proposed legislation’s allocation of funds to support TNR efforts is consistent with its statutory purpose as well as the overall acceptance of TNR both by the public and private sectors as the effective and humane means of addressing the feral cat overpopulation crisis. The

⁸ Research demonstrates that removing cats from an area by killing or relocating them is inhumane and ineffective as such removal merely opens the habitat for the influx of new cats, while the existence of established feral cat colonies actually prevents new cats from entering the area. See *The Vacuum Effect: Why Catch and Kill Doesn’t Work*, Ally Cat Allies, <http://www.alleycat.org/page.aspx?pid=926> (last revisited May 18, 2014). See also Karyen Chu, Ph.D and Wendy M. Anderson, J.D., *U.S. Public Opinion on Humane Treatment of Stray Cats*, at <http://www.alleycat.org/page.aspx?pid=926> (last visited May 18, 2014).

⁹ In 2002, the ASPCA, the Humane Society of New York, Neighborhood Cats, Animal Care and Control, and the NYC Department of Corrections collaborated to resolve a feral cat crisis on Rikers Island in New York City. Within the first few months, over 90% of the cats were trapped, sterilized and returned. TNR continues on the island when necessary and, to date, the number of feral cats has been substantially reduced. See *Neighborhood Cats: Mass Trapping Program*, ASPCA, http://www.aspcapro.org/sites/pro/files/neighborhoodcats_profile_by_aspcapro_org_07_07_0.pdf (last visited May 18, 2014). A similar program has been successfully established in Rome, New York. See *The R-Cats Program in Rome, New York*, Ally Cat Allies, <http://www.alleycat.org/page.aspx?pid=998> (last visited May 18, 2014).

¹⁰ Section 17-802(c) of the NYC Administrative Code defines “feral cat” as “an animal of the species *felis catus* who has no owner, is unsocialized to humans and has a temperament of extreme fear of and resistance to contact with humans.”

¹¹ Section 17-802(g) of the NYC Administrative Code defines “trap-neuter-return” as a “program to trap, vaccinate for rabies, sterilize and identify feral cats and return them to the locations where they were found.”

¹² The Committee has previously recommended that “the City embrace TNR as its official policy for the humane and effective management of feral cats, educate all of its agencies as to this fact, and require these agencies to work with available nonprofit organizations engaged in TNR services to humanely remediate issues involving feral cats.” See November 2013 Letter to New York City Mayor de Blasio, available at <http://www2.nycbar.org/pdf/report/uploads/20072599-TransistionMemotoMayor-ElectBilldeBlasio.pdf>.

legislative findings of the proposed legislation note that at least 15 other state-sponsored animal population control programs (including those in Massachusetts, Rhode Island, Connecticut and Delaware) authorize the use of spay/neuter funds to subsidize viable TNR programs.

CONCLUSION

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

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