



CONTACT

LEGISLATIVE AFFAIRS DEPARTMENT

MARIA CILENTI

212.382.6655 | mcilenti@nycbar.org

ELIZABETH KOCIENDA

212.382.4788 | ekocienda@nycbar.org

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

**NEW YORK CITY COUNCIL
COMMITTEE ON HEALTH
November 24, 2014 - 10:00 A.M.**

Good morning. My name is Christine Mott. I am testifying on behalf of the New York City Bar Association's Animal Law Committee, which I chair.

Chairman Johnson and members of the Health Committee: thank you for this opportunity to testify on Intros. No. 0055-A, 0136-A, and 0146-A. For your reference, attached to our written testimony are copies of our Committee's full reports on these pieces of legislation.

INTRO. NO. 0055-A 2014 – REGARDING THE REGULATION OF PET SHOPS

We support the enactment of Intro. No. 55-A. It is well documented that many of the puppies and kittens sold at retail pet stores in New York City come from puppy and kitten mills where the mothers and fathers of the puppies and kittens 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 inhumane euthanization.¹ 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 prohibit pet shops from selling puppies and kittens sourced from the worst offending puppy and kitten mills and to require pet shops to disclose to consumers information on the source and background of the animals offered for sale will ultimately result in a greater demand by the public for animals bred in compliance with more humane standards as well as increased adoption of the homeless animals in the City's shelters.

¹ 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>.

We note that, following dogs and cats, rabbits are the third most commonly surrendered animal in the City shelter system. Given the difficulty in identifying the sex of young rabbits, and rabbits' ability to reproduce in significant numbers in short periods of time, a pair of rabbits purchased from a pet store frequently results in multiple litters of unwanted rabbits that are commonly dumped in City shelters and parks. For these reasons we support a ban on the sale of rabbits by pet shops.

While we support Intro. No. 55-A, we have several recommendations. First, we recommend that the legislation be amended to prohibit a pet shop from charging a purchaser or prospective purchaser any fee for obtaining copies of the two most recent USDA inspection reports for the breeder of a dog or cat offered for sale by the pet shop. Such a fee may deter a prospective purchaser from obtaining relevant information which such consumer would be entitled to receive under the proposed legislation. Additionally, any such printing or copying fees should be borne by pet shops as a cost of doing business and should not be passed on to the consumer.

Next, given that many animals sold in New York City pet stores are obtained from out of state sources, we recommend that section 17-1702 of the proposed legislation be amended to require that the source of the animals obtained by a pet shop certify that it has not been convicted of a violation of the minimum standards of animal care contained in any local, state or federal law in any jurisdiction in which such source operates.

We also recommend that section 17-373(d)(5) be amended to require a pet shop to certify compliance with the requirements of section 17-1601 of the City's administrative code relating to the City's Animal Abuse Registry with respect to the owner, operator, employee, agent or contractor of such pet shop. We also recommend that section 17-373(e) be amended to prohibit the Department from issuing or renewing a permit to any such pet shop that fails to certify such compliance.

We further recommend that the proposed legislation be amended to prohibit pet stores from selling dogs or cats to Class B dealers or to any other person or entity for the purpose of research, experimentation or testing. We also recommend that the proposed legislation be amended to prohibit pet stores from selling dogs or cats to any person or entity that fails to satisfy the criteria of Section 1702.

Lastly we note that the proposed minimum standards of care for animals in pet shops are merely a codification of those contained in Section 401 of the Agriculture and Markets Law which are already applicable to pet shops in New York City. Therefore we encourage the Council to pass legislation providing enhanced humane housing and handling standards applicable to pet shops.

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

We support the enactment of Intro. No. 0136-A as a new means of strengthening the City laws regarding spay and neuter requirements as well as pet licensing and identification.

Licensing Requirements

Under existing law, there is a loophole that exempts City pet shops that sell only dogs and cats from the requirement of obtaining a completed dog license application and collecting the appropriate licensing fees prior to releasing a dog to a consumer.² As a result, a significant number of dogs sold in New York City pet shops are not subject to this licensing requirement. The proposed legislation is therefore necessary to ensure that all pet stores and animal rescue groups are required to collect a dog license application and fee before releasing a dog to a purchaser or adopter and then transmit the application and fee to the Department. We note that an increase in licensing fees would also have the positive benefit of increasing funding to the Animal Population Control Fund.

Spay/Neuter Requirements

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 animals entering the City's animal shelter system. We note that it was only with the recent enactment of the Preemption Bill (codified at N.Y. AGRIC. & MKTS. LAW §407) 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 (unless a letter and certification is received by the pet shop from a licensed veterinarian rendering an opinion that the animal should not be sterilized until a later date).

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.

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

We support the enactment of Intro. No. 0146-A 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.

² 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). 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)).

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

First, we recommend that the proposed legislation be amended to clarify that the microchipping requirements also apply to animal shelters.

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

* * *

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

CONTACT

LEGISLATIVE AFFAIRS DEPARTMENT

MARIA CILENTI

212.382.6655 | mcilenti@nycbar.org

ELIZABETH KOCIENDA

212.382.4788 | ekocienda@nycbar.org

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

Int. No. 0055-A 2014

Council Members Crowley, Johnson, Arroyo, Constantinides, Levine, Palma, Vacca, Koslowitz, Espinal, Rosenthal, Cornegy, Cabrera, Cumbo, Lancman, Mealy, Miller, Koo, Mendez, Levin, Richards, Rodriguez, Dickens, Torres, Lander and Weprin.

A LOCAL LAW to amend the Administrative Code of the city of New York, in relation to regulating pet shops.

THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS

SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend Chapter 3 of Title 17 of the Administrative Code of the City of New York by adding a new subchapter 9 sections 17-371-382 establishing a permitting scheme under which all pet shops in New York City must obtain a permit from the City Department of Health and Mental Hygiene (the “Department”).¹ In connection with the permit application, each pet shop would be required to provide a certification executed under penalty of perjury including the following information: (i) the name and address of every source from which a pet shop obtained a dog or a cat; (ii) the total number of dogs and cats obtained from each source; and (iii) the United States Department of Agriculture (“USDA”) license number for each dealer from which the pet shop obtained dogs or cats. The proposed legislation would also prohibit the Department from issuing or renewing a license to an applicant with any finally determined uncorrected violations or unpaid fines and would allow the Department to suspend or revoke a pet shop’s license, following notice and hearing, for willful or continued violations.²

¹ We note that under existing law, New York City pet shops that sell only dogs or cats are exempted from the City’s pet shop licensing requirements. *See* 24 RCNY § 161.09(a)(1). Accordingly the proposed legislation is necessary to remediate this illogical exemption.

² We note that in the event of circumstances that pose a danger to the public health or welfare of the animals in the custody of the permittee, the Department may immediately suspend a permit subject to a prompt post-suspension hearing.

Further, the proposed legislation would add a new Chapter 17 (Pet Shops) sections 17-1702-1709. Section 1702 would prohibit pet shops from selling or offering for sale any dog or cat unless such animal was obtained from a USDA Class A licensed animal dealer that satisfies the following criteria:³

The dealer has not received

- (i) a license suspension in the past five years;
- (ii) a finally determined “direct” non-compliant citation by the USDA in connection with the license in the past three years;
- (iii) a finally determined citation for failure to provide USDA inspectors access to property or records pursuant to 9 C.F.R. §2.126 within the two most recent USDA inspection reports;
- (iv) three or more distinct finally determined non-compliant item citations pursuant to 9 C.F.R. §2.126 (other than failure to provide access) in the most recent USDA inspection report;
- (v) one or more finally determined repeat non-compliant items in the most recent USDA inspection report;
- (vi) a finally determined order to cease and desist relating to such license issued in the past five years; or
- (vii) a finally determined order to pay a civil penalty in connection with such license issued in the past five years; and

the dealer has provided the pet shop with a sworn affidavit attesting that it (i) has never been convicted of a violation of the minimum standards of animal care set forth under N.Y. AGRIC. & MKTS. LAW §401; and (ii) has never been convicted of an animal abuse crime.

Section 17-1702(b) of the proposed legislation would prohibit the sale or offering for sale of rabbits by pet shops.

The proposed legislation would create a new section 17-1703 that would require a pet shop to provide consumers who purchase dogs or cats from the pet shop with the following information in written form, to be signed by both the pet shop and the consumer at the time of sale:⁴

³ We note that the sourcing requirements of proposed section 17-1702 and the minimum care standards of section 17-1705 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.

⁴ We note that existing State law requires pet shops to provide certain information to purchasers concerning the identification of a dog or cat sold and provides consumers with certain rights for the return or refund for an animal that was “unfit for purchase.” *See* Article 35-D of the General Business Law. The proposed legislation would significantly enhance the required disclosures for pet shops operating in New York City.

- (i) the animal's breed, sex, color, identifying marks, and microchip registration information if microchipped, and identifying tag, tattoo, or collar number of such animal;
- (ii) the source of the animal, including the name, address, and USDA licensing information as known to the pet shop;
- (iii) a copy of the USDA inspection reports for the past three years for the breeder/dealer from which the animal was obtained;
- (iv) the date of birth of the animal and the date the pet shop received the animal;
- (v) a statement that the source from which the animal was obtained has not received any "direct" non-compliant item citations as indicated on any USDA inspection reports during the past three years;
- (vi) if the animal sold is a dog, notification that dogs residing in New York state must be licensed;
- (vii) a record of immunizations and worming treatments, including the dates and types of vaccines or treatments, administered to the animal while in the pet shop's possession;
- (viii) a record of any known disease, sickness or congenital condition that adversely affects the health of the animal;
- (ix) a copy of the animal's USDA Certificate for Health Examination for Small Animals;
- (x) a record of any veterinary treatment or medication received by the animal while in the pet shop's possession together with a signed statement from the pet shop or a licensed veterinarian concerning the animal's health condition; and
- (xi) a statement of the purchaser's rights under Article 35-D of the General Business Law.

Section 17-1703 would also require pet shops to conspicuously post a notice within close proximity to the cages of dogs and cats offered for sale containing the following information: "Information on the source of these dogs and cats and the veterinary treatments received by these dogs and cats is available for review by prospective purchasers. United States Department of Agriculture inspection reports are available upon request."⁵

The proposed legislation would require that a pet shop provide a prospective customer with the two most recent USDA inspection reports for the breeder of a dog or cat offered for sale by the pet shop.

The proposed legislation would create a new section 17-1704 that would require a pet shop to keep and maintain records and documentation (including information on purchase, sale, medical, transportation, breeding, and identification) for each dog or cat purchased, acquired, held, sold or otherwise disposed of by the pet shop for a period of ten years.

⁵ We note that the first sentence in the required notice is already required by New York State law, while the second sentence would be a new requirement. *See* N.Y. GBS. LAW § 753-b(4).

The proposed legislation would create a new section 17-1705 that would require pet shops to comply with certain minimum standards of care for every dog or cat in such pet shop's custody or possession, including with respect to humane housing and care standards.⁶

BACKGROUND

In January 2014, Governor Cuomo signed into law a bill allowing municipalities throughout New York to enact local laws governing pet dealers within their jurisdictions, provided such local laws are consistent with State law.⁷ The New York City Bar Association approved the passage of this law. Among other things, this law (codified at N.Y. AGRIC. & MKTS. LAW §407) now permits New York City to impose restrictions or requirements concerning 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 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 and kittens 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 inhumane euthanization.⁸ 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 prohibit pet shops from selling puppies and kittens sourced from the worst offending puppy and kitten mills and to require pet shops to disclose to consumers information on the source and background of the animals offered for sale will ultimately result in a greater demand by the public for animals bred in compliance with more humane standards as well as increased adoption of the homeless animals in the City's shelters.

We support a ban on the sale of rabbits by pet shops. Following dogs and cats, rabbits are the third most commonly surrendered animal in the City shelter system. Rabbits reproduce in significant numbers in short periods of time.⁹ This overpopulating is exacerbated by the fact that

⁶ We note that the minimum standards contained in the proposed legislation are substantially similar to those required under N.Y. AGRIC. & MKTS. LAW §401.

⁷ A.740-A/S.3753-A, NYS L. 2013, Chp. 553.

⁸ 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), <http://www2.nycbar.org/pdf/report/uploads/20072530-PetDealerDefinitionExpansion.pdf>.

⁹ 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 November 11, 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 November 11, 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 November 11, 2014).

it is difficult to identify the sex of a young rabbit and pet stores commonly sell rabbits unsterilized to consumers. Consequently, a pair of rabbits purchased from a pet store frequently results in multiple litters of unwanted rabbits that are commonly dumped in City shelters and parks. A ban on the sale of rabbits by pet shops in New York City is therefore necessary to reduce rabbit overpopulation and shelter intake.

RECOMMENDATIONS

We note that section 17-1703 of the proposed legislation allows a pet shop to charge a fee to a consumer who requests copies of USDA inspection reports for the breeder of a dog or cat the pet shop has offered for sale. We find such a fee troubling as it may deter a prospective purchaser from obtaining relevant information about the breeder that the consumer would be entitled to receive under the proposed legislation. Additionally, any such printing or copying fees should be borne by pet shops as a cost of doing business and should not be passed on to the consumer. Therefore we recommend that the proposed legislation be amended to prohibit a pet shop from charging a purchaser or prospective purchaser any fee for obtaining copies of the two most recent USDA inspection reports for the breeder of a dog or cat offered for sale by the pet shop.

We note that section 17-1702 of the proposed legislation only requires the source of the animals obtained by a pet shop to certify to the pet shop that it has not been convicted of a violation of the minimum standards of animal care contained in N.Y. AGRIC. & MKTS. LAW §401. As many animals sold in New York City pet stores are obtained from out of state sources, we recommend that section 17-1702 of the proposed legislation be amended to require a source to certify that it has not been convicted of a violation of the minimum standards of animal care contained in any local, state or federal law in any jurisdiction in which such source operates.

We also recommend that section 17-373(d)(5) be amended to require a pet shop to certify compliance with the requirements of section 17-1601 of the City's Administrative Code relating to the City's Animal Abuse Registry with respect to the owner, operator, employee, agent or contractor of such pet shop. We also recommend that section 17-373(e) be amended to prohibit the Department from issuing or renewing a permit to any pet shop that fails to certify such compliance.

We further recommend that the proposed legislation be amended to prohibit pet stores from selling dogs or cats to Class B dealers or to any other person or entity for the purpose of research, experimentation or testing.¹⁰ We also recommend that the proposed legislation be amended to prohibit pet stores from selling dogs or cats to any person or entity that fails to satisfy the criteria of Section 1702.

Lastly we note that the Council also has the opportunity to pass legislation imposing enhanced standards of care for dogs and cats in pet shops. However, as the bill is currently drafted, the proposed minimum standards of care for animals in pet shops are merely a

¹⁰ We note that animal shelters and rescue groups are subject to a prohibition on the sale, transfer or release of dogs and cats to persons for the purpose of research, experimentation or testing. *See* N.Y. AGRIC. & MKTS. LAW §374(5)(b).

codification of those contained in Section 401 of the Agriculture and Markets Law which are already applicable to pet shops in New York City. Therefore we encourage the Council to pass legislation providing enhanced humane housing and handling standards¹¹ applicable to pet shops.

CONCLUSION

For the aforementioned reasons, the Committee supports the proposed legislation and recommends that the Council take into consideration the above recommendations.

Animal Law Committee
Christine Mott, Chair

Reissued November 2014

¹¹ See Report on A.1655-A/S.4799, *supra*.

CONTACT

LEGISLATIVE AFFAIRS DEPARTMENT

MARIA CILENTI

212.382.6655 | mcilenti@nycbar.org

ELIZABETH KOCIENDA

212.382.4788 | ekocienda@nycbar.org

**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

Reissued November 2014

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.

CONTACT

LEGISLATIVE AFFAIRS DEPARTMENT

MARIA CILENTI

212.382.6655 | mcilenti@nycbar.org

ELIZABETH KOCIENDA

212.382.4788 | ekocienda@nycbar.org

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

**Int. No. 0146-A 2014 Council Members Johnson, Crowley, Arroyo, Chin, Koo, Levine,
Rose, Vallone, Mendez, Cornegy, Rosenthal, Levin, Rodriguez,
Dickens, Torres, Lander and Ulrich**

A LOCAL LAW to amend the New York City Administrative Code in relation to microchipping animals 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 shop,¹ animal rescue group or non-profit rescue group may release a dog or cat to a purchaser unless (1) such dog or cat has been microchipped by a licensed veterinarian; (2) the pet shop, animal rescue group or non-profit rescue group has registered such animal's microchip with the purchaser's contact information with a bona fide pet microchip registration company; and (3) the pet shop, animal rescue group or non-profit rescue group has provided the purchaser with written usage instructions for the microchip as provided by the microchip manufacturer and provided the purchaser with written certification of compliance with requirements (1) and (2). 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 ten years.

JUSTIFICATION

Currently, the City of New York requires licensing of dogs as a method of identifying a pet's owner.² 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

¹ We note that these 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.

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.

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.³ The microchip is then registered with the microchip manufacturer or another microchip registering company,⁴ 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 a 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 an additional legal requirement for dogs and cats purchased or adopted from pet shops, animal rescue groups or non-profit rescue groups in New York City 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 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.⁵

RECOMMENDATIONS

We recommend that the proposed legislation be amended to clarify that the microchipping requirements also apply to animal shelters.

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

³ "How Microchipping Works," Home Again Co., available at <http://public.homeagain.com/how-pet-microchipping-works.html> (last visited November 11, 2014).

⁴ 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 November 11, 2014).

⁵ 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 recommends that the Council take into consideration the above recommendations.

Animal Law Committee
Christine Mott, Chair

Reissued November 2014