

COMMITTEE ON ANIMAL LAW

LORI A. BARRETT CHAIR PHONE: (347) 388-8478 animallawcommittee@hotmail.com

CHRISTOPHER WLACH SECRETARY PHONE: (212) 715-1783 cwlach@gmail.com Hon. Timothy M. Kennedy New York State Senate Legislative Office Building 506 Albany, New York 12247 April 20, 2016

Hon. David G. McDonough New York State Assembly Legislative Office Building 443 Albany, New York 12248

Re: <u>A.2204 / S.3682</u>, which would provide for the certification and regulation of pet groomers and pet grooming facilities; establish standards of care, training and testing

Dear Senator Kennedy and Assembly Member McDonough:

I write on behalf of the New York City Bar Association's Committee on Animal Law (the "Committee") regarding A.2204/S.3682 (the "Bill"). The Bill seeks to "provide for the certification and regulation of pet groomers and pet grooming facilities," among other goals.

The Committee thanks you for sponsoring a bill that aims to better regulate the pet grooming industry. Pet injuries and deaths occur all too often at the hands of negligent or inexperienced groomers, and requiring certification for groomers may reduce these incidents. The Committee has accordingly previously supported bills imposing restrictions on this underregulated industry.¹

Yet while the Committee supports the Bill's intent to better regulate the pet grooming industry, the Committee has substantial concerns about the Bill in its current form. Two of these concerns are discussed below: first, that while the Bill seeks to provide for the certification of pet groomers generally, the Bill does not in fact require that all pet groomers be certified; second, that the Bill uses certain inconsistent or vague language.

• The Bill lacks a certification requirement for all groomers: Although the Bill aims to "provide for the certification and regulation" of pet groomers generally, the Bill as drafted lacks a requirement that all pet groomers be certified. In particular, the Bill requires only that "current practitioners" "make application for certification" within one year of the Bill's effective date. (§ 546.)² The Bill does not require, however, that current practitioners actually obtain certification. Nor does the Bill require certification for individuals who are not current practitioners as of the Bill's

¹ See, e.g., <u>http://www2.nycbar.org/pdf/report/uploads/20072263-Banning</u>

<u>HeatedGrooming.pdf</u> (supporting bill banning certain cage or box dryers at companion animal grooming facilities).

² All section references are to the Bill.

effective date—that is, for individuals who become groomers after the Bill is passed; under the Bill as drafted, such individuals would not even have to apply for certification.

As a result, because the Bill specifically defines "pet groomers" as "certified" pet groomers, the Bill's regulations regarding "pet groomers" may not even apply to uncertified groomers.

• The Bill uses certain inconsistent or vague language: The Bill uses certain terms inconsistently, which may lead to confusion about which entities the Bill regulates. For instance, while the Bill seeks to regulate "pet grooming facilities"—a term defined in § 539(3)—the Bill imposes restrictions on several undefined entities, including "the grooming facility" (§ 540(5)), "outdoor facilities" (§ 540(2)), "indoor facilities" (§ 540(2)), "facilities" (§ 540(2)), and "locations where pets are groomed" (§ 540). Similarly, while the Bill seeks to regulate "pet groomers"—a term defined in § 539(2) as a certified groomer—the Bill imposes restrictions on several undefined entities, including "every person certified pursuant to this article" (§ 540(1)), "groomers" (§ 540(2)), "the groomer" (§ 540(3)), "every person certified as a pet groomer" (§ 540(6)), and "certified pet groomers" (§ 542(2)).

The Bill also uses certain vague language that may lead to confusion about which restrictions the Bill imposes. For instance, § 543(2) provides that a groomer may be subject to license penalties "for improper ... business practices." Yet the term "improper business practices" is not defined in the Bill, nor is it defined in the General Business Law (which the Bill seeks to amend). It is thus unclear whether, for instance, the term refers to only *illegal* business practices or whether it may refer to other conduct. Such language may invite arbitrary and discriminatory enforcement.

The two concerns discussed above are some of the concerns that the Committee has regarding the Bill in its current form. We would be happy to discuss these concerns with you and to consider ways in which the Bill might be improved. To that end, please do not hesitate to contact Committee Secretary Christopher Wlach (cwlach@gmail.com).

Once again, the Committee greatly appreciates your efforts to regulate the pet grooming industry and thanks you for your time and consideration.

Respectfully,

Lou Barrett

Lori Barrett Chair, Committee on Animal Law

cc: Hon. Robin Schimminger Hon. Michael Venditto