



**NEW YORK
CITY BAR**

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**REPORT ON LEGISLATION BY THE
COMMITTEE ON LEGAL ISSUES PERTAINING TO ANIMALS**

**A.6158-A
S.4278**

**M. of A. Rosenthal
Senator Duane**

AN ACT to amend the agriculture and markets law and the administrative code of the city of New York, in relation to establishing a New York city animal population control program and an animal population control fund; and to amend chapter 115 of the laws of 1894 relating to the better protection of lost and strayed animals and for securing the rights of owners thereof, in relation to licensing fees

THIS LEGISLATION IS APPROVED

Summary of the Proposed Law

Assembly Bill No. A6158-A/Senate Bill No. S4278 requires the establishment of an animal population control program and fund in New York City (“City”). The bill amends section 107(1) of the Agriculture and Markets Law (“Ag & Mkts Law”); adds new sections 17-811 and 17-812 to the New York City Administrative Code (“Ad Code”); and amends section 3-a of chapter 115 of the laws of 1894, as amended.

The proposed amendment to Ag & Mkts Law section 107(1) exempts the City from the state’s animal population control program set forth in Ag & Mkts Law section 117-a. Proposed Ad Code section 17-811 requires the City Department of Health and Mental Hygiene to (1) establish a City animal population control program for dogs and cats within 120 days of the law’s effective date; (2) promulgate rules and regulations relating to the animal population control program; (3) provide free or low-cost spaying and neutering services in order to encourage City residents to have their cats and dogs spayed or neutered; (4) create clinics and mobile units to provide spaying and neutering services; and (5) establish eligibility criteria for participation in the City animal population control program. Section 17-811 also authorizes the Commissioner of Health and Mental Hygiene to solicit and accept funds for the City animal population control program. Proposed Ad Code section 17-812 establishes a City animal population control fund (the “Fund”) consisting of funds accepted by the Commissioner pursuant to section 17-811 and a portion of the City dog licensing fee. The proposed amendment to section 3-a of chapter 115 of the laws of 1894 authorizes the City Council or City Board of Health to fix a portion of the dog licensing fee charged to owners of dogs and cats who have not been spayed or neutered. Finally, section 5 of the bill provides that unspent dog licensing revenues attributed to the City and held in the state animal population control fund shall be transferred to the City animal population control fund.

Purpose

a. Establish New York City Animal Population Control Fund

In 1995, New York State enacted a law that established the statewide Animal Population Control Program and the Animal Population Control Fund.¹ State Finance Law section 97-xx provides for an Animal Population Control Fund, consisting of a portion of the license fee charged to a license applicant whose dog is not spayed or neutered and funds received from public or private sources to further the Animal Population Control Program. Revenue from animal-friendly license plates is also deposited into the fund.² The fund is required to be used to support the Animal Population Control Program.³ A primary purpose of the Animal Population Control Program is to promote spaying and neutering of companion animals.⁴ Fifteen percent of the Fund is designated for implementation and promotion of the program, including public education and 85% is designated for reimbursement to veterinarians who provide low-cost spay and neutering services.⁵

In spite of required use of the funds, the state took approximately \$1 million out of the Animal Population Control Fund and used it for purposes unrelated to animal population control, according to reports in 2008.⁶ This represented almost half of the fund balance.⁷ According to one estimate, by October 2009, the Animal Population Control Fund will have only enough funds available to support animal population control work in 17 counties and the City.⁸

The proposed law establishes a City Animal Population Control Fund that is held in the joint custody of the City Comptroller and Commissioner of Finance. The Fund will consist of a portion of the existing City dog-licensing fee. In addition, the Commissioner of Health and Mental Hygiene has the authority (but not the obligation) to solicit and accept private and public contributions for the Fund pursuant to Ad Code section 17-811. The establishment of a City Animal Population Control Fund will ensure that funds received for the Animal Population Control Program from City residents are used for the required purposes. In addition to establishing a City Animal Population Control Fund, the law authorizes the City Department of Health and Mental Hygiene to fix the fee charged to a licensee of an unspayed or unneutered dog. This authority ensures that the City will be able to generate adequate revenue to support its Animal Population Control Program by raising the fee if necessary.

¹ L. 1995, Ch. 473, § 6.

² NY Vehicle and Traffic Law § 404-p.

³ NY State Finance Law §§ 97-xx(3).

⁴ NY Ag & Mkts Law § 117-a(1). Spaying is an ovario-hysterectomy of a female animal and neutering is the castration of a male animal.

⁵ NY Ag & Mkts Law § 117-a(6).

⁶ Lisa L. Colangelo, Plan to Expand Animal Care and Control clinics halted, Daily News (June 16, 2008), available at http://www.nydailynews.com/ny_local/bronx/2008/06/16/2008-06-16_plan_to_expand_animal_care_and_control_c.html (last visited May 24, 2009).

⁷ *Id.*

⁸ Brad Shear, *Spay/Neuter Fund Needs Support*, THE TIMES-UNION A8 (Albany, NY, May 19, 2009).

b. Expand spay and neuter programs

The State Animal Population Control Program requires eligible persons to pay fees of \$20-\$30 for spay and neuter services.⁹ The Humane Society of the United States recommends that spay-neuter programs be free to residents of low-income neighborhoods because they are the source of most of the homeless animals and complaints.¹⁰ Many residents of low-income neighborhoods cannot afford to pay a fee for spay and neuter services.¹¹ Even a few unsterilized animals can have a significant impact on the population rate of the City's dogs and cats; therefore, lack of affordability has dire consequences on the City.¹² The proposed law allows the City to lower the fee for spay and neutering services, establish eligibility criteria for free or low-cost services, and create local and mobile clinics, thus allowing the City to increase the number of dogs and cats that are spayed and neutered.

Spaying and neutering protects the public safety by decreasing the likelihood that a dog will attack;¹³ reduces the number of unwanted dogs and cats who are ultimately euthanized; and saves taxpayers money. The leading cause of death of dogs and cats in the United States is euthanasia of healthy, unwanted dogs and cats.¹⁴ Although the number of euthanizations of unwanted dogs is substantially decreasing in New York City, large numbers of unwanted cats and dogs continue to be euthanized.¹⁵ In 2008, New York City Animal Care and Control, a not-for-profit corporation that contracts with the City of New York for care and rescue services, euthanized 16,706 dogs and cats.¹⁶

The tragic death of these animals is accompanied by a moral and financial cost that could be avoided. The Humane Society states that recent studies show that for every dollar spent on spay and neuter services, three dollars are saved in animal control costs.¹⁷ Therefore, it is in the City's interest to maximize participation by expanding Animal Population Control Program services.

Summary

The proposed law will give New York City control of its own Animal Population Control Program. This will ensure that funds received for the program are used for their required

⁹ NY Ag & Mkts Law 117-a(3)(c).

¹⁰ The Humane Soc'y of the U.S., *Pit Bulls in Spotlight*, CSRO REGIONAL NEWS, Spring 2006, at 4, available at <http://www.hsus.org/web-files/PDF/CSRO-2.pdf> (last visited May 25, 2009).

¹¹ *Id.*

¹² Rebecca J. Huss, *Rescue Me: Legislating Cooperation Between Animal Control Authorities and Rescue Organizations*, 39 CONN. L. REV. 2059, 2069-70 (July 2007).

¹³ Jamey Medlin, *Comment: Pit Bull Bans and the Human Factors Affecting Canine Behavior*, 56 DEPAUL L. REV. 1285, 1308 (Summer 2007) (Sterilized dogs are less likely to attack than unaltered dogs), citing KAREN DELISE, FATAL DOG ATTACKS: THE STORIES BEHIND THE STATISTICS 29 (2002).

¹⁴ Huss, *supra* note 12, at 2064.

¹⁵ Animal Care and Control of New York City Web site, Our Statistics, <http://www.nycacc.org/stats.htm> (last visited May 24, 2009). The number of cats euthanized has been increasing slightly.

¹⁶ Animal Care and Control of New York City, Animal Statistics Table, Annual Reporting Form 2008, available at http://www.nycacc.org/maddie/ACC_2008_2003_YTD_MF_data.pdf (last visited May 24, 2009).

¹⁷ The Humane Soc'y of the U.S., *supra* note 10.

purposes and that the City has the ability to expand the provision of low-cost or free spay and neuter services. Aside from a portion of the dog licensing fees, the legislation does not require a state contribution. Ultimately, a City Animal Population Control Program will likely reduce the number of dogs and cats that are euthanized, reduce the burden on taxpayers, and reduce the likelihood of dog attacks. Therefore, the Association of the Bar of the City of New York supports this bill.

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