



Legislation Text

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Int. No. 761

By Council Members Crowley, Johnson, Dromm, Vallone, Dickens, Rose, Van Bramer, Kallos and Levin

A Local Law to amend the administrative code of the city of New York, in relation to technical changes to certain pet shop requirements, as added by local laws 5 and 7 for the year 2015.

Be it enacted by the Council as follows:

Section 1. Subdivisions b through f of section 17-371 of the administrative code of the city of New York, as added by local law 5 for the year 2015, are amended to read as follows:

b. ["Breeder" shall have the same meaning as set forth in section 17-1701 of this title.

c.] "Permit" means a written license and authorization to carry on specified activities as regulated by this subchapter or other applicable law enforced by the department.

[d.] c. "Permittee" means a natural person or other entity who holds a valid permit issued by the commissioner pursuant to this subchapter or other applicable law enforced by the department.

[e.] d. "Person" means any individual, corporation, partnership, association, municipality, or other legal entity.

[f.] e. "Pet shop" means a facility other than an animal shelter where live animals are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail for profit. Such definition shall not include breeders who sell or offer to sell directly to consumers fewer than twenty-five dogs or cats per year that are born and raised on the breeder's residential premises. Such definition shall not include duly incorporated humane societies dedicated to the care of unwanted animals that make such animals available for adoption, whether or not a fee for such adoption is charged. A person who allows an animal shelter[,] or animal rescue

group [or non-profit rescue group], as such terms are defined in section [17-1701] 17-802 of chapter [seventeen] eight of this title, to use such person's premises for the purpose of making animals available for adoption shall not be deemed a pet shop as a result of such activity so long as such person does not have an ownership interest in any of the animals being made available for adoption, and does not derive a fee for providing such adoption services.

§ 2. Subparagraph a of paragraph 5 of subdivision d of section 17-373, as added by local law 5 for the year 2015, is amended to read as follows:

(a) A certification made by a pet shop pursuant to this paragraph shall be made in a form and manner determined by the department and shall include the following information:

(i) The name [and], address and United States department of agriculture license number of every source from which such pet shop obtained a dog or cat during the relevant period;

(ii) The total number of dogs and cats obtained from each source; and

(iii) [If a source is a dealer, as such term is defined in section 17-1701 of this title: (A) the United States department of agriculture license number of such dealer; and (B) the] The individual identifying tag, tattoo, or collar number of each dog or cat obtained from [such dealer] each source.

§ 3. Subdivision c of section 17-380 of the administrative code of the city of New York, as added by local law 5 for the year 2015, is amended to read as follows:

c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this section. Such disposition may include impoundment at an animal shelter or [non-profit] animal rescue group as such terms are defined in section [17-1701] 17-802 of chapter [seventeen] eight of this title.

§ 4. Subdivision b of section 17-802 of the administrative code of the city of New York, as added by local law 7 for the year 2015, is amended to read as follows:

b. "Animal rescue group" [or "non-profit rescue group"] means a duly incorporated not-for-profit organization[, group or unincorporated entity] that accepts homeless, lost, stray, abandoned, seized, surrendered

or unwanted animals from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public.

§ 5. Subdivision f of section 17-804 of the administrative code of the city of New York, as added by local law 7 for the year 2015, is amended to read as follows:

f. A pet shop that allows an animal shelter or [non-profit] animal rescue group to use such pet shop's premises for the purpose of making animals available for adoption shall be exempt from the requirements of subdivisions b and c of this section with respect to such animals, provided such pet shop does not have an ownership interest in any of the animals that are made available for adoption.

§ 6. Subdivision d of section 17-814 of the administrative code of the city of New York, as added by local law 7 for the year 2015, is amended to read as follows:

d. A pet shop that allows an animal shelter or [non-profit] animal rescue group to use such pet shop's premises for the purpose of making animals available for adoption shall be exempt from the requirements of this section with respect to such animals, provided such pet shop does not have an ownership interest in any of the animals that are being made available for adoption, and the pet shop does not derive a fee for providing such adoption services.

§ 7. Sections 17-1701, 17-1702 and 17-1703 of the administrative code of the city of New York, as added by local law 5 for the year 2015, are amended to read as follows:

§17-1701 Definitions. For the purposes of this chapter, the following terms have the following meanings:

a. "Animal abuse crime" has the same meaning as set forth in section 17-1601 of this title.

b. "Animal shelter" [means a not-for-profit facility holding a permit in accordance with section 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] has the same meaning as such term is defined in section 17-802 of chapter eight of this title.

c. “Animal rescue group” [or “non-profit rescue group” means a not-for-profit organization, group or unincorporated entity that accepts unwanted animals from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public] has the same meaning as such term is defined in section 17-802 of chapter eight of this title.

d. [“Breeder” means a person required to hold a class A license pursuant to the animal welfare act, 7 U.S.C. § 2131, et seq. or successor provision of law.

e. “Broker”] “Class A license” means a [person required to hold] a class [B] A license issued by the United States department of agriculture pursuant to the animal welfare act, 7 U.S.C. § 2131, et seq., or successor provision of law, and regulations promulgated thereunder.

[f.] e. “Class B dealer” means a person required to hold a class B license issued by the United States department of agriculture pursuant to the animal welfare act, 7 U.S.C. § 2131, et seq., or successor provision of law, and regulations promulgated thereunder.

[g.] f. “Convicted” means an adjudication of guilt by any court or administrative tribunal of competent jurisdiction, whether upon a verdict, a plea of guilty or an order of adjudication withheld by reason of a plea of nolo contendere. For the purposes of this chapter, “convicted” shall also mean a plea of guilty on a charge of any crime in satisfaction of an accusatory instrument charging a defendant with an animal abuse crime where dismissal of such charge was not on the merits.

g. “Dealer” means a person required to have a license issued by the United States department of agriculture pursuant to the animal welfare act, 7 U.S.C. § 2131, et seq., or successor provision of law.

h. “Federal identification number” means a license or registration number issued by the United States department of agriculture pursuant to the animal welfare act, 7 U.S.C. § 2131, et seq., or successor provision of

law, and regulations promulgated thereunder.

i. “Finally determined” means a determination of a federal, state or local government agency, where all rights to challenge such determination at available administrative tribunals and courts of law have been exhausted, or the time period within which such challenge may be filed has expired.

j. “Person” means any individual, corporation, partnership, association, municipality, or other legal entity.

[j.] k. “Pet shop” has the same meaning as such term is defined in section 17-371 of subchapter nine of this title.

§17-1702 [Prohibited sales] Sales. a. [It shall be unlawful in any] Any pet shop [for any person to display, offer] that displays, offers for sale, [deliver, barter, auction, give] delivers, barter, auctions, gives away, [transfer] transfers or [sell] sells any dog or cat [knowingly obtained from] shall obtain such dog or cat from a source that, as of the date such pet shop receives such animal:

1. [any source that did not hold a valid license issued by the United States department of agriculture pursuant to 7 U.S.C. § 2131, et seq., or successor provision of law as such information is available from the United States department of agriculture as of the date such pet shop received such animal or animals; or

2. a broker; or

3. dealer or breeder unless as of the date such pet shop received such animal or animals, such dealer or breeder:

(a) held] holds a valid and active class A license [issued by the United States department of agriculture pursuant to 7 U.S.C. §2131, et seq., or successor provision of law, and such license had] that has not been suspended at any time during the prior five years, as such information is available from the United States department of agriculture; and

[(b) had] 2. has not received any of the following in connection with such license, as such information is available from the United States department of agriculture:

[(i)] (a) a finally determined “direct” non-compliant item citation pursuant to 7 U.S.C. §2131, et seq., and regulations promulgated thereunder, as indicated on any United States department of agriculture inspection report [in connection with such license] at any time during the prior three years[, as such information is available from the United States department of agriculture]; or

[(ii)] (b) a finally determined citation for failure to provide inspectors access to property or records as required pursuant to 9 C.F.R. §2.126, or successor regulations, as indicated on either of the two most recent United States department of agriculture inspection reports [in connection with such license, as such information is available from the United States department of agriculture]; or

[(iii)] (c) three or more distinct finally determined non-compliant item citations pursuant to 7 U.S.C. §2131, et seq., and regulations promulgated thereunder, other than citations for failure to provide inspectors access to property or records as required pursuant to 9 C.F.R. §2.126, or successor regulations, as indicated on the most recent United States department of agriculture inspection report [in connection with such license, as such information is available from the United States department of agriculture]; or

[(iv)] (d) one or more finally determined repeat non-compliant item citations pursuant to 7 U.S.C. §2131, et seq., and regulations promulgated thereunder, as indicated on the most recent United States department of agriculture inspection report [in connection with such license as such information is available from the United States department of agriculture]; or

[(v)] (e) a finally determined order to cease and desist, issued by an administrative law judge,[in connection with such license,] at any time during the prior five years[, as information about such enforcement actions is available from the United States department of agriculture]; or

[(vi)] (f) a finally determined order to pay a civil penalty, issued by an administrative law judge, [in connection with such license,] at any time during the prior five years[, as information about such enforcement actions is available from the United States department of agriculture]; and

[(c) provided] 3. provides to such pet shop a sworn affidavit attesting that such [dealer or breeder had]

source has not been convicted of a violation of the minimum standards of animal care provided for in section four hundred one of the agriculture and markets law at any time during the prior five years; and

[(d) provided] 4. provides to such pet shop a sworn affidavit attesting that prior to delivering such animal or animals into the custody of such pet shop such [dealer or breeder had] source has never been convicted of an animal abuse crime.

b. Notwithstanding subdivision a of this section, it shall be unlawful for any pet shop to display, offer for sale, deliver, barter, auction, give away, transfer or sell any dog or cat knowingly obtained from a class B dealer.

c. It shall be unlawful for any pet shop to display, offer for sale, deliver, barter, auction, give away, transfer or sell any rabbit.

[c.] d. A pet shop that allows an animal shelter or [non-profit] animal rescue group to use such pet shop's premises for the purpose of making animals available for adoption shall not be deemed to be engaged in any conduct otherwise prohibited pursuant to this section with respect to such animals, provided such pet shop does not have an ownership interest in such animals. A pet shop shall not be deemed to be engaged in any conduct otherwise prohibited pursuant to this section with respect to animals it surrenders to a non-profit shelter or animal rescue group, so long as such pet shop does not derive a fee therefor.

§17-1703 Required information for the purchaser. a. Every pet shop shall deliver to the purchaser of a cat or dog, at the time of sale, or to the prospective purchaser of a cat or dog upon request, in a standardized form prescribed by the commissioner, a written statement containing the following information:

1. The animal's breed, sex, color, identifying marks, individual identifying tag, tattoo or collar number and, if microchipped, the microchip manufacturer's registration instructions. [If the pet shop obtained the animal from a United States department of agriculture licensed dealer, the individual identifying tag, tattoo, or collar number for that animal.] If the breed is unknown or mixed, the record shall so indicate. If the animal is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the

litter number, if known;

2. The breeder's name, address, and federal identification number;

3. [If the person from whom the animal was obtained is a dealer who is not the breeder, such dealer's name, address, and federal identification number;

4.] The date of such animal's birth and the date the pet shop received such animal. The date of birth may be approximated if not known by the seller if:

(a) such animal is a cat; or

(b) such animal is a dog, and such dog is not advertised or sold as a purebred, registered or registrable;

[5.] 4. A written statement that the breeder has not received any finally determined "direct" non-compliant item citations pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder, as indicated on any United States department of agriculture inspection report in connection with such breeder's license at any time during the prior three years, as such information is available from the United States department of agriculture at the time of sale;

[6.] 5. If the animal is a dog, notification that dogs residing in New York state must be licensed, and that a license may be obtained from the municipality in which the dog resides;

[7.] 6. A record, as of the time of sale, of immunizations and worming treatments, if any, administered[, if any,] to the animal [as of the time of sale] while the animal was in the possession of the pet shop, including the dates of administration and the type of vaccines or worming treatments administered;

[8.] 7. A record of any known disease, sickness, or congenital condition that adversely affects the health of the animal at the time of sale;

[9.] 8. A copy of such animal's United States interstate and international certificate of health examination for small animals and the breeder's United States department of agriculture inspection reports for the last three years;

[10.] 9. A record of any veterinary treatment or medication received by the animal while in the pet

shop's possession and either of the following:

(a) A statement, signed by the pet shop at the time of sale, indicating that, to the pet shop's knowledge:

(i) the animal has no disease or illness; and (ii) the animal has no congenital or hereditary condition that adversely affects the health of the animal at the time of sale; or

(b) A record of any known congenital or hereditary condition, disease, or illness that adversely affects the health of the animal at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the animal, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or [nonelective] non-elective surgical procedures, and is not likely to require hospitalization or [nonelective] non-elective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes or is likely to make the animal clinically ill. The statement shall be valid for fourteen business days following examination of the animal by the veterinarian; and

[11.] 10. A statement of the purchaser's rights under article thirty-five-D of the New York state general business law in a form prescribed pursuant to rules promulgated by the department.

b. A disclosure made to a purchaser pursuant to subdivision a of this section shall be signed by both the pet shop certifying the accuracy of the statement, and the purchaser acknowledging receipt of the statement.

c. Every pet shop shall post conspicuously, within close proximity to the cages of dogs and cats offered for sale, notices containing the following language in one hundred-point type: "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."

d. Any pet shop offering a dog or cat for sale, barter, auction, give away or transfer shall, upon request by a prospective purchaser, make available to such prospective purchaser the two most recent United States department of agriculture inspection reports for the breeder of such dog or cat, as such reports were available

from the United States department of agriculture at the time such pet shop obtained such animal. At the request of such prospective purchaser, such pet shop shall provide physical copies of such inspection reports, provided however, that such pet shop may require reimbursement for copying expenses pursuant to rules promulgated by the department.

§ 8. Subdivision a of section 17-1704 of the administrative code of the city of New York, as added by local law 5 for the year 2015, is amended to read as follows:

a. Each pet shop shall keep and maintain records and documentation for each dog or cat purchased, acquired, held, sold, or otherwise disposed of with respect to the purchase, sale, dealers, transportation, breeding, medical care and condition, identification, and previous ownership of such animal. Each pet shop shall keep and maintain such records and documentation for a period of [ten] five years from the date such pet shop acquired each such dog or cat.

§ 9. Paragraph 2 of subdivision b of section 17-1704 of the administrative code of the city of New York, as added by local law 5 for the year 2015, is amended to read as follows:

2. The breeder's name, address, and federal identification number[, and if the source from which the pet shop obtained such animal is a person other than the breeder, such person's name, address, and federal identification number];

§ 10. Paragraph 8 of subdivision b of section 17-1704 of the administrative code of the city of New York, as added by local law 5 for the year 2015, is amended to read as follows:

8. Any statement or certification provided to [a] the pet store by [a shelter, rescue, or other source] the source from which it obtained the animal stating that such animal has been implanted with a microchip for permanent identification.

§ 11. Section 17-1706 of the administrative code of the city of New York, as added by local law 5 for the year 2015, is amended to read as follows:

§17-1706 Exemptions for shelter and rescue partners. A pet shop that allows an animal shelter or [non-

profit] animal rescue group to use such pet shop's premises for the purpose of making animals available for adoption shall be exempt from the provisions of this chapter with respect to such animals, provided such pet shop does not have an ownership interest in such animals.

§ 12. Subdivision c of section 17-1708 of the administrative code of the city of New York, as added by local law 5 of 2015, is amended to read as follows:

c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this section. Such disposition may include impoundment at an animal shelter or [non-profit] animal rescue group.

§ 13. Severability. If any portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 14. This local law shall take effect on June 1, 2015, except that if it becomes law subsequent to such date, this local law shall be retroactive to and deemed to have been in full force and effect on such date; provided, however, that sections 17-373 of title 17 of the administrative code of the city of New York, as amended by section 2 of this local law, and section 17-380 of title 17 of the administrative code of the city of New York, as amended by section 3 of this local law, shall take effect on January 1, 2016; and provided further that the commissioner may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such effective dates.

JHC
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