



Legislation Text

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Int. No. 1018-A

By Council Members Brannan, Schulman, Brewer, Krishnan, Marte, Holden, Restler, Rivera, Avilés, Abreu, Ossé, Ayala, Gennaro, Bottcher, Menin, Cabán, Hanif, Gutiérrez and Ariola

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of dogs and cats in pet shops, and to repeal paragraph 5 of subdivision d of section 17-373, and sections 17-1703, 17-1704, and 17-1705 of such code, relating to required information, recordkeeping, and minimum standards in pet shops and applications for pet shop permits

Be it enacted by the Council as follows:

Section 1. Section 17-371 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, subdivisions b, c, d, and e as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-371 Definitions. [For the purposes of] As used in this subchapter, the following terms have the following meanings:

[a. “Arm's length transaction”] Arm’s length transaction. The term “arm’s length transaction” means a sale of a business for consideration that reflects the fair market value of such business or its assets, between [two] 2 informed and willing parties, that is not made, wholly or in part, for the purpose of enabling the seller to avoid liability for violations issued by the department. A sale shall be presumed not to be an arm's length transaction if it is:

1. A sale to an individual, or to a corporation or other business that is owned by the spouse, domestic partner, parent, grandparent, child or stepchild of any of the sellers, or is the direct descendent of a grandparent, the spouse or domestic partner of any of the sellers;

2. A sale to an individual or entity that has a business or financial interest in the seller; or

3. A sale to an entity in which any of the sellers has a business or financial relationship.

[b. “Permit”] Permit. The term “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.

[c. “Permittee”] Permittee. The term “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.

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

e. “Pet shop”] Pet shop. The term “pet shop” means a facility other than an animal shelter, as such term is defined in section 17-802, 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, as such terms are defined in section 17-802 of chapter 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. Paragraph 5 of subdivision d of section 17-373 of the administrative code of the city of New York is REPEALED and paragraph 6 of subdivision d of such section is redesignated paragraph 5.

§ 3. Section 17-1701 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-1701 Definitions. [For the purposes of] As used in this chapter, the following terms have the

following meanings:

[a. “Animal abuse crime”] Animal abuse crime. The term “animal abuse crime” has the same meaning as set forth in section 17-1601 [of this title].

[b. “Animal shelter”] Animal shelter. The term “animal shelter” has the same meaning as [such term is defined] set forth in section 17-802 [of chapter eight of this title].

[c. “Animal rescue group”] Animal rescue group. The term “animal rescue group” has the same meaning as [such term is defined] set forth in section 17-802 [of chapter eight of this title].

[d. “Class A license” means a class 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.

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.

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.

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

§ 4. Section 17-1702 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, subdivision a as amended by local law number 151 for the year 2023, and subdivision c as amended by local law number 54 for the year 2023, is amended to read as follows:

§ 17-1702 Sales of animals. a. [Any pet shop that displays, offers for sale, delivers, barter, auctions, gives away, transfers or sells any dog or cat shall obtain such dog or cat from a source that, as of the date such pet shop receives such animal, shall attest in a sworn affidavit that such source:

1. holds a valid and active class A license that has not been suspended at any time during the prior five years; and

2. has not received any of the following in connection with such license:

(a) a finally determined “direct” non-compliant item citation pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder at any time during the prior three years; or

(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 in either of the two most recent United States department of agriculture inspection reports; or

(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, in the most recent United States department of agriculture inspection report; or

(d) one or more finally determined repeat non-compliant item citations pursuant to 7 U.S.C. § 2131, et seq., and regulations promulgated thereunder, in the most recent United States department of agriculture inspection report; or

(e) a finally determined order to cease and desist, issued by an administrative law judge, at any time during the prior five years; or

(f) a finally determined order to pay a civil penalty, issued by an administrative law judge, at any time during the prior five years; and

3. 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

4. has never been convicted of an animal abuse crime prior to delivering such animal or animals into the custody of such pet shop.] Animals shall not be sold or held for sale in a dwelling in which a person lives or at any other location that is not licensed therefor.

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 dog, cat, rabbit, or guinea pig.

[d.] c. A pet shop that allows an animal shelter or 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.

§ 5. Sections 17-1703, 17-1704, and 17-1705 of the administrative code of the city of New York are

REPEALED.

§ 6. The heading of section 17-1706 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-1706 Exemptions for animal shelters and rescue partners.

§ 7. Section 17-1707 of the administrative code of the city of New York, as amended by local law number 80 for the year 2021, is amended to read as follows:

§ 17-1707 Violations and fines. [a.] Any person found in violation of any provision of this chapter[, other than subdivision c of section 17-1703 of this chapter,] or any provision of any rule promulgated thereunder, shall be subject to a civil penalty of [five hundred dollars] \$500 per day for each such violation. Each violation in connection with the sale of more than [one] 1 animal shall be deemed a separate violation with respect to each animal offered for sale. A notice of violation served pursuant to this section shall be returnable at the environmental control board or any tribunal established within the office of administrative trials and hearings as designated by the commissioner.

[b. Any person found in violation of subdivision c of section 17-1703 of this chapter or any provision of any rule promulgated thereunder shall be subject to a civil penalty of one hundred dollars per day for each such violation. A notice of violation served pursuant to this section shall be returnable at the environmental control board or any tribunal established within the office of administrative trials and hearings as designated by the commissioner.

c. Any person that violates subdivision c of section 17-1703 or any rules promulgated thereto shall not be subject to a civil penalty for a first-time violation if such person proves to the satisfaction of the department, within seven days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure, if accepted by the department as proof that the violation has been cured, shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer

made by the department to a person who has received, for the first time, a notice of violation of subdivision c of section 17-1703 or any rules promulgated pursuant thereto. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the office of administrative trials and hearings, of the determination that the person has not submitted proof of a cure within 15 days of receiving written notification of such determination.]

§ 8. This local law takes effect December 15, 2024, except that if it becomes law after such date, it is retroactive to and deemed to have been in effect as of December 15, 2024.

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