

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals and the Law #2 - GOV

July 23, 2013

S. 3723-B

By: Senator Flanagan

A. 5114-B

By: M. of A. Paulin

Senate Committee: Agriculture

Assembly Committee: Codes

Effective Date: 180th day after it shall have become a law

AN ACT to amend the agriculture and markets law and the general business law, in relation to sale of animals.

SECTION AND LAW REFERRED TO: Agriculture and Markets Law Section 405 and General Business Law Section 453

THE COMMITTEE ON ANIMALS AND THE LAW **SUPPORTS THIS LEGISLATION**

This bill would amend Section 405 of the Agriculture and Markets Law, relating to fines imposed for violations of the pet dealer law. The bill would also amend several sections of Article 35-D of the General Business Law, in relation to the sale of cats and dogs to the public. The bill would better implement the provisions of these laws intended to protect animals sold to the public as pets, and provide remedies to purchasers who purchase animals that are ill or have congenital malformations.

The Agriculture and Markets Law would be amended to increase the minimum fine for each violation of the pet dealer law from \$50 to \$100, a more realistic and meaningful amount, which would tend to discourage a pet dealer from engaging in deceptive or substandard practices. The General Business Law would be amended to increase the fines for any violation of the pet warranty law, reflecting the increased penalty amount in the Agriculture and Markets Law as stated above, and for the same purpose.

Existing provisions of the pet warranty law in Article 35-D of the General Business Law provide that a consumer purchasing an animal from a pet dealer must have the animal examined by a veterinarian within 14 days, and obtain a statement from the veterinarian saying that the animal is unfit for purchase due to illness or a congenital malformation that adversely affects the health of the animal. This bill provides that in cases where the animal

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has a congenital problem, the time allowed for the animal to be examined by a veterinarian, and a determination made about the existence of a congenital malformation is increased from 14 business days to 180 calendar days; the consumer would be allowed six months to exercise the remedy provided by current law that allows a consumer to return the pet for a refund, to receive another animal in exchange, or to obtain financial restitution for medical expenses up to the amount of the purchase price. Such a change is reasonable given the difficulty in finding congenital problems in very young animals. Many such problems are only able to be diagnosed as the animal matures. This change in the law would encourage pet dealers to find sources of animals from better quality breeders and discourage the sale of pets from sources known to indiscriminately and inappropriately breed unhealthy animals.

Existing sections of the pet warranty law that require the disclosure of information about the animal before it is purchased would be amended to require disclosure of the broker from whom the animal was obtained, if a broker was involved, and the location where a dog was obtained (this provision already applies to the sale of a cat). These changes would improve the ability to track the source of any pet sold should it be necessary for a state agency to do so.

The changes contained in this bill would protect the public by encouraging the sale of healthy dogs and cats and by giving consumers recourse to recoup some, or all, of the purchase price of a pet that is found to have congenital problems requiring medical care months after purchase. Not only would the animal benefit by receiving good medical care, but over time, the pet dealer would undoubtedly seek out those breeders who supply good healthy animals and avoid low quality breeders. Increasing fines, and enforcing these requirements more strongly, by requiring that they be satisfied before licensing or renewal of a license would strengthen the effectiveness of the law. Increasing disclosure of the sources of pets from brokers would allow tracking of the source of diseased animals by government officials should it become necessary.

Based on the foregoing, the New York State Bar Association Committee on Animals and the Law recommends **APPROVAL** this legislation.

Chair of the Committee: Amy L. Chaitoff, Esq.