

Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals and the Law #5-A

May 22, 2014

S. 4202-B

By: Senator Grisanti

A. 2115-B

By: M. of A. Paulin

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 180 days after it shall have become a law

AN ACT to amend the agriculture and markets law and the general business law, in relation to the definition of pet dealer.

SECTION AND LAW REFERRED TO: This bill would amend Section 400 of the Agriculture and Markets Law and Section 752 of the General Business Law. Section one of the bill amends subdivision 4 of section 400 of the Agriculture and Markets Law by reducing the number of animals per year that are born, raised and subsequently sold or offered for sale on a breeder's residential premises from twenty-five to fifteen, to qualify as a pet dealer. Section two amends subdivision 3 of section 752 of the General Business Law to reflect the same change in the number of animals raised and sold to qualify a breeder as a pet dealer.

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

This legislation would amend the Agriculture and Markets Law and General Business Law by decreasing the number of animals per year that would qualify a breeder as a “pet dealer.” As the law currently reads, the term pet dealer is “... any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals...” While this definition is inclusive of breeders, it goes on to exclude those breeders with less than twenty-five (25) animals born and raised on the breeder’s residential premises and offered for sale. The proposed amendment reduces this number to fifteen (15). This number is slightly more than the number proposed by an earlier version of this bill in 2013; the current number of animals sold that will qualify a breeder as a “pet dealer” was increased in this amended version of the bill to address concerns with the lower number.

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

There is a need to expand the breeders who will be considered pet dealers under the law because there are issues with some “backyard breeders.” While many backyard breeders are responsible and their animals are healthy, there are increasing problems with animals that are raised by unregulated breeders. Without regulation or oversight, these breeders can produce sick animals that are then sold to the public. Consumers rarely understand that when they purchase from a small breeder, there is no guarantee that the animals have been raised in healthy and humane conditions, since there are no standards that these breeders must follow.

By decreasing the number of animals that would qualify a breeder as a pet dealer, the legislature is casting a wider net over those who would be subject to the laws that protect animals. These laws include providing minimum standards of care for animals within a dealer’s possession. The minimum standards set forth in § 401 of the Agriculture and Markets Law, for example, apply to pet dealers and require them to provide adequate food, water, housing, ventilation, light, and sanitation for “every animal in their custody or protection.”

This section of law also requires dealers to have a veterinarian examine the animals within their custody prior to offering the animal for sale. Classifying additional breeders as pet dealers would also require them to provide an Information Statement concerning the consumer’s rights upon purchase of animal and also provide the consumer with enumerated “return” options upon having to bring an animal back to the dealer due to a congenital or hereditary malformation, disease or illness pursuant to § 753 of the General Business Law (the “Pet Lemon Law”). By expanding the definition of “pet dealer,” more animals within the stream of commerce would be protected under the law, thus promoting their humane treatment and increasing the chances that a consumer will purchase a healthy animal.

The broadening of the definition of pet dealer also expands the breadth of those who must be licensed in order to sell animals, and those who could be subject to inspections, enforcement and fines.

The bill does not change Section 405 of the Agriculture and Markets Law, providing that breeders selling fewer than 25 animals in a year would not be subject to the yearly inspections that other pet dealers are subject to, but will only be inspected when a complaint is received at the Department of Agriculture and Markets that warrants an inspection. The sponsors might in the future consider changing the threshold for yearly inspections to breeders selling more than 15 animals in a year.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** this legislation.

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