

New York State Bar Association

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THE COMMITTEE ON ANIMALS AND THE LAW URGES APPROVAL OF THIS LEGISLATION

Animals and the Law #8 - GOV

July 25, 2013

S. 3753-A

By: Senator Grisanti

A. 740-A

By: M. of A. Rosenthal

Senate Committee: Rules
Assembly Committee: Rules
Effective Date: Immediately

AN ACT to amend the agriculture and markets law and the general business law, in relation to preemption of local laws

SECTION AND LAW REFERRED TO: Section 400-a of the Agriculture and Markets Law is repealed, and Section 407-b is added to prohibit the Agriculture and Markets Law from preempting local laws governing pet dealers, provided that such local laws are more stringent than the provisions of the Agriculture and Markets Law.

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This bill would amend the Agriculture and Markets Law and the General Business Law to allow municipalities to enact and enforce laws which govern pet dealers, provided that such local laws are more stringent than the Agriculture and Markets Law and the General Business Law. The Agriculture and Markets Law, as amended, would allow municipalities to regulate (i) the source of the animal being offered for sale by pet dealers; (ii) whether spaying or neutering of such animals is required prior to sale; and (iii) the health and safety of such animals being maintained by pet dealers. As amended, these sections would only allow such local laws if they are more stringent than the Agriculture and Markets Law. Finally, these sections, as amended, would prohibit any local law from imposing a penalty in excess of \$500.00. Corresponding changes are made to the General Business Law, by repealing Section 753-e and adding Section 753-d.

Currently, municipal laws pertaining to the regulation or licensing of pet dealers are preempted by state laws. Accordingly, such laws are uniformly applied to pet dealers across the state, prohibiting local communities from imposing more stringent regulations on pet dealers, should they so desire.

As amended, these sections would afford municipalities the opportunity to regulate pet dealers operating within their jurisdictions. The amended sections would make the Agriculture and Markets Law and the General Business Law consistent with many other

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animal-related state laws which do not preempt municipalities from enacting local laws pertaining to animals in their jurisdiction, such as regulating dangerous dogs, seizure of animals, canine waste, and the operation of spay/neuter facilities.

While uniform laws throughout the state may be of value to a business with operations in more than one municipality, pet dealers are not such a business. Because pet dealers operate out of a fixed and stationary location, the operations of such businesses would not be subject to possible varying laws from jurisdiction to jurisdiction. The local nature of pet dealers' businesses obviates the need for state-wide uniformity in the laws which regulate such operations. As such, the ability to enact and enforce local laws in such limited instance outweighs the need for uniformity across the State.

This legislation would allow municipalities to support community oriented standards through the adoption and enforcement of locally enacted regulations. As a result, this legislation would allow individuals to ensure that the municipality in which they live more correctly reflects its residents' beliefs.

Based on the foregoing, the Committee on Animals and the Law **URGES APPROVAL** this legislation by the Governor.

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