

Memorandum in Support, with Amendments

COMMITTEE ON ANIMALS AND THE LAW

Animals and the Law #13

June 5, 2014

S. 2271

By: Senator Grisanti

A. 1204

By: M. of A. Zebrowski

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 90 days after it shall have become a law

AN ACT to amend the agriculture and markets law, in relation to restricting the performance of surgical devocalization procedures on dogs and cats.

SECTION AND LAW REFERRED TO: Section 365-a of the agriculture and markets law

THE COMMITTEE ON ANIMALS AND THE LAW **SUPPORTS THIS LEGISLATION, WITH AMENDMENTS**

This legislation seeks to restrict surgical devocalization of dogs and cats to situations where the procedure is medically necessary for the health of a dog or cat. The bill also provides that the devocalization can only be performed by a licensed veterinarian. The Committee concurs with the concept of strictly limiting surgical devocalization of dogs and cats but is concerned that the proposed restriction is too rigid and may inadvertently have a negative impact on dogs and cats in certain situations where devocalization may be a last resort to prevent euthanasia. In such situations, where the animal's well-being is at stake (as opposed to matters of human convenience) limited provision should be made for allowing the procedure under certain circumstances.

The American Veterinary Medical Association ("AVMA") has thoroughly reviewed the issue of devocalization and adopted the following policy which is consistent with the Committee's recommendation:

Canine devocalization should only be performed by qualified, licensed veterinarians as a final alternative to euthanasia after behavioral modification to correct excessive vocalization has failed and after discussion of potential complications from the procedure with the owner. When dogs are housed in groups (e.g. laboratories, breeding facilities, kennels) devocalization should not be used as an alternative to appropriate animal management and facility design.

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.

AVMA's Animal Welfare Division has also prepared an analysis of the animal welfare implications of devocalization which is incorporated herein by reference. See, *Welfare Implications of Canine Devocalization*, AVMA (Jan. 2013), <https://www.avma.org/KB/Resources/LiteratureReviews/Pages/Canine-Devocalization-Backgrounder.aspx>. Their analysis states, in part:

While excessive barking is a common problem, the limited data that exists suggests that the number of dogs for which resolution is accomplished by venticulocordectomy is small. Most often other approaches... for decreasing barking ... are used to address the issue.

In the event a dog or cat may be subject to euthanasia because of its vocalizations, devocalization should be permitted as a final alternative to save its life, but only under certain circumstances. A veterinarian licensed to practice in New York State may perform devocalization as a final alternative to euthanasia when: (1) behavioral modification and removal of stimuli prompting vocalization have failed to alleviate the condition; (2) the veterinarian, acting in good faith, determines, in his or her professional medical judgment and in accordance with the generally accepted standards of the veterinary community, that devocalization is necessary to avoid euthanasia; and (3) the licensed veterinarian has discussed the potential complications from the procedure with the animal's owner.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** this legislation, with amendments to also allow devocalization when it is necessary to avoid euthanasia of the dog or cat.

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