

New York State Bar Association

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Memorandum in Support

COMMITTEE ON ANIMALS AND THE LAW

Animals #5

February 19, 2021

S. 3835

By: Senator Addabbo

A. 1903

By: M. of A. L. Rosenthal

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: One year after it shall have become a law, except that existing buildings or new construction with approved plans shall have until the following year to comply

AN ACT to amend the agriculture and markets law, in relation to requiring the installation and testing of fire protection systems at pet stores.

LAW AND SECTIONS REFERRED TO: Section 407 of the Agriculture and Markets Law.

THE COMMITTEE ON ANIMALS AND THE LAW SUPPORTS THIS LEGISLATION

This bill will require fire protection and suppression equipment in commercial establishments which house animals in New York State, similar to the current mandate for fire protection and suppression equipment in commercial establishments which house people. It will apply to all pet dealers and to all premises at which the dealer houses, sells or trades animals, either permanently or temporarily, and is restricted to buildings that are not zoned as residential. It adopts the definitions of “pet dealer” and “animal” already existing the Agriculture and Markets Law, in sections 400(4) and 350(5), defining “pet dealer” and “companion animal,” respectively.¹ Passage of this bill will potentially save countless animal lives, and it also will reduce the number of human lives put at risk when emergency responders and other individuals try to rescue animals from fires.

¹ Pet dealer is defined “[A] any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public” including “breeders who sell or offer to sell animals” but not “any breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder’s residential premises.”

Companion animal is defined as “any dog or cat, and . . . any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal.”

The provisions of the bill requires that those fire protection systems be installed, maintained and inspected in accordance with specific local codes that exist either within or outside of the City of New York, and also requires that if a fire protective system becomes inoperable, the pet dealer must immediately notify the appropriate code enforcement office and have the system restored to working order. Finally, the bill requires that the Commissioner of Agriculture and Markets, working in conjunction with the appropriate New York State or New York City agencies (such as the codes enforcement and administrative division of the fire department), promulgate rules or regulations as necessary for implementation of its provisions.

Animals in pet stores typically are caged and locked into those commercial establishments while such establishments are closed, making their escape from a fire impossible without human assistance. The animals' helpless situation is compounded by the use of electrical appliances often required to provide the proper care for the animals. For instance, reptiles may require heat lamps or rocks and fish tanks require filters, all of which require the constant use of electricity. Thus, not only are animals trapped if a fire occurs, animals also are exposed to a greater risk of fire breaking out due to the equipment required for their care.

A less immediately obvious, but perhaps more important justification for passage of this bill is its potential to save human lives. Because animals cannot release themselves from their cages in the event of a fire on the premises, emergency responders and sometimes other civilians put their own lives at risk, entering the premises in an attempt to save the trapped animals. In fact, firefighters may be more susceptible to being injured while responding to a fire at a pet store since they may enter otherwise unoccupied buildings in order to free caged animals from the burning buildings.

Since the late 1980's, there have been many fires occurring in pet stores, both upstate and downstate, in which many animals lost their lives. These include a 1988 fire at Selmer's Petland, in Huntington, Long Island, where more than 150 animals died. In a 2004 fire in West Islip, Long Island, hundreds of animals and more than 1,000 fish perished. In 2005, a fire at a pet breeding business in Latham, New York, killed thirteen dogs, including seven puppies less than eight weeks old; additional dogs were pulled by firefighters from the burning building and saved. A 2008 three alarm fire in a Bronx pet store killed more than 100 animals, and a 2010 fire in an Astoria, Queens, pet store killed many birds. In the Astoria fire, reports credited the heroic and selfless efforts of first responders, who cut through metal gates and locks to gain access to the store to rescue the animals, in preventing the deaths of many more animals.

In 2012, seventy dogs were rescued, but five died, in an apartment above Pick of the Litter puppy store in Smithtown, Long Island, which was not approved to be housing dogs. On March 2, 2016, fourteen dogs and one cat died in a fire at a business in Coram, Long Island, which had applied for but had not yet received a business license for Pets Unlimited. This fire occurred less than 24 hours after the business was served with a cease and desist order by the Town of Brookhaven.

In each of these instances, firefighters put their lives at risk in order to save those of the animals inside. Many civilians living close to the pet dealer establishments were also put in danger.

The New York City Council passed an ordinance requiring all establishments which house animals for twenty-four hours to be equipped with automatic sprinkler systems in August 2015. It is time for New York State to do the same.

The Committee on Animals and the Law supports this bill, and it also respectfully suggests that several modifications will enhance the bill, and ensure better compliance. First, the exemption from this bill for pet dealers operating in residentially zoned property should be eliminated. Secondly, New York State's spectrum of vastly differing municipalities, from urban, to suburban, to rural, to agricultural, may have varying water systems which will impact water supply. Thus, there may be areas in which it is not possible for a building owner to hook up automatic sprinklers from the municipal water supply. This potential issue is not presently recognized in the bill, but it should be taken into account, perhaps by exempting buildings located in municipalities in which automatic sprinkler systems cannot be hooked up to the municipal water supply from that particular requirement (and only that requirement) of the bill. Finally, the bill requires owners of existing buildings to retrofit those buildings with the required equipment within one year of the effective date. Because retrofitting buildings will impose construction burdens upon the owners of existing buildings, the time period allowed for doing so should take that difficulty into account and be extended to at least three years.

We urge the sponsors to consider whether these changes should be made in the legislation.

For all the reasons cited in this memo, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.