

LAI D ON DESKS 6/8/15
Government Services & Administration
DISCUSSION ONLY 7/9/15

RESOLUTION NO. 2015176

RE: LOCAL LAW NO. OF 2015, A LOCAL LAW TO AMEND THE
ADMINISTRATIVE CODE OF THE COUNTY OF DUTCHESS, IN
RELATION TO PROHIBITING THE SALE OF PUPPIES AND KITTENS
BRED IN PUPPY AND KITTEN MILLS

Legislators TYNER, IGNAFFO, MAC AVERY, FARLEY, JOHNSON, and
STRAWINSKI offer the following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopt Local Law
No. _____ of 2015 which has been submitted this day for consideration by said Legislature.

STATE OF NEW YORK
COUNTY OF DUTCHESS

ss:

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 10th day of August 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 10th day of August 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

LOCAL LAW NO. 2015

RE: LOCAL LAW NO. OF 2015, A LOCAL LAW TO AMEND THE ADMINISTRATIVE CODE OF THE COUNTY OF DUTCHESS, IN RELATION TO PROHIBITING THE SALE OF PUPPIES AND KITTENS BRED IN PUPPY AND KITTEN MILLS

Be it enacted by the County of Dutchess as follows:

Section 1. The administrative code of the County of Dutchess is amended by adding a new chapter to read as follows:

Definitions. For the purposes of this chapter, the following terms have the following meanings:

- a. "Animal abuse crime" means a violation of any provision of the agriculture and markets law, or successor laws, or regulations promulgated thereunder pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal, or a violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.
- b. "Animal rescue group" or "non-profit rescue" shall mean a not-for-profit organization, group or unincorporated entity that accepts unwanted dogs or cats from an animal shelter or other place and attempts to find homes for, and promote adoption of such animals by the general public.
- c. "Convicted" means an adjudication of guilt by any court of competent jurisdiction, whether upon a verdict or plea of guilty, or an order of adjudication withheld by reason of a plea of nolo contendere.
- d. "Dealer" means a pet dealer required to have a license issued by the United States Department of Agriculture pursuant to 7 U.S.C. 54 § 2134 or successor provision of law.
- e. "Federal identification number" means a license or registration number issued by the United States Department of Agriculture pursuant to the Animal Welfare Act, 7 U.S.C. 54, or successor provision of law.
- f. "High volume breeder" means a person who, for compensation or profit, either 1. has an ownership interest in or custody of one or more breeding female dogs and or cats and who sells or offers for sale, via any means of conveyance (including the internet, telephone, or newspaper), more than 50 of the offspring of such breeding female animals for use as pets in any 1-year period; or 2. has an ownership interest in or custody of twenty or more breeding female dogs and/or cats.
- g. "Intermediate handler" means an intermediate handler required to register with the United States Department of Agriculture pursuant to 7 U.S.C. 54 § 2136 or successor provision of law.

h. "Pet shop" means a facility other than an animal shelter where live animals are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail for profit.

Section 2. Puppy and Kitten Mill Sales

Prohibited. It shall be unlawful in any pet shop for any person to display, offer for sale, deliver, barter, auction, give away, transfer or sell any dog or cat obtained from:

a. a high volume breeder;

b. a dealer unless such dealer:

1. has such a valid license and such license is active; 2. has not been found in violation of any provision of 7 U.S.C. 54 or successor provision of law or any rule, regulation, or standard promulgated thereunder during the previous twelve months; and 3. provides the name and address of the breeder and, if the breeder is a dealer licensed by the United States Department of Agriculture, the breeder's federal identification number.

c. An intermediate handler unless such intermediate handler:

1. has an active registration status with the United States Department of Agriculture; 2. during the previous twelve months has been cited for no more than three direct violations of 7 U.S.C. 54, or successor provision of law, and/or any rule, regulation, or standard promulgated thereunder; and 3. provides the name and address of the breeder and, if the breeder is a dealer licensed by the United States Department of Agriculture, the breeder's federal identification number.

d. A dealer convicted of an animal abuse crime.

Section 3. Information statement for purchaser.

a. Every pet shop shall deliver to the purchaser of a cat or dog, at the time of sale in a standardized form prescribed by the commissioner, a written statement containing the following information:

1. For cats:

(a) The breeder's name and address, if known, or, if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal identification number;

(b) The date of the cat's birth, unless unknown because of the source of the cat, the date the pet shop received the cat, and the location where the cat was received;

(c) A record of immunizations and worming treatments administered, if any, to the cat as of the time of sale while the cat was in the possession of the pet shop, including the dates of administration and the type of vaccines or worming treatments administered;

(d) A record of any known disease, sickness, or congenital condition that adversely affects the health of the cat at the time of sale; and

(e) A record of any veterinary treatment or medication received by the cat while in the pet shop's possession and either of the following:

(i) A statement, signed by the pet shop at the time of sale, indicating all of the following:

(1) the cat has no known disease or illness; and

(2) the cat has no known congenital or hereditary condition that adversely affects the health of the cat at the time of sale; or

(ii) A record of any known congenital or hereditary condition, disease, or illness that adversely affects the health of the cat at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the cat, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or nonelective surgical procedures, and is not likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the cat clinically ill or is likely to make the cat clinically ill. The statement shall be valid for fourteen business days following examination of the cat by the veterinarian.

2. For dogs:

(a) The breeder's name and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal identification number;

(b) The date of the dog's birth and the date the pet dealer received the dog. If the dog is not advertised or sold as a purebred, registered or registrable, the date of birth may be approximated if not known by the seller;

(c) The breed, sex, color and identifying marks at the time of sale. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate. If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known;

(d) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale while the dog was in the possession of the pet dealer, including dates of administration and the type of vaccines and/or worming treatments administered;

(e) A record of any veterinary treatment or medication received by the dog while in the possession of the pet dealer and either of the following:

(i) A statement, signed by the pet shop at the time of sale, indicating all of the following:

(1) the dog has no known disease or illness; and

(2) the dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale; or

(ii) A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the dog at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the condition, disease, or illness does not require hospitalization or nonelective

surgical procedures, and is not likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for fourteen business days following examination of the dog by the veterinarian.

(f) Notification that dogs residing in New York state must be licensed, and that a license may be obtained from the municipality in which the dog resides.

b. A disclosure made pursuant to paragraph a of this section shall be signed by both the pet dealer certifying the accuracy of the statement and the purchaser acknowledging receipt of the statement.

c. Every pet dealer shall post conspicuously within close proximity to the cages of dogs and cats offered for sale, a notice containing the following language in one hundred-point type:
"Information on the source of these dogs and cats and the veterinary treatments received by these dogs and cats is available for review by prospective purchasers."

Section 4. Recordkeeping.

a. Each pet shop shall keep and retain for five years after taking possession of any dog or cat records and documentation with respect to the purchase, sale, intermediate handlers, brokers, transportation, breeding, medical care and condition, identification, and previous ownership of such animal. Such documentation and records shall be made available at all reasonable times for inspection and copying by the department. Such records and documentation shall include the following information:

1. Proof of purchase, adoption, or acceptance of such animal evincing the source from which such pet shop obtained such animal;
2. The breeder's name and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the breeder's name, address, and federal identification number;
3. If the source from which a pet shop obtained such animal is a person other than the breeder, such person's name and address. If such person is a dealer or intermediate handler, such person's name, address, and federal identification number;
4. The date of the animal's birth, the date the pet shop received the animal, and the location where the animal was received. If the animal is not advertised or sold as a purebred, registered or registrable, the date of birth may be approximated if not known by the seller;
5. The breed, sex, color and identifying marks at the time of sale. If the breed is unknown or mixed, the record shall so indicate.
6. A record of immunizations and worming treatments administered, if any, to such animal as of the time of sale while such animal was in the possession of the pet shop, including the dates of administration and the type of vaccines or worming treatments administered;
7. A record of any known disease, sickness, or congenital condition that adversely affects the health of the animal at the time of sale to the public;
8. A record of any veterinary treatment or medication received by the animal while in the possession of the pet shop;

9. A copy of any written statement provided to the purchaser pursuant to section 3 of this chapter, signed by the pet shop certifying its accuracy and signed by the purchaser acknowledging its acceptance.
10. The name and address of the person to whom the animal was sold or given for adoption.
11. Such other records and documentation as deemed necessary by the commissioner in accordance with rules promulgated by the department.
 - a. In addition to the documentation and records required under subdivision a of this section, pet stores must keep and maintain the following records for transactions involving one or more dogs:
 1. If the pet shop obtained such dog from a United States department of agriculture licensed source, the individual identifying tag, tattoo, or collar number for such animal.
 2. If such dog is being sold as registered or being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known;
 3. If the pet shop has submitted a license application for such dog pursuant to section 6 of this chapter, a copy of such application.
 4. If the pet shop has released such dog to a purchaser without first submitting a license application, a written statement provided by the purchaser stating that the dog is to be harbored outside Dutchess County.

Section 5. Animal Source Certification.

- a. Every pet shop required to have a permit issued by the commissioner shall provide to the commissioner with every application for such permit or renewal thereof an annual certification, executed under penalty of perjury, confirming that during the previous twelve months such pet shop has not sold any animals obtained from a source prohibited pursuant to section 2 of this chapter. Such certification shall include the following:
 1. The name and address of every source from which such pet shop obtained a dog or cat during the same period, and for dogs and cats obtained from sources other than the breeders, the name and address of each breeder;
 2. The number of dogs and cats obtained from each source;
 3. The number of dogs and cats originating with each breeder who is not a source; and
 4. If a source or a breeder who is not a source is licensed by the United States Department of Agriculture pursuant to 7 U.S.C. 54 § 2136 or successor provision of law:
 - (a) the department of agriculture license number of such source or breeder; and
 - (b) the individual identifying tag, tattoo, or collar number of each dog obtained from such source or breeder.
- b. Notwithstanding the aforementioned certification, a pet shop submitting an application for a permit or renewal permit less than twelve months after the effective date of this section shall not be required to certify the statements listed in subdivision a of this section except with respect to animals such pet shop receives after the effective date of this section.
- c. The department may inspect the records maintained pursuant to section 17-1704 of this chapter to verify the authenticity of the certifications submitted pursuant to subdivision a of this section.

Section 6. Minimum standards of animal care.

a. Pet shops shall comply with the following minimum standards of care for every animal in their custody or possession:

1. Housing. (a) Animals shall be housed in primary enclosures or cages, which shall be constructed so as to be structurally sound. Such enclosures shall be maintained in good repair to contain the animal housed inside and protect it from injury. Surfaces shall have an impervious surface so as not to permit the absorption of fluids and which can be thoroughly and repeatedly cleaned and disinfected without retaining odors.

(b) Primary enclosures or cages housing the animals shall provide sufficient space to allow each animal adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around, and lie down with its limbs outstretched. If the flooring is constructed of metal strands, such strands must either be greater than one-eighth inch in diameter (nine gauge wire) or shall be coated with a material such as plastic or fiberglass, and shall be constructed so as not to allow passage of the animal's feet through any opening in the floor of the enclosure. Such flooring shall not sag or bend substantially between structural supports.

(c) Housing facilities shall be adequately ventilated at all times to provide for the health and well-being of the animal. Ventilation shall be provided by natural or mechanical means, such as windows, vents, fans, or air conditioners.

Ventilation shall be established to minimize drafts, odors, and moisture condensation.

(d) The temperature surrounding the animal shall be compatible with the health and well-being of the animal. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and shall not be permitted to fall below or rise above ranges which would pose a health hazard to the animal.

This shall include supplying shade from sunlight by natural or artificial means.

(e) The indoor facilities housing the animals shall be provided with adequate lighting sufficient to permit routine inspection and cleaning and be arranged so that each animal is protected from excessive illumination which poses a health hazard to the animal.

(f) The indoor and outdoor facilities housing the animals, including the primary enclosure or cage, shall be designed to allow for the efficient elimination of animal waste and water in order to keep the animal dry and prevent the animal from coming into contact with these substances. If drains are used they shall be constructed in a manner to minimize foul odors and backup of sewage. If a drainage system is used it shall comply with federal, state, and local laws relating to pollution control.

(g) In the event that a pet shop has a pregnant or nursing dog on its premises, the pet shop shall provide a whelping box for such dog.

(h) Pet shops shall designate and provide an isolation area for animals that exhibit symptoms of contagious disease or illness. The location of such designated area must be such as to prevent or reduce the spread of disease to healthy animals.

2. Sanitation. Housing facilities, including primary enclosures and cages, shall be kept in a clean condition in order to maintain a healthy environment for the animal. This shall include removing and destroying any agents injurious to the health of the animal and periodic cleanings. The primary enclosure or cage shall be constructed so as to eliminate excess water, excretions, and waste material. Under no circumstances shall the animal remain inside the primary enclosure or cage while it is being cleaned with sterilizing agents or agents toxic to animals or cleaned in a manner likely to threaten the health and safety of the animal.

Trash and waste products on the premises shall be properly contained and disposed of so as to minimize the risks of disease, contamination, and vermin.

3. Feeding and watering. (a) Animals shall be provided with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.

(b) Animals shall be adequately fed at intervals not to exceed twelve hours or at least twice in any twenty-four hour period in quantities appropriate for the animal species and age, unless determined otherwise by and under the direction of a duly licensed veterinarian.

(c) Food receptacles shall be provided in sufficient number, size, and location as to enable each animal in the primary enclosure or cage to be supplied with an adequate amount of food.

(d) Animals shall be provided with regular access to clean, fresh water, supplied in a sanitary manner sufficient for its needs, except when there are instructions from a duly licensed veterinarian to withhold water for medical reasons.

4. Handling. Each animal shall be handled in a humane manner so as not to cause the animal physical injury or harm.

5. Veterinary care. (a) Any pet shop duly permitted pursuant to this chapter shall designate an attending veterinarian, who shall provide veterinary care to the shop's animals which shall include a written program of veterinary care and regular visits to the pet shop's premises. Such program of veterinary care shall include:

(i) The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions of this article;

(ii) The use of methods determined to be appropriate by the attending veterinarian to prevent, control, and respond to diseases and injuries, and the availability of emergency, weekend, and holiday care;

(iii) Daily observation of all animals to assess their health and well-being; provided, however, that daily observation of animals may be accomplished by someone other than the attending veterinarian who has received the guidance identified in subparagraph (iv) of this paragraph; and provided, further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;

(iv) Adequate guidance to personnel involved in the care and use of animals regarding handling and immobilization; and

(v) Pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures.

(b) All animals shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided without undue delay when necessary. Each animal shall be observed each day by the pet shop or by a person working under the pet shop's supervision.

(c) Within five business days of receipt, but prior to sale of any dog, the pet shop shall have a duly licensed veterinarian conduct an examination and tests appropriate to the age and breed to determine if the animal has any medical conditions apparent at the time of the examination that adversely affect the health of the animal. For animals eighteen months of age or older, such examination shall include a diagnosis of any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from healthy animals.

(d) If an animal suffers from a congenital or hereditary condition, disease, or illness which, in the professional opinion of the pet shop's veterinarian, requires euthanasia, the veterinarian shall humanely euthanize such animal without undue delay.

(e) In the event an animal is returned to a pet shop due to a congenital or hereditary condition, illness, or disease requiring veterinary care, the pet shop shall, without undue delay, provide the animal with proper veterinary care.

6. Exercise requirements. Pet shops shall develop, maintain, document, and implement an appropriate plan to provide dogs with the opportunity for daily exercise. In developing such plan, consideration should be given to providing positive physical contact with humans that encourages exercise through play or other similar activities. Such plan shall be approved by the attending veterinarian, and must be made available to the department upon request.

SECTION 7. This local law shall take effect sixty days after its enactment into law.

McKinney's Consolidated Laws of New York Annotated Agriculture and Markets Law (Refs & Annos) Chapter 69. Of the Consolidated Laws Article 1. Short Title; Definitions; Matters of Public Interest (Refs & Annos)
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McKinney's Agriculture and Markets Law § 2

§ 2. Definitions

Currentness

When used in this chapter, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:

1. "Department" means the state department of agriculture and markets;
2. "Commissioner" means the commissioner of agriculture and markets.
3. The terms "food" and food "products," shall include all articles of food, drink, confectionery or condiment, whether simple, mixed or compound, used or intended for use by man or animals, and shall also include all substances or ingredients to be added to food for any purpose;
4. The production of foods means the producing of food upon the farm or elsewhere by the tillage of the soil, the commercial raising, shearing, feeding and management of animals or other agricultural, horticultural, ranching or dairying processes and shall also include the manufacture of foods.
5. "Farm product" means any agricultural, dairy or horticultural product, or any product designed for food manufactured or prepared principally from an agricultural, dairy or horticultural product and the commercial raising, shearing, feeding and management of animals on a ranch.

Credits

(L.1922, c. 48. Amended L.1927, c. 207; L.1929, c. 207; L.1935, c. 16, § 2; L.1983, c. 124, § 2.)

Notes of Decisions (1)

McKinney's Agriculture and Markets Law § 2, NY AGRI & MKTS § 2
Current through L.2015, chapters 1 to 18, 50 to 61.

United States Code Annotated

Title 7. Agriculture

Chapter 54. Transportation, Sale, and Handling of Certain Animals (Refs & Annos)

7 U.S.C.A. § 2134

§ 2134. Valid license for dealers and exhibitors required

Currentness

No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, in commerce, to or from another dealer or exhibitor under this chapter any animals, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

CREDIT(S)

(Pub.L. 89-544, § 4, Aug. 24, 1966, 80 Stat. 351; Pub.L. 91-579, § 5, Dec. 24, 1970, 84 Stat. 1561; Pub.L. 94-279, § 5, Apr. 22, 1976, 90 Stat. 418.)

7 U.S.C.A. § 2134, 7 USCA § 2134

Current through P.L. 114-9 approved 4-7-2015

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United States Code Annotated
Title 7. Agriculture
Chapter 2. Cotton Standards

7 U.S.C.A. § 54

§ 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification

Currentness

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples.

CREDIT(S)

(Mar. 4, 1923, c. 288, § 4, 42 Stat. 1517.)

7 U.S.C.A. § 54, 7 USCA § 54

Current through P.L. 114-9 approved 4-7-2015

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