



Legislation Text

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Int. No. 2441

By Council Members Ayala and Louis

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of guinea pigs as pets, and clarifying the definition of the term “pet shop” to address inconsistent use of such term in the code

Be it enacted by the Council as follows:

Section 1. Subdivision c of section 17-1702 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

c. It shall be unlawful for any pet shop to display, offer for sale, deliver, barter, auction, give away, transfer or sell any rabbit or guinea pig.

§ 2. Section 17-371 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-371 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

[a. "Arm's] Arm's length transaction. The term “arm's length transaction” means a sale of a business for consideration that reflects the fair market value of such business or its assets, between two informed and willing parties, that is not made, wholly or in part, for the purpose of enabling the seller to avoid liability for violations issued by the department. A sale shall be presumed not to be an arm's length transaction if it is:

1. A sale to an individual, or to a corporation or other business that is owned by the spouse, domestic partner, parent, grandparent, child or stepchild of any of any of the sellers, or is the direct descendent of a grandparent, the spouse or domestic partner of any of the sellers;

2. A sale to an individual or entity that has a business or financial interest in the seller; or

3. A sale to an entity in which any of the sellers has a business or financial relationship.

[b. "Permit"] Permit. The term “permit” means a written license and authorization to carry on specified activities as regulated by this subchapter or other applicable law enforced by the department.

[c. "Permittee"] Permittee. The term “permittee” means a natural person or other entity who holds a valid permit issued by the commissioner pursuant to this subchapter or other applicable law enforced by the department.

[d. "Person"] Person. The term “person” means any individual, corporation, partnership, association, municipality, or other legal entity.

[e. "Pet"] Pet shop. The term “pet shop” means [a facility other than an animal shelter where] any person who sells, exchanges, barter, or offers for sale live animals [are sold, exchanged, bartered, or offered for sale] as pet animals to the general public at retail for profit. Such definition shall not include breeders who sell or offer to sell directly to consumers fewer than twenty-five dogs or cats per year that are born and raised on the breeder's residential premises. Such definition shall not include duly incorporated humane societies dedicated to the care of unwanted animals that make such animals available for adoption, whether or not a fee for such adoption is charged. A person who allows an animal shelter or animal rescue group, as such terms are defined in section 17-802 of chapter eight of this title, to use such person's commercial or residential premises for the purpose of making animals available for adoption shall not be deemed a pet shop as a result of such activity so long as such person does not have an ownership interest in any of the animals being made available for adoption, and does not derive a fee for providing such adoption services.

Pet shop permit. The term “pet shop permit” means a permit to carry on any of the activities of a pet shop.

§ 3. Subdivision a of section 17-372 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

a. No person shall [operate a pet shop] sell, exchange, barter, or offer for sale live animals as pet animals to the general public at retail for profit without a pet shop permit issued by the commissioner pursuant to this subchapter.

§ 4. Subdivision c of section 17-374 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

c. The fees provided for [herein] in this section shall be reduced by the amount of any fee paid for a [permit to operate a] pet shop permit pursuant to the New York city health code within the same fee period.

§ 5. Subdivision b of section 17-378 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

b. Notwithstanding subdivision a of this section, if the commissioner determines that exigent circumstances exist such that the continued operation of [a permittee's pet shop] any activity authorized pursuant to a pet shop permit would pose a danger to the public or the health and welfare of the animals in the permittee's custody, the commissioner may suspend such permittee's pet shop permit subject to a prompt post-suspension hearing before the environmental control board or any tribunal established within the office of administrative trials and hearings as designated by the commissioner.

§ 6. Section 17-380 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-380 Forfeiture and seizure. a. The commissioner or [his or her] the commissioner's designee may seize any animal [in a] on the premises of a pet shop operating without a permit required pursuant to section 17-372 of this subchapter.

b. Any animal [in a] on the premises of a pet shop operating without a permit required pursuant to section 17-372 of this subchapter or seized pursuant to subdivision a of this section shall be subject to forfeiture upon notice and hearing.

c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this

section. Such disposition may include impoundment at an animal shelter or animal rescue group as such terms are defined in section 17-802 of chapter eight of this title.

d. The commissioner may impose upon [the owner of] a pet shop from which an animal is seized pursuant to this section a fee representing expenses incurred in connection with impounding such animal.

§ 7. Section 17-1708 of the administrative code of the city of New York, as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-1708 Forfeiture and seizure. a. The commissioner or [his or her] the commissioner's designee may seize any animal offered for sale [in] by a pet shop where the sale of such animal is prohibited by section 17-1702 of this chapter.

b. Any animal offered for sale in violation of section 17-1702 of this chapter or seized pursuant to subdivision a of this section shall be subject to forfeiture upon notice and hearing.

c. The commissioner shall provide for the appropriate disposition of each animal seized pursuant to this section. Such disposition may include impoundment at an animal shelter or animal rescue group.

d. The commissioner may impose upon [the owner of] a pet shop from which an animal is seized pursuant to this section a fee representing expenses incurred in connection with the cost of impounding such animal.

§ 8. Section 17-1709 of the administrative code of the city of New York, as added by local law number 5 for the year 2015, is amended to read as follows:

§ 17-1709 Rules. The commissioner may promulgate such rules as are necessary to carry out the provisions of this chapter and to ensure the health and safety of any animal [in a] on pet shop premises.

§ 9. This local law takes effect immediately.