



October 18, 2022

Honorable Kathy Hochul
Governor of the State of New York
State Capitol
Executive Chamber
Albany, NY 12224

Re: Support for the Puppy Mill Pipeline Bill (A.4283 / S.1130)

Dear Governor Hochul:

On behalf of the New York City Bar Association and its Animal Law Committee, we are writing to urge you to sign A.4283 (AM L. Rosenthal) / S.1130 (Sen. Gianaris) into law. This bill would prohibit the sale of dogs, cats and rabbits by retail pet shops and was passed with overwhelming bipartisan support in both houses of the Legislature.

The vast majority (approximately 90%) of companion animals sold in pet stores come from mills and factories. These large-scale commercial breeding facilities raise animals in inhumane conditions that cause physical, behavioral, and psychological problems in the dogs, cats, and rabbits bred and housed there. We urge you to take action to help combat cruel commercial companion animal breeding by signing A.4283/S.1130 into law. Similar bans have been enacted by two states (California and Maryland) and in hundreds of local jurisdictions across the country.

The City Bar supports this bill for a number of reasons, which are further discussed in the enclosed report¹ and briefly outlined below:

- **Current Regulation Is Ineffective:** Federal standards of care for commercially bred dogs, cats and rabbits are nominal, deemed deficient by major veterinary organizations, and are barely enforced. While New York's laws exceed the federal minimum standard of care, they are still insufficient and under-enforced. Compared to some other states, New York has relatively weak animal protection laws and its commercial breeding laws regulate companion animal mills only within the state. Most pet stores source animals

¹ Available online at <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/new-york-puppy-mill-pipeline-bill-a4283>.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

from states with laws that either do not significantly raise the standard of care or inspection requirements provided by the federal government, or have no commercial breeding laws at all. Enforcement is challenging because the industry is hidden from public view and pet stores have little incentive to report animal cruelty against their suppliers.

- **Promotes Animal Welfare:** Commercial breeding facilities tend towards unethical breeding practices and house animals in overcrowded and unsanitary conditions without adequate food, water, socialization and veterinary care, resulting in an array of health and behavioral problems including communicable diseases, behavioral issues, and genetic disorders. These problems often result in animals being abandoned or euthanized. A ban on pet store sales of dogs, cats and rabbits would significantly increase adoption of homeless animals and reduce shelter euthanasia.
- **Saves Taxpayer Money:** Mass production of companion animals in commercial breeding facilities is a major cause of pet overpopulation and abandonment, which in turn results in significant costs for taxpayers in housing and euthanizing animals. New York expends approximately \$50 million annually to house and euthanize animals.
- **Public Health and Environmental Benefits:** Companion animal mills pose public health and environmental risks. The release of pathogens into water, soil and air due to improper waste management at facilities presents a public health risk to humans and creates significant risks for disease transmission, as well as substantial pollution to the water, soil, and air. State and federal inspection reports show companion animal mills regularly engage in improper and illegal waste disposal of feces, urine and carcasses, in violation of state and federal environmental laws.
- **Consumer Protection:** Consumers are often unaware of the source of pet store animals since pet stores generally provide little or misleading information to consumers. Purchasers of these animals can incur expensive veterinary bills and emotional trauma, as well as litigation costs if they seek redress under existing consumer protection laws. Pet stores face frequent consumer lawsuits for selling sick companion animals from commercial breeding facilities.
- **Viability of Alternative Business Model:** Live animal sales comprise only a small fraction of the money spent in the pet industry (less than 5%). Pet stores across the country have remained profitable by fostering adoptions and focusing sales on pet-related products and services such as food and grooming.

Puppy mills and kitten and rabbit factories exist because there is a demand for their “goods” from pet retailers who seek to purchase animals at the lowest possible cost. Barring pet stores from selling dogs, cats, and rabbits will eliminate a primary source of sales for puppy mills and kitten and rabbit factories, which benefits animals, the environment, and the public. In addition, A.4283/S.1130 promotes animal adoption, reduces euthanasia of homeless animals, and protects

consumers. The New York City Bar Association's Animal Law Committee respectfully requests that the bill be signed into law.

Respectfully,

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Animal Law Committee

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REPORT ON LEGISLATION BY THE ANIMAL LAW COMMITTEE

**A.4283
S.1130**

**M. of A. L. Rosenthal
Sen. Gianaris**

AN ACT to amend the Agriculture and Markets Law and the General Business Law, in relation to the sale of dogs, cats, and rabbits.

THIS LEGISLATION IS SUPPORTED WITH RECOMMENDATIONS

I. SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation (A.4283/S.1130)¹ would prohibit retail pet shops² from selling, offering to sell, leasing, offering to lease, bartering, auctioning, or otherwise transferring ownership of any dog, cat, or rabbit.³ Each violation would be subject to a penalty of \$100-\$1000.⁴ In addition, the bill allows the Commissioner of Agriculture to deny or revoke non-profit registration to any applicant or registrant previously licensed as a pet dealer.⁵ The bill further allows the Commissioner of Agriculture to make available to police agencies and officers and district attorneys information regarding this ban on pet shop sales.⁶

The proposed legislation would enable New York to join the hundreds of jurisdictions across the country that have already enacted pet store dog, cat, and/or rabbit sales bans; as of February 2021, more than 350 cities, local governments, and states across the country have enacted pet store animal sales bans.

II. BACKGROUND: THE PIPELINE BETWEEN PUPPY MILLS AND PET STORES.

Puppy mills and kitten and rabbit factories are large-scale commercial breeding facilities that mass-produce animals for sale with little regard for animal welfare, primarily through retail pet stores.⁷ The United States has at least 10,000 puppy mills, which collectively produce 2.6 million puppies annually.⁸ The vast majority (approximately 90%) of all pet store companion animals come from mills and factories.⁹ In USDA-licensed facilities alone, over 200,000 dogs are kept solely for breeding purposes.¹⁰

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

With over 80 puppy-selling pet stores, New York State has one of the highest numbers of such pet stores in the country.¹¹ These stores, like most pet stores across the nation, secure a vast majority of their inventory from puppy mills.¹² In addition, New York State has a significant number of puppy mills, many of which have been cited for repeated Animal Welfare Act violations.¹³

Animal mills and factories have generally been regulated in two ways: by regulating the mills and factories themselves, an approach which the federal government has taken but which has not been effective; and by attempting to regulate the distributors, particularly pet stores, that serve as middle-men between the mills and the public.¹⁴ The proposed legislation addresses the intractable problem of puppy mills and kitten and rabbit factories more directly: by eliminating retail pet shops as a primary source of sales. This legislation would protect animals where federal and state regulation and enforcement have been ineffective (see Sections III. D and E below). The federal standards of care for commercially bred, dogs, cats, and rabbits are nominal and have been deemed deficient by major veterinary organizations. In addition, the federal government has failed to enforce these low standards. To further exacerbate matters, USDA enforcement declined significantly under the Trump administration. Current New York State and New York City laws are also insufficient to protect animal welfare.

III. REASONS FOR SUPPORT

The New York City Bar Association's Animal Law Committee supports the proposed legislation because it (i) eliminates a primary source of sales for puppy mills and kitten and rabbit factories, which in turn benefits animals, the environment, and the public; (ii) promotes animal adoption and reduces euthanasia of homeless animals; (iii) protects consumers; (iv) protects animals where federal regulation and enforcement have been ineffective; and (v) is necessary because New York State does not effectively regulate puppy mills. Notably, hundreds of U.S. jurisdictions have already banned pet store animal sales.

a. The Bill Eliminates a Primary Source of Sales for Puppy Mills and Kitten and Rabbit Factories — Which Benefits Animals, the Environment, and the Public.

i. Animals in mills and factories suffer inhumane conditions.

Commercial breeding facilities treat companion animals like commodities, prioritizing profits over the animals' wellbeing.¹⁵ These facilities regularly house animals in overcrowded and unsanitary conditions without adequate food, water, socialization, and/or veterinary care.¹⁶ USDA inspection reports contain numerous violations for ill animals that received no veterinary care.¹⁷ Companion animals in mills also often do not receive nutritious and adequate food and are regularly malnourished.¹⁸ In many cases they lack regular access to clean water.¹⁹ Companion animals in mills often live in unsanitary conditions with urine- and feces-saturated pens, rusty cages and those otherwise in disrepair, filthy feeders caked with hair and dirt, noxious odors of ammonia/urine and feces, and vermin and rodent infestations.²⁰ Many do not receive adequate protection from the cold or heat.²¹

Breeding dogs in particular can spend their entire lives in cramped cages with little to no personal attention.²² And when dogs can no longer breed, they are abandoned or killed.²³

ii. *Animals in mills and factories suffer health and behavioral problems.*

As a result of these inhumane conditions, the physical, behavioral, and psychological needs of the dogs, cats, and rabbits are not met sufficiently to provide a reasonably decent quality of life for the animals.²⁴ Mill and factory animals often suffer from an array of health and behavioral problems including communicable diseases, behavioral issues, and genetic disorders due to overcrowded and unsanitary conditions, lack of preventative veterinary care, and breeding practices.²⁵ Conditions common to puppy mills — like the use of stacked, wire cages to house the maximum number of animals and continual exposure to feces and urine of other animals — cause frequent parasites and increased risk of infectious diseases.²⁶ In addition, a lack of regular veterinary care, basic grooming, and clean food and water often cause injuries and infections to fester until they become severe. These disorders cause undue suffering and often result in premature death and shortened life span for the animals.²⁷

Dogs from puppy mills also suffer from extensive behavioral issues and receive significantly worse behavioral and medical scores than dogs from other sources.²⁸ A review of seven published studies on dogs born in high-volume commercial breeding establishments revealed an increased incidence of behavioral and emotional problems compared with dogs from noncommercial breeders.²⁹ A study published in the *Journal of American Veterinary Medicine* similarly concluded that obtaining dogs from pet stores represented a significant risk factor for the development of a wide range of undesirable behavioral characteristics, especially aggressive behavior.³⁰ The most consistent finding among studies is that early life stimulus deprivation and inadequate housing, handling, and raising practices cause an increase in aggression, separation anxiety, and sensitivity to touch.³¹

Breeding dogs particularly suffer from serious psychological and behavioral issues due to prolonged confinement to cages and deprivation, including minimal to no human interaction.³² After removal from canine commercial breeding establishments, former breeding dogs display persistent behavioral and psychological abnormalities, including extreme fears and phobias, compulsive and repetitive behavior, learning deficits and lower trainability, high sensitivity to noises in their surroundings, higher rates of house-soiling, and difficulty coping with normal existence.³³

Like dogs, rabbits from rabbit factories suffer from similar health and behavioral issues due to inadequate care in mills and pet stores.³⁴ Such rabbits are particularly prone to illness, disease, and death due to lack of necessary specialized care in factories, early weaning at 3-4 weeks (and resulting underdeveloped immune systems), lack of quarantine procedures, and inadequate housing and veterinary care.³⁵ Similarly too, cats bred in kitten factories suffer from behavioral issues, including aggressive behavior due to minimal human interaction, litter box problems due to lack of basic litter box training, anxiety, and light sensitivity.³⁶

Even if animals make it out of the breeding facilities relatively unscathed, they may be subject to poor conditions and little to no veterinary care while in the pet stores, where store owners

are incentivized to sell the animals quickly to make a profit and some have reportedly used antibiotics to cover up signs of illness.³⁷ Further, while rescue groups and even shelters will often provide for animals to receive vaccinations, deworming, and other preventative treatments before and even after adoption, pet stores provide fewer, if any, of these services—and none at all after the time of sale.³⁸

iii. *Mills and factories harm the environment.*

Companion animal mills cause substantial pollution to the water, soil, and air.³⁹ State and federal inspection reports show that many puppy mills engage in improper and illegal waste disposal of feces, urine, and carcasses in violation of environmental law.⁴⁰ Pathogens from dog feces at puppy mills cause water pollution by seeping into the ground, draining into wet-dry streams and making their way into major rivers that serve as public drinking water sources.⁴¹ Feces accumulation in soil — typical at animal mill facilities — causes production of methane, a greenhouse gas responsible for air pollution as well as global warming.⁴²

A detailed environmental impact analysis of the Whispering Oaks puppy mill in Parkersburg, West Virginia, serves as just one example of the environmental hazards of puppy mills.⁴³ That mill was cited for violating West Virginia water pollution and solid waste statutes and, according to the researcher, is representative of the environmental impacts of puppy mills generally based upon its canine husbandry practices and size.⁴⁴

iv. *Mills and factories are a public health risk.*

The release of pathogens into water, soil, and air also presents a public health risk to humans.⁴⁵ In particular, large numbers of dogs in facilities with improper waste management create significant risks for disease transmission.⁴⁶ Puppy mill dogs are regularly infected with pathogens excreted and transferred to the soil and capable of infecting animals or humans coming into contact with the soil.⁴⁷ The Centers for Disease Control (CDC) has reported that numerous zoonotic diseases are transmitted from dogs to humans through improper waste handling as well as soil and water contamination.⁴⁸ In May 2019, for instance, an outbreak of canine brucellosis, a type of zoonotic disease that is incurable in dogs and spreadable to humans, was reported in Knoxville, Iowa, with origination at a commercial dog breeding facility.⁴⁹ In addition, the CDC has linked outbreaks of antibiotic resistant diseases in humans to pet stores sourcing from puppy mills.⁵⁰ An outbreak of *Campylobacter jejuni*, impacting 118 people in 18 states and resulting in 26 hospitalizations, was traced to puppies from Petland pet stores and five other pet store chains.⁵¹

Because companion animal mills often have suboptimal vaccination and disease protection procedures, the mills also put animals and humans at risk for canine distemper, which is capable of infecting humans.⁵² And indeed, recent canine distemper outbreaks at pet stores have been linked to commercial breeders.⁵³ Further, pet overpopulation that stems from the animal mill industry may also increase human exposure to other serious public health risks, such as rabies.⁵⁴

v. Mills and factories create costs for New York, but few financial benefits.

Mass production of companion animals in commercial breeding facilities is a major cause of pet overpopulation, with approximately 6.5 million companion animals entering animal shelters each year nationwide.⁵⁵ This in turn results in significant costs for taxpayers in housing and euthanizing animals.⁵⁶ In fact, the State of New York expends approximately \$50 million annually to house and euthanize animals.⁵⁷ Meanwhile, puppy mills typically do not provide financial benefits to states, since they often do not pay required licensing fees or taxes and employ few employees.⁵⁸

b. The Bill Promotes Animal Adoption and Reduces Euthanasia of Homeless Animals.

A ban on pet store sales of dogs, cats, and rabbits would significantly increase adoption of homeless animals and reduce shelter euthanasia. Jurisdictions that have banned sales of companion animals have reported substantial increases in shelter pet adoption rates.⁵⁹ Similarly, pet store conversion programs, which work with pet stores to stop selling animals and instead showcase homeless animals for adoption, have shown great success in increasing adoption rates.⁶⁰

A ban on pet store sales of dogs, cats, and rabbits would also significantly reduce euthanasia rates. In particular, the number of commercially produced companion animals from mills is a major cause of pet overpopulation.⁶¹ While many rescue organizations are part of Petfinder — one of the largest pet adoption websites in North America⁶² — many lack the resources and space needed to conduct large-scale adoption events. Accordingly, euthanasia of healthy, adoptable animals is prevalent. Indeed, even though 80% of euthanized animals are healthy and adoptable,⁶³ around 56% of dogs and 71% of cats that enter animal shelters are euthanized,⁶⁴ with approximately 3 million cats and dogs euthanized in shelters each year.⁶⁵ Unlike animals adopted from shelters and rescue groups, animals purchased at pet stores are not required by New York State law to be spayed or neutered at the time of purchase, which may further add to the overpopulation problem and increasing euthanasia rates.⁶⁶

Not surprisingly then, jurisdictions that have passed ordinances banning the sale of companion animals have reported a significant decrease in euthanasia of shelter animals.⁶⁷ Veterinarians are also increasingly advocating for pet store sales bans as a mechanism to decrease shelter euthanasia.⁶⁸ Notably, these bans benefit not just the animals themselves but also those working in the shelter, as shelter euthanasia can have a severe negative psychological impact on shelter workers.⁶⁹

c. The Bill Protects Consumers.

Reducing the pipeline of companion animals from mills and factories to pet stores also protects consumers. Retail pet stores that sell companion animals from mills generally provide little information or misleading information to consumers about the origin of these animals and the conditions of their breeding.⁷⁰ Accordingly, consumers are often unaware of the source of pet store animals.⁷¹ When consumers unwittingly purchase from pet stores animals that suffer from illnesses resulting from breeding and rearing practices, lack of preventative care, and unsanitary

conditions at commercial breeding facilities, they can incur expensive veterinary bills and emotional trauma.⁷² And in fact, pet stores face frequent consumer lawsuits for selling sick companion animals from commercial breeding facilities.⁷³

While New York, like many other states, has a “pet lemon law” designed to protect consumers who buy sick animals from pet stores,⁷⁴ New York’s law⁷⁵ — and pet lemon laws more generally⁷⁶ — provide minimal protection in practice.⁷⁷ For instance, a consumer seeking remedies under New York’s law must return the animal within a short time (potentially just 14 days) and even then would be entitled to only limited remedies: exchange of the animal or a refund or reimbursement up to the animal’s purchase price, with no compensation for pain or suffering.⁷⁸

d. The Bill Protects Animals Where Federal Regulation and Enforcement Have Been Ineffective.

The federal government regulates commercial breeding operations under the Animal Welfare Act (AWA), which is one of the few federal laws that govern humane treatment of commercially bred companion animals.⁷⁹ The AWA sets forth requirements regarding the transportation, purchase, sale, housing, care, handling, and treatment of commercially bred animals and authorizes the Animal and Plant Inspection Service (APHIS), a division within the USDA, to promulgate associated standards and implement and enforce the AWA.⁸⁰ Relevantly here, the USDA requires commercial breeding facilities with five or more breeding females that sell to pet stores or consumers that do not see the animals prior to purchase to be licensed and comply with all regulations including regular inspections.⁸¹

Yet the standards of care for commercially bred animals outlined in the AWA and associated USDA regulations⁸² are minimal. For instance, current standards provide just six inches of space above and around each dog⁸³ and allow for harmful wire flooring and stacked cages.⁸⁴ Current regulations also do not require that dogs receive daily exercise⁸⁵ or that continuous access to clean water be provided to cats or rabbits.⁸⁶ Current requirements leave significant discretion in the hands of puppy mill owners to decide what constitutes an adequate level of care with respect to living environment, cleanliness and sanitation, feeding, veterinary care, housing structure, and comfort, and contain vague specifications for “adequate” requirements.⁸⁷

Current federal law is particularly lacking with respect to breeding animals. For instance, they do not provide for annual hands-on veterinary examinations and preventative care for such animals.⁸⁸ Commercial breeding facilities are permitted to breed female dogs every time they are in heat without limitation, which has significant negative health implications and is contrary to guidelines issued by a number of organizations and breeding clubs.⁸⁹ And no regulation governs how commercial breeding facilities treat adult dogs or cats who no longer reproduce, or puppies and kittens they cannot sell.⁹⁰ Commercial breeding facilities are therefore free to euthanize animals, even without a veterinarian.⁹¹ Commercial breeding facilities regularly discard older cats and dogs that are less marketable as well as animals with physical irregularities or health issues.⁹²

These standards have been deemed deficient by veterinary organizations.⁹³ In September 2015, for instance, The Humane Society Veterinary Medical Association, Humane Society of the US, and ASPCA submitted a rulemaking petition to the USDA calling for ten reforms in basic care

standards for dogs at commercial breeding facilities.⁹⁴ Only negligible changes have been adopted to date.⁹⁵ Given the limited nature of the USDA's care requirements, the fact that a pet breeder is USDA-licensed is no endorsement of humane care.⁹⁶ Many other authorities have likewise deemed the Animal Welfare Act requirements inadequate to protect covered animals, including commercially bred cats, dogs, and rabbits, and ripe for significant reform.⁹⁷

Further, the federal government has failed to enforce even these nominal and inadequate standards of care for commercially bred companion animals.⁹⁸ First, many commercial breeders fail to obtain licensing. For instance, a 2010 audit by the Office of Inspector General at APHIS found that 81% of sampled commercial breeders were unlicensed due to evasion of licensing or loopholes in licensing.⁹⁹ Inspectors also regularly fail to cite violations accurately.¹⁰⁰ A 2010 audit by the Office of the Inspector General at APHIS concluded that APHIS was ineffective in the inspections and enforcement process.¹⁰¹ Specifically, auditors found that the enforcement process was ineffective against problematic dealers,¹⁰² that inspectors did not cite or document violations properly,¹⁰³ and that APHIS misused guidelines to lower penalties for AWA violators and was lenient toward dealers that violate the AWA.¹⁰⁴ APHIS enforcement is also impaired due to minimal resources and staffing for a large volume of responsibilities.¹⁰⁵

To exacerbate matters, USDA enforcement declined under the Trump administration, and further still as a result of the COVID-19 pandemic.¹⁰⁶ The USDA launched 92% fewer enforcement cases in 2018 compared to 2016 and documented 60% fewer violations at licensing facilities in 2018 compared to 2017.¹⁰⁷ Inspectors were advised to treat commercial breeders and others regulated by the agency as partners rather than potential offenders and to consider violations as “teachable moments” in lieu of issuing citations.¹⁰⁸ In 2017, the USDA removed all inspection reports and enforcement actions from its website, such that consumers purchasing companion animals (and the public generally) could not easily monitor the USDA's enforcement of the AWA.¹⁰⁹ During this time, the USDA argued that it was not legally required to publish its inspection and enforcement records.¹¹⁰ Further, APHIS was not responsive to Freedom of Information Act (FOIA) requests and appeals by non-profit organizations.¹¹¹ Although the USDA has restored animal welfare inspection reports and enforcement actions on its website, these reports confirm that enforcement actions at USDA-licensed facilities have declined more than 90% over the last several years, and that the USDA has failed to issue any warnings, enter into any strong enforcement against problem facilities, or revoke any breeder licenses since 2018.¹¹² Since-departed USDA inspectors and veterinarians have stated that the agency actively discouraged them from documenting violations on inspection reports and from confiscating suffering animals.¹¹³ The USDA also made formal changes in 2019 that served to further reduce effective enforcement of the AWA for commercial breeding facilities, including launching a pilot program that would alert some facilities about inspections in advance along with a new incentive program that allows commercial breeding facilities to avoid citations by self-reporting violations (including serious violations that result in animal deaths).¹¹⁴ Then, inspections all but stopped entirely in light of COVID-19, with breeding facilities given permission to “opt out” of inspections, and new facilities allowed to open with no inspection required.¹¹⁵ Yet despite the USDA's poor enforcement record, courts have generally not interfered in the USDA's decisions unless they are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”¹¹⁶ Moreover, because the USDA generally has failed to cite breeders for egregious AWA violations, proposed rules that would increase penalties offer little benefit.¹¹⁷

e. The Bill Is Necessary Because New York State Does Not Effectively Regulate Puppy Mills.

As with federal law, state commercial breeding regulations and animal cruelty laws have been inadequate to effectively regulate New York State companion animal mills and protect consumers.

While New York commercial breeding guidelines slightly exceed the minimum standard of care set by the federal government,¹¹⁸ the standards remain insufficient to protect animal welfare. For one, enforcement of state commercial breeding laws (in New York and generally) is inadequate.¹¹⁹ In addition, New York commercial breeding laws regulate companion animal mills only within the state. Yet most pet stores regularly source animals from out of state, particularly from states with large concentrations of commercial breeding facilities and little regulation.¹²⁰ Most states that have companion animal commercial breeding laws do not significantly raise the standard of care or inspection requirements provided by the federal government, and 16 states have no commercial breeding laws at all.¹²¹

And while state animal cruelty law may also serve as a mechanism to police commercial breeding facilities, there is significant under-enforcement of such laws.¹²² This is compounded by the difficulty in enforcing laws against an industry that is hidden from public view and by the fact that pet stores have little incentive to report animal cruelty at their supplier of companion animals.¹²³ More generally, New York has relatively weak animal protection laws as compared to other states.¹²⁴

While New York City has enacted pet shop sourcing laws to address this issue, those laws alone cannot solve the problem. In particular, those laws apply only to New York City, and they rely on USDA enforcement records to determine whether a sale of a dog or cat is prohibited.¹²⁵ Yet as noted in Section III.D above, the USDA has a poor enforcement record.

f. Hundreds of U.S. Jurisdictions Have Already Banned Pet Store Animal Sales.

As of February 2021, more than 350 cities, local governments, and states across the country have enacted pet store animal sales bans.¹²⁶ States with retail pet sales bans include California¹²⁷ and Maryland.¹²⁸ Several states have similar pending bills.¹²⁹ Major U.S. cities that have passed such legislation include Albuquerque,¹³⁰ Atlanta,¹³¹ Austin,¹³² Boston,¹³³ Chicago,¹³⁴ El Paso,¹³⁵ Ft. Lauderdale,¹³⁶ Los Angeles,¹³⁷ Nashville,¹³⁸ Pittsburgh,¹³⁹ Philadelphia,¹⁴⁰ Providence,¹⁴¹ Sacramento,¹⁴² Salt Lake City,¹⁴³ San Diego,¹⁴⁴ San Francisco,¹⁴⁵ and St. Paul.¹⁴⁶

IV. COUNTERARGUMENTS AND REBUTTALS

a. “Pet Stores Would Go Out Of Business.”

Pet stores in New York State can continue to remain profitable without animal sales. Across the country, pet stores are updating their business models, no longer selling animals from commercial breeding facilities and instead showcasing homeless pets for adoption and focusing

sales on a range of pet-related products and services.¹⁴⁷ The U.S. retail pet store market is continuing to thrive and experience significant growth despite increased competition by online sellers.¹⁴⁸

This alternative business model is viable in part because of increased market demand for high-quality pet food, grooming, training, boarding services, and even veterinary services.¹⁴⁹ In fact, live animal sales comprise only a small fraction of money spent in the pet industry.¹⁵⁰ The two most successful pet stores in the United States, Petco and PetSmart, no longer sell dogs, cats, or rabbits but rather partner with rescue organizations and shelters to show select adoptable animals; and they have maintained successful financial models while doing so.¹⁵¹ And only one of the top 25 pet store chains in the United States still sells dogs from commercial breeders.¹⁵² Pet stores that work with rescue groups and shelters derive positive publicity and draw customers in for products and services.¹⁵³

b. “Banning Animal Sales At Pet Stores Denies Consumer Choice, Particularly For Purebred Animals.”

Consumers appear to increasingly prefer adopting and rescuing animals rather than buying them.¹⁵⁴ And purebred companion animals can be obtained regularly from shelters and rescue organizations.¹⁵⁵ In fact, the estimated percent of purebred dogs in shelters is 25%,¹⁵⁶ and the availability of purebred animals in animal shelters is expected to rise.¹⁵⁷ Breed-specific rescue organizations are on the rise as well.¹⁵⁸ Notably too, the legislation does not ban sales of purebred animals by private breeders.

c. “Pet Store Animal Sales Bans Will Not End Puppy Mills.”

The pet store animal sales ban is one integral part of a solution to end companion animal mills. In order to eradicate these mills entirely, the proposed legislation should be supplemented with consumer education, additional local and state pet store sales bans, stronger federal and state laws to govern commercial breeding conditions, and enhanced enforcement of existing state and federal laws.

d. “A Pet Store Animal Sales Ban Will Be Struck Down.”

Several courts have held that local governments have authority to enforce ordinances that ban or restrict retail sale of dogs and cats and that such laws are a legitimate exercise of police power based upon the correlation between prohibition on the retail sales of companion animals and increased adoption, decreased euthanasia, and reduction in the prevalence of homeless animals.¹⁵⁹ Local government pet store animal sales bans have survived several legal challenges from the pet industry, including dormant commerce clause, equal protection, and substantive due process challenges.¹⁶⁰

V. RECOMMENDATION

The Committee recommends that the bill provide for stronger penalties for repeat violators; as currently drafted, penalties for a violation can be as low as \$100, which could allow pet stores

to build the cost of violations into their prices and pass those costs on to consumers. Further, the Committee recommends adding language in Section 16 of the Agriculture and Markets law regarding provision of training for those statutorily charged with enforcing the ban in order to ensure an adequate mechanism for enforcement.

VI. CONCLUSION

Puppy mills and kitten and rabbit factories exist because there is a demand for their “goods” from pet retailers who seek to purchase animals at the lowest possible cost. Barring pet stores from selling dogs, cats, and rabbits will eliminate a primary source of sales for puppy mills and kitten and rabbit factories, which benefits animals, the environment, and the public. In addition, the bill promotes animal adoption, reduces euthanasia of homeless animals, and protects consumers. The bill is necessary because federal regulation and enforcement have been ineffective, while New York State likewise does not effectively regulate puppy mills. In addition, hundreds of U.S. jurisdictions have already banned pet store animal sales.

For the reasons above, the New York City Bar Association’s Animal Law Committee supports the proposed legislation.

Animal Law Committee
Christopher Wlach, Chair

Reissued March 2021

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¹ S.04234, 242nd Leg., Reg. Sess. (N.Y. 2019), <https://nyassembly.gov/leg/?bn=S01130>. (All websites referenced in this report were last visited on February 24, 2021.)

² A “retail pet shop” under the bill means a for-profit establishment open to the public that sells or offers for sale animals to be kept as household pets, pet food, or supplies. The definition explicitly states that it does *not* include “breeders who sell or offer to sell directly to the consumer animals that are born and raised on the breeder’s residential premises.”

The bill also makes some related statutory changes to ensure regulatory consistency: removing retail pet shops from the definition of “pet dealer” in the New York Agriculture and Markets law and clarifying in the New York General Business Law that retail pet shops are not pet dealers.

³ The bill does so by adding a new subsection to Section 753 to New York’s General Business Law. *See* N.Y. Gen. Bus. Law § 753 (McKinney 2014), <https://www.nysenate.gov/legislation/laws/GBS/753>. Importantly, the bill would not prohibit pet shops from showcasing rescue dogs, cats, or rabbits for adoption. *See* N.Y. Agric. & Mkts. Law § 400(4), <https://codes.findlaw.com/ny/agriculture-and-markets-law/agm-sect-400.html>; N.Y. Gen. Bus. Law § 752(3) (McKinney 2014), <https://codes.findlaw.com/ny/general-business-law/gbs-sect-752.html>.

⁴ N.Y. Agric. & Mkts. Law § 406(2) “Violations: Violation of any provision of this article, is a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation may be imposed.”

⁵ *See* N.Y. Agric. & Mkts. Law § 408(4); *see also* *Authorities Move to Shut Down ‘National Puppy Laundering Ring’ with Ties to Chicago Pet Stores*, Chicago Tribune (Mar. 18, 2019), <https://www.chicagotribune.com/news/local/breaking/ct-puppy-laundering-ring-chicago-pet-stores-20190314-story.html>.

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¹⁸ USDA inspection reports contained numerous violations for severely malnourished dogs. See HSUS Horrible 100 at 14, 38, 41, 62.

¹⁹ USDA inspection reports contained numerous violations for dogs with no water, dirty water, or frozen water buckets. The HSUS Horrible 100 at 1, 8, 10, 21-22, 25, 30-36, 40, 43, 47-49, 51, 53, 55-56, 58, 65, 68.

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⁷⁴ See Savino, note 72 above, at 650.

⁷⁵ N.Y. Gen. Bus. Law § 753 (McKinney 2009); *Pet Lemon Law*, Off. N.Y. Att’y Gen., <https://ag.ny.gov/pet-lemon-law>.

⁷⁶ New York’s pet lemon law is in these respects similar to most states. See Am. Vet. Med. Ass’n, *Pet Purchase Protection Laws*, <https://www.avma.org/Advocacy/StateAndLocal/Pages/pet-lemon-laws.aspx>.

⁷⁷ Tim Darragh, *Lemon Law Can’t Take the Bite Out of Buying a Sick Dog*, *The Morning Call* (Mar. 11, 2007) at A8, <https://www.mcall.com/news/mc-xpm-2007-03-11-3711922-story.html>.

⁷⁸ See N.Y. Gen. Bus. Law § 753(1).

⁷⁹ Animal Welfare Act, 7 U.S.C. §§ 2131-2159.

⁸⁰ U.S. Dep’t of Agric., Intro to Aphis Animal Care and the Regulatory Process: Slides (2016), https://www.aphis.usda.gov/animal_welfare/downloads/breeders/dogs/1-Intro-USDA-APHIS-3-2016-Slides.pdf; 7 U.S.C.A. § 2143(a)(1) (West 1985); U.S. Dep’t of Agric., The Animal Welfare Act: A Legislative and Regulatory History, https://www.aphis.usda.gov/animal_welfare/downloads/awa_leg_history.pdf.

⁸¹ 7 U.S.C. §§ 2133, 2134; U.S. Dep’t of Agric., Animal Care Compliance Inspections (2012), https://www.aphis.usda.gov/publications/animal_welfare/content/printable_version/fs_compliance_inspection.pdf.

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⁸⁵ U.S. Dep’t of Agric., note 82 above, at 121; 9 C.F.R. § 3.8 (2014). Regarding importance of daily exercise requirements. see: AVMA, note 82 above, at IV.e; Michael B. Hennessy et al., *Exploring Human Interaction and Diet Effects on the Behavior of Dogs in a Public Animal Shelter*, 5 J. Applied Animal Welfare Sci. 253 (2002); Suzanne Hetts et al., *Influence of Housing Conditions on Beagle Behaviour*, 34 Applied Animal Behav. Sci. 138 (1992); Moriah Hurt et al., *Promoting the Welfare of Kenneled Dogs: Space Allocations and Exercise*, Purdue Extension (Feb. 2015), <https://extension.purdue.edu/extmedia/VA/VA-2-W.pdf>.

⁸⁶ U.S. Dep’t of Agric., note 82 above, at 123; 9 C.F.R. § 3.10.

⁸⁷ U.S. Dep’t of Agric., note 82 above, at 111-124.

⁸⁸ U.S. Dep’t of Agric., note 82 above, at 75; 9 C.F.R. § 2.40(b).

⁸⁹ 9 C.F.R. § 2.40 (2015). Regarding harmful impact of overbreeding and breeding recommendations, see: HSVMA Veterinary Report on Puppy Mills, note 84 above, at 1; American Kennel Club, *A Guide to Breeding Your Dog* 9 (2007), https://images.akc.org/pdf/breeders/resources/guide_to_breeding_your_dog.pdf; Soc’y for Theriogenology,¹⁷

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⁹⁰ 9 C.F.R. § 2.75(a)(1)(ix) (2014).

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⁹² E.g., Scott Rapp, *Seneca County Kennel Owner Accused of Using Homemade Gas Chamber to Kill 93 Dogs*, The Post-Standard (Sept. 15, 2010), https://www.syracuse.com/news/2010/09/seneca_county_kennel_owner_acc.html; Amy Worden, *Berks Kennel Owners Kill Their 80 Dogs*, Philadelphia Inquirer (Aug. 13, 2008), at 15, https://www.inquirer.com/philly/news/local/20080813_Berks_kennel_owners_kill_their_80_dogs.html (discussing inhumane euthanasia of dogs with veterinary problems); *Colorado Animal Rescue Saves Discarded Dogs, Finds Homes for Them*, Fox 31 Denver (Nov. 21, 2012), <http://kdvr.com/2012/11/21/colorado-animal-rescue-saves-discarded-dogs-from-horrible-lives-or-worse/> (writing about over 7,000 dogs that were discarded by puppy mills); Kara Gerwin, *There's (Almost) No Place Like Home: Kansas Remains in the Minority on Protecting Animals from Cruelty*, 15 Kan. J.L. & Pub. Pol'y 125, 132 (2005) (discussing puppy mill owner's brutal killing of dogs).

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⁹⁴ Latham & Watkins LLP, *Petition to the United States Department of Agriculture for Rulemaking under the Animal Welfare Act to Increase Minimum Standards at Commercial Dog Breeding Facilities* (2015), https://blog.humanesociety.org/wp-content/uploads/2015/09/HSUS-Puppy-Mill-Petition-for-Rulemaking-FINAL3625509_18_DC.pdf.

⁹⁵ Slight changes to the Animal Welfare Act (AWA) took effect on November 9, 2020, which provide the requirement that dogs receive yearly veterinary exams and vaccinations, as well as continual access to fresh water. See 85 Fed. Reg. 28772, <https://www.federalregister.gov/documents/2020/05/13/2020-07837/animal-welfare-amendments-to-licensing-provisions-and-to-requirements-for-dogs>.

⁹⁶ The USDA inspector general found “dogs cared for by USDA-licensed breeders that were walking on injured legs, suffering from tick-infestations, eating contaminated food, and living in unsanitary conditions.” *Puppies 'N Love v. City of Phoenix*, 116 F. Supp. 3d 971, 978 (D. Ariz. 2015).

⁹⁷ Carole Lynn Nowicki, *The Animal Welfare Act: All Bark and No Bite*, 23 Seton Hall Legis. J. 443 (1999); Report of the Animal Law Committee, New York City Bar Association, *Recommendation to Amend the Animal Welfare Act* (2003), <https://www2.nycbar.org/pdf/report/uploads/20073061-AnActtoamendtheAnimalWelfareActANIMALS32216.pdf>; Valerie Stanley, *The Animal Welfare Act and USDA: Time for an Overhaul*, 16 Pace Envtl. L. Rev. 103 (1998); Proshanti Banerjee, *The Harm Principle at Play: How the Animal Welfare Act Fails to Protect Animals Adequately*, 15 U. Md. L.J. Race, Religion, Gender & Class 361 (2015); Justin Marceau, *How the Animal Welfare Act Harms Animals*, 69 Hastings L.J. 925, 958-959 (2018); Jones, note 9 above, at 452.

⁹⁸ Tushaus, note 61 above, at 508; Samantha Mortlock, *Standing On New Ground: Underenforcement of Animal Protection Laws Causes Competitive Injury to Complying Entities*, 32 Vt. L. Rev. 273, 275 (2007). Katherine M. Swanson, *Carte Blanche for Cruelty: The Non-Enforcement of the Animal Welfare Act*, 35 U. Mich. J.L. Reform 937 (2002); Jones, note 9 above, at 457; Christina Widner, *Channeling Cruella De Vil: An Exploration of Proposed and Ideal Regulation on Domestic Animal Breeding in California*, 20 San Joaquin Agric. L. Rev. 217, 222 (2011).

⁹⁹ Off. Inspector Gen., Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers 37 (2010), https://www.aspc.org/sites/default/files/oig_audit_33002-4-sf.pdf [“Office of Inspector General APHIS Audit”]; ASPCA, *Federal Licensing & USDA Standards*, <https://www.aspc.org/barred-from-love/laws-rules/federal-licensing-usda-standards> (discussing evasion of licensing); HSUS Petland Rabbit Report, note 34 above (discussing unlicensed large scale rabbit mill in VA).

¹⁰⁰ HSUS Horrible 100 at 2-4.

¹⁰¹ Office of Inspector General APHIS Audit at 8, 17, 30.

¹⁰² *Id.* at 8.

¹⁰³ *Id.* at 17.

¹⁰⁴ *Id.* at 8, 30 (Animal Care “inspected 8,289 licensed dealers and found that 5,261 violated AWA At the re-inspection of 4,250 violators, 20 inspectors found that 2,416 repeatedly violated AWA, including 863 that continued to violate the same subsections.”)

¹⁰⁵ APHIS is not only charged with enforcing the AWA with regard to commercial breeders, it also enforces the Plant Protection Act (7 U.S.C. § 7701), the Horse Protection Act (15 U.S.C. §§ 1821-1831), and the Honeybee Act (7 U.S.C. §§ 281-286), among others. The Animal Care unit has 200 employees total in the United States, not all of whom are inspectors. This small number of inspectors is tasked with performing 9,000 inspections of approximately 8,000 licensed or registered facilities annually under the Animal Welfare Act, as well as over 1,500 inspections of horse shows under the Horse Protection Act. USDA, *About Animal Care* (last modified June 2, 2020), <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/usda-animal-care-overview>; Karin Brulliard & William Wan, *Caged Raccoons Drooled in 100 Degree Heat but Federal Enforcement Has Faded*, Wash. Post. (Aug. 21, 2019), https://beta.washingtonpost.com/science/caged-raccoons-drooled-in-100-degree-heat-but-federal-enforcement-has-faded/2019/08/21/9abf80ec-8793-11e9-a491-25df61c78dc4_story.html.

¹⁰⁶ Karin Brulliard, *The USDA Is Issuing Far Fewer Citations to Zoos, Labs, and Breeders for Animal Welfare Violations*, Wash. Post (Feb. 26, 2019), <https://www.washingtonpost.com/science/2019/02/26/usda-is-issuing-far-fewer-citations-zoos-labs-breeders-animal-welfare-violations/>; HSUS Horrible 100 at 3.

¹⁰⁷ Karin Brulliard, *USDA’s Enforcement of Animal Welfare Laws Plummeted in 2018, Agency Figures Show*, Wash. Post. (Oct. 18, 2018), <https://www.washingtonpost.com/science/2018/10/18/usdas-enforcement-animal-welfare-laws-plummeted-agency-figures-show/>; Brulliard & Wan, note 105 above.

¹⁰⁸ Brulliard & Wan, note 105 above.

¹⁰⁹ See Karin Brulliard, *USDA Abruptly Purges Animal Welfare Information from Its Website*, Wash. Post. (Feb. 3, 2017), <https://www.washingtonpost.com/news/animalia/wp/2017/02/03/the-usda-abruptly-removes-animal-welfare-information-from-its-website/>; Emily Malhiot, *Finding Transparency in A “Blackout”: The USDA’s Removal of Animal Welfare Records from Its Public Database*, 50 U. Pac. L. Rev 103, 106 (2018); Delcianna J. Winders, *Blackout: The Latest in the USDA’s Ongoing Attempts to Stymie Transparency*, Salon (May 29, 2017), <https://www.salon.com/2017/05/29/blackout-blackout-the-latest-in-the-usdas-on-going-attempts-to-stymie-transparency/>; HSUS Horrible 100 at 2.

¹¹⁰ Brief of Defendant, *People for the Ethical Treatment of Animals, Inc. v. United States Dep’t of Agric.*, 285 F. Supp. 3d 307 (D.D.C. 2018) (No. 1:17-cv-00269-CRC), <https://www.politico.com/f/?id=0000015b-a528-de92-a17b-adf87d400000>.

¹¹¹ Press Release, ASPCA, ASPCA Files Federal Lawsuit Against USDA for Failure to Respond to FOIA Requests for Animal Welfare Records (Apr. 9, 2019), <https://www.aspc.org/about-us/press-releases/aspc-files-federal-lawsuit-against-usda-failure-respond-foia-requests>; see also New York City Bar Association Animal Law Committee, Report on H.R.1368/S.503 (Feb. 8, 2018), https://s3.amazonaws.com/documents.nycbar.org/files/2017311-Animal_Welfare_Accountability_and_Transparency_Act_ANIMAL_2.6.18.pdf.

¹¹² The HSUS Horrible 100 at 2-3; Brulliard & Wan, note 105 above.

¹¹³ *Id.*

¹¹⁴ Kitty Block, *USDA Further Loosens Oversight of Puppy Mills and Other Operations, Leaving Foxes to Guard the Henhouse*, A Humane World: Kitty Block’s Blog (Feb. 28, 2019), <https://blog.humanesociety.org/2019/02/usda-further-loosens-oversight-of-puppy-mills-and-other-operations-leaving-foxes-to-guard-the-hen-house.html>; Brulliard & Wan, note 105 above.

¹¹⁵ The HSUS Horrible 100 at 3. (All licensees and registrants were notified by the UD SA on March 27, 2020, that the agency would be “limiting routine inspections” due to the COVID-19 pandemic and that if they “did not want to participate in any inspection, they could simply tell their inspector to ‘come back another time.’”), <https://www.aspc.org/news/usda-letting-puppy-mills-operate-without-inspections>

¹¹⁶ *Clark v. United States Dep’t of Agric.*, 537 F.3d 934, 939 (8th Cir. 2008) (quoting 5 U.S.C. § 706(2)(A)(2006)).

¹¹⁷ Lara Trump et al., *USDA Must Do More to Crack Down on Abusive Puppy Mills*, Wash. Examiner (Apr. 23, 2019), <https://www.washingtonexaminer.com/opinion/op-eds/usda-must-do-more-to-crack-down-on-abusive-puppy-mills>.

¹¹⁸ N.Y.S. Dep't Agric. & Mkts. Division Animal Industry, Pet Dealer Licensing Program Guidelines (2015), https://agriculture.ny.gov/system/files/documents/2019/09/AI-Pet_Dealer_License_Guidelines.pdf; N.Y. Agric. & Mkts. Law § 401-407, <https://codes.findlaw.com/ny/agriculture-and-markets-law/agm-sect-401.html>. Note that New York City has enhanced regulation through a pet shop sourcing law that provides that city pet shops may only obtain dogs or cats from breeders in compliance with the AWA. NYC Admin. Code § 17-1702.

¹¹⁹ See Savino, note 72 above, at 655 (“many states do not have effective enforcement measures to regulate puppy mills”); Tushaus, note 61 above, at 512; Widner, note 98 above, at 231; Melissa Daniels, *PA’s Dog Law Lacks Enforcement Audit Finds*, The Mercury (July 25, 2013), https://www.pottsmmerc.com/news/pa-s-dog-law-lacks-enforcement-audit-finds/article_6f3e8246-b52d-502c-bbcd-007208533c30.html; Kailey A. Burger, *Solving the Problem of Puppy Mills: Why the Animal Welfare Movement’s Bark Is Stronger than Its Bite*, 43 Wash. U. J. L. & Pol’y 259, 276 (2014),

https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1789&context=law_journal_law_policy (discussing underenforcement of state puppy mill law); Bailey M. Schamel, *Made in the Midwest: Missouri’s Puppy Mill Problem and How It Should Be Fixed*, 84 Mo. L. Rev. 279, 290 (2019); Nicole R. Pallotta, *Chattel or Child: The Liminal Status of Companion Animals in Society and Law*, 8 Soc. Sci. 158, 164 (2019).

¹²⁰ See Montgomery, note 72 above, at 461 (discussing pet stores’ practice of purchasing animals from out of state mills from states with minimal or no regulation of commercial mills); Jaime Dejesus, *Brooklyn Pol Supports Bill to Ban Sale of Puppy Mill Dogs in New York’s Pet Shops*, Brooklyn Reporter (May 9, 2019), <https://brooklynreporter.com/2019/05/brooklyn-pol-supports-bill-to-ban-sale-of-puppy-mill-dogs-in-new-york-pet-shops/> (discussing pet shop sourcing from out of state commercial breeding facilities); Tory N. Parrish, *Bill Would Ban Sale of Puppies, Kittens, Rabbits at Pet Stores*, Newsday (June 10, 2019), <https://www.newsday.com/business/puppies-pet-store-ban-dogs-cats-rabbits-1.32053064>; Int’l Soc’y for Animal Rights, *Dog Overpopulation and Puppy Mills*, <https://isaronline.org/programs/dog-and-cat-overpopulation/dog-overpopulation-and-puppy-mills/> (highlighting the concentration of puppy mills throughout the Midwest and Great Plains and pet store sourcing from mills in these geographic areas).

¹²¹ *Commercial Breeders and Puppy Mills*, Animal L. & Hist. Cent. (2017), <https://www.animallaw.info/article/detailed-discussion-commercial-breeders-and-puppy-mills-0>; Rebecca F. Wisch, *Table of State Commercial Pet Breeders Laws*, Animal L. & Hist. Cent. (2017), <https://www.animallaw.info/topic/table-state-commercial-pet-breeders-laws>; Protected Paws, *Puppy Mill Laws by State*, <https://protectedpaws.org/legislation/puppy-mill-laws-by-state>; Robyn Fae Katz, *The Importance of Enacting A Texas Commercial Breeder Law to Regulate Loopholes That the Federal Law Creates*, 11 Tex. Tech Admin. L.J. 185, 186 (2009).

¹²² Margit Livingston, *Desecrating the Ark: Animal Abuse and the Law’s Role in Prevention*, 87 Iowa L. Rev. 1, 1-2 (2001); Pamela Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 Animal L. 69 (1999); Joseph G. Sauder, *Enacting and Enforcing Felony Animal Cruelty Laws to Prevent Violence Against Humans*, 6 Animal L. 1-2 (2000); Jessica Rubin, *Desmond’s Law: A Novel Approach to Animal Advocacy*, 24 Animal L. 243, 245 (2018); *Investigating & Prosecuting Animal Abuse: A Guidebook on Safer Communities, Safer Families & Being an Effective Voice for Animal Victims*, Nat’l District Att’y’s Ass’n 2, 14 (2013); Pallotta, note 119 above, at 164; Kara Gerwin, *There’s (Almost) No Place Like Home*, 15 Kan. J.L. & Pub. Pol’y at 132 (discussing puppy mill owner’s brutal killing of dogs and minimal penalties and enforcement of animal abuse laws at puppy mills).

¹²³ See Montgomery, note 72 above, at 457; Tushaus, note 61 above, at 512; Savino, note 72 above, at 656.

¹²⁴ New York is ranked 33 out of 50 for animal protection law by ALDF. See Animal Legal Defense Fund, *State Animal Protection Laws* (2019), <https://aldf.org/article/state-animal-protection-laws-ranked/>

¹²⁵ See NYC Admin. Code § 17-1702, <https://www1.nyc.gov/assets/doh/downloads/pdf/environmental/consolidated-pet%20shop-laws.pdf>; see also New York City Bar Association Animal Law Committee, *Testimony in Support of Int. 0055-A 2014, 0136-A 2014, and 0146-A 2014* (Nov. 24, 2014), <https://www2.nycbar.org/pdf/report/uploads/20072812-TestimonyonBanningSalesofPuppiesKittensfromMills.pdf>. The law requires, among other things, that pet shops selling dogs or cats acquire them only from USDA Class A licensees that have not had certain specified violations or specified combinations of violations. These rules were

subsequently updated by NYC Department of Health and Mental Hygiene (“DOHMH”) in 2018. DOHMH, Notice of Adoption of Amendment to Title 24 of the Rules of the City of New York, <https://www1.nyc.gov/assets/doh/downloads/pdf/notice/2018/noa-chapter5-pet-shops.pdf>. The NYC Bar Animal Law Committee issued reports supporting recommendations; *see also* NYC Bar Association Animal Law Committee, Report on Proposed Pet Shop Rule (Dec. 11, 2017), https://s3.amazonaws.com/documents.nycbar.org/files/2017298-Pet_Shop_Rules_ANIMAL_12.7.17.pdf.

¹²⁶ Best Friends Animal Soc’y, *States with Retail Pet Sales Bans* (2021), <https://resources.bestfriends.org/article/states-retail-pet-sale-bans>; *see also* Christine Hauser, *California Forces Pet Stores to Sell Only Dogs and Cats from Shelters*, N.Y. Times (Jan. 2, 2019), <https://www.nytimes.com/2019/01/02/us/california-pet-store-rescue-law.html>; Kitty Block, *The People Have Spoken*, A Humane World: Kitty Block’s Blog (Apr. 16, 2019), <https://blog.humanesociety.org/2019/04/the-people-have-spoken-no-more-puppy-mill-dogs-in-pet-stores.html>.

¹²⁷ Cal. Health & Safety Code § 122354.5 (2018).

¹²⁸ Pet Purchaser Protection Act, Md. Bus. Reg., §§ 19-701 – 19-707 (2018).

¹²⁹ *See, e.g.*, Pennsylvania: S.B. 1154 (Penn. 2018), <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2017&sessInd=0&billBody=S&billTyp=B&billNbr=1154&pn=1742>; Washington: H.B. 1640, 66th Leg. (Wash. 2019), <https://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/House%20Bills/1640.pdf>.

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