



## NEW YORK BILL TO MANDATE PET STORE LICENSE REVOCATION HEARINGS

### The Issue.

Companion bills in the New York legislature would subject pet stores to license suspension or revocation hearings based on mere allegations of a failure to meet licensing standards **without ever being given the opportunity to challenge the allegations**. Senate Bill 7655 has already passed a Senate committee and is on its way to the floor for final adoption and Assembly Bill 10906 is in the Committee on Codes. **Immediate action on these bills is necessary to avoid pet stores being denied basic due process rights!**

### The Impact.

Under the existing Pet Dealer law in New York, pet stores may not have their licenses suspended or revoked without a hearing. This is basic due process guaranteed by our Constitution. However, S 7655 and A 10906 would require that a hearing be held to suspend or revoke the license of any pet store that has either “failed three consecutive inspections” or has failed three inspections “in a three year period.” Such a bill may not seem unreasonable on its face. However, there is no provision in the law for what constitutes a “failed” inspection. The Department of Agriculture and Markets routinely inspects pet stores, and may deem the store to be “unsatisfactory” based on any number of criteria, including very minor conditions that may or may not even be a violation of the law. **Pet stores have no opportunity to challenge these findings!**

The language of this bill provides that a hearing will be conducted to consider the suspension or revocation of the license of any pet store with such “failed” inspections. The bill DOES NOT provide for the pet store to challenge the Department’s findings, either before the hearing (when the inspection is first conducted) or at the hearing. This means that pet stores being subjected to revocation hearings will never get the opportunity to question the validity of the Department’s allegations. At their hearing they will only be given a chance to argue that they should not lose their license even though they have had failed inspections.

If this bill is adopted into law, it is likely that pet stores in New York will begin losing their license to sell pet animals, even if they have not violated any standards in the law.

### PIJAC Position.

PIJAC was instrumental in negotiating the original pet dealer bill in NY, and is supportive of reasonable standards of care for animals in the commercial pet trade. The Department already possesses the statutory authority to sanction pet stores that violate standards set forth in the law, through fine and/or suspension or revocation of their license. Therefore, there is no reason to amend the Pet Dealer law to mandate license revocation hearings. However, if amended, such amendments should assure basic due process rights.

## Recommended Action.

**It is critical that constituents immediately contact their state Senators, as well as members of the Assembly Codes Committee, to oppose this bill. Not only pet stores, but your customers, friends and family need to take action!** Individuals can easily contact their state Senators directly through PIJAC's Legislative Action Center on the Government Affairs page of the PIJAC website (<http://www.pijac.org/governmentaffairs>).

Bill text for this legislation can be found attached to the online version of this PetAlert on the Breaking News page of the PIJAC website (<http://www.pijac.org/petinformation/breakingnews.asp>). **See the contact list below for the Assembly Committee on Codes. ALL members of this committee should be contacted, though it is particularly important if a member of the committee actually represents your district.** When phoning and emailing legislative members, always be respectful. You may wish to make the following points, in your own words:

- This bill lacks fundamental due process protections for licensees
- The Department of Agriculture and Markets already has the authority to suspend/revoke licenses
- The current inspection system is designed to ensure compliance, but provides pet stores no opportunity to challenge unsatisfactory inspection reports; only to fix alleged violations
- This bill does not define what constitutes a "failed" inspection and does not allow licensees to challenge the Department's finding of a "failed inspection"
- The bill is not designed to enhance compliance but only to ensure punitive sanctions
- Because of the way this bill is crafted, innocent licensees will be subjected to unnecessary hearings and possibly a loss of their pet dealer license

Any change in the status of this legislation, as well as any recommended additional, will be posted in revised PetAlerts on the Breaking News page of PIJAC's website (<http://www.pijac.org/petinformation/breakingnews.asp>). Members are encouraged to check the website regularly for additional information. Those having questions about this legislation should contact PIJAC's Michael Maddox via email at [michael@pijac.org](mailto:michael@pijac.org) by phone at 202-452-1525, ext. 106.

**State of New York  
Assembly Committee on Codes  
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518/455-2800**

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**2009 NY A 10906**  
**(COMPANION TO:**  
**S 7655)**

**AUTHOR:** Paulin  
**VERSION:** Introduced  
**VERSION** 04/29/2010  
**DATE:**

STATE OF NEW YORK

10906

IN ASSEMBLY

April 29, 2010

Introduced by M. of A. PAULIN, MARKEY, TITONE, MAYERSOHN, KOON, KAVANAGH, JAFFEE, CASTRO --  
Multi-Sponsored by -- M. of A. CHRISTEN- SEN, GLICK, HYER-SPENCER, M. MILLER, SKARTADOS,  
WEISENBERG -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to administrative hearings and processes for pet dealers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS  
FOLLOWS:

Section 1. Subdivision 4 of section 404 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

4. Before any license shall be suspended or revoked, the commissioner, or any hearing officer he or she may designate, shall hold a hearing, upon due notice to the licensee, in accordance with any regulations promulgated by the department and in accordance with articles three and four of the state administrative procedure act. SUCH A HEARING IS MANDATED TO BE HELD IF A LICENSEE FAILS EITHER THREE CONSECUTIVE INSPECTIONS PURSUANT TO THIS SECTION OR THREE INSPECTIONS IN A THREE YEAR PERIOD PURSUANT TO THIS SECTION. NOTHING IN THIS SECTION SHALL PROHIBIT THE COMMISSIONER FROM TAKING ADDITIONAL ACTIONS REGARDING SUCH LICENSES PRIOR TO FAILURE BY A LICENSEE OF EITHER THREE CONSECUTIVE INSPECTIONS OR THREE INSPECTIONS IN A THREE YEAR PERIOD.

Section 2. This act shall take effect April 1, 2011; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

**2009 NY S 7655**  
**(COMPANION TO:**  
**A 10906)**

**AUTHOR:** Oppenheimer  
**VERSION:** Introduced  
**VERSION** 04/29/2010  
**DATE:**

STATE OF NEW YORK

7655

IN SENATE

April 29, 2010

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

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