



MUNICIPAL ENFORCEMENT ACTION AGAINST A PET SHOP

By: Janet Kaminski Leduc, Senior Legislative Attorney

ISSUE

Can a municipality take enforcement action against a pet shop selling sick puppies?

The Office of Legislative Research is not authorized to give legal opinions, and this report should not be considered one.

SUMMARY

It is uncertain whether a municipality can take action against a pet shop selling sick puppies. State law imposes requirements on pet shops and grants the Department of Agriculture (DoAg) enforcement authority. If a municipality took action against a pet shop, its jurisdiction may be challenged based on a question of state preemption. If the state has occupied the regulatory field, a municipality may be barred from taking action.

According to DoAg, the Connecticut Conference of Municipalities, and the Connecticut Association of Municipal Attorneys (CAMA), a person who wants to discuss a municipality's options should contact the relevant municipal attorney.

STATE LAW

Pet Shops

By law, no one may operate a pet shop without a license from DoAg. Licensees must maintain their shops according to DoAg regulations concerning sanitation, diseases, humane treatment of animals, and public safety protection ([CGS § 22-344\(b\)](#)). Before offering a dog or cat for sale and every 15 days until the animal is sold, the law requires licensees to have the animal examined by a veterinarian and keep records of veterinary services rendered ([CGS § 22-344b\(a\)](#)). A pet shop licensee also must post signs informing customers of certain information about its animals and include a DoAg telephone number that customers may call to report complaints, including those about diseased animals for sale ([CGS § 22-344d](#)). Licensees who violate these laws are subject to fines (e.g., see [CGS §§ 22-344\(b\)](#), [22-344b\(c\)](#), and [22-344d\(d\)](#)).



Under the state's "pet lemon law," pet shop licensees must reimburse a customer for veterinarian expenses incurred for a dog or cat that within (1) 20 days after sale, becomes ill or dies of an illness that existed at the time of sale or (2) six months after sale, is diagnosed with a congenital defect adversely affecting the animal's health. Reimbursement is limited to (1) the animal's purchase price if it was bought for \$500 or more or (2) \$500 if it was bought for less than \$500. If the customer instead chooses to return the animal, the pet shop licensee must replace the animal or refund the animal's purchase price. The law allows customers to seek help from DoAg if a licensee fails to follow the law ([CGS § 22-344b\(b\)](#)).

Municipal Powers

State law grants municipalities certain powers, including the power to regulate and prohibit roaming dogs, animal cruelty, and the keeping of wild or domestic animals within the municipal limits ([CGS § 7-148\(D\)](#)). But it is unclear if this grant of power extends to regulating pet shops.

The law also grants broad powers to local health directors ([CGS § 19a-206](#)). One CAMA member suggested that a health director's powers could possibly be used to handle a local health emergency arising due to sick animals as part of an overall duty to protect public health, but the local health director would likely have to contact DoAg promptly and work in concert with the agency. He also pointed out that a town's attempted jurisdiction may be challenged on the basis of state preemption.

STATE PREEMPTION

According to another CAMA member, because there are specific state statutes and regulations concerning pet shops, the state may have preempted this field.

In general, a local ordinance is preempted by state statute whenever the legislature has demonstrated an intent to occupy the entire field of regulation on the matter or whenever the ordinance irreconcilably conflicts with the statute (*Kaluszka v. Town of East Hartford*, 60 Conn. App. 749, 760 A.2d 1269 (2000); See also, *Modern Cigarette, Inc. v. Town of Orange*, 256 Conn. 105, 774 A.2d 969 (2001)). Thus, if the state has occupied the regulatory field regarding pet shops, a municipality seeking to regulate them would likely be prohibited from doing so.

JKL:cmg