

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

April 18, 2011

The Honorable President and Members  
of the Baltimore City Council  
Attn: Karen Randle, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202



Re: City Council Bill 11-0667 – Health – Animal Control and Protection

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 11-0667 for form and legal sufficiency. The bill would require that certain animal licenses be denied or revoked if the applicant or licensee or certain persons associated with the applicant or licensee have been convicted, at any time, of animal abuse, cruelty, or neglect.

The bill requires that a dog, cat or horse license applicant submit an affidavit certifying that neither he nor any person living in his household has ever been convicted of animal abuse, cruelty or neglect. This would also apply to a renewal of a license. Similarly, the bill requires an affidavit certifying that neither the applicant of an animal facility nor “any operator, employee or agent” of the applicant have been convicted of “animal abuse, cruelty or neglect.” The bill states that the Health Commissioner “must deny or revoke any dog or cat license issued under this subtitle” if the applicant or licensee has been convicted of crimes of animal abuse, neglect or cruelty “at any time.” This is a change from current law, which places denial, suspension or revocation of a license on grounds “of cruelty to animals” within the discretion of the Commissioner.

Generally speaking, conviction of a particular crime can be grounds for denial of a license if it is reasonable to conclude that the conviction demonstrates that the licensee or applicant lacks proper qualifications for the licensed activity. 2-27 Antieau on Local Government Law, 2<sup>nd</sup> Ed. § 27.11. Certainly, a conviction of animal cruelty, abuse or neglect would reasonably reflect poorly on an applicant or licensee’s ability to care for an animal. Similarly, conditioning the license on those grounds could withstand an Equal Protection challenge, as there is a rational basis for differentiating between those who have been convicted of such crimes and those who have not. “Our review of the classification under the equal protection clause is two pronged: First we must determine whether the challenged legislation has a legitimate purpose. Then, we must determine whether it was reasonable for the state legislature to believe that the classification would promote that purpose.” *Baltimore Gas and*

*Elec. Co. v. Heintz*, 760 F.2d 1408, 1417 (4th Cir. 1985)(citing *Western & Southern L.I. Co. v. Board of Equalization*, 451 U.S. 648, 668, (1981)). The distinction between these two groups is one which furthers the purpose of the law (protecting the welfare of animals). The denial, suspension and revocation of the license is subject to the hearing procedures of Title 2, subtitle 3 which ensures that applicants and licensees receive due process.

Therefore, the Law Department approves Council Bill 11-0667 for form and legal sufficiency.

Very truly yours,



Ashlea H. Brown  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor  
Hilary Ruley, Assistant Solicitor  
Victor Tervalá, Assistant Solicitor