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AMENDED IN ASSEMBLY MAY 31, 2007
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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1634

Introduced by Assembly Member Levine
(Principal coauthor: Senator Padilla)
(Coauthors: Assembly Members Nava and Solorio)

February 23, 2007

An act to add Chapter 9 (commencing with Section 122336) to Part 6 of Division 105 of, *and to repeal Section 122336.21* the Health and Safety Code, relating to pets.

LEGISLATIVE COUNSEL'S DIGEST

AB 1634, as amended, Levine. California Healthy Pets Act.

Existing law sets forth provisions relating to veterinary public health and safety and provides for or regulates spay, neuter, and breeding programs for animals.

This bill would prohibit any person from owning or possessing any cat or dog over the age of 4 6 months that has not been spayed or neutered, unless that person possesses an intact permit, as defined. The bill would establish an intact permit fee in an amount to be determined by a local jurisdiction, and would require the revenue from these fees

to be used for the administration of the local jurisdiction’s permit program. The bill would make a violation of these provisions, *as specified*, punishable by a prescribed civil penalty. It would require all revenues derived from these civil penalties to be used for funding the outreach efforts in connection with, and the administration and enforcement of, these provisions, and, to the extent funding is available, free and low-cost spay and neuter programs, and outreach efforts for those programs, which would be required to be established by each local animal control agency.

By increasing the enforcement responsibility of local agencies, this bill would create a state-mandated local program.

This bill would, until January 1, 2012, authorize a local jurisdiction or its authorized local animal control agency to allow for issuance of an intact permit for one male and one female dog per household in order to allow the dogs to produce a single litter of offspring, subject to specified criteria. It would authorize the imposition of an intact permit fee for these purposes in an amount determined by the local jurisdiction, to be used for funding the administration of the local jurisdiction’s permit program.

The bill would become operative on April 1, 2008.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 California Healthy Pets Act.
- 3 SEC. 2. Chapter 9 (commencing with Section 122336) is added
- 4 to Part 6 of Division 105 of the Health and Safety Code, to read:

1 CHAPTER 9. SPAY AND NEUTER PROGRAM FOR CATS AND DOGS

2
3 Article 1. Definitions
4

5 122336. For purposes of this chapter, the following definitions
6 shall apply:

7 (a) "Intact permit" means a document issued annually by a local
8 jurisdiction or its local animal control agency if authorized to issue
9 these permits, that authorizes a person to own or possess within
10 that locality an unaltered cat or dog and meets the requirements
11 of subdivision (a) of Section 122336.2. A dog or cat license that
12 meets the requirements of subdivision (a) of Section 122336.2
13 shall be considered a permit for purposes of this chapter.

14 (b) "Local animal control agency" means the municipal or
15 county animal control agency or other entity responsible for
16 enforcing animal-related laws.

17 (c) "Local jurisdiction" means any city, county, or city and
18 county.

19 (d) "Spay or neuter" means any procedure, as performed by a
20 duly licensed veterinarian, that permanently sterilizes an animal
21 and makes it incapable of reproduction.

22
23 Article 2. General Provisions
24

25 122336.1. (a) Subject to subdivision (c), a person shall not
26 own or possess within the state any cat or dog over the age of ~~four~~
27 *six months* that has not been spayed or neutered, unless that person
28 possesses an intact permit, as defined in subdivision (a) of Section
29 122336.

30 (b) (1) Subject to subdivision (c), any person who violates
31 subdivision (a) shall, for each animal for which a violation has
32 occurred, be ~~subject issued a citation~~ *subjected to a*
33 *civil penalty of five hundred dollars (\$500) if the person fails to*
34 *provide proof that the person has met the requirements of*
35 *subdivision (a) within 30 days of the date of the issuance of the*
36 *citation.* This penalty shall be imposed in addition to any other
37 civil or criminal penalties imposed by the local jurisdiction.

38 (2) *At the time a citation is issued, the citing authority shall*
39 *provide the person being cited with information as to the*
40 *availability of spaying and neutering services at reduced cost.*

1 (c) If an owner of a cat or dog provides a letter from a California
 2 licensed veterinarian indicating that due to age, poor health, or
 3 illness, it is unsafe to spay or neuter the cat or dog and that
 4 arrangements have been made to spay or neuter the cat or dog
 5 within 75 days from the date the cat or dog reaches the age of four
 6 months, and the owner has his or her cat or dog spayed or neutered
 7 within that 75-day period, the owner shall not be in violation of
 8 this act. *licensed veterinarian stating that it is the medical judgment
 9 of the veterinarian that the cat or dog should not be spayed or
 10 neutered prior to the age of nine months, the owner shall not be
 11 in violation of this chapter. No earlier than 30 days after the cat
 12 or dog has reached nine months of age, the veterinarian may
 13 provide a letter to the owner extending the date for spaying or
 14 neutering the cat or dog to 12 months of age. The letter from the
 15 veterinarian shall include the veterinarian's license number, the
 16 name of the owner, and a description of the cat or dog in question.*

17 (d) Any civil penalty imposed under subdivision (b) ~~may~~ shall
 18 be waived, in whole or in part, by the local jurisdiction if the person
 19 in violation provides verification that his or her cat or dog has been
 20 spayed or neutered.

21 (e) (1) Any person who is in possession of any document issued
 22 by the local jurisdiction or its authorized local animal control
 23 agency that permits the owner to possess an unaltered cat or dog
 24 shall be deemed in compliance with this act until the document
 25 expires or January 1, 2009, whichever occurs first.

26 (2) *Upon expiration of the permit, the owner of the intact cat
 27 or dog permit shall obtain a new permit pursuant to the applicable
 28 provision of Section 122336.2 in order to be in compliance with
 29 this section.*

30 (f) *Nothing in this chapter shall be construed to impose any
 31 obligation on a veterinarian to enforce the provisions of this
 32 chapter or to require the veterinarian to provide information to a
 33 local animal control agency as to the spay or neuter status of a
 34 cat or dog.*

35
 36
 37

Article 3. Permits

38 122336.2. (a) A local jurisdiction shall issue an intact permit,
 39 as defined in subdivision (a) of Section 122336, if the owner
 40 provides sufficient proof ~~proof~~ *acceptable to the local jurisdiction,*

1 as determined by the local jurisdiction or its authorized local animal
2 control agency, that any of the following conditions are met:

3 (1) The owner demonstrates, by providing a copy of his or her
4 business license and federal and state tax number, or by other
5 proof, as required by the local jurisdiction or its authorized local
6 animal control agency, that he or she is doing business and is
7 licensed as a breeder at a location for which the local jurisdiction
8 or its authorized local animal control agency has issued a breeder
9 license.

10 (2) The owner's cat or dog is a valid breed that is recognized
11 by an approved registry or association, and complies with at least
12 one of the following:

13 (A) His or her cat or dog is used to show or compete and has
14 competed in at least one legitimate show or sporting competition
15 hosted by, or under the approval of, a recognized registry or
16 association within the last two years, or by whatever proof is
17 ~~requested~~ *required* by the local jurisdiction or its authorized local
18 animal control agency that the cat or dog is being trained to show
19 or compete and is too young to have yet competed.

20 (B) The cat or dog has earned, or if under three years old, is in
21 the process of earning, a conformation, obedience, agility, carting,
22 herding, protection, rally, sporting, working, or other title from an
23 approved ~~purebred~~ registry or association.

24 (3) The owner is a legitimate breeder of *mixed breed or purebred*
25 working dogs, or is supplying *mixed breed or purebred* dogs for
26 training as working dogs to law enforcement, fire agencies, or
27 legitimate professional or volunteer private sector working dog
28 organizations.

29 ~~(4) The dog is being raised, groomed, socialized, or otherwise~~
30 ~~prepared for duties as a legitimate working dog.~~

31 ~~(5)~~

32 (4) The dog is being actively used by law enforcement, fire
33 agencies, or legitimate professional or volunteer private sector
34 working dog organizations for law enforcement, fire service, search
35 and rescue, or medical service activities, *or is being raised,*
36 *groomed, socialized, or otherwise prepared for duties for any of*
37 *these purposes.*

38 ~~(6)~~

39 (5) The owner of a cat or dog provides a letter to the local
40 jurisdiction or its authorized local animal control agency from a

1 California licensed veterinarian stating that due to age, poor health,
 2 or illness, it is unsafe to spay or neuter the cat or dog. ~~This letter~~
 3 ~~shall include the veterinarian's license number and shall, if this~~
 4 ~~information is available, include the duration of the condition of~~
 5 ~~the dog or cat, and the date by which the dog or cat may be safely~~
 6 *The letter from the veterinarian shall include the veterinarian's*
 7 *license number, the name of the owner, a description of the cat or*
 8 *dog in question, and, if this information is available, the duration*
 9 *of the condition of the cat or dog, and the date by which the cat*
 10 *or dog may be safely spayed or neutered.*

11 (b) *Any cat or dog owner who is not a resident of California*
 12 *shall be exempted from the permit requirements set forth in this*
 13 *chapter if the owner provides proof, as determined by the local*
 14 *jurisdiction or its authorized local animal control agency, that the*
 15 *cat or dog is temporarily in California for training, showing, or*
 16 *any other legitimate reason.*

17 (c) (1) *Any individual or organization breeding animals for*
 18 *services provided by guide dogs, signal dogs, or service dogs, as*
 19 *defined in subparagraph (C) of paragraph (6) of subdivision (b)*
 20 *of Section 54.1 of the Civil Code, shall be presumptively entitled*
 21 *to an intact permit issued pursuant to this chapter.*

22 (2) *Any animal possessed by any individual with a disability*
 23 *protected by the federal Americans with Disabilities Act of 1990*
 24 *(Public Law 101-336) shall be exempt from the provisions of this*
 25 *chapter if the animal is providing guide dog, service dog, or signal*
 26 *dog services, as defined in subparagraph (C) of paragraph (6) of*
 27 *subdivision (b) of Section 54.1 of the Civil Code.*

28 (3) *Guide dog, signal dog, and service dog programs licensed*
 29 *by the State of California are exempt from all of the provisions of*
 30 *this chapter.*

31 (4) *A person in possession of a cat or dog to be used for any of*
 32 *the purposes set forth in the federal Animal Welfare Act (7 U.S.C.*
 33 *Sec. 2131 et seq.) shall be exempt from the provisions of Section*
 34 *122336.1, provided the person is licensed by or registered with*
 35 *the United States Secretary of Agriculture pursuant to the*
 36 *provisions of the Animal Welfare Act.*

37 ~~(b)~~

38 (d) *An unaltered cat or dog for which an intact permit was issued*
 39 *who ceases to meet the requirements of subdivision (a) is subject*
 40 *to the spay and neuter requirements set forth in Section 122336.1.*

1 ~~(e)~~

2 (e) (1) The amount of the fee for an intact permit shall be
3 determined by the local jurisdiction, and shall be no more than
4 what is reasonably necessary to fund the administration of that
5 jurisdiction's intact permit program.

6 (2) A local jurisdiction shall waive the intact permit fee for an
7 unaltered cat or dog that meets any of the requirements described
8 in paragraphs (3) to (5), inclusive, and (4) of subdivision (a), and
9 the provisions of subdivision ~~(f)~~ (c) and may waive all or part of
10 the intact permit fee for an unaltered cat or dog meeting the
11 requirements of paragraph ~~(6)~~ (5) of subdivision (a).

12 (3) Any fee assessed by a local jurisdiction pursuant to this
13 chapter shall not be duplicative of any other local fee in that
14 jurisdiction.

15 ~~(d)~~

16 (f) Nothing in this section shall prohibit a local jurisdiction from
17 adopting or enforcing a more restrictive spay or neuter program
18 pursuant to Section 122331, provided that the program allows for
19 a cat or dog to be temporarily or permanently exempted from a
20 spay or neuter requirement for the reasons set forth in paragraphs
21 (3) to ~~(6)~~ to (5), inclusive, of subdivision (a), or the provisions of
22 subdivision ~~(f)~~ (c).

23 ~~(e) Any owner of a cat or dog who is not a resident of California~~
24 ~~shall be exempted from the permit requirements set forth in this~~
25 ~~chapter if the owner provides proof, as determined by the local~~
26 ~~jurisdiction or its authorized local animal control agency, that the~~
27 ~~cat or dog is temporarily in California for training, showing, or~~
28 ~~any other legitimate reason.~~

29 ~~(f) (1) Any individual or organization breeding animals for~~
30 ~~services provided by guide dogs, signal dogs, or service dogs, as~~
31 ~~defined in subparagraph (C) of paragraph (6) of subdivision (b)~~
32 ~~of Section 54.1 of the Civil Code, shall be presumptively entitled~~
33 ~~to an intact permit issued pursuant to this chapter.~~

34 ~~(2) Any animal possessed by any individual with a disability~~
35 ~~protected by the federal Americans with Disabilities Act shall be~~
36 ~~exempt from the provisions of this chapter if the animal is~~
37 ~~providing guide dog, service dog, or signal dog services, as defined~~
38 ~~in subparagraph (C) of paragraph (6) of subdivision (b) of Section~~
39 ~~54.1 of the Civil Code.~~

1 ~~(3) Guide dog, signal dog, and service dog programs licensed~~
 2 ~~by the State of California are exempt from all of the provisions of~~
 3 ~~this chapter.~~

4 122336.21. (a) *The local jurisdiction or its authorized local*
 5 *animal control agency may allow for issuance of an intact permit,*
 6 *and imposition of an intact permit fee, for one male and one female*
 7 *dog per household in order to allow the dogs to produce a single*
 8 *litter of offspring. In no event shall the intact permits issued for*
 9 *this purpose have a duration in excess of one year. In addition,*
 10 *the following conditions shall be met for purposes of obtaining*
 11 *and retaining the permit:*

12 (1) *The animal has been examined by a licensed veterinarian*
 13 *and is following the preventative health care program*
 14 *recommended by the veterinarian.*

15 (2) *The owner has not been convicted of one or more violations*
 16 *of the following offenses:*

17 (A) *Section 121705 of the Health and Safety Code.*

18 (B) *Section 286.5 of the Penal Code.*

19 (C) *Section 596 of the Penal Code.*

20 (D) *Section 597 of the Penal Code.*

21 (E) *Section 597.5 of the Penal Code.*

22 (F) *Section 599aa of the Penal Code.*

23 (G) *Section 487e of the Penal Code.*

24 (H) *Section 487f of the Penal Code.*

25 (I) *Section 487g of the Penal Code.*

26 (3) *The owner has not been convicted of two or more violations*
 27 *of any local ordinance involving the dog for whom the unaltered*
 28 *animal certification is sought.*

29 (4) *The owner has not received an order from the local*
 30 *jurisdiction or its authorized local animal control agency involving*
 31 *the dog for whom the unaltered animal certification is sought.*

32 (5) *The dog for whom the unaltered animal certification is*
 33 *sought has not been determined by local jurisdiction or its*
 34 *authorized local animal control agency to be a “vicious animal.”*

35 (6) *The animal is properly housed and cared for as follows:*

36 (A) *The animal is provided sufficient quantity of good and*
 37 *wholesome food and water.*

38 (B) *The animal is provided shelter that will allow the animal*
 39 *to stand up, turn around, and lie down without lying in its feces,*

1 *and the area where the animal is kept is properly cleaned and*
2 *disinfected.*

3 *(C) The animal is fully contained on the owner's property and*
4 *provided appropriate exercise.*

5 *(D) The animal owner otherwise complies with any applicable*
6 *state law concerning the care and housing of animals.*

7 *(7) The owner furnishes the director of animal control services*
8 *with a signed statement agreeing to the following conditions:*

9 *(A) Offspring of the unaltered animal may not be sold and may*
10 *be adopted without a fee only after they reach eight weeks of age.*

11 *(B) Records will be kept documenting how many offspring were*
12 *produced and who adopted them.*

13 *(8) The dog for whom the unaltered animal certification is*
14 *sought is currently licensed pursuant to local requirements.*

15 *(9) The owner has considered having the animal microchipped*
16 *for purposes of identification.*

17 *(b) The owner shall maintain records documenting how many*
18 *offspring were produced or adopted, or both, and shall provide*
19 *proof that the dog has been spayed or neutered after a single litter.*
20 *This information shall be made available to an animal control*
21 *agency upon request.*

22 *(c) The amount of the fee for an intact permit issued under this*
23 *section shall be determined by the local jurisdiction and shall not*
24 *exceed the cost of administering this section.*

25 *(d) This section shall remain in effect only until January 1, 2012,*
26 *and as of that date is repealed, unless a later enacted statute, that*
27 *is enacted before January 1, 2012, deletes or extends that date.*

28

29

Article 4. Funding

30

31 122336.3. (a) (1) Any civil penalty collected pursuant to
32 subdivision (b) of Section 122336.1 shall be used for funding the
33 administration, outreach, and enforcement activities set forth in
34 Article 5 (commencing with Section 122336.4).

35 (2) To the extent that funding is available pursuant to this
36 chapter, a local animal control agency shall establish a free and
37 low-cost spay and neuter program for low-income individuals.
38 The agency shall undertake outreach efforts to inform qualified
39 persons about these programs.

1 (b) All permit fees collected pursuant to subdivision (c) of
 2 Section 122336.2, *and subdivision (c) of Section 122336.21*, shall
 3 be used for funding the administration of the permit program in
 4 the local jurisdiction in which the permits are issued.

5

6

Article 5. Enforcement

7

8 122336.4. A local animal control agency shall be responsible
 9 for enforcing, conducting outreach efforts in connection with, and
 10 administering, this chapter.

11 SEC. 3. No reimbursement is required by this act pursuant to
 12 Section 6 of Article XIII B of the California Constitution because
 13 a local agency or school district has the authority to levy service
 14 charges, fees, or assessments sufficient to pay for the program or
 15 level of service mandated by this act, within the meaning of Section
 16 17556 of the Government Code.

17 SEC. 4. This act shall become operative on April 1, 2008.