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AMENDED IN SENATE JUNE 27, 2007
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AMENDED IN ASSEMBLY MAY 9, 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 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 *or subdivision (a) of Section*
12 *122336.21*. A dog or cat license that meets the requirements of
13 subdivision (a) of Section 122336.2 *or subdivision (a) of Section*
14 *122336.21* shall be considered a permit for purposes of this chapter.

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

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

20 (d) *"Recognized registry or association" means an animal*
21 *registry or association that has been determined to be a bona fide*
22 *registry or association by the local jurisdiction or its authorized*
23 *local animal control agency.*

24 ~~(e)~~
25 (e) "Spay or neuter" means any procedure, as performed by a
26 duly licensed veterinarian, that permanently sterilizes an animal
27 and makes it incapable of reproduction.

28
29 Article 2. General Provisions
30

31 122336.1. (a) Subject to subdivision (c), a person shall not
32 own or possess within the state any cat or dog over the age of six
33 months that has not been spayed or neutered, unless that person
34 possesses an intact permit, as defined in subdivision (a) of Section
35 122336.

36 (b) (1) Subject to subdivision (c), any person who violates
37 subdivision (a) shall, for each animal for which a violation has
38 occurred, be issued a citation subjecting the person to a civil
39 penalty of five hundred dollars (\$500) if the person fails to provide
40 proof that the person has met the requirements of subdivision (a)

1 within 30 days of the date of the issuance of the citation. This
2 penalty shall be imposed in addition to any other civil or criminal
3 penalties imposed by the local jurisdiction.

4 (2) At the time a citation is issued, the citing authority shall
5 provide the person being cited with information as to the
6 availability of spaying and neutering services *for free or* at reduced
7 cost.

8 (c) If an owner of a cat or dog provides a letter from a California
9 licensed veterinarian stating that it is the medical judgment of the
10 veterinarian that the cat or dog should not be spayed or neutered
11 prior to the age of nine months, the owner shall not be in violation
12 of this chapter *during that period*. No earlier than 30 days ~~after~~
13 *before* the cat or dog has reached nine months of age, the
14 veterinarian may provide a letter to the owner extending the date
15 for spaying or neutering the cat or dog to 12 months of age. The
16 letter from the veterinarian shall include the veterinarian's license
17 number, the name of the owner, and a description of the cat or dog
18 in question.

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

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

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

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

Article 3. Permits

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122336.2. (a) A local jurisdiction shall issue an intact permit, as defined in subdivision (a) of Section 122336, if the owner provides proof acceptable to the local jurisdiction, ~~as determined by the local jurisdiction~~ or its authorized local animal control agency, that any of the following conditions are met:

(1) The owner demonstrates, by providing a copy of his or her business license ~~and, federal and state tax number~~ *tax identification number, California seller's permit, as required by Section 6066 of the Revenue and Taxation Code*, or by other proof, as required by the local jurisdiction or its authorized local animal control agency, that he or she is doing business and, *if licensing is required*, is licensed as a breeder at a location for which the local jurisdiction or its authorized local animal control agency has issued a breeder license.

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

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

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

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

(4) The dog is being actively used by law enforcement, fire agencies, or ~~legitimate~~ professional or volunteer private sector working dog organizations for law enforcement, fire service, search and rescue, or medical service activities, or is being raised,

1 groomed, socialized, or otherwise prepared for duties for any of
2 these purposes.

3 (5) The owner of a cat or dog provides a letter to the local
4 jurisdiction or its authorized local animal control agency from a
5 California licensed veterinarian stating that due to age, poor health,
6 or illness, it is unsafe to spay or neuter the cat or dog. The letter
7 from the veterinarian shall include the veterinarian's license
8 number, the name of the owner, a description of the cat or dog in
9 question, and, if this information is available, the duration of the
10 condition of the cat or dog, and the date by which the cat or dog
11 may be safely spayed or neutered.

12 (6) *The dog is used for herding or guarding livestock, and the*
13 *dog's owner resides on or is the owner of property designated for*
14 *agricultural use.*

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

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

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

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

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

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

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

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

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

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

24 122336.21. (a) The local jurisdiction or its authorized local
25 animal control agency may allow for issuance of an intact permit,
26 and imposition of an intact permit fee, for one male and one female
27 dog per household in order to allow the dogs to produce a single
28 litter of offspring. In no event shall the intact permits issued for
29 this purpose have a duration in excess of one year. In addition, the
30 following conditions shall be met for purposes of obtaining and
31 retaining the permit:

32 (1) ~~The animal~~ dog has been examined by a licensed veterinarian
33 and is following the preventative health care program
34 recommended by the veterinarian.

35 (2) The owner has not been convicted of one or more violations
36 of the following offenses:

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

38 (B) Section 286.5 of the Penal Code.

39 (C) Section 596 of the Penal Code.

40 (D) Section 597 of the Penal Code.

1 (E) Section 597.5 of the Penal Code.

2 (F) Section 599aa of the Penal Code.

3 (G) Section 487e of the Penal Code.

4 (H) Section 487f of the Penal Code.

5 (I) Section 487g of the Penal Code.

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

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

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

15 (6) The ~~animal~~ dog is properly housed and cared for as follows:

16 (A) The ~~animal~~ dog is provided sufficient quantity of good and
17 wholesome food and water.

18 (B) The ~~animal~~ dog is provided shelter that will allow the ~~animal~~
19 dog to stand up, turn around, and lie down without lying in its
20 feces, and the area where the ~~animal~~ dog is kept is properly cleaned
21 and disinfected.

22 (C) The ~~animal~~ dog is fully contained on the owner’s property
23 and provided appropriate exercise.

24 (D) The ~~animal~~ dog owner otherwise complies with any
25 applicable state law concerning the care and housing of animals.

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

28 (A) Offspring of the unaltered ~~animal~~ dog may not be sold and
29 may be adopted without a fee only after adopted or sold before
30 they reach eight weeks of age.

31 (B) ~~Records will be kept documenting how many offspring were
32 produced and who adopted them.~~

33 (B) *Prior to any adoption or sale, any offspring of the unaltered
34 dog shall undergo a health examination by a California licensed
35 veterinarian, and shall receive any preventative health care that
36 is deemed necessary by the veterinarian.*

37 (C) *Any advertisement for the adoption or sale of the offspring
38 of the unaltered dog shall prominently display the unaltered dog’s
39 intact permit number.*

1 (D) Any adoption or sale of the offspring of the unaltered dog
2 shall comply with all of the requirements and duties of a breeder,
3 as set forth in Article 1 (commencing with Section 122045) of
4 Chapter 5.

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

7 (9) The owner has considered having the animal microchipped
8 for purposes of identification.

9 (b) The owner shall maintain records documenting how many
10 offspring were produced ~~or adopted, or both~~ and by whom they
11 were adopted or purchased, if applicable, and shall provide proof
12 that the dog has been spayed or neutered after producing not more
13 than a single litter. This information shall be made available to
14 ~~an~~ the local jurisdiction or its authorized local animal control
15 agency upon request.

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

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

22

23 Article 4. Funding

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25 122336.3. (a) (1) Any civil penalty collected pursuant to
26 subdivision (b) of Section 122336.1 shall be used for funding the
27 administration, outreach, and enforcement activities set forth in
28 Article 5 (commencing with Section 122336.4).

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

34 (b) All permit fees collected pursuant to subdivision ~~(e)~~ (e) of
35 Section 122336.2, and subdivision (c) of Section 122336.21, shall
36 be used for funding the administration of the permit program in
37 the local jurisdiction in which the permits are issued.

1 Article 5. Enforcement

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3 122336.4. A local animal control agency shall be responsible
4 for enforcing, conducting outreach efforts in connection with, and
5 administering, this chapter.

6
7 Article 6. Exemptions

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9 122336.5. (a) *Nothing in this chapter shall be construed to*
10 *prohibit a local jurisdiction from adopting or enforcing a more*
11 *restrictive spay or neuter program than the program described in*
12 *this chapter.*

13 (b) *Any local jurisdiction that, prior to January 1, 2007, has*
14 *enacted an ordinance pursuant to Section 122331 shall be exempt*
15 *from this chapter.*

16 122336.5.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 a local agency or school district has the authority to levy service
20 charges, fees, or assessments sufficient to pay for the program or
21 level of service mandated by this act, within the meaning of Section
22 17556 of the Government Code.

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