

AMENDED IN SENATE JULY 1, 2008
AMENDED IN SENATE JUNE 18, 2008
AMENDED IN SENATE JULY 3, 2007
AMENDED IN SENATE JUNE 27, 2007
AMENDED IN ASSEMBLY MAY 31, 2007
AMENDED IN ASSEMBLY MAY 9, 2007
AMENDED IN ASSEMBLY APRIL 30, 2007
AMENDED IN ASSEMBLY APRIL 17, 2007
AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1634

Introduced by Assembly Member Levine
(Principal coauthors: Senators Negrete McLeod and Padilla)
(Coauthors: Assembly Members Nava and Solorio)

February 23, 2007

An act to amend Sections 30804.7 and 31751.7 of, and to add Sections 30804.8 and 31751.8 to, the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1634, as amended, Levine. Dogs and cats: nonspayed or unneutered: civil penalties.

Existing law regulates spay, neuter, and breeding programs for animals. Existing law requires the owner of a nonspayed or unneutered

dog or cat that is impounded by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society to be fined \$35 on the first occurrence, \$50 on the 2nd occurrence, and \$100 for the 3rd or subsequent occurrence.

This bill would increase the above fines for a nonspayed or unneutered dog to \$50 for the first occurrence, \$100 for the 2nd occurrence, and would require spaying or neutering of the dog at the owner’s expense on the 3rd occurrence. The bill would increase the above fines for a nonspayed or unneutered cat to \$50 on the first occurrence and would require spaying or neutering of the cat at the owner’s expense on the 2nd occurrence.

This bill would also ~~require~~ *provide that* the owner of a nonspayed or unneutered dog or cat that is the subject of a complaint to a local animal control agency, as specified, ~~to~~ *may* be cited and, *if cited, shall* pay a civil penalty to the local animal control agency within 30 days. It would require a local animal control agency to waive the civil penalty if, within 14 business days of the citation, the pet’s owner presents written proof from a licensed veterinarian that the dog or cat was spayed or neutered.

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

Existing law, enacted in 1998, relating to animal control, imposed certain state mandated local programs.

This bill would prohibit the Controller from releasing a payment to a local agency for costs arising under that 1998 law until the local agency has complied with certain rabies control reporting requirements.

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. Section 30804.7 of the Food and Agricultural
- 2 Code is amended to read:
- 3 30804.7. (a) The owner of a nonspayed or unneutered dog that
- 4 is impounded once by a city or county animal control agency or

1 shelter, society for the prevention of cruelty to animals, or humane
2 society, shall be fined fifty dollars (\$50) on the first occurrence
3 and one hundred dollars (\$100) on the second occurrence. On the
4 third occurrence, the dog shall be spayed or neutered, with the
5 owner paying the cost of the procedure. These fines are for
6 nonspayed or unneutered impounded animals only, and are not in
7 lieu of any fines or impound fees imposed by any individual city,
8 county, public animal control agency or shelter, society for the
9 prevention of cruelty to animals shelter, or humane society shelter.

10 (b) An animal control officer, humane officer, police officer,
11 peace officer, or any agency authorized to enforce the Penal Code
12 may write citations with a civil penalty stated in an amount
13 corresponding to the violation as provided in subdivision (a). The
14 fines shall be paid to the local municipality or public animal control
15 agency or shelter, society for the prevention of cruelty to animals
16 shelter, or humane society shelter. Any funds collected under this
17 section shall be expended for the purpose of humane education,
18 programs for low-cost spaying and neutering of dogs, and any
19 additional costs incurred by the public animal control agency or
20 shelter, society for the prevention of cruelty to animals shelter,
21 humane society shelter, or rescue group in the administration of
22 the requirements of this division.

23 (c) This section applies to each county and cities within each
24 county, regardless of population.

25 (d) No city or county, society for the prevention of cruelty to
26 animals, or humane society is subject to any civil action by the
27 owner of a dog that is spayed or neutered in accordance with this
28 section.

29 SEC. 2. Section 30804.8 is added to the Food and Agricultural
30 Code, to read:

31 30804.8. (a) The owner of a nonspayed or unneutered dog that
32 is the subject of a complaint ~~shall~~ *may* be cited and, *if cited, shall*
33 pay a civil penalty as provided in this section. This civil penalty
34 shall be in addition to any fine, fee, or penalty imposed under any
35 other provision of law or local ordinance.

36 (b) At the time that the citation is issued, the local animal control
37 agency shall provide the owner of the dog with information
38 regarding the availability of spaying and neutering services.

39 (c) The owner of the dog shall pay the civil penalty to the local
40 animal control agency within 30 business days of the citation. The

1 local animal control agency shall waive the civil penalty if, within
2 14 business days of the citation, the owner of the dog presents
3 written proof from a licensed veterinarian that the dog was spayed
4 or neutered.

5 (d) The civil penalties shall be as follows:

6 (1) On the first occurrence, fifty dollars (\$50).

7 (2) On the second occurrence for the same dog, one hundred
8 dollars (\$100).

9 (3) On the third occurrence for the same dog, the spaying or
10 neutering of the dog by order of the local animal control agency,
11 with the owner paying the cost of the procedure.

12 (e) As used in this section, the following terms apply:

13 (1) "Complaint" means an oral or written complaint to a local
14 animal control agency that alleges that the dog or the owner of the
15 dog has violated this division, any other provision of state law that
16 relates to dogs, or a local animal control ordinance. "Complaint"
17 also means the observation by an employee or officer of a local
18 animal control agency of behavior by a dog or the owner of a dog
19 that violates this division, any other provision of state law that
20 relates to dogs, or a local animal control ordinance. "Complaint"
21 shall not include an allegation of excessive noise or barking.

22 (2) "Local animal control agency" means any city or county
23 animal control agency or other entity responsible for enforcing
24 animal-related laws or local animal control ordinances.

25 (3) "Spay" and "neuter" mean any procedure performed by a
26 duly licensed veterinarian that permanently sterilizes a dog and
27 makes it incapable of reproduction.

28 (f) This section shall not preclude any city or county from
29 adopting a local ordinance that is more restrictive or imposes higher
30 civil penalties.

31 SEC. 3. Section 31751.7 of the Food and Agricultural Code is
32 amended to read:

33 31751.7. (a) The owner of a nonspayed or unneutered cat that
34 is impounded once by a city or county animal control agency or
35 shelter, society for the prevention of cruelty to animals, or humane
36 society, shall be fined fifty dollars (\$50) on the first occurrence.
37 On the second occurrence, the cat shall be spayed or neutered,
38 with the owner paying the cost of the procedure. These fines are
39 for nonspayed or unneutered impounded animals only, and are not
40 in lieu of any fines or impound fees imposed by any individual

1 city, county, public animal control agency or shelter, society for
2 the prevention of cruelty to animals shelter, or humane society
3 shelter.

4 (b) An animal control officer, humane officer, police officer,
5 peace officer, or any agency authorized to enforce the Penal Code
6 may write citations with a civil penalty stated in an amount
7 corresponding to the violation as provided in subdivision (a). The
8 fines shall be paid to the local municipality or public animal control
9 agency or shelter, society for the prevention of cruelty to animals
10 shelter, or humane society shelter. Any funds collected under this
11 section shall be expended for the purpose of humane education,
12 programs for low-cost spaying and neutering of cats, and any
13 additional costs incurred by the animal shelter in the administration
14 of the requirements of this division.

15 (c) Local ordinances concerning the adoption or placement
16 procedures of any public animal control agency or shelter, society
17 for the prevention of cruelty to animals shelter, humane society
18 shelter, or rescue group shall be at least as restrictive as this
19 division.

20 (d) This section applies to each county and cities within each
21 county, regardless of population.

22 (e) No city or county, society for the prevention of cruelty to
23 animals, or humane society is subject to any civil action by the
24 owner of a cat that is spayed or neutered in accordance with this
25 section.

26 SEC. 4. Section 31751.8 is added to the Food and Agricultural
27 Code, to read:

28 31751.8. (a) The owner of a nonspayed or unneutered cat that
29 is the subject of a complaint ~~shall~~ *may* be cited and, *if cited, shall*
30 pay a civil penalty as provided in this section. This civil penalty
31 shall be in addition to any fine, fee, or penalty imposed under any
32 other provision of law or local ordinance.

33 (b) At the time that the citation is issued, the local animal control
34 agency shall provide the owner of the cat with information
35 regarding the availability of spaying and neutering services.

36 (c) The owner of the cat shall pay the civil penalty to the local
37 animal control agency within 30 business days of the citation. The
38 local animal control agency shall waive the civil penalty if, within
39 14 business days of the citation, the owner of the cat presents

1 written proof from a licensed veterinarian that the cat was spayed
2 or neutered.

3 (d) The civil penalties shall be as follows:

4 (1) On the first occurrence, fifty dollars (\$50).

5 (2) On the second occurrence for the same cat, the spaying or
6 neutering of the cat by order of the local animal control agency,
7 with the owner paying the cost of the procedure.

8 (e) As used in this section, the following terms apply:

9 (1) “Complaint” means an oral or written complaint to a local
10 animal control agency that alleges that the cat or the owner of the
11 cat has violated this division, any other provision of state law that
12 relates to cats, or a local animal control ordinance. “Complaint”
13 also means the observation by an employee or officer of a local
14 animal control agency of behavior by a cat or the owner of a cat
15 that violates this division, any other provision of state law that
16 relates to cats, or a local animal control ordinance. “Complaint”
17 shall not include an allegation of excessive noise.

18 (2) “Local animal control agency” means any city or county
19 animal control agency or other entity responsible for enforcing
20 animal-related laws or local animal control ordinances.

21 (3) “Spay” and “neuter” mean any procedure performed by a
22 licensed veterinarian that permanently sterilizes a cat and makes
23 it incapable of reproduction.

24 (f) This section shall not preclude any city or county from
25 adopting a local ordinance that is more restrictive or imposes higher
26 civil penalties.

27 SEC. 5. The Controller shall not release a payment, pursuant
28 to Part 7 (commencing with Section 17500) of Division 4 of Title
29 2 of the Government Code, to a local agency to reimburse the costs
30 arising from Chapter 752 of the Statutes of 1998 until the
31 Controller determines that the local agency has complied with the
32 requirements of paragraph (4) of subdivision (a) of Section 2606.4
33 of Title 17 of the California Code of Regulations.

34 In making the determination required by this section, the
35 Controller may rely on information provided by the Department
36 of Public Health.

37 Pursuant to Section 17612 of the Government Code, the
38 Legislature declares that this section modifies the reimbursement
39 methodology for paying claims arising from Chapter 752 of the
40 Statutes of 1998, but does not suspend that chapter.

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

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