

Introduced by Senator FlorezFebruary 24, 2009

An act to add Section 30804.6 to the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 250, as introduced, Florez. Dogs and cats: spaying and neutering.

Existing law generally prohibits public pounds and private shelters from selling or giving away any dog or cat that has not been spayed or neutered; provides, under certain circumstances, for the sale or giving away of a dog or cat that has not been spayed or neutered upon the payment of a refundable deposit, as specified; provides for the imposition of fines or civil penalties against the owner of a nonspayed or unneutered dog or cat that is impounded by a public pound or private shelter; and immunizes cities and counties, societies for the prevention of cruelty to animals, and humane societies from an action by the owner of a dog or cat for spaying or neutering the dog or cat in accordance with the law. A violation of any of these provisions is an infraction, punishable as specified.

This bill would provide, in addition, that no person may own, keep, or harbor an unaltered and unspayed dog, except as specified. It would make it is unlawful for any person who owns, keeps, or harbors any unspayed or unaltered cat 6 months of age or older to allow or permit that unspayed or unaltered cat to remain outdoors. It would require an owner or custodian of an unaltered cat to have the animal spayed or neutered, or provide a certificate of sterility. It would allow an unaltered dog license to be denied, revoked, and reapplied for, as specified, and the licensing agency to utilize its existing procedures for any appeal of a denial or revocation of an unaltered dog license.

This bill would require an owner or custodian who offers any unaltered dog or cat for sale, trade, or adoption to meet specified requirements. It would permit an administrative citation, infraction, or other authorized penalty for a violation of certain provisions to be imposed only if the owner or custodian is concurrently cited for another violation under state or local law, as specified. It would require, if an unaltered dog or cat is impounded pursuant to state or local law, the owner or custodian to meet specified requirements, including paying the costs of impoundment. It would require all costs, fines, and fees collected under the bill to be paid to the licensing agency for the purpose of defraying the cost of the implementation and enforcement of the bill. By creating new crimes and imposing new duties on local animal control agencies, this bill would impose a state-mandated local program upon local governments.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 30804.6 is added to the Food and
 2 Agricultural Code, to read:
 3 30804.6. (a) (1) No person may own, keep, or harbor an
 4 unaltered and unspayed dog in violation of this section.
 5 (2) An owner or custodian of an unaltered dog shall have the
 6 dog spayed or neutered, provide a certificate of sterility, or obtain
 7 an unaltered dog license in accordance with this section.
 8 (3) This subdivision shall not apply to a dog with a high
 9 likelihood, due to age or infirmity, of suffering serious bodily harm
 10 or death if spayed or neutered. The owner or custodian shall obtain
 11 written confirmation of this fact from a veterinarian licensed in
 12 this state. If the dog is able to be safely spayed or neutered at a

1 later date, that date shall be stated in the written confirmation. If
2 the date for spaying or neutering is more than 30 days, the owner
3 or custodian shall apply for an unaltered dog license.

4 (b) (1) It is unlawful for any person who owns, keeps, or harbors
5 any unspayed or unaltered cat six months of age or older to allow
6 or permit that unspayed or unaltered cat to remain outdoors.

7 (2) An owner or custodian of an unaltered cat shall have the
8 animal spayed or neutered, or provide a certificate of sterility.

9 (3) This subdivision shall not apply to a cat with a high
10 likelihood, due to age or infirmity, of suffering serious bodily harm
11 or death if spayed or neutered. The owner or custodian shall obtain
12 written confirmation of this fact from a veterinarian licensed in
13 this state. If the cat is able to be safely spayed or neutered at a later
14 date, that date shall be stated in the written confirmation.

15 (c) An unaltered dog license may be denied or revoked for one
16 or more of the following reasons:

17 (1) The owner, custodian, applicant or licensee is not in
18 compliance with all of the requirements of this section.

19 (2) The licensing agency has received at least two complaints,
20 verified by the agency, that the owner, custodian, applicant, or
21 licensee has allowed a dog to be stray or run at large or has
22 otherwise been found to be neglectful of his or her or other animals.

23 (3) The owner, custodian, applicant, or licensee has been
24 previously cited for violating a state law, or a city, county, or other
25 local governmental provision relating to the care and control of
26 animals.

27 (4) The unaltered dog has been adjudicated by a court or an
28 agency of appropriate jurisdiction to be potentially dangerous,
29 dangerous, or vicious, or to be a nuisance within the meaning of
30 the state or local law.

31 (5) Any unaltered dog license held by the applicant has been
32 revoked.

33 (6) The license application is discovered to contain a material
34 misrepresentation or omission of fact.

35 (d) When an unaltered dog license is denied, the applicant may
36 re-apply for a license upon changed circumstances and a showing
37 that the requirements of this section have been met. The licensing
38 agency shall refund one-half of the license fee when the application
39 is denied. The applicant shall pay the full fee upon reapplication.

1 (e) When an unaltered dog license is revoked, the owner or
2 custodian of the dog may apply for a new license after a 30-day
3 waiting period upon showing that the requirements of this section
4 have been met. No part of an unaltered dog license fee is refundable
5 when a license is revoked and the applicant shall pay the full fee
6 upon reapplication.

7 (f) The licensing agency shall utilize its existing procedures for
8 any appeal of a denial or revocation of an unaltered dog license.

9 (g) An owner or custodian who offers any unaltered dog for
10 sale, trade, or adoption shall be required to include a valid unaltered
11 dog license number with the offer of sale, trade, or adoption, or
12 shall otherwise state and establish compliance with this section.
13 The unaltered dog's license number, and any microchip number
14 for the dog, shall appear on the document transferring ownership
15 of the dog to the new owner. License and microchip numbers must
16 appear on a document transferring the animal to the new owner.

17 (h) An owner or custodian of an unaltered cat shall notify the
18 licensing agency of the name and address of the transferee within
19 10 days after the transfer. Any microchip number for the cat shall
20 appear on a document transferring ownership of the cat to the new
21 owner.

22 (i) (1) An administrative citation, infraction, or other authorized
23 penalty may be imposed upon an owner or custodian of an
24 unaltered dog or cat for a violation of this section only if the owner
25 or custodian is concurrently cited for another violation under state
26 or local law pertaining to the obligations of a person owning or
27 possessing a dog or cat, including the following:

28 (A) Failure to possess a current canine rabies vaccination of the
29 subject dog.

30 (B) Permitting an owner's dog or cat to roam at large.

31 (C) Failure to license a dog.

32 (D) Leash law violations.

33 (E) Kennel or cattery permit violations.

34 (F) Tethering violations.

35 (G) Maintaining a dog or cat in unhealthy or unsanitary
36 conditions.

37 (H) Failure to provide adequate care for the subject dog or cat
38 in violation of cruelty to animal provisions.

39 (I) Rabies quarantine violations for the subject dog.

1 (J) Operating a business involving the subject dog or cat without
2 a license or state tax ID number.

3 (K) Fighting dog activity in violation of Section 597.5 of the
4 Penal Code.

5 (L) Unlawfully leaving animals unattended in motor vehicles.

6 (M) Failure to take proper care of potentially dangerous,
7 dangerous, or vicious animals.

8 (N) Failure to take proper care of noisy animals.

9 (2) Any owner or custodian of an unaltered dog or cat who is
10 found to be subject to a penalty under paragraph (1) shall be
11 required to spay or neuter the unaltered animal in accordance with
12 this section.

13 (j) If an unaltered dog or cat is impounded pursuant to state or
14 local law, in addition to satisfying applicable requirements for the
15 release of the animal, including, but not limited to, payment of
16 impound fees pursuant to this section, the owner or custodian shall
17 also do one of the following:

18 (1) Provide written proof of the dog's or cat's prior sterilization,
19 if conditions cannot or do not make this assessment obvious to the
20 licensing agency personnel.

21 (2) Have the dog or cat spayed or neutered by a veterinarian
22 associated with the licensing agency at the expense of the owner
23 or custodian. That expense may include additional fees due to any
24 extraordinary care required.

25 (3) Arrange to have the dog or cat spayed or neutered by another
26 veterinarian licensed in this state. The owner or custodian shall
27 pay to the licensing agency the cost to deliver the animal to the
28 chosen veterinarian. The cost to deliver the animal shall be based
29 on the licensing agency's hourly rate established by the Controller.
30 The veterinarian shall complete and return to the licensing agency
31 within 10 days a statement confirming that the dog or cat has been
32 spayed or neutered or is, in fact, incapable of breeding and shall
33 release the dog or cat to the owner or custodian only after the spay
34 or neuter procedure is complete.

35 (4) At the discretion of the licensing agency, the dog or cat may
36 be released to the owner or custodian if he or she signs a statement
37 under penalty of perjury, representing that the dog or cat will be
38 spayed or neutered and that he or she will submit a statement within
39 10 days of the release, signed by the veterinarian, confirming that

1 the dog or cat has been spayed or neutered or is incapable of
2 breeding.

3 (5) Demonstrate that he or she is in compliance with this section.

4 (k) (1) The owner or custodian of the unaltered dog or cat shall
5 be responsible for the costs of impoundment, which shall include
6 daily board costs, vaccination, medication, and any other diagnostic
7 or therapeutic applications as required by this section.

8 (2) The costs of impoundment shall be a lien on the dog or cat,
9 and the unaltered animal shall not be returned to its owner or
10 custodian until the costs are paid.

11 (3) If the owner or custodian of an impounded unaltered animal
12 does not pay the lien against it in full within 14 days, the animal
13 shall be deemed abandoned to the licensing agency in accordance
14 with this section.

15 (l) All costs and fines collected under this section and the fees
16 collected under subdivision (k) shall be paid to the licensing agency
17 for the purpose of defraying the cost of the implementation and
18 enforcement of this section.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution for certain
21 costs that may be incurred by a local agency or school district
22 because, in that regard, this act creates a new crime or infraction,
23 eliminates a crime or infraction, or changes the penalty for a crime
24 or infraction, within the meaning of Section 17556 of the
25 Government Code, or changes the definition of a crime within the
26 meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 However, if the Commission on State Mandates determines that
29 this act contains other costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.