

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 250

Introduced by Senator Florez

February 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 amended, 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 *every dog owner shall secure a license for the dog, as required by state or local law, and that no person may shall 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 any owner or custodian, as defined, of an unaltered dog or cat to have the animal spayed or neutered at 6 months*

of age or older, 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) *Every dog owner shall secure a license for*
- 4 *the dog pursuant to Section 121690 of the Health and Safety Code*
- 5 *or as required by the local licensing agency.*
- 6 (2) No person ~~may~~ shall own, keep, or harbor an unaltered and
- 7 unsprayed dog in violation of this section.
- 8 (2)

(3) An owner or custodian of an unaltered dog shall have the dog spayed or neutered *at six months of age or older*, provide a certificate of sterility, or obtain an unaltered dog license in accordance with this section.

~~(3)~~

(4) This subdivision shall not apply to a dog with a high likelihood, due to age or infirmity, of suffering serious bodily harm or death if spayed or neutered. The owner or custodian shall obtain written confirmation of this fact from a veterinarian licensed in this state. If the dog is able to be ~~safely~~ spayed or neutered at a later date, that date shall be stated in the written confirmation. If the date for spaying or neutering is more than 30 days, the owner or custodian shall apply for an unaltered dog license.

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

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

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

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

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

(2) The licensing agency has ~~received at least two complaints, verified by the agency,~~ *issued one citation verified by the agency pursuant to existing policies and procedures* that the owner, custodian, applicant, or licensee has allowed a dog to be stray or run at large or has otherwise been found to be neglectful of his or her or other animals.

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

(4) The unaltered dog has been adjudicated by a court or an agency of appropriate jurisdiction to be potentially dangerous,

1 dangerous, or vicious, or to be a nuisance within the meaning of
2 the state or local law.

3 (5) Any unaltered dog license held by the applicant has been
4 revoked.

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

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

12 ~~(e) When an unaltered dog license is revoked, the owner or~~
13 ~~custodian of the dog may apply for a new license after a 30-day~~
14 ~~waiting period upon showing that the requirements of this section~~
15 ~~have been met. No part of an unaltered dog license fee is refundable~~
16 ~~when a license is revoked and the applicant shall pay the full fee~~
17 ~~upon reapplication.~~

18 ~~(f)~~

19 (d) The licensing agency shall utilize its existing procedures for
20 any appeal of a denial or revocation of an unaltered dog license,
21 *which appeal procedure may include written notice of the denial*
22 *or revocation and a reasonable opportunity for the owner or*
23 *custodian to respond.*

24 ~~(g)~~

25 (e) An owner or custodian who offers any unaltered dog for
26 sale, trade, or adoption *at the age of four months or the age*
27 *required by the licensing agency* shall be required to include a
28 valid unaltered dog license number with the offer of sale, trade,
29 or adoption, or shall otherwise state and establish compliance with
30 this section. The unaltered dog's license number, and any *existing*
31 microchip number for the dog, shall appear on the document
32 transferring ownership of the dog to the new owner. ~~License and~~
33 ~~microchip numbers must appear on a document transferring the~~
34 ~~animal to the new owner.~~

35 ~~(h)~~

36 (f) An owner or custodian ~~of an unaltered cat~~ *who offers any*
37 *unaltered cat for sale, trade, or adoption* shall notify the licensing
38 agency, *if the jurisdiction requires the licensing of cats*, of the
39 name and address of the transferee within 10 days after the transfer.

Any *existing* microchip number for the cat shall appear on a document transferring ownership of the cat to the new owner.

(i)

(g) (1) An administrative citation, infraction, or other authorized penalty may be imposed upon an owner or custodian of an unaltered dog or cat for a violation of this section only if the owner or custodian is concurrently cited for another violation under state or local law pertaining to the obligations of a person owning or possessing a dog or cat, including, *but not limited to*, the following:

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

(B) Permitting ~~an owner's~~ *the subject* dog or cat to roam at large.

(C) Failure to license ~~a~~ *the subject* dog.

(D) Leash law violations.

(E) Kennel or cattery permit violations.

(F) Tethering violations.

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

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

(I) Rabies quarantine violations for the subject dog.

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

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

(L) Unlawfully leaving animals unattended in ~~motor vehicles~~ *a motor vehicle in violation of Section 597.7 of the Penal Code*.

(M) Failure to ~~take proper care of~~ *comply with local jurisdiction requirements for the keeping of a dog that has been adjudicated by a court or an agency of appropriate jurisdiction to be* potentially dangerous, dangerous, or vicious ~~animals~~.

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

(2) Any owner or custodian of an unaltered dog or cat who is found to be subject to a penalty under paragraph (1) shall be required to spay or neuter the unaltered animal in accordance with this section. *The licensing agency shall utilize its existing procedures for any appeal of this requirement.*

(3) *At the time a citation is issued pursuant to paragraph (1) or (2), the licensing agency may provide the owner or custodian*

1 *information as to the availability of spaying and neutering services*
2 *for free or at a reduced cost.*

3 ~~(j) If an~~

4 *(h) If an unlicensed* unaltered dog or cat is impounded pursuant
5 to state or local law, in addition to satisfying applicable
6 requirements for the release of the animal, including, but not
7 limited to, payment of impound fees pursuant to this section, the
8 owner or custodian shall also do one of the following:

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

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

16 (3) Arrange to have the dog or cat spayed or neutered by another
17 veterinarian licensed in this state. ~~The owner or custodian shall~~
18 ~~pay to the licensing agency the cost to deliver the animal to the~~
19 ~~chosen veterinarian. The cost to deliver the animal shall be based~~
20 ~~on the licensing agency's hourly rate established by the Controller.~~
21 ~~The veterinarian shall complete and return to the licensing agency~~
22 ~~within 10 days a statement confirming that the dog or cat has been~~
23 ~~spayed or neutered or is, in fact, incapable of breeding and shall~~
24 ~~release the dog or cat to the owner or custodian only after the spay~~
25 ~~or neuter procedure is complete.~~

26 (4) At the discretion of the licensing agency, the dog or cat may
27 be released to the owner or custodian if he or she *pays a refundable*
28 *deposit consistent with existing practices and procedures*, or signs
29 a statement under penalty of perjury; representing that the dog or
30 cat will be spayed or neutered and that he or she will submit a
31 statement within 10 days of the release, signed by the veterinarian,
32 confirming that the dog or cat has been spayed or neutered or is
33 incapable of breeding, *or confirming that the veterinarian has*
34 *scheduled the spaying or neutering operation within a reasonable*
35 *time.*

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

37 ~~(k)~~

38 *(i)* (1) The owner or custodian of the unaltered dog or cat shall
39 be responsible for the *established* costs of impoundment, which
40 shall include daily board costs, vaccination, medication, and any

1 other diagnostic or therapeutic applications as required by this
2 section.

3 (2) The costs of impoundment shall be a lien on the dog or cat,
4 and the unaltered animal shall not be returned to its owner or
5 custodian until the costs are paid *or payment arrangements have*
6 *been made*.

7 (3) If the owner or custodian of an impounded unaltered animal
8 does not pay the lien against it in full ~~within 14 days~~ *or make*
9 *payment arrangements within a reasonable time consistent with*
10 *the licensing agency's existing holding policies*, the animal shall
11 be deemed abandoned to the licensing agency in accordance with
12 this section.

13 ~~(h)~~

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

18 (k) *Nothing in this section shall prohibit a local jurisdiction*
19 *from enforcing or enacting local measures that require the spaying*
20 *or neutering of all dogs and cats, and shall not prohibit a local*
21 *jurisdiction from enacting or enforcing other local measures*
22 *pertaining to the obligations of a person owning or possessing a*
23 *dog or cat*.

24 (l) *For the purposes of this section, the following terms have*
25 *the following meanings:*

26 (1) "Licensing agency" *means the municipal city or county*
27 *animal control agency or other entity responsible for enforcing*
28 *laws relating to animals*.

29 (2) "Custodian" *means any person who undertakes the personal*
30 *care and control of a dog or cat, or any person who intentionally*
31 *provides care, security, or sustenance for a dog or cat on the*
32 *person's property for any period exceeding 30 days. "Custodian"*
33 *does not include a licensing agency*.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution for certain
36 costs that may be incurred by a local agency or school district
37 because, in that regard, this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty for a crime
39 or infraction, within the meaning of Section 17556 of the
40 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

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

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