

AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 21, 2009
AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 250

Introduced by Senator Florez

February 24, 2009

An act to add Sections 30804.6 and 31751.4 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 shall own, keep, or harbor, *except as specified*, an ~~unaltered and unspayed~~ *unsterilized* dog, ~~except as specified as defined~~. It would make it unlawful for any person who owns, keeps, or harbors any

~~unspayed or unaltered unsterilized~~ cat, *as defined*, 6 months of age or older to allow or permit that ~~unspayed or unaltered~~ cat to ~~remain outdoors~~ *roam at large*. It would require any owner or custodian, as defined, of an ~~unaltered unsterilized~~ dog to have the animal ~~spayed or neutered~~ *sterilized* at 6 months of age ~~or older~~, or provide a certificate of sterility, *or obtain an unaltered dog license*. It would require an owner or custodian of an ~~unaltered unsterilized~~ cat to have the cat ~~spayed or neutered~~ *sterilized* 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 *or to establish new 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 unsterilized~~ dog or cat for sale, trade, or adoption to meet specified requirements. It would permit ~~an administrative citation, infraction, or other~~ *any* authorized penalty for a violation of certain provisions *relating to dogs* to be imposed only if the owner or custodian is concurrently cited for ~~another~~ *one or more of other specified provisions 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 shall own, keep, or harbor ~~an unaltered and~~
7 ~~unsprayed~~ *unsterilized* dog in violation of this section.

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

12 (4) This subdivision shall not apply to a dog with a high
13 likelihood, due to age or infirmity, of suffering serious bodily harm
14 or death if ~~spayed or neutered~~ *surgically sterilized*. The owner or
15 custodian shall obtain written confirmation of this fact from a
16 veterinarian licensed in this state. If the dog is able to be ~~spayed~~
17 ~~or neutered~~ *sterilized* at a later date, that date shall be stated in the
18 written confirmation. If the date for ~~spaying or neutering~~
19 *sterilization in the written confirmation* is more than 30 days *after*
20 *the date that the owner or custodian receives that confirmation*,
21 the owner or custodian shall apply for an unaltered dog license.

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

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

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

31 ~~(3)~~

32 ~~(2) The owner, custodian, applicant, or licensee has been~~
33 ~~previously cited for violating~~ *violated* a state law, or a city, county,
34 or other local governmental provision relating to the care and
35 control of animals.

36 ~~(4) The unaltered dog has been adjudicated by a court or an~~
37 ~~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)~~

4 (3) Any unaltered dog license held by the applicant has been
5 *revoked for violating a state law, or a city, county, or other local*
6 *government provision relating to the care or control of animals.*

7 ~~(6)~~

8 (4) The license application is discovered to contain a material
9 misrepresentation or omission of fact.

10 (c) The licensing agency shall utilize its existing procedures *or*
11 *may establish procedures* for any appeal of a denial or revocation
12 of an unaltered dog license, which appeal procedure may include
13 written notice of the denial or revocation and a reasonable
14 opportunity for the owner or custodian to respond.

15 (d) An owner or custodian who offers any ~~unaltered~~ *unsterilized*
16 dog for sale, trade, or adoption at four months of age or older or
17 the age required by the licensing agency shall be required to include
18 a valid unaltered dog license number with the offer of sale, trade,
19 or adoption, or shall otherwise state and establish compliance with
20 this section. The unaltered dog’s license number, and any existing
21 microchip number for the dog, shall appear on the document
22 transferring ownership of the dog to the new owner.

23 (e) (1) ~~An administrative citation, infraction, or other~~ *Any*
24 authorized penalty may be imposed upon an owner or custodian
25 of an *unlicensed*, unaltered dog for a violation of this section only
26 if the owner or custodian is concurrently cited ~~for another violation~~
27 ~~under state or local law pertaining to the obligations of a person~~
28 ~~owning or~~

29 ~~possessing a dog~~, for one or more of the following:

- 30 (A) Permitting the subject dog to roam at large.
- 31 (B) Failure to provide adequate care for the subject dog in
32 violation of animal cruelty provisions.
- 33 (C) Rabies quarantine violations for the subject dog.
- 34 (D) Fighting dog activity in violation of Section 597.5 of the
35 Penal Code.
- 36 (E) Failure to comply with the local jurisdiction’s requirements
37 for the keeping of a dog that has been adjudicated by a court or an
38 agency of appropriate jurisdiction to be potentially dangerous,
39 dangerous, or vicious.
- 40 (F) *Failure to possess an unaltered dog license.*

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

6 (3) *Any owner or custodian of an unaltered dog who is lawfully*
7 *using that dog for the pursuit or take of mammals pursuant to*
8 *Section 265 of Title 14 of the California Code of Regulations and*
9 *has lawfully purchased a hunting license as provided in Section*
10 *3031 of the Fish and Game Code is not in violation of*
11 *subparagraph (A) of paragraph (1).*

12 ~~(3)~~

13 (4) At the time a citation is issued pursuant to paragraph (1) or
14 (2), the licensing agency may provide the owner or custodian
15 information as to the availability of ~~spaying and neutering~~
16 *sterilization* services for free or at a reduced cost.

17 (f) If an unlicensed unaltered dog is impounded pursuant to state
18 or local law, in addition to satisfying applicable requirements for
19 the release of the animal, including, but not limited to, payment
20 of impound fees pursuant to this section, the owner or custodian
21 shall also do one of the following:

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

25 (2) Have the dog ~~spayed or neutered~~ *surgically sterilized* by a
26 veterinarian associated with the licensing agency at the expense
27 of the owner or custodian. That expense may include additional
28 fees due to any extraordinary care required.

29 (3) Arrange to have the dog ~~spayed or neutered~~ *surgically*
30 *sterilized* by another veterinarian licensed in this state.

31 (4) At the discretion of the licensing agency, the dog may be
32 released to the owner or custodian if he or she pays a refundable
33 deposit consistent with existing practices and procedures, or signs
34 a statement under penalty of perjury representing that the dog will
35 ~~be spayed or neutered~~ *surgically sterilized* and that he or she will
36 submit a statement by the deadline set by the licensing agency,
37 but in no case less than 10 days after the release, signed by the
38 veterinarian, confirming that the dog has been ~~spayed or neutered~~
39 *surgically sterilized* or is incapable of breeding, or confirming that

1 the veterinarian has scheduled the ~~spaying or neutering~~ operation
2 within a reasonable time.

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

4 (g) ~~(4)~~ The owner or custodian of the unaltered dog shall be
5 responsible for the established costs of impoundment, which shall
6 include daily board costs, vaccination, medication, and any other
7 diagnostic or therapeutic applications as required by this section.
8 *The owner or custodian shall comply with any additional*
9 *impoundment procedures.*

10 ~~(2) The costs of impoundment shall be a lien on the dog, and~~
11 ~~the unaltered animal shall not be returned to its owner or custodian~~
12 ~~until the costs are paid or payment arrangements have been made.~~

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

18 (h) All costs and fines collected under this section and the fees
19 collected under subdivision (g) shall be paid to the licensing agency
20 for the purpose of defraying the cost of the implementation and
21 enforcement of this section.

22 (i) Nothing in this section shall prohibit a local jurisdiction from
23 enforcing or enacting local measures that require the spaying or
24 neutering of all dogs, and this section shall not prohibit a local
25 jurisdiction from enacting or enforcing other local measures
26 pertaining to the obligations of a person owning or possessing a
27 dog.

28 (j) For the purposes of this section, the following terms have
29 the following meanings:

30 (1) "Licensing agency" means the municipal city or county
31 animal control agency or other entity responsible for enforcing
32 laws relating to animals.

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

38 (3) "*Sterilize*" means *to permanently eliminate the ability of a*
39 *dog to reproduce by removing the sex organs or prohibiting their*
40 *functions.*

1 SEC. 2. Section 31751.4 is added to the Food and Agricultural
2 Code, to read:

3 31751.4. (a) (1) It is unlawful for any person who owns, keeps,
4 or harbors any ~~unspayed or unaltered~~ *unsterilized* cat six months
5 of age or older to allow or permit that ~~unspayed or unaltered~~
6 *unsterilized* cat to ~~remain outdoors~~ *roam at large*.

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

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

17 (b) An owner or custodian who offers any ~~unaltered~~ *unsterilized*
18 cat for sale, trade, or adoption shall notify the licensing agency, if
19 the jurisdiction requires the licensing of cats, of the name and
20 address of the transferee within 10 days after the transfer. Any
21 existing microchip number for the cat shall appear on a document
22 transferring ownership of the cat to the new owner.

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

29 ~~(A) Permitting the subject cat to roam at large.~~

30 ~~(B) Failure to provide adequate care for the subject cat in~~
31 ~~violation of animal cruelty provisions.~~

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

37 ~~(3) At the time at which a citation is issued pursuant to paragraph~~
38 ~~(1) or (2), the licensing agency may provide to the owner or~~
39 ~~custodian information as to the availability of spaying and~~
40 ~~neutering services for free or at a reduced cost.~~

1 ~~(d)~~

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

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

10 (2) Have the cat ~~spayed or neutered~~ *surgically sterilized* by a
11 veterinarian associated with the licensing agency at the expense
12 of the owner or custodian. That expense may include additional
13 fees due to any extraordinary care required.

14 (3) Arrange to have the cat ~~spayed or neutered~~ *surgically*
15 *sterilized* by another veterinarian licensed in this state.

16
17 ~~(4)~~

18 (4) At the discretion of the licensing agency, the cat may be
19 released to the owner or custodian if he or she pays a refundable
20 deposit consistent with existing practices and procedures, or signs
21 a statement under penalty of perjury representing that the cat will
22 be ~~spayed or neutered~~ *surgically sterilized* and that he or she will
23 submit a statement by the deadline set by the licensing agency,
24 but in no case less than 10 days after the release, signed by the
25 veterinarian, confirming that the cat has been ~~spayed or neutered~~
26 *surgically sterilized* or is incapable of breeding, or confirming that
27 the veterinarian has scheduled the ~~spaying or neutering~~ operation
28 within a reasonable time.

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

30 ~~(e) (1)~~

31 (d) The owner or custodian of the unaltered cat shall be
32 responsible for the established costs of impoundment, which shall
33 include daily board costs, vaccination, medication, and any other
34 diagnostic or therapeutic applications as required by this section.
35 *The owner or custodian shall comply with any additional*
36 *impoundment procedures.*

37 ~~(2) The costs of impoundment shall be a lien on the cat, and the~~
38 ~~unaltered animal shall not be returned to its owner or custodian~~
39 ~~until the costs are paid or payment arrangements have been made.~~

1 ~~(3) If the owner or custodian of an impounded unaltered animal~~
 2 ~~does not pay the lien against it in full or make payment~~
 3 ~~arrangements within a reasonable time consistent with the licensing~~
 4 ~~agency's existing holding policies, the animal shall be deemed~~
 5 ~~abandoned to the licensing agency in accordance with this section.~~

6 ~~(f)~~

7 (e) All costs and fines collected under this section and the fees
 8 collected under subdivision (e) shall be paid to the licensing agency
 9 for the purpose of defraying the cost of the implementation and
 10 enforcement of this section.

11 ~~(g)~~

12 (f) Nothing in this section shall prohibit a local jurisdiction from
 13 enforcing or enacting local measures that require the spaying or
 14 neutering of all cats, and this section shall not prohibit a local
 15 jurisdiction from enacting or enforcing other local measures
 16 pertaining to the obligations of a person owning or possessing a
 17 cat.

18 ~~(h)~~

19 (g) For the purposes of this section, the following terms have
 20 the following meanings:

21 (1) "Custodian" means any person who undertakes the personal
 22 care and control of a cat, or any person who intentionally provides
 23 care, security, or sustenance for a cat on the person's property for
 24 any period exceeding 30 days. "Custodian" does not include a
 25 licensing agency.

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

29 (3) "*Sterilize*" means to permanently eliminate the ability of a
 30 cat to reproduce by removing the sex organs or prohibiting their
 31 functions.

32 SEC. 3. No reimbursement is required by this act pursuant to
 33 Section 6 of Article XIII B of the California Constitution for certain
 34 costs that may be incurred by a local agency or school district
 35 because, in that regard, this act creates a new crime or infraction,
 36 eliminates a crime or infraction, or changes the penalty for a crime
 37 or infraction, within the meaning of Section 17556 of the
 38 Government Code, or changes the definition of a crime within the
 39 meaning of Section 6 of Article XIII B of the California
 40 Constitution.

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

O