

AMENDED IN SENATE MAY 28, 2009

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 unsterilized dog, as defined. It would make it unlawful for any person who owns, keeps, or

harbors any unsterilized cat, as defined, 6 months of age or older to allow or permit that cat to roam at large. It would require any owner or custodian, as defined, of an unsterilized dog to have the animal sterilized at 6 months of age, ~~provide obtain~~ a certificate of sterility, or, *if provided by local ordinance*, obtain an unaltered dog license. It would require an owner or custodian of an unsterilized cat *who permits that cat to roam at large* to have the cat sterilized or ~~provide obtain~~ 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. *The bill would authorize the licensing agency to assess a fee for the procedures related to the issuance, denial, or revocation of an unaltered dog license.*

This bill would require an owner or custodian who offers any unsterilized dog or cat for sale, trade, or adoption to meet specified requirements. It would permit 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 violation of one or more of other specified provisions. 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.~~

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 30804.6 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* unsterilized dog in
7 violation of this section.

8 (3) An owner or custodian of an unsterilized dog shall have the
9 dog sterilized by the age of six months, ~~provide~~ *obtain* a certificate
10 of sterility, or, *if provided for by ordinance of the responsible city,*
11 *county, or city and county,* obtain an unaltered dog license in
12 accordance with this section.

13 (4) This subdivision shall not apply to a dog with a high
14 likelihood, due to age or infirmity, of suffering serious bodily harm
15 or death if surgically sterilized. The owner or custodian shall obtain
16 written confirmation of this fact from a veterinarian licensed in
17 this state. If the dog is able to be sterilized at a later date, that date
18 shall be stated in the written confirmation. If the date for
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 *pursuant to any applicable city, city and county, or county*
23 *ordinance.*

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

26 *(b) The licensing agency shall utilize its existing procedures or*
27 *may establish procedures for the denial or revocation of an*
28 *unaltered dog license and may deny or revoke a license for one*
29 *or more of the following reasons:*

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

1 (2) The owner, custodian, applicant, or licensee has violated a
2 state law, or a city, county, or other local governmental provision
3 relating to the care and control of animals.

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

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

14 (d) *The licensing agency may assess a fee for the procedures*
15 *related to the issuance, denial, or revocation of an unaltered dog*
16 *license consistent with this chapter.*

17 ~~(d)~~

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

26 ~~(e)~~

27 (f) (1) Any authorized penalty may be imposed upon an owner
28 or custodian of an unlicensed, unaltered dog for a violation of this
29 section only if the owner or custodian is concurrently cited for one
30 or more of the following:

31 (A) Permitting the subject dog to roam at large.

32 (B) Failure to provide adequate care for the subject dog in
33 violation of animal cruelty provisions.

34 (C) Rabies quarantine violations for the subject dog.

35 (D) Fighting dog activity in violation of Section 597.5 of the
36 Penal Code.

37 (E) Failure to comply with the local jurisdiction's requirements
38 for the keeping of a dog that has been adjudicated by a court or an
39 agency of appropriate jurisdiction to be potentially dangerous,
40 dangerous, or vicious.

1 (F) Failure to possess an unaltered dog license.

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

8 (3) Any owner or custodian of an unaltered dog who is lawfully
9 using that dog for the pursuit or ~~take~~ *taking* of mammals pursuant
10 to Section 265 of Title 14 of the California Code of Regulations
11 *or for the lawful pursuit or taking of migratory game birds, game*
12 *birds, ducks, and other permitted water fowl* and has lawfully
13 purchased a hunting license as provided in Section 3031 of the
14 Fish and Game Code ~~is not~~ *shall not be* in violation of
15 subparagraph (A) of paragraph (1).

16 (4) At the time a citation is issued pursuant to paragraph (1) or
17 (2), the licensing agency may provide the owner or custodian
18 information as to the availability of sterilization services for free
19 or at a reduced cost.

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

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

28 (2) Have the dog surgically sterilized by a veterinarian
29 associated with the licensing agency at the expense of the owner
30 or custodian. That expense may include additional fees due to any
31 extraordinary care required.

32 (3) Arrange to have the dog surgically sterilized by another
33 veterinarian licensed in this state.

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

1 confirming that the dog has been surgically sterilized or is
2 incapable of breeding, or confirming that the veterinarian has
3 scheduled the operation within a reasonable time.

4 (g) 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 (h) All costs and fines collected under this section and the fees
11 collected under subdivision (g) shall be paid to the licensing agency
12 for the purpose of defraying the cost of the implementation and
13 enforcement of this section.

14 (i) Nothing in this section shall prohibit a local jurisdiction from
15 enforcing or enacting local measures that require the spaying or
16 neutering of all dogs, and this section shall not prohibit a local
17 jurisdiction from enacting or enforcing other local measures
18 pertaining to the obligations of a person owning or possessing a
19 dog.

20 (j) For the purposes of this section, the following terms have
21 the following meanings:

22 (1) “Licensing agency” means the municipal city or county
23 animal control agency or other entity responsible for enforcing
24 laws relating to animals.

25 (2) “Custodian” means any person who undertakes the personal
26 care and control of a dog, or any person who intentionally provides
27 care, security, or sustenance for a dog on the person’s property for
28 any period exceeding 30 days. “Custodian” does not include a
29 licensing agency.

30 (3) “Sterilize” means to permanently eliminate the ability of a
31 dog to reproduce by removing the sex organs or ~~prohibiting their~~
32 ~~functions preventing them from functioning.~~

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

35 31751.4. (a) (1) It is unlawful for any person who owns, keeps,
36 or harbors any unsterilized cat six months of age or older to allow
37 or permit that unsterilized cat to roam at large.

38 (2) An owner or custodian of an unsterilized cat *who permits*
39 *that cat to roam at large* shall have the animal sterilized, or ~~provide~~
40 *obtain* a certificate of sterility.

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

7 (b) An owner or custodian who offers any unsterilized cat for
8 sale, trade, or adoption shall notify the licensing agency, if the
9 jurisdiction requires the licensing of cats, of the name and address
10 of the transferee within 10 days after the transfer. Any existing
11 microchip number for the cat shall appear on a document
12 transferring ownership of the cat to the new owner.

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

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

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

25 (3) Arrange to have the cat surgically sterilized by another
26 veterinarian licensed in this state.

27 (4) At the discretion of the licensing agency, the cat may be
28 released to the owner or custodian if he or she pays a refundable
29 deposit consistent with existing practices and procedures, or signs
30 a statement under penalty of perjury representing that the cat will
31 be surgically sterilized and that he or she will submit a statement
32 by the deadline set by the licensing agency, but in no case less
33 than 10 days after the release, signed by the veterinarian,
34 confirming that the cat has been surgically sterilized or is incapable
35 of breeding, or confirming that the veterinarian has scheduled the
36 operation within a reasonable time.

37 (d) The owner or custodian of the unaltered cat shall be
38 responsible for the established costs of impoundment, which shall
39 include daily board costs, vaccination, medication, and any other
40 diagnostic or therapeutic applications as required by this section.

1 The owner or custodian shall comply with any additional
2 impoundment procedures.

3 (e) All costs and fines collected under this section and the fees
4 collected under subdivision (e) shall be paid to the licensing agency
5 for the purpose of defraying the cost of the implementation and
6 enforcement of this section.

7 (f) Nothing in this section shall prohibit a local jurisdiction from
8 enforcing or enacting local measures that require the spaying or
9 neutering of all cats, and this section shall not prohibit a local
10 jurisdiction from enacting or enforcing other local measures
11 pertaining to the obligations of a person owning or possessing a
12 cat.

13 (g) For the purposes of this section, the following terms have
14 the following meanings:

15 (1) “Custodian” means any person who undertakes the personal
16 care and control of a cat, or any person who intentionally provides
17 care, security, or sustenance for a cat on the person’s property for
18 any period exceeding 30 days. “Custodian” does not include a
19 licensing agency.

20 (2) “Licensing agency” means the municipal city or county
21 animal control agency or other entity responsible for enforcing
22 laws relating to animals.

23 (3) “Sterilize” means to permanently eliminate the ability of a
24 cat to reproduce by removing the sex organs or ~~prohibiting their~~
25 ~~functions preventing them from functioning.~~

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

35 However, if the Commission on State Mandates determines that
36 this act contains other costs mandated by the state, reimbursement
37 to local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code.

1 *SECTION 3. No reimbursement is required by this act pursuant*
2 *to Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

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