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AMENDED IN ASSEMBLY AUGUST 31, 2009

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

(Principal Coauthor: Assembly Member Blumenfield)

(Coauthors: Assembly Members Nava and Solorio)

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, obtain a certificate of sterility, or, if provided by local ordinance, obtain an unaltered dog license, which license shall be defined and issued as specified. *The requirement to sterilize the dog may be appealed, as specified.* 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 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, *as specified.* 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 has concurrently violated one or more of other specified provisions. It would permit the licensing agency to impose any existing fine or penalty against the owner or custodian of an unaltered dog or cat if the owner or custodian fails to provide required sterilization information about the unaltered dog *or cat* or against an owner or custodian who surrenders an unaltered dog or cat if the owner or custodian fails to otherwise comply with applicable provisions. The bill would permit the licensing agency to *also* impose a penalty of up to \$100 per day against the owner or custodian of an unaltered cat who fails to provide required sterilization information. 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, which may include specified costs, unless the fees are waived, as specified. 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. The bill would not be applicable to any owner or breeder of a dog used in the business of shepherding, herding, or guarding livestock, or cultivating agricultural products, to any owner or breeder of a dog used for hunting or for the purposes of field trials, or to any owner or trainer of a guide dog, signal dog, service dog, peace officer’s dog, or firefighter’s dog, as defined, provided the dog is licensed, as specified, and the owner or breeder has purchased any required hunting license. The bill would provide that its provisions shall not be construed to prevent any local governing body from adopting more stringent requirements. By creating new crimes, 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 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 30801, Section 121690 of the Health
5 and Safety Code, 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, obtain a certificate of
10 sterility, or, as 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. The responsible city, county, or city
13 and county shall issue the unaltered dog license consistent with
14 Section 30804.5.

15 (4) This subdivision shall not apply to a dog with a high
16 likelihood, due to age or infirmity, of suffering serious bodily harm
17 or death if surgically sterilized. The owner or custodian shall obtain
18 written confirmation of this fact from a veterinarian licensed in

1 this state. If the dog is able to be sterilized at a later date, that date
2 shall be stated in the written confirmation. If the date for
3 sterilization in the written confirmation is more than 30 days after
4 the date that the owner or custodian receives that confirmation,
5 the owner or custodian shall apply for an unaltered dog license
6 pursuant to any applicable city, city and county, or county
7 ordinance.

8 (b) The licensing agency shall utilize its existing procedures or
9 may establish procedures for the denial or revocation of an
10 unaltered dog license and may deny or revoke a license for one or
11 more of the following reasons:

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

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

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

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

22 (5) In any case in which the owner or custodian of a dog with
23 an unaltered dog license is cited for permitting the dog to roam at
24 large, the license of the dog shall not be subject to revocation for
25 a first violation, if at the time the dog roams at large the dog
26 possesses a current license pursuant to Section 30801, Section
27 121690 of the Health and Safety Code, or as required by the local
28 licensing agency.

29 (c) The licensing agency shall utilize its existing procedures or
30 may establish procedures for any appeal of a denial or revocation
31 ~~of an unaltered dog license, which appeal procedure may include~~
32 ~~written notice of the denial or revocation and a reasonable~~
33 ~~opportunity for the owner or custodian to respond.~~ *of an unaltered*
34 *dog license. The appeal procedures shall be consistent with those*
35 *provided in Sections 31622 to 31624, inclusive.*

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

39 (e) An owner or custodian who offers any unsterilized dog for
40 sale, trade, or adoption shall notify the licensing agency of the

1 name and address of the transferee within 10 days after the transfer.
2 Any existing unaltered dog's license number and microchip number
3 for the dog shall appear on the document transferring ownership
4 of the dog to the new owner.

5 (f) (1) Any authorized penalty may be imposed upon an owner
6 or custodian of an unlicensed, unaltered dog for a violation of this
7 section only if the owner or custodian has concurrently violated
8 one or more of the following:

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

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

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

13 (D) Fighting dog activity in violation of Section 597.5 of the
14 Penal Code.

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

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

20 (2) Any owner or custodian of an unaltered dog who is found
21 to be subject to a penalty under paragraph (1) shall be required to
22 surgically sterilize the unaltered animal in accordance with this
23 section and shall provide the licensing agency written verification
24 from a licensed veterinarian that the subject dog has been ~~sterilized~~.
25 ~~The licensing agency may utilize procedures as they exist on the~~
26 ~~effective date of this section for any appeal of this requirement.~~
27 *sterilized. The owner or custodian may appeal the penalty pursuant*
28 *to procedures established by the city or county, as applicable, or,*
29 *if the local government has not provided for an administrative*
30 *hearing procedure, the superior court of the jurisdiction where*
31 *the violation is alleged to have been committed. The appeal*
32 *procedures shall be consistent with those provided in Sections*
33 *31622 to 31624, inclusive.*

34 (3) At the time a citation is issued pursuant to paragraph (1) or
35 (2), the licensing agency may provide the owner or custodian
36 information as to the availability of sterilization services for free
37 or at a reduced cost. *The licensing agency may waive the fines or*
38 *fees associated with the penalties under paragraph (1) if the owner*
39 *or custodian qualifies to be placed on a waiting list for free or*
40 *low-cost sterilization services.*

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

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

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

13 (3) Have the dog surgically sterilized by another veterinarian
14 licensed in this state.

15 (4) At the discretion of the licensing agency, the dog may be
16 released to the owner or custodian if he or she pays a refundable
17 deposit consistent with existing practices and procedures, or signs
18 a statement under penalty of perjury representing that the dog will
19 be surgically sterilized and that he or she will submit a statement
20 by the deadline set by the licensing agency, but in no case less
21 than 10 days after the release, signed by the veterinarian,
22 confirming that the dog has been surgically sterilized or is
23 incapable of breeding.

24 (5) The licensing agency may, at its discretion, waive any
25 impoundment fee, cost, or fine, if upon the first impoundment the
26 owner or custodian of the unlicensed unaltered dog does both of
27 the following:

28 (A) Secures a license for the subject dog pursuant to Section
29 30801, Section 121690 of the Health and Safety Code, or as
30 required by the local licensing agency.

31 (B) Sterilizes the subject dog in accordance with this section.

32 (h) The licensing agency may impose any existing fine or
33 penalty, consistent with this chapter, against the owner or custodian
34 of the subject dog for failure to provide any required sterilization
35 information, including any denial of an unaltered license. The
36 licensing agency may utilize procedures as they exist on the
37 effective date of this section *that are consistent with Sections 31622*
38 *to 31624, inclusive*, for any appeal of this requirement.

39 (i) The owner or custodian of the unaltered dog shall be
40 responsible for the established costs of impoundment, which may

1 include daily board costs, vaccination, medication, and any other
2 diagnostic or therapeutic applications as required by this section.
3 The owner or custodian shall comply with any additional
4 impoundment procedures. Any fee that may be imposed pursuant
5 to subdivision (h) shall be applicable to an owner or custodian who
6 surrenders a dog that is subject to this section, if the owner or
7 custodian fails to otherwise comply with applicable provisions of
8 this section.

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

13 (k) This section shall not be construed to prevent any local
14 governing body from adopting requirements that are more stringent
15 than those set forth in this section.

16 (l) Nothing in this section shall apply to any of the following,
17 provided the subject dog is licensed pursuant to Section 30801,
18 Section 121690 of the Health and Safety Code, or as required by
19 the local licensing agency:

20 (1) Any owner or breeder of a dog used in the business of
21 shepherding, herding, or guarding livestock.

22 (2) Any owner or breeder of a dog used in the business of
23 cultivating agricultural products.

24 (3) Any owner or breeder of a dog used for hunting or for
25 purposes of field trials, provided the owner or breeder has lawfully
26 purchased a hunting license as provided in Section 3031 of the
27 Fish and Game Code.

28 (4) Any owner or trainer of a guide dog, signal dog, or service
29 dog, as defined in subdivisions (d), (e), and (f) of Section 365.5
30 of the Penal Code or Section 54.1 of the Civil Code.

31 (5) Any owner or trainer of a peace officer's or firefighter's
32 dog, as defined in Section 54.25 of the Civil Code.

33 (m) For the purposes of this section, the following terms have
34 the following meanings:

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

38 (2) "Custodian" means any person who undertakes the personal
39 care and control of a dog, or any person who intentionally provides
40 care, security, or sustenance for a dog on the person's property for

1 any period exceeding 30 days. “Custodian” does not include a
2 licensing agency.

3 (3) “Sterilize” means to permanently eliminate the ability of a
4 dog to reproduce by removing the sex organs or preventing them
5 from functioning.

6 (4) “Unaltered dog license” means a dog license that must be
7 issued at full cost by the licensing agency pursuant to Section
8 30801 unless a certificate is presented from a licensed veterinarian
9 that establishes that the dog has been sterilized.

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

12 31751.4. (a) (1) It is unlawful for any person who owns, keeps,
13 or harbors any unsterilized cat six months of age or older to allow
14 or permit that unsterilized cat to roam at large.

15 (2) An owner or custodian of an unsterilized cat who permits
16 that cat to roam at large shall have the animal sterilized, or obtain
17 a certificate of sterility.

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

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

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

35 (1) Provide written proof of the cat’s prior sterilization, if
36 conditions cannot or do not make this assessment obvious to the
37 licensing agency personnel.

38 (2) Have the cat surgically sterilized by a veterinarian associated
39 with the licensing agency at the expense of the owner or custodian.

1 That expense may include additional fees due to any extraordinary
2 care required.

3 (3) Have the cat surgically sterilized by another veterinarian
4 licensed in this state.

5 (4) At the discretion of the licensing agency, the cat may be
6 released to the owner or custodian if he or she pays a refundable
7 deposit consistent with existing practices and procedures, or signs
8 a statement under penalty of perjury representing that the cat will
9 be surgically sterilized and that he or she will submit a statement
10 by the deadline set by the licensing agency, but in no case less
11 than 10 days after the release, signed by the veterinarian,
12 confirming that the cat has been surgically sterilized or is incapable
13 of breeding.

14 (d) If an owner or custodian is required to have the cat surgically
15 sterilized pursuant to subdivision (c), the owner or custodian shall
16 provide the licensing agency written verification from a licensed
17 veterinarian that the subject cat has been sterilized. The licensing
18 agency may impose a penalty pursuant to Section 30804.7 not to
19 exceed one hundred dollars (\$100) per day, in addition to any other
20 existing penalty which may be imposed consistent with this chapter,
21 against the owner or custodian if the owner or custodian fails to
22 provide the required sterilization information. The licensing agency
23 may utilize procedures as they exist on the effective date of this
24 section *that are consistent with Sections 31622 to 31624, inclusive,*
25 for any appeal of this requirement.

26 (e) The owner or custodian of the unaltered cat shall be
27 responsible for the established costs of impoundment, which may
28 include daily board costs, vaccination, medication, and any other
29 diagnostic or therapeutic applications as required by this section.
30 The owner or custodian shall comply with any additional
31 impoundment procedures. Any fee that may be imposed pursuant
32 to this section shall be applicable to an owner or custodian who
33 surrenders a cat that is subject to this section if the owner or
34 custodian fails to otherwise comply with applicable provisions of
35 this section.

36 (f) All costs and fines collected under this section and the fees
37 collected under subdivision (e) shall be paid to the licensing agency
38 for the purpose of defraying the cost of the implementation and
39 enforcement of this section.

1 (g) This section shall not be construed to prevent any local
2 governing body from adopting requirements that are more stringent
3 than those set forth in this section.

4 (h) For the purposes of this section, the following terms have
5 the following meanings:

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

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

14 (3) “Sterilize” means to permanently eliminate the ability of a
15 cat to reproduce by removing the sex organs or preventing them
16 from functioning.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.