

AMENDED IN ASSEMBLY MARCH 24, 1998

AMENDED IN ASSEMBLY MARCH 19, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1856**

**Introduced by Assembly Member Vincent**

February 13, 1998

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An act to amend Sections 30503 and 31751 of, to add Sections 30503.5 and 31751.1 to, and to repeal and add Sections 30804.5 and 31751.5 of, the Food and Agricultural Code, relating to dogs and cats.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Vincent. Dogs and cats: overpopulation: spaying and neutering.

(1) Existing law prohibits each public pound, society for the prevention of cruelty to animals shelter, and humane shelter from selling or giving away any dog or cat that has not been spayed or neutered, unless a \$40 deposit for spaying or neutering the dog or a \$30 deposit for neutering the cat has been tendered, as prescribed.

This bill would apply that prohibition also to breeders, pet shops, *rescue groups*, and individuals, except as specified. The bill would revise the provisions governing the payment of a deposit to prohibit the spaying or neutering of a dog or cat that is under the age of 8 weeks or is too sick or injured to be spayed or neutered, and would require the deposit of \$75 under those circumstances. The bill would require that the funds from

unclaimed deposits be expended only for spaying or neutering programs.

The bill would require any person who intends to sell a dog or cat that has not been spayed or neutered to verify that the purchaser is in compliance with all applicable state and local breeding laws, regulations, and ordinances. The bill would allow a city or county animal control agency to establish a program for the registration of breeders, and would authorize the imposition of fees on breeders for that purpose.

The bill would require a dog or cat that is impounded by an animal control agency, society for the prevention of cruelty to animals, or humane society to be spayed or neutered prior to being released, as specified, thereby imposing a state-mandated local program by imposing new duties on local agencies. The bill would immunize a city or county from an action by the owner of a dog or cat for spaying or neutering the dog or cat in accordance with the bill.

The bill would make related changes.

The bill would provide that certain violations of the bill would be an infraction *and that the 10th violation would be a misdemeanor*, thereby imposing a state-mandated local program by creating a new crime.

(2) 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 specified reasons.

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. (a) The Legislature finds and declares  
2 that overpopulation of dogs and cats in California is a  
3 problem of great public concern. The overpopulation  
4 causes public health problems, adversely affects city and  
5 county animal control departments, and results in  
6 needlessly euthanized dogs and cats.



1 (b) It is the intent of the Legislature, by enacting this  
2 legislation, to reduce the number of unwanted dogs and  
3 cats in California. In order to reduce the number of stray  
4 dogs and cats on the streets, and the number euthanized  
5 in shelters each year, the birth rate must be reduced.  
6 Although the point may seem obvious, humans generally  
7 give birth to a single offspring, while dogs and cats give  
8 birth to litters. Additionally, dogs and cats reach sexual  
9 maturity relatively young and their gestation periods are  
10 comparatively short. The single most effective  
11 prevention of overpopulation among canine and feline  
12 populations is spaying and neutering.

13 (c) Current law has certain requirements for spaying  
14 and neutering, but overpopulation problems still exist  
15 because there are too many exemptions in current law. It  
16 is the intent of the Legislature, in enacting this act, to  
17 eliminate the exemptions and make it more difficult for  
18 unaltered animals to roam free and reproduce.

19 SEC. 2. Section 30503 of the Food and Agricultural  
20 Code is amended to read:

21 30503. (a) Except as otherwise provided in  
22 subdivisions (b)—and—(e), (c), and (f), or a transaction  
23 subject to Section 30503.5, no public pound, society for the  
24 prevention of cruelty to animals shelter, humane shelter,  
25 breeder, pet shop, *rescue group*, or individual shall sell or  
26 give away any dog that has not been spayed or neutered.

27 (b) No dog under the age of eight weeks shall be  
28 spayed or neutered. If a dog of less than eight weeks of age  
29 is to be adopted, in lieu of spaying or neutering the  
30 adopter shall pay the public pound, society for the  
31 prevention of cruelty to animals shelter, humane shelter,  
32 breeder, *rescue group*, or pet shop a deposit of  
33 seventy-five dollars (\$75). No deposit is required if the  
34 dog is obtained from an individual. If the adopter, within  
35 two months after the dog's eight-week birthday, presents  
36 proof that the dog has been spayed or neutered, the  
37 deposit shall be refunded. If the adopter so chooses, the  
38 dog may be returned to the public pound, society for the  
39 prevention of cruelty to animals shelter, humane shelter,  
40 breeder, *rescue group*, or pet shop where the dog was



1 obtained, and that entity or person shall spay or neuter  
2 the dog and keep the deposit as payment.

3 (c) No dog that is too sick or injured to be spayed or  
4 neutered, as certified by a veterinarian licensed to  
5 practice veterinary medicine in the state, shall be spayed  
6 or neutered. If a dog that is too sick or injured to be spayed  
7 or neutered is to be adopted, in lieu of spaying or  
8 neutering the adopter shall pay the public pound, society  
9 for the prevention of cruelty to animals shelter, humane  
10 shelter, breeder, *rescue group*, or pet shop a deposit of  
11 seventy-five dollars (\$75). No deposit is required if the  
12 dog is obtained from an individual. If the adopter later  
13 presents proof of spay or neuter, the deposit shall be  
14 refunded. If the adopter so chooses, the dog may be  
15 returned to the public pound, society for the prevention  
16 of cruelty to animals shelter, humane shelter, breeder,  
17 *rescue group*, or pet shop where the dog was obtained,  
18 and that entity or person shall spay or neuter the dog and  
19 keep the deposit as payment.

20 (d) The sale or donation of a dog in violation of this  
21 section by a public pound, a society for the prevention of  
22 cruelty to animals shelter, *rescue group*, or a humane  
23 shelter is not subject to Section 31401.

24 (e) *Notwithstanding Section 31410, a violation of this*  
25 *section by an individual or breeder is an infraction*  
26 *punishable by a fine or not more than seventy-five dollars*  
27 *(\$75) for the first offense, one hundred fifty dollars (\$150)*  
28 *for a second offense, two hundred fifty dollars (\$250) for*  
29 *a third offense, and five hundred dollars (\$500) for a*  
30 *fourth to a ninth subsequent offense. After the 10th*  
31 *violation of this section, the violation is a misdemeanor*  
32 *punishable, as provided in Section 19 of the Penal Code.*

33 (f) *This section does not apply to the initial receipt of*  
34 *a dog by a public pound, society for the prevention of*  
35 *cruelty to animals, humane shelter or a rescue group.*

36 (g) Any funds from unclaimed deposits made  
37 pursuant to this section, as it read on January 1, 1998, and  
38 any funds from deposits that are unclaimed after January  
39 1, 1999, may be expended only for programs to spay or  
40 neuter dogs *and cats*, including agreements with a society



1 for the prevention of cruelty to animals or a humane  
2 society to operate a program to spay or neuter dogs.

3 SEC. 3. Section 30503.5 is added to the Food and  
4 Agricultural Code, to read:

5 30503.5. (a) Any person who intends to sell a dog that  
6 has not been spayed or neutered shall verify that the  
7 purchaser is in compliance with all applicable state or  
8 local breeding laws, regulations, and ordinances.

9 (b) A city or county animal control agency may  
10 establish, or enter into a contract with a society for the  
11 prevention of cruelty to animals or a humane society to  
12 establish a program requiring the registration of  
13 breeders, and may impose fees on breeders of dogs for the  
14 administration of that program.

15 SEC. 4. Section 30804.5 of the Food and Agricultural  
16 Code is repealed.

17 SEC. 5. Section 30804.5 is added to the Food and  
18 Agricultural Code, to read:

19 30804.5. (a) A licensed, nonspayed or unneutered  
20 dog that is impounded more than once by a city or county  
21 animal control agency, society for the prevention of  
22 cruelty to animals, or humane society, shall be spayed or  
23 neutered prior to being released back to the owner.

24 (b) An unlicensed, nonspayed or unneutered dog that  
25 is impounded by a city or county animal control agency,  
26 society for the prevention of cruelty to animals, or  
27 humane society, shall be spayed or neutered prior to  
28 being released back to the owner.

29 (c) A city or county is not subject to any civil action by  
30 the owner of a dog that is spayed or neutered in  
31 accordance with this section.

32 SEC. 6. Section 31751 of the Food and Agricultural  
33 Code is amended to read:

34 31751. (a) Except as otherwise provided in  
35 subdivisions (b)—~~and (e)~~, (c), and (e), or a transaction  
36 subject to Section 31751.1, no public pound, society for the  
37 prevention of cruelty to animals shelter, humane shelter,  
38 breeder, pet shop, *rescue group*, or individual shall sell or  
39 give away any cat that has not been spayed or neutered.



1 (b) No cat under the age of eight weeks shall be spayed  
2 or neutered. If a cat of less than eight weeks of age is to  
3 be adopted, in lieu of spaying or neutering the adopter  
4 shall pay the public pound, society for the prevention of  
5 cruelty to animals shelter, humane shelter, breeder,  
6 *rescue group*, or pet shop a deposit of seventy-five dollars  
7 (\$75). No deposit is required if the cat is obtained from  
8 an individual. If the adopter, within two months after the  
9 cat's eight-week birthday, presents proof that the cat has  
10 been spayed or neutered, the deposit shall be refunded.  
11 If the adopter so chooses, the cat may be returned to the  
12 public pound, society for the prevention of cruelty to  
13 animals shelter, humane shelter, breeder, *rescue group*,  
14 or pet shop where the cat was obtained, and that entity  
15 or person shall spay or neuter the cat and keep the deposit  
16 as payment.

17 (c) No cat that is too sick or injured to be spayed or  
18 neutered, as certified by a veterinarian licensed to  
19 practice veterinary medicine in the state, shall be spayed  
20 or neutered. If a cat that is too sick or injured to be spayed  
21 or neutered is to be adopted, in lieu of spaying or  
22 neutering the adopter shall pay the public pound, society  
23 for the prevention of cruelty to animals shelter, humane  
24 shelter, breeder, *rescue group*, or pet shop a deposit of  
25 seventy-five dollars (\$75). No deposit is required if the cat  
26 is obtained from an individual. If the adopter later  
27 presents proof of spay or neuter, the deposit shall be  
28 refunded. If the adopter so chooses, the cat may be  
29 returned to the public pound, society for the prevention  
30 of cruelty to animals shelter, humane shelter, breeder,  
31 *rescue group*, or pet shop where the cat was obtained, and  
32 that entity or person shall spay or neuter the cat and keep  
33 the deposit as payment.

34 ~~(d) A violation of this section by an individual or~~  
35 ~~breeder is an infraction punishable by a fine of not more~~  
36 ~~than fifty dollars (\$50) for a first offense and by a fine of~~  
37 ~~not more than one hundred dollars (\$100) for a second or~~  
38 ~~subsequent offense.~~

39 ~~(e)~~



1 (d) A violation of this section by an individual or  
2 breeder is an infraction punishable by a fine or not more  
3 than seventy-five dollars (\$75) for the first offense, one  
4 hundred fifty dollars (\$150) for a second offense, two  
5 hundred fifty dollars (\$250) for a third offense, and five  
6 hundred dollars (\$500) for a fourth to a ninth subsequent  
7 offense. After the 10th violation of this section, the  
8 violation is a misdemeanor punishable as provided in  
9 Section 19 of the Penal Code.

10 (e) This section does not apply to the initial receipt of  
11 a cat by a public pound, society for the prevention of  
12 cruelty to animals, humane shelter, or a rescue group.

13 (f) Any funds from unclaimed deposits made pursuant  
14 to this section, as it read on January 1, 1998, and any funds  
15 from deposits unclaimed after January 1, 1999, may be  
16 expended only for programs to spay or neuter cats,  
17 including agreements with a society for the prevention of  
18 cruelty to animals or a humane society, to operate a  
19 program to spay or neuter cats *and dogs*.

20 SEC. 7. Section 31751.1 is added to the Food and  
21 Agricultural Code, to read:

22 31751.1. (a) Any person who intends to sell a cat that  
23 has not been spayed or neutered shall verify that the  
24 purchaser is in compliance with all applicable state or  
25 local breeding laws, regulations, and ordinances.

26 (b) A city or county animal control agency may  
27 establish, or enter into a contract with a society for the  
28 prevention of cruelty to animals or a humane society to  
29 establish a program requiring the registration of  
30 breeders, and may impose fees on breeders of cats for the  
31 administration of that program.

32 SEC. 8. Section 31751.5 of the Food and Agricultural  
33 Code is repealed.

34 SEC. 9. Section 31751.5 is added to the Food and  
35 Agricultural Code, to read:

36 31751.5. (a) A licensed, nonspayed or unneutered cat  
37 that is impounded more than once by a city or county  
38 animal control agency, society for the prevention of  
39 cruelty to animals, or humane society, shall be spayed or  
40 neutered prior to being released back to the owner.



1 (b) An unlicensed, nonspayed or unneutered cat that  
2 is impounded by a city or county animal control agency,  
3 society for the prevention of cruelty to animals, or  
4 humane society, shall be spayed or neutered prior to  
5 being released back to the owner.

6 (c) A city or county is not subject to any civil action by  
7 the owner of a cat that is spayed or neutered in  
8 accordance with this section.

9 SEC. 10. No reimbursement is required by this act  
10 pursuant to Section 6 of Article XIII B the California  
11 Constitution because the costs that may be incurred by a  
12 local agency or school district will be incurred because  
13 this act creates a new crime or infraction, eliminates a  
14 crime or infraction, or changes the penalty for a crime or  
15 infraction, within the meaning of Section 17556 of the  
16 Government Code, or changes the definition of a crime  
17 within the meaning of Section 6 of Article XIII B of the  
18 California Constitution or because a local agency or  
19 school district has the authority to levy service charges,  
20 fees, or assessments sufficient to pay for the program or  
21 level of service mandated by this act, within the meaning  
22 of Section 17556 of the Government Code.

23 Notwithstanding Section 17580 of the Government  
24 Code, unless otherwise specified, the provisions of this act  
25 shall become operative on the same date that the act  
26 takes effect pursuant to the California Constitution.

