

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 490

Introduced by Assembly Member Smyth

February 24, 2009

An act to amend Sections 122350 and 122354 of the Health and Safety Code, relating to pet stores.

LEGISLATIVE COUNSEL'S DIGEST

AB 490, as amended, Smyth. Pet stores.

Existing law establishes the Pet Store Animal Care Act, which regulates the care and maintenance of animals in the custody of a pet store, and provides limits on the sale or transfer of those animals. A violation of the act is punishable by a misdemeanor. The act defines a pet store as any retail establishment open to the public and selling or offering for sale animals.

This bill would revise the definition of a pet store to exclude the selling or offering for sale animals for purposes directly related to an agricultural operation for the commercial growing and harvesting of crops or the raising of livestock or poultry on a farm or a ranch.

Under the act, an employee of a pet store may only destroy an animal intended as food for another animal in accordance with a prescribed methodology, provided the employee receives adequate training, as described. The act requires the completion of the employee's training to be documented in writing and retained by the pet store for 2 years.

This bill would, instead, provide that a rodent or rabbit that is intended as food for another animal may be destroyed by a pet store operator or employee only in accordance with specified conditions, and only if the pet store operator or employee is certified, in writing, by a

California-licensed veterinarian, as provided. The certification would be valid for no longer than 3 years, and could be renewed for additional 3-year periods. The pet store operator would be required to retain the certification for 3 years, unless a longer period is otherwise required by law.

By changing the definition of a crime, this bill would create a state-mandated local program.

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 122350 of the Health and Safety Code
2 is amended to read:

3 122350. As used in this act, the following definitions apply:

4 (a) "Adequate space" means sufficient height and sufficient
5 floorspace for the animals to stand up, sit down and turn about
6 freely using normal body movements without the head touching
7 the top of the primary enclosure; lie down with limbs outstretched
8 and exercise normal postural movement, and move about freely
9 as appropriate for the species, age, size, and condition of the
10 animal, and when appropriate, to experience socialization with
11 other animals, if any, in the primary enclosure. However, when
12 freedom of movement would endanger the animal, temporarily
13 and appropriately restricting movement of the animal in a humane
14 manner is permitted.

15 (b) "Animal" means any nonhuman vertebrate species housed,
16 offered for sale or adoption, or both, in the pet store, including,
17 but not limited to, mammals, birds, reptiles, amphibians, fish, and
18 also invertebrates housed, sold, or adopted as pets.

19 (c) "Disposition" means the transfer of an animal from a pet
20 store to another location, including the sale or adoption of the
21 animal, the return of the animal to the person who supplied the
22 animal to the pet store, or removal from the pet store of any animal
23 that is deceased for any reason, including euthanasia.

1 (d) “Enrichment” means providing objects or activities,
2 appropriate with the needs of the species, as well as the age, size,
3 and condition of the animal, that stimulate the animal and promote
4 the animal’s well-being.

5 (e) “Euthanasia” or “euthanize” means the humane destruction
6 of an animal in compliance with the requirements set forth in
7 paragraph (5) of subdivision (b) of Section 122354.

8 (f) “Impervious to moisture” means a surface that prevents the
9 absorption of fluids and that can be thoroughly and repeatedly
10 sanitized, will not retain odors, and from which fluids bead up and
11 run off or can be removed without being absorbed into the surface
12 material.

13 (g) “Intact” means an animal that retains its sexual organs or
14 ability to procreate and has not been sterilized.

15 (h) “Person” means any individual, partnership, firm, joint-stock
16 company, corporation, association, trust, estate, or other legal
17 entity.

18 (i) “Pet store” means a retail establishment open to the public
19 and selling or offering for sale animals for purposes that are not
20 directly related to an agricultural operation for the commercial
21 growing and harvesting of crops or the raising of livestock or
22 poultry on a farm or a ranch. Any person who sells, exchanges, or
23 otherwise transfers only animals that were bred or raised, or both,
24 by the person, or sells or otherwise transfers only animals kept
25 primarily for reproduction, shall be considered a breeder and not
26 a pet store.

27 (j) “Pet store operator” or “operator” means a person who owns
28 or operates a pet store, or both.

29 (k) “Primary enclosure” means any structure used to
30 immediately restrict an animal or animals to a limited amount of
31 space, such as a room, pen, cage, aquarium, terrarium, habitat
32 compartment or hutch, where the animal or animals reside until
33 their sale, transfer, or other disposition.

34 (l) “Rodent” means an animal of the order Rodentia, such as a
35 guinea pig, rat, mouse, chinchilla, or hamster.

36 (m) “Sanitize” means to make physically clean and to destroy,
37 to the extent practical, agents injurious to health.

38 (n) “Temporary enclosure” means a confined space used by the
39 pet store to house an animal when the animal is not in its primary
40 enclosure for a period not to exceed four consecutive hours. The

1 temporary enclosure shall allow the animals to stand up, lie down,
2 and turn around. Any enclosure used by the pet store to house an
3 animal for longer than four consecutive hours shall meet the
4 requirements of a primary enclosure.

5 (o) "Time of sale" means the calendar date the retail purchaser
6 removes the animal from the premises of the pet store following
7 the retail sale of that animal.

8 (p) "Transfer" means the release of an animal by its owner to
9 another person by sale, gift, adoption, or other disposition,
10 including the exchange of animals between pet stores.

11 (q) "Veterinary treatment" means treatment by or at the direction
12 of a California-licensed veterinarian.

13 SEC. 2. Section 122354 of the Health and Safety Code is
14 amended to read:

15 122354. (a) The pet store operator or at least one of his or her
16 employees shall be present in the store at least once daily,
17 regardless of whether the store is open, for care and maintenance
18 of the animals in the pet store.

19 (b) A pet store operator shall comply with the following animal
20 care requirements:

21 (1) House only compatible animals in the same enclosure.

22 (2) Observe each animal at regular intervals, at least once a day,
23 in order to recognize and evaluate general symptoms of sickness,
24 injury, or abnormal behavior.

25 (3) Take reasonable measures to house intact mammals that
26 have reached sexual maturity in a manner to prevent unplanned
27 reproduction.

28 (4) (A) Maintain and abide by written animal husbandry
29 procedures that address animal care, management and safe
30 handling, disease prevention and control, routine care, preventative
31 care, emergency care, veterinary treatment, euthanasia, and disaster
32 planning, evacuation, and recovery that is applicable to the location
33 of the pet store. These procedures shall be reviewed with employees
34 who provide animal care and shall be present in writing, either
35 electronically or physically, in the store and made available to all
36 store employees.

37 (B) Sections 122356 and 122358 do not apply to subparagraph
38 (A) where there are other local, state, or federal laws that apply to
39 those procedures.

1 (5) (A) If there is a determination that an animal may need to
2 be euthanized, ensure that veterinary treatment is provided without
3 delay.

4 (B) Notwithstanding subparagraph (A), a rodent or rabbit
5 intended as food for another animal may be destroyed by a pet
6 store operator or an employee of a pet store only if the animal is
7 euthanized by a method that is performed in a humane manner,
8 appropriate for the species, authorized by state law, and in
9 compliance with the American Veterinary Medical Association
10 (AVMA) Guidelines on Euthanasia, dated June 2007, published
11 by the AVMA.

12 (C) The euthanasia performed pursuant to subparagraph (B)
13 may be performed by a pet store operator or an employee of a pet
14 store only if a California-licensed veterinarian has certified, in
15 writing, that the pet store operator or employee is properly trained
16 and proficient in performing the method of euthanasia on that
17 particular species. The certification shall be valid for a period of
18 not more than three years, and may be recertified for additional
19 periods of three years. Each certification of a pet store operator or
20 employee shall be retained by the pet store for three years, unless
21 a longer period is otherwise required under state law. The
22 certification shall be made available, upon request, to appropriate
23 law enforcement officers exercising authority pursuant to Section
24 122356.

25 (D) It is the responsibility of the pet store operator to ensure
26 that euthanasia is performed in compliance with this section.

27 (E) Subparagraphs (A) to (D), inclusive, shall be implemented
28 in a manner consistent with California law and in accordance with
29 Chapter 11 (commencing with Section 4800) of Division 2 of the
30 Business and Professions Code.

31 (6) Isolate and not offer for sale those animals that have or are
32 suspected of having a contagious condition. This paragraph shall
33 not apply to those animals that are effectively isolated by their
34 primary enclosure, including, but not limited to, fish, provided that
35 a sign is posted on the enclosure that indicates that these animals
36 are not for sale, or otherwise marked in a manner to prevent their
37 sale to customers during their treatment for the contagious
38 condition.

39 (7) Have a documented program of routine care, preventative
40 care, ~~and~~ emergency care, disease control and prevention, and

1 veterinary treatment and euthanasia, as outlined in paragraph (5),
2 that is established and maintained by the pet store in consultation
3 with a licensed veterinarian employed by the pet store or a
4 California-licensed veterinarian, to ensure adherence to the program
5 with respect to each animal. The program shall also include a
6 documented onsite visit to the pet store premises by a
7 California-licensed veterinarian at least once a year.

8 (8) Ensure that each diseased, ill, or injured animal is evaluated
9 and treated without delay. If necessary for the humane care and
10 treatment of the animal, the animal shall be provided with
11 veterinary treatment without delay.

12 (9) In the event of a natural disaster, an emergency evacuation,
13 or other similar occurrence, the humane care and treatment of each
14 animal is provided for, as required by this chapter, to the extent
15 access to the animal is reasonably available.

16 (c) Subdivisions (a) and (b) shall be implemented to the extent
17 consistent with California law.

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