

AMENDED IN SENATE JULY 9, 2009
AMENDED IN ASSEMBLY MAY 4, 2009
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 as 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 ~~to be used in commercial or agricultural operations or for commercial or agricultural purposes, for student or youth projects, or for educational purposes to an agricultural operation for purposes that are directly related to the raising of livestock or poultry on a farm or 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, turn about freely
- 6 using normal body movements without the head touching the top
- 7 of the primary enclosure, lie down with limbs outstretched, exercise
- 8 normal postural movement, move about freely as appropriate for
- 9 the species, age, size, and condition of the animal, and, when
- 10 appropriate, to experience socialization with other animals, if any,
- 11 in the primary enclosure. However, when freedom of movement
- 12 would endanger the animal, temporarily and appropriately
- 13 restricting movement of the animal in a humane manner is
- 14 permitted.
- 15 (b) "Animal" means any nonhuman vertebrate species housed,
- 16 offered for sale or adoption, or both, in the pet store, including,

1 but not limited to, mammals, birds, reptiles, amphibians, fish, and
2 also invertebrates housed, sold, or adopted as pets.

3 (c) “Disposition” means the transfer of an animal from a pet
4 store to another location, including the sale or adoption of the
5 animal, the return of the animal to the person who supplied the
6 animal to the pet store, or removal from the pet store of an animal
7 that is deceased for any reason, including euthanasia.

8 (d) “Enrichment” means providing objects or activities,
9 appropriate to the needs of the species, as well as the age, size,
10 and condition of the animal, that stimulate the animal and promote
11 the animal’s well-being.

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

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

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

22 (h) “Person” means an individual, partnership, firm, joint-stock
23 company, corporation, association, trust, estate, or other legal
24 entity.

25 (i) “Pet store” means a retail establishment open to the public
26 and selling or offering for sale animals, *including, but not limited*
27 *to, animals for use as pets or animals intended as food for other*
28 *animals. “Pet store” does not include a retail establishment open*
29 *to the public and selling or offering for sale animals to be used in*
30 *commercial or agricultural operations or for commercial or*
31 *agricultural purposes, for student or youth projects, or for*
32 *educational purposes. A person who sells, for sale animals to*
33 *agricultural operations for purposes that are directly related to*
34 *the raising of livestock or poultry on a farm or ranch. A person*
35 *who sells, exchanges, or otherwise transfers only animals that were*
36 *bred or raised, or both, by the person, or sells or otherwise transfers*
37 *only animals kept primarily for reproduction, shall be considered*
38 *a breeder and not a pet store.*

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

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

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

(m) "Sanitize" means to make physically clean and to destroy, to the extent practical, agents injurious to health.

(n) "Temporary enclosure" means a confined space used by the pet store to house an animal when the animal is not in its primary enclosure for a period not to exceed four consecutive hours. The temporary enclosure shall allow the animals to stand up, lie down, and turn around. An enclosure used by the pet store to house an animal for longer than four consecutive hours shall meet the requirements of a primary enclosure.

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

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

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

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

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

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

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

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

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

1 (4) (A) Maintain and abide by written animal husbandry
2 procedures that address animal care, management and safe
3 handling, disease prevention and control, routine care, preventative
4 care, emergency care, veterinary treatment, euthanasia, and disaster
5 planning, evacuation, and recovery that is applicable to the location
6 of the pet store. These procedures shall be reviewed with employees
7 who provide animal care and shall be present, in writing, either
8 electronically or physically, in the store and made available to all
9 store employees.

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

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

16 (B) Notwithstanding subparagraph (A), a rodent or rabbit
17 intended as food for another animal may be destroyed by a pet
18 store operator or an employee of a pet store only if the animal is
19 euthanized by a method that is performed in a humane manner,
20 appropriate for the species, authorized by state law, and in
21 compliance with the American Veterinary Medical Association
22 (AVMA) Guidelines on Euthanasia, dated June 2007, published
23 by the AVMA.

24 (C) The euthanasia performed pursuant to subparagraph (B)
25 may be performed by a pet store operator or an employee of a pet
26 store only if a California-licensed veterinarian has certified, in
27 writing, that the pet store operator or employee is properly trained
28 and proficient in performing the method of euthanasia on that
29 particular species. The certification shall be valid for a period of
30 not more than three years, and may be recertified for additional
31 periods of three years. Each certification of a pet store operator or
32 employee shall be retained by the pet store for three years, unless
33 a longer period is otherwise required under state law. The
34 certification shall be made available, upon request, to appropriate
35 law enforcement officers exercising authority pursuant to Section
36 122356.

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

39 (E) Subparagraphs (A) to (D), inclusive, shall be implemented
40 in a manner consistent with California law and in accordance with

Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code.

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

(7) Have a documented program of routine care, preventative care, emergency care, disease control and prevention, and veterinary treatment and euthanasia, as outlined in paragraph (5), that is established and maintained by the pet store in consultation with a licensed veterinarian employed by the pet store or a California-licensed veterinarian, to ensure adherence to the program with respect to each animal. The program shall also include a documented onsite visit to the pet store premises by a California-licensed veterinarian at least once a year.

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

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

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

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

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