

**Assembly Bill No. 490**

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Passed the Assembly September 1, 2009

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*Chief Clerk of the Assembly*

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Passed the Senate August 27, 2009

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

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

## LEGISLATIVE COUNSEL'S DIGEST

AB 490, 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 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.

*The people of the State of California do enact as follows:*

SECTION 1. Section 122350 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

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

(i) “Pet store” means a retail establishment open to the public and selling or offering for sale animals, including, but not limited to, animals for use as pets or animals intended as food for other animals. “Pet store” does not include a retail establishment open to the public and selling or offering for sale animals to agricultural operations for purposes that are directly related to the raising of livestock or poultry on a farm or ranch. A person who sells, exchanges, or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.

(j) “Pet store operator” or “operator” means a person who owns 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.

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

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

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

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

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

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

(E) Subparagraphs (A) to (D), inclusive, shall be implemented 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.

Approved \_\_\_\_\_, 2009

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*Governor*