



SPAY/NEUTER LEGISLATION PASSES CALIFORNIA SENATE

The Issue.

Legislation specifying spay/neuter requirements for dogs and cats has passed the California Senate, with amendments, and is now in the Assembly awaiting committee assignment. **Senate Bill 250** was introduced earlier in the year and was amended several times in the Senate before a last minute passage. The bill provides licensing requirements for unaltered dogs and cats and allows local governments to set licensing fees and penalties.

The Impact.

Dogs

SB 250 requires any owner or custodian of an unsterilized dog to do one of the following:

- have the animal sterilized at six months of age;
- obtain a certificate of sterility; or
- if required by local ordinance, obtain an unaltered dog license.

For purposes of transferring dogs, an owner or custodian who offers any unsterilized dog for sale, trade, or adoption at four months of age or older or the age required by the local government will be required to include a valid unaltered dog license number with the offer of sale, trade, or adoption. Also, the unaltered dog's license number, and any existing microchip number for the dog, must appear on the document transferring ownership of the dog to the new owner.

NOTE: Licensing fees would be determined by the municipal city or county animal control agency in which an owner resides. Localities would also have the right to set penalties for violators.

Cats

SB 250 states that any owner or custodian of an unsterilized cat who permits that cat to roam at large must have the cat sterilized or obtain a certificate of sterility.

An owner or custodian who offers any unsterilized cat for sale, trade, or adoption will be required to notify the local government, if the jurisdiction requires the licensing of cats, with the name and address of the transferee within 10 days after the transfer. Any existing microchip number for the cat must appear on a document transferring ownership of the cat to the new owner.



Recommended Action.

We feel this legislation is overbroad as it puts the issue of spay/neuter in the hands of local governments with free discretion to set licensing fees and penalties. Because California already has laws in place that require owners of intact animals to pay a license fee and provides fines for owners whose intact dogs are impounded, this legislation is unnecessary.

As stated above, this bill passed the Senate at the last minute, due to Senators who had originally abstained from voting deciding to vote “yes” for this legislation. SB 250 is now in the Assembly awaiting committee assignment. In the meantime, we ask that you contact your representative in the Assembly to express your concerns or views on this legislation. Visit PIJAC’s [Legislative Action Center](#) on the Government Affairs page of the PIJAC website (www.pijac.org) to find and contact your representative.

Updates on SB 250 committee assignments, as well as complete bill text, can be found attached to the online version of this PetAlert on the Breaking News page of the PIJAC website.

If you have any further questions on this legislation please contact PIJAC’s Bambi Nicole Osborne by phone at 202-452-1525 or via email at bambi@pijac.org.

Not Yet a PIJAC Member?

For more than thirty-five years, the Pet Industry Joint Advisory Council (PIJAC) has ensured the prosperity of the pet industry. To learn more about PIJAC, please visit our website at www.pijac.org. For further information, please send an e-mail to Members@pijac.org or phone 1-800-553-PETS (1-800-553-7387).

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2009 CA S 250 **AUTHOR:** Florez
 VERSION: Amended
 VERSION 08/31/2009
DATE:

STATE OF CALIFORNIA

SENATE BILL

No. 250

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 INTRODUCED BY Senator Florez
 (Coauthors: Assembly Members Nava and Solorio)
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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

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. 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. 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 ~~is has~~ concurrently ~~cited for violation of~~ 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 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 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:

SECTION 1. Section 30804.6 is added to the Food and Agricultural Code, to read:

30804.6. (a) (1) Every dog owner shall secure a license for the dog pursuant to Section 30801, Section 121690 of the Health and Safety Code , or as required by the local licensing agency.

(2) No person shall own, keep, or harbor an unsterilized dog in violation of this section.

(3) An owner or custodian of an unsterilized dog shall have the dog sterilized by the age of six months, obtain a certificate of sterility, or, ~~if as~~ provided for by ordinance of the responsible city, county, or city and county, obtain an unaltered dog license in accordance with this section. The responsible city, county, or city and county shall issue the unaltered dog license consistent with Section 30804.5.

(4) This subdivision shall not apply to a dog with a high likelihood, due to age or infirmity, of suffering serious bodily harm or death if surgically sterilized. The owner or custodian shall obtain written confirmation of this fact from a veterinarian licensed in this state. If the dog is able to be sterilized at a later date, that date shall be stated in the written confirmation. If the date for sterilization in the written confirmation is more than 30 days after the date that the owner or custodian receives that confirmation, the owner or custodian shall apply for an unaltered dog license pursuant to any applicable city, city and county, or county ordinance.

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

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

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

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

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

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

(c) The licensing agency shall utilize its existing procedures or may establish procedures for any appeal of a denial or revocation of an unaltered dog license, which appeal procedure may include written notice of the denial or revocation and a reasonable opportunity for the owner or custodian to respond.

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

(e) An owner or custodian who offers any unsterilized dog for sale, trade, or adoption ~~at four months of age or older or the age required by~~ shall notify the licensing agency ~~shall be required to include a valid unaltered dog license number with the offer of sale, trade, or adoption, or shall otherwise state and establish compliance with this section. The of the name and address of the transferee within 10 days after the transfer. Any existing unaltered dog's license number, and any existing and~~ microchip number for the dog, shall appear on the document transferring ownership of the dog to the new owner.

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

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

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

(C) Rabies quarantine violations for the subject dog.

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

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

(F) Failure to possess an unaltered dog license.

(2) Any owner or custodian of an unaltered dog who is found to be subject to a penalty under paragraph (1) shall be required to surgically sterilize the unaltered animal in accordance with this section and shall provide the licensing agency written verification from a licensed veterinarian that the subject dog has been sterilized. The licensing agency may utilize procedures as they exist on the effective date of this ~~Section~~ section for any appeal of this requirement.

~~(3) Any owner or custodian of an unaltered dog who is lawfully using that dog for the pursuit or taking of mammals pursuant to Section 265 of Title 14 of the California Code of Regulations or for the lawful pursuit or taking of migratory game birds, game birds, ducks, and other permitted water fowl and has lawfully purchased a hunting license as provided in Section 3031 of the Fish and Game Code shall not be in violation of subparagraph (A) of paragraph (1).~~

~~(4)~~

(3) At the time a citation is issued pursuant to paragraph (1) or (2), the licensing agency may provide the owner or custodian information as to the availability of sterilization services for free or at a reduced cost.

~~(f)~~

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

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

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

(3) ~~Arrange to have~~ Have the dog surgically sterilized by another veterinarian licensed in this state.

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

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

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

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

(h) The licensing agency may impose any existing fine or penalty, consistent with this chapter, against the owner or custodian of the subject dog for failure to provide any required sterilization information, including any denial of an unaltered license. The licensing agency may utilize procedures as they exist on the effective date of this section for any appeal of this requirement.

~~(g)~~

(i) The owner or custodian of the unaltered dog shall be responsible for the established costs of impoundment, which ~~shall~~ may include daily board costs, vaccination, medication, and any other diagnostic or therapeutic applications as required by this section. The owner or custodian shall comply with any additional impoundment procedures. Any fee that may be imposed pursuant to subdivision (h) shall be applicable to an owner or custodian who surrenders a dog that is subject to this section, if the owner or custodian fails to otherwise comply with applicable provisions of this section.

~~(h)~~

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

~~(i) Nothing in this section shall prohibit a local jurisdiction from enforcing or enacting local measures that require the spaying or neutering of all dogs, and this section shall not prohibit a local jurisdiction from enacting or enforcing other local measures pertaining to the obligations of a person owning or possessing a dog.~~

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

(l) Nothing in this section shall apply to any of the following, provided the subject dog is licensed pursuant to

Section 30801, Section 121690 of the Health and Safety Code, or as required by the local licensing agency:

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

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

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

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

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

~~(j)~~

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

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

(2) "Custodian" means any person who undertakes the personal care and control of a dog, or any person who intentionally provides care, security, or sustenance for a dog on the person's property for any period exceeding 30 days. "Custodian" does not include a licensing agency.

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

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

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

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

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

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

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

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

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

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

(3) ~~Arrange to have~~ Have the cat surgically sterilized by another veterinarian licensed in this state.

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

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

~~(d)~~

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

~~(e)~~

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

~~(f) Nothing in this section shall prohibit a local jurisdiction from enforcing or enacting local measures that require the spaying or neutering of all cats, and this section shall not prohibit a local jurisdiction from enacting or enforcing other local measures pertaining to the obligations of a person owning or possessing a cat.~~

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

~~(g)~~

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

(1) "Custodian" means any person who undertakes the personal care and control of a cat, or any person who intentionally provides care, security, or sustenance for a cat on the person's property for any period exceeding 30 days. "Custodian" does not include a licensing agency.

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

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

~~SECTION 3.~~ 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.