

Date of Hearing: March 29, 2016

ASSEMBLY COMMITTEE ON JUDICIARY  
Mark Stone, Chair  
AB 2269 (Waldron) – As Introduced February 18, 2016

As Proposed to be Amended

**SUBJECT:** ANIMAL SHELTERS: RESEARCH ANIMALS: PROHIBITIONS

**KEY ISSUE:** SHOULD STATE LAW THAT PROHIBITS ANIMALS ABANDONED AT VETERINARIAN HOSPITALS, GROOMING PARLORS, AND KENNELS FROM BEING ACQUIRED AND USED IN EXPERIMENTATION BE UPDATED TO ALSO APPLY TO ANIMALS IN POUNDS AND ANIMAL SHELTERS, GIVEN THAT MANY CITIES AND COUNTIES ALREADY PROHIBIT THIS QUESTIONABLE PRACTICE?

**SYNOPSIS**

*This noncontroversial bill expressly prohibits, for the first time in California statute, the acquisition of live animals from public or private animal shelters for use in scientific or other experimentation-- a practice commonly known as "pound seizure." According to the sponsor of the bill, the State Humane Association of California, recent evaluation by the National Academy of Sciences has concluded that pound seizure is an outdated practice, and that animals taken from shelters for research purposes do not make any crucial contribution to biomedical research. Supporters of the bill, primarily animal advocates, oppose pound seizure on the grounds that animal experimentation is not only unnecessary, but also cruel to the animals themselves and should therefore not be further facilitated by the use of animals from pounds and shelters.*

*Proponents contend that this bill will bring needed consistency to state law that bans some, but not all, abandoned animals from being sold into experimentation. Current California law prohibits animals that are abandoned at veterinarian hospitals, kennels, pet grooming parlors, and animal hospitals from being sold into any type of research, but inexplicably, this ban does not apply to animals left in animal shelters or pounds, where the practice is expressly allowed as long as certain signage and notice requirements are met. This discrepancy in California law means that an abandoned animal could be acquired and sold into experimentation if it was left at a local shelter, but the same animal would not be subject to that fate if it was left at a kennel or grooming parlor. In addition, this bill will create uniformity across the state with respect to pound seizure because the practice is already prohibited by local ordinance in many cities and counties, but is not prohibited or even expressly allowed in others.*

*As proposed to be amended, the bill prohibits a person or animal shelter from euthanizing any animals for the purpose, in whole or in part, of transferring their carcasses to research facilities or animal dealers. The proposed amendments are intended to ensure that a shelter may not euthanize animals for the purpose of selling or transferring their carcasses to an animal dealer—animals that presumably may be otherwise adoptable, as they were in a recent Bakersfield scandal—while still allowing the sale or transfer of cadavers of animals that were euthanized under more legitimate circumstances in the ordinary operation of the shelter. There is no known opposition to this bill, and it will next be referred to Appropriations Committee should it be approved by this Committee.*

**SUMMARY:** Prohibits the sale or transfer of live animals from pounds and animal shelters to any animal dealer or research facility for purposes of research or experimentation. Specifically, **this bill:**

- 1) Defines "animal dealer" to mean any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, or who buys, sells, or negotiates the purchase or sale of any animal, whether alive or dead, for research, teaching, exhibition, or biological supply.
- 2) Prohibits a person or animal shelter entity, as defined, that accepts animals from the public or takes in stray or unwanted animals from selling, giving, or otherwise transferring a living animal to a research facility or to an animal dealer.
- 3) Prohibits a research facility or animal dealer from procuring, purchasing, receiving, accepting, or using a living animal for the purpose of medical or biological teaching, research, or study, or any other kind of experimentation, if that animal is transferred from, or received from, an animal shelter entity.
- 4) Prohibits a person or animal shelter from euthanizing any animal for the purpose, in whole or in part, of transferring the carcass to a research facility or animal dealer.
- 5) Requires any animal shelter entity where dead animals are turned over to a biological supply or research facility to post a specified sign, in a clearly visible location, stating: "Animals Euthanized at This Shelter May Be Used For Research Purposes or to Supply Blood, Tissue, or Other Biological Products." Further requires this statement to be included in owner surrender forms used by the animal shelter.
- 6) Clarifies that these provisions do not prohibit a procedure by a licensed veterinarian to correct the animal's preexisting medical condition, and under certain circumstances, do not prohibit a procedure to spay or neuter the animal if the procedure is performed by, or under the direct supervision of, a licensed veterinarian.
- 7) Provides for a \$1000 civil penalty for any violation of these provisions, in an action brought by the local district attorney or city attorney.

**EXISTING LAW:**

- 1) Declares that it is the policy of this state that no adoptable animal should be euthanized if it can be adopted into a suitable home, and that no treatable animal should be euthanized if with treatment it could become adoptable with reasonable efforts. (Civil Code Section 1834.4. All further references are to this code, unless otherwise stated.)
- 2) Provides that whenever an animal is delivered to a veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility, and the owner of the animal does not pick up the animal within 14 calendar days after the day the animal was initially due to be picked up, the animal shall be deemed to be abandoned. (Section 1834.5 (a).)
- 3) Requires the person into whose custody the animal is placed for care to try for at least 10 days to find a new owner for the animal, or turn the animal over to a public animal control

agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or nonprofit animal rescue group, provided that the shelter or rescue group has been contacted and has agreed to take the animal. (Section 1834.5 (a).)

- 4) Authorizes the animal care facility to have the abandoned animal euthanized if it is unable to place the animal with a new owner, shelter, or rescue group as described above. Further authorizes a veterinarian to euthanize an animal abandoned with the veterinarian or with a facility that has a veterinarian, if a new owner cannot be found after following the specified procedures for holding the animal described above. (Section 1834.5, subd. (a) and (b).)
- 5) Prohibits any animals abandoned at veterinarian hospitals, kennels, pet grooming parlors, and animal hospitals from being used for scientific or any other type of experimentation. (Section 1834.5 (e).)
- 6) Requires any pound or animal regulation department of a public or private agency who turns over living or dead animals to biological supply facilities or research facilities to post a specified notice clearly visible to the public stating that animals turned in to the pound or department may be used for research purposes or to supply blood, tissue, or other biological products. (Section 1834.7 (a).)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** This non-controversial bill expressly prohibits, for the first time in California statute, the acquisition of live animals from public or private animal shelters for use in scientific or other experimentation-- a practice commonly known as "pound seizure." As proposed to be amended, the bill also prohibits the euthanasia of otherwise adoptable animals for the purpose of transferring the animal carcasses to a research facility or animal dealer. According to the State Humane Association of California (SHAC), the bill's sponsor:

This bill will eliminate inconsistencies in state law concerning the disposition of abandoned animals and will harmonize state law with local ordinances across California by prohibiting [pound seizure]. AB 2269 will bring California law in line with 18 other states that now prohibit pound seizure and will reflect the growing scientific consensus that the use of random source dogs and cats, which includes those acquired from animal shelters, is unnecessary and may be harmful. Failing to address these issues creates confusion for the public and shelter employees, and has the potential to erode public trust in animal shelters and the wellbeing of the animals entrusted to their care.

***Background on pound seizures and current regulation of the practice.*** According to Cruelty Free International (CFI), an animal protection and advocacy group opposed to animal experimentation, pound seizure became common in the United States in the 1940s, with the biomedical industry actually spearheading legislation in several states to legally require animal shelters to provide dogs and cats to research laboratories either directly, or through animal dealers who collect animals from shelters and other sources and sell them into experimentation.

After media accounts of family pets being stolen and sold into research by animal dealers generated public outcry in the 1960s, including a famous Life magazine exposé on the practice, Congress passed the Animal Welfare Act in 1966 to try to regulate pound seizures and the theft and resale of animals into experimentation. Among other things, the Animal Welfare Act

requires animal shelters and pounds to hold cats and dogs for a minimum of five days before they are sold to a dealer, and requires dealers to provide the recipient of the cat or dog with a certification containing certain information, such as a description of the animal and the name of the shelter it came from. (7 U.S.C. § 2158.) According to CFI, however, the Animal Welfare Act “fell short of its intended goals and public expectation” and unfortunately produced some unintended consequences. First, by making it slower and more cumbersome to obtain animals from pounds, unscrupulous individuals began stealing more pets in order to sell them to research and biomedical institutes. Second, it created a perverse financial incentive for some animal shelters to sell animals to research institutes instead of making them available for adoption.

Without effective federal protections, several states, beginning with Massachusetts in 1983, began to enact laws to prohibit pound seizure. Although 18 states currently have laws banning pound seizure, California is not one of them. In fact, under Section 1834.7 of the Civil Code, the practice is expressly allowed, as long as a specified notice is posted at the pound or shelter informing the public that “Animals Turned Into This Shelter May Be Used For Research or to Supply Blood, Tissue or Other Biological Products.”

Although state law does not prohibit pound seizure, many cities and counties in California have enacted local ordinances to prohibit the practice. Among the localities that have passed such ordinances are the cities of West Hollywood, San Bernardino, Santa Barbara, Scotts Valley, Laguna Woods, Nevada City, and Paradise, as well as the counties of Santa Cruz and San Francisco. Some cities, like the state, have laws expressly allowing pound seizure, including Big Bear Lake and Grand Terrace, while others do not address pound seizure at all. Animal advocates contend that the lack of uniformity between the state and municipalities (and even among neighboring cities) fosters unnecessary confusion for the public and animal shelter personnel.

***Pound seizure is an increasingly outdated practice and is not crucial for biomedical research.***

According to a 2009 report commissioned by the National Academy of Sciences, “random source” cats and dogs (a category that includes animals obtained from animal shelters) are not critical for biomedical research. (National Research Council, “Scientific and Humane Issues in the Use of Random Source Dogs and Cats in Research” (2009) Available at: [https://grants.nih.gov/grants/olaw/Random\\_Source\\_Dog\\_and\\_Cat\\_Report.pdf](https://grants.nih.gov/grants/olaw/Random_Source_Dog_and_Cat_Report.pdf).) The authors of the report state, “Because random source animals come from various sources, they are more likely to be associated with undesirable aspects such as infectious disease, occupational health hazards, and inconsistent health and welfare standards. These undesirable aspects may limit their value for research purposes and place an additional burden on institutions.” The study also notes that the demand for random source animals has fallen significantly over the last thirty years, along with the number of Americans who support the use of animals in biomedical research. According to proponents of the bill, the National Institutes of Health recently stopped funding research using random source dogs and cats because of the conclusions in the National Academy of Sciences report. For all of these reasons, it is difficult to justify pound seizure when evidence shows that it does not make any crucial contribution to biomedical research.

***This bill brings needed consistency to state law that bans some but not all abandoned animals from being sold into experimentation.*** Currently, California law prohibits the sale of animals that are abandoned at veterinarian hospitals, kennels, pet grooming parlors, and animal hospitals into any type of research. (Civil Code Section 1834.5.) Inexplicably, however, this ban does not apply to animals left in animal shelters or pounds because Section 1834.7 specifically condones

pound seizure, as long as appropriate signs at shelters inform the public of the practice. This discrepancy in the state law means that an abandoned animal could be acquired and sold into experimentation if it was left at a local shelter, but the same animal would not be subject to such a fate if it were left at a kennel or grooming parlor.

In order to facilitate a consistent public policy that protects all animals from being sold into experimentation, regardless of where they were abandoned, this bill prohibits any person or animal shelter entity that accepts animals from the public or takes in stray or unwanted animals from selling, giving, or otherwise transferring a living animal to a research facility or an animal dealer. In addition, the bill also prohibits a research facility or animal dealer from procuring, purchasing, receiving, accepting, or using a living animal for the purpose of medical or biological teaching, research, or study, or any other kind of experimentation, if that animal is transferred from, or received from, an animal shelter entity. An "animal shelter entity" covered by this bill includes, but is not limited to, an animal regulation agency, humane society, SPCA, rescue group, or other private or public animal shelter.

***Proposed author's amendments would prohibit euthanasia of shelter animals for the purpose of selling or transferring their carcasses to research or biological supply companies.*** By prohibiting pound seizure, this bill seeks to eliminate any possibility that an animal pound or shelter would choose to sell abandoned animals in their care to research institutions rather than making them available for adoption. However, existing law does not address the possibility that an animal pound or shelter might choose to sell *dead* animals to research labs or animal dealers who might profit from their resale to a biological supply company. In fact, this very real possibility was highlighted by a recent animal cruelty prosecution in central California. In 2007, several employees at an animal shelter in Bakersfield were charged with animal cruelty after it was discovered that they were euthanizing otherwise adoptable animals and participating in an off-the-books arrangement to sell the cadavers to a biological supply dealer for compensation. (See, e.g. "Ex-Shelter Manager Found Guilty", Visalia Times Delta, Sept. 25, 2008.)

Recognizing that euthanasia of non-adoptable and unadopted animals is an unavoidable fact of life for many pounds or shelters, and recognizing that animal cadavers may have utility to researchers or biological supply companies for legitimate purposes, this bill does not contain a blanket prohibition against the acquisition of animal cadavers from pounds or shelters by animal dealers or research institutions. Instead, as proposed to be amended, the bill prohibits a person or animal shelter from euthanizing any animals for the purpose, in whole or in part, of transferring their carcasses to research facilities or animal dealers. In other words, if animals are being euthanized for a legitimate reason (i.e. for reasons other than to sell their carcass to an animal dealer), then the pound or shelter may sell or donate the cadavers of those animals to an animal dealer without violating the provisions of this bill. These provisions are necessary, of course, because the bill's prohibition on pound seizure only prevents the acquisition of *live animals* for experimentation or research, not the acquisition or sale of dead animal cadavers for research or other purposes (i.e. biological supply.) The proposed amendments are intended to ensure that a shelter may not euthanize animals for the purpose of selling or transferring their carcasses to an animal dealer—animals that presumably may be otherwise adoptable, as they were in the Bakersfield case—while still allowing the sale or transfer of cadavers of animals that were euthanized under more legitimate circumstances in the ordinary operation of the shelter.

Finally, it is important to note that the proposed amendments retain the existing sign and notice requirements, in a slightly modified format, to ensure that even when animals are euthanized at a

shelter under legitimate circumstances, members of the public are informed through posted notice and the owner surrender forms that the cadavers of those animals so euthanized may ultimately be used for research or biological supply purposes.

**Miscellaneous provisions.** The bill also contains language to clarify that nothing in these provisions shall prohibit a procedure by a licensed veterinarian to spay, neuter, or correct an animal's preexisting medical condition, as long as the animal is returned to the person or animal shelter after the procedure, except as specified. Finally, the bill authorizes a \$1000 civil penalty for any violation of these provisions, to be brought by a local district attorney or city attorney, with the penalty to be paid to the entity that brought the action to assess the penalty.

**ARGUMENTS IN SUPPORT:** In support of the bill, the Beagle Freedom Project writes:

The practice of 'pound seizure' is universally frowned upon and banned in many others States. This bill addresses a real deficiency of law and rightfully adds a necessary layer of protection of lost animal companions that wind up in shelters, or stray or homeless dogs and cats that deserve every chance at adoption. There have been countless examples over the years of a family dog or cat going missing only to be later found used and euthanized in a research facility. It is a fear no California family should ever have to consider while anxiously looking for their lost loved one.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

State Humane Association of California (sponsor)  
The Beagle Freedom Project  
Cruelty Free International  
Humane Society of the United States  
Humane Society Veterinary Medical Association  
Society for the Prevention of Cruelty to Animals, Los Angeles

##### **Opposition**

None on file

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