

CONCURRENCE IN SENATE AMENDMENTS

AB 2269 (Waldron)

As Amended August 2, 2016

Majority vote

ASSEMBLY: 77-0 (April 25, 2016) SENATE: 38-0 (August 16, 2016)

Original Committee Reference: **JUD.**

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, testing, 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, animal dealer or other person for the purpose of research, experimentation, or testing.
- 3) Prohibits a research facility, animal dealer, or other person from procuring, purchasing, receiving, accepting, or using a living animal for the purpose of research, experimentation, or testing if that animal is transferred from, or received from, an animal shelter entity or other person that accepts animals from the public or takes in stray or unwanted animals.
- 4) Prohibits a person or animal shelter from euthanizing any animal for the purpose 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 for research purposes or to supply blood, tissue, or other biological products 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) Provides for a \$1000 civil penalty for any violation of these provisions, in an action brought by the local district attorney or city attorney.

The Senate amendments:

- 1) Define "person" to mean an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, governmental agency, or other legal entity, and extends specified requirements to such persons.
- 2) Clarify that the requirement to post signage applies to an animal shelter entity where dead animals are turned over to a biological supply facility or research facility for certain

purposes—specifically, when turned over for research purposes or to supply blood, tissue, or other biological products.

- 3) Clarify that the prohibition on selling, giving, or transferring a living animal to a research facility or animal dealer applies when the purpose of that act is for research, experimentation, or testing of the animal.
- 4) Clarify that the prohibition on procurement, purchase, or receipt of a living animal in 3) above, applies when the purpose of that act is for research, experimentation, or testing of the animal.
- 5) Delete provisions clarifying that this bill does not prohibit licensed veterinarians from correcting a preexisting medical condition or spaying or neutering the animal under certain conditions.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) *Local agency animal shelters:* Significant ongoing care and treatment costs, potentially state-reimbursable (General Fund) to local agency animal shelters that accept and care for stray and abandoned animals that will be prohibited from selling, giving, or otherwise transferring living animals to research facilities or animal dealers, as well as prohibited from euthanizing animals for the purpose of transferring to a research facility or animal dealer. The Commission on State Mandates (CSM) in its decision on the claim *Animal Adoption 98-TC-11*, determined that only local agencies are mandated by the state to accept and care for stray and abandoned animals. As a result, despite the fact that the imposition of specified activities is imposed upon both public and private animal shelters, private shelters are not required to take in stray and abandoned animals whereas local agency shelters are required to do so. Therefore, to the extent the provisions of this bill constitute a higher level of service imposed on local agency public shelters to provide care and treatment for stray and abandoned animals for an extended period of time due to the prohibition on selling, giving, or transferring animals, local agencies could potentially be eligible for reimbursement for the increased costs. Staff notes the reimbursable mandate *Animal Adoption* has been suspended in the annual Budget Act. Thus, any additional activities mandated on local agencies that accept stray or abandoned animals potentially may not be subject to reimbursement during the period the mandate is suspended should the CSM make that determination.
- 2) *University of California (UC):* The UC has indicated no significant fiscal impact based on the latest amendments to the bill that clarify under what circumstances an animal may be transferred to a research facility.
- 3) *New civil penalty:* Potential minor increase in civil penalty revenues (Local Funds) to the extent district attorneys or city attorneys bring forth actions for violations of this section.

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 research, testing, or experimentation— a practice commonly known as "pound seizure." This 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), this bill's sponsor, by prohibiting pound seizure, this bill "will harmonize state law with local ordinances across California and... 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." Recent amendments to this bill are technical and add co-authors.

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. Congress passed the Animal Welfare Act in 1966 to try to regulate pound seizures and the theft and resale of animals into experimentation. 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. 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.) 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 30 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 (CIV) 1834.5.) Inexplicably, however, this ban does not apply to animals left in animal shelters or pounds because CIV 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, animal dealer, or other person for the purpose of research, experimentation, or testing. In addition, the bill also prohibits a research facility, animal dealer, or other person from procuring, purchasing, receiving, accepting, or using a living animal for the purpose of research, experimentation, or testing if that animal is transferred from, or received from, an animal shelter entity or other person that accepts animals from the public or takes in stray or unwanted animals. An "animal shelter entity" covered by this bill includes, but is not limited to, an animal regulation agency, humane society, SPCA, or other private or public animal shelter.

This bill prohibits 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, September 25, 2008.)

Recognizing that euthanasia of non-adoptable and un-adopted 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, this bill prohibits a person or animal shelter from euthanizing any animals for the purpose 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.) Recent amendments seek 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 this bill retains 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.

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