

Date of Hearing: June 21, 2016

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Rudy Salas, Chair

SB 945(Morning) – As Amended June 09, 2016

SENATE VOTE: 32-0

SUBJECT: Pet boarding facilities

SUMMARY: Establishes standards for pet boarding facilities and pet boarding operators, as specified.

EXISTING LAW:

- 1) Enacts the Pet Store Animal Care Act (Act) that establishes procedures for the care and maintenance of animals in the custody of a pet store and details the responsibilities of the pet shop, the standards for enclosures, animal care requirements, record keeping, standards for keeping the animals healthy including veterinary care, euthanasia standards, and disclosures that must be made to a person who purchases a pet. Provides for a “notice to correct” and monetary misdemeanor penalties for specified violations of this Act. (Health and Safety Code (HSC) Section 122350, *et seq.*)
- 2) Deems an animal "abandoned" if an animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to a written or oral agreement and the owner does not pick up the animal within 14 calendar days after the day the animal was due to be picked up. (Civil Code (CC) Section 1834.5)
- 3) Requires the person into whose care the animal was placed to first try for a period of not less than 10 days to find a new owner for the animal, and, if unable to place the animal with a new owner, humanely destroy the animal. (CC Section 1834.5)
- 4) Requires a veterinarian to humanely destroy an abandoned animal, if the abandoned animal was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found. (CC Section 1834.5)

THIS BILL:

- 1) Defines "person" to mean an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, or other legal entity.
- 2) Defines "pet" to mean any nonhuman animal housed in the pet boarding facility including, but not limited to, mammals, birds, reptiles and amphibians, but does not include a horse.
- 3) Defines "pet boarding facility" to mean any lot, building, structure, enclosure, or premises whereupon four or more dogs, cats, or other pets in any combination are boarded for compensation, but does not include a city, county, or city and county animal control agency, society for the prevention of cruelty to animals, or humane society that contracts for the care of stray or abandoned animals, or the premises of a registered veterinary facility.

- 4) Defines a "pet boarding facility operator" to mean a person who owns or operates, or both, a pet boarding facility.
- 5) Defines a "permanent or fixed enclosure" to mean a structure, including, but not limited to, an exercise run, kennel, or room, used to restrict a pet, that provides for the effective separation of a pet from the pet's waste products.
- 6) Defines a "temporary enclosure" to mean a structure used to restrict a pet, including, but not limited to, a crate or cage that does not provide for the effective separation of a pet from the pet's waste product.
- 7) Requires each pet boarding facility operator to be responsible for all of the following:
 - a) Ensuring the entire pet boarding facility, including all equipment therein, is structurally sound and maintained in good repair;
 - b) Ensuring that pests do not inhabit any part of the pet boarding facility in a number large enough to be harmful, threatening, or annoying to the pets;
 - c) Ensuring the containment of pets within the pet boarding facility, and in the event the pet escapes, being responsible for reporting this fact immediately to the local agency responsible for animal control and to the owner and making reasonable efforts to immediately capture the escaped pet;
 - d) Ensuring that the pet boarding facility's interior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and sanitized;
 - e) Ensuring that light, by natural or artificial means, is distributed in a manner that permits routine inspection and cleaning, and the proper care and maintenance of the pets;
 - f) If grooming services are offered by a pet boarding facility, separating the grooming work area from the pet boarding facility's permanent or fixed or temporary enclosures and ensuring that the grooming area is cleaned and sanitized at least once daily;
 - g) Storing food in an area separate from permanent or fixed enclosures or temporary enclosures; and,
 - h) Maintaining an area for isolating sick pets from healthy pets.
- 8) Requires each permanent and fixed enclosure and temporary enclosure to comply with all of the following:
 - a) Be structurally sound and maintained in good repair to protect the enclosed pet from injury, to contain the pet, to keep other animals out, and to promote the health and well-being of the pet;
 - b) Be maintained in a comfortable and sanitary manner, and when being cleaned in a manner or with a substance that is or may be harmful to a pet within the enclosure, the pet must be removed from the enclosure;
 - c) Be constructed of material suitable for regular cleaning and sanitizing;

- d) Provide heating, cooling, lighting, ventilation, shade, and protection from the elements, as needed to ensure the comfort and well-being of the pet; and,
 - e) Allow a pet to turn around freely, stand easily, and sit or lie down in a comfortable position.
- 9) Requires each enclosure to be either a permanent or fixed enclosure or a temporary enclosure.
- 10) Requires a permanent or fixed closure for a cat to provide an elevated platform, as specified.
- 11) States that a pet may be contained in a temporary enclosure for a period not to exceed four hours during the day and 12 hours at night or the length of time that is humane for that particular pet, whichever is less; and the pet must remain outside the temporary enclosure for no less than the amount of time needed for the pet to eliminate its waste.
- 12) Requires a pet boarding facility operator to comply with all of the following animal care requirements:
- a) House only one pet at a time in an enclosure, unless otherwise consented to by the owner;
 - b) Observe each pet as necessary, but no less than once every 24 hours, in order to recognize the signs of sickness, injury, or distress, and in order to ensure that the pet, food and waste or debris is removed as necessary to prevent contamination or injury;
 - c) Provide each pet with easy and convenient access to potable water at all times, or if the behavior of the pet makes unrestricted access to water impracticable, offer water as often as necessary to ensure the pet's health and well-being; however, water may be restricted as directed by the owner or a licensed veterinarian;
 - d) Provide each pet with nutritious food in quantities and at the intervals suitable for that pet;
 - e) Provide each pet with at least one enrichment device or activity that is appropriate for the age, size and condition of the pet unless otherwise directed in writing by the owner;
 - f) Maintain and abide by written policies and procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventative care, emergency care, veterinary treatment, and disaster planning, evacuation, recovery that are applicable to the location of the pet boarding facility which must be reviewed with each employee providing animal care, and must be available in writing in the facility and available to all employees;
 - g) Isolate pets that have, or are suspected of having, a contagious condition;
 - h) Ensure that each sick or injured pet is immediately provided with veterinary treatment and that the owner of the pet is notified immediately of the pet's condition; and,
 - i) In the event of a natural disaster, an emergency evacuation or other similar occurrence; ensure that the humane care and treatment of each animal is provided for, as specified, to the extent access to the pet is reasonably available.

- 13) Requires a pet boarding facility operator to provide each owner with written information describing all of the following:
 - a) Days and times during which the pet boarding facility permits pets to be dropped off and picked up;
 - b) Days and times during which no personnel is on site;
 - c) The square footage of the permanent or fixed enclosures and temporary enclosures in which the species of pet that the owner is boarding is customarily observed by personnel;
 - d) The number of times and at which intervals during each 24-hour period the breed of pet that the owner is boarding is customarily contained; and,
 - e) The pet boarding facility's customary daily activity schedule for the breed of pet that the owner is boarding.
- 14) Requires the pet boarding facility operator to disclose to the owner any deviation from the customary practices.
- 15) Requires a pet boarding facility to maintain either a fire alarm system that is connected to a central reporting station that alerts the local fire department in case of a fire, or a fire sprinkler suppression sprinkler system.
- 16) States that a pet boarding facility operator who violates any provision of the pet boarding requirements specified above is guilty of an infraction, punishable by a fine not to exceed \$250 for the first violation and by a fine not to exceed \$1,000 for each subsequent violation, as specified.
- 17) States that the above provisions do not limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, as specified.
- 18) Specifies that a city, county, or city and county may adopt ordinances that establish additional standards and requirements for a pet boarding facility.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, this bill will result in negligible state costs.

COMMENTS:

Purpose. This bill creates a statewide standard for the operational requirements of pet boarding facilities and facility operators. This bill is sponsored by the State Humane Association of California. According to the author, "[This bill] would establish minimum standards for the care of pets while they are in boarding facilities, as current law is silent on animal and consumer protections relating specifically to pet boarding facilities. Pet owners who board their pets may be unaware that California law does not establish minimum standards of care for conditions at pet boarding facilities such as quantity of food and water, limitations on the time pets spend in cages, veterinary care, or emergency evacuation plans. This bill would provide operators of pet boarding facilities with clear guidance, help ensure the safety and wellbeing of pets, and provide protection to pet-owning consumers."

Background. *Pet Boarding Facility Regulation.* Unlike pet stores, pet boarding facilities, also referred to as "kennels", are not uniformly regulated throughout the state. California law does not provide detail on the daily operating practices of pet boarding facilities, such as what constitutes appropriate animal enclosures, feeding, watering, general health veterinary treatment, record keeping, among other related matters. Local jurisdictions are responsible for enacting ordinances pertaining to the operation and control of pet boarding facilities. For example, the City of Newport Beach requires the operator of a kennel to obtain a permit from the city. In California, because pet boarding facilities are not licensed, and therefore not directly regulated by a state agency, enforcement is complaint driven.

The Lockyer-Polanco-Farr Pet Protection Act (Pet Protection Act), pertains to the regulation of the retail sale of dogs and cats, but does not specifically address pet boarding facilities (HSC Section 122155). As part of the Pet Protection Act, pet dealers are required to maintain facilities where dogs are kept in sanitary conditions, provide dogs with adequate nutrition and water, adequate space appropriate to the age, size and weight of the dog, provide dogs with adequate socialization and exercise, and requires a fire alarm system connected to a central reporting station that alerts the local fire department or maintain a fire suppression sprinkler system, among other requirements. A number of the requirements for facilities in the Pet Protection Act are similar to the provisions in this bill. Currently, under California Building Code Section 431 only those pet kennels regulated under the Pet Protection Act are required to adhere to the specified automatic sprinkler system requirements.

The author notes that because there is no existing law regarding the standards of operating a pet boarding facility, if something were to go wrong with an animal being cared for at a facility, there is no enforcement recourse for the consumer. This bill seeks to establish a new statewide minimum standard for the operation of a pet boarding facility. However, as currently drafted, this bill does not prohibit a city, county, or city and county from adopting an ordinance that establishes additional standards and requirements

Issues at Pet Boarding Facilities. Recent news articles and reports have highlighted issues in pet boarding facilities which have led to animal death or harm. On May 10, 2016, KTLA 5 reported that the owner of a five year old Yorkshire terrier was mauled to death by another dog while staying at a boarding facility in Corona. In 2015, a fire at a pet boarding facility killed 14 dogs in Monterey. ABC 7 reported in January of 2016, that an injured dog found near the highway in Brentwood was reunited with his family after escaping from a boarding facility. This bill places requirements on pet boarding facilities including fire systems and a notification protocol for animals that may be harmed or escape.

Other states. There are federal laws which establish the minimum standards for the care of cats and dogs by commercial breeders, but do not necessarily pertain to pet boarding facilities. Some states have enacted regulations that may be more stringent than what is required under federal statutes specifically applicable to breeders. In addition, at least three other states have established uniform requirements for pet boarding facilities. Colorado, Connecticut, and Massachusetts have established standards for the operation of pet boarding facilities. Standards in those states include specifications related to enclosure requirements, protection from inclement weather, flooring standards for cages, specifications for lighting and sanitation, requirements for clean and fresh water, and maintaining general humane conditions, among others.

Prior Related Legislation. AB 1810 (Maienschein), Chapter 86, Statutes of 2014, permits a veterinarian or animal care facility to turn over an abandoned animal to a public animal control agency or shelter rather than euthanize it, as long as the shelter has not refused to take the animal, and deletes the requirement that an abandoned animal be euthanized 10 days after abandonment.

SB 969 (Vargas) of 2012, would have established the California Pet Grooming Council to administer a voluntary pet groomer and pet bather and brusher certificate program, until January 1, 2017. *Status: This bill was held in the Assembly Committee on Appropriations.*

AB 490 (Smyth), Chapter, 446, Statutes of 2009, revised the guidelines by which a pet store operator or employee may euthanize rodents and rabbits intended as food for another animal, and modifies the definition of a pet store, as specified.

AB 1347 (Caballero), Chapter 703, Statutes of 2007, enacted the Pet Store Animal Care Act (Act) that would establish procedures for the care and maintenance of animals in the custody of a pet store and details the responsibilities of the pet shop, the standards for enclosures, animal care requirements, record keeping, standards keeping the animals healthy including veterinary care, euthanasia standards and disclosures that must be made to a person who purchases a pet. Provides for a "notice to correct" and monetary misdemeanor penalties for specified violations of this Act.

ARGUMENTS IN SUPPORT:

The State Humane Association of California writes in support, "There are no standards articulated in the statute relative to the conditions and care that animal boarding facilities must provide to pet owners and pets. Several high-profile and very tragic events have occurred at such facilities in recent memory...without a doubt, if standards of care and requirements regarding the state of repair for those facilities had been met, these events would not have transpired."

The Beagle Freedom Project writes in support, "[This bill] addresses a real deficiency of law. There are no appropriate guidelines for such elements of pet boarding care and maintenance like the size of the enclosure, sanitation, provisions of enrichment devices, health of pet, and safety."

ARGUMENTS IN OPPOSITION:

The California Retailers Association is supportive if amended and writes, "A few areas of concern remain and we are seeking clarification to ensure the provision of basic activities satisfies the requirement to provide either enrichment devices or activities. Furthermore, our members are concerned about Section 122388, which allows local municipalities to adopt additional standards and requirements for pet boarding facilities. We understand this is a restatement of current law, however, our members have struggled with a disjointed patchwork of requirements on various other issues."

POLICY ISSUES:

This bill requires a pet boarding facility operator to provide each pet with an enrichment device or activity that is appropriate for the age, size and condition of the pet. As currently drafted, it is unclear what would constitute an "activity." Many boarding facilities offer additional paid

services for pets including extra walks, off-leash play, multi-dog playgroups, treadmill walks, among others. It is unclear if a required activity would be included as part of those additional services which are typically not included in the basic boarding rate. The author may wish to clarify.

REGISTERED SUPPORT:

State Humane Association of California (sponsor)
Beagle Freedom Project
Central California Society for Prevention of Cruelty to Animals

REGISTERED OPPOSITION:

The California Retailers Association

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