

THE ANIMAL COUNCIL

P.O. Box 168, Millbrae CA 94030

Officers:

Sharon A. Coleman

President

Gayle A. Hand

Secretary

Margaret Kranzfelder

Treasurer

Directors:

Dr. Ronald E. Cole

James S. Daugherty

Karen Johnson

Alice E. Partanen

Emeritus:

Leslie L. Altick, 1991-1996

Judith A. Brecka, 1991-2002

Via Facsimile

March 29, 2017

The Honorable Rudy Salas, Jr, Chair
The Honorable William P. Brough, Vice Chair
Assembly Committee on Judiciary
Legislative Office Building
Sacramento, California 95814

Attention: Bill Consultant

Re: AB 1491, as amended March 27, Caballero, Maienschein: Sales of dogs and cats, OPPOSE

Dear Chairman, Vice Chairman and Members:

Please register our opposition to the above-captioned bill and include our organization on your Committee's Bill Analysis opposition list.

Our concerns with AB 1491 are the "void as against public policy" provisions in subsections (a)(1) and (2)(b) and consequences to covered transactions that we believe exceed the scope of reasonable legislative intent.

Either installment payments before final transfer of title or leases of a dog or cat have always been legal contracts in California and are routinely used by a broad range of private parties in personal transactions. These transactions are not part of the recent commercial pet financing industry and should not be prohibited in an effort to protect consumers from unscrupulous business practices of within this emerging business model.

For example, The American Kennel Club has historically provided for leases of breeding females as a means for registrants to use these flexible, cooperative and legal arrangements to best advantage in access to quality breeding stock from the limited and valued canine gene pools. The AKC's rule book, RREGS2 (12/13) contains the lease provisions, and other rules refer to persons who have had possession of a dog under a lease.
<https://images.akc.org/pdf/rulebooks/RREGS2.pdf>

"V. LEASING A BITCH

Under the Rules Applying to Registration and Discipline

(Chapter 3, Section 1)—"The breeder of a dog is the person who owned the dam of that dog when the dam was bred; except that if the dam was leased at the time of breeding, the breeder is the lessee."

If a bitch is leased at the time of mating and/or whelping, a Lease Notification form must be filed promptly with the American Kennel Club. These forms may be obtained, upon request, from the AKC.

If a bitch is leased at the time of mating the breeder of the litter is the lessee. If the bitch is leased at the time of whelping, the lessee is the litter owner and the litter may be registered only by the lessee. Every lease must have a termination date, and both the effective date and the termination date must be entered on the Lease Notification form.

If a dam is co-owned, all owners must sign the form. NOTE: It is important that the owner and lessee should each have a written copy of the complete lease agreement signed by the other party. Leases are not accepted for male dogs nor for the purpose of entering a dog of either sex in dog shows or other AKC events. The right to exhibit a dog cannot be transferred by the person who actually owns it.”

We are personally familiar with the AKC lease, however the range of dog organizations is so broad that we cannot exclude other instances that may come to light as AB 1491 is publicized.

Reputable breeders and others who directly sell dogs or cats in non-commercial settings typically use their own sales contracts containing a wide range of provisions, some drafted by attorneys and some written by the breeder or copied from others to cover items they believe important or agreed between the parties. Often legal title may not pass until some later time, possibly but not always related to payments but the performance of other conditions subsequent. Examples might be spay or neuter at a later date or evaluation of health or other potential of the individual dog or cat. These transactions would not fall under the Kernet Rental-Purchase Act nor the Unruh Act, yet they might well fall under AB 1491's public policy prohibition, especially if not drafted by experienced legal counsel.

Accordingly, we must oppose this bill and respectfully ask that if it moves forward, it be amended so as to narrow its application to the commercial participants in the pet financing industry who sell to pet consumers and exclude individual breeders and sellers using customary lease or sales provisions in personal transactions.

We will gladly work with staff and the authors in this regard. The late amendment of AB 1491 has prevented us from doing so earlier.

THE ANIMAL COUNCIL (TAC) is a California nonprofit, public benefit corporation founded in 1991 to seek positive, humane solutions to the challenges of detrimental animal public policies, legislation and regulation through study, analysis and application of animal husbandry, statistics and law, and at the same time preserve human benefit from all species, breeds and registries.

Very truly yours,



SHARON A. COLEMAN
President, The Animal Council

Cc: Authors
Committee Members