

CALIFORNIA AB 2862 has now been amended twice. Authored by Assembly Member Mark Ridley-Thomas (D-48) of Los Angeles (former City Council member and author of the 2000 amendments to the Los Angeles Municipal Code enacting the \$100 unaltered dog license and raising the dog/cat breeding permit fee to \$100), this bill would add a Chapter 8 (commencing with Section 122340) to Part 6 of Division 105 of the Health and Safety Code, relating to animal sales:

CHAPTER 5. SALE OF DOGS AND CATS

Article 1. Sale of Dogs by Breeders ..... [122045-122110](#)

Article 2. Retail Sale of Dogs and Cats ..... [122125-122220](#)

Article 3. Dog Pedigree Registries ..... [122300-122315](#)

CHAPTER 6. SALE OF BIRDS ..... [122320-122324](#)

CHAPTER 7. SPAY/NEUTER AND BREEDING PROGRAMS FOR ANIMALS..... [122330-122331](#)

**AB 2862 CHAPTER 8. SALE OF ANIMALS AT PET STORES**

AB 2862 creates an extensive, complex list of requirements with a range vaguely broader than the classic fixed location pet store business with violation of any being a crime rather than civil offense more typical of business regulation. These crimes are chargeable as infractions or misdemeanors at prosecutor discretion at greater enforcement cost than officer citation for infractions, and subsequent offenses are misdemeanors (jail time) whether or not animals are harmed. This penalty structure has extremely harsh consequences, likely to discourage engaging or employment in this field.

BILL NUMBER: AB 2862 AMENDED BILL TEXT

AMENDED IN ASSEMBLY APRIL 6, 2006

AMENDED IN ASSEMBLY MARCH 28, 2006

INTRODUCED BY Assembly Member Ridley-Thomas

FEBRUARY 24, 2006

An act to add Chapter 8 (commencing with Section 122340) to Part 6 of Division 105 of the Health and Safety Code, relating to animal sales.

LEGISLATIVE COUNSEL'S DIGEST

AB 2862, as amended, Ridley-Thomas Sale of animals at pet stores.

Existing law regulates the sale of dogs and cats by breeders and retail outlets and the sale of birds.

This bill would, commencing July 1, 2007, establish procedures for the care and maintenance of animals in the custody of a pet store, and would place limitations on the sale or transfer of those animals.

This bill would make the violation of its provisions punishable as an infraction or a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

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. Chapter 8 (commencing with Section 122340) is added to Part 6 of Division 105 of the Health and Safety Code, to read:

CHAPTER 8. SALE OF ANIMALS AT PET STORES

122340. Definitions. As used in this act:

(a) "Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

(b) "Adequate space" means sufficient height and sufficient floor space for the caged animals to easily stand up, sit down, and turn about freely using normal body movements without the head touching the top of the cage; lie in a natural position; and experience necessary socialization with cage mates, if any. However, when freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

(c) "Animal" means any nonhuman vertebrate species, and includes rodents intended as food for reptiles.

(d) "Enrichment" means providing objects or activities, compatible with the needs of the species, that stimulate an animal and promote the animal's physical or psychological well-being, or both.

(e) "Euthanasia" or "euthanize" means the humane destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death with a minimum of pain and distress inflicted on the animal, or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during the loss of consciousness.

(f) "Humane" means any action taken in consideration of, and with the intent of providing for, the animal's health and well-being.

(g) "Intact" means an animal that retains its sexual organs and has not undergone surgical sterilization by a veterinarian.

(h) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(i) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space and where the animal or animals will reside until they are sold or transferred.

(j) "Pet store" means any establishment or marketplace where animals are bought, sold, exchanged, or offered for sale to the general public with the intent of making a profit where the animals are intended as companions or household animals. This term includes the keeping for transfer or the transfer of animals at temporary facilities, such as flea markets, mobile facilities, department stores, merchandise outlets, discount outlets, animal shows conducting a sale, and other types of ~~pet stores~~ retail outlets where the animals are intended as companions or household animals.

(k) "Pet store operator" or "operator of a pet store" means any individual, firm, corporation, partnership, other business unit,

society, association, or other legal entity, or public or private institution which maintains, owns, or operates a pet store.

(l) "Rodent" means an animal of the Order Rodentia, such as a guinea pig, rat, mouse, or hamster.

(m) "Sanitize" means to make physically clean and to remove excreta, other waste material, dirt, and trash, and to destroy to a practical minimum any agent that is injurious to health.

(n) "Socialization" means physical contact with other animals of the same species or with human beings.

(o) "Time of sale" means the calendar date the retail purchaser removes the animal from the premises of the pet store following the retail sale of that animal.

(p) "Veterinary treatment" means treatment by or on the order of a licensed veterinarian.

(q) "Weaned" means any animal that has become accustomed to taking solid food and has done so without nursing, hand-feeding, or human or animal assistance for a period of at least two weeks and is capable of sustaining at least 90 percent of its own weight following the time of sale, notwithstanding any illness or injury.

(r) "Well-placed perch" means that the bird can stand completely upright on the perch without having any head contact with the ceiling of the cage and, at the same time, the bird's tail does not touch the floor or grate of the cage.

122341. Nothing in this section limits Section 597 of the Penal Code or Section 122155, or any of the acts or omissions required thereby.

(a) Each pet store operator or agent of the operator shall do all of the following:

(1) Be present at least once daily for general care and maintenance of the animals in the custody of the pet store.

(2) Ensure each of the following:

(A) Each animal is handled in a manner that will not cause discomfort or physical harm to that animal.

(B) Notwithstanding Section 5971 of the Penal Code, adequate socialization and exercise are provided to dogs, cats, birds, rabbits, chinchillas, rats, and guinea pigs in the custody of the pet store.

(C) Pet store operators and their agents wash their hands before and after handling each infectious or contagious animal.

(b) (1) Except as provided in paragraph (2), each pet store operator shall ensure that clean, potable water in sufficient quantity to satisfy the animal's needs is accessible to the animal at all times. Snow or ice is not an adequate water source.

(2) Paragraph (1) shall not apply in the following circumstances:

(A) Withholding water is otherwise required to provide adequate health care to the animal on the advice in writing of the attending California licensed veterinarian.

(B) The animal is in transit for less than four hours.

(c) (1) Food shall be provided to each animal at least once during each 24-hour period.

(2) (A) Any animal with a nutritional need or disease condition shall be fed more frequently on the written advice of the attending California licensed veterinarian.

(B) Young animals shall be fed more than once daily.

(C) Reptiles, fish, or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.

(3) The animal food must be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the animal, based upon its species, age, condition, and size.

(4) The water and food receptacles shall be in sufficient number, of adequate size, and so located as to enable each animal in the enclosure to be supplied with an adequate amount of water and food. Bowls, dishes, and other containers used for the feeding and watering of animals shall be cleaned daily, or more often if it is necessary to maintain them free from contamination of excrement or urine. The water and food receptacles shall be so located as to minimize their potential contamination from excreta.

122342. (a) Animals shall be removed from the primary enclosures when ~~water~~ steam, pressurized water, or any chemical solution is used in cleaning. All empty cages shall be kept clean at all times.

(b) Excreta shall be removed from each enclosure at least once daily. The enclosures shall be cleaned and sanitized as often as necessary to accomplish all of the following:

- (1) Prevent contamination of the animals contained therein.
- (2) Prevent disease hazards.
- (3) Minimize odors.

(c) For bird enclosures, perches shall be cleaned on a regular basis.

(d) Any cage, room, or pen that contains any animal having an infectious or transmissible disease shall be washed each day, and after each occupancy. Effective disinfectant shall be applied as an incident of each washing.

(e) Any aquarium containing fish shall be kept in a clean, healthful condition. Live algae is not considered an unhealthful condition. Any dead fish shall be removed promptly from aquariums.

122343. (a) Notwithstanding Sections 122155 and 122210, and Sections 597u and 597v of the Penal Code, pet store operators shall ensure that veterinary care is provided to the animals in the custody of the pet store without delay when needed to prevent suffering or to prevent disease transmission.

(b) A documented program for disease prevention, parasite control, euthanasia, and adequate veterinary care shall be established and maintained with a California licensed veterinarian as follows:

(1) Each animal shall be observed daily by the animal caretaker in charge, or by someone under his or her direct supervision, for the purpose of monitoring health, nutrition, and well-being of the animal.

(2) Animals that become seriously ill or seriously injured shall be diagnosed by a California licensed veterinarian in a timely manner and the prescribed therapy followed. Sick or injured animals shall be treated as follows, as appropriate:

(A) Provided with timely veterinary care as is needed for the health and well-being of the animals.

(B) Euthanized humanely and promptly by the pet store's attending veterinarian.

(C) Surrendered, with the express consent of the recipient, to a local public or private animal shelter.

(3) Animals shall not be euthanized in any way except through the most current, approved euthanasia methods established by the American Veterinary Medical Association panel on euthanasia. Euthanasia shall not be accomplished by placing a live animal in a freezer.

(4) Veterinary treatment records shall be kept for all animals,

except fish, that receive any medication or immunization used in the treatment or prevention of illness or the treatment of injury while in the care of the pet store. The records shall be made available to the enforcing officer.

122344. Each pet store operator shall ensure all of the following:

(a) All enclosures in which one or more animals are housed or exercised are structurally sound and constructed and maintained in good repair, so as to prevent injury to the animal, to contain the animals and keep other animals out, and to promote the health and safety of the enclosed animals and the public.

(b) Intact mammals that have reached sexual maturity are housed in a manner to prevent reproduction, unless the animals are intentionally bred by the pet store to produce additional animals for sale.

(c) The animals in the pet store's custody are kept clean and dry, unless species-specific requirements dictate an aquatic or semi-aquatic environment.

(d) Mammals, ducks, chickens, and pheasants housed on wire flooring are provided with a rest board, floor mat, or similar device that is large enough to provide adequate space for all the occupants of the primary enclosure at the same time. If the floor is constructed of mesh or slats, it shall be strong enough to prevent sagging and with a mesh small enough that it will not allow the animals' feet to pass through any openings in the floor.

(e) Adequate space is provided in the primary enclosure for the particular type of animal enclosed therein.

122345. Notwithstanding Section 5971 of the Penal Code and Section 122155, a pet store operator shall ensure that all the following housing requirements are met:

(a) (1) Each confined dog shall be provided a minimum square footage of floor space. The minimum square footage of floor space is equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches as represented by the following formula. The calculation is: (length of dog in inches plus six) multiplied by (length of dog in inches plus six) equals the required floor space in square inches. Required floor space in inches divided by 144 equals required floor space in square feet.

(2) The interior height of a primary enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when the dog is in a normal standing position.

(3) Not more than four adult dogs may be housed in the same primary enclosure.

(b) The primary enclosure for each cat or rabbit, including weaned juveniles, that is housed in any primary enclosure shall be provided minimum vertical space and floor space as follows:

(1) Each primary enclosure housing cats or rabbits shall be at least 24 inches high.

(2) Each cat or rabbit shall be provided with at least three square feet of floor space.

(3) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if it is properly cleaned and sanitized.

(c) Any primary enclosure for one or more birds shall meet all of the following requirements:

(1) A shelter or cage for a bird shall be constructed of materials

that are impervious to moisture and can be readily cleaned.

(2) Sandpaper-covered perches or perches covered in an abrasive material are not permitted.

(3) Enclosures shall allow the birds within to fly, hop, or otherwise move about.

(4) Each enclosure shall have at least one form of enrichment appropriate for the species per each four animals.

(5) (A) Perches or other space shall be provided to allow each bird to roost without physical harassment from other birds.

(B) A single well-placed perch may be adequate for psittacines.

(C) Two perches, one at each end of the cage, shall be provided for all bird species, including finches and canaries, that prefer flying or jumping to climbing.

(D) Perches shall be placed to prevent droppings from contaminating other birds and the birds' food and water supply and in order to prevent the bird's tail from having contact with the food and water.

(6) (A) Sufficient space shall be provided for each bird to obtain exercise to maintain itself in good health. Each bird shall be housed in a cage of sufficient size and dimensions as to allow an amount of perch space to enable it to fully extend its wings in every direction while all birds are simultaneously perched without having to touch another bird, obstacle, or the side of the cage.

(B) For medium-sized psittacines, including lorries, conures, Amazons, and African greys, each cage shall measure at least 24 inches wide, 18 inches deep, and 24 inches high.

(C) For small-sized psittacines, including cockatiels and parakeets, each cage shall measure at least 18 inches by 18 inches, and 18 inches high.

(D) For passerines, including canaries and finches, each cage shall measure 12 inches by 17 inches and be at least 7 inches high.

(d) (1) Each enclosure housing one or more rodents must include materials that allow necessary chewing to prevent detrimental overgrowth of the animals' teeth. Each enclosure shall also include at least one enrichment, which may include a climbing box, ball, or PVC tubing. Each enclosure shall also include shelters or nest boxes that are of sufficient size to accommodate all animals in the enclosure simultaneously.

(2) The materials used to construct a rodent enclosure shall be of sufficient strength to prevent escape and injury from gnawing or chewing and to protect the animals housed inside from predators.

(3) A rodent enclosure with a solid bottom shall be constructed of material that is impervious to moisture. An enclosure with a wire or mesh bottom shall be constructed to allow excreta to pass through the spaces in the wire or mesh. However, the wire or mesh floor shall be constructed to prevent injury to the feet and legs of any animal in the enclosure.

(4) (A) There shall be sufficient height and floor space for caged rodents to obtain proper exercise and maintain good health.

(B) Enclosures that house up to four small rodents shall measure at least one square foot wide and nine inches high. For each additional animal, the cage space shall be increased by 25 percent of original floor area. Each enclosure shall have one gnawing item and an exercise wheel per each four animals.

(C) Enclosures housing medium-sized rodents, including rats and guinea pigs, shall measure at least one square foot, 12 inches high, per animal. For each additional animal, the cage size shall be

increased by 25 percent of original floor area. Each enclosure shall have one gnawing item and a nest box per four animals. Each enclosure that houses one or more rats also shall include a climbing apparatus.

122346. Notwithstanding Section 5971 of the Penal Code, each pet store operator shall ensure all of the following:

(a) Each confinement area that houses one or more animals is maintained at a temperature that is suitable for the animal housed within and that maintains the animals' health and comfort. For cold-blooded animals, a temperature that is compatible to the well-being of the species shall be maintained.

(b) Lighting of sufficient intensity and distribution shall be available to permit all of the following:

(1) Routine inspection of the animals, including feeder mice and rats, in the pet store's custody for signs of stress, illness, or injury.

(2) Proper cleaning of the enclosures and the premises.

(3) For enclosures for birds allow at least eight hours of either natural or artificial light daily to allow the birds to intake food and water.

(4) For enclosures that house one or more animals adequate ventilation shall be provided to the confined animal. Additional ventilation shall be provided when the ambient temperature rises to a level that may negatively impact the health of the animal.

~~122347. (a) A pet store shall not sell or offer for sale any wild mammal or wild reptile designated pursuant to Section 671 of Title 14 of the California Code of Regulations.~~

~~(b) A pet store shall not sell or offer for sale any reptile or amphibian that is native to the State of California.~~

~~(c) Notwithstanding Section 599 of the Penal Code, a pet store shall not offer any live animal as a raffle, prize, advertising device, or promotional consideration.~~

122347. (a) Notwithstanding Section 599 of the Penal Code, a pet store shall not offer any live animal as a raffle, prize, advertising device, or promotional consideration.

~~(d)~~

(b) A pet store shall not sell, offer for sale, trade, or barter an animal that is under the age of eight weeks. Notwithstanding Sections 122320 and 122321, an animal that is over the age of eight weeks may be sold, offered for sale, traded, or bartered only if the animal is weaned.

(c) Subdivision (b) shall not apply to the sale, trade, or barter by pet stores of rodents intended as food for reptiles.

122348. Each pet store operator shall ensure all of the following:

(a) That records of all veterinary visits to the pet store premises are documented in writing. Veterinary treatment records shall be kept for each animal that receives medications or immunizations while in the care of the pet store. These records include all of the following:

(1) Identification of the animal receiving medical treatment.

(2) Name of the medication or immunization used.

(3) Amount of medication used.

(4) Time and date on which the medication or immunization was administered.

(b) Records required by subdivision (a) shall be kept at the pet store for one year after the sale of the animal.

122349. (a) Notwithstanding Section 122145, accurate records shall be kept and maintained for each animal purchased, acquired, held, transported, sold, or otherwise disposed of. The records shall include all of the following:

(1) The name, address, and telephone number of the person from whom each animal was acquired and his or her United States Department of Agriculture license number, if applicable, or his or her driver's license number or federal tax identification number.

(2) The date each animal was acquired.

(3) A description of each animal showing age, size, color, markings, sex, breed, and species. Records shall also include any other significant identification for each animal, including any microchip, official tag number, official leg band number, or tattoo.

(4) The name and address of the person to whom each animal is sold, given, bartered, or delivered. The record shall show the method and date of disposition, including sale, death, or transfer.

(b) Records required by subdivision (a) shall be maintained by the pet store for a minimum of one year after the sale or transfer of the animal.

(c) This section does not apply to the disposition of fish, insects, arachnids, and crustacea.

122350. (a) Notwithstanding Sections 122137, 122140, 122190, and 122220, pet store operators shall ensure all of the following:

(1) Notwithstanding Section 122215, a notice is posted stating the origin of the animals offered for sale by the pet store. The notice shall be accurate and provide all of the following information for each type of animal offered:

(A) The name of the company.

(B) The name of the breeder, if different from the company.

(C) The city and state of origin. The address and telephone number for the company or breeder of each type of animal offered for sale shall be made available to the enforcing officer and inspector upon request.

(2) Paragraph (1) does not apply to fish, insects, arachnids, and crustacea.

(3) That written disclosure of all treatments administered for 30 days prior to transfer is provided at the time of sale to each purchaser of an animal. This applies to immunizations, medications, wormers, and treatments for parasites. A record detailing the product used, the dosage, and the date administered must be provided.

(4) Except for fish, insects, arachnids, and crustacea, the pet store furnishes the purchaser of each animal a written statement at the time of sale. The statement shall show all of the following:

(A) Date of sale and date of birth of the animal, if known.

(B) Name, address, and telephone number of the pet store.

(C) Name, address, and telephone number of purchaser.

(D) Breed and description of animal, including the age, sex, and weight of the animal.

(E) For birds, the leg band identification number of the bird being sold.

(b) A complete copy of this chapter shall be posted in the pet store premises and provided to all staff members.

122351. (a) Animal control officers exercising their authority under Section 830.9 of the Penal Code, law enforcement officers, and humane officers qualified pursuant to Section 14502 or 14503 of the

Corporations Code, may conduct investigations to ensure compliance with this chapter.

(b) A violation of any provision of this chapter is punishable as either an infraction or a misdemeanor at the discretion of the prosecutor. In determining the penalty, the degree and extent of harm caused to the public and to the affected animals as a result of the violation shall be considered. A second or subsequent conviction is punishable as a misdemeanor. Each violation of this chapter with respect to each animal constitutes a separate offense. An infraction under this chapter is punishable upon conviction by a fine of up to two hundred fifty dollars (\$250) as to each animal with respect to which a violation occurs. A misdemeanor under this chapter is punishable upon conviction by a fine of up to one thousand dollars (\$1,000) as to each animal with respect to which a violation occurs, and imprisonment in a county jail for not more than six months.

(c) Notwithstanding any other penalty imposed, the enforcing officer may issue a correction notice requiring the violation to be remedied within 14 days. However, if the violation endangers the immediate health or safety of an animal in the custody of the licensee, the correction may be required within 24 hours. Nothing in this subdivision affects the authority of the enforcing officer to seize and impound an animal pursuant to Section 597.1 of the Penal Code.

(d) Nothing in this chapter shall be interpreted to limit or authorize any act or omission that violates the state's anticruelty laws.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. Section 1 of this act shall become operative July 1, 2007.

SEC. 4. 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.