

THE ANIMAL COUNCIL

P.O. Box 168, Millbrae CA 94030

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April 3, 2007

The Honorable Mike Eng
Chair, Assembly Committee on Business and Profession
State Capitol, Room 6025
Sacramento, CA 94249-0049

Re: AB 1434, "California Healthy Pets Act" – OPPOSITION

Dear Mr. Eng:

The Animal Council is California nonprofit, public benefit, tax-exempt [§501(c)(4)] corporation founded in 1991 to seek positive, humane solutions to animal public policy issues through study, analysis and application of animal husbandry, statistic, economics and law while preserving human benefit from all species, breeds and registries.

We oppose AB 1634 which presents the issue of whether state mandated restrictions on which unaltered dogs and/or cats may be owned by whom (and ultimately bred) will result in "healthier" and safer animals for California consumers at lower cost to California taxpayers while reducing the numbers entering shelters and ultimately euthanized in shelters. We believe the answer is no and the approach not feasible.

The bill's foundation of a mandated exclusionary, discriminatory permit, varying at the whim of local lawmakers and agencies, to keep an unaltered dog or cat will be fatally flawed regardless of amending details in this committee or if the bill moves forward.

PREVIOUS LEGISLATION REJECTED LOCAL MANDATES ON OWNERS: Since 1997, 4 bills attempting to mandate local ordinances to accomplish similar regulation of pet owners have failed. ¹ The 1998 SB 2102 by former Senator Herschel Rosenthal to regulate dog breeders under the Department of Consumer Affairs failed, because dog breeding in California does not rise to the level of a regularly conducted business within the DCA's jurisdiction. The 2005 SB 861 (Speier) modifying the statutory preemption on local laws and programs discriminatory as to dog breed, was based on claims that unscrupulous people were breeding too many dogs with dangerous propensities endangering the public and overburdening shelters. Now, local ordinances discriminatory as to dog breed are allowed only as to sterilization and/or breeding regulation and then requiring specific quarterly reporting to the Department of Health Services of dog bites including bite severity, the dog's breed and altered status, and whether a Health & Safety Code 122331(a) enabled program was in place. Very few of these programs have been enacted by local governments.

A California Non-Profit Public Benefit Corporation
Telephone/Facsimile (650) 692-0126
TheAnimalCouncil@aol.com
<http://www.theanimalcouncil.com>

San Francisco, which had demanded the change in state law, did do so and their data reported to DHS indicate the great majority of biting dogs, representing a wide range of breeds - mostly not “pit bulls” - were already altered and bites were not severe. This ordinance requires that all dogs appearing to be “pit bulls” other than those registered with recognized registries be altered, but owners of the registered ones must apply for and meet all qualifications for a permit to keep or transfer them. San Francisco rejected including all dogs in this scheme, since the shelter has been able to place all other adoptable dogs for many years. Only a few other jurisdictions have enacted similar ordinances. When Los Angeles County proposed one, it was quickly changed to mandate sterilization of all dogs except those applying and qualifying for limited exemptions which would exclude most new dog owners. Note that \$250 breeding permits were already required. Only 4 of the Los Angeles County contract cities have enacted the County’s ordinance. Yet the original “Santa Cruz” unaltered permit cited by bill proponents as an exemplar, includes only generic conditions and requirements that do not exclude classes of animals based on registry, event participation or awards as pursued and presented by permit applicants – a far lesser standard than the bill or proposed amendments would require.

Historically, additional bills attempted and failed to impose sterilization before transfer requirements on all dogs and cats (1998 AB 1856, Vincent; 2001 AB 1336, pet stores only, Koretz.) AB 1856, ultimately mandated sterilization only of shelter/rescue placements and is limited to a class of dogs and cats of uncertain history, not legally owned by private individuals or businesses, and at greater risk for undesired breeding.

EXISTING LOCAL ORDINANCES VARY: Beginning with San Mateo County in 1991, sporadic ordinances in California referencing some “permit” variations over and above a basic license to keep an unaltered dog (or, in some cases, cat) have been enacted. Other approaches include very high fee differential license fees with no extra requirements, sometimes providing “discounts” based on qualifying applicants and with other restrictions; or mandated sterilization except for animals registered with specified registries without additional permits. Some permits contain breeding restrictions, but others stand alone with or without separate breeding regulation. Considerations in enacting these ordinances include greatly differing local shelter practices, programs and resources; local demographics and politics. Because licensing dogs is required by state law for rabies prevention, any additional costs and measures that deter compliance should be balanced against potential alleged benefits. Also, as the percentage of altered licensed animals increases, license or other permit revenue remains flat or decreases.

SHELTER ISSUES ARE UNRELATED TO OWNER REGULATION: From 1980 until 1997, the year before the “Hayden Bill” (1998 SB 1785) was enacted imposing standards on shelters, the number of dogs impounded in California shelters declined from 669,093 to 507,468 and euthanasia of those dogs from 437,776 in 1980 to 303,313 in 1997.² SB 1785 was intended to curb unacceptable practices, particularly in Los Angeles shelters, and the city actively lobbied against the bill. In later years, there were legislative efforts to scale back these requirements, efforts to recover costs from the state for unfunded mandates and greatly decreased local cooperation in reporting these invaluable data to the Department of Health Services so that a reliable database is available over time. Cat data were only reported from 1995, and local handling of cats varies widely as cats are simply different from dogs. A large proportion of cats do not have formal owners, and only a very small number of pedigreed cats are

intentionally kept unaltered and bred by actual owners. Despite less consistent reporting, shelter intakes and euthanasia continue persistent decline while human population increases. The steepest declines happened before any local mandates on owners. When these have been imposed, they coincide with different shelter accountability standards and programs so that it is statistically impossible to correlate any of these variables with continuation of these historic declines, now at greatly reduced rates of change.

In the early 1990s, emerging ideas on shelter programs understood that shelters provide an essential community service that can never be eliminated and the most cost effective approach to minimizing intakes and eliminating euthanasia is within the shelter itself and its relationship with its community -- not coercive mandates on owners who already sterilize a high percentage dogs and almost all owned cats or on caretakers of un-owned cats – whether at their own doorsteps or elsewhere. Individual animals that have had homes enter shelters not because they should not have been born or had not homes, but because their owners had no better options in the face of loss of housing, financial capability, illness, death, family emergencies, community disasters and even military service. Public sheltering of these animals is an unavoidable community service that cannot be eliminated as a public expense but must be continually subject to review of effectiveness, quality and accountability.

UNALTERED OWNER DISCRIMINATION REDUCES AVAILABILITY OF QUALITY ANIMALS: The unaltered permit concept is based on disincentives, conditions or exclusions to own unaltered animals in order to reduce ultimately undesirable animals whether unhealthy, unsafe or unmanageable. But these same factors indiscriminately bar entire classes unknown to the drafters and create barriers to entry to new owners of young animals without regard to the consequences. For example, the Los Angeles County approach permits unaltered dogs of only 4 acceptable registries, and these must meet additional qualifications almost impossible for a new owner of a young dog. Yet there are a number of specialized, little known registries of rare, foreign or special purpose dog breeds including valuable breeding stock. Other requirements of “competing”, holding a title or the owner’s membership in a restricted list of private clubs absolutely eliminate the possibility of legally owning valuable, desirable unaltered dogs. Even for qualifying owners, the compliance burden would be a challenge to anyone not adept at organizing and presenting documentation. Of course, the intention is to discourage anyone from trying and instead sterilize their dogs, beginning with those of law-abiding owners seeking to renew licenses. Whether they can comply or leave the system through normal attrition, the barriers for new owners are insurmountable and ultimately eliminate locally bred dogs from legal sources. In fact, this has been the trend in the Los Angeles area that supports the Mexican smuggling trade in small puppies highly desired but not available locally.

Additional premises of mandated sterilization of owned animals include presumed health benefits to animals and increased safety for humans. While there are some truths in these presumptions, these are greatly exaggerated or in some situations, counter-productive. Like any health decisions, these are best made by individuals based on specific needs and timing rather than legislated deadlines.

The failed bills of the last decade targeting breeders also incorrectly claimed that a major “consumer product” industry was going untaxed and unregulated at great cost to taxpayers and consumers. Existing zoning and animal control laws in California make it very difficult

for anyone to engage in dog or cat breeding as a regularly conducted business for which a viable business model requires maintaining only productive breeding stock and limiting costs and risks by selling offspring as soon as possible.

The overwhelming majority of California breeders are exempt from collecting sales tax as “occasional” sellers, so this is not an unrealized source of state revenue. For income tax purposes, all income from sales is subject to deduction of expenses whether for taxable hobby income or Schedule C filers for qualified taxpayers, so breeding income is not an untaxed category of income except for criminal tax evaders. Most occasional breeders find the process expensive, difficult and sometimes heartbreaking with little incentive to do at all. Those who do continue with purposeful breeding, do it as a lifestyle based on passion when the circumstances of their lives allow it. A profitable business may be able to comply with regulatory burdens or relocate or “off-shore” to escape; a passionate lifestyle does not have to. It will disappear from California as the already small population of unaltered dogs and owned, unaltered cats do.

The public is only now realizing this when they try to find a new animal and find many doors closed for good.

For the above reasons, we ask that AB 1634 be either withdrawn or defeated.

Very truly yours,

Sharon A. Coleman
President, The Animal Council

Cc: Authors, Committee members

¹ 1997, SB 621 (Rosenthal), 2001 SB 236 (O’Connell), 2002 SB 1373 (O’Connell) and 2004 AB 2513 (Levine)

² California Department of Health Services