

# **THE ANIMAL COUNCIL**

**P.O. Box 168, Millbrae CA 94030**

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June 19, 2008

Fax (916) 445-0128

Senator Gloria Negrete McLeod  
Chair, Senate Committee on Local Government  
State Capitol, Room 2059  
Sacramento, CA 95814

Re: AB 1634, "California Healthy Pets Act" amended June 18, 2008 – OPPOSITION

Dear Ms. Negrete McLeod:

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.

We must respectfully oppose AB 1634 as amended and mandating sterilization of dogs and cats as additional punishment for multiple impounds or other offenses, without regard to due process rights of owners and want to let you know some of our concerns based on experience going back to the original MSN on multiple impound ordinance in San Mateo County, enacted in 1991 after long debate in a large task force with the final provision was limited to impound more than twice in a 3-year period, with an administrative hearing procedure option.

MANDATED STERILIZATION ON MULTIPLE IMPOUNDS:

The 2008 amended AB 1634 includes by amendment, provisions requiring sterilization of dogs and cats on third or second impound respectively with no due process provision were in 1998 deleted from AB 1856. The 1998 Senate Judiciary Committee analysis for AB 1856 details my objections and author, then Assembly Member Edward Vincent's responses including his concern that "providing for an administrative hearing prior to a third offense sterilization would be overly bureaucratic." However, this provision was removed from AB 1856 for which AB 1634's author, Mr. Levine was Mr. Vincent's staff person. This provision is just as bad now as 10 years ago, and would override existing local laws that actually do provide administrative hearings, as well as limited time periods in which multiple impounds must occur rather than the individual animal's lifetime.

Whether enacted or not, these ordinances reflect local assessments of their ability to track individual animals and owners over time, the widely varying reasons animals are impounded at no fault of owners and unrelated to the unaltered status of the animal, and the ever-decreasing numbers of owned unaltered animals. This proposal is an unnecessary state mandate on local government that would undermine existing ordinances that were intended as fair, practical and reasonable and have been administered as such.

MANDATED STERILIZATION AS PUNISHMENT FOR UNRELATED “COMPLAINTS” OR OFFENSES:

The 2008 amendments would also use sterilization as a punitive measure for multiple “complaints” about all violations of animal laws except noise, again over the animal’s lifetime with same owner. “Complaint” does not appear to require conviction, which at the least should be a prerequisite to confiscatory punishment not directly related to the relative gravity of offenses nor their relevance to unaltered condition, and again with no procedural due process provision.

STATE MANDATED ANIMAL DATA REPORTING:

Earlier this year, we received a phone call from the Legislative Analyst’s Office inquiring about the collection of Department of Health Services Veterinary Public Health Shelter Data Reports on our web site at <http://www.theanimalcouncil.com/Reference.html>. During the conversation, the caller mentioned the possibility of legislation now included in this 2008 amendment, i.e. conditioning “Hayden bill” reimbursements to counties on their timely reporting as required by 17 CCR § 2606.4(a)(4). Because TAC was a member of the DHS-VPH Unit Working Group in the early 90’s, we were aware that following enactment of the “Hayden bill”, SB 1785 also in 1998, the laggard reporting counties jumped from the usual 3 to at least 10 and caused the DHS to delay their annual publishing these reports for years. While the purpose of the Regulation was to support the rabies statute by compiling relevant data for dogs, as the only species for mandated rabies vaccination, these reports evolved to include a number of data categories and then added categories for cats in 1995. Since state law provides no other requirements for shelters to compile, compare or track data at all, we have used the DHS data in our work over the years and last year uploaded our collection to provide some context for those evaluating earlier versions of AB 1634.

We believe that the counties should compile and maintain accurate data about animal shelter intakes and dispositions, licensing and such, and availability of this data should certainly be a prerequisite to consideration of extravagant legislative proposals. Whether this initial proposal is now appropriate should be carefully considered as to why counties have difficulties with the limited existing requirement, whether they could comply in a timely way that would not compromise the accuracy or integrity of the data and whether the laggards actually are the counties qualifying for and needing Hayden unfunded mandate reimbursements.

The issue of shelter data has been central to our work from our beginning. But it is a deceptively complex topic that even in the limited scope of the rabies regulation deserves greater scrutiny in the legislature than can be done at this late date in this bill. Surely this is not a worthy bargain for the other amended provisions using mandatory sterilization as a confiscatory punishment superimposed on existing penalties for convictions for unrelated animal “complaints” or for multiple impounds. This state level punitive concept failed in the California legislature in 1998 as it should in 2008. This should remain an option of local government.

Very truly yours,

SHARON A. COLEMAN  
President, The Animal Council