

Date of Hearing: May 21, 2020

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 2152 Gloria – As Amended May 18, 2020

SUBJECT: Public health: prohibition on the retail sale of dogs, cats, and rabbits.

SUMMARY: Prohibits a pet store from selling dogs, cats, or rabbits. Prohibits a pet store from providing space for the display of dogs, cats, or rabbits available for adoption, unless the animals are displayed by either a shelter or animal rescue group, as defined. Establishes a fee limit, inclusive of the adoption fee, for animals adopted at a pet store.

EXISTING LAW:

- 1) Defines a "pet store" as a retail establishment open to the public and selling or offering for sale animals, including animals for use as pets or animals intended as food for other animals. "Pet store" does not include a retail establishment open to the public and selling animals to agricultural operations. (Health and Safety Code (HSC) 122350 (i))
- 2) Defines a "pet store operator" as a person who owns or operates a pet store or both. (HSC Section 122350(j))
- 3) Establishes the responsibilities of a pet store operator, including facility and maintenance requirements, standards for animal enclosures, animal care requirements, and record keeping protocols. (HSC Section 122350 et seq.)
- 4) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (HSC 122354.5 (a))
- 5) Defines a "rescue group" as an organization that is tax exempt under Section 501(c)(3) of the Internal Revenue Code, and that does not obtain animals from breeders or brokers for compensation. (HSC 122354.5 (j))
- 6) Requires a pet store to maintain records sufficient to document the origin of each dog, cat, or rabbit the pet store sells or provides space for, for at least one year. Additionally, each pet store shall post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or nonprofit from which each animal was obtained. (HSC 122354.5 (c))
- 7) Requires a pet store operator to maintain written records sufficient to document the health, status, and disposition of each animal for a period of not less than two years after the animal is sold. (HSC 122354.5 (d))
- 8) States that at the request of the pet store operator, a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue

group that supplies an animal to the pet store shall provide, in writing, the terms under which the animal is being transferred to the pet store, including policies on returning a sick animal, and information related to the animal, including the origin of the animal, if known, and any veterinary records. (HSC 122354.5 (f))

- 9) Requires a pet store to do the following:
 - a) Inspect all dogs and cats received for sickness prior to being placed with other dogs and cats. Any dog and cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animal;
 - b) Provide information on the benefits of spaying and neutering to the purchaser of a dog or cat;
 - c) Provide veterinary medical records to the purchaser of a dog or cat, such as immunizations, worming treatments, or veterinarian treatment or medication received, if any. (HSC Section 122354.5 (h))
- 10) Provides that an animal control officer, a humane officer, or a peace officer, who detect a violation of these provisions by a pet store, may issue a single notice to correct that contains the following information:
 - a) Specify each violation of this chapter found in the inspection;
 - b) Identify the corrective action for each violation;
 - c) Include a specific period of time during which the listed violation or violations must be corrected. (HSC Section 122356(a))
- 11) Specifies that a pet store who fails to comply with a notice to correct is guilty of an infraction. (HSC Section 122356(d))
- 12) Specifies that a pet store operator who continues to fail to correct the violation is guilty of a misdemeanor on the third or subsequent violation. (HSC Section 122356(e))

THIS BILL:

- 1) Prohibits a pet store from adopting out, selling, or offering for sale a dog, cat, or rabbit.
- 2) Prohibits a pet store from providing space for the display of dogs, cats, or rabbits available for adoption, unless the animals are displayed by either a public animal control agency or shelter, or animal rescue group, as defined.
- 3) Requires that an animal displayed for adoption at a pet store must be both sterilized and adoptable for total fees, inclusive of an adoption fee, not to exceed \$500.
- 4) Specifies that a retail establishment operated by an animal rescue group offering animals for adoption that are sterilized, and if total fees for each animal, including, but not limited to, adoption fees, do not exceed \$500, shall not be considered a pet store.

- 5) Defines an “animal rescue group” as any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and that meets the following requirements:
 - a) Does not breed animals;
 - b) Does not obtain animals from any person that breeds or brokers animals;
 - c) Is not located on the same premises where a person breeds animals;
 - d) Does not have any personnel in common with a person that breeds animals;
 - e) Does not facilitate the sale or offer for sale of animals that were obtained from a person that breeds animals.
- 6) Defines a “public animal control agency or shelter” as any facility operated by or under contract with any governmental entity for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, rabbits, or other animals.
- 7) Provides that each unlawful sale, offer for sale, and adoption by a pet store shall constitute a misdemeanor.
- 8) Provides that an unlawful display of animals for adoption shall be subject to a notice to correct on the first violation, and a misdemeanor on the second or subsequent violation.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by legislative counsel.

COMMENTS:

Purpose. This bill is sponsored by the **San Diego Humane Society**. According to the author: “AB 2152 is named after a corgi named “Bella” who was illegally and inhumanely bred in a puppy mill. Bella was sent to a pet store in San Diego County where she was advertised as a rescue and sold for thousands of dollars – the “adoption fee.” During this experience, Bella was declawed and developed a severe case of bronchitis that caused her owner, Heather, to have to spend thousands of dollars to eventually get her healthy. Though healthy today, Bella still suffers from separation anxiety from her owner. When we have animals in California who are still being bred and raised in unhealthy and inhumane conditions for profit, we cannot turn a blind eye. Bella’s Act will fulfill our promise to end the inhumane puppy mill industry by officially prohibiting the retail sale of dogs, cats, and rabbits in California and encouraging pet retailers to collaborate with rescue groups and shelters. We will no longer continue to facilitate or tolerate puppy mill cruelty in California.”

Background.

Animal Welfare. In 1966, the United States Congress enacted the Animal Welfare Act (AWA) to provide standards on the humane handling, care, and treatment of animals. Enforced by the United States Department of Agriculture (USDA), the AWA regulates animal rights in various settings, including scientific research, public exhibitions, or transportation.

California is home to a number of additional animal protection laws. These include the Lockyer-Polanco-Farr Pet Protection Act, which establishes requirements on pet dealers and the animals they sell; the Polanco-Lockyer Pet Breeder Warranty Act, which extends similar requirements to dog breeders; and the Pet Store Animal Care Act which outlines the enclosure, care, disease control and prevention, as well as euthanasia requirements for pet stores.

Puppy Mills. The term “puppy mills” or “kitten factories” generally refer to commercial, high-volume breeding facilities that mass produce animals for retail sale. According to the Humane Society, there are approximately 10,000 puppy mills in the United States, with fewer than 3,000 of which are regulated by the USDA. Although commercial breeders are required to abide by the federal AWA, there is limited oversight and enforcement of the requirements. According to several animal welfare groups, mills often rear animals in squalid and inhumane conditions, with certain facilities having long and documented histories of repeated violations of the AWA. As a result, puppies that are sourced from such mills and sold at a pet store often have serious health or psychological problems, and can suffer from zoonotic diseases, congenital conditions, or even death. Over the years, additional public scrutiny has been placed on retail pet stores and their sourcing practices.

Prior pet store legislation. In 2018, California enacted into law AB 485, which aimed to eliminate the sale of animals coming from puppy mills, by requiring commercial pet stores to exclusively sell dogs, cats, and rabbits that have been sourced from public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter or rescue group in cooperation with an animal shelter. The law also added transparency provisions, requiring each pet store to maintain records sufficient to document the source of each dog, cat, or rabbit for a minimum of one year, and to post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the entity from which each dog, cat, or rabbit was obtained.

Recent legal action. Several lawsuits have been filed in California and Iowa against commercial breeders fraudulently registering as animal rescue non-profits, in order to skirt pet sale laws. These lawsuits allege that commercial breeders, or shell organizations linked to them, obtain nonprofit status with the Internal Revenue Service (IRS) in order to disguise themselves as animal rescue groups. These groups can subsequently label puppies bred in animal mills as “rescues” for eventual sale at animal pet stores. This practice, coined by some as “puppy laundering,” allows animal mills to circumvent local and state laws.

An ongoing federal lawsuit has been filed against several puppy stores in San Diego and Riverside counties for such practice, accusing puppy mills of obscuring the source of dogs, deceive consumers, and circumvent state law by shipping falsely labeled rescue animals to pet stores across California.

In 2019, the Iowa attorney general similarly filed lawsuits against fraudulent pet rescue non-profit organizations. In its investigation, the Iowa attorney general found that two organizations had transferred at least 3,600 dogs to entities in California, Illinois, Florida, Missouri and New Jersey. Although defendants denied the allegations, they have agreed to the consent judgement and dissolved the nonprofits, permanently ceased operations, and agreed to pay a settlement.

This bill aims to end the practice of circumventing state law through the use of illegitimate non-profit rescue groups to sell animals at pet stores. Under this bill, pet stores would be broadly

prohibited from adopting out, selling, or offering for sale a dog, cat, or rabbit. In addition, each unlawful sale, offer for sale, and adoption by a pet store would constitute a misdemeanor.

Local Ordinances. To date, there are approximately 37 cities in California that have placed restrictions on the retail sale of pets at pet stores, including Los Angeles, Irvine, Chula Vista, San Francisco, Beverly Hills, and Turlock. As an example, National City enacted in 2019 a local ordinance which stated, with specified exceptions, that “a pet shop or retail pet store or its operator shall not sell, deliver, offer for sale, barter, auction or otherwise dispose of a cat, dog, or rabbit.” To account for these local initiatives, the bill clarifies that it does not prohibit a local governing body from adopting requirements that are more protective of animal welfare.

Adoption of animals. Currently, some pet stores across California voluntarily open their facilities to allow other organizations to display animals for adoption. For instance, a pet store can agree to let an animal shelter use the pet store facility to host an adoption event. This would allow the animal shelter to have access to both a larger display space, and a broader range of customers that may be interested in adopting an animal. It is generally understood that all adoption fees are paid directly to the organization using the space, and not the pet store itself. These agreements are beneficial to both parties: the displaying organization can have the animals adopted, while the pet store receives increased foot traffic.

This bill intends to allow this existing practice to continue, with added limitations. The bill specifies that a pet store is prohibited from providing space to display dogs, cats, and rabbits, unless the animals are displayed by either a public animal control agency or shelter, or an animal rescue group. To address the problems of puppy mills registering as fraudulent non-profit rescues, the bill provides for a definition of an animal rescue group. Specifically, an animal rescue group is defined as a not-for-profit organization that has tax-exempt status under the IRS, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and that meets the following requirements: (1) does not breed animals, (2) does not obtain animals from any person that breeds or brokers animals, (3) is not located on the same premises where a person breeds animals, (4) does not have any personnel in common with a person that breeds animals, and (5) does not facilitate the sale or offer for sale of animals that were obtained from a person that breeds animals.

Similarly, a public animal control agency or shelter is defined by the bill as “any facility operated by or under contract with any governmental entity for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, rabbits, or other animals.”

Violations of the bill’s animal display provisions would subject a pet store to a warning – or a notice to correct – on the first violation. A second and subsequent violation would constitute a misdemeanor.

Adoption fee limits. Commercial breeders may sell animals at an expensive price point, with puppies reportedly sold for hundreds of dollars to several thousands. An investigative article by the Southern California News Group found young, purebred and designer puppies with price tags exceeding \$1,000 sold as rescues in California. In the case of the Iowa lawsuit, the non-profit organizations sold animals as high as \$3,600.

As an added safeguard to ensure only legitimate animal rescue groups display animals in pet stores for adoption, the bill establishes a total fee limit, inclusive of the adoption fee and any other fees, to \$500. This figure was established by a member of the bill sponsor’s coalition, Best

Friends Animal Society, which surveyed all pet stores across California to determine the best approximate figure. According to the sponsor, the survey revealed that pet stores did not charge adoption fees higher than \$500, with two exceptions.

Under this bill, the \$500 limit would only apply to animals displayed in pet stores by an animal rescue group or a public animal control agency. This limit would not apply for transactions occurring outside of a pet store.

Current Related Legislation.

AB 2117 (O'Donnell) – Pet store operators: crimes. Would revise pet store animal sale prohibition laws by excluding a society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group from the list of organizations from which a pet store operator may obtain a live dog, cat, or rabbit for purposes of selling that animal.

Prior Related Legislation.

AB 485 (O'Donnell, Chapter 740, Statutes of 2017) – Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the dog, cat, or rabbit was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group, as defined, that is in a cooperative agreement with at least one private or public shelter, as specified.

ARGUMENTS IN SUPPORT:

The San Diego Humane Society writes in support: “AB 2152 will provide necessary safeguards to cut off this deceptive puppy mill-to-pet store supply chain and end fraudulent puppy laundering practices. It cleanly bans the sale of dogs, cats and rabbits in pet stores, but allows for bona fide non-profit organizations and shelters to partner with retail shops to display adoptable animals. Given that low citation fees for state law violations have failed to deter bad actors who can make thousands of dollars selling a single puppy, the legislation also sets a \$500 cap on the total amount for which a dog, cat or rabbit can be adopted from a retail store. These provisions will ensure that only humane business models where true partnerships exist between pet stores and rescue organizations persist in the future.”

The Humane Society of the United States writes in support: “Research conducted by HSUS found that close to half of the pet stores selling puppies prior to January 1, 2019 continued to sell commercially-raised puppies afterwards and were obtaining them from fake non-profits purporting to be rescues. [...] Due to these bad actors and the enforcement challenges agents throughout California are facing when attempting to crack down on these stores, we feel strongly that a legislative fix is needed. Not only is this important to protect animals and consumer in California, but it will allow California to set an example for the rest of nation.”

The Animal Legal Defense Fund writes in support: “This technical fix bill will close the loophole for these unscrupulous profiteers while allowing for the remaining rescue groups who display their animals needing adoption to continue to operate lawfully in a retail setting and in the spirit of reducing the homeless pet population, as is the Governor’s intent to become a no-kill state in the near future.”

Social Compassion in Legislation writes in support: “AB 2152 is a simple solution which end the sale of dogs, cats, or rabbits sold in pet stores, while also allowing for the “humane” model, where retail pet stores lend their space to rescues in order to showcase their adoptable animals, to continue with several new parameters to ensure compliance with the spirit of AB 485.”

The California Animal Welfare Association writes in support: “As our members bear the responsibility of enforcing animal welfare laws, protecting the animals in the face of loopholes in existing law has been resource-intensive and frustrating. Additionally, we discovered in surveying our membership, that shelters are simply not providing animals to pet shops for resale. Those that are working collaboratively with pet shops, are maintaining responsibility for the animals and conducting adoptions on site, resulting in a mutually beneficial arrangement that saves the lives of shelter pets. We are pleased with AB 2152, as we feel it will effectively address the problem of puppy mill pet sales while allowing shelters and rescue organizations to partner with pet shops to facilitate the adoption of homeless animals.”

The Animal Society for the Prevention of Cruelty to Animals, The San Francisco SPCA, and Best Friends Animal Society write in support: “AB 2152 would short circuit these fraudulent practices and prevent puppy laundering schemes. The bill provides vital safeguards to prohibit the sale of dogs, cats and rabbits in retail stores while ensuring parameters for true non-profit rescues and shelters to offer animals for adoption. It requires adoptable animals to be spayed and neutered and priced at no more than \$500 each when displayed in pet stores. Such carefully crafted provisions will combat the actions of the few bad actors who endeavor to undermine existing law while allowing the many beneficial partnerships that exist between pet stores and bona fide rescue organizations to continue.”

The Companion Animal Protection Society writes in support: “We are strongly in favor of the passage of this necessary amendment to The Pet Rescue and Adoption Act (AB 485). It is imperative that we close the loophole that is allowing pet shops to sell mill-bred puppies from fraudulent rescues – fronts for USDA-licensed dog brokers. The true purpose of The Pet Rescue and Adoption Act is stop the sale of mill-bred animals and to provide space in pet shops for shelters and legitimate rescues to showcase homeless animals for adoption.”

ARGUMENTS IN OPPOSITION:

Petco, Petco Foundation, PetSmart, PetSmart Charities, Kriser’s, Healthy Spot, Pet Supplies Plus, and Pet Valu and Pet Supermarket collectively write as opposed unless amended: “Unfortunately, one of the provisions in Assembly Bill 2152 has the potential to put an end to hosting in-store adoptions and adoption events. As currently written, the bill holds pet stores criminally liable for any adoptions from or provisions of space to any organization that does not meet the definition of “animal rescue group” in the bill. If this becomes law, our exposure to criminal liability for the actions or omissions of a third-party organization would leave us unable to continue hosting in-store adoptions, adoption events or provide adoption centers and habitats to all our animal welfare partners in California. [...] It would be difficult, if not impossible, for us to continue to facilitate adoptions if AB 2152 were enacted as currently drafted. We work with thousands of animal welfare organizations, including rescue organizations, throughout the country hosting adoption events and providing them space to house and display adoptable animals in our stores. We ask that you amend AB2152 to remove the criminal liability for pet stores as it relates to adoptions from Section 4.”

POLICY ISSUE(S) FOR CONSIDERATION:

- 1) *Criminal Liability.* The bill provides that any violation of its provisions would subject a pet store to criminal penalties, as specified. In the context of adoption events, this implies that if a pet store opens its space to an animal rescue organization that does not meet the bill's definition, the pet store would be held liable for any violation.

The bill is specific in requiring that an animal rescue must not obtain animals from any person that breeds or brokers animals; must not be located on the same premises where a person breeds animals; must not have any personnel in common with a person that breeds animals; and does not facilitate the sale or offer for sale of animals that were obtained from a person that breeds animals. From the animal store perspective, it would nearly impossible to accurately verify that an animal rescue organization abides by those requirements. This potentially exposes pet stores to criminal liabilities, based on factors outside of their control.

To address those concerns, the author has amended the bill to allow an opportunity for rectification in the event a pet store partners with a fraudulent third-party. The changes specify that upon a first violation, the pet store would only receive a notice to correct. The second and any subsequent violation would lead to a misdemeanor. While these amendments provide a window of opportunity for pet stores to adjust and correct any emerging problems, the author and the committee may want to consider additional feedback and suggestions to balance the appropriate criminal liabilities and the bill's intent to support the adoption of animals in pet stores.

- 2) *Adoption fee limit.* To ensure the legitimacy of animal rescue groups displaying animals at pet stores for adoption, and to provide an additional mechanism to stop the fraudulent sale of rescue animals, the bill establishes an adoption fee limit of \$500. According to the author, this figure mirrors the range of adoption fees currently in place throughout the state.

Because the fee is set in statute, it would not be able to be modified unless revisited and changed by the legislature. A fixed fee would not be able to be adjusted for inflation, financial downturns, or other economic fluctuations. In the event the fee needs to be adjusted, the author and committee may want to consider the best mechanism to do so.

REGISTERED SUPPORT:

San Diego Humane Society (Sponsor)
Humane Society of the United States
Animal Legal Defense Fund
Social Compassion in Legislation
California Animal Welfare Association
Animal Society for the Prevention of Cruelty to Animals
The San Francisco SPCA
Best Friends Animal Society
Companion Animal Protection Society

REGISTERED OPPOSITION:

Petco
Petco Foundation
PetSmart
PetSmart Charities
Kriser's
Healthy Spot
Pet Supplies Plus
Pet Valu
Pet Supermarket

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