

under which the pet store will provide follow-up veterinary care for the animal in the event of illness. (HSC § 122354.5(e))

- 6) States that at the request of the pet store operator, the 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))
- 7) Requires a pet store operator to provide the prospective purchaser or purchaser of an animal, a copy of the veterinary medical records of the animal, as specified. (HSC § 122354.5(g))
- 8) Subjects a pet store operator who violates the prohibition on the sale of retail animals is subject to a civil penalty of five hundred dollars, as specified. (HSC § 122354.5(i))
- 9) Defines a “rescue group” 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))
- 10) Requires each pet store operator to ensure that records of all veterinary visits to the pet store are documented in writing, as specified. (HSC § 122355(a))

This bill:

- 1) Prohibits a pet store from adopting out, selling or offering for sale a dog, cat, or rabbit; but does not prevent a pet store from providing space to display animals for adoption, as specified.
- 2) Requires the animals displayed for adoption to be either from a public animal control agency or shelter, or animal rescue group, and any animal displayed must be sterilized and the adoption fee must not exceed \$500.
- 3) Requires any animal displayed for adoption, by a public animal control agency or animal rescue group, to be both sterilized and adoptable for total fees, including, but not limited to adoption fees not to exceed \$500.00, and requires the fees to be posted to and visible to the public, as specified.
- 4) Prohibits the pet store displaying the dogs, cats, or rabbits from receiving any fees in connection with the display of dogs, cats, or rabbits.
- 5) Defines “animal rescue group” to mean any not-for-profit organization that has tax-exempt status as 501(c)(3) under the Internal Revenue Code, whose mission and practice is, in whole, or significant part, the rescue and placement of animals into permanent homes and does not breed animals or obtain animals in exchange for payment or compensation from any person that breeds or brokers animals.
- 6) Defines “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) States for purposes of this bill, pet store does not include an animal rescue group operating a retail establishment in compliance with 3) above.
- 8) States that the provisions of this bill do not prohibit a local government from adopting requirements that are more protective of animal welfare than those in this bill.
- 9) States that a violation of the above provisions of this bill will result in a single notice to correct, which must detail the specific violation, the corrective action that must be taken, and the time period in which it must be corrected, and a failure to correct in the specified time period will result in a civil penalty of \$1,000 for a first violation, \$2,500 for a second violation and \$5,000 for subsequent violations of the same provision.
- 10) Specifies that each animal adopted, sold, or offered for sale in violation constitutes a separate violation.
- 11) Authorizes an action for a violation to be brought in the name of the people of the state of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred.
- 12) Authorizes, in addition to any other remedy, the district attorney to apply to the court for, and the court must grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating any of the specified violations.

FISCAL EFFECT: This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

1. **Purpose.** The San Diego Humane Society is the sponsor of this bill. According to the author, “In 2017, the legislature added Section 122354.5 to the Health and Safety Code to prohibit the sales of dogs, cats, and rabbits in retail stores, unless the animals were acquired from a shelter or rescue group that has a cooperative agreement with a shelter, humane society, or society of the prevention of cruelty to animals. This law went into effect on January 1, 2019. However, pet stores were unwilling to change their business model and instead worked to set up fake 501c(3)s that continue to get dogs from puppy mills and supply them to stores. According to the San Diego Humane Society, the animal care agency for 12 municipalities in San Diego County, three of the few remaining pet stores in California that still sell puppies are within their jurisdiction. Through nearly a year of investigations and enforcement attempts, it has become clear that these retail store operators – in their zeal to continue profiting from the sale of animals – utilized the loophole in the law to get around the ban. Without strengthening the safeguards to prevent the exploitation of animals bred in deplorable conditions and imported for sale, California will continue to facilitate puppy mill cruelty.”

2. **Background.** This bill aims to end the perceived practice of possibly circumventing state law related to the sale of dogs, cats, and rabbits at pet stores as a result of AB 485. Under this bill, pet stores would be broadly prohibited from adopting out, selling, or offering for sale a dog, cat, or rabbit unless they specifically obtain the animal from a public animal control agency or shelter or animal rescue group. Additionally, the adoption fees must be posted in a visible area and the fees cannot be more than \$500.00. This bill also provides penalties for violations; however, the first violation provides the retail store with a notice to correct prior to any issuance of a monetary fine.

AB 485 and the Prohibition on the Retail Sale of Animals. In 2017, the Legislature passed, and the Governor signed AB 485 (O'Donnell Chapter 740, Statutes of 2017), which prohibited, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization beginning January 1, 2019. That bill was an effort to help address issue surrounding overcrowding in California animals shelters and to help address animal sourcing issues from out-of-state "puppy mills."

Prior to that bill being enacted, there were a number of local jurisdictions that had already prohibited the sale of certain animals in pet store in favor of allowing animals to be "adopted" through a retail pet store. SB 485 further permitted a public or private shelter to enter into cooperative agreement with animal rescue or adoption organizations regarding rabbits; requires dogs or cats sold in a retail pet store to comply with current spay and neuter laws; provide specified exemptions to the pet warranty law; and permit an animal control officer, a humane officer, or a peace officer to enforce the pet store prohibition. This bill maintains a local jurisdiction's authority to continue to adopt requirements that are more protective of animal welfare than those provided by this bill.

Currently, there are a number of pet stores across California that are currently opening their facilities to allow 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. This bill would allow that practice to continue.

This bill build upon the existing law as a result of AB 485, but revises the law to more narrowly define the not-for-profits that will be authorized to provide adoptable animals to the retail pet establishment, and adds additional limitations. This 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 potential fraudulent non-profit rescues, the bill provides for a specific definition of an animal rescue group. In addition, the bill establishes a total fee limit of \$500, inclusive of the adoption fee and any other fees, for any animals displayed and adopted at a pet store.

3. **Senate Judiciary Committee issues.** This bill touches upon various issues within the jurisdiction of the Senate Judiciary Committee, including due process in civil actions. The Senate Judiciary Committee has tended to favor the adoption of bills that ensure due process is given to those who are assessed liability and where it is clear what conduct is being prohibited.
4. **Arguments in Support.** Animal Legal Defense Fund, Best Friends Animal Society, California Animal Welfare Association, Humane Society of The United States; San Diego Humane Society and SPCA, and the San Francisco SPCA write in support, “when signed by Governor Brown in 2017, AB 485 (O’Donnell)...made California the first state in the country to prohibit the sale of commercially bred dogs, cats and rabbits in retail stores, allowing for certain exceptions. Unfortunately, when the statute went into effect after a year-long grace period, it became clear that breeders and retail store operators discovered how to circumvent the law by obscuring the source of the animals.

The City of West Hollywood writes in support, “AB 2152 prohibits the retail sale of dogs, cats, and rabbits while still allowing pet stores to partner with rescue organizations and shelters to host animal adoption events. AB 2152 will eliminate the kitten factories and puppy and rabbit mill industry in California and their inhumane breeding practices of dogs, cats, and rabbits.

The Humane Society Veterinary Medical Association writes in support, “If enacted, it would safeguard the health and welfare of homeless, adoptable companion dogs, cats and rabbits sold to families in California.

5. **Arguments in Opposition.** Pet Industry Joint Advisory Council writes in opposition, “PIJAC strongly opposed AB 485 (O’Donnell) that banned retail stores from selling legally obtained dogs/cats/rabbits from sources other than animal shelters. Pet sale bans and limits on the types of pet’s people may own can cripple legitimate businesses and foster an underground, unregulated market for pets in the future. The passage of AB 485 ended the first-in-the-nation puppy warranty, leaving consumers with no protections when purchasing a pet from on-line sellers and other non-retail sources.”

Petco, The Petco Foundation, PetSmart, PetSmart Charities, Kriser’s, Healthy Spot, Pet Valu, and Pet Supermarket are opposed unless amended and write, “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.”

6. **Current Related Legislation.** AB 2117 (O’Donnell) revises 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. (Status: *This bill is pending in the Assembly Committee on Business and Professions.*)

7. **Prior Related Legislation.** AB 2445 (O'Donnell, Chapter 145, Statutes of 2018) requires a pet store operator to maintain records to document the health, status, and disposition of each animal it sells for a period of not less than two years, and provide to the prospective purchaser of any animal the veterinary medical records, as specified, and the pet store return policy including the circumstances, if any, under which the pet store will provide follow-up veterinary care for the animal in the event of illness. This bill also requires that an animal shelter, as specified, or a rescue group that supplies an animal to the pet store provide, if requested by the pet store operator, the terms under which the animal is being transferred to the pet store, including certain specified information.

AB 485 (O'Donnell, Chapter 740, Statutes of 2017) prohibited, beginning January 1, 2019, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless they were obtained from a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization, as defined; permits a public or private shelter to enter into cooperative agreement with animal rescue or adoption organizations regarding rabbits; requires dogs or cats sold in a retail pet store to comply with current spay and neuter laws; provides specified exemptions to the pet warranty law; and permits an animal control officer, a humane officer, or a peace officer to enforce the pet store prohibition.

SB 945 (Monning, Chapter, Statutes of 2015) established standards for pet boarding facilities and pet boarding operators, as specified.

AB 339 (Dickenson, Chapter 231, Statutes of 2013) made it unlawful to sell animals at a swap meet unless the local jurisdiction has adopted an ordinance that includes specified requirements relating to the care and treatment of animals, beginning January 1, 2016.

SUPPORT AND OPPOSITION:

Support:

San Diego Humane Society and SPCA (sponsor)
 Animal Legal Defense Fund
 Best Friends Animal Society
 California Animal Welfare Association
 City of West Hollywood
 Humane Society of the United States
 Humane Society Veterinary Medical Association
 Pawpac
 San Francisco SPCA

Opposition:

Healthy Spot
Kriser's
Pet Industry Joint Advisory Council
Pet Supermarket
Pet Valu
Petco Animal Supplies Stores, INC.
Petco Foundation
PetSMART
PetSMART Charities

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