

1 A bill to be entitled  
2 An act relating to sterilization of dogs and cats;  
3 creating s. 828.35, F.S.; requiring the sterilization of  
4 dogs and cats of a specified age; providing exceptions;  
5 authorizing a county or municipality to enact ordinances  
6 requiring the licensure of dogs and cats that are not  
7 sterilized; requiring the Department of Agriculture and  
8 Consumer Services to adopt rules for the approval of breed  
9 registration organizations; providing penalties; amending  
10 s. 823.15, F.S.; conforming requirements for the  
11 sterilization of dogs and cats in animal shelters and  
12 animal control agencies to the changes made by the act;  
13 deleting a provision extending the time for sterilization;  
14 amending s. 828.27, F.S.; revising definitions;  
15 authorizing county and municipal ordinances relating to  
16 sterilization of animals; authorizing a county or  
17 municipality to collect a surcharge on civil penalties;  
18 providing an effective date.

19  
20 WHEREAS, pet overpopulation is a preventable problem that  
21 can be solved simply by spaying or neutering companion animals,  
22 and

23 WHEREAS, many euthanized dogs and cats are the offspring of  
24 family pets, and

25 WHEREAS, one unneutered male dog or cat can impregnate  
26 dozens of females, leading to hundreds of unwanted animals, and

27 WHEREAS, spaying and neutering are reasonably safe  
28 procedures performed by licensed veterinarians to prevent dogs

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29 and cats from reproducing through surgical sterilization of an  
30 animal's reproductive system, and

31 WHEREAS, in addition to reducing pet overpopulation,  
32 spaying and neutering have other positive effects, including  
33 decreased aggression and temperament problems; reduced risk of  
34 cancer; decreased drive to roam in search of a mate or fight  
35 with other animals; and decreased tendency of males to urinate  
36 to mark territory, NOW, THEREFORE,

37

38 Be It Enacted by the Legislature of the State of Florida:

39

40 Section 1. Section 828.35, Florida Statutes, is created to  
41 read:

42 828.35 Sterilization of dogs and cats; exceptions;  
43 penalties.--

44 (1) The owner of every dog or cat in this state must  
45 provide sterilization of the animal by a veterinarian licensed  
46 under chapter 474 within 30 days after the animal reaches 4  
47 months of age or 30 days after the owner takes custody of the  
48 animal, whichever occurs later. This subsection does not apply  
49 to an animal exempt from sterilization under subsection (2).

50 (2) (a) A dog or cat is exempt from sterilization if a  
51 licensed veterinarian has examined the animal and has certified  
52 in writing that, at the time of examination, sterilization would  
53 endanger the animal's health because of its age, infirmity,  
54 disability, illness, or other medical consideration. An exempt  
55 animal must be sterilized as soon as its health permits, except  
56 as otherwise provided in this subsection.

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57 (b) The governing body of a county or municipality is  
58 authorized to enact ordinances that require the licensure of the  
59 following animals that shall be exempt from sterilization:

60 1. A show animal registered with an established breed  
61 registration organization approved by the Division of Animal  
62 Industry of the Department of Agriculture and Consumer Services.  
63 The department shall adopt rules under ss. 120.536(1) and 120.54  
64 to administer this subparagraph.

65 2. A dog or cat that has earned, or is in the process of  
66 earning, a competitive sports or training title, including, but  
67 not limited to, agility, obedience, or herding.

68 3. An animal trained, or in training, for use as a guide  
69 dog or service animal.

70 4. A dog trained, or in training, for use in law  
71 enforcement, military, or rescue activities.

72 5. An animal for which the owner has a valid breeding  
73 permit issued in accordance with an ordinance of the county or  
74 municipality.

75 (c) A greyhound racing dog that currently participates in  
76 racing at a licensed parimutuel facility is exempt from  
77 sterilization. An exempt animal must be sterilized upon  
78 retirement from racing, except as otherwise provided in this  
79 subsection.

80 (3) Effective July 1, 2010, a person who violates  
81 subsection (1):

82 (a) For a first offense commits a civil infraction,  
83 punishable as provided in s. 828.27(2), except the minimum civil  
84 penalty is \$100.

85           (b) For a second offense commits a civil infraction,  
 86 punishable as provided in s. 828.27(2), except the minimum civil  
 87 penalty is \$250.

88           (c) For a third or subsequent offense commits a  
 89 misdemeanor of the second degree, punishable as provided in s.  
 90 775.082 or s. 775.083.

91           (4) This section does not prohibit or limit a county or  
 92 municipality from establishing requirements that are more  
 93 stringent than this section.

94           Section 2. Subsection (2) of section 823.15, Florida  
 95 Statutes, is amended to read:

96           823.15 Dogs and cats released from animal shelters or  
 97 animal control agencies; sterilization requirement.--

98           (2) In furtherance of this policy, provision shall be made  
 99 for the sterilization of all dogs and cats sold or released for  
 100 adoption from any public or private animal shelter or animal  
 101 control agency operated by a humane society or by a county,  
 102 municipality ~~city~~, or other incorporated political subdivision,  
 103 by either:

104           (a) Providing sterilization by a licensed veterinarian  
 105 before relinquishing custody of the animal; or

106           (b) Entering into a written agreement with the adoptor or  
 107 purchaser guaranteeing that sterilization will be performed in  
 108 accordance with s. 828.35 ~~within 30 days or prior to sexual~~  
 109 ~~maturity~~. The shelter or animal control agency shall require a  
 110 sufficient deposit from the adoptor or purchaser, which deposit  
 111 shall be refundable upon presentation to the shelter or animal  
 112 control agency of written evidence by the veterinarian

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113 performing the sterilization that the animal has been  
114 sterilized. The deposit or donation may be based upon  
115 recommended guidelines established by the Florida Federation of  
116 Humane Societies. Failure by either party to comply with the  
117 provisions of this paragraph shall be a noncriminal violation as  
118 defined in s. 775.08(3), punishable by a fine, forfeiture, or  
119 other civil penalty, and, in addition thereto, the deposit or  
120 donation shall be forfeited to the shelter or animal control  
121 agency. Any legal fees or court costs used for the enforcement  
122 of this paragraph are the responsibility of the adoptor. ~~Upon~~  
123 ~~the request of a licensed veterinarian, and for a valid reason,~~  
124 ~~the shelter or animal control agency shall extend the time limit~~  
125 ~~within which the animal must be sterilized.~~

126 Section 3. Paragraphs (b) and (g) of subsection (1),  
127 subsection (2), paragraph (b) of subsection (4), and subsection  
128 (7) of section 828.27, Florida Statutes, are amended to read:

129 828.27 Local animal control or cruelty ordinances;  
130 penalty.--

131 (1) As used in this section, the term:

132 (b) "Animal control officer" means any person employed or  
133 appointed by a county or municipality who is authorized to  
134 investigate, on public or private property, civil infractions  
135 relating to animal control, sterilization, or cruelty and to  
136 issue citations as provided in this section. An animal control  
137 officer is not authorized to bear arms or make arrests; however,  
138 such officer may carry a device to chemically subdue and  
139 tranquilize an animal, provided that such officer has  
140 successfully completed a minimum of 16 hours of training in

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141 marksmanship, equipment handling, safety and animal care, and  
142 can demonstrate proficiency in chemical immobilization of  
143 animals in accordance with guidelines prescribed in the Chemical  
144 Immobilization Operational Guide of the American Humane  
145 Association.

146 (g) "Ordinance" means any ordinance relating to the  
147 control or sterilization of, or cruelty to, animals enacted by  
148 the governing body of a county or municipality the violation of  
149 which is a civil infraction.

150 (2) The governing body of a county or municipality is  
151 authorized to enact ordinances relating to animal control,  
152 sterilization, or cruelty, which ordinances must provide:

153 (a) That a violation of such an ordinance is a civil  
154 infraction.

155 (b) A maximum civil penalty not to exceed \$500.

156 (c) A civil penalty of less than the maximum civil penalty  
157 if the person who has committed the civil infraction does not  
158 contest the citation.

159 (d) For the issuance of a citation by an officer who has  
160 probable cause to believe that a person has committed an act in  
161 violation of an ordinance.

162 (e) For the contesting of a citation in the county court.

163 (f) That, if a person fails to pay the civil penalty,  
164 fails to appear in court to contest the citation, or fails to  
165 appear in court as required by subsection (6), the court may  
166 issue an order to show cause upon the request of the governing  
167 body of the county or municipality. This order shall require  
168 such persons to appear before the court to explain why action on

169 the citation has not been taken. If any person who is issued  
 170 such order fails to appear in response to the court's directive,  
 171 that person may be held in contempt of court.

172 (g) Such procedures and provisions as are necessary to  
 173 implement any ordinances enacted under the authority of this  
 174 section.

175 (4)

176 (b) The governing body of a county or municipality may  
 177 impose and collect a surcharge of up to \$5 upon each civil  
 178 penalty imposed for violation of an ordinance relating to animal  
 179 control, sterilization, or cruelty. The proceeds from the ~~such~~  
 180 surcharges shall be used to pay the costs of training for animal  
 181 control officers.

182 (7) Nothing contained in this section shall prevent any  
 183 county or municipality from enacting any ordinance relating to  
 184 animal control, sterilization, or cruelty which is identical to  
 185 the provisions of this chapter or any other state law, except as  
 186 to penalty. However, no county or municipal ordinance relating  
 187 to animal control or cruelty shall conflict with the provisions  
 188 of this chapter or any other state law. Notwithstanding the  
 189 provisions of this subsection, the governing body of any county  
 190 or municipality is authorized to enact ordinances prohibiting or  
 191 regulating noise from any domesticated animal, violation of  
 192 which shall be punishable upon conviction by a fine not to  
 193 exceed \$500 or by imprisonment in the county jail for a period  
 194 not to exceed 60 days, or by both such fine and imprisonment,  
 195 for each violation of such ordinance. This subsection shall not  
 196 apply to animals on land zoned for agricultural purposes.

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Section 4. This act shall take effect January 1, 2010.