

AMENDED IN ASSEMBLY FEBRUARY 28, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 240

Introduced by Assembly Member Kalra

January 13, 2023

An act to add ~~and repeal~~ Part 3 (commencing with Section 32150) of ~~to~~ Division 14.8 of the Food and Agricultural Code, relating to animals, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 240, as amended, Kalra. Dogs and cats: California Spay-Neuter Fund.

~~(1) The California Department of Tax and Fee Administration (CDTFA) administers various taxes, fees, and surcharges, including, among others, various taxes and fees collected in accordance with the Fee Collection Procedures Law.~~

~~This bill would impose a surcharge on retail sellers of dog and cat food, as defined, at a rate of 8 mills imposed upon each dollar of dog and cat food sold in the state. The bill would require the CDTFA to administer and collect this surcharge pursuant to the Fee Collection Procedures Law, as specified. The bill would require the CDTFA to, no later than 45 days after the end of each quarter, report to the Controller the amount collected by the CDTFA pursuant to this surcharge during that quarter, as provided.~~

~~Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.~~

~~(1) Existing law establishes the Pure Pet Food Act of 1969, which is administered by the State Department of Public Health. Under the~~

act, every person who manufactures a processed pet food, as defined, in California is required to first obtain a license from, and every person who manufactures a processed pet food for import into California from another state is required to first obtain a registration certificate from, the State Department of Public Health. Existing law excludes from the definition of “processed pet food” fresh or frozen pet foods subject to the control of the Department of Food and Agriculture. Under existing law, an annual license or registration certificate shall only be issued when certain conditions are met, including, among others, when the applicant submits to the State Department of Public Health the label that would be attached to the container of each type of processed pet food. Existing law also provides that, unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor.

This bill would require the Department of Food and Agriculture to collect, on an annual basis, a charge of \$200 from a manufacturer of dog and cat food, as defined, for each label submitted by the manufacturer to the State Department of Public Health for dog and cat food, as provided. The bill would require the State Department of Public Health to, at the request of the Department of Food and Agriculture, provide the Department of Food and Agriculture with the information necessary to administer the above-mentioned provision. The bill would require a manufacturer of dog and cat food that has less than \$75,000 in verifiable gross annual sales to instead only pay a single annual charge of \$200 to the Department of Food and Agriculture.

The bill would establish the California Spay-Neuter Fund in the State Treasury. Treasury and would require these moneys to be transferred into the fund. The bill would continuously appropriate all moneys in the fund to the Department of Food and Agriculture without regard to fiscal years, as provided, and would require the Controller to, no later than 60 days after the end of each quarter, transfer an amount into the fund from the General Fund that is equal to the amount collected by the CDTFE during that quarter, provided, thereby making an appropriation.

(2) Existing law prohibits a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group from selling or giving away any cat or dog that has not been spayed or neutered, except as provided. Existing law also requires the owner of a nonspayed or unneutered cat or dog that is impounded by a city or county animal control agency or shelter, society

for the prevention of cruelty to animals, or humane society to receive a specified fine. ~~Existing law provides that, unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor.~~

This bill would require the Department of Food and Agriculture to undertake certain actions in administering and overseeing the California Spay-Neuter Fund, including, among others, offering competitive grants or ~~set allocations~~ *allocations, or both*, to public animal shelters, private animal shelters with public contracts, or nonprofits for whom spay-neuter is a primary activity and ~~targeting fund moneys towards the cities and counties with the state's highest shelter overpopulation or euthanasia rates, as provided.~~ *requiring these competitive grants and set allocations to primarily be used to fund spay-neuter services.* The bill would prohibit the department's expenses in administering the fund from exceeding 5% of the moneys deposited into the fund in any fiscal year. The bill would also require the department to promulgate certain rules, including, among others, by establishing administrative, recordkeeping, and reporting requirements related to the receipt of fund moneys, as specified. ~~Because certain provisions of the bill would be located in the Food and Agricultural Code and would not expressly provide a penalty for violation, the bill would expand the scope of a crime and would thereby create a state-mandated local program. The bill would also make related findings and declarations.~~

~~The bill's provisions would remain in effect only until January 1, 2044, and as of that date would be repealed.~~

(3) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(4) *Because the provisions of this bill would be located in the Food and Agricultural Code and the violation of these provisions would be a crime, the bill would impose a state-mandated local program.*

~~(4) The~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has long had a homeless animal overpopulation
4 problem, too often leading to overcrowded shelters despite cities
5 and counties across the state collectively investing more than
6 \$378,000,000 ~~\$400,000,000~~ annually in operating our public
7 animal shelters.

8 (b) Homeless animal overpopulation has been exacerbated by
9 the COVID-19 pandemic, resulting in overpopulated shelters
10 having to euthanize family-friendly animals solely for space.

11 ~~(c) California took in 472,840 homeless cats and dogs in 2021.~~
12 ~~Of those animals, 37,021 were tragically euthanized.~~

13 ~~(c) As recently as 2016, California was tragically euthanizing~~
14 ~~approximately 160,000 dogs and cats. Many of these were~~
15 ~~unnecessary deaths only due to shelter overpopulation.~~

16 ~~(d) The state's overall save rate of 82.7 percent is low for this~~
17 ~~day and age. California has the second-highest shelter animal kill~~
18 ~~rate in the nation, behind Texas. single most effective mechanism~~
19 ~~for addressing shelter overpopulation is spaying and neutering.~~

20 ~~(e) The single most effective mechanism for addressing shelter~~
21 ~~overpopulation is spaying and neutering. state does not invest~~
22 ~~enough in necessary spay and neuter services. Although the Pet~~
23 ~~Lover's License Plate Program is offering \$488,000 for the 2023~~
24 ~~grant application cycle, it does not come close to meeting the~~
25 ~~state's spay and neuter funding needs.~~

26 ~~(f) The state invests little to nothing in stemming the tide of~~
27 ~~animals coming into shelters in the first place, spending~~
28 ~~approximately \$184,000 per year or 0.05 percent of what is~~
29 ~~invested across the state in managing animals once they're already~~
30 ~~in our shelters.~~

31 ~~(g)~~

32 (f) According to the article "COVID-19 Associated Reduction
33 in Elective Spay-Neuter Surgeries for Dogs and Cats," the rise in
34 subsidized access to spaying and neutering helped drive the
35 euthanasia of shelter pets in the United States down from an

1 estimated 13.5 million shelter pets in 1973 to 1.5 million shelter
2 pets in 2019.

3 ~~(h)~~

4 (g) The demand for low-cost ~~to~~ and no-cost ~~spaying~~ *spay* and
5 ~~neutering~~ *neuter* services far outstrips supply, demonstrating the
6 strong desire of Californians to spay and neuter their animal
7 companions.

8 ~~(i) The over two-year hiatus on spaying and neutering as a result~~
9 ~~of the COVID-19 pandemic has clearly demonstrated the impact~~
10 ~~that spaying and neutering has on shelter populations. Research~~

11 (h) *Research* shows that shelter populations explode when
12 ~~spaying~~ *spay* and ~~neutering~~ *neuter* services ~~stop~~. *stop, a finding*
13 *that has been demonstrated many times over by the spay and neuter*
14 *hiatus caused by the COVID-19 pandemic.* Alternatively,
15 overpopulation can be effectively and humanely managed with
16 ongoing, adequate investments in spaying and neutering.

17 ~~(j) The average cost to spay and neuter an animal via private~~
18 ~~veterinary clinics ranges from \$400 to \$1,000, a cost~~

19 (i) *Without assistance, it can cost up to \$550 to spay or neuter*
20 *an animal, a price that many Californians struggle to pay. Many*
21 *Californians, therefore, Consequently, many Californians do not*
22 *spay or neuter their animals, leading to costs to the state excessive*
23 *state expenses when unplanned, unwanted animals inevitably end*
24 *up in California's public animal shelters.*

25 ~~(k)~~

26 (j) Nonprofit animal rescues work tirelessly to ease the burden
27 on public animal shelters.

28 ~~(l)~~

29 (k) While the average low-cost estimate to spay ~~and~~ *or* neuter
30 an animal is \$160, it costs an average of \$2,000 to control, house,
31 ~~vet, care for, adopt out, or~~ *and/or* euthanize an animal.

32 ~~(m)~~

33 (l) For every dollar spent on spaying and neutering, ~~\$13~~ *many*
34 *more* are saved in future control, shelter, ~~vetting, veterinary care,~~
35 adoption, and euthanasia costs. ~~Spaying and neutering offers a~~ *In*
36 *fact, spaying and neutering could potentially offer more than a*
37 *tenfold reduction in costs.*

38 ~~(n)~~

39 (m) Spaying and neutering is a ~~preventative~~ *and* more
40 cost-effective and humane approach to animal care and control

1 ~~than solely~~ *only* investing in animals ~~once they are in California's~~
2 ~~after they have arrived at public shelters.~~

3 ~~(e)~~

4 (n) The California Spay-Neuter Fund ~~provides~~ *will provide*
5 ongoing, adequate, equitable, and accessible ~~spay-neuter~~ *spay and*
6 *neuter* services to all California communities, not just a privileged
7 ~~few. few, and, in doing so, will help establish spay and neuter~~
8 *services as one of the state's equity priorities.*

9 ~~(p)~~

10 (o) Therefore, it is in the state's interest to establish the
11 California Spay-Neuter Fund.

12 SEC. 2. Part 3 (commencing with Section 32150) is added to
13 Division 14.8 of the Food and Agricultural Code, to read:

14
15 PART 3. THE CALIFORNIA SPAY-NEUTER FUND

16
17 32150. For purposes of this part, the following terms have the
18 following meanings:

19 (a) "Department" means the Department of Food and
20 Agriculture.

21 (b) "Dog and cat food" means ~~any commercial feed prepared~~
22 ~~and distributed for consumption by dogs or cats, including, but~~
23 ~~not limited to, treats: a food for dogs or cats, or both, that has been~~
24 *prepared by heating, drying, semidrying, canning, or by a method*
25 *of treatment prescribed by regulation of the State Department of*
26 *Public Health. The term includes special diet, health foods,*
27 *supplements, treats, and candy for dogs or cats, or both, but does*
28 *not include fresh or frozen foods for dogs or cats, or both, subject*
29 *to the control of the Department of Food and Agriculture.*

30 (c) "Eligible partner" means public animal shelters, private
31 animal shelters with public contracts, or nonprofits for whom
32 spay-neuter is a primary activity.

33 (d) "Fund" means the California Spay-Neuter Fund established
34 pursuant to Section 32152.

35 (e) "Set allocation" means an allocation of fund moneys, using
36 a formula developed by the department, to eligible partners
37 requesting fund moneys.

38 (f) "Spay-neuter" means low-cost to no-cost ~~spaying and~~
39 ~~neutering~~ *spay and neuter* surgeries conducted in the state.

1 32151. It is the intent of the Legislature that fund moneys are
2 disbursed to eligible partners to reduce all of the following:

3 (a) The overpopulation of unwanted or homeless dogs and cats,
4 including feral or community cats.

5 (b) Animal shelter overpopulation.

6 (c) The ongoing costs associated with managing animal shelters.

7 (d) The state's euthanasia rates for dogs and cats, including feral
8 or community cats.

9 32152. (a) The California Spay-Neuter Fund is hereby
10 established in the State Treasury. Notwithstanding Section 13340
11 of the Government Code, all moneys in the fund are continuously
12 appropriated to the department without regard to fiscal years for
13 the purposes of this part.

14 ~~(b) The Controller shall, no later than 60 days after the end of~~
15 ~~each quarter, transfer an amount into the fund from the General~~
16 ~~Fund that is equal to the amount collected by the California~~
17 ~~Department of Tax and Fee Administration pursuant to Section~~
18 ~~32153 during that quarter.~~

19 *(b) Moneys collected pursuant to Section 32153 shall be*
20 *transferred into the fund.*

21 (c) The Treasurer, in consultation with the department, shall
22 invest moneys contained in the fund not needed to meet current
23 obligations in the same manner as other public funds are invested.
24 All interest accruing from any investment pursuant to this
25 subdivision shall be deposited into, and credited to, the fund.

26 32153. ~~(a) A surcharge is hereby imposed on retail sellers of~~
27 ~~dog and cat food at a rate of eight mills (\$0.008) imposed upon~~
28 ~~each dollar of dog and cat food sold in the state.~~

29 ~~(b) The California Department of Tax and Fee Administration~~
30 ~~shall administer and collect the surcharges imposed by this section~~
31 ~~pursuant to the Fee Collection Procedures Law (Part 30~~
32 ~~(commencing with Section 55001) of Division 2 of the Revenue~~
33 ~~and Taxation Code). For purposes of this section, the references~~
34 ~~in the Fee Collection Procedures Law to "fee" shall include the~~
35 ~~surcharges imposed by this section, and references to "feepayer"~~
36 ~~shall mean any person liable for the payment of the surcharges~~
37 ~~imposed under this section and collected pursuant to that law.~~

38 ~~(c) The California Department of Tax and Fee Administration~~
39 ~~may prescribe, adopt, and enforce rules and regulations, including~~
40 ~~emergency regulations as necessary, relating to the administration~~

1 and enforcement of this section, including, but not limited to,
2 collections, reporting, refunds, and appeals.

3 (d) ~~The surcharges imposed by this section are due and payable~~
4 ~~to the California Department of Tax and Fee Administration~~
5 ~~quarterly on or before the last day of the month next succeeding~~
6 ~~each quarter.~~

7 (e) ~~On or before the last day of the month following each~~
8 ~~quarter, a return for the preceding quarter shall be filed by retail~~
9 ~~sellers of dog and cat food with the California Department of Tax~~
10 ~~and Fee Administration using electronic media. Returns shall be~~
11 ~~authenticated in a form or pursuant to methods as may be~~
12 ~~prescribed by the California Department of Tax and Fee~~
13 ~~Administration.~~

14 (f) ~~The California Department of Tax and Fee Administration~~
15 ~~shall, no later than 45 days after the end of each quarter, report to~~
16 ~~the Controller the amount collected by the California Department~~
17 ~~of Tax and Fee Administration pursuant to this section during that~~
18 ~~quarter.~~

19 32153. (a) (1) *The department shall collect, on an annual*
20 *basis, a charge of two hundred dollars (\$200) from a manufacturer*
21 *of dog and cat food for each label submitted by the manufacturer*
22 *to the State Department of Public Health pursuant to subdivision*
23 *(c) of Section 113070 of the Health and Safety Code for dog and*
24 *cat food.*

25 (2) *The State Department of Public Health shall, at the request*
26 *of the department, provide the department with the information*
27 *necessary to administer paragraph (1).*

28 (b) *Notwithstanding paragraph (1) of subdivision (a), a*
29 *manufacturer of dog and cat food that has less than seventy-five*
30 *thousand dollars (\$75,000) in verifiable gross annual sales shall*
31 *instead only be required to pay a single annual charge of two*
32 *hundred dollars (\$200) to the department.*

33 32154. (a) In administering and overseeing the fund, the
34 department shall:

35 (1) Offer competitive grants or set allocations, or both, to eligible
36 partners. *Both competitive grants and set allocations shall*
37 *primarily be used by eligible partners to fund spay-neuter services.*

38 (2) Determine, with stakeholder input, the most strategic method
39 of allocating fund moneys to eligible partners.

1 (3) Target fund moneys towards the cities and counties with the
2 state's highest shelter overpopulation or euthanasia rates, or both.

3 (4) Require all eligible partners receiving fund moneys to
4 annually report outcomes to the department, including, but not
5 limited to, information on how fund moneys were used, data on
6 the number and type of surgeries provided, and the ratio of kennel
7 space to animal intakes at certain time intervals.

8 (5) Publish an annual report on the department's internet website
9 summarizing the information provided to the department pursuant
10 to paragraph (4).

11 (b) In administering and overseeing the fund, the department
12 may solicit and accept into the fund private donations, grants, and
13 other moneys for purposes consistent with this part.

14 (c) If the department offers set allocations to eligible partners,
15 the department shall review its formula every three years and adjust
16 the formula if necessary.

17 (d) The department's expenses in administering the fund shall
18 not exceed 5 percent of the moneys deposited into the fund in any
19 fiscal year.

20 32155. The department shall promulgate rules consistent with
21 this part to:

22 (a) Establish parameters regarding the eligible partners that
23 qualify for fund moneys.

24 (b) Establish procedures and requirements for offering grants
25 or set allocations, or both, and for disbursing fund moneys to
26 eligible partners.

27 (c) Establish parameters regarding the use of fund moneys by
28 eligible partners.

29 (d) Establish administrative, recordkeeping, and reporting
30 requirements for eligible partners receiving fund moneys.

31 ~~32156. This part shall remain in effect only until January 1,~~
32 ~~2044, and as of that date is repealed.~~

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O