

ASSEMBLY BILL

No. 2723

Introduced by Assembly Member Holden

February 18, 2022

An act to amend Sections 31108.3 and 31752.1 of the Food and Agricultural Code, and to repeal Section 487f of, and to repeal and add Section 487e of, the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2723, as introduced, Holden. Animals: microchips: theft.

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 releasing a dog or cat to an owner seeking to reclaim it, or adopting out, selling, or giving away a dog or cat to a new owner, unless the dog or cat is or will be microchipped, as specified. Existing law subjects an agency, shelter, or group that violates these provisions on or after January 1, 2022, to a civil penalty of \$100, except as specified.

This bill would additionally require the owner or new owner of the dog or cat to be registered with the microchip registry company as the primary owner of the dog or cat. The bill would prohibit the agency, shelter, or group from being listed as the primary owner of the dog or cat beginning 90 days after the dog or cat has been released to the owner or adopted, sold, or given away to a new owner. The bill would also prohibit a dog or cat from being reclaimed by a person other than the person registered with the microchip company as the primary owner unless the primary owner has authorized that person to reclaim the dog or cat.

Existing law makes the theft of the dog of another a crime.

This bill would expand the types of acts that constitute the theft of a dog for the purposes of that provision. By expanding the scope of a crime, this bill would impose a state-mandated local program.

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: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 31108.3 of the Food and Agricultural
2 Code is amended to read:

3 31108.3. (a) (1) Except as provided in subdivision (b), a public
4 animal control agency or shelter, society for the prevention of
5 cruelty to animals shelter, humane society shelter, or rescue group
6 shall not release a dog to an owner seeking to reclaim it, or adopt
7 out, sell, or give away a dog to a new owner, unless either of the
8 following conditions is met:

9 (A) The dog is microchipped with current information on the
10 owner reclaiming the dog or new owner receiving the dog, as
11 ~~applicable~~. *applicable, and the owner or new owner is registered*
12 *with the microchip registry company as the primary owner of the*
13 *dog. The public animal control agency or shelter, society for the*
14 *prevention of cruelty to animals shelter, humane society shelter,*
15 *or rescue group shall not be registered with a microchip registry*
16 *company as the primary owner of the dog beginning 90 days after*
17 *the dog has been released to the owner or adopted, sold, or given*
18 *away to a new owner.*

19 (B) If the agency, shelter, or group does not have microchipping
20 capability on location, the agency, shelter, or group first obtains
21 from the owner reclaiming the dog or new owner receiving the
22 dog an agreement that requires the owner or new owner to present
23 to the agency, shelter, or group, within the next 30 days, proof that
24 the dog is microchipped as described in subparagraph (A).

25 (2) If the agency, shelter, or group does not have microchipping
26 capability on location, the agency, shelter, or group shall make a
27 good faith effort to ~~locate available~~ *maintain a list of local and*

1 *regional* free or discounted regional microchipping services and
2 provide that information to the owner or new owner.

3 (3) An agency, shelter, or group may require proof that the dog
4 is microchipped with current information on the owner reclaiming
5 the dog or new owner receiving the dog pursuant to paragraph
6 (1) before releasing, adopting out, selling, or giving away the dog,
7 as applicable, pursuant to paragraph (1). *applicable. If a dog is*
8 *microchipped, it shall not be released to a person seeking to*
9 *reclaim it unless the person is registered with the microchip*
10 *registry company as the primary owner of the dog or the person*
11 *has been authorized to reclaim the dog by the person registered*
12 *with the microchip registry company as the primary owner.*

13 (4) For purposes of subparagraph (B) of paragraph (1), an owner
14 reclaiming a dog or new owner receiving a dog is not required to
15 register the dog's microchip number with a microchip registry
16 company that will use, without the owner's or new owner's
17 consent, the personal information of the owner or new owner for
18 purposes other than to reunite the owner or new owner with the
19 dog.

20 (b) (1) Notwithstanding subdivision (a), this section does not
21 require a dog to be microchipped if a licensed veterinarian certifies
22 in writing that the dog is medically unfit for the microchipping
23 procedure because the dog has a physical condition that would be
24 substantially aggravated by the procedure.

25 (2) Notwithstanding subdivision (a), this section does not require
26 a dog to be microchipped if the agency, shelter, or group receives
27 a signed form from the owner reclaiming the dog or new owner
28 receiving the dog that states that the cost of microchipping would
29 impose an economic hardship for the owner or new owner.

30 (c) (1) An agency, shelter, or group that violates this section
31 on or after January 1, 2022, is subject to a civil penalty of one
32 hundred dollars (\$100).

33 (2) Chapter 7 (commencing with Section 31401) and Section 9
34 do not apply to a violation of this section.

35 (3) An agency, shelter, or group that does not have
36 microchipping capability on location is not subject to the civil
37 penalty described in this subdivision upon obtaining the agreement
38 described in subparagraph (B) of paragraph (1) of subdivision (a).

39 SEC. 2. Section 31752.1 of the Food and Agricultural Code is
40 amended to read:

1 31752.1. (a) (1) Except as provided in subdivision (b), a public
2 animal control agency or shelter, society for the prevention of
3 cruelty to animals shelter, humane society shelter, or rescue group
4 shall not release a cat to an owner seeking to reclaim it, or adopt
5 out, sell, or give away a cat to a new owner, unless either of the
6 following conditions is met:

7 (A) The cat is microchipped with current information on the
8 owner reclaiming the cat or new owner receiving the cat, as
9 ~~applicable.~~ *applicable, and the owner or new owner is registered*
10 *with the microchip registry company as the primary owner of the*
11 *cat. The public animal control agency or shelter, society for the*
12 *prevention of cruelty to animals shelter, humane society shelter,*
13 *or rescue group shall not be registered with a microchip registry*
14 *company as the primary owner of the cat beginning 90 days after*
15 *the cat has been released to the owner or adopted, sold, or given*
16 *away to a new owner.*

17 (B) If the agency, shelter, or group does not have microchipping
18 capability on location, the agency, shelter, or group first obtains
19 from the owner reclaiming the cat or new owner receiving the cat
20 an agreement that requires the owner or new owner to present to
21 the agency, shelter, or group, within the next 30 days, proof that
22 the cat is microchipped as described in subparagraph (A).

23 (2) If the agency, shelter, or group does not have microchipping
24 capability on location, the agency, shelter, or group shall make a
25 good faith effort to ~~locate available~~ *maintain a list of local and*
26 *regional free or discounted regional microchipping services and*
27 *provide that information to the owner or new owner.*

28 (3) An agency, shelter, or group may require proof that the cat
29 is microchipped ~~with current information on the owner reclaiming~~
30 ~~the cat or new owner receiving the cat pursuant to paragraph (1)~~
31 ~~before releasing, adopting out, selling, or giving away the cat, as~~
32 ~~applicable, pursuant to paragraph (1).~~ *applicable. If a cat is*
33 *microchipped, it shall not be released to a person seeking to*
34 *reclaim it unless the person is registered with the microchip*
35 *registry company as the primary owner of the cat or the person*
36 *has been authorized to reclaim the cat by the person registered*
37 *with the microchip registry company as the primary owner.*

38 (4) For purposes of subparagraph (B) of paragraph (1), an owner
39 reclaiming a cat or new owner receiving a cat is not required to
40 register the cat's microchip number with a microchip registry

1 company that will use, without the owner's or new owner's
2 consent, the personal information of the owner or new owner for
3 purposes other than to reunite the owner or new owner with the
4 cat.

5 (b) (1) Notwithstanding subdivision (a), this section does not
6 require a cat to be microchipped if a licensed veterinarian certifies
7 in writing that the cat is medically unfit for the microchipping
8 procedure because the cat has a physical condition that would be
9 substantially aggravated by the procedure.

10 (2) Notwithstanding subdivision (a), this section does not require
11 a cat to be microchipped if the agency, shelter, or group receives
12 a signed form from the owner reclaiming the cat or new owner
13 receiving the cat that states that the cost of microchipping would
14 impose an economic hardship for the owner or new owner.

15 (c) (1) An agency, shelter, or group that violates this section
16 on or after January 1, 2022, is subject to a civil penalty of one
17 hundred dollars (\$100).

18 (2) Section 9 does not apply to a violation of this section.

19 (3) An agency, shelter, or group that does not have
20 microchipping capability on location is not subject to the civil
21 penalty described in this subdivision upon obtaining the agreement
22 described in subparagraph (B) of paragraph (1) of subdivision (a).

23 SEC. 3. Section 487e of the Penal Code is repealed.

24 ~~487e. Every person who feloniously steals, takes, or carries~~
25 ~~away a dog of another which is of a value exceeding nine hundred~~
26 ~~fifty dollars (\$950) is guilty of grand theft.~~

27 SEC. 4. Section 487e is added to the Penal Code, to read:

28 487e. (a) (1) A person who steals a dog of another that is of
29 a value exceeding nine hundred fifty dollars (\$950) is guilty of
30 grand theft.

31 (2) A person who steals a dog of another that is of a value of
32 nine hundred fifty dollars (\$950) or less is guilty of petty theft.

33 (b) For the purposes of this section, "steals a dog" means either
34 of the following:

35 (1) Takes, leads away, carries away, confines, secretes, or
36 converts a dog, when that action is not otherwise authorized by
37 law.

38 (2) Conceals the identity of a dog or its owner by obscuring,
39 altering, or removing from the dog any collar, tag, license, tattoo,
40 or other identifying device or mark.

1 SEC. 5. Section 487f of the Penal Code is repealed.

2 ~~487f. Every person who feloniously steals, takes, or carries~~
3 ~~away a dog of another which is of a value not exceeding nine~~
4 ~~hundred fifty dollars (\$950) is guilty of petty theft.~~

5 SEC. 6. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.