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THIS YEAR'S ANIMAL PROTECTION LEGISLATION – RETHINKING THE NEED

It's spring again and time for this year's batch of legislation purportedly designed to save abandoned pets from extinction (SB 250, Dean Florez, D, 16th District) or to eliminate "Puppy Mills" from the state (AB 241, Pedro Nava, D, 35th District). Skeptics would suggest that the mandatory spay/neuter solution provided by SB 250 isn't effective and is punitive to law-abiding pet owners and that the laws already regulating "Puppy Mills" have made them nearly extinct in California. Skeptics would also suggest that these bills are steps along the path of killing pet ownership in the state, the culmination of an Animal Rights agenda. Thankfully, both sides seem to agree on one point – normally caring people abhor the mistreatment of animals.

I need to be clear up front, I am a hobbyist breeder and exhibitor of dogs. I know nothing about cats, so I've chosen to restrict my comments to the world of dogs.

Let's take a look at this year's mandatory spay neuter ("MSN") legislation. SB 250¹ would make it illegal for you to own an intact dog over six months old unless you pay an additional fee for an "unaltered license." Even if Rex is the scion of this year's Westminster winner, if Rex has played "escape artist" and roamed at large (or becomes an "escape artist" later in life) even once, this license could be denied or revoked . . . snip, snip.

Why would anyone want to "snip, snip" ol' Rex? California, like every other state, impounds stray and unwanted dogs. According to Senator Florez, "Every year, more than a million cats and dogs come through California's shelters, with half of those pets being put to death."² A million is a suitably large, easily remembered number, but it's wrong by almost 50 percent. The most recent reports filed with the state indicate that about 676,000 pets were impounded in 2007, about 38 percent of the dogs entering shelters were killed, cats weren't so fortunate – about 65 percent of them were euthanized.³

The number of stray and unwanted pets is startling. However, California has made remarkable strides in reducing the number of dogs processed and killed by animal shelters. In 1997, 507,000 dogs entered shelters and 303,000 of those dogs were killed.⁴ Ten years later, we had reduced the number of dogs entering shelters by nearly one third and the number of dogs killed by shelters by 56 percent.⁵ All this during a decade in which the population of the state increased by 17 percent.⁶ And without the coercion of mandatory spay/neuter laws.

Or nearly. In 1994, Santa Cruz County enacted a MSN ordinance. From 1994 to 2007, dogs processed and euthanized in the county declined by 27 percent and 50 percent, respectively, while the state as a whole did better, reducing the number of stray and unwanted dogs admitted to shelters by 29 percent and those killed in shelters by 52 percent. Santa Cruz County's population was even growing at a slower rate (12%) than the state.⁷ What's going on here?

The answer is pretty simple: mandatory spay/neuter laws simply don't work in practice. According to the ASPCA, "the ASPCA is not aware of any credible evidence demonstrating a

statistically significant enhancement in the reduction of shelter intake or euthanasia as a result of the implementation of a mandatory spay/neuter law.”⁸

O. K., what does work? There is no one-size-fits-all solution (animal control issues are much different in Modoc County than they are in Los Angeles), but there are some common denominators in those communities successful in reducing the number homeless animals killed in their shelters, namely the traditional combination of public education and the availability of low-cost, voluntary spay/neuter services. There are also communities across the U. S. that have pledged that no adoptable pets should be killed in local animal shelters – the “No Kill” movement championed by Nathan Winograd, author of Redemption: The Myth of Pet Overpopulation & The No Kill Revolution in America. Winograd suggests increasing the market share for shelter pets by 3 percent, through programs like comprehensive lost pet reclaim efforts and adjusting shelter visiting hours, would eliminate the killing of adoptable animals.⁹ Washoe County (Reno), NV adopted “No Kill” policies in 2007 and halved its kill rates for both dogs and cats that year.¹⁰

There are successful alternatives to unsuccessful spay/neuter laws, alternatives that will save animal lives. Looks like you may not have to pay another license fee and ol’ Rex may be hanging on to them after all.

AB 241 is a bill that would make it illegal for any person to own more than a combined total of 50 unsterilized dogs and cats for the purpose of breeding or raising dogs or cats for sale as pets.¹¹ (If you have more than 50 dogs at the time the law becomes effective, you would be required to transfer the dogs to other owners, neuter, or kill the dogs.) Wow, 50 dogs is a lot of dogs. What’s wrong with this bill, doesn’t it get rid of “Puppy Mills”?

The short answer is that AB 241 is a solution looking for a problem.

While MSN is a “non-starter,” the regulation of animal breeders is well established at all levels of government. The federal Animal Welfare Act (“AWA”) was enacted in the 60s (and amended many times since then) and regulates breeders selling dogs at wholesale. The AWA applies to breeders owning more than three intact females or grossing \$500 or more per year.¹² Practically, this means a breeder selling a single dog a wholesale is subject to the AWA’s requirements. The AWA is complemented by sections of the California Health and Safety Code¹³ (which regulates anyone who has sold or given away all or part of three litters or 20 or more dogs during the preceding 12 months) and Penal Code¹⁴ (which outlaws acts of animal cruelty), as well as a variety of county and city ordinances.¹⁵ These laws criminalize animal abuse, mandate licensing of breeder and kennel facilities, set minimum housing, transport and care standards and provide for compliance inspections.

A good working definition of “Puppy Mill” is a high volume breeder that does not adhere to the federal, state and local regulations for the care, housing and transport of dogs. (Notice that AB 241 is silent about the care, housing and transport of dogs.) No one knows how many “Puppy Mills” there are in California; after all, these operators operate outside the law. It is clear, however, that California is a hostile environment for high volume breeders. According to the U. S. Department of Agriculture, there are only 21 animal breeders in California licensed under the AWA of which at most 7 are dog and cat breeders.¹⁶ (By comparison, Missouri claims well over 1,300 licensed breeders of which at least half are dog and cat breeders.¹⁷)

Seven breeders is a mighty small universe, and these breeders are subject to unannounced inspections. Assembly Member Nava has suggested that kennel inspections are a low priority

with the USDA.¹⁸ Hardly. In 2007, there were 5,239 licensed dealers in the U. S. (including 4,218 which would be considered breeders). During that year, the USDA made 6,909 unannounced compliance inspections of those operations.

The absolutely small number of licensed breeders in the state leads you to question just how large a problem “Puppy Mills” actually are. I’ve been afraid to say it, but here it is . . . “Puppy Mills” are nearly extinct in California, and there are plenty of laws already on the books that could be used to put the remaining outlaws out of business. The problem with AB 241 is that it could impact the activities of law abiding citizens without affecting the crooks. To me this is backward logic and poor public policy. AB 241 also sets up the dynamic self-fulfilling prophecy, where all breeders are ultimately branded as greedy and inhumane. The limit is 50 dogs this year, then another greedy and inhumane “Puppy Mill” is discovered, “proving” that the limit is too high, so the limit is reduced to 25 dogs, then another greedy and inhumane “Puppy Mill” is discovered . . . until the limit is 0.

SB 250 and AB 241, the highest profile animal protection bills in this year’s legislative session, are fatally flawed – they simply will not protect animals. SB 250 would attempt to reduce animal shelter populations with the ineffective tool of mandatory spay/neuter laws, and AB 241 would attack a high profile, but pitifully small problem by adding yet another law when enforcement of existing rules is called for. In the end, both bills fail because they are designed to pass an ideological litmus test rather than achieve practical results.

¹ California State Senate, Senate Bill No. 250, introduced by Senator Florez February 24, 2009, amended April 21, 2009.
http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_250_bill_20090421_amended_sen_v97.pdf

² Senator Dean Florez, Press Release, “Majority Leader leads fight against pet overpopulation,” April 14, 2009.
http://dist16.casen.govoffice.com/index.asp?Type=B_PR&SEC={5E36B143-3FBF-4945-AD03-0BAE9ED9CB67}&DE={C33AD2DD-4DE7-4637-9CEB-F67D1D9BC2E1}

³ California Department of Public Health, “Annual Report of Local Rabies Control Activities – California, 2007.”
http://ww2.cdph.ca.gov/HealthInfo/discond/Documents/2007_Local_Rabies_Control_Activities.pdf

⁴ California Department of Public Health, “Annual Report of Local Rabies Control Activities – California, 1997.”
http://ww2.cdph.ca.gov/HealthInfo/discond/Documents/1997_Local_Rabies_Control_Activities.pdf

⁵See Notes 3 and 4.

	Number of Dogs Processed	Number of Dogs Euthanized
1997	507,468	303,313
2007	349,938	132,116
Change 1997 – 2007	-31%	-56%

⁶ California Department of Finance, E-4 Population Estimates for Cities, Counties and the State, 1991-2000, with 1990 and 2000 Census Counts.
http://www.dof.ca.gov/HTML/DEMOGRAP/ReportsPapers/Estimates/E4/E4-91-00/documents/E-4_90-00_Rpt.XLS

California Department of Finance, E-4 Population Estimates for Cities, Counties and the State, 2001-2008, with 2000 Benchmark.
http://www.dof.ca.gov/research/demographic/reports/estimates/e-4_2001-07/documents/E-4_2008%20Internet%20Version.xls

	California Population as of January 1
1997	32,207,869
2007	37,559,440
Change 1997 – 2007	17%
1998	32,657,877
2008	38,049,462
Change 1998 – 2008	17%

⁷ See Note 3 and California Department of Public Health, “Annual Report of Local Rabies Control Activities – California, 1994.”
http://www.naiaonline.org/pdfs/CA_DHS_Dog_Stats_1994.pdf

	Santa Cruz County Population as of January 1
1994	237,408
2008	266,519
Change 1994 – 2008	12%
1995	239,889
2008	266,519
Change 1995 – 2008	11%

⁸ American Society for the Prevention of Cruelty to Animals, “Position Statement on Mandatory Spay/Neuter Laws.”
<http://www.aspca.org/about-us/policy-positions/mandatory-spay-neuter-laws.html>

⁹ Houston PetTalk Magazine, “Interview on No Kill With Nathan Winograd,” April 27, 2009.
<http://www.houstonpettalk.com/2009/04/interview-on-no-kill-with-nathan-winograd/>

¹⁰ No Kill Advocacy Center, “Success Stories: Reno, NV.”
<http://www.nokilladvocacycenter.org/success.html#reno>

¹¹ California State Assembly, Assembly Bill No. 241, introduced by Assembly Member Nava February 10, 2009, amended April 13, 2009.
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0201-0250/ab_241_bill_20090413_amended_asm_v98.pdf

¹² AWA, 7 U.S.C. §§ 2131 – 59.

http://awic.nal.usda.gov/nal_display/index.php?info_center=3&tax_level=3&tax_subject=182&topic_id=1118&level3_id=6735&level4_id=0&level5_id=0&placement_default=0

¹³ California Health and Safety Code, Sections 122045 – 122110.

¹⁴ California Penal Code, Section 597.

¹⁵ For example, sections of Alameda County Municipal Code, Title 5 and City of Oakland Municipal Code, Title 6.

¹⁶ U. S. Department of Agriculture, Animal and Plant Health Inspection Service, “License and Registration List” (Riverdale, MD: January, 2009).

http://www.aphis.usda.gov/animal_welfare/efoia/downloads/reports/A_cert_holders.pdf

To determine the number of dog and cat breeders in the state, I searched all of the names in the above citation. Those that I could not attribute to other species, I assumed were dog and breeders. In conversations with Jackie Koenig of Assembly Member Nava’s staff, she disclosed that they had identified 5 dog and cat breeders in California – clearly Mr. Nava’s staff must have drilled down even harder on the data.

¹⁷ Ibid.

¹⁸ Office of Assemblymember Pedro Nava, “Reason AB 241 is Necessary,” February 11, 2009.

<http://democrats.assembly.ca.gov/members/a35/pdf/PuppyMillsFactSheet.pdf>