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Senate Bill 560 (as introduced 10-1-13)
Sponsor: Senator Steven Bieda
Committee: Agriculture

Date Completed: 10-30-13

CONTENT

The bill would amend Public Act 287 of 1969, which regulates pet shops, animal control shelters, and animal protection shelters, to do the following:

- Prohibit the operator of a pet shop, an animal holding facility, or a large-scale commercial dog breeding kennel from destroying an animal by any means other than euthanasia.
- Revise prohibitions that apply to operators of pet shops and animal shelters, and extend some of these prohibitions to operators of large-scale commercial dog breeding kennels.
- Require the operator of a large-scale commercial dog breeding kennel to register with the Michigan Department of Agriculture and Rural Development (MDARD).
- Require animal holding facilities to observe certain holding periods for particular animals, before the animals could be available for adoption, euthanasia, transfer, sale, or other disposition.
- Prohibit an animal holding facility from allowing a person to adopt a dog, cat, or ferret that had not been sterilized, if the person did not enter into a contract requiring the animal's sterilization, unless medical reasons prevented or delayed sterilization.
- Require an adopting person who entered into a contract for sterilization to pay a good-faith deposit, which would be refundable if the person provided a veterinarian's certification of the procedure or would be forfeited if the person failed to comply with the contract.
- Provide for exceptions to the sterilization contract requirement.
- Require a contract to include a statement that the person would be liable for \$100 in damages or the actual reasonable cost of enforcement, whichever was greater, if the person breached the contract.
- Require an animal holding facility, a pet shop, or a large-scale commercial dog breeding kennel to maintain certain records and file an annual report of certain statistics with MDARD.

The bill also would repeal Section 338a, which prohibits an animal control shelter or animal protection shelter from allowing a person to adopt a dog, cat, or ferret that has not been sterilized, unless the person enters into a contract requiring sterilization. In addition, the bill would repeal Section 339 of the Act, which specifies that licensing and registration requirements do not apply to a person who breeds his or her own animals or to people who are subject to Public Act 224

of 1969 (which regulates dealers in and facilities using dogs and cats for research).

Euthanasia

The bill would prohibit a person who operated a pet shop, an animal holding facility, or a large-scale commercial dog breeding kennel from producing the death of any animal other than by euthanasia.

The bill would define "euthanasia" as the production of the humane death of an animal through instantaneous unconsciousness and immediate death consistent with the current guidelines of the American Veterinary Medical Association on euthanasia or an equivalent protocol as approved by the MDARD Director and in accordance with Michigan law.

The Act defines "pet shop" as a place where animals are sold or offered for sale, exchange, or transfer.

The bill would define "animal holding facility" as an animal control shelter or an animal protection shelter, or an authorized agent of such a shelter. Under the Act, "animal control shelter" means a facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance or State law, or animals that are surrendered to the animal control shelter. "Animal protection shelter" means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals. The bill would delete "nonprofit" from that definition.

The bill would define "large-scale commercial dog breeding kennel" as a facility where more than 15 female intact dogs over the age of four months are housed or kept for the purpose of breeding.

Prohibitions

Under the Act, a person who operates a pet shop may not do any of the following:

- Import or cause to be imported into Michigan, or offer for sale or resale, a dog or cat less than eight weeks old.
- Import or cause to be imported into Michigan, or offer for sale or resale, a dog or cat unless the animal has deciduous (baby) teeth visibly present.
- Sell or offer for sale a dog, unless it has been inoculated against distemper, hepatitis, and leptospirosis, para influenza, and, if indicated, has been treated for external and internal parasites not less than seven days before entry into Michigan.
- Sell or offer for sale a cat, unless it has been inoculated against feline panleukopenia (cat distemper), rinotracheitis, and calici viruses, and, if indicated, has been treated for external and internal parasites.
- Sell or deliver a dog or cat, without giving the purchaser a health certificate signed by a veterinarian licensed by the State.

The bill instead would prohibit a person who operated a pet shop, an animal holding facility, or a large-scale commercial dog breeding kennel from importing or causing to be imported into Michigan a dog or cat that was under eight weeks old unless the animal was imported with its dam (i.e., its mother). An operator of such a facility also could not sell, adopt, exchange, or transfer, or offer for sale, adoption, exchange, or transfer, a dog or cat that was less than eight weeks old.

An operator of a pet shop or large-scale commercial dog breeding kennel could not import or cause to be imported into Michigan, or sell, adopt, exchange, or transfer, or offer for sale, adoption, exchange, or transfer, a dog unless all of the following were satisfied before the dog's entry into Michigan:

- The dog had been vaccinated against distemper, hepatitis, parainfluenza, rabies if the dog were over 12 weeks of age, parvovirus, and any other diseases required by the MDARD Director.
- If indicated, the dog had been treated for external and internal parasites.
- The dog was accompanied by an interstate health certificate or certificate of veterinary inspection filled out and signed by an accredited veterinarian licensed to practice veterinary medicine in the dog's state of origin, including records of the dog's medication and immunization.

An operator of a pet shop or animal holding facility could not import or cause to be imported into Michigan, or sell, adopt, exchange, or transfer, or offer for sale, adoption, exchange, or transfer, a cat unless all of the following were satisfied before the cat's entry into Michigan:

- The cat had been vaccinated against feline panleukopenia, calici viruses, rhinotracheitis, rabies if the cat were over 12 weeks of age, and any other diseases required by the MDARD Director.
- If indicated, the cat had been treated for external and internal parasites.
- The cat was accompanied by an interstate health certificate or certificate of veterinary inspection filled out and signed by an accredited veterinarian licensed to practice veterinary medicine in the cat's state of origin, including records of the cat's medication and immunization.

An operator of a pet shop or a large-scale commercial dog breeding kennel could not sell, exchange, transfer, or deliver a dog or ferret without providing to the purchaser a valid pet health certificate. For this purpose, a pet health certificate would be valid only for 30 days after the date the animal was examined by the veterinarian who signed the certificate.

The bill would define "pet health certificate" as a certificate in a form prescribed by the MDARD Director in which a veterinarian attests to the age, sex, breed, and description of an animal; any medical conditions of the animal; any medical treatment and vaccinations that the animal received while under the control of a pet shop or large-scale commercial dog breeding kennel; and the fact that at the time of the preparation of the certificate the veterinarian examined the animal and found it free from visual evidence of communicable disease.

The bill would prohibit a person from operating a large-scale commercial dog breeding kennel that housed or kept more than 50 intact female dogs over the age of four months in any one physical location.

Registration with MDARD

Currently, a municipality may not operate an animal control shelter, and a person may not operate an animal protection shelter, unless the shelter is registered with MDARD. Under the bill, a person also could not operate a large-scale commercial dog breeding kennel unless it was registered with MDARD.

The Act requires application for registration of an animal control shelter or animal protection shelter to be on forms approved by the MDARD Director. The bill instead would require application for registration of an animal holding facility or a large-scale commercial dog breeding kennel to be on a form prescribed by the Director.

Holding Period

The bill would require an animal holding facility to observe a seven-day holding period for an animal with current, traceable evidence of ownership. The facility would have to use all reasonable methods to identify the owner of the animal, including universal microchip scanning equipment and any other methods prescribed by the MDARD Director. The facility would have to notify the owner of an animal using the means provided for in the identification and could not dispose of the animal for at least seven days after the date and time of the documented notification.

An animal holding facility would have to observe a four-day holding period for a dog, and a two-day holding period for a cat, if the animal did not have current traceable evidence of ownership.

Once an applicable holding period had been fulfilled, ownership of the animal would transfer to the animal holding facility.

The holding period requirements would not apply to any of the following:

- An animal that would be subjected to undue suffering if the required holding period were observed.
- An animal whose owner requested immediate disposition of the animal.
- An animal that was relinquished to the facility by its owner.

The bill would define "holding period" as the minimum period of time, in days, after an animal's intake into an animal holding facility's inventory for which the animal must be held before being made available for adoption, euthanasia, transfer, sale, or other disposition. For purposes of this definition, a day would be a time period of not less than 24 hours during which an animal holding facility was accessible to the owner of an animal for any portion of that 24-hour period for the purpose of reclaiming his or her animal from the holding facility.

Sterilization of Animals

Except as otherwise provided, the bill would prohibit an animal holding facility from allowing a person to adopt a dog, cat, or ferret that had not been altered, unless the person entered into a contract with the holding facility for the alteration of that animal. The contract would have to state that the adopting person agreed to have an alteration performed on the dog,, cat, or ferret and otherwise comply with the bill. (The Act defines "alteration" as a professional sterilization procedure performed by a veterinarian that renders a dog, cat, or ferret incapable of reproducing.)

A contract would have to require the adopting person to have an alteration performed within four weeks after the adoption date if, at the time of the adoption, the dog, cat, or ferret were at least six months old. If the animal were under six months, the contract would have to contain the date when it would be six months old, and require the adopting person to have an alteration performed within four weeks after that date. These requirements would not prevent a veterinarian from performing an alteration on a dog, cat, or ferret that was under six months of age.

Upon written certification by a veterinarian that a dog, cat, or ferret had a serious, permanent medical or health problem that prevented an alteration, the adopted animal would not have to be altered.

Upon written certification that an alteration posed a serious, temporary medical or health problem, the alteration could be postponed. The adopting person would have to have the

animal re-evaluated by a veterinarian at intervals not to exceed 14 days, and have the alteration performed within seven days after a veterinarian determined that the temporary problem was resolved.

Except as otherwise provided, a contract would have to require the adopting person to give the animal holding facility a good-faith deposit of at least \$25 that indicated the person's intention to have the animal altered within the required period. If the person failed to comply with the terms of the contract, the deposit would be forfeited. The good-faith deposit would have to be returned to the adopting person if he or she submitted written certification from a veterinarian of either of the following:

- The dog, cat, or ferret died within the period in which the alteration was required.
- The dog, cat, or ferret had a serious, permanent medical or health problem that prevented an alteration.

Forfeited deposit money would have to be used by the animal holding facility to finance alterations, for public education regarding the value of having dogs, cats, and ferrets altered, or to otherwise ensure compliance with the bill's alteration requirements.

If an adopting person complied with the terms of a contract, the good-faith deposit would have to be refunded when the person submitted written certification by a veterinarian that the adopted animal was altered. The certificate would have to include the date of alteration, the name of the animal's owner, a description of the animal, and the signature of the veterinarian who performed the alteration procedure.

The good-faith deposit would not be required if a dog were transferred either to a local, State, or Federal law enforcement agency or to an organization or trainer that trained guide or leader dogs for blind people, hearing dogs for deaf or audibly impaired people, or service dogs for physically limited people.

The deposit also would not be required if the dog, cat, or ferret were transferred to another animal holding facility or to a person who would transfer it to another holding facility. Before the first animal holding facility released the animal, it would have to obtain from the person to whom that animal was to be released a written statement by the second facility that it was willing to accept the animal for purposes of adoption or humane euthanasia. Promptly after the second facility received the animal, the person to whom it was released would have to give the first facility a written statement by the second facility containing a description of the dog, cat, or ferret and acknowledging its receipt on a date specified in the statement.

A contract would have to include a statement that, if the terms of the contract were breached because a person adopting a dog, cat, or ferret failed to have the animal altered, the person would agree to pay liquidated damages of \$100 or actual reasonable costs incurred by the animal holding facility to enforce the contract, whichever was greater. Immediately before a person signed the contract, a representative of the animal holding facility verbally would have to direct the person's attention to the liquidated damages agreement.

The alteration of a dog, cat, or ferret that was reclaimed from an animal holding facility by its owner would not be required unless a local ordinance required the alteration.

(With the exception of the last provision, the provisions described above are virtually the same as those in Section 338a, which the bill would repeal. That section applies to animal control shelters and animal protection shelters, while the bill would apply to animal holding facilities.)

Maintenance of Records & Annual Report

Under the bill, an animal holding facility, a pet shop, or a large-scale commercial dog breeding kennel would have to maintain current verifiable records for at least two years. The records would have to include all of the following information:

- How the animal was acquired, the location where it was found or obtained, and the date and time of acquisition or birth.
- If the animal were acquired from a person, the verified name and address of the person from whom the animal was acquired and the person's relationship to the animal.
- If the animal were acquired by animal control or law enforcement personnel, the verified name and address of the person from whom it was obtained or the location where it was obtained and, if applicable, the person's relationship to the animal.
- The method or methods used to identify the owner of the animal.
- A description and identification of the animal, including its identification information, breed, sex, alteration status, age, and approximate weight.
- The date, nature, and method of the disposition of the animal.
- If the animal were adopted, transferred, or sold, the verified name and address of the person to whom the animal was adopted, transferred, or sold.
- The number of animals on site at each physical location.

The required records would have to be made available upon request to the MDARD Director or his or her representative.

Currently, an animal control shelter or animal protection shelter must maintain written records on the total number of dogs, cats, and ferrets under six months of age; the total number of dogs, cats, and ferrets six months of age or older; all other animals received, returned to owners, adopted to new owners, sold, or transferred with or without remuneration to any person; the number of adopted dogs, cats, and ferrets that were altered; the total number of adopted dogs, cats, and ferrets that were not altered; and the number of dogs, cats, and ferrets euthanized annually. The shelters annually must give a copy of these statistics to MDARD, by March 31 of the year following the year for which the statistics were compiled.

The bill instead would require an animal holding facility annually to report those statistics to MDARD (with the exception of the total number of ferrets under six months of age, or six months of age or older) on a form prescribed by the Director, by the same deadline.

MCL 287.331 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a minor fiscal impact on the Department of Agriculture and Rural Development by requiring it to register and regulate large-scale breeders, check certain records of animal holding facilities, and respond to complaints of violations.

In addition, a person who violates the Act is guilty of a misdemeanor, so by adding requirements to the Act, the bill could result in more misdemeanor convictions and thereby increase costs of incarceration or probation for local units. Any additional revenue would benefit public libraries.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.