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Code: Section:

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HEALTH AND SAFETY CODE - HSC

DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476] (*Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)*

PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2] (*Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)*

CHAPTER 9. Pet Store Animal Care [122350 - 122361] (*Chapter 9 added by Stats. 2007, Ch. 703, Sec. 3.)*

122350. As used in this act, the following definitions apply:

- (a) "Adequate space" means sufficient height and sufficient floorspace for the animals to stand up, sit down, turn about freely using normal body movements without the head touching the top of the primary enclosure, lie down with limbs outstretched, exercise normal postural movement, move about freely as appropriate for the species, age, size, and condition of the animal, and, when appropriate, to experience socialization with other animals, if any, in the primary enclosure. However, when freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal in a humane manner is permitted.
- (b) "Animal" means any nonhuman vertebrate species housed, offered for sale or adoption, or both, in the pet store, including, but not limited to, mammals, birds, reptiles, amphibians, fish, and also invertebrates housed, sold, or adopted as pets.
- (c) "Disposition" means the transfer of an animal from a pet store to another location, including the sale or adoption of the animal, the return of the animal to the person who supplied the animal to the pet store, or removal from the pet store of an animal that is deceased for any reason, including euthanasia.
- (d) "Enrichment" means providing objects or activities, appropriate to the needs of the species, as well as the age, size, and condition of the animal, that stimulate the animal and promote the animal's well-being.
- (e) "Euthanasia" or "euthanize" means the humane destruction of an animal in compliance with the requirements set forth in paragraph (5) of subdivision (b) of Section 122354.
- (f) "Impervious to moisture" means a surface that prevents the absorption of fluids and that can be thoroughly and repeatedly sanitized, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.
- (g) "Intact" means an animal that retains its sexual organs or ability to procreate and has not been sterilized.
- (h) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.
- (i) "Pet store" means a retail establishment open to the public and selling or offering for sale animals, including, but not limited to, animals for use as pets or animals intended as food for other animals. "Pet store" does not include a retail establishment open to the public and selling or offering for sale animals to agricultural operations for purposes that are directly related to the raising of livestock or poultry on a farm or ranch. A person who sells, exchanges, or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.
- (j) "Pet store operator" or "operator" means a person who owns or operates a pet store, or both.
- (k) "Primary enclosure" means a structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, aquarium, terrarium, habitat compartment, or hutch, where the animal or animals reside until their sale, transfer, or other disposition.
- (l) "Rodent" means an animal of the order Rodentia, such as a guinea pig, rat, mouse, chinchilla, or hamster.
- (m) "Sanitize" means to make physically clean and to destroy, to the extent practical, agents injurious to health.
- (n) "Temporary enclosure" means a confined space used by the pet store to house an animal when the animal is not in its primary enclosure for a period not to exceed four consecutive hours. The temporary enclosure shall allow the animals to stand up, lie down,

and turn around. An enclosure used by the pet store to house an animal for longer than four consecutive hours shall meet the requirements of a primary enclosure.

(o) "Time of sale" means the calendar date the retail purchaser removes the animal from the premises of the pet store following the retail sale of that animal.

(p) "Transfer" means the release of an animal by its owner to another person by sale, gift, adoption, or other disposition, including the exchange of animals between pet stores.

(q) "Veterinary treatment" means treatment by or at the direction of a California-licensed veterinarian.

(Amended by Stats. 2009, Ch. 446, Sec. 1. (AB 490) Effective January 1, 2010.)

122351. Each pet store operator shall be responsible for all of the following:

(a) Maintaining the entire pet store facility in good repair.

(b) Restricting the entry of pests from outside, ensuring the containment of animals within the pet store, and, in the event that animals escape, being responsible for reporting this fact, as necessary, to local authorities and making reasonable efforts to capture the animals that have escaped.

(c) Ensuring that the pet store's interior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and maintained.

(d) Uniformly distributing light, by natural or artificial means, in a manner that permits routine inspection and cleaning, and the proper care and maintenance of the animals.

(e) When dog or cat grooming services are offered by a pet store, separating the grooming work area from the store's primary animal enclosures, animal food storage areas, and isolation areas for housing sick animals. The grooming area shall be cleaned and maintained at least once daily.

(f) With respect to dogs, complying with all of the requirements of Section 122155. Sections 122356 and 122358 do not apply to a violation of Section 122155.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122352. (a) Primary enclosures shall comply with all of the following structural standards:

(1) Primary and temporary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain the animals, to keep other animals out, and to promote the health and well-being of the enclosed animals. Primary enclosures shall be constructed so they can be routinely maintained to allow animals to stay clean.

(2) The floor of the primary enclosure shall be constructed to prevent injury. A solid surface, platform, or shelf shall be provided when a grid-flooring system is used.

(3) Primary enclosures shall be constructed of materials that are impervious to moisture and can be sanitized.

(4) All primary enclosures shall provide adequate space for the animal or animals housed in the enclosure.

(5) Each primary enclosure shall provide animals with an enrichment device or devices appropriate for the species, age, size, and condition of the animal.

(b) In addition to the requirements set forth in subdivision (a), primary enclosures for cats shall provide an elevated platform as appropriate for the size of the cat.

(c) In addition to the requirements set forth in subdivision (a), primary enclosures for birds shall be designed to ensure all of the following:

(1) A bird can fully extend both of its wings at the same time without contacting the sides of the enclosure.

(2) Perches are provided in a diameter that is appropriate for the species, age, size, and condition of the bird, and for the size of the enclosure.

(3) There is sufficient space to enable each bird to fully extend its wings in every direction while all birds are simultaneously perched.

(d) Primary enclosures for prey species shall be located where they cannot be directly seen by predator animals for that species.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122353. (a) When a primary or temporary enclosure is being cleaned in a manner, or with a substance, that is or may be harmful to the animals within the enclosure, those animals shall be removed from the enclosure.

(b) Primary enclosures shall be observed at least once daily, and animal and food wastes, used bedding, debris, and any other organic wastes shall be removed as necessary to prevent contamination of the animals and to reduce disease hazards and odors.

(c) Pest control measures shall be implemented to effectively control infestation of vermin, insects, or other pests.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122354. (a) The pet store operator or at least one of his or her employees shall be present in the store at least once daily, regardless of whether the store is open, for care and maintenance of the animals in the pet store.

(b) A pet store operator shall comply with the following animal care requirements:

(1) House only compatible animals in the same enclosure.

(2) Observe each animal at regular intervals, at least once a day, in order to recognize and evaluate general symptoms of sickness, injury, or abnormal behavior.

(3) Take reasonable measures to house intact mammals that have reached sexual maturity in a manner to prevent unplanned reproduction.

(4) (A) Maintain and abide by written animal husbandry procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventative care, emergency care, veterinary treatment, euthanasia, and disaster planning, evacuation, and recovery that is applicable to the location of the pet store. These procedures shall be reviewed with employees who provide animal care and shall be present, in writing, either electronically or physically, in the store and made available to all store employees.

(B) Sections 122356 and 122358 do not apply to subparagraph (A) where there are other local, state, or federal laws that apply to those procedures.

(5) (A) If there is a determination that an animal may need to be euthanized, ensure that veterinary treatment is provided without delay.

(B) Notwithstanding subparagraph (A), a rodent or rabbit intended as food for another animal may be destroyed by a pet store operator or an employee of a pet store only if the animal is euthanized by a method that is performed in a humane manner, appropriate for the species, authorized by state law, and in compliance with the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia, dated June 2007, published by the AVMA.

(C) The euthanasia performed pursuant to subparagraph (B) may be performed by a pet store operator or an employee of a pet store only if a California-licensed veterinarian has certified, in writing, that the pet store operator or employee is properly trained and proficient in performing the method of euthanasia on that particular species. The certification shall be valid for a period of not more than three years, and may be recertified for additional periods of three years. Each certification of a pet store operator or employee shall be retained by the pet store for three years, unless a longer period is otherwise required under state law. The certification shall be made available, upon request, to appropriate law enforcement officers exercising authority pursuant to Section 122356.

(D) It is the responsibility of the pet store operator to ensure that euthanasia is performed in compliance with this section.

(E) Subparagraphs (A) to (D), inclusive, shall be implemented in a manner consistent with California law and in accordance with Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code.

(6) Isolate and not offer for sale those animals that have or are suspected of having a contagious condition. This paragraph shall not apply to those animals that are effectively isolated by their primary enclosure, including, but not limited to, fish, provided that a sign is posted on the enclosure that indicates that these animals are not for sale, or otherwise marked in a manner to prevent their sale to customers during their treatment for the contagious condition.

(7) Have a documented program of routine care, preventative care, emergency care, disease control and prevention, and veterinary treatment and euthanasia, as outlined in paragraph (5), that is established and maintained by the pet store in consultation with a licensed veterinarian employed by the pet store or a California-licensed veterinarian, to ensure adherence to

the program with respect to each animal. The program shall also include a documented onsite visit to the pet store premises by a California-licensed veterinarian at least once a year.

(8) Ensure that each diseased, ill, or injured animal is evaluated and treated without delay. If necessary for the humane care and treatment of the animal, the animal shall be provided with veterinary treatment without delay.

(9) In the event of a natural disaster, an emergency evacuation, or other similar occurrence, the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the animal is reasonably available.

(c) Subdivisions (a) and (b) shall be implemented to the extent consistent with California law.

(Amended by Stats. 2009, Ch. 446, Sec. 2. (AB 490) Effective January 1, 2010.)

122354.5. (a) A pet store shall not adopt out, sell, or offer for sale a dog, cat, or rabbit. This section does not prevent a pet store from providing space to display animals for adoption in accordance with subdivision (b).

(b) (1) A pet store shall not provide space for the display of dogs, cats, or rabbits available for adoption unless the animals are displayed by either a public animal control agency or shelter, or animal rescue group.

(2) Any animal displayed for adoption shall be both sterilized and adoptable for total fees, including, but not limited to, adoption fees, not to exceed five hundred dollars (\$500).

(3) The pet store displaying dogs, cats, or rabbits pursuant to paragraph (1) shall not receive any fees in connection with the display of dogs, cats, or rabbits.

(c) A public animal control agency or shelter, an animal rescue group displaying animals at a pet store, or an animal rescue group operating a retail establishment shall not offer dogs, cats, or rabbits for adoption unless the animals are sterilized, the animals are adoptable for total fees, including, but not limited to, adoption fees, not to exceed five hundred dollars (\$500), and the adoption fees are posted and visible to the public on or near the enclosures or areas where adoptable animals are displayed. An animal rescue group that displays animals at a pet store, but does not meet the criteria set forth in clauses (i) and (ii) of subparagraph (A) of paragraph (1) of subdivision (e) is also subject to the penalties described in this section.

(d) (1) Each violation of subdivision (a), (b), or (c) shall result in a single written notice to the pet store and any public animal control agency, shelter, or animal rescue group responsible for the animal that is the subject of the violation. The notice shall set forth in detail the specific violation, the name and location of the pet store, the name and location of, or other identifying information regarding, the public animal control agency, shelter, or animal rescue group responsible for the animal that is the subject of the violation, and any other information relevant to the violation. In addition, the notice shall include a direction to cease the specific activity found to be in violation of this section and state the time period during which the violation must be corrected.

(2) A failure to correct the violation described in the notice issued pursuant to paragraph (1) in the time period stated in the notice to correct shall be punished by a civil penalty of one thousand dollars (\$1,000) for a first violation, two thousand five hundred dollars (\$2,500) for a second violation, and five thousand dollars (\$5,000) for subsequent violations as described in the notice. Each animal that is displayed, adopted, sold, or offered for sale or adoption in violation of subdivision (a), (b), or (c), as described in the notice, constitutes a separate violation.

(e) (1) For purposes of this section, the following definitions apply:

(A) An "animal rescue group" is any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and that meets the following requirements:

(i) Does not breed animals.

(ii) Does not obtain animals in exchange for payment or compensation from any person that breeds or brokers animals.

(B) "Public animal control agency or shelter" is any facility operated by or under contract with any governmental entity for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, rabbits, or other animals.

(2) For purposes of this section, "pet store" does not include an animal rescue group operating a retail establishment in compliance with subdivision (c).

(f) This section does not prohibit a local governing body from adopting requirements that are more protective of animal welfare than those set forth in this section.

(g) An action for a violation of this section may be brought in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred. In addition to any other remedy, the district attorney is authorized to apply to the court for, and that court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating any provision of this section.

(Repealed and added by Stats. 2020, Ch. 96, Sec. 2. (AB 2152) Effective January 1, 2021.)

122355. (a) Each pet store operator shall ensure that records of all veterinary visits to the pet store are documented in writing. Veterinary treatment records shall be kept for each animal or group of animals that receives medications or immunizations while in the care of the pet store. These records shall include summaries of direction received orally from veterinarians, and shall include all of the following, to the extent it is provided by the veterinarian:

- (1) Identification of the animal or group of animals receiving medical treatment.
- (2) Name of the medication or immunization used.
- (3) Amount of medication used.
- (4) Time and date on which the medication or immunization was administered.

(b) Records required by subdivision (a) shall be made available, upon request, to a person who purchases a cat or dog, or any individually housed animal.

(c) The pet store shall provide to the purchaser of an animal at the time of sale information concerning the store's animal return policy, which shall be made available to customers either through in-store signs or handouts to customers. The pet store shall also provide to purchasers of cats, dogs, and all individually housed animals all of the following information:

- (1) Spay or neuter procedures performed on the animal.
- (2) Vaccinations, medical treatment, and veterinary treatment administered to the animal during its stay in the store.
- (3) Any identification device on the animal.
- (4) With respect to dogs and cats, all information required to be disclosed under Section 122140. Sections 122356 and 122358 do not apply to a violation of Section 122140.
- (5) With respect to dogs, all information required to be disclosed under Sections 122190 and 122310. This information shall be contained in separate documents. Sections 122356 and 122358 do not apply to a violation of Section 122190 or 122310.
- (6) With respect to birds, all information required to be disclosed under Section 122321. Section 122356 and Section 122358 do not apply to a violation of Section 122321.

(d) Each pet store operator shall maintain records for identification purposes of the person from whom the animals in the pet store were acquired, including that person's name, address, and telephone number, and the date the animal was acquired.

(e) All records required by this section shall be maintained by the pet store for two years from the date of disposition of the animal, and shall be made available upon request to appropriate enforcement officers exercising authority pursuant to Section 122356.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122356. (a) An animal control officer, as defined in Section 830.9 of the Penal Code, a humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code, or a peace officer who detects a violation of Section 122351, subdivision (b) or (c) of Section 122353, paragraphs (3) or (4) of subdivision (b) of Section 122354, or Section 122355 shall issue a single notice to correct, which shall contain all of the following information:

- (1) Specify each violation of this chapter found in the inspection.
- (2) Identify the corrective action for each violation.
- (3) Include a specific period of time during which the listed violation or violations must be corrected.

(b) After issuing a notice to correct pursuant to this section, the officer or another qualified officer of the issuing agency shall verify compliance with this chapter by conducting a subsequent investigation of the pet store in violation of this chapter within a reasonable

period of time.

(c) An exact, legible copy of the notice to correct shall be delivered to the pet store operator at the time he or she signs the notice. In the alternative, the issuing agency may personally deliver the notice to the pet store operator within 48 hours of its issuance, excluding holidays and weekends. The signing of the notice is an acknowledgment of receipt, and does not constitute an admission of guilt.

(d) A pet store operator who fails to comply with a notice to correct is guilty of an infraction.

(e) A pet store operator who violates the same provision of this chapter on more than one occasion within a 12-month period, at the same location, is not eligible to receive a notice to correct, and is guilty of an infraction on the second violation, and is guilty of a misdemeanor on the third or subsequent violation.

(f) Notwithstanding subdivision (a), a pet store operator is guilty of a misdemeanor if the pet store operator violates any provision listed in subdivision (a), and by doing so, the pet store operator causes or allows harm or injury to an animal, or allows an animal to be subject to an unreasonable risk of harm or injury.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122357. A pet store operator who violates any provision of this chapter that is not specified in subdivision (a) of Section 122356 and is not proscribed by Section 122354.5 is guilty of a misdemeanor.

(Amended by Stats. 2017, Ch. 740, Sec. 3. (AB 485) Effective January 1, 2018.)

122358. An infraction is punishable by a fine not to exceed two hundred fifty dollars (\$250) per violation. A misdemeanor is punishable by a fine not to exceed one thousand dollars (\$1,000) per violation. The court shall weigh the gravity of the offense in setting the penalty.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122359. (a) Except as otherwise provided in Section 599 of the Penal Code, a pet store shall not offer any live animal as a prize or give away any animal as an inducement to enter any contest, game, or other competition.

(b) Except as otherwise provided in Section 597z of the Penal Code, a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under eight weeks of age. Except as otherwise provided in any other provision of law, dogs or cats over eight weeks of age may be sold, offered for sale, traded, or bartered only if the animal is weaned. Pet stores shall not sell any animal before it is weaned, except for animals intended to be used as food for other animals.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122360. (a) Nothing in this chapter shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, the Lockyer-Polanco-Farr Pet Protection Act contained in Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105, or Sections 597 and 5971 of the Penal Code.

(b) Nothing in this chapter limits or authorizes any act or omission that violates Section 597 or 5971 of the Penal Code, or any other local, state, or federal law. The procedures set forth in this chapter shall not apply to any civil violation of any other local, state, or federal law that protects animals or the rights of consumers, or to a violation of Section 597 or 5971 of the Penal Code, which is cited or prosecuted pursuant to one or both of those sections, or to a violation of any other local, state, or federal law that is cited or prosecuted pursuant to that law.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122361. This chapter shall become operative on January 1, 2009.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Note: This section prescribes a delayed operative date (Jan. 1, 2009) for Chapter 9, commencing with Section 122350.)