

Date of Hearing: April 27, 2016

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 2278 (Linder) – As Amended April 12, 2016

Policy Committee: Public Safety Vote: 7 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill clarifies procedures for notification of animal owners regarding hearings and payment of costs when an animal is seized or impounded. Specifically, this bill:

- 1) Specifies that when there are reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the animal shall be seized immediately and the agency must provide care and treatment of the animal until the animal is placed, returned to the owner, or euthanized.
- 2) Specifies that the owner or keeper of the animal is liable to the seizing agency for the entire cost of the seizure or impoundment of the animal, including costs associated with preparing and posting notices and sending statements of charges, and requires specified notices be provided to the owners regarding these monetary charges.
- 3) Provides a postseizure hearing process to determine the validity of the seizure.
- 4) Requires the seizing agency to present the owner with a statement listing all accrued charges, as provided, either at the postseizure hearing, or by personal service, first-class mail, or electronic mail, as specified.
- 5) Requires the seizing agency to provide notice that the animal will be deemed abandoned if charges are not paid within 14 days of service of notice of charges, and that the payment of fees does not guarantee the release of the animal, but does allow the owner to retain an ownership interest in the animal.

FISCAL EFFECT:

Unknown costs to local agencies, to be reimbursed by the owners of the seized animals. However, this bill could result in unknown reimbursable state mandated costs if the seizing agency is unable to recover its cost from the owner after 14 days.

COMMENTS:

- 1) **Background.** An animal can be seized in several different ways. A peace officer, humane society officer, or animal control officer can seize a stray or abandoned animal if he or she has reasonable grounds to believe that prompt action is required to protect the health or safety of the animal or the health or safety of others. Authorities can also obtain a warrant upon a showing of probable cause, and then seize the animal pursuant to the warrant.

There is also an option to seize an animal after a hearing if animal control observes unsuitable conditions, but these conditions do not rise to the level of exigent circumstances (i.e., the need for immediate seizure is not present). Animal control can conduct a hearing prior to seizure of the animal and before criminal proceedings for animal abuse or neglect commence. In this situation, the owner must produce the animal at the time of the hearing, unless before the hearing he or she allowed the agency to view the animal or unless the owner can provide verification that the animal was already humanely destroyed. This hearing is referred to as a pre-seizure hearing. Depending on the findings made at the pre-seizure hearing, the animal can be seized and held at that point.

- 2) **Purpose.** According to the author, "AB 2278 clean ups current law by clarifying the 14-day notice language and provide that all animals seized for alleged abuse are eligible for mandatory forfeiture after a court hearing. By making these changes we can help avoid any undue suffering to animals that are in shelters as well as avoid any unanticipated cost to the owner."

Current law does not provide clear guidelines for the seizing agency to provide notice to the owner of the animal regarding payment of costs and when an animal is deemed abandoned by the owner. AB 2278 provides such guidelines.

- 3) **Support:** According to *The State Humane Association of California*, the proposed changes in AB 2278 are not meant to undermine or redirect the statute's original purpose of existing law that animal shelters rely on to deal with animal cruelty and neglect. Rather it is meant to clarify the rights and responsibilities of both owners and agencies when an animal is seized for abuse or neglect.

- 4) **Prior Legislation:**

- a) SB 1500 (Lieu), Chapter 598, Statutes of 2012, allows pre-conviction forfeiture of an individual's seized animals in animal abuse and neglect cases.
- b) SB 318 (Calderon), Chapter 302, Statutes of 2009, provided for the forfeiture of any property interest that was either acquired through the commission of dogfighting, or used to promote, further or facilitate dogfighting.

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