

Date of Hearing: March 29, 2022

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 2723 (Holden) – As Introduced February 18, 2022

SUBJECT: Animals: Microchips: Theft.

SUMMARY: This bill would establish additional requirements on various types of public animal shelters related to microchip registration and the release of dogs and cats and modifies the definition of dog theft and associated penalties.

EXISTING LAW:

- 1) Requires a public animal control agency or shelter to microchip a cat or dog with current information before releasing a cat or dog to an owner seeking to reclaim the animal, adopt out, sell, or rehome to a new owner. (*Food and Agriculture Code (FAC) §31108.3*)
- 2) Current law also allows a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within 30 days, that the cat or dog is microchipped. (*FAC §31108.3*)
- 3) Governs the operation of animal shelters by setting a minimum holding period for stray cats, dogs, and other animals; current law also requires animal shelters to ensure that those animals, if adopted, are spayed or neutered. (*FAC §§ 30501 et seq.; 31751 et seq.; 32000 et seq.*)
- 4) Requires that during the holding period as indicated above, and before the adoption or euthanasia of a dog or cat detained, a public or private shelter shall scan the cat or dog for a microchip that identifies a number associated with the owner of the cat or dog. Current law also directs the public or private shelter shall make every reasonable effort to contact the owner and notify them that their cat or dog has been rescued and is available for reunification. (*FAC § 31108 (c)*)
- 5) Requires that during the holding period and before an adoption or euthanasia of a detained cat or dog, a public or private shelter shall scan the cat or dog for a microchip in order to identify the microchip's number associated with the pet's owner. Current law directs shelters and rescue groups to make every reasonable effort to connect the owner of the missing pet and notify them that their pet is safe and available for reunification identifies the owner of that cat and shall make reasonable efforts to contact the owner and notify him or her that his or her cat is impounded and is available for redemption. (*FAC § 31752 (d)*)
- 6) 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 adopt out, sell, or give away a cat or dog to a new owner, unless the cat or dog is microchipped with current information on the owner or new owner of the cat or dog. (*FAC § 31108.3. (a) (1)*).
- 7) Requires an agency, shelter, or group does that not have microchipping capability on location, to make a good faith effort to locate available free or discounted regional

microchipping services and provide that information to the owner or new owner. (*FAC §31108.3. (B)*)

- 8) Specifies that a shelter or rescue group may require proof that the cat or dog is microchipped with current information on the owner reclaiming the dog or new owner receiving the cat or dog before releasing, adopting out, selling or giving away as specified. (*FAC §31108.3.(A) (3)*)
- 9) Specifies that an owner reclaiming the cat or dog or new owner receiving the cat or dog is not required to register the dog's microchip number with a microchip registry company that will use, without the owner's or new owner's consent, the personal information of the owner or new owner for purposes other than to reunite the owner or new owner with the dog. (*FAC §31108.3.(A) (4)*)
- 10) Exempts from the requirement for the cat or dog to be microchipped if a licensed veterinarian certifies in writing that the cat or dog is medically unfit for the microchipping procedure due to the animal's physical condition that could potentially be aggravated by the procedure. (*FAC §31108.3.(b) (1)*)
- 11) Exempts from the requirement for the dog or cat to be microchipped if the agency, shelter, or group receives a signed form from the owner reclaiming the dog or new owner receiving the dog that states that the cost of microchipping would impose an economic hardship for the owner or new owner. (*FAC §31108.3. (2) (a)*).
- 12) Specifies that shelter or rescue group that does not provide the microchip is subject to a civil penalty of \$100, unless it does not have microchipping capability on location upon the owner or new owner obtaining the agreement. (*FAC §31108.3. (c) (1)*).

THIS BILL:

- 1) Requires a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group, prior to releasing a dog or cat to an owner seeking to reclaim it or giving it to a new owner, to ensure the owner or new owner is registered with the microchip registry company when they microchip the dog or cat.
- 2) Specifies that the agency, shelter or group shall not be registered with a microchip registry company as the primary owner of the dog or cat 90 days after the dog or cat has been released or given away.
- 3) Clarifies that an agency, shelter or group that does not have microchipping capability on location must make a good faith effort to maintain a list of local and regional free or discounted regional services rather than locate available services.
- 4) Prohibits an agency, shelter, or group from releasing a microchipped dog or cat to a person seeking to reclaim it if the person is not listed with the microchip registry company as the primary owner or authorized by the person listed as the primary owner.
- 5) Deletes the current prohibitions on felonious dog theft and instead defines "steal a dog" as either:

- a) Takes, leads away, carries away, confines, secretes, or converts a dog, when that action is not otherwise authorized by law.
- b) Conceals the identity of a dog or its owner by obscuring, altering, or removing from the dog any collar, tag, license, tattoo, or other identifying device or mark.

6) Applies the previous penalties for felonious dog theft to “steals a dog.”

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author:

According to the author: “...Currently, California law does not require that owners of lost, microchipped pets be informed of their pet’s discovery so long as a shelter or rescue group is the primary contact registered to the microchip. As such, pet owners possess no timely or meaningful redress to reclaim their lost pets if an aforementioned organization elects to not inform them of their pet’s discovery. Additionally, criminal offenders are increasingly engaging in pet theft, with California becoming the epicenter of recent ‘dognapping.’ These brazen and aggressive pet thefts carry minimal consequences for these highly personal, highly emotional crimes.

For these reasons, I have introduced [this bill], which will create greater legal avenues for owners to their pets and prioritize the contacting of pets’ true owners in instances of pet recovery and theft by requiring that the pet owner be listed as the microchip primary contact instead of pet adoption organizations. Furthermore, it would require these organizations to microchip all cats and dogs placed up for adoption except in extraneous circumstances. Additionally, [this bill] seeks to provide a meaningful deterrent from engaging in pet theft by better defining pet theft and the penalties for pet theft.”

Background.

This bill intends to build upon and update current microchipping protocols generally used by animal shelters, rescue groups, and nonprofits to ensure the pet’s owner is listed as the direct contact with the microchipping company. This update seeks further increase the likelihood of lost companion animals being returned to their owners.

Visible identification tags or implanted microchips can significantly increase the chances of lost companion animals being returned to their homes. A study published in the Journal of the American Veterinary Medical Association (AVMA) showed that dogs without microchips were returned to their owners 21.9% of the time, whereas microchipped dogs were returned to their owners 52.2% of the time. Cats without microchips were reunited with their owners only 1.8% of the time, whereas microchipped cats went back home 38.5% of the time. The study notes that microchipped animals that weren’t returned to their owners was due to incorrect or outdated owner information.

How a Microchip Works. A microchip is a small electronic chip enclosed in a glass cylinder, approximately the size of a grain of rice. The microchip itself does not have a battery, and is activated by a handheld scanner that is passed over the chip. Once activated, the microchip

transmits an identification number to the scanner, which then displays the information on the scanner's screen.

Animal shelters and veterinary offices typically use these scanners to read the chip's identification number on a found animal. Each microchip contains a registration number and the phone number of the registry associated with the brand of the chip. In the early years of animal microchip technology, different chip companies maintained separate databases, unique frequencies, and proprietary scanners to display information, which created problems if an animal had a brand-specific microchip that a scanner could not read. These challenges have been largely addressed today, as microchip companies now produce universal scanners to read microchip information regardless of brand. In 2009, the American Animal Hospital Association (AAHA) created the AAHA Universal Pet Microchip Lookup Tool - a free, internet-based resource that assists with microchip identification by checking participating pet recovery services' registries and help determine which registry should be contacted. The AAHA Microchip Lookup Tool can be accessed online at petmicrochiplookup.org. Additionally, organizations such as the American Microchip Advisory Council continue to work to develop a network of registry databases to streamline the process of obtaining registered information and returning pets to their homes.

A common misconception: Microchips are not a GPS tracking device and cannot actively locate an animal if it is lost. As a result, it is recommended that pet owners keep contact information up to date with the microchip manufacturer at all times. The Humane Society also notes that although microchips are a good option for pet identification, physical collars and identification tags should consistently be used as a primary form of identification for all companion animals.

How a Microchip is Implanted. A microchip is injected under an animal's skin using a large-bore hypodermic needle. According to the AVMA, the procedure is no more painful than an injection, and generally does not require surgery or anesthesia. The animal's subcutaneous tissue usually bonds to the chip within 24 hours, preventing the chip from moving or migrating to another part of the body. A veterinarian is not required for the procedure, as microchip implantation is not considered the practice of veterinary medicine. As a precaution, while the procedure may be performed by a veterinary assistant or a registered veterinary technician, supervision by a veterinarian is recommended.

Studies indicate there are no major health risks associated with microchipping a pet. The British Small Animal Veterinary Association maintains a database of adverse reactions to microchips: since the database was started in 1996, over 4 million animals have been microchipped and only 391 adverse reactions have been reported. Of these reactions, migration of the microchip from its original implantation site is the most common problem reported.

The bill being considered this year continues the current exemption option for an animal if a licensed veterinarian certifies in writing that the animal is medically unfit for the procedure.

Cost of Microchipping. The cost of microchipping a dog or a cat may vary by region, microchip brand, and where the procedure is performed. Veterinary offices, clinics, and hospitals may provide this service between \$5 and \$75. However, shelters may be able to provide microchipping services at a much lower cost: according to the bill's sponsor, the market rate for any shelters ranges between \$4 to \$8 per microchip. In addition, local municipalities and non-profit organizations may offer microchipping at low-to-no cost to pet owners, and pet suppliers may also offer monthly microchip clinics. With multiple avenues for microchipping an animal

available, pet owners are encouraged to research options in their region. Depending on the microchip brand, additional fees may be charged: some microchip companies charge a one-time registration fee while others may charge an annual fee.

Prior Related Legislation.

SB 573 (Chang), Chapter 108, Statutes 2020 required a public animal control agency or shelter, as specified, to microchip a dog or cat with current information before releasing a dog or cat to an owner seeking to reclaim it, or adopt out, sell, or give away to a new owner. That bill also allowed a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within 30 days, that the dog or cat is microchipped.

SB 64 (Chang) of 2019 would have required a shelter or rescue group to microchip a dog or cat with current information before releasing a dog or cat to an owner seeking to reclaim it, or adopt out, sell, or give away to a new owner. Would have allowed a shelter or rescue group that does not have microchipping capability on location to enter into an agreement with the owner or new owner to present proof, within 30 days, that the dog or cat is microchipped. That bill was vetoed by the Governor, who provided the following veto message: "I am supportive of the important objective of this legislation to reunite more pets with their families and thereby decrease the number of euthanized animals in California. However, by requiring microchipping as a condition of reclaiming a pet, this bill has the unintended consequence of creating a burden for those who may already be struggling with the basic costs of caring for their pets and thereby do not have the financial capacity to pay for the microchip implant and the annual fees."

SB 702 (Lieu) of 2011 would have required an owner of an animal that is adopted or impounded and claimed by the owner from a local animal shelter to implant an identifying microchip in the animal upon release, if a microchip is available. If not available for implantation, the owner must do so within 30 days of release of their animal from the shelter. This bill was vetoed by the Governor, who provided the following veto message: "This measure would prohibit any animal control agency, animal shelter, or rescue group from releasing, selling, or giving away a dog or cat that has not been microchipped. Under current law, local agencies and shelters can - and should - require animals to be microchipped before being released. There is no need for state law to mandate the procedure, which would then require the state to pay for it."

ARGUMENTS IN SUPPORT:

Social Compassion in Legislation and several animal welfare organizations collectively write in support: "We would like to express our support for Assembly Bill 2723, which would clarify the definition of and consequences for the theft of pet dogs and cats, provide greater consumer protections to assist in the reclamation of lost pet dogs and cats that are microchipped, and create improved standards for the microchipping practices of animals adopted out by public animal control agencies/shelters and rescue groups...Clarifying the definition of and consequences for the theft of pet dogs and cats is a vital and necessary next step in combating the rising scourge of pet theft afflicting pet owners.

As a consequence of the increased demand for pets spurred by the isolation and stress of the COVID-19 pandemic and of increased theft broadly due to the COVID-19 pandemic, pet theft has increased as much as 60-70% for some pet breeds. Such pet theft has immense social-emotional effects on pet owners while there is little consequence for offenders. Reports have

shown that the loss of a pet from theft causes substantial psychological harm to 78% of victims, and severe psychological and physiological harm in 37% of victims. Therefore, it is urgent that the state enact greater deterrents, like the ones in this bill, to address this highly emotional, highly personal criminal act which affects defenseless pets and harms Californians so viscerally.”

ARGUMENTS IN OPPOSITION:

None on file.

POLICY ISSUE(S) FOR CONSIDERATION:

What is the impact on an animal shelter's ability to successfully reunite lost pets with their owners? The California Animal Welfare Association and the San Diego Humane Society are not currently opposed but expressed concerns with the bill in its current form. Though microchips are used in shelters for pet identification and reunification with the owner, the chip is only one tool used. While a truly useful, microchips are imperfect as a sole source of owner identification. Microchip information is rarely updated to represent new owners, so often calling on a chip can yield no owner or no return calls. Further, there may be a loving owner present to reclaim their pet, but with an outdated or unregistered chip, shelters would have to deny that reunification despite other proper documentation of ownership. This narrowing of a shelter's option to chips only severely limits prevents shelters and rescue groups from using other means to reunite pets with their families.

In addition, the bill can result in animals without updated chip information languishing in shelters. If space is indefinitely required to hold these animals, this will impact lifesaving outcomes of other dogs and cats in the shelter.

The majority of shelters and rescue groups use microchips when confirming the animal's identification – the identification is displayed as a number when scanned – but there is a variety of credible criteria and options shelters and rescue groups could utilize when trying to reunite an owner with their pet. For example, an animal's collar with license tags, which typically contains the owner's phone number and home address, an animal's veterinary records, recent photographs, etc. Relying on microchips as the only method for reunification places a certain population of pet owners at a disadvantage. Private rehoming is encouraged as a way to prevent an animal from a shelter stay, and the microchips are not always updated to reflect new ownership in those transactions. In some cases, pet owners are left with a family pet due to strict rules from landlords, relocation for school or work, sudden illness, or environmental disaster. There are also cases where family members care for a deceased family member's dog or cat. Finally, the strict definition of pet ownership proposed in this bill does not consider California's growing number of unhoused individuals with companion pets.

IMPLEMENTATION ISSUES:

Shelters and Reunification Goal for Families: Current law already requires animal shelters and rescue groups to disseminate information regarding the benefits of microchipping animals and how to register as the primary contact associated with their pet's microchip. Current law also requires shelters and rescue groups to make every effort to reunite lost pets with their owner(s).

Should the Legislature approve policy that may result in unintended consequences for shelters, rescue groups, related non-profits, and city services that would create barriers for family's

reunification of a lost dog or cat? If microchip status and information is the only factor considered for reclaiming a missing pet, some owners won't be able to comply. As a result, missing pets will stay with the shelter and be denied reunification with their owner. This potential situation would dramatically impact capacity issues, safety, and create unnecessary stress and anxiety for the pet and owner.

The author may wish to consider additional amendments in the next policy committee to address the possible unintended impact the bill may have on shelter and rescue groups located in various communities where shelter and rescue resources are scarce and every dollar matters for basic services and operation. The author's office has convened multiple stakeholder groups with various chapters of the Humane Society, animal shelters, non-profits, county and city animal control, etc. The author's office indicated he will continue to work with the coalition of stakeholders and looks forward to addressing and eliminating potential negative impacts on local shelters and rescue groups.

REGISTERED SUPPORT:

Social Compassion in Legislation
Animal Issues Movement
143 Collective
Several individuals

REGISTERED OPPOSITION:

None on File.

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