
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Angelique Ashby, Chair
2023 - 2024 Regular

Bill No:	AB 2248	Hearing Date:	June 3, 2024
Author:	Maienschein		
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Urgency:	No	Fiscal:	No
Consultant:	Elissa Silva		

Subject: Contracts: sales of dogs and cats

SUMMARY: Prohibits a contract for the sale of dogs or cats that requires a non-refundable deposit and do not identify information about the prospective pet and breeder, as specified.

NOTE: This bill is double-referred to the Senate Committee on Judiciary, second.

Existing law:

- 1) Prohibits a pet store operator from selling a live dog, cat, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter, as specified. (Health and Safety Code (HSC) § 122354.5(a))
- 2) Prohibits 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 from offering dogs, cats, or rabbits for adoption unless the animals are sterilized, and the adoption fees from being more than \$500. (HSC § 122354.5(c))
- 3) Subjects a pet store operator who violates the prohibition on the sale of retail animals, who failed to correct the first notice of a violation to a civil penalty of \$1,000 and \$5,000 for subsequent violations, as specified. (HSC § 122354.5(d)(2))
- 4) Requires a pet store operator to 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;
 - c) Ensuring the pet store's interior 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 of the animals; and,

- e) When grooming services are offered by a pet store, separating the grooming area from primary animal enclosures, as specified. (HSC § 122351)
- 5) Requires that primary enclosures comply with specified structural standards including the floor being constructed to prevent injury, are impervious to moisture and be sanitized, provide adequate space for the animal, and include an enrichment device appropriate for the animal, and requires primary enclosures for cats to have an elevated platform and birds to be able to extend their wings. (HSC § 122352)
- 6) Requires each pet store operator to ensure that records of all veterinary visits to the pet store are documented in writing as specified. (HSC § 122355(a))
- 7) Defines an “animal rescue group” as any not-for-profit that has tax exempt status under Section 501(c)(3) of the Internal Revenue Code, whose mission and practice is, in whole or part, the rescue and placement of animals into permanent homes, and that does not breed animals, or obtain animals in exchange for payment or compensation from any person that breeds or brokers animals. (HSC § 122354.5(e))
- 8) Requires every breeder of dogs to deliver each purchaser of a dog a written disclosure containing all of the following:
 - a) The breeders name and address and the license number if licensed by the United States Department of Agriculture (USDA);
 - b) The date of the dog’s birth and the date the breeder received the dog;
 - c) The breed, sex, color, and identifying marks at the time of sale, if any;
 - d) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam and litter number, if known;
 - e) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment;
 - f) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:
 - i) The dog has no known disease or illness; or,
 - ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of sale or that is likely to adversely affect the health of the dog in the future. (HSC § 122050(a))
- 9) Requires a breeder to maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after the disposition of the dog. (HSC § 122055)

10) States that it is unlawful for a breeder to fail to do any of the following:

- a) Maintain facilities where the dogs are kept in a sanitary condition;
- b) Provide dogs with adequate nutrition and potable water;
- c) Provide adequate space appropriate to the age, size, weight and breed of dog, as specified;
- d) Provide dogs with a rest board, floormat, or similar device that can be maintained in a sanitary condition;
- e) Provide dogs with adequate socialization and exercise;
- f) Wash hands before and after handling each infectious or contagious disease; and,
- g) Provide veterinary care without delay when necessary. (HSC § 122065)

11) Prohibits an online pet retailer, as defined, from offering, brokering or making a referral for a loan or other financing for the adoption or sale of a dog, cat, or rabbit. (HSC § 122191).

This bill:

- 1) Makes a contract entered into on, or after January 1, 2025, to transfer ownership of a dog or cat that is offered, negotiated, brokered, or otherwise arranged by a broker and where the buyer is located in California void against public policy if any of the following circumstances apply:
 - a) The contract requires a non-refundable deposit; and,
 - b) The contract does not identify the original source of the dog or cat, including, but not limited to, the breeder.
- 2) Requires a contract entered into on or after January 1, 2025, between a broker and a buyer who is located in California to include both of the following information:
 - a) The broker is required to disclose the original source of the dog or cat involved in the contract; and,
 - b) The broker is prohibited from requiring a nonrefundable deposit.
- 3) Requires the seller to refund the money to the buyer within 30 days of receiving notice that the contract is void, if that money has been exchanged pursuant to a contract that is void, as specified.
- 4) Prohibits a person from offering a contract that contains a term, which violates 1) or 2) above, and authorizes a court to enjoin a person from offering a contract

containing a term that violates the above provisions.

- 5) States that the provisions of this bill shall not be construed to limit a contract for the transfer of ownership of an animal trained as a service animal or a police dog.
- 6) Defines the following for purposes of this bill:
 - a) “broker” to mean a person who buys, sells, or offers to sell dogs or cats for resale to another person or entity.
 - b) “police dog” to mean a dog used by a peace officer in the discharge or attempted discharge of their duties and included, but is not limited to, a search and rescue dog or a passive alert dog.
 - c) “service animal” has the same meaning as the term defined in the health and safety code.

FISCAL EFFECT: Unknown. This bill is not keyed fiscal.

COMMENTS:

1. **Purpose.** The American Society for the Prevention of Cruelty to Animals is the sponsor of this bill. According to the author, “While retail pet stores are unlawful in California, the pet sales industry has shifted online. According to data of publicly available shipping transactions, California is the #1 importer of dogs and cats in the nation. Online sales allow puppy mills to continue to service California customers through the cloak of sanitized imagery and obfuscated information.

Third-party sellers operate online storefronts featuring hundreds of puppies available to be shipped to customers. These sites display photos and provide minimal information about a puppy, such as their age and breed. A visitor to the site chooses a specific puppy’s picture and then is prompted to pay in full or “reserve” the puppy by placing a deposit. This payment is required before the company will provide anything other than generic information to the consumer. Deposits vary from site to site but two of the most popular sites charge nonrefundable deposits of \$599.

These sites operate similarly to pet stores – handling the sales, advertising, payment and typically shipping. As with pet stores, these sellers are offering puppies from commercial breeders. The name and access to the commercial breeder is typically restricted until after the sale is complete. Specific contract terms detailing the responsibilities of the seller are also not provided before the deposit is collected. In short, these businesses collect hundreds of dollars from consumers for just the opportunity to ask questions about the puppy they are interested in.

If a consumer learns the name of the seller and has concerns, they must move forward with the contract or lose their deposit. Consumer complaints describe bait and switch tactics where once the deposit is paid, the full contract gives the seller “flexibility” the buyer would not have accepted. Some of these complaints include receiving pets that are sick or are a different from what was pictured at the point of sale.

The non-refundable deposits are used purely as sales tactic, designed to close a sale by using sunk cost to encourage the consumer to move forward or, in the event the consumer declines, collect \$600. This process gives the consumer no opportunity to consider the responsibilities and obligations under the contract or research the person that bred their dog in order to make an informed choice.

Misleading marketing tactics, predatory financial behaviors, and a gap in regulations are allowing online brokers to take advantage of consumers and allowing puppy mills to continue to reach Californians when searching for a new companion.”

2. Background.

Retail Sale of Pets. In 2017, the Legislature passed, and the Governor signed AB 485 (O'Donnell Chapter 740, Statutes of 2017), which prohibited, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless the animal was obtained from a public animal control agency or shelter, a specified nonprofit, or an animal rescue organization beginning January 1, 2019. The impetus for that bill was to help address both overcrowding in California animal shelters and animal sourcing from out-of-state “puppy mills” or “kitten factories.” While AB 485 addressed retail sales in traditional retail storefronts, it did not affect did not affect purchasing pets from out-of-state pet stores, through an on-line marketplace, or from any breeders in this state or outside of California.

Prior to the passage of AB 485, retail pet stores acquired animals from a variety of sources, including out-of-state puppy mills or large scale animal breeding facilities. “Puppy Mills” or “Kitty Factories” are common terms for large commercial breeding facilities, which mass produce animals for sale at retail markets. It is estimated that there are 10,000 puppy mills in the United States. Some states with the highest number of puppy mills include Missouri, Ohio, and Iowa. These large-scale breeding empires are separate from other types of breeders, who produce a smaller quantity of animals. Prior to the passage of AB 485, there were no restrictions on where pet stores acquired animals for retail sale and it varied depending on the seller. The only state requirements for pet stores pertained to operational requirements including animal enclosure requirements, record retention, and how often the pet store operator must be present among others. Those operational requirements for pet stores did not change with SB 485, only the sourcing of the animal.. AB 485 did not prohibit a pet store from operating; it only placed specific requirements on the source of the animal.

Large Animal Breeders “Puppy Mills” and Federal Animal Welfare Laws. Mass-produced, commercial animal breeders are typically scrutinized for notably poor treatment of the animals including producing sick animals, inhumane treatment, and poor living conditions, such as sore paws from being stuck in wired cages, cages that do not meet USDA standards, and dogs over-reproducing. According to 2021 statistics provided by the Humane Society of the United States (HSUS), HSUS estimates that 213,978 dogs are kept solely for breeding at USDA licensed facilities, and over 1 million puppies are produced at those facilities.

In current practice, pets, like dogs and cats, sold in out-of-state pet stores, or on-line through retail, pet stores are offered by brokers who purchase the puppies directly

from the large breeding enterprises. Often times, the puppy mills do not sell directly to the consumers, but rather to large animal brokers who then make the animals available to the pet retailers. This animal-broker scenario can make it difficult for a consumer to determine the source of the animal. Brokers, and those who transport these animals, are required to register with the USDA.

The federal Animal Welfare Act was passed by Congress in 1966 and establishes minimum standards for the care and treatment of animals bred for commercial sale, exhibited to the public, used in biomedical research or commercial transport. The USDA is responsible for overseeing the commercial dog breeding industry. Animal breeders who sell to pet stores in states that allow it, and who sell to consumers via the Internet are required to hold a license. However, as noted by various animal welfare organizations, federal laws provide a minimal level of specificity for animal care and violations are often found in many commercial breeding organizations, while others operate underground making enforcement of the laws difficult and challenging. Unfortunately, the USDA licensing stamp, does not ensure that a licensed facility breeding dogs or cats, is following the law, providing the required kennel space, or meeting any of the health and safety requirements.

Online Retail Sales of Pets. The landscape for retail sales has not only shifted for the purchase of consumer goods and products, it has shifted for the purchase of pets and pet products. Across the country, numerous jurisdictions and a few other states including Washington, Illinois, Maine, Maryland, New York, and Oregon have also established restrictions on retail pet stores selling live dogs, cats, or rabbits. The ease and convenience of the online marketplace, along with shifting consumer habits have increased consumer sales activities online.

According to an online article in Time from April 2023, *Puppy Mills Have Now Gone Digital. What a Vet Wants You to Know*, it was noted that many online animal retailers portray the animals as healthy, with cute bows and seasonal themed backgrounds, which are more likely quick photo-ops, than actual living conditions, and determining the true origins through these sites can be challenging. As noted by the author and sponsor, California is the number one importer of animals, and “Online sales allow puppy mills to continue to service California customers through the cloak of sanitized imagery and obfuscated information.”

The Better Business Bureau released a report in 2017 related to online puppy scams and updated the report in 2022. In 2017, the BBB conducted a study titled: *Puppy Scams: How Fake Online Pet Sellers Steal from Unsuspecting Buyers*. That study noted that fraud in online pet sales was on the rise and that American consumers had filed “tens of thousands” of complaints through various organizations. The BBB reported in 2022, that pet scam reports to the BBB were in decline since the original report; however, the costs to consumers for the scams had increased.

In an effort to help protect California consumers who seek to purchase pets online, this bill would deem any sales contract for a pet void and against public policy if the contract requires a non-refundable deposit and does not identify the source, typically the breeder, of a prospective pet. The bill also provides that any money exchanged pursuant to such a contract must be refunded within 30 days. However, as currently drafted, this bill does not provide specific enforcement tools for a consumer whom

may have purchased an animal via a contract that should be voided as prescribed by this bill. It would be up to the individual consumer to address the issue through private litigation.

This bill does provide an exemption to those animals contracted to be trained for use as a service animal (such as a guide dog or signal dog) and those animals that are trained for police or law enforcement use.

3. **Related Legislation.** AB 2380 (Maienschein, Chapter 548, Statutes of 2022) prohibits an online pet retailer, as defined, from offering a loan or other financing for the adoption or sale of a dog, cat, or rabbit.

AB 2152 (Gloria, O'Donnell), Chapter 96, Statutes of 2020) Prohibits a pet store from selling dogs, cats, or rabbits, but allows a pet store to provide space to display animals for adoption if the animals are displayed by either a shelter or animal rescue group, as defined, and establishes a fee limit, inclusive of the adoption fee, for animals adopted at a pet store.

AB 2445 (O'Donnell, Chapter 145, Statutes of 2018) requires a pet store operator to maintain records to document the health, status, and disposition of each animal it sells for a period of not less than two years, and provide to the prospective purchaser of any animal the veterinary medical records, as specified, and the pet store return policy including the circumstances, if any, under which the pet store will provide follow-up veterinary care for the animal in the event of illness. This bill also requires that an animal shelter, as specified, or a rescue group that supplies an animal to the pet store provide, if requested by the pet store operator, the terms under which the animal is being transferred to the pet store, including certain specified information.

AB 485 (O'Donnell, Chapter 740, Statutes of 2017) prohibited, beginning January 1, 2019, a pet store operator from selling a live cat, dog, or rabbit in a pet store unless they were obtained from a public animal control agency or shelter, specified nonprofit, or animal rescue or adoption organization, as defined; permits a public or private shelter to enter into cooperative agreement with animal rescue or adoption organizations regarding rabbits; requires dogs or cats sold in a retail pet store to comply with current spay and neuter laws; provides specified exemptions to the pet warranty law; and permits an animal control officer, a humane officer, or a peace officer to enforce the pet store prohibition.

AB 1491 (Caballero, Chapter 731, Statutes of 2017) declares as void against public policy a contract for the purchase of a dog or cat which is made contingent on making of payments over a period of time, or other types of lease-to-own agreements that do not immediately transfer ownership of the animal to the purchaser.

4. **Arguments in Support.** The San Francisco ASPCA writes in support and notes, "California has taken a strong public policy stance to protect consumers, to promote pet adoption and to shut down these high-volume commercial breeding operations, including banning the purchase of pets at pet stores. Despite this, puppies are being sold to Californians through this online marketplace. At a time when California's

animal shelters are overflowing with animals who need homes, it is imperative that the state continue its commitment to shutting down the pipeline of puppy mill pups into the state. By requiring source disclosure and eliminating predatory nonrefundable deposits, AB 2248 will help.”

5. Policy Issues for Consideration.

Enforcement. This bill does not provide an enforcement tool, which would likely require individuals to pursue litigation to address any grievances.

Exemptions. This bill would allow an exemption for those contracts for an animal “trained” as a service dog or a police dog. As currently drafted, this exemption might be broad, as any dog could be represented to be “trained” for purposed of being a service dog or a police dog and provided to any consumer who may not utilize the animal in that capacity. The exemption may be overbroad and potentially lead to unintended confusion and a possible loophole. *The author should continue to work with stakeholders to ensure that the exemption for service dogs and law enforcement dogs is appropriate.*

SUPPORT AND OPPOSITION:

Support:

San Francisco ASPCA

Opposition:

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