

ANIMAL LAW COALITION

## **ARE MANDATORY SPAY/NEUTER LAWS THAT TARGET EVERYONE REALLY THE ANSWER IN EFFORTS TO REDUCE SHELTER INTAKE AND EUTHANASIA RATES?**

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As a corollary to the report by Animal Law Coalition that Los Angeles County recently passed such a mandatory spay/neuter ordinance, the following examines to what extent such laws are effective in reducing numbers of animals in shelters and euthanasia rates of dogs and cats.

It sounds plausible. By mandating the spay/neuter of every dog and cat with limited exceptions for some breeding, surely cities and states can reduce the numbers of unwanted animals. It would seem mandating spay neuter would put an end to puppy mills and backyard breeders. With fewer unwanted animals, so the reasoning goes, there should be a reduction in the millions of shelter deaths that take place every year in the United States.

In just 6 generations one male and one female dog, which can reproduce two times a year, can be responsible for the birth of 67,000 puppies. One male and one female cat, which can reproduce three times each year, can in that same period be responsible for the birth of 420,000 kittens. Each year millions of cats and dogs are abandoned by owners. 50% of feral kittens do not survive. 5 to 10 million stray dogs and cats live on the streets in the United States. Nearly 55% of dogs and approximately 70% of cats that enter shelters in the U.S. are killed. Every year 4-8 million dogs and cats are euthanized in shelters in the United States.

The laws aimed at reducing these numbers typically contain a combination of provisions mandating spay/neuter, restricting breeding, and increasing license fees for unaltered animals. But it is not clear mandating spay/neuter for every dog and cat with few exceptions and increasing licensing fees for unaltered animals necessarily means there will be fewer dogs and cats that end up in shelters. Nor will it necessarily lead to a decrease in animals euthanized in shelters.

In fact, these laws have produced mixed results in some municipalities. Sometimes after the passage of these laws, there has been a slowing of the decline or even increases in animals taken in by shelters and euthanasia rates. The cost of administering and enforcing laws in some locales has been prohibitive. Breeder licensing laws, for example, can be expensive to administer because they often require the local government to evaluate the suitability of the breeder's facility and the animal for breeding, track all sales of litters, and assure compliance with the permitting requirements. In some areas the laws have resulted in decreased licensing compliance, further reducing revenues. With fewer people licensing animals or obtaining mandated breeding permits, it is not clear the laws are having much effect on backyard breeders or puppy mills. If a person has no qualms about running a backyard breeding operation or puppy mill, it is difficult to imagine they would bother to comply with the regulations necessary to maintain a breeder's permit.

There is also a trend now to mandate spay/neuter and ban breeding for specific breeds. The recently enacted California Health & Saf Code §122331 allows cities and counties to pass dog

breed specific ordinances “pertaining only to mandatory spay or neuter programs and breeding requirements”. (The statute reiterates, though, no specific breed of dog is inherently dangerous or vicious. §122330(b))

The City of Berkeley, California is now considering such an ordinance. That City’s proposed ordinance mandates spay/neuter for all pit bulls unless they qualify for a \$100 breeding permit or prove they are registered and participate at least once each year in dog shows. To qualify for the \$100 breeding permit that will allow 1 litter per year, the applicant must have proper registration papers for the dog and also allow animal control to conduct a home inspection to determine the suitability of the premises and the dog for breeding. Each animal for which a breeding permit is sought must pass health screenings including Orthopedic Foundation for Animals (OFA) or Pennsylvania Hip Improvement Program, OFA cardiac certification and the American Temperament Society temperament test.

The breeding permit may be nullified by language in the ordinance that states: "No puppies of any breeds shall be offered for sale, adoption or trade, or given away in a public place, except by animal care service mobile adoption or non-profit humane welfare organizations."

The latter laws are too new to judge their effects on the numbers of animals entering shelters and euthanasia rates. Here are some examples, though, of some long-standing mandatory spay/neuter laws and the results.

San Mateo County, CA passed such an ordinance in 1991. The ordinance requires spay/neuter of all dogs and cats in the unincorporated parts of the county unless the owner obtains an unaltered license or breeder’s permit. Chap. 8.02.090, Sec. 3332.4 (a) If an unaltered animal breeds accidentally, the owner must obtain a breeder’s permit. The license fee for unaltered animals is nearly twice that of spay/neutered cats and dogs. Any owner redeeming impounded unaltered animals must pay an additional fee. This fee is refunded if the animal is spayed or neutered within 30 days. Any unaltered animal impounded twice or more within a 3-year period will be altered at the guardian’s expense prior to redemption. Chap. 8.02, Sec. 3330.8 Penalties for violation include fines of up to \$100 on the first offense, \$200 on the second offense, and \$500 for each additional violation of the same ordinance within one year.

After the effective date of the ordinance, dog deaths in the areas governed by the ordinance, actually increased 126% and cats 86% while licenses declined by 35%. (For the county as a whole dog deaths decreased 5% and cats 16% in 1993; in 1994 dog deaths declined 12% and cats 17%.) From 1991-1994 there were no cat breeder permits and 50 permits for dog breeders, eight of which were renewals. In addition, licenses dropped dramatically. For 1998-99, the number dropped to 36,023, a dramatic decline from the 48,000-51,000 range of the past two decades.

A 2000 ordinance in Los Angeles city requires the spay/neuter of all dogs and cats unless the owner has obtained a \$100. annual unaltered animal or breeder’s permit. Sec. 53.15.2 For any dogs that breed, the owner must obtain a \$100 annual breeder’s permit for each animal which allows 1 litter. A second litter during the annual permit period may be permissible “to protect the health of the animal[,] avert a substantial economic loss to the permittee” or “if the first litter was euthanized”. A breeder must register all dogs bred for sale and disclose their name and permit number in any ad and on any sale documents. The city also tracks the identity of

subsequent owners of the animals sold by breeders. There is a \$91.50 license fee for unaltered dogs and a \$6.50 charge for animals that have been spayed/neutered. Sec. 53.15.3 Violators are subject to fines of up to \$500.00.

Since the passage of this 2000 “spay or pay” Los Angeles ordinance, there has been a decline in dog licensing compliance. The animal control budget after passage of the law rose 269%, from \$6.7 million to \$18 million. The city hired additional animal control officers and bought new trucks and equipment just to enforce the new law.

Capitola, California recently enacted a mandatory spay/neuter ordinance. With the passage of that ordinance, Capitola joined the rest of Santa Cruz County which in 1991 began requiring spay/neuter of dogs with limited exceptions for breeding. Secs. 6.10.030, .050 The city requires a \$15 certificate and charges twice the amount for a license for unaltered dogs. Dogs without the certificate must be spayed/neutered. There is a warning for a first offense, and a mandatory spay/neuter order is issued for a second violation. Since the law’s 1991 inception, licensing compliance has dropped significantly.

In Montgomery County, MD the mandatory spay/neuter law was repealed. When the law was enacted, it was estimated that 550 breeding permits would be issued per year. In reality only an average of 30 permits were issued per year. There was an estimated 50% decline in licensing compliance.

Although the euthanasia rate declined 21.5% after the ordinance was passed, it had declined 34% prior to enactment of the law. The Office of Legislative Oversight recommended in its 1997 report that the county eliminate the new breeder permit system and return to their former license fee structure. Under the current ordinance, Montgomery County requires a 3 year \$75 license for unaltered animals and an annual \$25 license for those that have been spayed/neutered; there are discounts for low income applicants for the license for a spayed neutered animal. Secs. 05.00.01.01, 05.401.01.02

Fort Worth TX also ended its mandatory spay/neuter program. In that city licensing compliance fell off after passage of the ordinance. As a result there was a reduction in rabies vaccinations which lead to an increase in rabies in the city.

When it was passed in 1996, the Camden County, New Jersey mandatory spay/neuter ordinance required a \$500 permit fee to possess an intact dog or cat. In 2000 it was changed to \$10, because of there were so few requests for it. But then again in 2001 the permit fee was again raised to \$100, its current rate. As for the euthanasia rates since the effective date of the ordinance, the PAWS NJ website comments, “An analysis of these statistics shows the Humane Society of Southern NJ which operates the Camden County Animal Shelter, to be consistently one of the leading, if not the leading killers of animals in the state of New Jersey.” The report covers 1998-2001, well after the effective date of the mandatory spay neuter ordinance. The site’s report on the top 50 New Jersey animal shelters reveals some in Camden County have significantly lower euthanasia rates than others in the state, but at least 2 had the highest kill rates in New Jersey.

In King County, Washington a 1992 ordinance requires all dogs and cats over 6 months old to be spayed/neutered unless the guardian buys an unaltered license for \$60, \$40 more than for an altered pet. Chap IV, Secs. 11.04.035, 11.04.210, 11.04.400. The ordinance provides for a

breeder certification program. Sec. 11.04.570 It is illegal to advertise to King County residents the availability of any unaltered dog or cat without the animal's license number; breeders, however, may advertise litters for sale. Chap. IV, Sec. 11.04.510. It is also illegal to sell or give away an unaltered animal in a public place or as a raffle or other prize. Sec. 11.04.235 Anyone selling or giving away an unaltered dog or cat must notify animal control in writing with the new owner's name, address, and telephone number. Sec. 11.04.570 There is also a provision for door to door canvassing to ensure compliance. Sec. 11.04.580

License compliance has appeared to decrease since passage of the ordinance. Animal control expenses have increased 56.8% and revenues only 43.2%. In 1990 the total cost of animal control was \$1,662,776; in 1997, it was \$3,087,350. Euthanasia rates actually fell at a slower rate after passage of the ordinance. In the years prior to enactment of the law, euthanasia rates were plummeting in King County. The data shows that the one real success as a result of the ordinance was the increase in adoptions.

In Aurora CO which requires breeder permits as part of its mandatory spay/neuter ordinance, licensing compliance has dropped dramatically. Secs. 14-42; 14-71(b), 14-101(a)(1). Pinellas County Florida has required breeder licensing since 1992. Sec. 14-29. Since then the animal control budget has increased 75% with revenue increasing only 13%. There have also been increases in shelter intake and euthanasia rates since the law took effect.

The goal of reducing the number of animals in shelters and euthanasia rates is critical. But to suggest numbers of animals in shelters and euthanasia rates will decline if there is a ban on breeding, is a little like saying we could find homes for all the unwanted children if people stopped giving birth to their own children. As with children who end up on the streets, in foster care or in trouble, there are many reasons why animals are left in shelters. It does not appear to have much to do with the operations of most purebred breeders. Thus, banning most if not all breeding will not reduce shelter intake or euthanasia rates. A permitting program for breeding is difficult and expensive to administer. Even mandated spay/neuter that targets everyone with few exception can also be costly. The evidence also suggests these laws may simply cause people to avoid licensing pets. As a result, there is a loss of revenues for animal control including the expensive breed permitting and compliance programs. And there is then no way to track and control unaltered animals and their numbers. In the end it appears at least some of these programs do not reduce shelter intake and euthanasia.

According to the Journal of Veterinary Medical Association, the characteristics of most dogs who are left in shelters include lack of veterinary care, obtained at little or no cost, lives mostly outside, needs more care and attention than expected, comes from a family who are divorcing, moving, or has changed financial circumstances; is noisy, destructive, or soils the house. Most of the dogs left in shelters are adult dogs of mixed breeds, strays, who may have been abandoned by owners who could not or would not care for them. The National Council on Pet Population Study and Policy has identified the top ten reasons people abandon dogs and cats in shelters: (1) euthanasia due to illness; (2) moving; (3) found animal (of unknown origin); (4) landlords will not allow pets; (5) owner has too many animals; (6) euthanasia due to age; (7) cost of maintenance of pet; (8) animal is ill; (9) allergies within the family; and (10) house soiling.

Clearly, many of the reasons animals end up in shelters have nothing to do with breeding, but rather irresponsible pet owners who opt not to care for their animals. Only education and

aggressive fostering and adoption programs will help resolve these situations.

That is not to say spay/neuter programs, even some that are mandatory, do not work. If the goal is simply to reduce shelter intake and deaths and not to ban most if not all breeding, there are successful spay/neuter programs implemented by local governments throughout the United States. These, however, are limited in scope and also rely on positive incentives including, in particular, government subsidies to help pet owners with the cost of spay/neuter. James D. Couch, city manager for Oklahoma City, pointedly told the city, “[A]ny dramatic improvements to decreasing [shelter] intake and euthanasia rates will have to come in the form of a government-funded spay program, either alone or in concert with assistance offered by community animal groups, targeting low-income owners, low-compliance neighborhoods and individual chronic violators.” According to the Animal Population Control Study Commission, Minnesota Legislature, 1989, for every dollar invested in municipally operated spay/neuter clinics, taxpayers will save \$18.72 in future animal control costs over a ten-year period.

An example of a successful model is the ordinance in Tacoma, WA. The Tacoma ordinance requires mandatory spay/neuter of animals impounded for the second time in a 12 month period. Sec. 17.010.110. No animal can be released for adoption unless it has been spayed/neutered. Sec. 17.010.120. There is also an increased licensing fee for unaltered animals. Sec. 17.05.040. There is a municipal spay-neuter fund. Local animal rescue groups also provide funding for spay/neuter. Owners can use their vet at their own expense for the spay/neuter, with the shelter making the appointment and transporting the animal to the clinic. If the owner is low-income qualified, the shelter will transport the animal to a participating vet and will pay the cost for the spay/neuter from the municipal fund. At last count between 80 and 100 sterilization vouchers are provided each month to low-income residents. Another program provides a voucher for a free spay for female cats when an owner brings in a litter of kittens.

During twelve years of providing subsidized neuter programs, shelter intake has decreased from receiving over 40,000 a year to under 25,000. Since the law’s inception, only 23 dogs have not been claimed because of the mandate.

In St. Louis, MO the city requires mandatory spay/neuter of all bite animals. Sec. 10.04.120 (G) Any impounded stray animals must be spayed/ neutered at the owner or guardian’s expense and micro-chipped as well. Secs. 10.04.150, .160, .170 There is a \$50 charge for having an unaltered dog and only \$4 for those that are spayed/neutered. Sec. 10.04.070 (b) Fees and penalties collected under the ordinance go into a fund to offer financial assistance to city residents for spay/neuter and education of the public on its importance. Sec. 10.04.165

New Hampshire launched a statewide publicly funded spay and neuter program in 1994. Between 1994 and 2000, the state’s eight largest shelters admitted 30,985 fewer dogs and cats than in the six years preceding the program and saved an estimated \$2.2 million statewide. In this same time period New Hampshire’s euthanasia rate dropped 75%.

Los Angeles opened the first spay/neuter municipal clinic in the United States in 1971. Dog owners at that time paid \$10 to license spayed/ neutered dogs and \$40 for intact dogs; cats were not required to be licensed. By 1987 the number of animals euthanized had dropped by 58.1%. These clinics were considered a success but were closed in 1992. The number of animals euthanized went from 145,000 in 1971 to 30,650 in 1997. These significant declines in euthanasia rates predated the enactment of the 2000 “spay or pay’ ordinance discussed

above.

Euthanasia rates in Montgomery County, MD were already dropping prior to passage of the now repealed mandatory spay/neuter law. Euthanasia rates were reported to have dropped during that time because of the County's successful adoption program.

In Charlotte NC numbers of dogs euthanized in 1980 after a spay/neuter clinic opened dropped 40% from 7814 to 4658. The city also saved 39% overall in animal control costs. A subsidized spay/neuter clinic opened in Santa Barbara CA in 1975 and within a decade the number of euthanized animals fell 80%. San Francisco CA (SFSPCA) began subsidized spay/neuter in 1976. By 1991 euthanasia of adoptable dogs and cats ceased altogether. (Interestingly, the Board of Supervisors in San Francisco recently tabled the issue of a mandatory spay neuter bill in view of concerns about cost and effectiveness.) Because of a subsidized spay/neuter clinic in Huron Valley MI which opened in 1975, euthanasia rates dropped 50% in less than a decade. Orange County FL works with groups who implement trap-neuter-return for feral cats. The County reports reduced complaints, impoundments, and euthanasia.

Twenty-seven states and the District of Columbia require the spaying or neutering of all animals adopted from animal shelters. Some of these states and the District of Columbia, D.C. Code § 8-1806, require spaying or neutering of animals before they are returned to their owners. This limited mandatory spay/neuter requirement is targeted to those animals whose litters would obviously be most at risk. These laws can be found at Arizona, A.R.S. § 11-1022; Arkansas, A.C.A. § 20-19-103; California, Cal Food & Agr Code § 30503; Connecticut, Conn. Gen. Stat. § 22-380f; Florida, Fla. Stat. § 823.15; Georgia, O.C.G.A. § 4-14-3; Illinois, 8 Ill. Adm. Code 25.140; Iowa, Iowa Code § 162.20; Kansas, K.S.A. § 47-1731; Louisiana, La. R.S. 3:2472; Massachusetts, ALM GL ch. 140, § 139A; Michigan, MCL § 287.338a; Missouri, §§ 273.403, 405 R.S.Mo; Montana, Mont. Code § 7-23-4202; Neb. Rev. Stat. § 54-638; Nevada, §574.600 et seq.; New Mexico, N.M. Stat. Ann. § 77-1-20; New York Agric. & Mkts. Law § 377-a, North Dakota, N.D. Cent. Code, § 40-05-19; Oklahoma, 4 Okl. St. § 499.2; 3 Pa. Cons. Stat. §§459-901-A, 459-908-A; Rhode Island, R.I. Gen. Laws § 4-19-16; S.C. Code Ann. § 47-3-480; Tenn. Code § 44-17-502; Texas, Tex. Health & Safety Code § 828.001 et seq.; Utah Code §§ 10-17-102, 10-42-102; Virginia, Va. Code Ann. § 3.1-796.126:1.

New Hampshire, RSA 437-A:2, :3; New York, NY CLS Agr & M §§117, 117-a, 118; and Illinois, 510 Ill. Comp. Stat. 92/45 have animal population control programs that provide funding for spay/neuter for animals adopted from shelters. New York also authorizes all counties and municipalities to enact ordinances requiring the spay/neuter of animals released by shelters or other such agencies.

Also, other states including Georgia, §§4-15-1, 40-20-49.3; Ohio § 955.201 et. seq.; Tenn § 55-4-290; and Virginia § 46.2-749.2:7 have subsidized low cost spay/neuter programs. Innumerable states sell specialty license plate to fund spay/neuter programs. Others such as Illinois and Utah allow taxpayers to check off on their returns that they want tax dollars to go to spay/neuter funds. Other states give veterinarians who participate in subsidized spay/neuter programs a tax credit for the market value of their services. There are, of course, other ways these programs are funded at the state and local level.

The Louisiana SPCA claims its shelters now take in less than ½, 11,000 down from 23,000, of

the animals they did in the mid-1990s. The LA SPCA attributes the decline in shelter numbers to programs requiring spay/neuter for animals adopted from its shelters.

From the experiences of some cities and counties, it would seem funds devoted to breed permitting programs and compliance enforcement may be better used for subsidized spay/neuter clinics. Laws that target every dog and cat owner and attempt to limit most if not all breeding seem to result in decreased compliance and expensive permitting programs that are difficult to administer. These laws do not, in any event, appear to achieve the critical goals of reducing shelter intake and euthanasia rates. Local governments need to concentrate their resources in what really works. Animal rescue groups need to assess policies and programs before insisting on a law that may divert valuable resources from effective solutions. Too many lives are depending on it.