HB112

Z3YSWWK-1

By Representative Clouse

RFD: Fiscal Responsibility

First Read: 06-Feb-24

SYNOPSIS:

Under existing law, every county and certain municipalities are required to provide a pound and impounding officer for dogs, cats, and ferrets.

Also under existing law, all animal shelters and animal control agencies are required to provide for the sterilization of all dogs or cats acquired from the shelter.

This bill would create the Alabama Dog and Cat Fund to provide monies for costs associated with counties and municipalities providing for pounds, animal shelters providing for sterilizations, and other costs associated with controlling dogs and cats in this state.

This bill would create a tax on the gross proceeds of the sale of dogs and cats at a rate different than the general state gross sales tax.

This bill would exempt the sale of dogs and cats from the general state gross sales tax.

This bill would exempt certain persons in the business of selling dogs and cats from paying general state sales tax on supplies purchased in furtherance of the business.

This bill would provide requirements and procedures for the training of animal control officers.

This bill would further provide for the entities that are required to sterilize dogs and cats before offering them, as well as further provide procedures by which these entities may provide for sterilizations.

This bill would provide certain prohibitions on the adoption of an unsterilized dog or cat within this state.

This bill would further provide for the requirements of a court to order the disposition of a seized dog or cat.

This bill would also further provide for the penalties for violating sterilization requirements for dogs and cats in this state.

A BILL

TO BE ENTITLED

AN ACT

Relating to animals; to create the Alabama Dog and Cat Fund; to assess a tax on the sales of dogs and cats at a rate different than the general state sales tax; to exempt the sales of dogs and cats from the general state sales tax; to exempt certain persons in the business of selling dogs and cats from paying sales tax on goods purchased in furtherance of the business; to provide requirements and procedures for training animal control officers; to amend Sections 3-9-1, 3-9-2, 3-9-3, and 13A-11-245, Code of Alabama 1975, to further

provide for the entities required to provide for the sterilization of dogs or cats before offering them; to further provide for the procedures by which these entities may provide for sterilizations; to further provide for the penalty for violating these sterilization requirements; to further provide for the disposition of seized animals by a court; to add Section 3-9-5 to the Code of Alabama 1975, to provide certain prohibitions on the adoption of an unsterlized dog or cat, and to repeal Section 3-1-13, Code of Alabama 1975, relating to the right of humane societies to take charge of and care for neglected or abused animals.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Alabama Dog and Cat Fund is created in the State Treasury and shall be administered by the Alabama Department of Economic and Community Affairs. The fund shall consist of all tax proceeds collected pursuant to Section 2, less an amount sufficient to cover the cost of administering the tax to be retained by the Department of Revenue. Monies in the fund shall be invested by the State Treasurer for the sole benefit of the fund and any interest earned by the fund shall be deposited into the fund

(b) No money shall be withdrawn or expended from this fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this act. Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4, commencing with Section 41-4-80 of Chapter 4 of Title 41, Code of Alabama 1975, and only in the amounts provided by the

Legislature in the general appropriations act or other appropriations act.

(c) The Alabama Department of Economic and Community Affairs shall disburse not more than three percent of the fund to the State Veterinarian for purposes of developing and providing training to animal control officers pursuant to Section 5.

(d) Not more than 75 percent of the fund shall be available to the Governor who shall grant as he or she determines necessary, and the Alabama Department of Economic and Community Affairs shall disburse accordingly, monies to counties first and then municipalities for the purpose of providing a pound for the impoundment of dogs and cats, as required by Section 3-7A-7, Code of Alabama 1975.

(e) From the portion of the fund unused by subsections (c) and (d), a facility operated by or under contract for the state or any county, municipal corporation, or other political subdivision that is responsible for sterilizing dogs or cats pursuant to Section 3-9-2, Code of Alabama 1975, may request in writing, and the Director of the Department of Economic and Community Affairs shall disburse according to greatest need, an amount from the fund sufficient to cover all reasonably anticipated costs of providing for the sterilization of dogs or cats within a calendar year. Any disbursed monies remaining unused at the end of a calendar year shall not be remitted to the fund.

(f) From the portion of the fund unused by subsections (c) and (d), a law enforcement officer or animal control

officer, pursuant to Section 13A-11-245, Code of Alabama 1975, may request, and the Director of the Department of Economic and Community Affairs shall disburse, an amount from the fund sufficient to cover all reasonably anticipated costs associated with providing for the dog or cat, subject to all of the following:

(1) A law enforcement officer or animal control officer providing for a dog or cat shall certify that county or municipal sources of funding are nonexistent or fully depleted before a disbursement from the fund is made.

(2) Any funds received by a law enforcement officer or animal control officer pursuant to an action instituted under Section 13A-11-245, Code of Alabama 1975, for the reimbursement of the law enforcement officer or animal control officer by the owner of a dog or cat for costs incurred for providing for the dog or cat shall be paid to the State Treasurer for deposit into the fund in an amount not more than the original amount disbursed from the fund.

(3) The director may only distribute funds upon finding a request is necessary and reasonable, as provided by C.F.R. § 31.201-3. An itemized list of all funds disbursed pursuant to this subsection shall be made available by the director to any interested party.

Section 2. (a) For the purposes of this section, the following terms have the following meanings:

(1) CAT. Felis catus.

(2) DOG. Canis lupus familiaris.

(3) SALE or SELL. Any transfer of funds for the

purchase, adoption, transfer, rehoming, or resale of a dog or cat.

(b) Beginning on January 1, 2025, there is levied, to the exclusion and in lieu of all other taxes of every kind now imposed by law, and shall be collected and remitted in accordance with Article 1, Chapter 23 of Title 40, Code of Alabama 1975, a tax at the rate of nine percent on the gross proceeds of the sales of dogs or cats in this state when sold by an individual, organization, corporation, association, partnership, or other entity that annually sells five or more dogs or cats.

(c) All proceeds from the tax levied pursuant to subsection (b) shall be deposited into the Alabama Dog and Cat Fund provided for in Section 1.

(d) The Department of Revenue shall adopt rules necessary to implement this section.

Section 3. The gross proceeds from the sale of a dog or cat, as defined in Section 2, are exempt from the general state gross sales tax provided for in Section 40-23-2, Code of Alabama 1975.

Section 4. Any entity required to collect the tax on the gross proceeds of the sale of a dog or cat pursuant to Section 2 is exempted from paying any state, county, or municipal sales tax on dog or cat food, medicine, and any other equipment or supplies used in furtherance of the business.

Section 5. (a) For the purposes of this section, the term "animal control officer" means the term as defined in

Section 3-6A-3, Code of Alabama 1975.

(b)(1) All animal control officers shall complete a basic animal control course of no less than 12 hours, as approved by the State Veterinarian, within one year of becoming certified. After completion of a basic animal control course, an officer shall complete no less than 10 hours of continuing animal control education annually, as approved by the State Veterinarian.

(2) Animal control officers who were certified prior to October 1, 2024, shall complete a basic animal control course before October 1, 2025.

(c) The State Veterinarian, in consultation with the Alabama Veterinary Medical Association, shall determine and provide a list of approved curricula for both a basic animal control course and continuing animal control education. The topics covered in both curricula shall include all of the following:

(1) State laws governing animal control, protection, and cruelty.

(2) Animal health and disease recognition, control, and prevention.

(3) The ethical care and treatment of animals, including equine, poultry, and livestock animal husbandry.

(4) Standards for care and control in animal shelters.

(5) Standards and procedures for the transportation of animals.

(6) Principles and procedures for capturing and handling stray animals, including principles and procedures to

be followed with respect to an instrument used specifically for deterring the bite of an animal.

(7) First aid for injured animals.

(8) The documentation of animal cruelty evidence and courtroom procedures with an emphasis on due process and the constitutional amendments guaranteeing individual rights.

(9) Animal shelter operations and administration.

(10) Spaying and neutering, microchipping, and adopting animals.

(11) Communications and public relations.

(12) State and federal laws for possession of controlled substances and other medications.

(13) Any other topic the State Veterinarian deems necessary.

(d) In prescribing the standards and curricula of courses pursuant to this section, the State Veterinarian shall do both of the following:

(1) Determine what is considered satisfactory completion of a course, provided that an animal control officer is required to attend all sessions of a course.

(2) Determine what is considered a passing grade for any post-course examination.

(e) The State Veterinarian shall not consult with any organization, charity, or business with a stated position, past or present, against commercial agriculture with regard to, nor may such an entity be directly or indirectly involved in, the training of animal control officers pursuant to this section.

Section 6. Sections 3-9-1, 3-9-2, and 3-9-3, Code of Alabama 1975, are amended to read as follows:

"§3-9-1

(a) This chapter shall be known and may be cited as the Protecting Our Pets Through Shelter and Sterilization Act.

(b) As used in this chapter, the following words shall have the following meanings:

(1) ANIMAL SHELTER. Any facility operated by or under contract for the state or any county, municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for ~~such~~ this purpose in addition to its customary purposes; and any facility operated, owned, or maintained by ~~a duly~~ an incorporated humane society, animal welfare organization, animal rescue organization, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(2) ANIMAL WELFARE ORGANIZATION. Any ~~unincorporated~~ nonprofit organization or business entity existing for fostering and adopting dogs and cats by the public.

(3) SEXUALLY MATURE ANIMAL. Any dog or cat that has reached the age of 180 days.

(4) STERILIZATION. The surgical removal of the reproductive organs of a dog or cat in order to render the animal unable to reproduce."

"§3-9-2

(a) Any public or private animal shelter~~,~~ or animal control agency operated by a political subdivision of this state~~, or humane society~~ shall make provisions for the sterilization of all dogs or cats, including dogs and cats being fostered pursuant to the direction of one of these entities, acquired from any source, including, but not limited to, ~~a~~ an animal shelter~~,~~ or animal control agency~~, or humane society~~ by providing for ~~all~~ either of the following:

(1) Sterilization by a licensed veterinarian before relinquishing custody of ~~the~~ a sexually mature animal.

(2)a. ~~Entering into a~~ A written agreement with ~~the~~ a person acquiring ~~the~~ an animal that is not sexually mature guaranteeing that sterilization will be performed by a licensed veterinarian within ~~30 days after acquisition of the animal, or within~~ 30 days of the animal becoming sexually mature ~~sexual maturity of an animal~~.

b. A prepaid voucher for the sterilization of the animal by a licensed veterinarian within 30 days of the animal becoming sexuallly mature may be provided with the agreement.

c. Any person who acquires an unsterilized animal from a public or private animal shelter or animal control agency, within seven days of the sterilization procedure, shall submit to the entity from which the animal was obtained a signed statement from a licensed veterinarian attesting that a sterilization procedure has been performed by the veterinarian.

(b) The requirements of this chapter shall not apply to

any privately owned animal in possession of ~~a~~ an animal shelter~~,~~ animal control agency, or ~~humane society~~ other entity that houses dogs or cats for adoption if the owner of the animal claims or presents evidence that the animal is the property of that person.

~~(c) All costs of sterilization pursuant to this chapter shall be the responsibility of the person acquiring the animal, and if sterilization is performed prior to acquisition, may be included in any fees charged by the shelter, agency, or humane society for an animal.~~

~~(d) Any person acquiring an animal from a public or private animal shelter, animal control agency operated by a political subdivision of this state, or humane society from which an animal is not sterile at the time of acquisition, shall submit to the animal shelter, animal control agency, humane society, or public or private animal shelter a signed statement from the licensed veterinarian attesting that a sterilization procedure has been performed by the veterinarian within seven days after the sterilization.~~"

"§3-9-3

~~It shall be a misdemeanor to fail or refuse to comply with this chapter.~~ Any person failing or refusing to comply with the requirements of this chapter ~~shall~~, upon conviction, shall be guilty of a Class B misdemeanor and ~~shall be~~ subject to a fine of ~~a minimum of fifty dollars ($50)~~ not less than three hundred dollars ($300) and not to exceed ~~two hundred dollars ($200)~~ one thousand dollars ($1,000)."

Section 7. Section 3-9-5 is added to the Code of

Alabama 1975, to read as follows:

§3-9-5

No person shall adopt an unsterilized dog or cat within this state without an agreement to have the dog or cat sterilized pursuant to Section 3-9-2.

Section 8. Section 3-1-13, Code of Alabama 1975, relating to the right of humane societies to take charge of and care for neglected or abused animals, is repealed.

Section 9. Section 13A-11-245, Code of Alabama 1975, is amended to read as follows:

"§13A-11-245

(a) For the purposes of this section, the following terms have the following meanings:

(1) ANIMAL CONTROL OFFICER. The term as defined in Section 3-6A-3.

(2) ANIMAL SHELTER. The term as defined in Section 3-9-1.

~~(a)~~ (b) The law enforcement officer or animal control officer ~~agent of the county or municipality~~ may provide for the dog or cat until ~~either~~ the dog or cat is returned to the owner by the court~~,~~ or the court refuses to return the dog or cat to the owner and implements one of the procedures ~~pursuant to~~ provided under subsection ~~(c).~~ (d), subject to both of the following:

(1) The dog or cat shall be housed at an animal shelter that is within the county in which the dog or cat was seized.

(2) The owner shall be allowed to have a licensed veterinarian inspect their dog or cat.

~~(b)~~ (c) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

~~(c)~~ (d) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the ~~person~~ law enforcement officer or animal control officer taking custody~~,~~ and a licensed veterinarian~~, or another qualified witness~~ that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the ~~dog or cat control, humane shelter, or similar facility~~ animal shelter designated by the county or the municipality or other appropriate person to be disposed of by the ~~facility~~ animal shelter or person in a humane manner.

(2) Upon itemized proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any necessary and reasonable costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing, and the reasonableness of costs as determined under 48 C.F.R. § 31.201-3. In the event the court finds the owner ~~innocent~~ not guilty of charges, the owner shall not be charged

with costs of the care of the dog or cat in custody.

~~(d)~~ (e) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for ~~and~~ or protect any other dog or cat in the custody of the owner that was not ~~originally~~ seized by the ~~agency, agent, or other person~~ law enforcement officer or animal control officer when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

Section 10. This act shall become effective on September 1, 2024.