



# NATIONAL ANIMAL INTEREST ALLIANCE

*Supporting the people who care for America's animals*

June 28, 2007

California State Senate  
The Honorable Gloria Negrete McLeod  
Chair, Local Government Committee  
State Capitol, Room 2059  
FAX: (916) 445-0128

Letter in opposition to AB 1634 as amended June 27, 2007  
Please place this letter on the Committee OPPOSE list for AB 1634

Dear Senator Negrete McLeod:

I am writing on the behalf of the California members of the National Animal Interest Alliance (NAIA) to express our opposition to the California Assembly Bill 1634, the "California Healthy Pets Act."

The NAIA is a coalition of animal owners and public and private organizations dedicated to animal welfare, animal health and wellbeing, responsible animal ownership, and maintaining the rights of citizens to responsibly keep and enjoy pets. We support reasonable laws that promote the well-being of animals and strongly oppose laws that ignore science and interfere with decisions that should be made by pet owners and their veterinarians.

NAIA opposes mandatory sterilization laws. The provisions of AB 1634 are unreasonable and unconstitutional, and will produce severe unintended consequences if passed.

The last round of amendments to this bill (June 27, 2007) portend no solutions and emphasize that the proponents are determined to abrogate pet ownership rights in California. The addition of restrictions to one litter per lifetime per male and per female dog; the elimination of medically recommended exclusion from spaying or neutering past one year of age; and the effective imposition of a "doggy visa" program for dogs visiting the state are only additional highlights that show the misdirection of this bill,

## **Improper government role**

AB 1634 needlessly and recklessly interferes with traditional relationships between California-licensed veterinarians and their animal patients' owners. The bill establishes an arbitrary age as the standard for mandatory spaying or neutering. The proper age for this procedure is a matter of serious debate in the animal care community, with well-documented medical and behavioral problems that can develop from neutering pets too early. If it is a veterinarian's judgment that a particular animal's health would be jeopardized by following the state mandated standard, the health professional must document, in each instance, his or her medical opinion to the state and no medical exceptions to spaying and neutering are allowed after 12 months of age

### **Pet sterilization programs alone won't solve problem**

Proponents of mandatory spaying and neutering assume that pets end up in animal shelters solely because of overpopulation and that mandatory sterilization laws will therefore solve the problem. However, these proponents ignore the fact that most of the animals in shelter today are not young puppies; that a high number of the kittens are from feral cats; that many shelter animals are already neutered; and that the number of animals entering shelters has been steadily declining for decades, with some of the steepest drops occurring in areas with the least coercive laws. In essence, public education, low-cost resources for the poor, and reasonable licensing programs are working.

Spay and neuter educational campaigns have been so successful that some animal shelters presently do not have a supply of dogs to meet the demands of the citizens wanting to adopt pets. To meet the demands some shelters have started locating dogs in other states and countries and bringing them to their facility. In 2005, The California Border Puppy Task Force, a group of fourteen California animal welfare and law enforcement agencies including the U.S. Customs and Border Protection Agency announced that their sting operation discovered that as many as 10,000 dogs that year were illegally transported to San Diego County from Mexico. California shelters also took part in rescues that involved importing dogs from Romania and from American disaster areas such as Katrina. Should owners of intact dogs and cats in California have to foot the bill for these activities?

### **Supply and demand and unintended consequences**

Please consider the laws of *supply* and *demand* and unintended consequences in any attempt to reduce animal shelter populations. The mandatory pet sterilization called for in AB 1634 deals only with the *supply* side of the dog and cat shelter problem. AB 1634 will not lower the *demand* for pets in California; it will just shift consumers to outside sources. Any legislation that attempts to solve surplus shelter problems by focusing solely on the *supply* side of the problem is destined to fail. To make further reductions in shelter populations, efforts need to be focused on the *demand* or consumer side of the issue; public education, low cost services and resources for the poor and reasonable licensing options.

If fees from breeders are seen as a funding source, this assumption needs to be reevaluated. Passage is far more likely to eliminate potential licensees from the market place than serve as a funding source for the program. Imposing more regulations runs the risk of diminishing the best source of dogs and cats available to California consumers, which, since demand is constant, will be replaced by out of state puppies and kittens at great cost to the California economy and without improving the welfare of California pets one whit. In other words, using a risk-benefit model, this bill offers lots of pain for virtually no gain.

### **Killing the goose that lays the golden egg**

Further, the citizens most likely to be adversely affected by AB 1634 are the members and registrants of American Kennel Club and Cat Fanciers Association, the not for profit organizations that bring tens of millions of tourism dollars to California's economy each year. These are the same people whose volunteer efforts have the greatest impact on improving the shelter surplus problem from the consumer or *demand* side of the problem. These clubs work year round to help the public make responsible choices in selecting, raising, training, socializing,

permanently identifying, licensing and basically learning about how to become a responsible pet owner. They provide and fund rescue services, host microchip clinics and fund numerous animal welfare projects at no cost to California taxpayers. To over-regulate this group as AB 1634 does, is a recipe for killing the goose that lays the golden egg.

Furthermore, enforcing this program would put an additional administrative burden on the local agencies. According to the American Pet Product Manufacturers Association, about 60% of households have a dog and/or a cat, a figure indicating that pet ownership is a widely held community value. If the problem being addressed by AB 1634 is of the magnitude described, is it fair that the tax to pay for it be levied only against the people with intact pets who are responsible enough to get their pets licensed?

Finally, in most scenarios, a few bad apples cause most of the problems. This situation is much more complex. It includes the pet owners who are so irresponsible they won't properly care for their pets regardless of mandates; people who would benefit from informational resources and low cost services; and it includes a very large pool of animals - feral cats - that have no owners to educate or regulate. Because none of these groups are good subjects of regulation, AB 1634 goes after the responsible group that is not causing the problem and asks them to pay for the whole mess. It won't work. But as a result of this ill-conceived bill, responsible dog and cat owners will be burdened and financially punished to pay for the actions of a few.

California residents should continue to be allowed to find a well-bred pet from a good local breeder and not have to import one from out of state or out of the country.

### **Constitutional considerations**

Finally, current law defines animals as the "property" of the owner. The United States Constitution guarantees the fundamental right of property ownership. The ability of a property owner to make important decisions regarding their property is the most fundamental element of property rights. The result of this bill would be to eliminate the property owner's right to make decisions about their pets' care and give that right to the state and local government entities. This interference of a pet owner's right to make decisions about their pet violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution, since the pet owner would be denied control over their property without any semblance of overriding state interest in the outcome.

The proposed bureaucratic structure and unqualified delegated authority to establish local requirements and penalties in the bill would lead to unequal treatment of similarly situated individuals in different California sub-jurisdictions. Because local governments are ultimately responsible for creating the list of breeds that would be allowed to obtain permits for intact animals, it is inevitable that the breed lists will differ from locality to locality. This will mean unequal treatment of some breed owners in the state. This raises questions under the equal protection clause of the Fourteenth Amendment, as breeds are added to the various lists around the state in a haphazard and arbitrary manner.

An additional constitutional issue is raised by the limitations that the proposed legislation would place on interstate commerce. Markets for intact animals whose breed names do not appear on approved registries would disappear, and anyone engaged in breeding those animals in California would be forced out of business. The interstate commerce clause of the U.S. Constitution prohibits state laws that interfere with such commerce.

Moreover, the restrictions and permits being proposed in this bill are similar to the burdensome regulatory framework legislatively imposed on animal owners and breeders in Louisville, Kentucky, an ordinance that is currently the subject of a court challenge based upon its constitutionality. This is an extremely expensive way for local government and private citizens to arrive at a reasonable set of regulations.

The National Animal Interest Alliance strongly urges you to not support AB 1634, the "California Healthy Pets Act." If NAIA can be of any assistance in this matter, please contact us.

Sincerely,



Patti Strand, National Director