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SFA**BILL ANALYSIS**

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House Bill 4239 (as passed by the House)
Sponsor: Representative Gerald Law
House Committee: Health Policy
Senate Committee: Agriculture and Forestry

Date Completed: 4-22-97

CONTENT

The bill would amend Public Act 287 of 1969, which regulates pet shops, dog pounds, and animal shelters, to prohibit an animal control shelter or animal protection shelter from permitting the adoption of an unaltered dog, cat, or ferret by a person, unless that person had entered into a contract for the alteration of the dog, cat, or ferret, and left a good faith, refundable deposit of at least \$25 with the shelter. Someone who breached a contract would be subject to damages of at least \$100.

The bill would take effect 90 days after its enactment.

Definitions

“Animal control shelter” would mean a facility operated by a municipality for the impoundment and care of animals that were found in the streets or at large, animals that were otherwise held due to the violation of a municipal ordinance or State law, or animals that were surrendered to the animal control shelter. An “animal protection shelter” is a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals. The Act’s definition of “animal” would be revised to include rodents. Currently, the definition specifically excludes rodents.

“Adoption” would mean a transfer of ownership, with or without remuneration, of a dog, cat, or ferret from an animal control shelter or animal protection shelter to an individual for the purpose of being a companion animal for that individual; a companion animal would include, but would not be limited to, a dog that was used for hunting or as a guard dog. “Alteration” would mean a professional sterilization procedure, performed by a veterinarian, that rendered a dog, cat, or ferret incapable of reproducing. “Altered”, in reference to a dog, cat, or ferret, would mean having undergone alteration.

Alteration Contract

Agreement. An animal control shelter or animal protection shelter could not permit a person to adopt a dog, cat, or ferret that had not been altered, unless that person entered into a contract with the shelter for the alteration of the animal. The contract would have to state that the adopting person agreed to have an alteration performed on the dog, cat, or ferret and otherwise would comply with the bill.

A contract would have to require the adopting person to have an alteration performed on the dog, cat, or ferret within four weeks after the adoption, if the animal were at least six months old at the time of adoption. If the dog, cat, or ferret to be adopted were under six months of age, the contract would have to contain the date on which the animal would be six months old and require that the person adopting the animal have an alteration performed within four weeks after that date. These

requirements would not prohibit a veterinarian from altering a dog, cat, or ferret that was under six months of age.

Upon written certification by a veterinarian that an alteration posed a serious, permanent medical or health problem for a dog, cat, or ferret, the adopted animal would not have to be altered. If a serious medical or health problem were temporary, the alteration could be postponed until the time that the problem was no longer present, as determined by a veterinarian through periodic reevaluation of the animal at intervals of no more than 14 days.

Deposit. A contract entered into under the bill would have to require the adopting person to leave with the animal control shelter or animal protection shelter, or a designee of a shelter, a good faith deposit of at least \$25 that indicated the person's intention to have the adopted dog, cat, or ferret altered within the time required by the contract.

If an adopting person failed to comply with an alteration contract's terms, the deposit would be forfeited. If an adopting person submitted written proof from a veterinarian that an animal that was the subject of a contract under the bill had died within the time period in which alteration was required, the good faith deposit would have to be returned to the person. Money forfeited under the bill would have to be used by the animal control shelter or animal protection shelter to finance alterations, for public education regarding the value of having dogs, cats, and ferrets altered, or otherwise to ensure compliance with the bill.

If an adopting person complied with the terms of a contract entered into under the bill, the good faith deposit would have to be refunded upon the person's submission of written certification by a veterinarian that the adopted dog, cat, or ferret had been altered. The certificate would have to include the date of alteration, the name of the animal's owner, a description of the animal, and the signature of the veterinarian who performed the procedure.

A good faith deposit would not be required if a dog were transferred to a local, State, or Federal law enforcement agency or to an organization or trainer that trained guide or leader dogs for persons who are blind.

Damages. A contract entered into under the bill would have to include a statement that, if the terms were breached because a person adopting a dog, cat, or ferret failed to have the animal altered as required in the contract, the person would agree to pay liquidated damages of \$100 to cover the animal control shelter's or animal protection shelter's costs to enforce the contract.

Enforcement. In addition to any other remedy under the Act, an animal control shelter or animal protection shelter that violated the bill by not entering into a contract would be subject to revocation of the shelter's registration, which is required under the Act.

If a person failed to comply with a contract for the alteration of a dog, cat, or ferret as required by the bill, a court with appropriate jurisdiction could order the transfer of ownership of the adopted animal only to one of the following:

- The facility from which the animal was adopted.
- A veterinarian, animal control shelter, or animal protection shelter willing to accept the animal and either humanely euthanize the animal or adopt the animal out to an owner who agreed to have the animal altered.

In addition to any other action authorized by the Act, the Director of the Michigan Department of Agriculture (MDA) could bring an action to do one or more of the following:

- Obtain a declaratory judgment that a method, act, or practice was in violation of the Act.
- Obtain an injunction against a person who was engaging, or was about to engage, in a method, act, or practice that violated the Act.

Records

An animal control shelter and an animal protection shelter would have to maintain written records on all of the following:

- The total number of dogs, cats, and ferrets under six months old, the total number of dogs, cats, and ferrets six months of age and older, and all other animals annually received, returned to owners, adopted to new owners, sold, or transferred, with or without remuneration.
- The number of adopted dogs, cats, and ferrets that were altered each year.
- The number of adopted dogs, cats, and ferrets that were not altered each year.
- The number of dogs, cats, and ferrets euthanized annually.

Shelters annually would have to provide a copy of the statistics listed above to the MDA, by March 31 of the year following the year for which the statistics were compiled.

Exceptions

The Act does not apply to a person who breeds his or her own animals. The bill, instead, would make an exemption to the Act's licensing and regulation requirements for an individual who bred his or her own male or female animals or first generation offspring from them if the individual sold or otherwise transferred his or her own animals and did not act as an animal control shelter or animal protection shelter.

The bill also would make an exception to the Act for an individual who legally obtained an animal with the express intention of reselling the animal or finding the animal another home as long as the person did not have more than two such animals at any one time and did not engage in more than six transactions in a 12-month period.

The bill specifies that these provisions would not create an exemption from vaccination and licensing requirements pursuant to the Dog Law, or from vaccination and handling requirements pursuant to Public Act 358 of 1994, which regulates the possession, breeding, and importing of domestic ferrets.

MCL 287.331 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: A. Rich

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.