

Legislation – *What's Hot*

By Sharon Coleman, CFA Legislative Legal Analyst

Kelly Crouch, CFA Legislative Information Liaison

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Retail Pet Store Sales Bans, What's New and What's Old?

California may have been the first to enact a statewide retail pet store sales ban in 2017, but the legislatively created floodgates are a trickling and California needs fixing. So does Chicago as the recent June *What's Hot* reported. As of this writing, Chicago's proposed legislative fix is on hold. One of its problems included breeder licensing for local residents: a policy that seems counterproductive when these bans are supposed to stop animal abuse in the wholesale-to-retail supply chain. This issue has been the rationale for these laws going back to the 1992 founding of the single-issue advocacy national organization, the Massachusetts based Companion Animal Protection Society ("CAPS"). The CAPS mission statement is: "For the love of animals stand together against pet shops and puppy mills."

Many national and local animal protection organizations list this mission among their many issues. However, the persistent, laser focus of CAPS has given it an inside track and perspective to develop legislative opportunities. One of those occurred in the spring of 2013 in the City of San Diego. Then Joan Miller, now retired, CFA Legislative Group founder and Legislative Coordinator testified in opposition to a proposed ordinance before the City Council. Leading up to this effort and beyond, activists had been picketing and harassing personnel and customers of the small store, San Diego Puppy, including its owner David Salinas. The ordinance was enacted in the general form of the later California statute, no pet store sales "unless the dog, cat or rabbit was obtained from a city or county animal shelter or animal control agency, a humane society or a nonprofit rescue organization." (City Council Makes Tentative Vote To Ban Retail Pet Shops, KBPS, July 9, 2013, <https://www.kpbs.org/news/2013/jul/09/sd-pet-shops/>)

Later campaigns in some cities and the state legislation also focused on demonizing David Salinas who had been a local family man trying to support his family and community with a legal business. Instead of moving out of state or finding a different business, Salinas dug his heels in and became one of those continuing to operate pet stores in conjunction with sham rescue organizations. He remained a high profile target of CAPS and the animal protection community (David Salinas Preliminary Injunction Minute Order 7-2020, <https://www.caps-web.org/category/legislation/>, June 24, 2020).

During the 2017 California legislation (Assembly Bill 485,) proponents had realized that authorizing independent animal rescue groups – neither public agencies nor legal humane societies – to "showcase" in retail stores could lead to evasive shenanigans by

pet store operators. Rather than fix the issue then, they preferred to get the first state bill enacted while there was a good chance to do so rather than slow down to work out practicalities. The disagreement among supporters went silent and stayed that way until 2019 when the enforcement problems became unavoidable. This year, each faction had its own state bill, one to just eliminate animal rescues and the other to re-define animal rescues for this purpose. With the shortened legislative season due to the COVID-19 pandemic, the factions joined forces in June agreeing on A.B. 2152 to revise the rescue definition. Unlike the 2017 bill, CAPS registered its support and wrote, “We are strongly in favor of the passage of this necessary amendment to The Pet Rescue and Adoption Act (AB 485). It is imperative that we close the loophole that is allowing pet shops to sell mill-bred puppies from fraudulent rescues – fronts for USDA-licensed dog brokers. The true purpose of The Pet Rescue and Adoption Act is [to] stop the sale of mill-bred animals and to provide space in pet shops for shelters and legitimate rescues to showcase homeless animals for adoption” (Assembly Committee on Business and Professions Policy Analysis, AB 2152, page 7, May 20, 2020, http://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB2152).

In July, the bill was amended to substitute civil penalties for criminal and simplify the rescue definition in order to pass the Appropriations Committee. For purposes of this law only, "An "animal rescue group" is any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and that meets the following requirements: (A) Does not breed animals. (B) Does not obtain animals in exchange for payment or compensation from any person that breeds or brokers animals." Both the principal co-author, Assemblymember [sic] Todd Gloria of San Diego and the Sponsor, the San Diego Humane Society that is the local animal enforcement agency, thought this narrowed definition would be a workable solution for the “loophole” in the bill without criminalization and excessive restrictions. Then, the supporters of the other bill withdrew their support from AB 2152 and went silent – including CAPS and the sponsor of the other bill, Social Compassion in Legislation. The pet industry and retailers were the only registered opposition. The primary concern is store’s liability for acts of third parties, i.e. the rescue groups. As of this writing, AB 2152 is awaiting action on the Senate Floor where the deadline for further amendment is Monday, August 24.

The more complex definition of rescue group was discussed in more detail in the June What’s Hot and is turning up in more parts of the country suggesting a national source. It is even more dangerous should it be expanded to apply to an entire animal law rather than limited to only retail showcasing provisions. Any changes or new definitions of animal rescue groups require scrutiny.

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