



ISAR Proposed Model Mandatory Spay/Neuter Statute

Whereas, there have been and there are within this state countless unwanted dogs and cats lacking permanent homes; and

Whereas, although many of these animals are healthy, many others are not; and

Whereas, the latter through no fault of their own have an adverse impact on the public health, safety, welfare, and environment; and

Whereas, the impact of these animals includes, but is not limited to, the transmission of disease, the injury and sometimes death of humans and other animals, the creation of hazards to vehicular travel, and the drain on public finances; and

Whereas, many of these animals are euthanized by shelters, humane societies, and similar organizations; and

Whereas, euthanizing dogs and cats except for *bona fide* medical reasons is inhumane and abhorrent to the people of this state; and

Whereas, euthanizing dogs and cats except for *bona fide* medical reasons is not an effective, economical, humane, or ethical solution to the problem of dog and cat overpopulation; and

Whereas, one of the most effective, economical, humane, and ethical solutions to the problem of dog and cat overpopulation is to substantially reduce, if not entirely eliminate, their breeding; and

Whereas, by such reduction or elimination the State seeks to promote the public health, safety, welfare, and environmental interests of its citizens;

NOW, THEREFORE, BE IT ENACTED AS FOLLOWS:

Section 1. Coverage of statute

(a) All dogs and cats present in this state shall be in compliance with this statute, unless specifically exempted.

(b) No exemption shall exist for dogs and cats which may fall under any federal statute or within the jurisdiction of the federal government or any agency thereof.

Section 2. Requirement of spaying and neutering

(a) Subject to the provisions of this statute, every dog and cat harbored in this state shall be spayed or neutered.

(b) For purposes of this statute, “harbor” is defined to include: legal ownership, providing regular care, shelter, protection, refuge, nourishment, or medical treatment; provided; however, that a person or entity does not “harbor” by providing nourishment to a stray or feral dog or cat, and; provided further, however, that caretakers of feral cat colonies shall use their best efforts to have those animals sterilized.

Section 3. Breeding licensees; rules and regulations

(a) Other than as provided below, no dog or cat may be legally used for insemination or bred in this state except by an individual or entity holding a breeding license, which may be issued in its absolute discretion by the Department of Animal Affairs or such other department as the governor shall designate.

(b) While a breeding license is valid, no subsequent breeding license shall be issued to any individual related to the first licensee by blood or marriage, to any entity related to the first licensee by common officers, directors, stockholders, or trustees, or to any entity controlled by the first licensee.

(c) The licensing authority shall promulgate such rules and regulations as may be necessary to implement its statutory duties, including but not limited to recordkeeping requirements.

(d) Such rules and regulations shall include, but not be limited to, provisions assuring that the animals in the breeding licensee’s care there are provided: sufficient quantity of good and wholesome food and water consistent with its breed, size, and age; shelter that will allow the animals to be protected from the elements with room to stand up, turn around, and lie down without lying in its or another animal’s waste; confinement space that is clean and disinfected; an opportunity for adequate sunlight, fresh air, and exercise.

(e) In addition, breeding licensees shall be required to comply with all other state statutes relating to the care and treatment of dogs and cats.

Section 4. Breeding limitations

(a) A breeding licensee may use a male dog or cat only twice to inseminate a female, which must occur within a twelve month period. No further insemination is allowed thereafter.

(b) A breeding licensee may breed a female cat only twice, which must occur within a twelve month period. No further breeding is allowed thereafter.

(c) The offspring of breeder licensee's dogs and cats may be retained by the breeding licensee, but they shall be subject to the same restrictions as their sires and dams, as shall be succeeding generations.

(d) The dogs and cats covered by this section regarding insemination and breeding shall be at least four months old, the dogs no older than eighteen months, and the cats no older than twelve months.

(e) Once- or twice-bred female dogs and cats shall be sterilized promptly after delivery of the female animals' final litters.

(f) Male dogs and cats shall be sterilized promptly after they have twice inseminated females.

(g) Promptly after a male dog or cat has twice inseminated a female, and promptly after a female dog or cat has delivered her final litter, the breeder licensee shall either:

(i) Relinquish such animal to a shelter, humane society, rescue group, or similar organization for adoption only, or

(ii) Directly arrange for adoption, pursuant to the rules and regulations of the nearest shelter, humane society, rescue group, or similar organization; provided, however, that the breeder licensee shall under no circumstances transfer custody of a dog or cat to any individual or entity as to whom the breeder licensee knows, or should know, that the animal will be used for scientific experimental purposes.

(h) No breeding licensee shall release from its custody any dog or cat that has not been sterilized, except to provide temporary veterinary care.

(i) No breeding licensee shall possess in any calendar year more than ten unneutered male dogs, ten unneutered male cats, ten unspayed female dogs, and ten unspayed female cats, except for newborn litters which may be kept for no more than three months at which time the provisions of this statute will apply to them.

Section 5. Other source dogs and cats

(a) Every individual and entity harboring an unsterilized dog or cat shall immediately present the animal to a licensed veterinarian who shall sterilize it; provided, however, that the animal need not be sterilized if it is, or appears to be, less than three months old.

(b) This section does not apply to breeder licensees.

Section 6. Sellers of dogs and cats

(a) Upon coming into the possession of an unsterilized dog or cat, every individual and entity in the business of selling such animals, including but not limited to pet stores, shall immediately present the animal to a licensed veterinarian who shall sterilize it; provided, however, that the animal need not be sterilized if it is, or appears to be, less than three months old.

(b) This section shall not apply to breeder licensees.

Section 7. Medical exceptions to sterilization

(a) No dog or cat need be sterilized if a licensed veterinarian, exercising appropriate professional judgment, shall certify in writing and under oath that an animal is medically unfit for the spay/neuter procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the animal's death.

(b) The dog or cat's age shall not *per se* constitute medical unfitness.

(c) As soon as the disqualifying medical condition ceases to exist, it shall be the duty of the person having control of the dog or cat to immediately comply with all provisions of this statute.

(d) Possession of the certificate referred to in subsection (a) of this section shall constitute a defense to liability under the penalty provisions of this statute.

(e) If during the disqualification period the dog or cat breeds, the individual or entity in control of the animal shall be punished in accordance with Section 13 of this statute.

Section 8. Shelters and similar organizations

(a) Shelters, pounds, humane societies, and similar organizations, whether public or private, whose principal purpose is securing the adoption of dogs and cats, shall not be exempt from the provisions of this statute.

(b) No shelter, pound, humane society, or similar organization, whether public or private, whose principal purpose is securing the adoption of dogs and cats, shall release custody of any such animal to its owner or an adopter unless the dog or cat has first been sterilized.

Section 9. Duties of veterinarians

(a) Any licensed veterinarian who shall become aware that a dog or cat who should be sterilized is in violation of this statute shall promptly inform the person or entity harboring such animal, and further state that the veterinarian has a duty to report that information pursuant to subsection (b) hereof.

(b) If within five business days the person or entity harboring such animal has not shown to the veterinarian's satisfaction that it has been sterilized, the veterinarian shall report to the enforcing authority the name and contact information of the person harboring such animal and its unsterilized condition.

Section 10. Microchipping

Promptly after beginning to harbor a dog or cat, the individual or entity shall have the animal microchipped in accordance with current technology.

Section 11. Low-cost spay/neuter

(a) The state shall itself or by contract provide facilities where its citizens can have dogs and cats humanely spayed and neutered by a licensed veterinarian for a fee established by regulation.

(b) The spay/neuter fee to be established by regulation shall be based on ability to pay, which regulations shall provide for the fee to be waived entirely because of financial hardship.

Section 12. Enforcement

Enforcement of this statute shall fall within the jurisdiction of the Attorney General, the Department of Animal Affairs, or such other department as the governor shall designate.

Section 13. Penalties

(a) The first violation of this statute shall constitute an offense, punishable by a civil fine of \$1,000.00.

(b) Each week during which the violation continues will constitute a separate offense for which an additional civil fine of \$1,000.00 shall be imposed.

(3) Immediately following the third offense, subsequent violations will be punishable as the lowest grade misdemeanor. The \$1,000.00 civil fine will also be imposed for each offense after the first.

Section 14. Transition

Within sixty days from the effective date of this statute it shall be the responsibility of all those who harbor dogs and cats to be in compliance with this statute.

Section 15. Effective date

This statute will be effective when it is enacted by the legislature and approved by the governor in accordance with state law.

Section 16. Severability

If any provision of this statute shall be held unconstitutional, illegal, or unenforceable for any reason, the remaining provisions shall retain their full status as if the offending provision had not existed.