

ASSEMBLY BILL

No. 1810

Introduced by Assembly Member Maienschein

February 18, 2014

An act to amend Sections 1834.5 and 1834.6 of the Civil Code, relating to deposits.

LEGISLATIVE COUNSEL'S DIGEST

AB 1810, as introduced, Maienschein. Deposits for keeping: abandoned animals.

Existing law requires a veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility, as provided, to humanely destroy an abandoned animal, if unable to place the animal with a new owner.

This bill, instead, would authorize the euthanasia of the abandoned animal under those circumstances.

Existing law prohibits a person from using an abandoned animal for experimentation and prohibits a person from turning over an abandoned animal to a pound or animal regulation department of a public agency.

This bill, instead, would allow a person to turn an abandoned animal over to a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter, provided that the shelter has been contacted and has not refused to take the animal.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1834.5 of the Civil Code is amended to
2 read:

3 1834.5. (a) Notwithstanding any other provision of law,
4 whenever ~~any~~ *an* animal is delivered to ~~any~~ *a* veterinarian, dog
5 kennel, cat kennel, pet-grooming parlor, animal hospital, or any
6 other animal care facility pursuant to ~~any~~ *a* written or oral
7 agreement entered into after the effective date of this section, and
8 the owner of ~~such~~ *the* animal does not pick up the animal within
9 14 calendar days after the day the animal was due to be picked up,
10 the animal shall be deemed to be abandoned. The person into whose
11 custody the animal was placed for care shall first try for a period
12 of not less than 10 days to find a new owner for the animal, and,
13 if unable to place the animal with a new owner, ~~shall thereafter~~
14 *humanely destroy may euthanize* the animal so abandoned.

15 If

16 (b) *If* an animal so abandoned was left with a veterinarian or
17 with a facility ~~which~~ *that* has a veterinarian, and a new owner
18 cannot be found pursuant to this section, ~~such~~ *the* veterinarian ~~shall~~
19 *humanely destroy may euthanize* the animal.

20 There

21 (c) *There* shall be a notice posted in a conspicuous place, or in
22 conspicuous type in a written receipt given, to warn ~~each~~ *a* person
23 depositing an animal at ~~such~~ *an* animal care ~~facilities~~ *facility* of
24 the provisions of this section.

25 SEC. 2. Section 1834.6 of the Civil Code is amended to read:

26 1834.6. An abandoned animal, as described in Section 1834.5,
27 shall not be used for scientific or any other type of ~~experimentation;~~
28 ~~nor shall such an abandoned animal be turned over to a pound or~~
29 ~~animal regulation department of a public agency.~~ *experimentation.*
30 *An abandoned animal may be turned over to a public animal*
31 *control agency or shelter, society for the prevention of cruelty to*
32 *animals shelter, or humane society shelter, provided that the shelter*
33 *has been contacted and has not refused to take the animal.*

O



VETERINARY MEDICAL BOARD
REGISTERED VETERINARY TECHNICIAN COMMITTEE
 2005 EVERGREEN ST., SUITE 2250, SACRAMENTO, CA 95815-3831
 TELEPHONE: (916) 263-2610 / FAX: (916) 263-2621
 WEBSITE: <http://www.vmb.ca.gov>



LIEN LAW

IF THE AMOUNT DUE FOR VETERINARY SERVICES HAS NOT BEEN PAID WITHIN 10 DAYS AFTER THE PAYMENT HAS BECOME DUE, THE ANIMAL IS CONSIDERED LIENED.

A veterinarian, while holding an animal until payment for veterinary services is received, **is** entitled to be reimbursed: (1) for the value of food and shelter provided to the animal after it is ready to be claimed by the owner; and (2) for costs incurred in preserving the animal from an unexpected or unusual injury, or for a concealed defect.

If a veterinarian is concerned about the payment for professional services, a retainer or deposit may be obtained before the services are rendered. A veterinarian may also consult with a private attorney for advice on various securities which might be required or other methods by which debts for veterinary services might be collected.

The law authorizes the veterinarian to sell a liened animal. However, the veterinarian must give at least 10 and no more than 20 days notice to the owner prior to sale. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping the animal. The remainder, if any, must be paid to the legal owner.

A veterinarian cannot kill an animal which has been liened, they can only sell it. A veterinarian who threatens to kill a liened animal is subject to prosecution by the Board under Code Section 4883(g) – unprofessional conduct.

A client is initially responsible for their veterinary bill, whether or not they have a dispute with it. To avoid having their animal sold, a person may put the bill on their charge card, borrow money, sell something to get the money, or even make a “business arrangement” with the veterinarian. The client may later dispute the bill in small claims court.

ABANDONMENT LAW

According to the statutory abandonment provisions (Civil Code Sections 1834.5 and 1834.6), IF AN ANIMAL IS NOT PICKED UP WITHIN 14 DAYS AFTER IT WAS DUE TO BE PICKED UP, IT IS CONSIDERED ABANDONED. ONCE THE ANIMAL IS DETERMINED TO BE ABANDONED, THE VETERINARIAN MUST KEEP THE ANIMAL AN ADDITIONAL 10 DAYS WHILE ATTEMPTING TO FIND IT A NEW OWNER.

If after 24 days (the initial 14 days plus the additional 10 days) the legal owner has not retrieved the animal or the veterinarian has been unable to locate a new home for the animal, the veterinarian may humanely destroy the animal in compliance with the notice requirements and formalities of these Civil Code sections.

If an animal is first considered to be liened, the animal would change from being liened to being abandoned when: (1) the veterinarian had given the owner of the animal express notice that the lien right was being relinquished and that the animal could be picked up on a specific date; and (2) the owner of the animal had not picked up the animal or otherwise contacted the veterinary facility within 14 days after the date specified in the veterinarian’s notice of relinquishment.

When an animal is first considered to be abandoned, a veterinarian’s legal right to charge for food, shelter and medical treatment depends on the terms of the oral or written contract between the owner and the veterinarian. In the absence of any specific agreement, there is an implied contract to pay a reasonable amount for services requested.

An animal **cannot** be considered to be abandoned if the owner contacts the veterinary facility or gives notice of intent to retrieve the animal **within the initial 14-day period**, even though the veterinarian’s bill has not been paid. If, however, the animal is considered abandoned and the owner contacted the veterinarian, the 14-day period begins to run from the day, arranged during the recontact, on which the animal was to be picked up.

Summary of Lien vs. Abandonment

Description	Lien	Abandonment
Legal time parameters to take action (days)	10 - 10 - 20	14 - 10
Notice to legal owner to either lien or abandon the animal	Certified letter	Certified letter
Notice to public to sell the animal	3 places	no
Hospital can charge for boarding the animal	yes	no
Hospital can charge for providing medical treatment of animal	yes	no
Veterinarian can humanely euthanize the animal	no	yes
Veterinarian can put the animal up for adoption	yes	yes
Veterinarian can sell the animal	yes	no
Legal owner can be reached, but does not want to pay	yes	no
Legal owner cannot be reached	no	yes
Legal owner can be reached, but does not respond	yes	no
Owner may redeem animal 20 days after the sale	yes	no
Veterinarian can charge 12% interest per annum for duration of lien	yes	no
Veterinarian can release the animal and pursue case in small claims court	yes	no



WE ARE THEIR VOICE

Kevin O'Neill
Senior Legislative Director, Western Region
1230 Gold Express Drive, #310-360
Gold River, CA 95670
kevin.oneill@aspca.org
916.214.0476

AB 1810 (Maienschein) – ABANDONED ANIMALS

THE ISSUE

An animal that is abandoned by its owner at an animal care facility (veterinarian office, spay/neuter clinic, grooming facility, etc.) is required to be euthanized if a new owner is not found. Animal care facilities are strictly prohibited from giving the animal to a shelter. Current law should give owners of animal care facilities more flexibility in achieving positive outcomes for these abandoned animals.

EXISTING LAW

Existing law declares an animal abandoned if it has been left at an animal care facility 14 days after it was supposed to be picked up by its owner. Following those 14 days, the animal care facility is obligated to spend 10 days looking for a new home for that animal and if a new home cannot be found the animal must be euthanized. Existing law also prohibits the animal from being given to animal control.

THE PROPOSAL

Clarifies existing law to:

Authorize animal care facilities to turn over an abandoned animal to animal control, humane society or society for the prevention of cruelty to animals, provided that the shelter has been contacted and has not refused to take the animal; and

Repeal the requirement that an animal care facility “shall” euthanize an abandoned animal after 24 days, granting facilities more flexibility to find a new home beyond those initial 24 days while retaining their current authority.

SUPPORT

ASPCA (Sponsor)



VETERINARY MEDICAL BOARD
REGISTERED VETERINARY TECHNICIAN COMMITTEE
 2005 EVERGREEN ST., SUITE 2250, SACRAMENTO, CA 95815-3831
 TELEPHONE: (916) 263-2610 / FAX: (916) 263-2621
 WEBSITE: <http://www.vmb.ca.gov>



LIEN LAW

IF THE AMOUNT DUE FOR VETERINARY SERVICES HAS NOT BEEN PAID WITHIN 10 DAYS AFTER THE PAYMENT HAS BECOME DUE, THE ANIMAL IS CONSIDERED LIENED.

A veterinarian, while holding an animal until payment for veterinary services is received, is entitled to be reimbursed: (1) for the value of food and shelter provided to the animal after it is ready to be claimed by the owner; and (2) for costs incurred in preserving the animal from an unexpected or unusual injury, or for a concealed defect.

If a veterinarian is concerned about the payment for professional services, a retainer or deposit may be obtained before the services are rendered. A veterinarian may also consult with a private attorney for advice on various securities which might be required or other methods by which debts for veterinary services might be collected.

The law authorizes the veterinarian to sell a liened animal. However, the veterinarian must give at least 10 and no more than 20 days notice to the owner prior to sale. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping the animal. The remainder, if any, must be paid to the legal owner.

A veterinarian cannot kill an animal which has been liened, they can only sell it. A veterinarian who threatens to kill a liened animal is subject to prosecution by the Board under Code Section 4883(g) – unprofessional conduct.

A client is initially responsible for their veterinary bill, whether or not they have a dispute with it. To avoid having their animal sold, a person may put the bill on their charge card, borrow money, sell something to get the money, or even make a "business arrangement" with the veterinarian. The client may later dispute the bill in small claims court.

ABANDONMENT LAW

According to the statutory abandonment provisions (Civil Code Sections 1834.5 and 1834.6), IF AN ANIMAL IS NOT PICKED UP WITHIN 14 DAYS AFTER IT WAS DUE TO BE PICKED UP, IT IS CONSIDERED ABANDONED. ONCE THE ANIMAL IS DETERMINED TO BE ABANDONED, THE VETERINARIAN MUST KEEP THE ANIMAL AN ADDITIONAL 10 DAYS WHILE ATTEMPTING TO FIND IT A NEW OWNER.

If after 24 days (the initial 14 days plus the additional 10 days) the legal owner has not retrieved the animal or the veterinarian has been unable to locate a new home for the animal, the veterinarian may humanely destroy the animal in compliance with the notice requirements and formalities of these Civil Code sections.

If an animal is first considered to be liened, the animal would change from being liened to being abandoned when: (1) the veterinarian had given the owner of the animal express notice that the lien right was being relinquished and that the animal could be picked up on a specific date; and (2) the owner of the animal had not picked up the animal or otherwise contacted the veterinary facility within 14 days after the date specified in the veterinarian's notice of relinquishment.

When an animal is first considered to be abandoned, a veterinarian's legal right to charge for food, shelter and medical treatment depends on the terms of the oral or written contract between the owner and the veterinarian. In the absence of any specific agreement, there is an implied contract to pay a reasonable amount for services requested.

An animal **cannot** be considered to be abandoned if the owner contacts the veterinary facility or gives notice of intent to retrieve the animal **within the initial 14-day period**, even though the veterinarian's bill has not been paid. If, however, the animal is considered abandoned and the owner contacted the veterinarian, the 14-day period begins to run from the day, arranged during the recontact, on which the animal was to be picked up.



Kevin O'Neill
Senior Legislative Director, Western Region
1230 Gold Express Drive, #310-360
Gold River, CA 95670
kevin.oneill@aspca.org
916.214.0476

AB 1809 (Maienschein): DOG IMPORTATION: HEALTH CERTIFICATES

THE ISSUE

California is currently one of only 2 states that do not require dogs to be inspected and issued a Certificate of Veterinarian Inspection (or equivalent) prior to or upon entry into the state.¹

CVIs are legal documents signed by veterinarians who have evaluated the health of dogs and can attest to the accuracy of the information. These important documents help protect consumers from purchasing sick dogs, and reduce the likelihood that imported dogs bring contagious diseases into California.

With the increase of online sales of puppies direct to consumers in California, there is no official document that notifies local governments to the number of dogs entering their jurisdiction from out of state.

This makes the job of California's animal care and control agencies even more challenging as they do not have a complete picture of the number of dogs entering their municipality from outside California.

EXISTING LAW

Existing law merely requires that imported dogs be healthy and have a current rabies vaccination.²

¹ American Veterinary Medical Association:
<https://www.avma.org/Advocacy/StateAndLocal/Pages/certificates-veterinary-inspection.aspx>

² CA Dept. of Public Health:
<http://www.cdph.ca.gov/programs/vphs/Pages/PetImportation.aspx>

THE PROPOSAL

AB 1809 will require individuals importing dogs into California for sale or change of ownership (i.e. online sale direct to a consumer) to file a CVI with the county health department where the dog is destined. AB 1809 does not apply to family dogs where ownership is not changing, dogs visiting CA with their families or dogs participating in dog shows.

Since CVIs are already done as a matter of practice for shipping to 48 other states, AB 1809 simply directs these forms to the counties in order to provide local governments with necessary information about the number of dogs imported into their jurisdiction.

AB 1809 authorizes local governments to stipulate how they wish to receive the CVI, whether through electronic transmission or otherwise. AB 1809 also authorizes local governments to reasonable cover the costs of receiving these documents.

AB 1809 makes clear that the state and local government may use this information at their discretion, and that there is no mandate to do anything with the information.

SUPPORT

ASPCA (Sponsor)