



NAIA Trust for the Protection of Animals,  
Animal Owners and Animal Enterprises

*Working for People, Animals and Society*

March 25, 2007

The Honorable Mike Eng  
Chair, California Assembly Committee on Business and Professions  
State Capitol, Room 6025  
P.O. Box 942849  
Sacramento, CA 94249-0049

Letter in opposition to AB 1634:

Attention: Tracy Rhine, Committee Consultant  
Please place this letter on the Committee OPPOSE list for AB 1634

Dear Chairman Eng and Committee Members:

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

The NAIA Trust is a coalition of animal owners and 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 Trust opposes mandatory sterilization laws. The provisions of AB 1634 are unreasonable and unconstitutional, and will produce severe unintended consequences if passed.

**Improper government role**

AB 1634 needlessly and recklessly interferes with the traditional relationship between California-licensed veterinarians and their animal patients' owners. The decision to perform surgery on one's pet should not be taken over by government. In addition, this bill establishes an arbitrary age of four months 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 write a letter to the local bureaucrat explaining the reason for the decision. If after 75 days the same or other health reasons preclude compliance, the veterinarian would have to write another letter. A chronic health condition could force a veterinarian and a pet owner to go through this process dozens of times over the life of the pet.

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

The assumption that drives mandatory spaying and neutering is that pets end up in animal shelters solely because of overpopulation and that mandatory sterilization laws will therefore solve the problem. Proponents of AB 1634 and similar bills ignore the fact that most of the animals in shelters today:

- are not young puppies;
- that a high number of kittens are from feral cats;
- that according to the *Journal of Applied Animal Welfare Science*, studies conducted by the National Council on Pet Population Studies and Policy and other organizations, about a third of shelter animals were given up by their owners because of personal issues such as moving, financial strain, or because the pet had a behavior or health problem;
- that many pet owners use shelters as an alternative to a veterinarian when seeking euthanasia of an old, sick or dangerous animal;
- that many shelter animals are already neutered; and
- that the number of animals entering California shelters has been steadily declining for decades with some of the steepest drops occurring in areas with the least coercive laws.

In essence, the data shows that public education, low-cost resources for the poor and reasonable licensing programs are working.

Some proponents deny the role of consumer choice in pet population dynamics, thinking that more sterilization of publicly owned pets and more marketing of shelter animals will solve the problem. They do not recognize that people choose purebred puppies and pedigreed kittens for valid reasons. Consumers want the predictability of a purebred and they want the opportunity to raise the puppy or kitten into the sort of family pet they desire. These are both values that encourage long-term pet retention.

We support shelters and many of our members work in pet rescue; nonetheless and despite considerable efforts aimed at marketing shelter animals, consumers are aware that a substantial number of shelter dogs are there because of behavioral or medical problems.

On the other hand, spay and neuter 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 importing them to their facilities. California shelters have taken part in rescues that involved importing dogs from Romania and Mexico and from American disaster areas such as Katrina. In 2005, The California Border Puppy Task Force, a group of fourteen California animal welfare and law enforcement agencies that included the U.S. Customs and Border Protection Agency



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announced their sting operation discovered that as many as 10,000 dogs that year were illegally transported into San Diego County from Mexico for the pet market. Should owners of intact dogs and cats in California have to foot the bill for those decisions and situations? Does this sound like a problem that can be eliminated by further regulating the people who are the best source of well-bred, healthy dogs in California?

### **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. The pet-owning segment of the US population is growing. AB 1634 will not lower the demand for pets; 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 chase potential licensees from the market place and drive scofflaws and criminals further into hiding than serve as a funding source for the program. Imposing more regulations also 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 through their voluntary work on the consumer or demand side of the problem promoting responsible pet ownership.

Their 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 and health 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.

The mandatory nature of AB 1634 would have a host of unintended consequences. In addition to harming responsible dog and cat breeders, some service and working animals bred for specific

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characteristics and temperaments may not be registered with a recognized registry. This bill would limit the breeding of certain animals that assist the public, such as guide, therapy and rescue dogs.

Furthermore, enforcing this program would put an additional administrative burden on 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? They are no more guilty or responsible for causing problems than the non-pet-owning segment of the public. Think clearly: this proposed legislation is the equivalent of increasing the cost of a driver's license to prevent speeding, rather than increasing the fine for the act of speeding itself.

Finally, in most scenarios, a few bad apples cause most of the problems, so the goal is to identify them and impose the necessary regulations. This situation is much more complex. The players include the irresponsible pet owners who won't properly care for or license their pets regardless of mandates; pet owners who need informational resources and low cost services to become better pet owners; and it includes a very large pool of animals – feral cats – that have no owners to educate or regulate. Because none of the groups above 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. This bill will simply create more scofflaws and ill-will toward government.

### **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 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.

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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, whether applied to mega-corporations or to an individual in sole proprietor activity.

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 Trust strongly urges you to oppose AB 1634, the "California Healthy Pets Act." NAIA Trust has accumulated a wealth of information and firsthand experience and observation in this arena, much of which has been helpful in drafting effective legislation to address specific animal-related problems throughout the country. If we can be of further assistance in this matter, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Patti Strand".

Patti Strand, National Director