

By: Rodriguez of Travis

H.B. No. 2981

Substitute the following for H.B. No. 2981:

By: Dutton

C.S.H.B. No. 2981

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedures and duties of animal shelters and rescue  
3 organizations; providing penalties; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act may be cited as the Tax Saving Pet  
6 Adoption, Sterilization, and Transfer Act of 2013.

7 SECTION 2. It is the intent of this state to reduce the  
8 amount of local tax money spent by local governments by fostering  
9 partnerships between governmental animal sheltering agencies and  
10 rescue organizations and to reduce the number of animals  
11 euthanized. To accomplish these purposes, this state finds and  
12 declares that:

13 (1) the amount of local tax money spent to provide  
14 shelter to animals is reduced by transferring as soon as possible  
15 animals housed at governmental animal sheltering agencies to rescue  
16 organizations or private animal sheltering organizations and that  
17 the reduction in tax money spent is a legitimate and compelling  
18 public interest;

19 (2) an animal shelter should be prohibited from  
20 refusing to adopt or transfer an animal based solely on animal  
21 characteristics such as age, appearance, size, or breed; and

22 (3) governmental animal sheltering agencies and  
23 private animal sheltering organizations can together promote pet  
24 adoption, promote pet sterilization, and reduce the number of

1 animals euthanized.

2 SECTION 3. The heading to Chapter 823, Health and Safety  
3 Code, is amended to read as follows:

4 CHAPTER 823. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

5 SECTION 4. Section 823.001, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 823.001. DEFINITIONS. In this chapter:

8 (1) "Animal" means a domestic dog, Canis lupus  
9 familiaris, or a domestic cat, Felis catus.

10 (2) "Animal shelter" means a facility that keeps or  
11 legally impounds stray, homeless, abandoned, or unwanted animals.  
12 The term includes a governmental animal sheltering agency and a  
13 private animal sheltering organization. The term does not include a  
14 rescue organization.

15 (3) "Business day" means any day an animal shelter is  
16 open to the public for animal reclaims.

17 [~~(2) "Board" means the Texas Board of Health.~~

18 [~~(3) "Commissioner" means the commissioner of~~  
19 ~~health.]~~

20 (4) "Department" means the [~~Texas~~] Department of State  
21 Health Services.

22 (5) "Executive commissioner" means the executive  
23 commissioner of the Health and Human Services Commission.

24 (6) "Governmental animal sheltering agency" means:

25 (A) a municipal or county animal control shelter;

26 or

27 (B) a private animal shelter, society for the

1 prevention of cruelty to animals, humane society, individual, or  
2 group that contracts with and receives money from a municipality or  
3 county to accept and house stray, abandoned, or owner-relinquished  
4 animals.

5 (7) "Hold period" means the time an animal shelter is  
6 required by state law, municipal ordinance, or county order to hold  
7 an animal before the animal is adopted or euthanized.

8 (8) "Irremediably suffering animal" means an animal  
9 that:

10 (A) has a medical condition with a poor prognosis  
11 for life without the animal experiencing severe and unremitting  
12 pain despite veterinary care;

13 (B) is in severe pain caused by an injury or  
14 severe respiratory distress, and the animal shelter's lack of  
15 resources limits the veterinary care readily available to the  
16 animal;

17 (C) is suspected of carrying or is exhibiting  
18 signs of rabies; or

19 (D) is symptomatic of a highly communicable and  
20 potentially fatal disease, including parvovirus, distemper, canine  
21 influenza, or panleukopenia.

22 (9) "Private animal sheltering organization" means an  
23 animal shelter, society for the prevention of cruelty to animals,  
24 humane society, or animal adoption group that:

25 (A) qualifies as a charitable organization under  
26 Section 501(c)(3), Internal Revenue Code of 1986;

27 (B) accepts animals into a physical facility

1 other than a private residence;

2 (C) places into new homes stray, abandoned, or  
3 owner-relinquished animals, including animals that have been  
4 transferred from a governmental or other private animal sheltering  
5 organization; and

6 (D) does not receive municipal, county, or state  
7 funding and has not contracted with a municipality, a county, or  
8 this state to accept and house stray, abandoned, or  
9 owner-relinquished animals.

10 (10) "Rescue organization," for purposes of this  
11 chapter, means an organization that:

12 (A) has been in operation for at least one year,  
13 with a primary stated purpose of animal adoption, animal rescue, or  
14 sterilization of animals;

15 (B) qualifies and has been in operation for at  
16 least one year as a charitable organization under Section  
17 501(c)(3), Internal Revenue Code of 1986; and

18 (C) is described by Section 170(b)(1)(A)(vi),  
19 Internal Revenue Code of 1986.

20 SECTION 5. Chapter 823, Health and Safety Code, is amended  
21 by adding Section 823.0021 to read as follows:

22 Sec. 823.0021. APPLICABILITY TO CERTAIN ANIMALS. Sections  
23 823.004(a) and (c) and 823.0042 do not apply to:

24 (1) an irremediably suffering animal;

25 (2) a dangerous dog, as defined by Section 822.041 or  
26 as determined by an applicable city or county ordinance; or

27 (3) a dog with a documented history of unprovoked

1 biting that caused severe physical injury to an individual and that  
2 was not:

- 3 (A) a response to taunting;
- 4 (B) a defense to attack;
- 5 (C) in defense of a person;
- 6 (D) a response attributable to maternal  
7 instinct, hunger, pain, or fear; or
- 8 (E) an accident.

9 SECTION 6. The heading to Section 823.003, Health and  
10 Safety Code, is amended to read as follows:

11 Sec. 823.003. STANDARDS FOR ANIMAL SHELTERS AND RESCUE  
12 ORGANIZATIONS; CRIMINAL PENALTY.

13 SECTION 7. Section 823.003, Health and Safety Code, is  
14 amended by amending Subsections (b), (c), and (e) and adding  
15 Subsections (c-1), (e-1), and (e-2) to read as follows:

16 (b) Except as otherwise provided by this subsection, an [An]  
17 animal shelter shall house and separate animals in its custody at  
18 all times by species and gender. An animal shelter may:

- 19 (1) house together same-species animals that:
  - 20 (A) are spayed or neutered;
  - 21 (B) are nursing; or
  - 22 (C) are younger than three months of age; and
- 23 (2) allow same-species animals to be placed together  
24 in a supervised, designated exercise area[~~, by sex (if known), and~~  
25 ~~if the animals are not related to one another, by size].~~

26 (c) An animal shelter may not confine healthy animals with  
27 sick, injured, or diseased animals without the approval of a

1 veterinarian licensed by this state to practice veterinary  
2 medicine.

3 (c-1) An animal shelter may not refuse to adopt or transfer  
4 a dog or cat based solely on the animal's age, breed, type, breed  
5 mix, appearance, or size.

6 (e) A governmental animal sheltering agency shall keep and  
7 maintain on its premises [~~The board may require each person~~  
8 ~~operating an animal shelter to keep~~] records of the date and  
9 disposition of animals in its custody and make the records  
10 available for inspection at reasonable times on request [~~to~~  
11 ~~maintain the records on the business premises of the animal~~  
12 ~~shelter, and to make the records available for inspection at~~  
13 ~~reasonable times~~].

14 (e-1) A rescue organization shall house and separate  
15 unsterilized animals four months of age or older in its custody by  
16 species and gender. A rescue organization may not house a healthy  
17 animal with an animal that has a communicable disease.

18 (e-2) A rescue organization shall sterilize, microchip, and  
19 vaccinate an animal four months of age or older before the adoption  
20 or release of the animal to another organization or person, unless a  
21 veterinarian certifies in writing that an animal should not be  
22 sterilized because of the animal's age or medical condition.

23 SECTION 8. Chapter 823, Health and Safety Code, is amended  
24 by adding Sections 823.004, 823.0041, 823.0042, 823.0043,  
25 823.0044, 823.0045, and 823.0046 to read as follows:

26 Sec. 823.004. HOLD PERIOD AND TITLE TRANSFER. (a) During  
27 the hold period of an animal shelter, the animal shelter is

1 considered the owner of each animal in its possession for purposes  
2 of Section 801.004, Occupations Code.

3 (b) On expiration of the hold period, ownership of the  
4 animal vests absolutely in the animal shelter.

5 (c) Ownership of an animal immediately vests in an animal  
6 shelter or rescue organization if the animal is surrendered by the  
7 owner to the animal shelter or rescue organization.

8 Sec. 823.0041. TRANSFER OF ANIMALS. (a) An animal shelter  
9 may at any time transfer an animal surrendered by the animal's owner  
10 to a rescue organization or private animal sheltering organization.

11 (b) The animal shelter may release custody of the animal on  
12 a first-come, first-served basis to any rescue organization or  
13 private animal sheltering organization that is on site to receive  
14 the animal.

15 Sec. 823.0042. EUTHANASIA PROCEDURES; TRANSFER REFUSAL;  
16 CRIMINAL PENALTY; MORATORIUM. (a) A governmental animal  
17 sheltering agency shall post a list of the animals in the agency's  
18 custody to be euthanized, with descriptions, photos, and  
19 information about when the animal's hold period expires, in a  
20 designated prominent public place or on an Internet website that  
21 can be accessed by rescue organizations and private animal  
22 sheltering organizations.

23 (b) A governmental animal sheltering agency may not  
24 euthanize an animal within 24 hours of the time the posting required  
25 by Subsection (a) occurs. If, after 24 hours of the posting, a  
26 rescue organization or private animal sheltering organization does  
27 not respond in writing that the organization will take the animal,

1 the governmental animal sheltering agency may euthanize the animal.

2 (c) Before the scheduled euthanasia, a rescue organization  
3 or private animal sheltering organization that intends to take  
4 possession of an animal scheduled for euthanasia may notify, in  
5 writing or using other reasonable commercial means, the  
6 governmental animal sheltering agency that has possession of the  
7 animal of that intention. The transfer shall take place within 24  
8 hours of the time the agency receives notification of the  
9 organization's intention. If the transfer does not take place  
10 within 24 hours of the time the agency receives notification of the  
11 organization's intention, the agency may euthanize the animal.

12 (d) The governmental animal sheltering agency possessing  
13 the animal scheduled to be euthanized may make an adoption  
14 placement of the animal during the waiting period required by  
15 Subsection (b).

16 (e) The governmental animal sheltering agency may:

17 (1) charge a fee not to exceed the agency's standard  
18 adoption fee for each animal released to a rescue organization or  
19 private animal sheltering organization; and

20 (2) establish the same requirements for the animal  
21 that are used for public adoptions.

22 (f) A governmental animal sheltering agency shall transfer  
23 an animal scheduled to be euthanized to a rescue organization or  
24 private animal sheltering organization that requests transfer of  
25 the animal under this section, subject to the express limitations  
26 of this chapter or other law.

27 (g) Notwithstanding Subsection (f), a governmental animal



1 sheltering agency may refuse to transfer an animal to a rescue  
2 organization or private animal sheltering organization if:

3 (1) any of the organization's current directors,  
4 officers, staff, or volunteers have been convicted of, have charges  
5 pending for, or have received a citation for an offense involving  
6 animal cruelty or neglect or a public health nuisance;

7 (2) the organization is constrained by a court order  
8 that prevents the organization from accepting or housing animals;

9 (3) a governmental law enforcement agency is  
10 conducting an active and ongoing investigation into the  
11 organization; or

12 (4) the rescue organization fails to provide:

13 (A) copies of veterinary records requested under  
14 Section 823.0044(1) indicating that the organization sterilizes  
15 animals in its care unless a veterinarian certifies in writing that  
16 an animal should not be sterilized because of age or a medical  
17 condition;

18 (B) letters of recommendation requested under  
19 Section 823.0044(2); or

20 (C) adoption paperwork, if the rescue  
21 organization receives more than 20 animals from a governmental  
22 animal sheltering agency in one year.

23 (h) A rescue organization or private animal sheltering  
24 organization shall disclose to a governmental animal sheltering  
25 agency seeking to transfer an animal to the organization any  
26 applicable conviction, charge, citation, or legal impediment  
27 described in Subsection (g).

1 (i) A person commits an offense if a person substantially  
2 violates this section. An offense under this subsection is a Class C  
3 misdemeanor.

4 (j) Notwithstanding any other provision of this section, in  
5 the case of a mass seizure of animals by law enforcement, euthanasia  
6 of animals may occur within 24 hours of the time the posting  
7 required by Subsection (a) occurs.

8 (k) A governmental animal sheltering agency may place a  
9 moratorium on animal transfers to a rescue organization until a  
10 majority of the animals received by the organization from the  
11 agency have been adopted if:

12 (1) the organization receives at least 20 animals from  
13 the agency in one year; and

14 (2) the majority of animals received by the  
15 organization from the agency have not been adopted.

16 Sec. 823.0043. INFORMATION REGARDING TRANSFERRED ANIMALS.

17 A governmental animal sheltering agency may require not more  
18 frequently than monthly that a rescue organization or private  
19 animal sheltering organization provide information, orally,  
20 electronically, or in writing, regarding:

21 (1) the number of animals the organization has  
22 received; and

23 (2) of the number described in Subdivision (1), the  
24 number of animals that were adopted, died, were transferred to  
25 another organization, were euthanized, or are still under the  
26 organization's care.

27 Sec. 823.0044. REQUIREMENTS FOR RESCUE ORGANIZATIONS. A

1 rescue organization shall:

2 (1) retain in its files and provide on request of a  
3 governmental animal sheltering agency a copy of records regarding  
4 the veterinary examinations and treatments, including animal  
5 sterilization, of each animal housed by the organization;

6 (2) provide on request of a governmental animal  
7 sheltering agency letters of recommendation from two animal  
8 shelters located in this state; and

9 (3) provide quarterly, on request of the governmental  
10 animal sheltering agency, the names and addresses of the directors  
11 and officers of the organization.

12 Sec. 823.0045. TRANSFER OF ANIMAL BY GOVERNMENTAL ANIMAL  
13 SHELTERING AGENCY; SITE VISITATION. (a) If a governmental animal  
14 sheltering agency reasonably suspects that the placement of an  
15 animal with a rescue organization or private animal sheltering  
16 organization will expose the animal to neglect or cruelty, the  
17 agency may condition the release of the animal on the completion of  
18 a site visitation of the organization by a municipal or county agent  
19 or agency employee or enforcement agent.

20 (b) The reasonable suspicion of the governmental animal  
21 sheltering agency may not be based solely on an anonymous complaint  
22 unless the complaint is made by a relative of a person affiliated  
23 with the rescue organization or private animal sheltering  
24 organization who has direct responsibility for animal care.

25 (c) The governmental animal sheltering agency, on request,  
26 shall disclose to the rescue organization or private animal  
27 sheltering organization all information related to the agency's

1 decision to require a site visitation under Subsection (a), except  
2 the identity of a person who submitted a complaint.

3 (d) If the rescue organization or private animal sheltering  
4 organization agrees to a site visitation, the visit must be  
5 conducted within 72 hours after the time the organization agrees to  
6 the visit. If the visit is not conducted within 72 hours, the  
7 governmental animal sheltering agency's right to a site visitation  
8 is waived. If the organization refuses a site visitation, the  
9 agency may decline to place the animal with the organization.

10 (e) The governmental animal sheltering agency within 24  
11 hours of the completion of the site visitation shall notify the  
12 rescue organization or private animal sheltering organization of  
13 the results of the site visitation and whether the agency will  
14 release the animal to the organization. If the site visitation  
15 documents significant violations, the agency must include with the  
16 notification a list of the deficiencies that prohibit the release  
17 of an animal to the organization.

18 (f) If the site visitation results in the filing of criminal  
19 neglect or cruelty to animals charges, the site visitation  
20 constitutes a failed inspection.

21 Sec. 823.0046. LIMITED LIABILITY. An animal shelter that  
22 complies with the requirements of this chapter is not civilly or  
23 criminally liable for an adoption, transfer, or procedure conducted  
24 in accordance with this chapter.

25 SECTION 9. (a) The change in law made by this Act applies  
26 only to conduct that occurs on or after the effective date of this  
27 Act. Conduct that occurs before the effective date of this Act is

1 governed by the law in effect at the time the conduct occurred, and  
2 the former law is continued in effect for that purpose.

3 (b) The change in law made by this Act applies only to an  
4 offense committed on or after the effective date of this Act. An  
5 offense committed before the effective date of this Act is covered  
6 by the law in effect when the offense was committed. For purposes  
7 of this subsection, an offense was committed before the effective  
8 date of this Act if any element of the offense occurred before that  
9 date.

10 SECTION 10. This Act takes effect September 1, 2013.