

By: Rodriguez of Travis

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.

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 animal shelters and rescue organizations and
10 to reduce the number of animals euthanized. To accomplish these
11 purposes, this state finds and declares that:

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

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

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

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

3 CHAPTER 823. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

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

6 Sec. 823.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

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

26 (B) a private animal shelter, society for the
27 prevention of cruelty to animals, humane society, individual, or

1 group that contracts with and receives money from a municipality or
2 county to accept and house stray, abandoned, or owner-relinquished
3 animals.

4 (7) "Hold period" means the time a governmental animal
5 sheltering agency is required by state law, municipal ordinance, or
6 county order to hold an animal before the animal is adopted or
7 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; or

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

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

22 (B) accepts animals into a physical facility
23 other than a private residence;

24 (C) places into new homes stray, abandoned, or
25 owner-relinquished animals, including animals that have been
26 transferred from a governmental or other private animal sheltering
27 organization; and

1 (D) does not receive municipal, county, or state
2 funding and has not contracted with a municipality, a county, or
3 this state to accept and house stray, abandoned, or
4 owner-relinquished animals.

5 (10) "Rescue organization" means an organization
6 that:

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

10 (B) qualifies as a charitable organization under
11 Section 501(c)(3), Internal Revenue Code of 1986; and

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

14 (11) "Unweaned animal" means any neonatal animal
15 younger than four weeks of age that, in the absence of the animal's
16 mother, requires supplemental bottle-feeding by humans to survive.

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

19 Sec. 823.0021. APPLICABILITY TO CERTAIN ANIMALS. Sections
20 823.004(a) and (c) and Section 823.0042 do not apply to:

21 (1) an irremediably suffering animal;

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

24 (3) a dog with a documented history of unprovoked
25 biting that caused severe physical injury to an individual and that
26 was not:

27 (A) a response to taunting;

1 (B) a defense to attack;

2 (C) in defense of a person;

3 (D) a response attributable to maternal
4 instinct, hunger, pain, or fear; or

5 (E) an accident.

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

8 Sec. 823.003. STANDARDS FOR ANIMAL SHELTERS AND RESCUE
9 ORGANIZATIONS; CRIMINAL PENALTY.

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

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

16 (1) house together same-species animals that:

17 (A) are spayed or neutered;

18 (B) are nursing; or

19 (C) are younger than three months of age; and

20 (2) allow same-species animals to be placed together
21 in a supervised, designated exercise area~~[, by sex (if known), and~~
22 ~~if the animals are not related to one another, by size].~~

23 (c) An animal shelter may not confine healthy animals with
24 sick, injured, or diseased animals without the approval of a
25 veterinarian licensed by this state to practice veterinary
26 medicine.

27 (c-1) An animal shelter may not refuse to adopt or transfer

1 a dog or cat based solely on the animal's age, breed, type, breed
2 mix, appearance, or size.

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

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

15 SECTION 8. Chapter 823, Health and Safety Code, is amended
16 by adding Sections 823.004, 823.0041, 823.0042, 823.0043,
17 823.0044, 823.0045, and 823.0046 to read as follows:

18 Sec. 823.004. TRANSFER OF ANIMALS. (a) A governmental
19 animal sheltering agency may, in its discretion, transfer an animal
20 that does not have a microchip or tag identification to a rescue
21 organization or a private animal sheltering organization
22 immediately after impound. During the hold period, the animal
23 shelter transferring the animal shall post in a conspicuous
24 location readily visible to persons entering the facility and on
25 the animal shelter's Internet website:

- 26 (1) a description and photo of the animal; and
27 (2) the contact information of the organization that

1 has possession of the animal.

2 (b) If a transferred animal's owner is identified before
3 expiration of the governmental animal sheltering agency's hold
4 period and the owner wishes to reclaim the animal, the rescue
5 organization or private animal sheltering organization shall
6 return the animal to the agency within 24 hours of the time the
7 organization is notified of the owner's wishes. The owner is
8 responsible for all costs incurred by the agency related to the
9 animal.

10 (c) During the hold period, the animal shelter or rescue
11 organization in possession of the animal is considered the owner of
12 the animal for purposes of Section 801.004, Occupations Code.

13 (d) A private animal sheltering organization or rescue
14 organization that accepts an animal during the animal's hold period
15 may not transfer the animal to another organization or allow the
16 adoption of the animal before the hold period expires.

17 (e) A governmental animal sheltering agency may at any time
18 transfer an animal surrendered by the animal's owner to a rescue
19 organization or private animal sheltering organization.

20 Sec. 823.0041. NOTIFICATION REGARDING AND TRANSFER OF
21 UNWEANED ANIMALS. (a) An animal shelter shall immediately notify,
22 in person or by e-mail, or by posting notice on the organization's
23 Internet website or in a designated prominent public place, any
24 rescue organizations and other animal shelters that have expressed
25 by written notice a willingness and ability to care for unweaned
26 animals if the animal shelter:

27 (1) impounds an unweaned animal without its mother;

1 (2) lacks the resources to provide necessary or
2 essential feedings to the unweaned animal; and

3 (3) is unable to make an adoption or pet foster care
4 placement for the unweaned animal.

5 (b) An animal shelter shall provide any rescue organization
6 or other animal shelter notified under Subsection (a) with at least
7 eight hours after the time of notification to take possession of the
8 unweaned animal.

9 Sec. 823.0042. EUTHANASIA PROCEDURES; TRANSFER REFUSAL;
10 CRIMINAL PENALTY. (a) At least one business day before the date an
11 animal is scheduled to be euthanized by an animal shelter, the
12 animal shelter shall:

13 (1) notify any rescue organizations and private animal
14 sheltering organizations that have requested notification of any
15 scheduled euthanasia; or

16 (2) post a list of the animals to be euthanized, with
17 descriptions and photos, in a designated prominent public place or
18 on an Internet website that can be accessed by rescue organizations
19 and private animal sheltering organizations.

20 (b) An animal shelter may not euthanize an animal within 24
21 hours of the time the notification or posting required by
22 Subsection (a) occurs. If, within 24 hours of the notification or
23 posting, a rescue organization or private animal sheltering
24 organization does not respond in writing or orally that the
25 organization will take the animal, the animal shelter may euthanize
26 the animal.

27 (c) Before the scheduled euthanasia, a rescue organization

1 or private animal sheltering organization that intends to take
2 possession of an animal scheduled for euthanasia may notify the
3 animal shelter that has possession of the animal of that intention
4 using reasonable commercial means or in person. If the transfer of
5 possession is scheduled to take place after the animal shelter's
6 hold period expires, the transfer must take place within 24 hours of
7 the time the animal shelter receives notification of the
8 organization's intention. If the transfer does not take place
9 within 24 hours of the time the animal shelter receives
10 notification of the organization's intention, the animal shelter
11 may euthanize the animal.

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

15 (e) The animal shelter may:

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

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

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

26 (g) Notwithstanding Subsection (f), an animal shelter may
27 refuse to transfer an animal to a rescue organization or other

1 animal shelter if:

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

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

10 (3) a governmental law enforcement agency is
11 conducting an active and ongoing investigation into the rescue
12 organization or other animal shelter; or

13 (4) the rescue organization fails to provide:

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

19 (B) letters of recommendation requested under
20 Section 823.0044(2).

21 (h) A rescue organization or animal shelter shall disclose
22 to an animal shelter seeking to transfer an animal to the
23 organization or shelter any applicable conviction, charge,
24 citation, or legal impediment described in Subsection (g).

25 (i) A person commits an offense if a person substantially
26 violates this section. An offense under this subsection is a Class C
27 misdemeanor.

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

5 Sec. 823.0043. INFORMATION REGARDING TRANSFERRED ANIMALS.

6 An animal shelter may require not more frequently than monthly that
7 a rescue organization or private animal sheltering organization
8 provide information, orally, electronically, or in writing,
9 regarding:

10 (1) the number of animals the organization has
11 received; and

12 (2) of the number described in Subdivision (1), the
13 number of animals that were adopted, died, were transferred to
14 another organization, were euthanized, or are still under the
15 organization's care.

16 Sec. 823.0044. REQUIREMENTS FOR RESCUE ORGANIZATIONS. A
17 rescue organization shall:

18 (1) retain in its files and provide on request of an
19 animal shelter a copy of records regarding the veterinary
20 examinations and treatments, including animal sterilization, of
21 each animal housed by the organization;

22 (2) provide on request of an animal shelter letters of
23 recommendation from two other animal shelters;

24 (3) provide quarterly, on request of the animal
25 shelter, the names and addresses of the directors, officers, or
26 volunteers of the rescue organization; and

27 (4) in accordance with state law, sterilize,

1 microchip, and vaccinate an animal four months of age or older
2 before the adoption or release of the animal to another
3 organization or person.

4 Sec. 823.0045. TRANSFER OF ANIMAL BY ANIMAL SHELTER; SITE
5 VISITATION. (a) If an animal shelter reasonably suspects that the
6 placement of an animal with a rescue organization or private animal
7 sheltering organization will expose the animal to neglect or
8 cruelty, the animal shelter may condition the release of the animal
9 on the completion of a site visitation of the organization by a
10 municipal or county agent as provided by Subsection (e).

11 (b) The reasonable suspicion may not be based solely on an
12 anonymous complaint unless the complaint is made by a relative of
13 the owner of the organization.

14 (c) The animal shelter, on request, shall disclose to the
15 rescue organization or private animal sheltering organization all
16 information related to the shelter's decision to require a site
17 visitation under Subsection (a), except the identity of a person
18 who submitted a complaint.

19 (d) If the rescue organization or private animal sheltering
20 organization agrees to a site visitation, the visit must be
21 conducted within 48 hours of the time the organization agrees to the
22 visit. If the visit is not conducted within 48 hours, the animal
23 shelter's right to a site visitation is waived. If the rescue
24 organization or private animal sheltering organization refuses a
25 site visitation, the animal shelter may decline to place the animal
26 with the organization.

27 (e) The municipal or county employee who is responsible for

1 and oversees zoning and health code enforcement in the municipality
2 or county shall conduct a site visitation required under this
3 section.

4 (f) The animal shelter within 24 hours of the completion of
5 the site visitation shall notify the rescue organization or private
6 animal sheltering organization of the results of the site
7 visitation and whether the shelter will release the animal to the
8 organization. If the site visitation documents significant
9 violations, the animal shelter must include with the notification a
10 list of the deficiencies that prohibit the release of an animal to
11 the organization.

12 (g) If the site visitation results in the filing of criminal
13 neglect or cruelty to animals charges, the site visitation
14 constitutes a failed inspection.

15 Sec. 823.0046. LIMITED LIABILITY. An animal shelter that
16 complies with the requirements of this chapter is not civilly or
17 criminally liable for an adoption or transfer conducted in
18 accordance with this chapter.

19 SECTION 9. (a) The change in law made by this Act applies
20 only to conduct that occurs on or after the effective date of this
21 Act. Conduct that occurs before the effective date of this Act is
22 governed by the law in effect at the time the conduct occurred, and
23 the former law is continued in effect for that purpose.

24 (b) The change in law made by this Act applies only to an
25 offense committed on or after the effective date of this Act. An
26 offense committed before the effective date of this Act is covered
27 by the law in effect when the offense was committed. For purposes

H.B. No. 2981

1 of this subsection, an offense was committed before the effective
2 date of this Act if any element of the offense occurred before that
3 date.

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