

Submitted by Darthholo (Dem.), on behalf of himself



In the State Assembly of the Republic of Fremont

ANIMAL WELFARE AND HUMANE ENFORCEMENT ACT

An Act to establish the Humane Enforcement Division, to protect whistleblowers in the agricultural sector, to combat fraudulent and cruel breeding practices, to encourage meat substitution research, to prohibit certain cruel practices to animals, to preempt certain local regulations, and for other purposes

The people of the Republic of Fremont do enact as follows:

Sec. 1. Short title and definitions.

- (a) This Act may be cited as the “Animal Welfare and Humane Enforcement Act of 2021”.
- (b) In this Act—
 - (i) “Department” means the Department of Food and Agriculture;
 - (ii) “Division” means the Humane Enforcement Division;
 - (iii) “Exigent circumstance” means a threat to the health or welfare of the animal;
 - (iv) “Great ape” means any non-human animal of the *hominidae* family;
 - (v) “Juvenile dog” means any dog below two years of age;
 - (vi) “Lobster” means any species of the infraorder *astacidea*;
 - (vii) “Member of the public” means any natural person other than a family member, an acquaintance predating the initiation of the sale or

- transfer, and a healthcare or an animal control or welfare professional;
and
(viii) “Service” means the Community Protection Service.

Sec. 2. Declaration of policy.

The State Assembly finds and declares—

- (1) that the welfare of animals is an important priority for the State;
- (2) that preventing the abuse and mistreatment of animals requires sustained investments in investigation, accountability and targeted regulations;
- (3) that existing legislation is insufficient at prohibiting certain heinous practices that inflict gratuitous pain upon animals; and
- (4) that deterring the abandonment and unethical sourcing of domestic animals is essential to the prevention of cruelty to animals.

Sec. 3. Humane Enforcement Division.

- (a) *Division established.* There is established in the Community Protection Service a division, equal in status to the Public Safety Division and the Community Patrol Division, to be known as the Humane Enforcement Division.
- (b) *Leadership and powers.* The Humane Enforcement Division shall be led by an adjunct commissioner appointed by the Secretary on the recommendation of the Commissioner of the Service. The Division shall have all the powers of the Service.
- (c) *Jurisdiction.* The Division shall have primary jurisdiction, exclusive of any other law enforcement agency or division, over the investigation of penal animal welfare provisions, consisting of [Penal Code](#) sections 310, 597 through 597z, 598a through 598d, 600, and 600.5, and sections 5(a) through (c) of this Act. The Division further retains the jurisdiction of the Service.
- (d) *Employees.* Officers of the Division are both law enforcement officers and humane officers and shall have full authority to enforce animal welfare provisions of the Penal Code. The Division shall cooperate with non-governmental organizations to provide for the rehousing, adoption and rehabilitation of animals seized pursuant to investigations.

Sec. 4. Repeal and prohibition of breed specific legislation.

- (a) *Repeal of enabling statute.* Health and Safety Code [section 122331](#) is hereby repealed.
- (b) *Preemption of local regulations.* No local government unit shall maintain any rule, regulation or bylaw which targets a specific breed of dog, or any close proxy for dog breed, for spaying, neutering, prohibition or unreasonable restriction. Any rule, regulation or bylaw to the contrary is preempted and consequently null and void and of no effect whatsoever.
- (c) *Operation notwithstanding Municipal Bill of Rights.* This section operates notwithstanding any provision of the [Municipal Bill of Rights](#).

Sec. 5. Prohibition of cruel practices.

- (a) *Ban on cropping and docking.* It is an infraction punishable by a fine not exceeding \$500 to remove, cut or otherwise mutilate any part of the ear or tail of a juvenile dog for any purpose other than medical necessity in the judgment of a licensed veterinarian.
- (b) *Ban on devocalization.* It is an infraction punishable by a fine not exceeding \$2,500 and a misdemeanor punishable by a fine not exceeding \$10,000, imprisonment in the county jail not exceeding six months, or both, to remove tissue from the vocal folds of a dog or cat for the purpose of reducing the volume or frequency of its vocalizations except in the event of medical necessity in the opinion of a licensed veterinarian.
- (c) *Ban on declawing.* It is an infraction punishable by a fine not exceeding \$750 to amputate the distal phalanges of a cat, in whole or in part, except in the event of medical necessity in the opinion of a licensed veterinarian.
- (d) *Sanctions for veterinarians.* A veterinarian who undertakes an operation prohibited by subsections (a) through (c), or who fraudulently gives an exemption certification under the same, is liable for sanctions by the Veterinary Medical Board in accordance with law, up to and including license revocation for a repeat offense.
- (e) *Upkeep of cavies.* Any domestic cavy (*cavia porcellus*) kept as a domestic animal should be kept in a group of at least two animals whenever possible. The Department shall prepare educational materials explaining the benefits of keeping cavies in groups and make such materials available to domestic animal retailers for voluntary dissemination to new cavy owners.
- (f) *Lobster well-being.* Any lobster prepared for consumption must be humanely killed or incapacitated before being boiled, broiled or otherwise exposed to lethal heat in preparation for consumption. The Department of Public Health

may assess a civil penalty not exceeding \$100 against any retail food facility in violation of this subsection.

- (g) *Animal experimentation; great apes.* No medical college or university of the State shall engage in any scientific experiment or investigation upon a great ape which requires the confinement of the great ape outside the premises of a licensed zoo for more than forty-eight hours, inflicts wanton pain or trauma upon the ape, or otherwise violates the Penal Code. The scientific experiment exemption shall not be a defense to any charge arising out of the Penal Code if the accused is in violation of this subsection.

Sec. 6. Regulations on animal sales.

- (a) *Compulsory disclosure of medical records.* Anyone who sells a dog or a cat to another person in the State must disclose all veterinary records and known medical or genetic conditions relating to the animal. Knowing failure to disclose information required under this subsection is unlawful and the buyer may bring a claim for medical expenses and other damages in a court in the event of knowing non-disclosure.
- (b) *Restriction on sale or transfer; holiday pet abandonment prevention.* It is unlawful for a person, retailer or animal shelter to transfer or sell ownership of a cat, dog or rabbit to a member of the public between and inclusive of December 15 and January 7, except due to an exigent circumstance.
- (c) *Prohibition on sale of cats and dogs at pet stores.* Beginning on January 1, 2025, it is unlawful for a commercial retailer to sell a cat or dog to any member of the public. The Secretary may assess a civil penalty not exceeding \$100,000 or may pursue injunctive relief in the Superior Court against any retailer which violates this subsection.

Sec. 7. Protection for agricultural whistleblowers.

- (a) *Declaration of policy.* It is the public policy of the State to encourage transparency, accountability, consumer confidence, and humane treatment of animals in the agricultural sector by protecting whistleblowers and encouraging persons with knowledge of unlawful and unethical activities to make ethical disclosures.
- (b) *Whistleblower hotline.* The Department shall maintain a toll-free hotline for the reporting of unlawful, unethical, cruel and unhygienic animal husbandry, livestock management and animal product production practices by agriculture and food sector employees and by other individuals with direct

knowledge of such practices. Reports may be made anonymously. The identity of the reporting person shall not be disclosed to any person except an officer of the Department or a judge or magistrate without the reporter's express consent.

- (c) *Rewards for tips.* The Department is authorized to offer a monetary reward not exceeding \$50,000, commensurate with the utility of the tip and the breadth of the conduct reported, for any tip to the hotline which results in enforcement action by the Department.
- (d) *Non-disclosure agreements abrogated.* To the extent that any private contract purports to restrict an employee or contractor of an agriculture or food company from making a report to the Department or from truthfully disclosing unlawful, unethical or cruel animal treatment practices to a media organization in good faith where such disclosure advances a public interest, such contract is not enforceable in the State or in any State court.
- (e) *No faith or credit for non-disclosure agreements.* The attachment of civil liability to agricultural whistleblowing being contrary to the public policy of the State, the courts of the State shall not grant full faith and credit to laws and contracts manifestly incompatible with subsection (d). Nothing in this subsection shall be construed to bar the enforcement of foreign judicial decisions.
- (f) *Protection from retaliation.* It is unlawful to terminate the employment of a person or to subject the person to negative employment consequences on the basis of reports that the person has made, or is suspected of having made, to the Department under this section. The Department may bring civil action in the Superior Court against any corporation, limited-liability company or partnership in violation of this subsection for compensatory damages paid to the affected person and punitive damages paid to the State not exceeding \$1,000,000 and for equitable remedies.
- (g) *Absolute immunity for truthful reporting.* It is an absolute defense to any criminal proceeding for trespass or to any civil action for trespass or any similar tort that a person who obtains access to an agricultural facility, through misrepresentation or otherwise, does so for the bona fide purpose of making a truthful reporting on the conditions of the facility or of the animals therein, provided that the person does not damage the property or enter by violence or infraction.

Sec. 8. Meat substitute research grant.

- (a) *Creation of grant.* There is established in the Department a grant for the purpose of promoting research and development of innovative meat substitute techniques by Fremont companies.
- (b) *Purpose of grant.* The grant shall be issued for the purposes of—
 - (i) researching healthful and nutritious vegetarian or vegan alternatives to and substitutes for meat;
 - (ii) researching humane *in vitro* cultured meat products; or
 - (iii) facilitating the development of a product described in paragraphs (i) or (ii) into a commercial mass product.
- (c) *Applicant eligibility.* A company is eligible to apply for the grant if it—
 - (i) is headquartered in the State and primarily does business from the State;
 - (ii) employs thirty or more persons in the State; and
 - (iii) intends to substantially conduct the research, development and manufacture of the meat substitute in the State.
- (d) *Administration.* The grant, which is non-renewable, shall be awarded by the Secretary in accordance with objective criteria and fair standards of evaluation established by regulation. The Secretary shall assess the compliance of grant recipients with the conditions of the grant.
- (e) *Spending authorization.* The Department shall issue no more than five grants, each in an amount not exceeding \$15 million, in each fiscal year from its authorized spending or any spending otherwise authorized for non-agency cabinet departments.

Sec. 9. Interpretation and entry into effect.

- (a) *Entry into effect.* The Act takes effect immediately after enactment.
- (b) *Severability.* If any provision of this Act, or the application of a provision to any person or circumstance, is held to be invalid for any reason in any court of competent jurisdiction, the remainder of this Act, and the application of the provisions and amendment to any other person or circumstance, shall not be affected.

Sec. 10. Interpretation

- (a) *Rule of interpretation.* The provisions of this Act shall be interpreted liberally and purposively to give greatest effect to the legislative intent to promote humane justice and prevent cruelty to animals.

(b) *Non-retroactivity.* Nothing in this Act except for the preemption of local regulations shall have retroactive effect prior to its passage.