

Model Legislation



ANIMAL
PROTECTION
INSTITUTE

Mailing Address:
P.O. Box 22505, Sacramento, CA 95822

Street Address:
1122 S Street, Sacramento, CA 95814

Ph. 916.447.3085 • Fx. 916.447.3070
www.api4animals.org • info@api4animals.org

AN ACT Relating to the Regulation of Breeders, Dealers and Pet Shops

Section 1 - Definitions

[CAVEAT: Definitions enacted should be compatible with statutory definitions already in existence in the jurisdiction in which legislation is introduced. The following definitions are offered as suggestions.]

- (a) “**Animal**” means any non-human vertebrate species, including but not limited to dogs, cats, birds, rabbits, guinea pigs, hamsters, snakes, iguanas and turtles.
- (b) “**Animal business operator**” means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, or public or private institution which maintains, owns, or operates an animal facility, including a breeder, dealer, or pet shops. We use animal business and animal business operator in Section 3 (e)(v).
- (c) “**Animal facility**” means any location used in the course of business by a breeder, dealer, or pet shop and in which animals are kept.
- (d) “**Breeder**” means any person who in the regular course of business for compensation or profit propagates animals for sale, transfer, exchange, or barter.
- (e) “**Dealer**” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter any animal.
- (f) “**Humane**” means any action taken in consideration of and with the intent of providing for the animal’s health and well-being.
- (g) “**Pet shop**” means any establishment or market place where animals are bought, sold, exchanged, or offered for sale to the general public.
- (h) “**Sanitary**” means free from excreta and other waste material, dirt, and trash.

(i) “**Unweaned animal**” means any animal that is nursing, requires hand-feeding or is otherwise unaccustomed to eating enough food without human or animal assistance to sustain at least 90 percent of its own weight for at least two weeks.

(j) “**Weaned animal**” means any animal that has become accustomed to taking solid food and has done so without nursing, hand-feeding, or human or animal assistance for a period of at least two weeks and is capable of sustaining at least 90 percent of its own weight following the time of sale, notwithstanding any illness or injury.

(k) “**Hand-feeding**” means the process by which an animal is manually fed by a human through the use of hand, spoon, bottle, or oral gavage.

(l) “**Time of sale**” means the calendar date the retail purchaser removed the animal from the premises of the pet shop or following the retail sale of that animal.

(m) “**Dangerous exotic animal**” means any member of the following families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans, and further defined as follows:

1. Class Mammalia

- a. Order Artiodactyla (hippopotamuses, giraffes, camels, deer, not cattle or swine or sheep or goats)
- b. Order Carnivora
 - i. Family Felidae (lions, tigers, cougars, leopards, ocelots, servals, not domestic cats)
 - ii. Family Canidae (wolves, coyotes, foxes, jackals, not domestic dogs)
 - iii. Family Ursidae (all bears)
 - iv. Family Mustelidae (weasels, skunks, martins, minks, not ferrets)
 - v. Family Procyonidae (raccoons, coatis)
 - vi. Family Hyaenidae (hyenas)
 - vii. Family Viverridae (civets, genets, mongooses, binturongs)
- c. Order Edentata (anteaters, armadillos, sloths)
- d. Order Marsupialia (opossums, kangaroos, wallabies)
- e. Order Perissodactyla (rhinoceroses, tapirs, not horses or donkeys or mules)
- f. Order Primates (lemurs, monkeys, chimpanzees, gorillas)
- g. Order Proboscidea (elephants)
- h. Order Rodentia (squirrels, prairie dogs, beavers, porcupines, not guinea pigs, or rats, or mice, or gerbils, or hamsters)

2. Class Reptilia

- a. Order Squamata
 - i. Family Varanidae (only water monitors and crocodile monitors)
 - ii. Family Iguanidae (only green iguanas and rock iguanas)

- iii. Family Boidae (all species whose adult length has the potential to exceed eight (8) feet in length)
 - iv. Family Colubridae (only boomslangs and African twig snakes)
 - v. Family Elapidae (such as coral snakes, cobras, mambas, etc.) - All species
 - vi. Family Nactricidae (only keelback snakes)
 - vii. Family Viperidae (such as copperheads, cottonmouths, rattlesnakes, etc.) - All species
- b. Order Crocodilia (such as crocodiles, alligators, caimans, gavials, etc.) - All species

Section 2 - License Required

- (a) Every breeder, dealer, and pet shop must have an animal business license.
- (b) The animal business license shall be issued by the [Designated state agency].
- (c) The animal business license shall be valid for 12 calendar months from the date of issue.
- (d) The animal business license shall be renewed annually.
- (e) No animal business license shall be issued without inspection of each animal facility for which the breeder, dealer, or pet shop seeks a license.

Section 3 - Inspection

- (a) The [Designated state agency] must inspect each animal facility before any animal business license is issued or renewed.
- (b) The [Designated state agency] may not issue an animal business license unless the breeder, dealer, or shop is in full compliance with Sec. 4 and Sec. 5 of this Act.
- (c) The [Designated state agency] is also authorized to inspect each animal facility, with or without prior notification, to ensure compliance with Sec. 4 and Sec. 5 of this Act.
- (d) The [Designated state agency] may inspect or investigate a breeder, dealer, or pet shop after receiving any complaint from the public.
- (e) Failure to comply with Sec. 4 and Sec. 5 of this Act will result in the following procedural action:
 - (i) A breeder, dealer, or pet shop will be given a written citation of all items which do not comply with Sec. 2, Sec. 4. and Sec. 5 of this Act on the date that such deficiencies are observed by the [Designated state agency].
 - (ii) The [Designated state agency] will reinspect the breeder, dealer, or pet shop not less than 14 days but not more than 28 days after issuing citation under Section 3(e)(i).

- (iii) If the items cited have not been remedied, the animal business license will be suspended and animals may be confiscated by [Designated state agency].
- (iv) On reinspection under Sec. 3(e)(ii), noncompliant items not previously cited will be cited under Sec. 3(e)(i). New noncompliant items will not result in the suspension of the animal business license.
- (v) An animal business operator can appeal the suspension of an operational license to a Superior Court in which the animal facility is located no later than 21 days after the license is suspended.
- (vi) In addition to suspension or revocation of an animal business license, additional penalties may be applicable under Sec. 6 of this Act.

Section 4 - Animal Care Standards

Each breeder, dealer, or pet shop shall comply with the following animal care standards:

(a) Handling:

- (i) Each animal shall be handled in a manner which will not cause discomfort, stress, or physical harm to that animal.

(b) Food:

- (i) Each animal shall be given access to adequate, wholesome, palatable food which is free of contamination and of nutritional value sufficient to maintain the animal in good health.
- (ii) When assessing the dietary needs of each animal, the species, age, and condition of each animal must be considered.
- (iii) Food shall be given to each animal at least once every twenty-four hours except as otherwise necessary to maintain each animal in good health.
- (iv) Food containers shall be positioned in each animal enclosure to allow each animal adequate access and to minimize contamination from excreta.
- (v) Food containers shall be sanitized at least once daily unless more frequent cleaning is necessary to maintain sanitary conditions.

(c) Water:

- (i) Potable water must be accessible to each animal at all times except as otherwise required to keep the animal in good health.
- (ii) Water containers shall be positioned in each animal enclosure to allow each animal adequate access and to minimize contamination from excreta.
- (iii) Water containers shall be sanitized at least once daily unless more frequent cleaning is necessary to maintain sanitary conditions.

(d) Enclosure:

- (i) Any enclosure in which an animal is housed or exercised must be constructed and maintained so as to prevent injury to the animal and to promote the health and safety of the animal and the public.
- (ii) Any enclosure in which an animal is housed must provide sufficient space for the animal to experience normal body movements without having to make contact with the sides or top of the enclosure and without obstruction, interference, or impediment by the presence of food and water bowls. "Normal bodily movements" shall include the ability to stand up, sit down, turn about freely, and relax in a natural position. Each enclosure shall have at least one form of enrichment appropriate for the species.
- (iii) Enclosures which house bird(s) must allow the bird(s) within to fly, hop or otherwise move about. Each bird in an enclosure must be able to simultaneously and free from obstruction spread its wings and/or perch in a normal position. Each enclosure shall have at least one form of enrichment appropriate for the species.
- (iv) Enclosures which house up to four small rodents, including but not limited to hamsters, gerbils, and mice, must measure at least one square foot, 9" high. For each additional animal, increase the cage space by 25 percent of original floor area. Each enclosure shall have gnawing items and an exercise wheel.
- (v) Enclosures housing medium-sized rodents including but not limited to rats, guinea pigs, and chinchillas, must measure at least 1 square foot, 9" high per animal. For each additional animal increase the cage space by 25 percent of original floor area. Each enclosure shall have gnawing items and a hide box.
- (vi) Any enclosure in which an animal is housed must be constructed and maintained to allow the animals to remain dry and receive the appropriate temperature pursuant to Section 4 (g), unless other conditions are necessary for the health of the animal.
- (vii) Any enclosure in which an animal is housed or exercised must be constructed and maintained so as to contain the animal and to prevent the entry of any other animal.
- (viii) If animals are housed together the animals must be compatible.
- (ix) An animal which has displayed a vicious disposition can not be housed with any other animal.
- (x) A female animal in estrus can not be housed with any male animal except for supervised breeding by a breeder.
- (xi) *[When appropriate]* An unweaned animal can not be housed with an adult not its mother.

(e) Sanitary Conditions:

- (i) All facilities must be clean and sanitary.
- (ii) Each animal enclosure shall be cleaned at least once daily unless more frequent cleaning is required.
- (iii) Methods of cleaning should allow animals to remain dry and receive the appropriate temperature pursuant to Section 4 (g), unless other conditions are necessary to maintain the health of the animal.
- (iv) Supplies of food, water, and bedding shall be stored in a manner which adequately protects them against infestation or contamination.

(f) Ventilation:

- (i) Indoor housing facilities shall be adequately ventilated to minimize draft, odor, moisture and condensation.

(g) Temperature:

- (i) Temperatures shall be maintained to provide for the health and comfort of all animals.
- (ii) Artificial heat shall be provided if the temperature is 50 degrees Fahrenheit or below unless all animals housed at the facility are acclimated to lower temperatures in their natural condition.
- (iii) Artificial cooling shall be provided if the temperature is 85 degrees Fahrenheit or higher unless all the animals housed in the facility are acclimated to higher temperatures in their normal condition.

(h) Illumination:

- (i) Each cage and enclosure shall be placed in a manner which protects the animal(s) contained from excessive or stressful illumination.
- (ii) Facilities should have sufficient light to enable regular cleaning and inspection of facilities and monitoring of animals.

(i) Veterinary Care and Disease Prevention:

- (i) A written program of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a veterinarian.
- (ii) Animals shall be observed daily for the purpose of monitoring health, nutrition, and well-being.
- (iii) Each sick or injured animal shall receive veterinary care.
- (iv) An animal can only be euthanized if by a licensed veterinarian. This provision does not apply to fish.

(j) Records:

- (i) Each animal care facility must have available for inspection by the [Designated state agency] if requested:
 - a. Written program or disease control and prevention.
 - b. Records of any veterinary care administered to any animal. Veterinarian records must include each euthanization performed.
- (ii) At the time of sale, a pet shop location or vendor shall document the weight of any hand-fed bird under one year of age, and note the weight on the sales receipt.

(k) Information:

- (i) A pet shop shall provide purchasers of an animal with general written recommendations for the generally accepted care of the class of animal sold including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal. This written information shall be in a form determined by the pet shop and may include references to Web sites, books, pamphlets, videos, and compact discs.
- (ii) If a pet shop distributes material prepared by a third party, the pet shop shall not be liable for damages caused by any erroneous information in that material unless a reasonable person exercising ordinary care should have known of the error causing the damage.

Section 5 - Prohibited Acts

- (a) A pet shop shall not offer for sale any dangerous exotic animal
- (b) A pet shop shall not sell an animal, except a reptile or amphibian, under the age of eight weeks. An animal which is over the age of eight weeks can be sold only if the animal is weaned.

Section 6 - Penalties

Any person who violates any provision of this Act shall for the first violation be guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or by imprisonment in jail for not more than 6 months, or by both. A second or subsequent offense shall constitute a felony punishable by a fine of at least \$1,000.00, or by imprisonment in jail for not more than 2 years, or by both. *[Caveat: Should be consistent with current law in the jurisdiction in which legislation is introduced. Penalties should increase with each subsequent offense]*