7-23-4202. Adoption of cat or dog from humane society, animal shelter, or pound -- spay or neuter required -- deposit -- penalty -- exceptions. (1) Except as provided in subsections (6) and (7), a humane society or publicly operated animal shelter or pound may not offer for adoption, sale, or trade any cat or dog that has not been redeemed by the owner unless:

(a) the animal has been spayed or neutered; or

(b) the person to whom the animal is released agrees in writing to have the animal spayed or neutered and a deposit for spaying or neutering the animal has been paid. The deposit must be in an amount determined by the humane society or publicly operated animal shelter or pound to be comparable to the lowest fee for spaying or neutering that is charged by veterinarians in the locale.

(2) Upon payment of the deposit required in subsection (1), the person who is adopting the animal must receive a certificate for spaying or neutering, to be presented to a licensed veterinarian, who shall complete the certificate when the spaying or neutering is done. Upon receipt of the completed certificate verifying that the animal has been spayed or neutered, the humane society or publicly operated animal shelter or pound shall forward the deposit to the veterinarian who performed the procedure.

(3) The deposit must be forfeited if the spaying or neutering is not done:

(a) within 30 days if the cat or dog is more than 6 months old at the time of adoption; or

(b) by the time the animal reaches the age of 6 months if the animal is less than 6 months old at the time of adoption, or within 30 days of the adoption, whichever is longer.

(4) A deposit forfeited pursuant to subsection (3) may be used only for the following purposes:

(a) a public education program designed to prevent the overpopulation of cats and dogs;

(b) a program to spay or neuter cats and dogs; and

(c) costs incurred in the enforcement of this section, including a followup program to ensure that animals adopted from or sold or traded by the humane society or publicly operated animal shelter or pound are spayed or neutered.

(5) Failure to fulfill the terms of an agreement entered into pursuant to subsection (1)(b) may, at the discretion of the county attorney, result in the filing of a misdemeanor charge punishable by a fine of not more than $500.

(6) The provisions of this section do not apply to an animal for which a licensed veterinarian verifies in writing that spaying or neutering would be injurious to the animal's health.

(7) The provisions of this section do not apply when a humane society or publicly operated animal shelter or pound, at its discretion, chooses to accept an adoption fee of not less than $50 from a person who wishes to adopt an animal for breeding purposes.

History: En. Sec. 2, Ch. 426, L. 1997.