

AMENDED IN ASSEMBLY MAY 15, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2296

Introduced by Assembly Member Mullin
(Principal coauthor: Assembly Member Wolk)

February 21, 2008

An act to add Section 52.6 to the Civil Code, and to add Section 6254.30 to the Government Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, as amended, Mullin. Animals: Animal Enterprise Protection Act.

Existing law establishes various causes of action, including actions for damages and injunctive relief, for the enforcement of various rights.

This bill would provide that no person, business, or association shall knowingly publicly post or publicly display on the Internet a home address, home telephone number, or image of any employee of an animal enterprise, as defined, or other individuals residing at the same home address of the employee of an animal enterprise, with the intent to incite great bodily harm or threaten the person, as specified. The bill would authorize a victim of a violation of those prohibitions to maintain an action for damages and for injunctive relief, as specified. The bill would state the intent of the Legislature to balance the public's right of access to information with the ability of animal researchers to conduct their work without fear of harassment and threats of violence.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 California Animal Enterprise Protection Act.

3 SEC. 2. Section 52.6 is added to the Civil Code, to read:

4 52.6. (a) (1) No person, business, or association shall
5 knowingly publicly post or publicly display on the Internet a home
6 address, home telephone number, or image of any employee of an
7 animal enterprise or other individuals residing at the same home
8 address of the employee of an animal enterprise, with the intent
9 to do either of the following:

10 (A) Incite a third person to cause imminent great bodily harm
11 to the person identified in the posting or display, or to a coresident
12 of that person, where the third person is likely to commit this harm.

13 (B) Threaten the person identified in the posting or display, or
14 a coresident of that person, in a manner that places the person
15 identified or the coresident in objectively reasonable fear for his
16 or her personal safety.

17 (2) An employee of an animal enterprise whose home address,
18 home telephone number, or image is made public as a result of a
19 violation of paragraph (1) may do either or both of the following:

20 (A) Bring an action seeking injunctive or declarative relief in
21 any court of competent jurisdiction. If a jury or court finds that a
22 violation has occurred, it may grant injunctive or declarative relief
23 and shall award the successful plaintiff court costs and reasonable
24 attorney’s fees.

25 (B) Bring an action for money damages in any court of
26 competent jurisdiction. In addition to any other legal rights or
27 remedies, if a jury or court finds that a violation has occurred, it
28 shall award damages to that individual in an amount up to a
29 maximum of three times the actual damages, but in no case less
30 than four thousand dollars (\$4,000).

31 (b) (1) No person, business, or association shall publicly post
32 or publicly display on the Internet a home address; *or* home
33 telephone number; ~~or image~~ of any employee of an animal
34 enterprise if that individual has made a written demand of that
35 person, business, or association to not disclose his or her home

1 address or home telephone number. A demand made under this
2 paragraph shall include a sworn statement declaring that the person
3 is subject to the protection of this section and describing a
4 reasonable fear for the safety of that individual or of any person
5 residing at the individual's home address, based on a violation of
6 subdivision (a). A written demand made under this paragraph shall
7 be effective for four years, regardless of whether or not the
8 individual's affiliation with an animal enterprise has expired prior
9 to the end of the four-year period.

10 (2) An employee of an animal enterprise whose home address
11 or home telephone number is made public as a result of a failure
12 to honor a demand made pursuant to paragraph (1) may bring an
13 action seeking injunctive or declarative relief in any court of
14 competent jurisdiction. If a jury or court finds that a violation has
15 occurred, it may grant injunctive or declarative relief and shall
16 award the successful plaintiff court costs and reasonable attorney's
17 fees.

18 (3) This subdivision shall not apply to a person or entity defined
19 in Section 1070 of the Evidence Code.

20 (c) (1) No person, business, or association shall solicit, sell, or
21 trade on the Internet a home address, home telephone number, or
22 image of any employee of an animal enterprise with the intent to
23 do either of the following:

24 (A) Incite a third person to cause imminent great bodily harm
25 to the person identified in the posting or display, or to a coresident
26 of that person, where the third person is likely to commit this harm.

27 (B) Threaten the person identified in the posting or display, or
28 a coresident of that person, in a manner that places the person
29 identified or the coresident in objectively reasonable fear for his
30 or her personal safety.

31 (2) An employee of an animal enterprise whose home address,
32 home telephone number, or image is solicited, sold, or traded in
33 violation of paragraph (1) may bring an action in any court of
34 competent jurisdiction. In addition to any other legal rights and
35 remedies, if a jury or court finds that a violation has occurred, it
36 shall award damages to that individual in an amount up to a
37 maximum of three times the actual damages, but in no case less
38 than four thousand dollars (\$4,000).

39 (d) An interactive computer service or access software provider,
40 as defined in Section 230(f) of Title 47 of the United States Code,

1 shall not be liable under this section unless the service or provider
2 intends to abet or cause bodily harm that is likely to occur or
3 threatens to cause bodily harm to an owner or employee of an
4 animal enterprise or any person residing at the same home address.

5 (e) Nothing in this section is intended to preclude punishment
6 under any other provision of law.

7 (f) For purposes of this section, the following terms have the
8 following meanings:

9 (1) “Animal enterprise” means an entity that lawfully uses
10 animals or animal products for education or research in any
11 exercise of a constitutional right that relates to academic freedom.

12 (2) “Image” includes, but is not limited to, any photograph,
13 video footage, sketch, or computer-generated image that provides
14 a means to visually identify the person depicted.

15 (3) “Publicly post” or “publicly display” means to intentionally
16 communicate or otherwise make available to the general public.

17 SEC. 3. Section 6254.30 is added to the Government Code, to
18 read:

19 6254.30. It is the intent of the Legislature to balance the
20 public’s right of access to information and the ability of animal
21 researchers to conduct their work without fear of being targets of
22 harassment and threats of violence. This section is not intended to
23 reverse the general presumption of access and openness of the
24 California Public Records Act and subdivision (b) of Section 3 of
25 Article I of the California Constitution.