

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 20, 1998 Revised: _____

Subject: Public Records/Rabies Vaccination

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Luken</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Masterton</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill creates an exemption from the public records law for an animal owner's name, address, and telephone number included in a rabies vaccination certificate provided to an animal control authority, subject to certain exceptions. The exemption expires on October 2, 2003. This bill also provides legislative findings that the public and private harm in disclosing the personal information of the pet owner and the proprietary information of the veterinarian significantly outweighs any public benefit derived from disclosure.

This bill substantially amends section 828.30, Florida Statutes.

II. Present Situation:

Section 828.30, F.S., requires that all dogs and cats four months of age or older must be vaccinated by a licensed veterinarian against rabies. The veterinarian administering the rabies vaccine is required to provide to the local animal control authority a rabies vaccination certificate. This certificate must contain, among other things, information about the owner of the pet, including the owner's name, address, and telephone number. Current law provides no exemption from public disclosure for the information provided an animal control authority pursuant to the provisions of s. 828.30, F.S., consequently making such information available upon the request of the public.

Article I, s. 24, Florida Constitution, expresses Florida's public policy regarding access to government records by providing that every person has the right to inspect or copy any public records received in connection with the official business of any public body. However, Article I, s. 24 does permit the Legislature to provide by law that certain records be exempted from these

requirements. Such a law must state specifically the public necessity justifying the exemption, and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in s. 119.07, F.S., which provides that every person who has custody of a public record will provide the record to any person desiring to inspect and examine the record. Section 119.15, F.S. provides that an exemption to s. 119.07, F.S., may be created only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the Legislature finds that the exempted record is of a sensitive, personal nature, is necessary for the effective administration of a government program, or if it affects confidential information concerning an entity. Section 119.15, F.S., requires that these criteria be considered to determine if the purpose of such an exemption is sufficiently compelling to override the strong public policy of open government.

III. Effect of Proposed Changes:

The bill creates an exemption from the public records law for an animal owner's name, address, and telephone number included in a rabies vaccination certificate provided to an animal control authority.

Section 1 adds a new subsection (4) to s. 828.30, F.S., providing that the name, address and telephone number of the animal owner set forth in a rabies vaccination certificate provided to the animal control authority are confidential and exempt from s. 119.07 (1), F.S., and Article I, s. 24, Florida Constitution. Public agencies may still have access to this information as needed, but the confidentiality of this information must be maintained. Any person may inspect, in nonelectronic form, the information from one rabies vaccination certificate at a time if the person makes the request using the name or address of the animal owner. Agencies must provide the information to bona fide news organizations and academic organizations for purposes of research and statistical analysis. Sale or resale of the information for commercial purposes is prohibited. The exemption is subject to the Open Government Sunshine Review Act of 1995, s. 119.15, F.S., and will be repealed on October 2, 2003 unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a statement of public necessity and legislative findings that the information contained in rabies vaccination certificates is both confidential to the pet owner and proprietary to the veterinarian and should be distributed only when the public health, safety and welfare require it. The section states that the personal information on rabies vaccination certificates can be used to produce the client list of each veterinarian who has filed such certificates with the animal control authority, and that such a list constitutes a trade secret. Disclosure of such information adversely affects veterinarians who submit certificates and possibly presents a breach of client confidentiality. The section also states that such disclosure jeopardizes a pet owner's privacy, and may result in reluctance on the part of pet owners to have their pets vaccinated against rabies.

Section 3 provides an effective date of October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill would restrict public access to information that is currently available to the public by creating an exemption to Article I, s. 24, Florida Constitution, and s. 119.07, F.S.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals would no longer have broad access to information about pet owners provided in vaccination certificates, and veterinarians who provide vaccination certificates to an animal control authority would be protected from having the identities of their clients readily available to competing business interests. Any benefit or detriment pet owners might realize from this information being broadly available would be eliminated.

C. Government Sector Impact:

Affected governmental agencies would have to keep certain information confidential and exempt, or otherwise provide access to such information as specified in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A Sarasota circuit court decision concerning the question of whether the information contained in rabies vaccination certificates constitutes a trade secret under existing law is currently on appeal to the Florida Second District Court of Appeals.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
