

ASSEMBLY BILL

No. 2349

Introduced by Assembly Member Fuller

February 21, 2008

An act to amend Section 9166 of, and to repeal Section 9167 of, the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2349, as introduced, Fuller. Diseased animals and poultry: violations and penalties: administrative penalty.

Existing law provides for the regulation of animals and pests for the prevention and control of disease. Existing law also makes specified actions unlawful and subject to investigation by the Secretary of Food and Agriculture.

Existing law provides that any person who violates the provisions of law relating to diseased animals and poultry, or its regulations, is liable for a civil penalty of not more than \$500 for each violation.

This bill would instead provide that, in addition to any other penalty or fine prescribed by law, any person who violates that law, is subject to an administrative penalty of not less than \$100 or more than \$1,000 for each violation. The bill would provide that if the secretary finds that a violation has occurred, he or she shall give the person charged notice of the nature of the violation and be given an opportunity to be heard pursuant to specified administrative adjudication provisions.

Existing law provides that the Attorney General shall, upon complaint by the secretary, or may, upon his own initiative, bring an action for civil penalties against any person violating any of those provisions relating to diseased animals and poultry.

This bill would delete this provision.

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

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

1 SECTION 1. Section 9166 of the Food and Agricultural Code
2 is amended to read:

3 9166. ~~Any~~ (a) *In addition to any other penalty or fine*
4 *prescribed by law, any person who violates any provision of this*
5 *division, or any regulation which is issued pursuant to it this*
6 *division, is liable civilly for a penalty in an amount not to exceed*
7 ~~a sum of five hundred dollars (\$500)~~ *subject to an administrative*
8 *penalty of not less than one hundred dollars (\$100) or more than*
9 *one thousand dollars (\$1,000) for each violation. Each violation*
10 *during any day constitutes a separate offense. Any money which*
11 *that is recovered under this section shall be paid into the State*
12 *Treasury and shall be credited to the Department of Food and*
13 *Agriculture Fund.*

14 (b) *If the secretary finds that a violation has occurred, the person*
15 *charged shall receive notice of the nature of the violation, and*
16 *shall be given an opportunity to be heard in accordance with*
17 *Chapter 4.5 (commencing with Section 11400) of Part 1 of Division*
18 *3 of Title 2 of the Government Code, except that informal hearing*
19 *procedures may not be used under the circumstances described*
20 *in subdivision (a) or (b) of Section 11445.20 of the Government*
21 *Code.*

22 SEC. 2. Section 9167 of the Food and Agricultural Code is
23 repealed.

24 ~~9167. The Attorney General shall, upon complaint by the~~
25 ~~director, or may, upon his own initiative, if after examination of~~
26 ~~the complaint and evidence he believes a violation has occurred,~~
27 ~~bring an action for civil penalties in the name of the people of this~~
28 ~~state in any court of competent jurisdiction in this state against~~
29 ~~any person violating any provision of this division.~~