

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1122

**Introduced by Assembly Member Lieu
(Coauthors: Assembly Members Eng and Jones)**

February 27, 2009

An act to add Section 597.4 to the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as amended, Lieu. Animal abuse: sale of live animals.

Existing law proscribes animal abuse, as specified, including the failure to maintain and care for the premises and animals at pet shops. Existing law also generally provides that a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under 8 weeks of age, but may sell, offer for sale, trade, or barter a dog or cat over 8 weeks of age only if the animal is weaned.

This bill would provide, in addition and with specified exceptions, that it shall be a crime, punishable as specified, for any person to willfully sell, display or offer for sale or give away as part of a commercial transaction, a live animal on any street, highway, public right-of-way, ~~commercial parking lot, or at any outdoor special sale, parking lot sale,~~ carnival, or boardwalk. The bill would provide that a notice describing the charge and the penalty for a violation of this bill may be issued by a peace officer, animal control officer, or humane

officer. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 597.4 is added to the Penal Code, to read:
2 597.4. (a) It shall be unlawful for any person to willfully sell,
3 display ~~or for sale~~, offer for sale, or give away as part of a
4 commercial transaction, a live animal on any street, highway,
5 public right-of-way, ~~commercial parking lot, or at any outdoor~~
6 ~~special sale, parking lot sale~~, carnival, or boardwalk.
7 (b) (1) A person who violates this section for the first time shall
8 be guilty of an infraction punishable by a fine not to exceed two
9 hundred fifty dollars (\$250).
10 (2) A person who violates this section for the first time and by
11 that violation either causes or permits any animal to suffer or be
12 injured, or causes or permits any animal to be placed in a situation
13 in which its life or health may be endangered, shall be guilty of a
14 misdemeanor.
15 (3) A person who violates this section for a second or subsequent
16 time shall be guilty of a misdemeanor.
17 (c) A person who is guilty of a misdemeanor violation of this
18 section shall be punishable by a fine not to exceed one thousand
19 dollars (\$1,000) per violation; the court shall weigh the gravity of
20 the violation in setting the fine.
21 (d) A notice describing the charge and the penalty for a violation
22 of this section may be issued by any peace officer; animal control
23 officer, as defined in Section 830.9; or humane officer qualified
24 pursuant to Section 14502 or 14503 of the Corporations Code.
25 (e) This section shall not apply to the following:
26 (1) Events held by 4-H Clubs, Junior Farmers Clubs, or Future
27 Farmers Clubs.

1 (2) The California Exposition and State Fair, *district agricultural*
2 *association fairs*, or county fairs.

3 (3) Stockyards with respect to which the Secretary of the United
4 States Department of Agriculture has posted notice that the
5 stockyards are regulated by the federal Packers and Stockyards
6 Act (7 U.S.C. Sec. 181 et seq.).

7 (4) The sale of cattle on consignment at any public cattle sales
8 market; the sale of sheep on consignment at any public sheep sales
9 market; the sale of swine on consignment at any public swine sales
10 market; the sale of goats on consignment at any public goat sales
11 market; and the sale of equine on consignment at any public equine
12 sales market.

13 (5) Live animal markets regulated under Section 597.3.

14 (6) A public animal control agency or shelter, society for the
15 prevention of cruelty to animals shelter, humane society shelter,
16 or rescue group regulated under Division 14 (commencing with
17 Section 30501) of the Food and Agricultural Code. For purposes
18 of this section, “rescue group” is a not-for-profit entity whose
19 primary purpose is the placement of dogs, cats, or other animals
20 that have been removed from a public animal control agency or
21 shelter, society for the prevention of cruelty to animals shelter, or
22 humane society shelter, or that have been surrendered or
23 relinquished to the entity by the previous owner.

24 (7) *The sale of fish or shellfish, live or dead, from a fishing*
25 *vessel, at a pier or wharf, or at a farmer’s market by any licensed*
26 *commercial fisherman to the public for human consumption.*

27 (8) *A cat show, dog show, or bird show, provided that all of the*
28 *following circumstances exist:*

29 (A) *The show is validly permitted by the city or county in which*
30 *the show is held.*

31 (B) *Each and every participant in the show complies with all*
32 *federal, state, and local animal welfare and animal control laws.*

33 (C) *The participant has written documentation of the payment*
34 *of a fee for the entry of his or her cat, dog, or bird in the show.*

35 (D) *The sale of a cat, dog, or bird occurs only on the premises*
36 *and within the confines of the show.*

37 (E) *The show is a competitive event where the cats, dogs, or*
38 *birds are exhibited and judged by an established standard or set*
39 *of ideals established for each breed or species.*

1 (f) Nothing in this section shall be construed to in any way limit
2 or affect the application or enforcement of any other law that
3 protects animals or the rights of consumers, including, but not
4 limited to, the Lockyer-Polanco-Farr Pet Protection Act contained
5 in Article 2 (commencing with Section 122125) of Chapter 5 of
6 Part 6 of Division 105 of the Health and Safety Code, or Sections
7 597 and 5971 of this code.

8 (g) Nothing in this section limits or authorizes any act or
9 omission that violates Section 597 or 5971 of this code, or any
10 other local, state, or federal law. The procedures set forth in this
11 section shall not apply to any civil violation of any other local,
12 state, or federal law that protects animals or the rights of
13 consumers, or to a violation of Section 597 or 5971 of this code,
14 which is cited or prosecuted pursuant to one or both of those
15 sections, or to a violation of any other local, state, or federal law
16 that is cited or prosecuted pursuant to that law.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.