

ASSEMBLY BILL

No. 1279

Introduced by Assembly Member Fletcher

February 18, 2011

An act to amend Section 4827 of the Business and Professions Code, to amend Sections 1834.6, 1834.7, 1846, and 1847 of the Civil Code, to amend Sections 17003, 31607, 31621, 31622, 32001, and 32003 of the Food and Agricultural Code, to amend Sections 121916 and 122322 of the Health and Safety Code, and to amend Sections 597, 597.1, 597.2, 597e, 597f, 597u, 597v, and 599e of the Penal Code, relating to animal shelters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as introduced, Fletcher. Animal shelters.

Existing law governs the seizure, rescue, adoption, and euthanasia of abandoned and surrendered animals by animal shelters and rescue organizations.

This bill would make technical, nonsubstantive changes to those provisions by replacing references to a “pound” with references to an animal shelter and by replacing references to destroying an animal with references to humanely euthanizing the animal.

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. Section 4827 of the Business and Professions
- 2 Code is amended to read:
- 3 4827. Nothing in this chapter prohibits any person from:

1 (a) Practicing veterinary medicine as a bona fide owner of one's
2 own animals. This exemption applies to the following:

3 (1) The owner's bona fide employees.

4 (2) Any person assisting the owner, provided that the practice
5 is performed gratuitously.

6 (b) Lay testing of poultry by the whole blood agglutination test.
7 For purposes of this section, "poultry" means flocks of avian
8 species maintained for food production, including, but not limited
9 to, chickens, turkeys, and exotic fowl.

10 (c) Making any determination as to the status of pregnancy,
11 sterility, or infertility upon livestock, equine, or food animals at
12 the time an animal is being inseminated, providing no charge is
13 made for this determination.

14 (d) Administering sodium pentobarbital for euthanasia of sick,
15 injured, homeless, or ~~unwanted~~ *surrendered* domestic pets or
16 animals without the presence of a veterinarian when the person is
17 an employee of an animal control shelter and its agencies or
18 humane society and has received proper training in the
19 administration of sodium pentobarbital for these purposes.

20 SEC. 2. Section 1834.6 of the Civil Code is amended to read:

21 1834.6. An abandoned animal, as described in Section 1834.5,
22 shall not be used for scientific or any other type of experimentation,
23 nor shall such an abandoned animal be turned over to ~~a pound~~ *an*
24 *animal shelter* or animal regulation department of a public agency.

25 SEC. 3. Section 1834.7 of the Civil Code is amended to read:

26 1834.7. (a) In any ~~pound~~ *animal shelter* or animal regulation
27 department of a public or private agency where animals are turned
28 over dead or alive to a biological supply facility or a research
29 facility, a sign (measuring a minimum of 28 x 21 cm— 11 x 8½
30 inches —with lettering of a minimum of 3.2 cm high and 1.2 cm
31 wide— 1¼ x ½ inch —(91 point)) stating:

32 "Animals Turned In To This Shelter May Be Used For Research
33 Purposes or to Supply Blood, Tissue, or Other Biological
34 Products"

35 shall be posted in a place where it will be clearly visible to a
36 majority of persons when turning animals over to the shelter. This
37 statement shall also be included on owner surrender forms. The
38 owner surrender forms shall also include the definition of
39 "biological supply facility" contained in subdivision (c).

1 (b) For purposes of this section, “animal research facility”
2 includes any laboratory, firm, association, corporation,
3 copartnership, and educational institution.

4 (c) For purposes of this section, “biological supply facility”
5 includes any blood bank, laboratory, firm, association, corporation,
6 copartnership, or educational institution that sells biological
7 materials such as blood or animals, either alive or dead, to research
8 facilities, educational institutions, or veterinarians.

9 SEC. 4. Section 1846 of the Civil Code is amended to read:

10 1846. (a) A gratuitous depositary must use, at least, slight care
11 for the preservation of the thing deposited.

12 (b) A gratuitous depositary of a living animal shall provide the
13 animal with necessary and prompt veterinary care, adequate
14 nutrition and water, and shelter, and shall treat it humanely and,
15 if the animal has any identification, make reasonable attempts to
16 notify the owner of the animal’s location. Any gratuitous depositary
17 that does not have sufficient resources or desire to provide that
18 care shall promptly turn the animal over to an appropriate care
19 facility.

20 (c) If the gratuitous depositary of a living animal is a public
21 ~~pound~~ *animal shelter*, shelter operated by a society for the
22 prevention of cruelty to animals, or humane shelter, the depositary
23 shall comply with all other requirements of the Food and
24 Agricultural Code regarding the impounding of live animals.

25 SEC. 5. Section 1847 of the Civil Code is amended to read:

26 1847. The duties of a gratuitous depositary cease:

27 (a) Upon restoration by the depositary of the thing deposited to
28 its owner.

29 (b) Upon reasonable notice given by the depositary to the owner
30 to remove it, and the owner failing to do so within a reasonable
31 time. But an involuntary depositary, under subdivision (b) of
32 Section 1815, may not give notice until the emergency that gave
33 rise to the deposit is past. This subdivision shall not apply to a
34 public ~~pound~~ *animal shelter*, a shelter operated by a society for
35 the prevention of cruelty to animals, or a humane shelter. The duty
36 to provide care, as required by Section 1846, continues until the
37 public ~~pound~~ or private ~~shelter~~ *animal shelters* is lawfully relieved
38 of responsibility for the animal.

39 SEC. 6. Section 17003 of the Food and Agricultural Code is
40 amended to read:

1 17003. (a) Except as provided in this section, this chapter does
2 not affect any law, ordinance, or regulation regarding estrays, the
3 ~~poundkeeper shelter director~~, or other ~~pound animal control~~
4 officer, or a public animal control agency or shelter within the
5 limits of any city or county where ~~such~~ those laws, ordinances, or
6 regulations are in force.

7 (b) Upon the impounding of any bovine animal, horse, mule,
8 or burro, the ~~poundkeeper shelter director~~, other ~~pound animal~~
9 control officer, or public animal control agency or shelter shall
10 immediately notify the secretary. Upon receipt of that notice, the
11 secretary shall take possession of any bovine animal and shall
12 dispose of it pursuant to this chapter.

13 (c) Any city, county, or city and county that establishes or has
14 established laws, ordinances, or regulations regarding estrays, may
15 opt to follow those laws, ordinances, or regulations instead of this
16 chapter in the handling of estrays that are not bovine animals in
17 accordance with the applicable laws, ordinances, or regulations of
18 the city, county, or city and county.

19 (d) This section does not authorize any act that violates Section
20 597 of the Penal Code.

21 SEC. 7. Section 31607 of the Food and Agricultural Code is
22 amended to read:

23 31607. "Impounded" means taken into the custody of the public
24 ~~pound animal shelter~~ or animal control department or provider of
25 animal control services to the city or county where the potentially
26 dangerous or vicious dog is found.

27 SEC. 8. Section 31621 of the Food and Agricultural Code is
28 amended to read:

29 31621. If an animal control officer or a law enforcement officer
30 has investigated and determined that there exists probable cause
31 to believe that a dog is potentially dangerous or vicious, the chief
32 officer of the public ~~pound animal shelter~~ or animal control
33 department or his or her immediate supervisor or the head of the
34 local law enforcement agency, or his or her designee, shall petition
35 the superior court of the county wherein the dog is owned or kept
36 for a hearing for the purpose of determining whether or not the
37 dog in question should be declared potentially dangerous or vicious.
38 A proceeding under this section is a limited civil case. A city or
39 county may establish an administrative hearing procedure to hear
40 and dispose of petitions filed pursuant to this chapter. Whenever

1 possible, any complaint received from a member of the public
2 which serves as the evidentiary basis for the animal control officer
3 or law enforcement officer to find probable cause shall be sworn
4 to and verified by the complainant and shall be attached to the
5 petition. The chief officer of the public ~~pound~~ *animal shelter* or
6 animal control department or head of the local law enforcement
7 agency shall notify the owner or keeper of the dog that a hearing
8 will be held by the superior court or the hearing entity, as the case
9 may be, at which time he or she may present evidence as to why
10 the dog should not be declared potentially dangerous or vicious.
11 The owner or keeper of the dog shall be served with notice of the
12 hearing and a copy of the petition, either personally or by first-class
13 mail with return receipt requested. The hearing shall be held
14 promptly within no less than five working days nor more than 10
15 working days after service of notice upon the owner or keeper of
16 the dog. The hearing shall be open to the public. The court may
17 admit into evidence all relevant evidence, including incident reports
18 and the affidavits of witnesses, limit the scope of discovery, and
19 may shorten the time to produce records or witnesses. A jury shall
20 not be available. The court may find, upon a preponderance of the
21 evidence, that the dog is potentially dangerous or vicious and make
22 other orders authorized by this chapter.

23 SEC. 9. Section 31622 of the Food and Agricultural Code is
24 amended to read:

25 31622. (a) After the hearing conducted pursuant to Section
26 31621, the owner or keeper of the dog shall be notified in writing
27 of the determination and orders issued, either personally or by
28 first-class mail postage prepaid by the court or hearing entity. If a
29 determination is made that the dog is potentially dangerous or
30 vicious, the owner or keeper shall comply with Article 3
31 (commencing with Section 31641) in accordance with a time
32 schedule established by the chief officer of the public ~~pound~~ *animal*
33 *shelter* or animal control department or the head of the local law
34 enforcement agency, but in no case more than 30 days after the
35 date of the determination or 35 days if notice of the determination
36 is mailed to the owner or keeper of the dog. If the petitioner or the
37 owner or keeper of the dog contests the determination, he or she
38 may, within five days of the receipt of the notice of determination,
39 appeal the decision of the court or hearing entity of original
40 jurisdiction. The fee for filing an appeal, payable to the clerk of

1 the court, is as provided in subdivision (b) of Section 70626 of the
 2 Government Code. If the original hearing held pursuant to Section
 3 31621 was before a hearing entity other than a court of the
 4 jurisdiction, appeal shall be to the superior court. If the original
 5 hearing was held in the superior court, appeal shall be to the
 6 superior court before a judge other than the judge who originally
 7 heard the petition. The petitioner or the owner or keeper of the dog
 8 shall serve personally or by first-class mail, postage prepaid, notice
 9 of the appeal upon the other party.

10 (b) The court hearing the appeal shall conduct a hearing de
 11 novo, without a jury, and make its own determination as to
 12 potential danger and viciousness and make other orders authorized
 13 by this chapter, based upon the evidence presented. The hearing
 14 shall be conducted in the same manner and within the time periods
 15 set forth in Section 31621 and subdivision (a). The court may admit
 16 all relevant evidence, including incident reports and the affidavits
 17 of witnesses, limit the scope of discovery, and may shorten the
 18 time to produce records or witnesses. The issue shall be decided
 19 upon the preponderance of the evidence. If the court rules the dog
 20 to be potentially dangerous or vicious, the court may establish a
 21 time schedule to ensure compliance with this chapter, but in no
 22 case more than 30 days subsequent to the date of the court's
 23 determination or 35 days if the service of the judgment is by
 24 first-class mail.

25 SEC. 10. Section 32001 of the Food and Agricultural Code is
 26 amended to read:

27 32001. All public ~~pounds~~ *animal shelters*, shelters operated
 28 by societies for the prevention of cruelty to animals, and humane
 29 shelters, that contract to perform public animal control services,
 30 shall provide the owners of lost animals and those who find lost
 31 animals with all of the following:

32 (a) Ability to list the animals they have lost or found on "Lost
 33 and Found" lists maintained by the ~~pound~~ *or animal shelter*.

34 (b) Referrals to animals listed that may be the animals the
 35 owners or finders have lost or found.

36 (c) The telephone numbers and addresses of other ~~pounds and~~
 37 *animal shelters* in the same vicinity.

38 (d) Advice as to means of publishing and disseminating
 39 information regarding lost animals.

1 (e) The telephone numbers and addresses of volunteer groups
2 that may be of assistance in locating lost animals.

3 The duties imposed by this section are mandatory duties for
4 public entities for all purposes of the Government Code and for
5 all private entities with which a public entity has contracted to
6 perform those duties.

7 SEC. 11. Section 32003 of the Food and Agricultural Code is
8 amended to read:

9 32003. All public ~~pounds~~ and private *animal* shelters shall
10 keep accurate records on each animal taken up, medically treated,
11 or impounded. The records shall include all of the following
12 information and any other information required by the California
13 Veterinary Medical Board:

14 (a) The date the animal was taken up, medically treated,
15 euthanized, or impounded.

16 (b) The circumstances under which the animal was taken up,
17 medically treated, euthanized, or impounded.

18 (c) The names of the personnel who took up, medically treated,
19 euthanized, or impounded the animal.

20 (d) A description of any medical treatment provided to the
21 animal and the name of the veterinarian of record.

22 (e) The final disposition of the animal, including the name of
23 the person who euthanized the animal or the name and address of
24 the adopting party. These records shall be maintained for three
25 years after the date the animal's impoundment ends.

26 SEC. 12. Section 121916 of the Health and Safety Code is
27 amended to read:

28 121916. (a) Any person or owner of an attack, guard, or sentry
29 dog that operates or maintains a business to sell, rent, or train an
30 attack, guard, or sentry dog shall obtain a permit from the local
31 public agency or private society or ~~pound~~ *animal shelter*
32 contracting with the local public agency for animal care or
33 protection services.

34 (b) Each local agency shall adopt and implement a permit
35 program for the administration of subdivision (a) by the local
36 agency or private society or ~~pound~~ *animal shelter* contracting with
37 the local public agency for animal care or protection services. A
38 local agency may charge a fee for the issuance or renewal of a
39 permit required under this section. The fee shall not exceed the
40 actual costs for the implementation of the permit program.

1 (c) For purposes of this section, “local public agency” means
2 a city, county, or city and county.

3 SEC. 13. Section 122322 of the Health and Safety Code is
4 amended to read:

5 122322. (a) Any person violating any provision of this chapter
6 shall be subject to a civil penalty of up to one thousand dollars
7 (\$1,000) per violation. The action may be prosecuted in the name
8 of the people of the State of California by the district attorney for
9 the county where the violation occurred in the appropriate court
10 or by the city attorney in the city where the violation occurred.

11 (b) Nothing in this chapter limits or authorizes any act or
12 omission that violates Section 597 of the Penal Code.

13 (c) Nothing in this chapter shall authorize the seizure of an
14 unweaned bird by a peace officer, officer of a humane society, or
15 officer of ~~a pound~~ *an animal shelter* or animal regulation
16 department of a public agency.

17 SEC. 14. Section 597 of the Penal Code is amended to read:

18 597. (a) Except as provided in subdivision (c) of this section
19 or Section 599c, every person who maliciously and intentionally
20 maims, mutilates, tortures, or wounds a living animal, or
21 maliciously and intentionally kills an animal, is guilty of an offense
22 punishable by imprisonment in the state prison, or by a fine of not
23 more than twenty thousand dollars (\$20,000), or by both the fine
24 and imprisonment, or, alternatively, by imprisonment in a county
25 jail for not more than one year, or by a fine of not more than twenty
26 thousand dollars (\$20,000), or by both the fine and imprisonment.

27 (b) Except as otherwise provided in subdivision (a) or (c), every
28 person who overdrives, overloads, drives when overloaded,
29 overworks, tortures, torments, deprives of necessary sustenance,
30 drink, or shelter, cruelly beats, mutilates, or cruelly kills any
31 animal, or causes or procures any animal to be so overdriven,
32 overloaded, driven when overloaded, overworked, tortured,
33 tormented, deprived of necessary sustenance, drink, shelter, or to
34 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
35 the charge or custody of any animal, either as owner or otherwise,
36 subjects any animal to needless suffering, or inflicts unnecessary
37 cruelty upon the animal, or in any manner abuses any animal, or
38 fails to provide the animal with proper food, drink, or shelter or
39 protection from the weather, or who drives, rides, or otherwise
40 uses the animal when unfit for labor, is, for every such offense,

1 guilty of a crime punishable as a misdemeanor or as a felony or
2 alternatively punishable as a misdemeanor or a felony and by a
3 fine of not more than twenty thousand dollars (\$20,000).

4 (c) Every person who maliciously and intentionally maims,
5 mutilates, or tortures any mammal, bird, reptile, amphibian, or fish
6 as described in subdivision (d), is guilty of an offense punishable
7 by imprisonment in the state prison, or by a fine of not more than
8 twenty thousand dollars (\$20,000), or by both the fine and
9 imprisonment, or, alternatively, by imprisonment in the county
10 jail for not more than one year, by a fine of not more than twenty
11 thousand dollars (\$20,000), or by both the fine and imprisonment.

12 (d) Subdivision (c) applies to any mammal, bird, reptile,
13 amphibian, or fish which is a creature described as follows:

14 (1) Endangered species or threatened species as described in
15 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
16 Fish and Game Code.

17 (2) Fully protected birds described in Section 3511 of the Fish
18 and Game Code.

19 (3) Fully protected mammals described in Chapter 8
20 (commencing with Section 4700) of Part 3 of Division 4 of the
21 Fish and Game Code.

22 (4) Fully protected reptiles and amphibians described in Chapter
23 2 (commencing with Section 5050) of Division 5 of the Fish and
24 Game Code.

25 (5) Fully protected fish as described in Section 5515 of the Fish
26 and Game Code.

27 This subdivision does not supersede or affect any provisions of
28 law relating to taking of the described species, including, but not
29 limited to, Section 12008 of the Fish and Game Code.

30 (e) For the purposes of subdivision (c), each act of malicious
31 and intentional maiming, mutilating, or torturing a separate
32 specimen of a creature described in subdivision (d) is a separate
33 offense. If any person is charged with a violation of subdivision
34 (c), the proceedings shall be subject to Section 12157 of the Fish
35 and Game Code.

36 (f) (1) Upon the conviction of a person charged with a violation
37 of this section by causing or permitting an act of cruelty, as defined
38 in Section 599b, all animals lawfully seized and impounded with
39 respect to the violation by a peace officer, officer of a humane
40 society, or officer of a ~~pound~~ *an animal shelter* or animal regulation

1 department of a public agency shall be adjudged by the court to
2 be forfeited and shall thereupon be awarded to the impounding
3 officer for proper disposition. A person convicted of a violation
4 of this section by causing or permitting an act of cruelty, as defined
5 in Section 599b, shall be liable to the impounding officer for all
6 costs of impoundment from the time of seizure to the time of proper
7 disposition.

8 (2) Mandatory seizure or impoundment shall not apply to
9 animals in properly conducted scientific experiments or
10 investigations performed under the authority of the faculty of a
11 regularly incorporated medical college or university of this state.

12 (g) Notwithstanding any other provision of law, if a defendant
13 is granted probation for a conviction under this section, the court
14 shall order the defendant to pay for, and successfully complete,
15 counseling, as determined by the court, designed to evaluate and
16 treat behavior or conduct disorders. If the court finds that the
17 defendant is financially unable to pay for that counseling, the court
18 may develop a sliding fee schedule based upon the defendant's
19 ability to pay. An indigent defendant may negotiate a deferred
20 payment schedule, but shall pay a nominal fee if the defendant has
21 the ability to pay the nominal fee. County mental health
22 departments or Medi-Cal shall be responsible for the costs of
23 counseling required by this section only for those persons who
24 meet the medical necessity criteria for mental health managed care
25 pursuant to Section 1830.205 of Title 7 9 of the California Code
26 of Regulations or the targeted population criteria specified in
27 Section 5600.3 of the Welfare and Institutions Code. The
28 counseling specified in this subdivision shall be in addition to any
29 other terms and conditions of probation, including any term of
30 imprisonment and any fine. This provision specifies a mandatory
31 additional term of probation and is not to be utilized as an
32 alternative in lieu of imprisonment in the state prison or county
33 jail when such a sentence is otherwise appropriate. If the court
34 does not order custody as a condition of probation for a conviction
35 under this section, the court shall specify on the court record the
36 reason or reasons for not ordering custody. This subdivision shall
37 not apply to cases involving police dogs or horses as described in
38 Section 600.

39 SEC. 15. Section 597.1 of the Penal Code is amended to read:

1 597.1. (a) Every owner, driver, or keeper of any animal who
2 permits the animal to be in any building, enclosure, lane, street,
3 square, or lot of any city, county, city and county, or judicial district
4 without proper care and attention is guilty of a misdemeanor. Any
5 peace officer, humane society officer, or animal control officer
6 shall take possession of the stray or abandoned animal and shall
7 provide care and treatment for the animal until the animal is
8 deemed to be in suitable condition to be returned to the owner.
9 When the officer has reasonable grounds to believe that very
10 prompt action is required to protect the health or safety of the
11 animal or the health or safety of others, the officer shall
12 immediately seize the animal and comply with subdivision (f). In
13 all other cases, the officer shall comply with the provisions of
14 subdivision (g). The cost of caring for and treating any animal
15 properly seized under this subdivision shall constitute a lien on
16 the animal and the animal shall not be returned to its owner until
17 the charges are paid, if the seizure is upheld pursuant to this section.
18 (b) Every sick, disabled, infirm, or crippled animal, except a
19 dog or cat, that is abandoned in any city, county, city and county,
20 or judicial district may be ~~killed~~ *humanely euthanized* by the officer
21 if, after a reasonable search, no owner of the animal can be found.
22 It shall be the duty of all peace officers, humane society officers,
23 and animal control officers to cause the animal to be ~~killed~~
24 *humanely euthanized* or rehabilitated and placed in a suitable home
25 on information that the animal is stray or abandoned. The officer
26 may likewise take charge of any animal, including a dog or cat,
27 that by reason of lameness, sickness, feebleness, or neglect, is unfit
28 for the labor it is performing, or that in any other manner is being
29 cruelly treated, and provide care and treatment for the animal until
30 it is deemed to be in a suitable condition to be returned to the
31 owner. When the officer has reasonable grounds to believe that
32 very prompt action is required to protect the health or safety of an
33 animal or the health or safety of others, the officer shall
34 immediately seize the animal and comply with subdivision (f). In
35 all other cases, the officer shall comply with subdivision (g). The
36 cost of caring for and treating any animal properly seized under
37 this subdivision shall constitute a lien on the animal and the animal
38 shall not be returned to its owner until the charges are paid.
39 (c) (1) Any peace officer, humane society officer, or animal
40 control officer shall convey all injured cats and dogs found without

1 their owners in a public place directly to a veterinarian known by
2 the officer to be a veterinarian who ordinarily treats dogs and cats
3 for a determination of whether the animal shall be immediately
4 and humanely ~~destroyed~~ *euthanized* or shall be hospitalized under
5 proper care and given emergency treatment.

6 If

7 (2) *If* the owner does not redeem the animal within the locally
8 prescribed waiting period, the veterinarian may personally perform
9 euthanasia on the animal. If the animal is treated and recovers from
10 its injuries, the veterinarian may keep the animal for purposes of
11 adoption, provided the responsible animal control agency has first
12 been contacted and has refused to take possession of the animal.

13 Whenever

14 (3) *Whenever* any animal is transferred to a veterinarian in a
15 clinic, such as an emergency clinic that is not in continuous
16 operation, the veterinarian may, in turn, transfer the animal to an
17 appropriate facility.

18 If

19 (4) *If* the veterinarian determines that the animal shall be
20 hospitalized under proper care and given emergency treatment,
21 the costs of any services that are provided pending the owner's
22 inquiry to the responsible agency, department, or society shall be
23 paid from the dog license fees, fines, and fees for impounding dogs
24 in the city, county, or city and county in which the animal was
25 licensed or, if the animal is unlicensed, shall be paid by the
26 jurisdiction in which the animal was found, subject to the provision
27 that this cost be repaid by the animal's owner. The cost of caring
28 for and treating any animal seized under this subdivision shall
29 constitute a lien on the animal and the animal shall not be returned
30 to the owner until the charges are paid. No veterinarian shall be
31 criminally or civilly liable for any decision that he or she makes
32 or for services that he or she provides pursuant to this subdivision.

33 (d) An animal control agency that takes possession of an animal
34 pursuant to subdivision (c) shall keep records of the whereabouts
35 of the animal from the time of possession to the end of the animal's
36 impoundment, and those records shall be available for inspection
37 by the public upon request for three years after the date the animal's
38 impoundment ended.

39 (e) Notwithstanding any other provision of this section, any
40 peace officer, humane society officer, or any animal control officer

1 may, with the approval of his or her immediate superior, humanely
2 ~~destroy~~ *euthanize* any stray or abandoned animal in the field in
3 any case where the animal is too severely injured to move or where
4 a veterinarian is not available and it would be more humane to
5 dispose of the animal.

6 (f) Whenever an officer authorized under this section seizes or
7 impounds an animal based on a reasonable belief that prompt action
8 is required to protect the health or safety of the animal or the health
9 or safety of others, the officer shall, prior to the commencement
10 of any criminal proceedings authorized by this section, provide
11 the owner or keeper of the animal, if known or ascertainable after
12 reasonable investigation, with the opportunity for a postseizure
13 hearing to determine the validity of the seizure or impoundment,
14 or both.

15 (1) The agency shall cause a notice to be affixed to a
16 conspicuous place where the animal was situated or personally
17 deliver a notice of the seizure or impoundment, or both, to the
18 owner or keeper within 48 hours, excluding weekends and holidays.
19 The notice shall include all of the following:

20 (A) The name, business address, and telephone number of the
21 officer providing the notice.

22 (B) A description of the animal seized, including any
23 identification upon the animal.

24 (C) The authority and purpose for the seizure, or impoundment,
25 including the time, place, and circumstances under which the
26 animal was seized.

27 (D) A statement that, in order to receive a postseizure hearing,
28 the owner or person authorized to keep the animal, or his or her
29 agent, shall request the hearing by signing and returning an
30 enclosed declaration of ownership or right to keep the animal to
31 the agency providing the notice within 10 days, including weekends
32 and holidays, of the date of the notice. The declaration may be
33 returned by personal delivery or mail.

34 (E) A statement that the cost of caring for and treating any
35 animal properly seized under this section is a lien on the animal
36 and that the animal shall not be returned to the owner until the
37 charges are paid, and that failure to request or to attend a scheduled
38 hearing shall result in liability for this cost.

39 (2) The postseizure hearing shall be conducted within 48 hours
40 of the request, excluding weekends and holidays. The seizing

1 agency may authorize its own officer or employee to conduct the
2 hearing if the hearing officer is not the same person who directed
3 the seizure or impoundment of the animal and is not junior in rank
4 to that person. The agency may utilize the services of a hearing
5 officer from outside the agency for the purposes of complying with
6 this section.

7 (3) Failure of the owner or keeper, or of his or her agent, to
8 request or to attend a scheduled hearing shall result in a forfeiture
9 of any right to a postseizure hearing or right to challenge his or
10 her liability for costs incurred.

11 (4) The agency, department, or society employing the person
12 who directed the seizure shall be responsible for the costs incurred
13 for caring and treating the animal, if it is determined in the
14 postseizure hearing that the seizing officer did not have reasonable
15 grounds to believe very prompt action, including seizure of the
16 animal, was required to protect the health or safety of the animal
17 or the health or safety of others. If it is determined the seizure was
18 justified, the owner or keeper shall be personally liable to the
19 seizing agency for the cost of the seizure and care of the animal,
20 the charges for the seizure and care of the animal shall be a lien
21 on the animal, and the animal shall not be returned to its owner
22 until the charges are paid and the seizing agency or hearing officer
23 has determined that the animal is physically fit or the owner
24 demonstrates to the seizing agency's or the hearing officer's
25 satisfaction that the owner can and will provide the necessary care.

26 (g) Where the need for immediate seizure is not present and
27 prior to the commencement of any criminal proceedings authorized
28 by this section, the agency shall provide the owner or keeper of
29 the animal, if known or ascertainable after reasonable investigation,
30 with the opportunity for a hearing prior to any seizure or
31 impoundment of the animal. The owner shall produce the animal
32 at the time of the hearing unless, prior to the hearing, the owner
33 has made arrangements with the agency to view the animal upon
34 request of the agency, or unless the owner can provide verification
35 that the animal was humanely ~~destroyed~~ *euthanized*. Any person
36 who willfully fails to produce the animal or provide the verification
37 is guilty of an infraction, punishable by a fine of not less than two
38 hundred fifty dollars (\$250) nor more than one thousand dollars
39 (\$1,000).

1 (1) The agency shall cause a notice to be affixed to a
2 conspicuous place where the animal was situated or personally
3 deliver a notice stating the grounds for believing the animal should
4 be seized under subdivision (a) or (b). The notice shall include all
5 of the following:

6 (A) The name, business address, and telephone number of the
7 officer providing the notice.

8 (B) A description of the animal to be seized, including any
9 identification upon the animal.

10 (C) The authority and purpose for the possible seizure or
11 impoundment.

12 (D) A statement that, in order to receive a hearing prior to any
13 seizure, the owner or person authorized to keep the animal, or his
14 or her agent, shall request the hearing by signing and returning the
15 enclosed declaration of ownership or right to keep the animal to
16 the officer providing the notice within two days, excluding
17 weekends and holidays, of the date of the notice.

18 (E) A statement that the cost of caring for and treating any
19 animal properly seized under this section is a lien on the animal,
20 that any animal seized shall not be returned to the owner until the
21 charges are paid, and that failure to request or to attend a scheduled
22 hearing shall result in a conclusive determination that the animal
23 may properly be seized and that the owner shall be liable for the
24 charges.

25 (2) The preseizure hearing shall be conducted within 48 hours,
26 excluding weekends and holidays, after receipt of the request. The
27 seizing agency may authorize its own officer or employee to
28 conduct the hearing if the hearing officer is not the same person
29 who requests the seizure or impoundment of the animal and is not
30 junior in rank to that person. The agency may utilize the services
31 of a hearing officer from outside the agency for the purposes of
32 complying with this section.

33 (3) Failure of the owner or keeper, or his or her agent, to request
34 or to attend a scheduled hearing shall result in a forfeiture of any
35 right to a preseizure hearing or right to challenge his or her liability
36 for costs incurred pursuant to this section.

37 (4) The hearing officer, after the hearing, may affirm or deny
38 the owner's or keeper's right to custody of the animal and, if
39 reasonable grounds are established, may order the seizure or
40 impoundment of the animal for care and treatment.

1 (h) If any animal is properly seized under this section, the owner
2 or keeper shall be personally liable to the seizing agency for the
3 cost of the seizure and care of the animal. Furthermore, if the
4 charges for the seizure or impoundment and any other charges
5 permitted under this section are not paid within 14 days of the
6 seizure, or, if the owner, within 14 days of notice of availability
7 of the animal to be returned, fails to pay charges permitted under
8 this section and take possession of the animal, the animal shall be
9 deemed to have been abandoned and may be ~~disposed of~~ *humanely*
10 *ethanized* by the impounding officer.

11 (i) If the animal requires veterinary care and the humane society
12 or public agency is not assured, within 14 days of the seizure of
13 the animal, that the owner will provide the necessary care, the
14 animal shall not be returned to its owner and shall be deemed to
15 have been abandoned and may be disposed of by the impounding
16 officer. A veterinarian may ~~humanely—destroy~~ *ethanize* an
17 impounded animal without regard to the prescribed holding period
18 when it has been determined that the animal has incurred severe
19 injuries or is incurably crippled. A veterinarian also may
20 immediately ~~humanely—destroy~~ *ethanize* an impounded animal
21 afflicted with a serious contagious disease unless the owner or his
22 or her agent immediately authorizes treatment of the animal by a
23 veterinarian at the expense of the owner or agent.

24 (j) No animal properly seized under this section shall be returned
25 to its owner until, in the determination of the seizing agency or
26 hearing officer, the animal is physically fit or the owner can
27 demonstrate to the seizing agency's or hearing officer's satisfaction
28 that the owner can and will provide the necessary care.

29 (k) (1) Upon the conviction of a person charged with a violation
30 of this section, or Section 597 or 597a, all animals lawfully seized
31 and impounded with respect to the violation shall be adjudged by
32 the court to be forfeited and shall thereupon be transferred to the
33 impounding officer or appropriate public entity for proper adoption
34 or other disposition. A person convicted of a violation of this
35 section shall be personally liable to the seizing agency for all costs
36 of impoundment from the time of seizure to the time of proper
37 disposition. Upon conviction, the court shall order the convicted
38 person to make payment to the appropriate public entity for the
39 costs incurred in the housing, care, feeding, and treatment of the
40 seized or impounded animals. Each person convicted in connection

1 with a particular animal may be held jointly and severally liable
2 for restitution for that particular animal. The payment shall be in
3 addition to any other fine or sentence ordered by the court.

4 ~~The~~

5 (2) *The* court may also order, as a condition of probation, that
6 the convicted person be prohibited from owning, possessing, caring
7 for, or having any contact with, animals of any kind and require
8 the convicted person to immediately deliver all animals in his or
9 her possession to a designated public entity for adoption or other
10 lawful disposition or provide proof to the court that the person no
11 longer has possession, care, or control of any animals. In the event
12 of the acquittal or final discharge without conviction of the arrested
13 person, the court shall, on demand, direct the release of seized or
14 impounded animals upon a showing of proof of ownership. Any
15 questions regarding ownership shall be determined in a separate
16 hearing by the court where the criminal case was finally adjudicated
17 and the court shall hear testimony from any persons who may assist
18 the court in determining ownership of the animal. If the owner is
19 determined to be unknown or the owner is prohibited or unable to
20 retain possession of the animals for any reason, the court shall
21 order the animals to be released to the appropriate public entity
22 for adoption or other lawful disposition. This section is not intended
23 to cause the release of any animal, bird, reptile, amphibian, or fish,
24 seized or impounded pursuant to any other statute, ordinance, or
25 municipal regulation. This section shall not prohibit the seizure or
26 impoundment of animals as evidence as provided for under any
27 other provision of law.

28 (l) It shall be the duty of all peace officers, humane society
29 officers, and animal control officers to use all currently acceptable
30 methods of identification, both electronic and otherwise, to
31 determine the lawful owner or caretaker of any seized or
32 impounded animal. It shall also be their duty to make reasonable
33 efforts to notify the owner or caretaker of the whereabouts of the
34 animal and any procedures available for the lawful recovery of the
35 animal and, upon the owner's and caretaker's initiation of recovery
36 procedures, retain custody of the animal for a reasonable period
37 of time to allow for completion of the recovery process. Efforts to
38 locate or contact the owner or caretaker and communications with
39 persons claiming to be the owner or caretaker shall be recorded
40 and maintained and be made available for public inspection.

1 SEC. 16. Section 597.2 of the Penal Code is amended to read:

2 597.2. (a) It shall be the duty of an officer of ~~a pound~~ *an*
3 *animal shelter*, a humane society, or *an* animal regulation
4 department of a public agency to assist in a case involving the
5 abandonment or voluntary relinquishment of an equine by the
6 equine's owner. This section does not require ~~a pound~~ *an animal*
7 *shelter*, a humane society, or *an* animal regulation department of
8 a public agency to take actual possession of the equine.

9 (b) If ~~a pound~~ *an animal shelter*, a humane society, or *an* animal
10 regulation department of a public agency sells an equine at a private
11 or public auction or sale, it shall set the minimum bid for the sale
12 of the equine at a price above the current slaughter price of the
13 equine.

14 (c) (1) This section does not prohibit ~~a pound~~ *an animal shelter*,
15 a humane society, or *an* animal regulation department of a public
16 agency from placing an equine through an adoption program at an
17 adoption fee that may be set below current slaughter price.

18 (2) A person adopting an equine under paragraph (1) shall
19 submit a written statement declaring that the person is adopting
20 the equine for personal use and not for purposes of resale, resale
21 for slaughter, or holding or transporting the equine for slaughter.

22 SEC. 17. Section 597e of the Penal Code is amended to read:

23 597e. Any person who impounds, or causes to be impounded
24 in any ~~pound~~ *animal shelter*, any domestic animal, shall supply it
25 during ~~such~~ confinement with a sufficient quantity of good and
26 wholesome food and water, and in default thereof, is guilty of a
27 misdemeanor. In case any domestic animal is at any time so
28 impounded and continues to be without necessary food and water
29 for more than 12 consecutive hours, it is lawful for any person,
30 from time to time, as may be deemed necessary, to enter into and
31 upon any ~~pound~~ *animal shelter* in which the animal is confined,
32 and supply it with necessary food and water so long as it remains
33 so confined. ~~Such~~ That person is not liable for the entry and may
34 collect the reasonable cost of the food and water from the owner
35 of the animal, and the animal is subject to enforcement of a money
36 judgment for the reasonable cost of ~~such~~ food and water.

37 SEC. 18. Section 597f of the Penal Code is amended to read:

38 597f. (a) Every owner, driver, or possessor of any animal, who
39 permits the animal to be in any building, enclosure, lane, street,
40 square, or lot, of any city, city and county, or judicial district,

1 without proper care and attention, shall, on conviction, be deemed
2 guilty of a misdemeanor. And it shall be the duty of any peace
3 officer, officer of the humane society, or officer of ~~a pound~~ *an*
4 *animal shelter* or animal regulation department of a public agency,
5 to take possession of the animal so abandoned or neglected and
6 care for the animal until it is redeemed by the owner or claimant,
7 and the cost of caring for the animal shall be a lien on the animal
8 until the charges are paid. Every sick, disabled, infirm, or crippled
9 animal, except a dog or cat, which shall be abandoned in any city,
10 city and county, or judicial district, may, if after due search no
11 owner can be found therefor, be ~~killed~~ *humanely euthanized* by
12 the officer; and it shall be the duty of all peace officers, an officer
13 of ~~such~~ *that* society, or officer of ~~a pound~~ *an animal shelter* or
14 animal regulation department of a public agency to cause the
15 animal to be ~~killed~~ *humanely euthanized* on information of ~~such~~
16 *that* abandonment. The officer may likewise take charge of any
17 animal, including a dog or cat, that by reason of lameness, sickness,
18 feebleness, or neglect, is unfit for the labor it is performing, or that
19 in any other manner is being cruelly treated; and, if the animal is
20 not then in the custody of its owner, the officer shall give notice
21 thereof to the owner, if known, and may provide suitable care for
22 the animal until it is deemed to be in a suitable condition to be
23 delivered to the owner, and any necessary expenses which may be
24 incurred for taking care of and keeping the animal shall be a lien
25 thereon, to be paid before the animal can be lawfully recovered.

26 (b) (1) It shall be the duty of all officers of ~~pounds~~ *animal*
27 *shelters* or humane societies, and animal regulation departments
28 of public agencies to convey, and for police and sheriff
29 departments, to cause to be conveyed all injured cats and dogs
30 found without their owners in a public place directly to a
31 veterinarian known by the officer or agency to be a veterinarian
32 that ordinarily treats dogs and cats for a determination of whether
33 the animal shall be immediately and humanely ~~destroyed~~
34 *euthanized* or shall be hospitalized under proper care and given
35 emergency treatment.

36 If
37 (2) *If* the owner does not redeem the animal within the locally
38 prescribed waiting period, the veterinarian may personally perform
39 euthanasia on the animal; or, if the animal is treated and recovers
40 from its injuries, the veterinarian may keep the animal for purposes

1 of adoption, provided the responsible animal control agency has
2 first been contacted and has refused to take possession of the
3 animal.

4 ~~Whenever~~

5 (3) *Whenever* any animal is transferred pursuant to this
6 subdivision to a veterinarian in a clinic, such as an emergency
7 clinic which is not in continuous operation, the veterinarian may,
8 in turn, transfer the animal to an appropriate facility.

9 ~~If~~

10 (4) *If* the veterinarian determines that the animal shall be
11 hospitalized under proper care and given emergency treatment,
12 the costs of any services which are provided pending the owner's
13 inquiry to the agency, department, or society shall be paid from
14 the dog license fees, fines, and fees for impounding dogs in the
15 city, county, or city and county in which the animal was licensed
16 or if the animal is unlicensed the jurisdiction in which the animal
17 was found, subject to the provision that this cost be repaid by the
18 animal's owner. No veterinarian shall be criminally or civilly liable
19 for any decision which he or she makes or services which he or
20 she provides pursuant to this section.

21 (c) An animal control agency which takes possession of an
22 animal pursuant to subdivision (b), shall keep records of the
23 whereabouts of the animal for a 72-hour period from the time of
24 possession and those records shall be available to inspection by
25 the public upon request.

26 (d) Notwithstanding any other provisions of this section, any
27 officer of ~~a pound~~ *an animal shelter* or animal regulation
28 department or humane society, or any officer of a police or sheriff's
29 department may, with the approval of his or her immediate
30 superior, ~~humanely destroy~~ *humanely euthanize* any abandoned animal in
31 the field in any case where the animal is too severely injured to
32 move or where a veterinarian is not available and it would be more
33 humane to ~~dispose of~~ *euthanize* the animal.

34 SEC. 19. Section 597u of the Penal Code is amended to read:

35 597u. (a) No person, peace officer, officer of a humane society,
36 or officer of ~~a pound~~ *an animal shelter* or animal regulation
37 department of a public agency shall kill any animal by using any
38 of the following methods:

39 (1) Carbon monoxide gas.

1 (2) Intracardiac injection of a euthanasia agent on a conscious
2 animal, unless the animal is heavily sedated or anesthetized in a
3 humane manner, or comatose, or unless, in light of all the relevant
4 circumstances, the procedure is justifiable.

5 (b) With respect to the killing of any dog or cat, no person,
6 peace officer, officer of a humane society, or officer of ~~a pound~~
7 *an animal shelter* or animal regulation department of a public
8 agency shall use any of the methods specified in subdivision (a)
9 or any of the following methods:

10 (1) High-altitude decompression chamber.

11 (2) Nitrogen gas

12 SEC. 20. Section 597v of the Penal Code is amended to read:

13 597v. No person, peace officer, officer of a humane society,
14 or officer of ~~a pound~~ *an animal shelter* or animal regulation
15 department of a public agency shall kill any newborn dog or cat
16 whose eyes have not yet opened by any other method than by the
17 use of chloroform vapor or by inoculation of barbiturates.

18 SEC. 21. Section 599e of the Penal Code is amended to read:

19 599e. Every animal which is unfit, by reason of its physical
20 condition, for the purpose for which ~~such~~ *those* animals are usually
21 employed, and when there is no reasonable probability of ~~such~~
22 *that* animal ever becoming fit for the purpose for which it is usually
23 employed, shall be by the owner or lawful possessor of the same,
24 deprived of life within 12 hours after being notified by any peace
25 officer, officer of said society, or employee of ~~a pound~~ *an animal*
26 *shelter* or animal regulation department of a public agency who is
27 a veterinarian, to kill the same, and ~~such~~ *the* owner, possessor, or
28 person omitting or refusing to comply with the provisions of this
29 section shall, upon conviction, be deemed guilty of a misdemeanor,
30 and after ~~such~~ *that* conviction the court or magistrate having
31 jurisdiction of ~~such~~ *that* offense shall order any peace officer,
32 officer of said society, or officer of ~~a pound~~ *an animal shelter* or
33 animal regulation department of a public agency, to immediately
34 kill ~~such~~ *that* animal; provided, that this shall not apply to ~~such~~ *an*
35 owner keeping any old or diseased animal belonging to him *or her*
36 on his *or her* own premises with proper care.

O