

AMENDED IN ASSEMBLY MAY 16, 2013

AMENDED IN ASSEMBLY MAY 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 339

Introduced by Assembly Member Dickinson

February 13, 2013

An act to add Chapter 10 (commencing with Section 122370) to Part 6 of Division 105 of the Health and Safety Code, relating to the sale of animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as amended, Dickinson. Sale of animals at swap meets.

Existing law generally regulates the operation of swap meets, flea markets, and open-air markets where personal property is exchanged, sold, or offered for sale or exchange. Existing law also regulates food vendors operating at swap meets.

This bill would authorize, subject to exceptions and commencing January 1, 2016, a swap meet operator to permit a vendor to offer animals for sale at a swap meet provided the local jurisdiction has adopted certain standards for the care and treatment of those animals during the time that the animals are present at the swap meet and transported to and from the swap meet. These provisions would not apply to the sale of a particular species of animal if a local jurisdiction has adopted a local ordinance prior to January 1, 2013, that applies specifically to the sale of that particular species of animal at swap meets. The bill would provide that a swap meet vendor who offers animals for sale at a swap meet in violation of the requirements of this bill would be guilty of an infraction punishable by a fine not to exceed \$250 for

the first violation, or, if the animal suffers or is endangered, or for a 2nd or subsequent violation, a fine not to exceed \$1,000. By creating new crimes, the 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. Chapter 10 (commencing with Section 122370)
2 is added to Part 6 of Division 105 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 10. SALE OF ANIMALS AT SWAP MEETS
6

7 122370. A swap meet operator may permit a vendor to offer
8 animals for sale at a swap meet provided the local jurisdiction has
9 adopted standards for the care and treatment of those animals
10 during the time that the animals are present at the swap meet and
11 transported to and from the swap meet. This chapter does not apply
12 to the sale of a particular species of animal if a local jurisdiction
13 has adopted a local ordinance prior to January 1, 2013, that applies
14 specifically to the sale of that particular species of animal at swap
15 meets.

16 122371. Any ordinance adopted pursuant to Section 122370
17 shall, at a minimum, require the swap meet vendor to do all of the
18 following:

- 19 (a) Maintain the facilities used for the keeping of animals in a
20 sanitary condition.
- 21 (b) Provide proper heating and ventilation for the facilities used
22 for the keeping of animals.
- 23 (c) Provide adequate nutrition for, and humane care and
24 treatment of, all animals that are under his or her care and control.
- 25 (d) Take reasonable care to release for sale, trade, or adoption
26 only those animals that are free of disease or injuries.

1 (e) Provide adequate space appropriate to the size, weight, and
2 species of animals.

3 (f) Have a documented program of routine care, preventative
4 care, emergency care, disease control and prevention, and
5 veterinary treatment and euthanasia that is established and
6 maintained by the vendor in consultation with a licensed
7 veterinarian employed by the vendor or a California-licensed
8 veterinarian, to ensure adherence to the program with respect to
9 each animal. The program shall also include a documented onsite
10 visit to the swap meet premises by a California-licensed
11 veterinarian at least once a year.

12 (g) Provide buyers of an animal with general written
13 recommendations for the generally accepted care of the type of
14 animal sold, including recommendations as to the housing,
15 equipment, cleaning, environment, and feeding of the animal. This
16 written information shall be in a form determined by the vendor
17 and may include references to Internet Web sites, books, pamphlets,
18 videos, and compact discs.

19 (h) Present for inspection and display a current business license
20 issued by the local jurisdiction where the animals are principally
21 housed.

22 (i) Maintain records for identification purposes of the person
23 from whom the animals offered for sale were acquired, including
24 that person's name, address, e-mail address, and telephone number
25 and the date the animals were acquired.

26 122372. (a) (1) A swap meet vendor who offers animals for
27 sale at a swap meet in a local jurisdiction that has not adopted an
28 ordinance authorizing that sale, is guilty of an infraction punishable
29 by a fine not to exceed two hundred fifty dollars (\$250).

30 (2) A swap meet vendor who (A) violates paragraph (1) for the
31 first time and by that violation either causes or permits any animal
32 to suffer or be injured, or causes or permits any animal to be placed
33 in a situation in which its life or health may be endangered, or (B)
34 violates paragraph (1) for a second or subsequent time, is guilty
35 of an infraction punishable by a fine not to exceed one thousand
36 dollars (\$1,000) per violation. The court shall weigh the gravity
37 of the violation in setting the amount of the fine.

38 (3) *Nothing in paragraph (2) shall preclude punishment under*
39 *any other provision of law, including, but not limited to, laws*

1 *prohibiting the abuse or neglect of animals in the Health and Safety*
2 *Code or the Penal Code.*

3 (b) A notice describing the charge and the penalty for a violation
4 of this section may be issued by any peace officer, animal control
5 officer, as defined in Section 830.9, or humane officer qualified
6 pursuant to Section 14502 or 14503 of the Corporations Code.

7 122373. This chapter shall not apply to the following:

8 (a) Events held by 4-H Clubs, Junior Farmers Clubs, or Future
9 Farmers Clubs.

10 (b) The California Exposition and State Fair, district agricultural
11 association fairs, or county fairs.

12 (c) Stockyards with respect to which the Secretary of the United
13 States Department of Agriculture has posted notice that the
14 stockyards are regulated by the federal Packers and Stockyards
15 Act of 1921 (7 U.S.C. Sec. 181 et seq.).

16 (d) The sale of cattle on consignment at any public cattle sales
17 market, the sale of sheep on consignment at any public sheep sales
18 market, the sale of swine on consignment at any public swine sales
19 market, the sale of goats on consignment at any public goat sales
20 market, and the sale of equines on consignment at any public
21 equine sales market.

22 (e) Live animal markets regulated under Section 597.3 of the
23 Penal Code.

24 (f) A public animal control agency or shelter, society for the
25 prevention of cruelty to animals shelter, humane society shelter,
26 or rescue group regulated under Division 14 (commencing with
27 Section 30501) of the Food and Agricultural Code. For purposes
28 of this section, “rescue group” is a not-for-profit entity whose
29 primary purpose is the placement of dogs, cats, or other animals
30 that have been removed from a public animal control agency or
31 shelter, society for the prevention of cruelty to animals shelter, or
32 humane society shelter, or that have been surrendered or
33 relinquished to the entity by the previous owner.

34 (g) The sale of fish or shellfish, live or dead, from a fishing
35 vessel or registered aquaculture facility, at a pier or wharf, or at a
36 farmer’s market by any licensed commercial fisherman or an owner
37 or employee of a registered aquaculture facility to the public for
38 human consumption.

39 (h) A cat show, dog show, or bird show, provided that all of the
40 following circumstances exist:

1 (1) The show is validly permitted by the city or county in which
2 the show is held.

3 (2) The show's sponsor or permittee ensures compliance with
4 all federal, state, and local animal welfare and animal control laws.

5 (3) The participant has written documentation of the payment
6 of a fee for the entry of his or her cat, dog, or bird in the show.

7 (4) The sale of a cat, dog, or bird occurs only on the premises
8 and within the confines of the show.

9 (5) The show is a competitive event where the cats, dogs, or
10 birds are exhibited and judged by an established standard or set of
11 ideals established for each breed or species.

12 (i) A pet store as defined in subdivision (i) of Section 122350.

13 (j) Any reptile and aquatic trade show, provided all of the
14 following circumstances exist:

15 (1) The show is validly permitted by the city or county in which
16 the show is held.

17 (2) The show's sponsor or permittee ensures compliance with
18 all federal, state, and local animal welfare and animal control laws.

19 122374. This chapter shall become operative on January 1,
20 2016.

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