

AMENDED IN SENATE JUNE 12, 2013

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
(Coauthor: Assembly Member Mansoor)
(Coauthors: Senators Block and Hill)

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.

1 (d) Take reasonable care to release for sale, trade, or adoption
2 only those animals that are free of disease or injuries.

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

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

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

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

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

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

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

(3) Nothing in paragraph (2) shall preclude punishment under any other provision of law, including, but not limited to, laws prohibiting the abuse or neglect of animals in the Health and Safety Code or the Penal Code.

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

122373. This chapter shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (j) Any reptile ~~and~~ or aquatic trade show, provided all of the
16 following circumstances exist:

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

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

21 122374. This chapter shall become operative on January 1,
22 2016.

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