

Assembly Bill No. 1388

Passed the Assembly May 23, 2013

Chief Clerk of the Assembly

Passed the Senate July 8, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 9641.5, 24000, 24001, 24004, 24005, 24006, 24008, 24009, 24011, 24012, and 24015 of, to amend and repeal Section 24011.5 of, and to add Section 24011.6 to, the Food and Agricultural Code, relating to horses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1388, Committee on Agriculture. Horses: test verification, horse shows, competitions, and sales.

(1) Existing law requires any horse or other Equidae brought into this state to be accompanied by a certificate of health and verification that the horse or Equidae has been tested within the preceding 6 months and found negative to a test for equine infectious anemia, except as otherwise specified. A violation of those provisions is a crime.

This bill would instead require verification that a horse or other Equidae has been tested, and found negative, for equine infectious anemia within the preceding 12 months.

(2) Existing law provides for the regulation of horse shows, competitions, or sales by the Secretary of Food and Agriculture, and defines public horse shows, competitions, or sales for those purposes. Existing law provides that a trainer or owner of a horse, or both, are responsible for complying with the provisions regulating horse shows, competitions, and sales, and makes a trainer or owner responsible for complying with specified requirements after any course of medical therapy has been administered or prescribed by a licensed veterinarian who is employed to examine or treat a horse pursuant to those provisions. Existing law generally requires every horse show, competition, or sale to be registered with the Department of Food and Agriculture, and requires an event manager to file a completed registration form with the department at least 30 days prior to the beginning of the event. A violation of the provisions relating to horse shows, competitions, or sales is a crime.

This bill would instead define events that are subject to those provisions as “public equine events” and “public horse sales,” as specified. The bill would specify that the trainer and owner are

both responsible for compliance with the requirements regarding the administration of medical therapy after the licensed veterinarian is employed by either the trainer or owner. By expanding the scope of a crime, the bill would impose a state-mandated local program. The bill would extend the deadline for registration for an event by an event manager from 30 days to 60 days before the beginning of the event.

(3) Existing law makes the provisions regulating horse shows and competitions inapplicable to public horse shows and competitions that do not last longer than a day and in which the cumulative fees do not exceed \$4.99.

This bill would instead make the provisions regulating public equine events inapplicable to events where the entry fee for a single, one-day event does not exceed \$4.99, and any other fees charged do not exceed \$19.99.

(4) Existing law authorizes the therapeutic administration of nonsteroidal anti-inflammatory drugs (NSAIDs), prior to and during all events except public auctions, provided that the dosage does not exceed limits established by regulation. Existing law establishes the maximum detectable plasma levels for certain NSAIDs for those purposes.

This bill would require the department to establish, by regulation, an approved therapeutic medications list and maximum detectable plasma levels on or before July 1, 2014, and would repeal the provisions establishing the maximum detectable plasma levels specified by statute on that date.

(5) This bill would also make other technical and conforming changes.

(6) 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.

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

SECTION 1. Section 9641.5 of the Food and Agricultural Code is amended to read:

9641.5. (a) Any horse or other Equidae brought into this state shall be accompanied by the following:

(1) A certificate of health from the state of origin issued by an accredited veterinarian. The certificate shall state that the horse or other Equidae is free from evidence of any communicable disease.

(2) Verification that any horse or Equidae has been tested within the preceding 12 months and found negative to a test for equine infectious anemia. The test shall be approved by the secretary and conducted by a laboratory approved by the United States Department of Agriculture, and the necessary sample shall be taken, and the verification signed by, an accredited veterinarian.

(b) A nursing foal of less than six months of age when accompanied by a negative dam and any horse or other Equidae consigned for immediate slaughter shall be exempt from the testing requirements of this section.

(c) Any horse or other Equidae moved from California to another state for a period of not more than 14 days, is exempt from this section upon returning to California, provided that the exemption does not apply to any horse or other Equidae that leaves the continental United States.

SEC. 2. Section 24000 of the Food and Agricultural Code is amended to read:

24000. The Legislature finds and declares the following:

(a) That the public has a valuable interest in public equine events and public horse sales.

(b) That it is the intent of this chapter to ensure the integrity of public equine events and public horse sales through the control of performance and disposition enhancing medications while limiting permitted therapeutic usage at horse shows and competitions.

SEC. 3. Section 24001 of the Food and Agricultural Code is amended to read:

24001. For purposes of this chapter:

(a) “Event” means a public equine event or public horse sale that is held in the state, including a cutting horse competition, an endurance riding competition, a competitive trail competition, or any other competition as determined by the department by regulation.

(b) An equine event that is subject to the provisions of this chapter shall meet all of the following criteria:

(1) Money, goods, or services are exchanged for the right to compete.

(2) Individuals compete for a single set of placings, points, or awards at the equine event.

(3) For one-day events, the entry fee to enter a single class exceeds four dollars and ninety-nine cents (\$4.99), and either no other fees are charged or other fees charged exceed nineteen dollars and ninety-nine cents (\$19.99). Fees charged may include ground fees, stall fees, or any other fees composed of money, goods, or services assessed to permit competitors to enter into the event.

(c) Sales that are subject to the provisions of this chapter are public sales that permit a horse to be consigned for public sale.

(d) The following events are excluded from this chapter:

(1) Competitions subject to the jurisdiction of the California Horse Racing Board.

(2) Sales consisting solely of racing stock.

(3) Parade horse competitions.

(4) A timed rodeo-related performance competition when held apart from a horse show, including, but not limited to, rodeo, roping club, cattle team penning, barrel racing, and gymkhana.

(e) “Event manager” means the person in charge of an event, including the entity or individual financially responsible for the event that is responsible for registering the event with the department, and who is responsible for the assessment, collection, and remittance of fees. “Event manager” includes horse show secretaries and managers, competitive event managers, and horse sale managers and sale owners.

(f) “Horse” means all horses, mules, and asses.

(g) “Licensed veterinarian” means a person licensed as a veterinarian by the State of California.

(h) “Prohibited substance” means a stimulant, depressant, tranquilizer, anesthetic, including any local anesthetic, sedative analgesic, corticosteroid, anabolic steroid, or agent that would sore a horse, that could affect the performance, soundness, or disposition of a horse, or any drug, regardless of how harmless or innocuous it might otherwise be, that could interfere with the detection of any prohibited substance, including any metabolite or derivative of any prohibited substance.

(i) “NSAID” means a nonsteroidal anti-inflammatory drug.

(j) “Therapeutic administration” means the administration of a drug or medicine that is necessary for the treatment of an illness or injury diagnosed by a licensed veterinarian. The administration of a prescription drug or medicine shall only be as given or prescribed by the licensed veterinarian. The administration of a nonprescription drug or medicine shall be in accordance with the directions on the manufacturer’s label.

(k) “Exempt medication” means an oral or topical medication containing prohibited substances determined by the department to be exempt from this chapter when administered therapeutically.

(l) “Public equine event” means a horse show or competition that permits a person to enter a horse for show or competition in exchange for money, goods, or services. Any club or group that permits people to join or enter into competition in exchange for money, goods, or services, is “public” for purposes of this chapter.

(m) “Public horse sale” is a sale that consigns a horse in exchange for money, goods, or services, excluding sales consisting solely of racing stock.

(n) “Stimulant or depressant” means a medication that stimulates or depresses the circulatory, respiratory, or central or peripheral nervous system.

(o) To “sore” means to apply an irritating or blistering agent internally or externally for the purpose of affecting the performance, soundness, or disposition of a horse.

(p) “Trainer” means a person who has the responsibility for the care, training, custody, or performance of a horse, including, but not limited to, a person who signs any entry blank of a public equine event or public horse sale, whether that person is an owner, rider, agent, coach, adult, or minor.

SEC. 4. Section 24004 of the Food and Agricultural Code is amended to read:

24004. A horse shall not be shown in any class at an event if it has been administered in any manner a prohibited substance in violation of this chapter.

SEC. 5. Section 24005 of the Food and Agricultural Code is amended to read:

24005. The trainer or owner, or both the trainer and owner, in the absence of substantial evidence to the contrary, is responsible for a horse’s condition and is charged with knowledge of the provisions contained in this chapter and the rules and regulations

adopted pursuant to this chapter. If a trainer is prevented from performing his or her duties, including responsibility for the condition of a horse in his or her care, by illness or other cause, or is absent from any event where a horse under his or her care is entered and stabled, the trainer shall immediately notify the secretary or manager of the event, and at the same time a substitute shall be appointed by the trainer. The substitute shall place his or her name on the entry blank at that time. The substitute shall have the same responsibilities as the substituted trainer would have had for the condition of any horse in his or her care.

SEC. 6. Section 24006 of the Food and Agricultural Code is amended to read:

24006. A trainer, owner, or both the trainer and owner, event manager, or any person who administers, attempts to administer, instructs, authorizes, aids, conspires with another to administer, or employs anyone who administers or attempts to administer a prohibited substance to a horse in violation of this chapter shall be subject to the penalties provided in this chapter that are applicable to the trainer or owner. The trainer and owner are both responsible for complying with this chapter after any course of medical therapy has been administered or prescribed by a licensed veterinarian employed by either the trainer or owner to examine and treat a horse. A licensed veterinarian who is employed by a trainer or owner to examine and treat a horse is not subject to the penalties provided in this chapter solely on account of that examination and treatment or prescription.

SEC. 7. Section 24008 of the Food and Agricultural Code is amended to read:

24008. A horse at an event is subject to examination under the direction of a licensed veterinarian of the department or agent of the licensed veterinarian. The appointed licensed veterinarian, with the approval of the department, may appoint technicians and agents to perform certain duties under this chapter that are not prohibited by other provisions of law. The examination may include physical, urine, or blood tests, or any other test or procedure at the discretion of the licensed veterinarian, that is necessary to effectuate the purposes of this chapter. Any or all horses in or from a class or all classes in an event or any horse entered into or from any class or competition or sale, whether in competition or not, if the horse is on the show or sale grounds, or any horse withdrawn by any person

or trainer within 24 hours before a class for which it has been entered as well as any horse withdrawn from any horse sale, may be examined.

SEC. 8. Section 24009 of the Food and Agricultural Code is amended to read:

24009. Whether a horse is in competition or not, refusal to submit a horse in an event for examination, or refusal to cooperate with the licensed veterinarian, or his or her technicians and agents, shall constitute a violation of, and subject the responsible person to, the same penalties that are applicable to prohibited substances or NSAIDs under Section 24007. A suitable sample shall be collected from a horse selected for testing by a drug testing agent of the department unless the agent releases the horse from testing.

SEC. 9. Section 24011 of the Food and Agricultural Code is amended to read:

24011. (a) A horse that has received a prohibited substance shall not be eligible for show, competition, or sale, unless the following requirements have been met and the facts requested are submitted to the department in writing:

(1) Medication shall be therapeutic and necessary for treatment of an illness or injury.

(2) A horse shall be withdrawn from a show or competition for a period of not less than 24 hours after a prohibited substance is administered, unless the department determines a different withdrawal period for a specific prohibited substance or class of substances. A horse shall be withdrawn from a public sale for a period of not less than 72 hours after a prohibited substance or NSAID is administered. The withdrawal period for anabolic steroids is 90 days after administration and the withdrawal period for fluphenazine or reserpine is 45 days after administration.

(3) The medication shall be administered by a licensed veterinarian, the trainer, or owner.

(4) Medication shall be identified as to the amount, strength, and mode of administration.

(5) The statement shall include the date and time of administration of the medication.

(6) The horse shall be identified by its name, age, sex, color, and entry number.

(7) The statement shall contain the diagnosis of the attending veterinarian and reason for administering the medication.

(8) The statement shall be signed by the person administering the medication.

(9) The statement shall be filed with the event manager of the public equine event or general manager of the public horse sale within one hour after administration or one hour after the event manager of the event returns to duty, if administration is at a time other than during show or sale hours.

(10) The statement shall be signed by the event manager or his or her designated representative and time of receipt recorded on the statement by the event manager or his or her designated representative.

(b) If the chemical analysis of the sample taken from a horse treated indicates the presence of a prohibited substance and all the requirements of this section have been fully complied with, the information contained in the medication report and any other relevant evidence shall be considered at any hearing provided under this chapter in determining whether any provision of this chapter has been violated.

SEC. 10. Section 24011.5 of the Food and Agricultural Code is amended to read:

24011.5. (a) The therapeutic administration of NSAIDs is permitted before and during all events except public auctions, provided that the dosage or combined dosages do not exceed any limits established by regulation. However, at public equine events, the maximum number of detectable NSAIDs by laboratory analysis shall be limited to two, except that phenylbutazone and flunixin are not permitted in the same plasma or urine sample. Additionally, the maximum detectable plasma levels for the following NSAIDs are:

- (1) 15.0 micrograms per milliliter of phenylbutazone.
- (2) 1.0 micrograms per milliliter of flunixin.
- (3) 0.250 micrograms per milliliter of ketoprofen.
- (4) 2.5 micrograms per milliliter of meclofenamic acid.
- (5) 40 micrograms per milliliter of naproxen.
- (6) 0.1 micrograms per milliliter of eltenac, upon approval of eltenac by the FDA.

(b) This section is repealed on July 1, 2014.

SEC. 11. Section 24011.6 is added to the Food and Agricultural Code, to read:

24011.6. (a) The therapeutic administration of NSAIDs is permitted before and during all events except public auctions, provided that the dosage does not exceed any limits established by the department by regulation.

(b) On or before July 1, 2014, the department shall establish, by regulation, the approved therapeutic medications list and maximum detectable plasma levels.

SEC. 12. Section 24012 of the Food and Agricultural Code is amended to read:

24012. (a) (1) To provide funds for enforcement of this chapter, the event manager of every event shall charge and collect the applicable fee for each horse entered or exhibited in the event, and each horse consigned for public sale. The secretary may, by regulation, set the applicable fee, in consultation with the advisory committee appointed pursuant to Section 24013.5, at an amount necessary to carry out this chapter. An event manager shall be notified of the applicable fee at the time of registration of an event. The event manager of the registered event shall remit the fee established pursuant to this section, in addition to the completed assessment report for the registered event, as prescribed by the secretary, to the department within 15 days after completion of the event. The event manager shall maintain event records for a period of two years after the completion of the event. Upon request by the department, the event records shall be made available to the department for inspection and photocopying to enable verification of appropriate fee collection and remittance.

(2) Notwithstanding Section 24001, a show event held over multiple consecutive days, with a different judge on each day, that is registered and managed by the same event manager on the same premises, shall be considered one event for the purpose of the assessment of the fee.

(b) An event manager who does not pay to the department the full amount that is due pursuant to this section shall pay a civil penalty of 10 percent of the amount due plus interest at the rate of 1 ½ percent per month of the unpaid balance computed from the date of the event. The event manager is personally liable for fees and penalties owed the department pursuant to this section.

(c) Fees and penalties collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund. All funds received by the department from fees and penalties pursuant

to this section shall be used exclusively to carry out the intent and purpose of this chapter, including, but not limited to, pharmacological studies, drug testing, and drug research, inspection for drugs, prosecution of alleged offenders, administrative costs, attorney's and expert witness fees, and any other costs necessary to carry out this chapter.

SEC. 13. Section 24015 of the Food and Agricultural Code is amended to read:

24015. (a) Every event shall be registered with the department, unless otherwise prescribed by the secretary by regulation. The event manager of an event shall file a completed registration form with the department, as prescribed by the secretary, at least 60 days before the beginning of the event, which shall constitute the registration of the event.

(b) An event manager who fails to register an event required to be registered pursuant to this chapter is subject to a civil penalty to be levied by the secretary in an amount not less than one hundred dollars (\$100) or more than two thousand five hundred dollars (\$2,500). In determining the amount of the penalty, the secretary shall consider any previous violations, and whether the event manager cooperated in good faith with the department.

(c) In addition to the civil penalty specified in subdivision (b), the secretary may, after notice and an opportunity for a hearing, suspend the event manager from hosting or managing a public equine event for a period of not less than 90 days or more than one year for each violation. It is unlawful for an event manager suspended from hosting or managing a public equine event by the secretary to conduct a public equine event during the period of suspension. An event manager suspended by the secretary from hosting or managing a public equine event, who hosts or manages a public equine event during the period of suspension, is subject to the civil penalty prescribed by subdivision (b) for each public equine event held during the period of suspension.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor