

AMENDED IN SENATE APRIL 22, 1998

SENATE BILL

No. 2102

Introduced by Senator Rosenthal

February 20, 1998

An act to *add Section 14504 to the Corporations Code, to add Sections 30503.1 and 31751.1 to the Food and Agricultural Code, to amend Sections 122045, 122050, 122060, 122125, and 122300 of, and to add Sections 122046, 122047, 122048, and 122111 to, the Health and Safety Code, and to amend Section 7102 of the Revenue and Taxation Code, relating to animals, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2102, as amended, Rosenthal. Dogs and cats: breeding and sale.

(1) Existing law regulates the sale of dogs by breeders and retail pet dealers by, among other things, defining the terms "breeder" and "pet dealer" for purposes of these provisions, and by imposing civil penalties on breeders who sell ill or diseased dogs.

This bill would redefine these terms and would increase these civil penalties.

The bill would require every breeder of dogs to pay a fee to obtain a breeder permit number from the Department of Consumer Affairs, would require the department, *among other things*, to provide the application form containing specified information and the breeder permit number, and would impose civil penalties on a breeder for failure to obtain a permit. It would also provide that all fees *and civil penalties*

collected by the department shall be deposited in the Dog Breeder's and Cat Spaying and Neutering Compliance Fund, created by this bill, and would continuously appropriate funds to the department, in accordance with a certain formula, for specified purposes *thereby making an appropriation*.

This bill would require every breeder of dogs, and every occasional breeder of dogs, as defined, who wants to sell a dog within this state to file with the Board of Equalization an application for a seller permit in accordance with specified tax provisions. It would prohibit a breeder of dogs from advertising for sale, trade, or fee, ~~or free~~, any dog without obtaining a breeder permit, would prohibit any person, except a publicly operated pound, humane society, or privately funded rescue organization, from selling, charging a fee for, trading, or giving away a dog in a public place, as defined, and would impose additional requirements with respect to the sale of dogs.

(2) Existing law permits the governing body of a local agency, by ordinance, to authorize employees of public pounds, societies for the prevention of cruelty to animals, and humane societies, who have qualified as humane officers, and which societies or pounds have contracted with the local agency to provide animal care or protection services, to issue notices to appear in court for violations of state or local animal control laws.

This bill would permit the governing body of a local agency, by ordinance, also to authorize employees of a shelter, pound, or humane society that contracts with a local agency to provide animal care or control services, or both, who have qualified as humane officers, to issue citations for failure to possess a valid breeder's permit.

(3) Existing law prohibits any public pound, society for the prevention of cruelty to animals shelter, or humane shelter from selling or giving away any dog or cat that has not been spayed or neutered unless a deposit for the spaying or neutering of the dog or cat has been tendered to the pound or shelter. Existing law also requires that any deposit not claimed shall be used for a number of specified purposes.

This bill, commencing January 1, 2000, would prohibit any shelter, pound, or humane society that contracts with a local



agency to provide animal care or control services, or both, from selling or giving away any dog or cat over 4 months of age that has not been spayed or neutered, and would prohibit deposits for spaying and neutering to be accepted or collected for this purpose, and would establish a procedure for a shelter, pound, or humane society to receive funding for spaying and neutering services from the Dog and Cat Spaying and Neutering Fund. The bill would permit deposits for spaying and neutering to be collected by shelters, pounds, and humane societies for dogs and cats 4 months of age or younger but would require that unclaimed deposits be used only to provide vouchers to the public for spaying and neutering services.

(4) The Sales and Use Tax Law specifies that revenues derived from the taxes imposed under that law be allocated first by certain revenue transfers for specified purposes and then by transfer of the remaining balance of revenues to the General Fund.

This bill would additionally require, ~~in each of the 1999-2000, 2000-2001, and 2001-2002 fiscal years,~~ prior to the transfer of the remaining balance of revenues to the General Fund, that those revenues derived under the Sales and Use Tax Law with respect to the retail sale of a dog or dogs be transferred to the Dog ~~Breeder's~~ *and Cat Spaying and Neutering Compliance Fund* in an amount not to exceed the amount that, when combined with all other moneys deposited in that fund during the same fiscal year, equals a total of ~~\$12,000,000~~ \$2,000,000. By requiring the deposit of moneys into a continuously appropriated fund, this bill would make an appropriation.

~~(3)~~

(5) This bill, in addition, would appropriate \$330,000 from the General Fund to be allocated in equal amounts to both the Department of Consumer Affairs and the Board of Equalization for the 1998-99 fiscal year for purposes of startup costs associated with the enactment of these provisions, and would appropriate ~~\$90,000~~ \$600,000 annually from the General Fund to be allocated in ~~equal~~ *specified* amounts to both the department and the board for costs associated with



the continued implementation, *monitoring, and enforcement* of these provisions.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. *Section 14504 is added to the*
 2 *Corporations Code, to read:*

3 14504. (a) *The governing body of a local agency, by*
 4 *ordinance, may authorize employees of a shelter, pound,*
 5 *or humane society that contracts with a local agency to*
 6 *provide animal care or control services, or both, who have*
 7 *qualified as humane officers pursuant to Section 14502, to*
 8 *issue citations for failure to possess a valid breeder's*
 9 *permit in violation of Section 122046 of the Health and*
 10 *Safety Code. Those employees shall not be authorized to*
 11 *take any person into custody even though the person to*
 12 *whom the notice is delivered does not give his or her*
 13 *written promise to appear at a hearing. The authority of*
 14 *these employees is limited to the jurisdiction of the local*
 15 *agency authorizing the employees.*

16 (b) *Citations issued pursuant to subdivision (a) shall*
 17 *be reported to the Department of Consumer Affairs*
 18 *which, upon proper notice and hearing, shall impose civil*
 19 *penalties. Civil penalties shall be deposited in the Dog*
 20 *and Cat Spay and Neuter Fund in the State Treasury in*
 21 *accordance with Section 122046 of the Health and Safety*
 22 *Code.*

23 SEC. 2. *Section 30503.1 is added to the Food and*
 24 *Agricultural Code, to read:*

25 30503.1. (a) (1) *Notwithstanding Section 30503, any*
 26 *shelter, pound, or humane society that contracts with a*
 27 *local agency to provide animal care or control services, or*
 28 *both, shall not sell or give away any dog over four months*
 29 *of age that has not been spayed or neutered, and no*
 30 *deposits for spaying and neutering services shall be*
 31 *accepted or collected. Funding for spaying and neutering*
 32 *services provided in order to comply with this subdivision*
 33 *shall be made in accordance with procedures established*



1 *under this section and Section 122046 of the Health and*
2 *Safety Code.*

3 *(2) The application for funding for spaying and*
4 *neutering services shall include the prior year's adoption*
5 *figures of the shelter, pound, or humane society and the*
6 *dollar amount the entity is requesting for spay and*
7 *neutering services. Additional funds may be requested if*
8 *the shelter, pound, or humane society has expanded an*
9 *existing spay and neuter program that will be in effect in*
10 *the year for which the additional funding is requested.*
11 *Each shelter, pound, or humane society shall keep*
12 *records of the number of all dogs spayed and neutered*
13 *prior to release.*

14 *(b) Notwithstanding Section 30503, no shelter, pound,*
15 *or humane society that contracts with a local agency to*
16 *provide animal care or control services, or both, shall sell*
17 *or give away any dog four months of age or younger that*
18 *has not been spayed or neutered unless a deposit for*
19 *spaying or neutering the dog has been tendered to the*
20 *shelter, pound, or humane society. The deposit shall be in*
21 *the amount determined by the shelter, pound, or humane*
22 *society to be comparable to the lowest fee charged by*
23 *veterinarians in the locale, but shall not exceed forty*
24 *dollars (\$40). A veterinarian shall perform the operation.*
25 *If a female dog and her puppies are sold or given away to*
26 *one individual, only a single deposit shall be required. The*
27 *shelter, pound, or humane society may make appropriate*
28 *arrangements for the spaying or neutering of the dog, or*
29 *may return the deposit to the person purchasing or*
30 *receiving the dog upon presentation of a written*
31 *statement or receipt from the veterinarian or clinic that*
32 *the dog has been spayed or neutered.*

33 *(c) Any dog four months of age or younger at the time*
34 *it is sold or given away by the shelter, pound, or humane*
35 *society shall be spayed or neutered within six months, or*
36 *the deposit shall be deemed unclaimed.*

37 *(d) Any deposit not claimed under subdivision (c)*
38 *shall be used only to provide vouchers to the public for*
39 *spaying or neutering services.*



1 (e) Any shelter, pound, or humane society that
2 contracts with a local agency to provide animal care or
3 control services, or both, may enter into cooperative
4 agreements with each other and with veterinarians in
5 carrying out this section.

6 (f) This section shall be operative on January 1, 2000.

7 SEC. 3. Section 31751.1 is added to the Food and
8 Agricultural Code, to read:

9 31751.1. (a) (1) Notwithstanding Section 31751, any
10 shelter, pound, or humane society that contracts with a
11 local agency to provide animal care or control services, or
12 both, shall not sell or give away any cat over four months
13 of age that has not been spayed or neutered, and no
14 deposits for spaying and neutering services shall be
15 accepted or collected. Funding for spaying and neutering
16 services provided in order to comply with this subdivision
17 shall be made in accordance with procedures established
18 under this section and Section 122046 of the Health and
19 Safety Code.

20 (2) The application for funding for spaying and
21 neutering services shall include the prior year's adoption
22 figures of the shelter, pound, or humane society and the
23 dollar amount the entity is requesting for spay and
24 neutering services. Additional funds may be requested if
25 the shelter, pound, or humane society has expanded an
26 existing spay and neuter program that will be in effect in
27 the year for which the additional funding is requested.
28 Each shelter, pound, or humane society shall keep
29 records of the number of all cats spayed and neutered
30 prior to release.

31 (b) Notwithstanding Section 31751, no shelter, pound,
32 or humane society that contracts with a local agency to
33 provide animal care or control services, or both, shall sell
34 or give away any cat four months of age or younger that
35 has not been spayed or neutered unless a deposit for
36 spaying or neutering the cat has been tendered to the
37 shelter, pound, or humane society. The deposit shall be in
38 the amount determined by the shelter, pound, or humane
39 society to be comparable to the lowest fee charged by
40 veterinarians in the locale, but shall not exceed forty



1 dollars (\$40). A veterinarian shall perform the operation.
2 If a female cat and her kittens are sold or given away to
3 one individual, only a single deposit shall be required. The
4 shelter, pound, or humane society may make appropriate
5 arrangements for the spaying or neutering of the cat, or
6 may return the deposit to the person purchasing or
7 receiving the cat upon presentation of a written
8 statement or receipt from the veterinarian or clinic that
9 the cat has been spayed or neutered.

10 (c) Any cat four months of age or younger at the time
11 it is sold or given away by the shelter, pound, or humane
12 society shall be spayed or neutered within six months, or
13 the deposit shall be deemed unclaimed.

14 (d) Any deposit not claimed under subdivision (c)
15 shall be used only to provide vouchers to the public for
16 spaying or neutering services.

17 (e) Any shelter, pound, or humane society that
18 contracts with a local agency to provide animal care or
19 control services, or both, may enter into cooperative
20 agreements with each other and with veterinarians in
21 carrying out this section.

22 (f) This section shall be operative on January 1, 2000.

23 SEC. 4. Section 122045 of the Health and Safety Code
24 is amended to read:

25 122045. (a) This article shall be known and may be
26 cited as the Polanco-Lockyer Pet Breeder Warranty Act.

27 (b) Every breeder of dogs shall comply with this
28 article. As used in this article, “dog breeder,” or
29 “breeder” means a person, firm, partnership,
30 corporation, or other association that has sold;
31 ~~transferred, or given away or transferred~~ one litter of
32 dogs, or any portion of a litter, more than once in a
33 36-month period that were bred and reared on the
34 premises of the person, firm, partnership, corporation, or
35 other association or were bred by a third party through
36 a contractual arrangement and then returned to the
37 breeder for the purpose of selling, ~~transferring, or giving~~
38 ~~away or transferring~~ the dog or dogs.

39 (c) For the purposes of this article, “purchaser” means
40 any person who purchases a dog from a breeder or who



1 purchases a dog from an individual acting on the
2 breeder's behalf.

3 (d) This article shall not apply to pet dealers regulated
4 under Article 2 (commencing with Section 122125), or to
5 publicly operated pounds, humane societies, or privately
6 operated rescue organizations.

7 ~~SEC. 2.—~~

8 SEC. 5. Section 122046 is added to the Health and
9 Safety Code, to read:

10 122046. (a) Every breeder of dogs shall pay a fee to
11 obtain a breeder permit number from the Department of
12 Consumer Affairs. The department shall ~~provide the~~
13 ~~application form and the breeder permit number.~~ *do all*
14 *of the following:*

15 (1) *Provide breeder application forms for breeder*
16 *permit numbers.*

17 (2) *Issue breeder permits and keep breeder permits*
18 *on file.*

19 (3) *Take consumer complaints regarding breeders.*

20 (4) *Provide consumers, upon request, with*
21 *information on complaints against breeders.*

22 (5) *Issue citations for noncompliance with this section*
23 *and collect fines.*

24 (6) *Issue applications for shelters, pounds, or humane*
25 *societies that contract with a local agency to provide*
26 *animal care or control services, or both, to obtain funding*
27 *for spaying and neutering services provided in*
28 *accordance with Sections 30503.1 and 31751.1 of the Food*
29 *and Agricultural Code.*

30 (b) Application for a breeder permit number shall
31 include the street address and home and business
32 telephone numbers of the applicant. No breeder permit
33 number shall be issued to an applicant using a post office
34 box address or pager number unless the applicant's street
35 address and home or business telephone numbers are also
36 included on the application. The application shall include
37 a space for the applicant to identify the breed or breeds
38 of dogs offered for sale, trade, ~~fee, or free~~ *or fee.*

39 (c) *Any person offering a dog for sale on behalf of a*
40 *breeder shall have in his or her possession a copy of that*



1 breeder's permit prior to offering the dog for sale. Failure
2 to provide a copy of the breeder's permit shall create a
3 presumption that the dog has been bred by the person
4 offering the dog for sale.

5 (d) In lieu of the civil penalties imposed pursuant to
6 Section 122110, any person who does not obtain a breeder
7 permit shall be subject to a civil penalty of ~~one hundred~~
8 ~~dollars (\$100)~~ two hundred fifty dollars (\$250). If there is
9 a second offense, the person shall be subject to a civil
10 penalty of five hundred dollars (\$500). For a third offense,
11 the person shall be subject to both a civil penalty of
12 between one thousand dollars (\$1,000) and five thousand
13 dollars (\$5,000), and a prohibition from selling dogs for
14 three years.

15 ~~(d) (1) Between July 1, 1999, and June 30, 2002, the~~
16 ~~annual permit fee, for a 12-month period, shall be two~~
17 ~~hundred fifty dollars (\$250). All fees collected by the~~
18 ~~department pursuant to this section shall be deposited in~~
19 ~~the Dog Breeder's Compliance Fund, which is hereby~~
20 ~~created in the State Treasury. Notwithstanding Section~~
21 ~~13340 of the Government Code, the money in the fund is~~
22 ~~continuously appropriated to the department without~~
23 ~~regard to fiscal years. Money from the fund shall be~~
24 ~~expended, in addition to the sales tax revenue collected~~
25 ~~pursuant to paragraph (11) of subdivision (a) of Section~~
26 ~~7102 of the Revenue and Taxation Code, up to an amount~~
27 ~~not to exceed twelve million dollars (\$12,000,000)~~
28 ~~annually for the sole purpose of educating the public,~~
29 ~~through the purchase of television advertising, on the~~
30 ~~importance of spaying and neutering pets, the tragedy of~~
31 ~~pet overpopulation, and the resulting need to put to~~
32 ~~death hundreds of thousands of surplus dogs and cats each~~
33 ~~year in California shelters.~~

34 ~~(2) On and after July 1, 2002, the annual permit fee~~
35 ~~shall be an amount determined by the department as~~
36 ~~adequate to offset costs incurred by the department in~~
37 ~~implementing this section.~~

38 ~~SEC. 3.—~~

39 ~~(e) Commencing July 1, 1999, the annual permit fee,~~
40 ~~for a 12-month period, shall be one hundred dollars~~



1 (\$100). All permit fees and civil penalties collected by the
2 department pursuant to this section, and Section 14504 of
3 the Corporations Code, shall be deposited in the Dog and
4 Cat Spaying and Neutering Compliance Fund, which is
5 hereby created in the State Treasury. Notwithstanding
6 Section 13340 of the Government Code, the money in the
7 fund is continuously appropriated to the department
8 without regard to fiscal years. Money from the fund shall
9 be expended, in addition to the sales tax revenue
10 collected pursuant to paragraph (11) of subdivision (a) of
11 Section 7102 of the Revenue and Taxation Code, up to an
12 amount not to exceed two million dollars (\$2,000,000)
13 annually for the purpose of providing spaying and
14 neutering services for dogs and cats over four months of
15 age prior to release from shelters, pounds, or humane
16 societies that contract with a local agency to provide
17 animal care or control services, or both, in accordance
18 with Sections 30503.1 and 31751.1 of the Food and
19 Agricultural Code. Moneys remaining in the fund at the
20 end of the fiscal year shall be carried over to the next fiscal
21 year, but in no event shall more than two million dollars
22 (\$2,000,000) be available for expenditure in any fiscal
23 year. Moneys derived from civil penalties deposited in
24 the fund based on citations imposed for violation of this
25 section, pursuant to Section 14504 of the Corporations
26 Code, shall be allocated to the shelter, pound, or humane
27 society whose employee, as a qualified humane officer,
28 was responsible for issuing the citation.

29 (f) The Department of Consumer Affairs shall enforce
30 this section.

31 SEC. 6. Section 122047 is added to the Health and
32 Safety Code, to read:

33 122047. (a) Every breeder of dogs who wants to sell
34 a dog within this state shall file with the Board of
35 Equalization an application for a seller permit in
36 accordance with Article 2 (commencing with Section
37 6066) of Part 1 of Division 2 of the Revenue and Taxation
38 Code, and shall comply with all applicable provisions of
39 that part including, but not limited to, the filing of



1 returns, payment of tax, and the retention of records in
2 any form as the board may require.

3 (b) Every occasional breeder of dogs shall file with the
4 Board of Equalization an application for a temporary
5 seller permit in accordance with guidelines adopted by
6 the board, and shall comply with Part 1 (commencing
7 with Section 6001) of Division 2 of the Revenue and
8 Taxation Code including, but not limited to, the payment
9 of tax on all retail sales from a litter. For purposes of this
10 subdivision, “occasional breeder” means a person whose
11 sole selling activity in this state is limited to the sale of one
12 litter of dogs during any 36-month period.

13 (c) When filing an application for a seller permit or a
14 temporary seller permit, a breeder shall provide the
15 board with his or her breeder permit number.

16 ~~(d) Any person offering a dog for sale on behalf of a
17 breeder shall have in his or her possession a copy of that
18 breeder’s permit prior to offering the dog for sale. Failure
19 to provide a copy of the breeder’s permit shall create a
20 presumption that the dog has been bred by the person
21 offering the dog for sale.~~

22 *(d) The Board of Equalization shall enforce this*
23 *section.*

24 ~~SEC. 4.—~~

25 *SEC. 7.* Section 122048 is added to the Health and
26 Safety Code, to read:

27 122048. (a) No breeder of dogs may advertise for
28 sale, trade, ~~fee, or free or fee,~~ any dog without obtaining
29 an annual breeder permit pursuant to Section 122046. For
30 purposes of this section, advertising includes, but is not
31 limited to, newspapers, flyers, newsletters, magazines,
32 periodicals, or other publications, electronic media,
33 Internet websites, oral offers, or the display of dogs.

34 (b) Breeders of dogs placing an advertisement to sell,
35 trade, ~~give away,~~ or charge a fee for dogs shall provide to
36 the advertising publication, ~~in addition to any other~~
37 ~~information required by the publication, the street~~
38 ~~address and home telephone number, other than a pager,~~
39 ~~where the breeder resides a breeder permit number that~~
40 *shall appear in the advertisement.* This information shall



1 not be required to appear in the advertisement unless it
2 is the policy of the publication.

3 ~~(e) All information provided by a breeder to any~~
4 ~~publication for the purpose of advertising a dog for sale,~~
5 ~~trade, fee, or free shall constitute a public record for the~~
6 ~~purpose of access by governmental agencies monitoring~~
7 ~~compliance with the law.~~

8 ~~(d)~~

9 (c) No person may sell, charge a fee for, trade, or give
10 away, a dog in a public place, except as provided in
11 subdivision ~~(f)~~ (e). For purposes of this subdivision,
12 “public place” includes, but is not limited to,
13 supermarkets, parking lots, street corners, parks,
14 boardwalks, beaches, or government-owned property.

15 ~~(e)~~

16 (d) Immediately upon the sale, trade, or receipt of a
17 fee for any dog, a dog breeder shall retain one copy of, and
18 shall provide one copy of, a Notification of Dog Sale form
19 to all of the following:

20 (1) The Department of Consumer Affairs.

21 (2) The purchaser of the dog.

22 (3) The new owner of the dog, if different from the
23 purchaser.

24 ~~(f)~~

25 (e) Publicly operated pounds and humane societies
26 are exempt from subdivision ~~(d)~~ (c), and may operate
27 pursuant to local ordinances or regulations and
28 requirements of local jurisdictions governing this activity.
29 Privately operated rescue organizations are exempt from
30 subdivision ~~(d)~~ (c) if these organizations spay or neuter
31 a dog before placing it.

32 ~~(g)~~

33 (f) The Department of Consumer Affairs shall enforce
34 this section.

35 ~~SEC. 5.—~~

36 *SEC. 8.* Section 122050 of the Health and Safety Code
37 is amended to read:

38 122050. (a) Every breeder of dogs shall deliver to
39 each purchaser of a dog a written disclosure containing all
40 of the following:



1 (1) The breeder's name , address, and breeder permit
2 number. If the breeder is a dealer licensed by the United
3 States Department of Agriculture, the federal dealer
4 identification number shall also be indicated.

5 (2) The date of the dog's birth and the date the
6 breeder received the dog. If the dog is not advertised or
7 sold as purebred, registered, or registerable, the date of
8 birth may be approximated if not known by the breeder.

9 (3) The breed, sex, color, and identifying marks at the
10 time of sale, if any. If the dog is from a United States
11 Department of Agriculture licensed source, the
12 individual identifying tag, tattoo, or collar number for
13 that animal. If the breed is unknown or mixed, the record
14 shall so indicate.

15 (4) If the dog is being sold as being capable of
16 registration, the names and registration numbers of the
17 sire and dam, and the litter number, if known.

18 (5) A record of inoculations and worming treatments
19 administered, if any, to the dog as of the time of sale,
20 including dates of administration and the type of vaccine
21 or worming treatment.

22 (6) A record of any veterinarian treatment or
23 medication received by the dog while in the possession of
24 the breeder and either of the following:

25 (A) A statement, signed by the breeder at the time of
26 sale, that:

27 (i) The dog has no known disease or illness.

28 (ii) The dog has no known congenital or hereditary
29 condition that adversely affects the health of the dog at
30 the time of the sale or that is likely to adversely affect the
31 health of the dog in the future.

32 (B) A record of any known disease, illness, or
33 congenital or hereditary condition that adversely affects
34 the health of the dog at the time of sale, or that is likely
35 to affect the health of the dog in the future, along with a
36 statement signed by a veterinarian licensed in the State
37 of California that authorizes the sale of the dog,
38 recommends necessary treatment, if any, and verifies
39 that the disease, illness, or condition does not require
40 hospitalization or nonelective surgical procedures, nor is



1 it likely to require hospitalization or nonelective surgical
2 procedures in the future. A veterinarian statement is not
3 required for intestinal or external parasites unless their
4 presence makes the dog clinically ill or is likely to make
5 the dog clinically ill. The statement shall be valid for
6 seven days following examination of the dog by the
7 veterinarian.

8 (b) The written disclosure made pursuant to this
9 section shall be signed by both the breeder certifying the
10 accuracy of the statement, and by the purchaser of the
11 dog acknowledging receipt of the statement.

12 (c) In addition, all medical information required to be
13 disclosed pursuant to this section shall be made orally by
14 the breeder to the purchaser.

15 (d) For purposes of this article, a disease, illness, or
16 congenital or hereditary condition that adversely affects
17 the health of the dog at the time of sale, or is likely to
18 adversely affect the health of the dog in the future, shall
19 be one that is apparent at the time of sale or that should
20 have been known by the breeder from the history of
21 veterinary treatment disclosed pursuant to this section.

22 (e) For the purpose of this article, “nonelective
23 surgical procedure” means a surgical procedure that is
24 necessary to preserve or restore the health of the dog, to
25 prevent the dog from experiencing pain or discomfort, or
26 to correct a condition that would otherwise interfere with
27 the dog’s ability to walk, run, jump, or otherwise function
28 in a normal manner.

29 (f) For the purposes of this article, “clinically ill”
30 means an illness that is apparent to a veterinarian based
31 on observation, examination, or testing of the dog, or
32 upon a review of the medical records relating to the dog.

33 ~~SEC. 6.—~~

34 *SEC. 9.* Section 122060 of the Health and Safety Code
35 is amended to read:

36 122060. Except as provided for in paragraph (6) of
37 subdivision (a) of Section 122050, no breeder shall
38 knowingly sell a dog that is diseased, ill, or has a condition,
39 any one of which that requires hospitalization or
40 nonelective surgical procedures. In lieu of the civil



1 penalties imposed pursuant to Section 122110, any
 2 breeder who violates this section shall be subject to a civil
 3 penalty of up to one thousand dollars (\$1,000), or shall be
 4 prohibited from selling dogs for up to six months, or both.
 5 If there is a second offense, the breeder shall be subject
 6 to a civil penalty of up to two thousand five hundred
 7 dollars (\$2,500), or a prohibition from selling dogs for up
 8 to three years, or both. For a third offense, the breeder
 9 shall be subject to a civil penalty of up to five thousand
 10 dollars (\$5,000), or a prohibition from selling dogs for up
 11 to five years, or both. For a fourth and subsequent offense,
 12 the breeder shall be subject to a civil penalty of up to ten
 13 thousand dollars (\$10,000) or a prohibition from selling
 14 dogs for up to 10 years, or both. For the purpose of this
 15 section, a violation that occurred over five years prior to
 16 the most recent violation shall not be considered.

17 An action for recovery of the civil penalty and for a
 18 court order enjoining the breeder from engaging in the
 19 business of selling dogs at retail *or wholesale* for the
 20 period set forth in this section, may be prosecuted by the
 21 district attorney for the county in which the violation
 22 occurred, or the city attorney for the city in ~~that~~ *which*
 23 the violation occurred, in the appropriate court.

24 ~~SEC. 6.5.—~~

25 *SEC. 10.* Section 122111 is added to the Health and
 26 Safety Code, to read:

27 ~~122111. Notwithstanding Section 13340 of the~~
 28 ~~Government Code, the sum of ninety thousand dollars~~
 29 ~~(\$90,000) is continuously appropriated from the General~~
 30 ~~Fund, without regard to fiscal years, for allocation as~~
 31 ~~follows:~~

32 ~~(a) Forty-five thousand dollars (\$45,000) to the~~
 33 ~~Department of Consumer Affairs for purposes of~~
 34 ~~implementing Sections 122046 and 122048.~~

35 ~~(b) Forty-five thousand dollars (\$45,000) to the Board~~
 36 ~~of Equalization for purposes of implementing Section~~
 37 ~~122047.~~

38 ~~SEC. 7.—~~

39 *122111. Commencing January 1, 2000,*
 40 *notwithstanding Section 13340 of the Government Code,*



1 *the sum of six hundred thousand dollars (\$600,000) is*
 2 *continuously appropriated from the General Fund,*
 3 *without regard to fiscal years, for allocation as follows:*

4 *(a) Three hundred fifty thousand dollars (\$350,000) to*
 5 *the Department of Consumer Affairs for the purposes of*
 6 *implementing, monitoring, and enforcing Sections*
 7 *122046 and 122048.*

8 *(b) Two hundred fifty thousand dollars (\$250,000) to*
 9 *the Board of Equalization for purposes of implementing,*
 10 *monitoring, and enforcing Section 122047.*

11 *SEC. 11.* Section 122125 of the Health and Safety Code
 12 is amended to read:

13 122125. (a) This article shall be known and may be
 14 cited as the Lockyer-Polanco-Farr Pet Protection Act.

15 (b) Every pet dealer of dogs and cats shall comply with
 16 this article. As used in this article, “pet dealer” means a
 17 person engaging in the business of selling dogs or cats, or
 18 both, at retail, and by virtue of the sales of dogs and cats
 19 is required to possess a permit pursuant to Section 6066 of
 20 the Revenue and Taxation Code. For purposes of this
 21 article, *the* sale of a dog or cat from a single litter shall
 22 constitute a single sale under Section 6019 of the Revenue
 23 and Taxation Code. This definition does not apply to
 24 breeders of dogs regulated pursuant to Article 1
 25 (commencing with Section 122045) nor to any person,
 26 firm, partnership, corporation, or other association, that
 27 breeds or rears dogs on the premises of the person, firm,
 28 partnership, corporation, or other association, that has
 29 sold, transferred, or given away fewer than one litter of
 30 dogs more than once in a 36-month period.

31 (c) For purposes of this article, “purchaser” means a
 32 person who purchases a dog or cat from a pet dealer
 33 without the intent to resell the animal.

34 (d) This article shall not apply to publicly operated
 35 pounds and humane societies.

36 ~~SEC. 8.—~~

37 *SEC. 12.* Section 122300 of the Health and Safety Code
 38 is amended to read:

39 122300. For purposes of this article:



1 (a) “Dog dealer” means any person, firm, partnership,
2 corporation, or other association that engages in the
3 acquisition of dogs for retail sale to the public operating
4 from a retail outlet. “Dog dealer” does not include duly
5 incorporated nonprofit humane societies dedicated to
6 the care of unwanted animals that make animals available
7 for adoption, whether or not a fee for the adoption is
8 charged, or pet dealers who do not in the normal course
9 of business sell dogs, but who sometimes exhibit dogs for
10 adoption.

11 (b) “Dog breeder” means any person, firm,
12 partnership, corporation, or other association that breeds
13 and sells dogs at wholesale or retail.

14 (c) “Dog pedigree registry” means any of various
15 private agencies that serve to keep track of the breed,
16 lineage, physical characteristics, and historical data
17 regarding dogs that are registered with the agency.

18 ~~SEC. 9.—~~

19 *SEC. 13.* Section 7102 of the Revenue and Taxation
20 Code is amended to read:

21 7102. The money in the fund shall, upon order of the
22 Controller, be drawn therefrom for refunds under this
23 part, credits or refunds pursuant to Section 60202, and
24 refunds pursuant to Section 1793.25 of the Civil Code, or
25 be transferred in the following manner:

26 (a) (1) All revenues, less refunds, derived under this
27 part at the 4 ³/₄-percent rate, including the imposition of
28 sales and use taxes with respect to the sale, storage, use,
29 or other consumption of motor vehicle fuel which would
30 not have been received if the sales and use tax rate had
31 been 5 percent and if motor vehicle fuel, as defined for
32 purposes of the Motor Vehicle Fuel License Tax Law
33 (Part 2 (commencing with Section 7301)), had been
34 exempt from sales and use taxes, shall be estimated by the
35 State Board of Equalization, with the concurrence of the
36 Department of Finance, and shall be transferred
37 quarterly to the Transportation Planning and
38 Development Account, a trust fund in the State
39 Transportation Fund.



1 (2) All revenues, less refunds, derived under this part
2 at the 4 $\frac{3}{4}$ -percent rate, resulting from increasing after
3 December 31, 1989, the rate of tax imposed pursuant to
4 the Motor Vehicle Fuel License Tax Law on motor
5 vehicle fuel, as defined for purposes of that law, shall be
6 transferred quarterly to the Transportation Planning and
7 Development Account, a trust fund in the State
8 Transportation Fund.

9 (3) All revenues, less refunds, derived under this part
10 at the 4 $\frac{3}{4}$ -percent rate from the imposition of sales and
11 use taxes on fuel, as defined for purposes of the Use Fuel
12 Tax Law (Part 3 (commencing with Section 8601)) and
13 the Diesel Fuel Tax Law (Part 31 (commencing with
14 Section 60001)), shall be estimated by the State Board of
15 Equalization, with the concurrence of the Department of
16 Finance, and shall be transferred quarterly to the
17 Transportation Planning and Development Account, a
18 trust fund in the State Transportation Fund.

19 (4) All revenues, less refunds, derived under this part
20 from a rate of more than 4 $\frac{3}{4}$ percent pursuant to
21 Sections 6051.1 and 6201.1 for the period December 1,
22 1989, to June 5, 1990, inclusive, shall be transferred to the
23 Disaster Relief Fund created by Section 16419 of the
24 Government Code.

25 (5) All revenues, less refunds, derived under this part
26 from a rate of more than 4 $\frac{3}{4}$ percent pursuant to
27 Sections 6051.1 and 6201.1 for the period June 6, 1990, to
28 December 31, 1990, inclusive, which is attributable to the
29 imposition of sales and use taxes with respect to the sale,
30 storage, use, or other consumption of tangible personal
31 property other than fuel, as defined for purposes of the
32 Use Fuel Tax Law (Part 3 (commencing with Section
33 8601)), shall be transferred to the Disaster Relief Fund
34 created by Section 16419 of the Government Code.

35 (6) All revenues, less refunds, derived under this part
36 from a rate of more than 4 $\frac{3}{4}$ percent pursuant to
37 Sections 6051.1 and 6201.1 for the period June 6, 1990, to
38 December 31, 1990, inclusive, which is attributable to the
39 imposition of sales and use taxes with respect to the sale,
40 storage, use, or other consumption of fuel, as defined for



1 purposes of the Use Fuel Tax Law (Part 3 (commencing
2 with Section 8601)), shall be transferred to the Disaster
3 Relief Fund created by Section 16419 of the Government
4 Code.

5 (7) All revenues, less refunds, derived under this part
6 from the taxes imposed pursuant to Sections 6051.2 and
7 6201.2 shall be transferred to the Sales Tax Account of the
8 Local Revenue Fund for allocation to cities and counties
9 as prescribed by statute.

10 (8) All revenues, less refunds, derived under this part
11 from the taxes imposed pursuant to Sections 6051.6 and
12 6201.6 shall be transferred to the Interim Public Safety
13 Account in the Local Public Safety Fund created in
14 Section 30051 of the Government Code for allocation to
15 counties as prescribed by statute.

16 (9) All revenues, less refunds, derived from the taxes
17 imposed pursuant to Section 35 of Article XIII of the
18 California Constitution shall be transferred to the Public
19 Safety Account in the Local Public Safety Fund created
20 in Section 30051 of the Government Code for allocation
21 to counties as prescribed by statute.

22 (10) An amount equal to all revenues, less refunds,
23 derived under this part at a 4 ³/₄-percent rate for the
24 period between January 1, 1994, and July 1, 1994, from the
25 increase in sales and use tax revenue attributable to the
26 increase in the rate of the federal motor vehicle fuel tax
27 between January 1, 1993, and the rate in effect on January
28 1, 1994, shall be estimated by the State Board of
29 Equalization, with the concurrence of the Department of
30 Finance, and an amount equal to that amount, but not
31 exceeding seven million five hundred thousand dollars
32 (\$7,500,000) shall be transferred from the Retail Sales Tax
33 Fund to the Small Business Expansion Fund created by
34 Article 5 (commencing with Section 14030) of Chapter 1
35 of Part 5 of Division 3 of Title 1 of the Corporations Code.

36 ~~(11) In each of the 1999-2000, 2000-2002, and~~
37 ~~2001-2002 fiscal years, all revenues, less refunds, derived~~

38 *(11) All revenues, less refunds, derived* under this part
39 from taxes imposed upon the retail sales of a dog or dogs
40 and not subject to transfer by any other provision of this



1 subdivision, shall be transferred to the ~~Dog Breeder's Dog~~
2 ~~and Cat Spaying and Neutering~~ Compliance Fund,
3 created by subdivision (d) of Section 122046 of the Health
4 and Safety Code, but in no event shall the amount so
5 transferred in any fiscal year exceed the amount that,
6 when combined with any other moneys deposited in that
7 fund for that same fiscal year, equals a total of ~~twelve~~
8 ~~million dollars (\$12,000,000)~~ *two million dollars*
9 *(\$2,000,000)*.

10 (b) The balance shall be transferred to the General
11 Fund.

12 (c) The estimates required by subdivision (a) shall be
13 based on taxable transactions occurring during a calendar
14 year, and the transfers required by subdivision (a) shall
15 be made during the fiscal year that commences during
16 that same calendar year. Transfers required by
17 paragraphs (1), (2), and (3) of subdivision (a) shall be
18 made quarterly.

19 (d) Notwithstanding the designation of the
20 Transportation Planning and Development Account as a
21 trust fund pursuant to subdivision (a), the Controller may
22 use the Transportation Planning and Development
23 Account for loans to the General Fund as provided in
24 Sections 16310 and 16381 of the Government Code. The
25 loans shall be repaid with interest from the General Fund
26 at the Pooled Money Investment Account rate.

27 (e) The Legislature may amend this section, by statute
28 passed in each house of the Legislature by rollcall vote
29 entered in the journal, two-thirds of the membership
30 concurring, if the statute is consistent with, and furthers
31 the purposes of this section.

32 ~~SEC. 10.—~~

33 *SEC. 14.* The sum of three hundred thirty thousand
34 dollars (\$330,000) is hereby appropriated from the
35 General Fund to be allocated as follows for the 1998–99
36 fiscal year:

37 ~~(+)~~

38 (a) One hundred sixty-five thousand dollars
39 (\$165,000) to the Department of Consumer Affairs for
40 purposes of startup costs associated with the



1 implementation and enforcement of Sections 122046 and
2 122048 of the Health and Safety Code.

3 ~~(2)~~

4 (b) One hundred sixty-five thousand dollars
5 (\$165,000) to the Board of Equalization for purposes of
6 startup costs associated with the implementation of
7 Section 122047 of the Health and Safety Code.

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