

AMENDED IN SENATE MAY 6, 1998
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. An act to amend Sections 122045 and 122060 of the Health and Safety Code, relating to animals.~~

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law, the Polanco-Lockyer Pet Breeder Warranty Act, contains provisions regulating the breeding and sale of dogs. Existing law defines "dog breeder" and "breeder," for purposes of these provisions.

This bill would redefine these terms.

(2) Existing law provides that if a breeder violates provisions relating to the sale of ill or diseased dogs, the breeder shall be prohibited from selling dogs for specified periods of time.

This bill would increase the amount of time a breeder would be prohibited from selling dogs if the breeder violates these provisions.

~~(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 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, 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, 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 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 \$2,000,000. By requiring the deposit of moneys into a continuously appropriated fund, this bill would make an appropriation:

(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 \$600,000 annually from the General Fund to be allocated in specified amounts to both the department and the board for costs associated with the continued implementation, monitoring, and enforcement of these provisions.

Vote: $\frac{2}{3}$ majority. Appropriation: yes-no. Fiscal committee: yes-no. 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



1 ~~accordance with Section 122046 of the Health and Safety~~
2 ~~Code.~~

3 ~~SEC. 2. Section 30503.1 is added to the Food and~~
4 ~~Agricultural Code, to read:~~

5 ~~30503.1. (a) (1) Notwithstanding Section 30503, any~~
6 ~~shelter, pound, or humane society that contracts with a~~
7 ~~local agency to provide animal care or control services, or~~
8 ~~both, shall not sell or give away any dog over four months~~
9 ~~of age that has not been spayed or neutered, and no~~
10 ~~deposits for spaying and neutering services shall be~~
11 ~~accepted or collected. Funding for spaying and neutering~~
12 ~~services provided in order to comply with this subdivision~~
13 ~~shall be made in accordance with procedures established~~
14 ~~under this section and Section 122046 of the Health and~~
15 ~~Safety Code.~~

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

27 ~~(b) Notwithstanding Section 30503, no shelter, pound,~~
28 ~~or humane society that contracts with a local agency to~~
29 ~~provide animal care or control services, or both, shall sell~~
30 ~~or give away any dog four months of age or younger that~~
31 ~~has not been spayed or neutered unless a deposit for~~
32 ~~spaying or neutering the dog has been tendered to the~~
33 ~~shelter, pound, or humane society. The deposit shall be in~~
34 ~~the amount determined by the shelter, pound, or humane~~
35 ~~society to be comparable to the lowest fee charged by~~
36 ~~veterinarians in the locale, but shall not exceed forty~~
37 ~~dollars (\$40). A veterinarian shall perform the operation.~~
38 ~~If a female dog and her puppies are sold or given away to~~
39 ~~one individual, only a single deposit shall be required. The~~
40 ~~shelter, pound, or humane society may make appropriate~~



1 ~~arrangements for the spaying or neutering of the dog, or~~
2 ~~may return the deposit to the person purchasing or~~
3 ~~receiving the dog upon presentation of a written~~
4 ~~statement or receipt from the veterinarian or clinic that~~
5 ~~the dog has been spayed or neutered.~~

6 ~~(e) Any dog four months of age or younger at the time~~
7 ~~it is sold or given away by the shelter, pound, or humane~~
8 ~~society shall be spayed or neutered within six months, or~~
9 ~~the deposit shall be deemed unclaimed.~~

10 ~~(d) Any deposit not claimed under subdivision (e)~~
11 ~~shall be used only to provide vouchers to the public for~~
12 ~~spaying or neutering services.~~

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

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

19 ~~SEC. 3. Section 31751.1 is added to the Food and~~
20 ~~Agricultural Code, to read:~~

21 ~~31751.1. (a) (1) Notwithstanding Section 31751, any~~
22 ~~shelter, pound, or humane society that contracts with a~~
23 ~~local agency to provide animal care or control services, or~~
24 ~~both, shall not sell or give away any cat over four months~~
25 ~~of age that has not been spayed or neutered, and no~~
26 ~~deposits for spaying and neutering services shall be~~
27 ~~accepted or collected. Funding for spaying and neutering~~
28 ~~services provided in order to comply with this subdivision~~
29 ~~shall be made in accordance with procedures established~~
30 ~~under this section and Section 122046 of the Health and~~
31 ~~Safety Code.~~

32 ~~(2) The application for funding for spaying and~~
33 ~~neutering services shall include the prior year's adoption~~
34 ~~figures of the shelter, pound, or humane society and the~~
35 ~~dollar amount the entity is requesting for spay and~~
36 ~~neutering services. Additional funds may be requested if~~
37 ~~the shelter, pound, or humane society has expanded an~~
38 ~~existing spay and neuter program that will be in effect in~~
39 ~~the year for which the additional funding is requested.~~
40 ~~Each shelter, pound, or humane society shall keep~~



1 records of the number of all cats spayed and neutered
2 prior to release.

3 (b) Notwithstanding Section 31751, no shelter, pound,
4 or humane society that contracts with a local agency to
5 provide animal care or control services, or both, shall sell
6 or give away any cat four months of age or younger that
7 has not been spayed or neutered unless a deposit for
8 spaying or neutering the cat has been tendered to the
9 shelter, pound, or humane society. The deposit shall be in
10 the amount determined by the shelter, pound, or humane
11 society to be comparable to the lowest fee charged by
12 veterinarians in the locale, but shall not exceed forty
13 dollars (\$40). A veterinarian shall perform the operation.
14 If a female cat and her kittens are sold or given away to
15 one individual, only a single deposit shall be required. The
16 shelter, pound, or humane society may make appropriate
17 arrangements for the spaying or neutering of the cat, or
18 may return the deposit to the person purchasing or
19 receiving the cat upon presentation of a written
20 statement or receipt from the veterinarian or clinic that
21 the cat has been spayed or neutered.

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

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

29 (e) Any shelter, pound, or humane society that
30 contracts with a local agency to provide animal care or
31 control services, or both, may enter into cooperative
32 agreements with each other and with veterinarians in
33 carrying out this section.

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

35 ~~SEC. 4.—~~

36 *SECTION 1.* Section 122045 of the Health and Safety
37 Code is amended to read:

38 122045. (a) This article shall be known and may be
39 cited as the Polanco-Lockyer Pet Breeder Warranty Act.



1 (b) Every breeder of dogs shall comply with this
2 article. As used in this article, “dog breeder,” or
3 “breeder” means a person, firm, partnership,
4 corporation, or other association that has sold or
5 transferred one litter of dogs, or any portion of a litter,
6 more than once in a 36-month period that were bred and
7 reared on the premises of the person, firm, partnership,
8 corporation, or other association or were bred by a third
9 party through a contractual arrangement and then
10 returned to the breeder for the purpose of selling or
11 transferring the dog or dogs.

12 (c) For the purposes of this article, “purchaser” means
13 any person who purchases a dog from a breeder or who
14 purchases a dog from an individual acting on the
15 breeder’s behalf.

16 (d) This article shall not apply to pet dealers regulated
17 under Article 2 (commencing with Section 122125), or to
18 publicly operated pounds, humane societies, or privately
19 operated rescue organizations.

20 ~~SEC. 5. Section 122046 is added to the Health and~~
21 ~~Safety Code, to read:~~

22 ~~122046. (a) Every breeder of dogs shall pay a fee to~~
23 ~~obtain a breeder permit number from the Department of~~
24 ~~Consumer Affairs. The department shall do all of the~~
25 ~~following:~~

26 ~~(1) Provide breeder application forms for breeder~~
27 ~~permit numbers.~~

28 ~~(2) Issue breeder permits and keep breeder permits~~
29 ~~on file.~~

30 ~~(3) Take consumer complaints regarding breeders.~~

31 ~~(4) Provide consumers, upon request, with~~
32 ~~information on complaints against breeders.~~

33 ~~(5) Issue citations for noncompliance with this section~~
34 ~~and collect fines.~~

35 ~~(6) Issue applications for shelters, pounds, or humane~~
36 ~~societies that contract with a local agency to provide~~
37 ~~animal care or control services, or both, to obtain funding~~
38 ~~for spaying and neutering services provided in~~
39 ~~accordance with Sections 30503.1 and 31751.1 of the Food~~
40 ~~and Agricultural Code.~~



1 ~~(b) Application for a breeder permit number shall~~
2 ~~include the street address and home and business~~
3 ~~telephone numbers of the applicant. No breeder permit~~
4 ~~number shall be issued to an applicant using a post office~~
5 ~~box address or pager number unless the applicant's street~~
6 ~~address and home or business telephone numbers are also~~
7 ~~included on the application. The application shall include~~
8 ~~a space for the applicant to identify the breed or breeds~~
9 ~~of dogs offered for sale, trade, or fee.~~

10 ~~(c) Any person offering a dog for sale on behalf of a~~
11 ~~breeder shall have in his or her possession a copy of that~~
12 ~~breeder's permit prior to offering the dog for sale. Failure~~
13 ~~to provide a copy of the breeder's permit shall create a~~
14 ~~presumption that the dog has been bred by the person~~
15 ~~offering the dog for sale.~~

16 ~~(d) In lieu of the civil penalties imposed pursuant to~~
17 ~~Section 122110, any person who does not obtain a breeder~~
18 ~~permit shall be subject to a civil penalty of two hundred~~
19 ~~fifty dollars (\$250). If there is a second offense, the person~~
20 ~~shall be subject to a civil penalty of five hundred dollars~~
21 ~~(\$500). For a third offense, the person shall be subject to~~
22 ~~both a civil penalty of between one thousand dollars~~
23 ~~(\$1,000) and five thousand dollars (\$5,000), and a~~
24 ~~prohibition from selling dogs for three years.~~

25 ~~(e) Commencing July 1, 1999, the annual permit fee,~~
26 ~~for a 12-month period, shall be one hundred dollars~~
27 ~~(\$100). All permit fees and civil penalties collected by the~~
28 ~~department pursuant to this section, and Section 14504 of~~
29 ~~the Corporations Code, shall be deposited in the Dog and~~
30 ~~Cat Spaying and Neutering Compliance Fund, which is~~
31 ~~hereby created in the State Treasury. Notwithstanding~~
32 ~~Section 13340 of the Government Code, the money in the~~
33 ~~fund is continuously appropriated to the department~~
34 ~~without regard to fiscal years. Money from the fund shall~~
35 ~~be expended, in addition to the sales tax revenue~~
36 ~~collected pursuant to paragraph (11) of subdivision (a) of~~
37 ~~Section 7102 of the Revenue and Taxation Code, up to an~~
38 ~~amount not to exceed two million dollars (\$2,000,000)~~
39 ~~annually for the purpose of providing spaying and~~
40 ~~neutering services for dogs and cats over four months of~~



~~1 age prior to release from shelters, pounds, or humane
2 societies that contract with a local agency to provide
3 animal care or control services, or both, in accordance
4 with Sections 30503.1 and 31751.1 of the Food and
5 Agricultural Code. Moneys remaining in the fund at the
6 end of the fiscal year shall be carried over to the next fiscal
7 year, but in no event shall more than two million dollars
8 (\$2,000,000) be available for expenditure in any fiscal
9 year. Moneys derived from civil penalties deposited in
10 the fund based on citations imposed for violation of this
11 section, pursuant to Section 14504 of the Corporations
12 Code, shall be allocated to the shelter, pound, or humane
13 society whose employee, as a qualified humane officer,
14 was responsible for issuing the citation.~~

~~15 (f) The Department of Consumer Affairs shall enforce
16 this section.~~

~~17 SEC. 6. Section 122047 is added to the Health and
18 Safety Code, to read:~~

~~19 122047. (a) Every breeder of dogs who wants to sell
20 a dog within this state shall file with the Board of
21 Equalization an application for a seller permit in
22 accordance with Article 2 (commencing with Section
23 6066) of Part 1 of Division 2 of the Revenue and Taxation
24 Code, and shall comply with all applicable provisions of
25 that part including, but not limited to, the filing of
26 returns, payment of tax, and the retention of records in
27 any form as the board may require.~~

~~28 (b) Every occasional breeder of dogs shall file with the
29 Board of Equalization an application for a temporary
30 seller permit in accordance with guidelines adopted by
31 the board, and shall comply with Part 1 (commencing
32 with Section 6001) of Division 2 of the Revenue and
33 Taxation Code including, but not limited to, the payment
34 of tax on all retail sales from a litter. For purposes of this
35 subdivision, "occasional breeder" means a person whose
36 sole selling activity in this state is limited to the sale of one
37 litter of dogs during any 36-month period.~~

~~38 (c) When filing an application for a seller permit or a
39 temporary seller permit, a breeder shall provide the
40 board with his or her breeder permit number.~~



1 ~~(d) The Board of Equalization shall enforce this~~
2 ~~section.~~

3 ~~SEC. 7. Section 122048 is added to the Health and~~
4 ~~Safety Code, to read:~~

5 ~~122048. (a) No breeder of dogs may advertise for~~
6 ~~sale, trade, or fee, any dog without obtaining an annual~~
7 ~~breeder permit pursuant to Section 122046. For purposes~~
8 ~~of this section, advertising includes, but is not limited to;~~
9 ~~newspapers, flyers, newsletters, magazines, periodicals,~~
10 ~~or other publications, electronic media, Internet~~
11 ~~websites, oral offers, or the display of dogs.~~

12 ~~(b) Breeders of dogs placing an advertisement to sell,~~
13 ~~trade, or charge a fee for dogs shall provide to the~~
14 ~~advertising publication a breeder permit number that~~
15 ~~shall appear in the advertisement. This information shall~~
16 ~~not be required to appear in the advertisement unless it~~
17 ~~is the policy of the publication.~~

18 ~~(c) No person may sell, charge a fee for, trade, or give~~
19 ~~away, a dog in a public place, except as provided in~~
20 ~~subdivision (c). For purposes of this subdivision, “public~~
21 ~~place” includes, but is not limited to, supermarkets,~~
22 ~~parking lots, street corners, parks, boardwalks, beaches,~~
23 ~~or government-owned property.~~

24 ~~(d) Immediately upon the sale, trade, or receipt of a~~
25 ~~fee for any dog, a dog breeder shall retain one copy of, and~~
26 ~~shall provide one copy of, a Notification of Dog Sale form~~
27 ~~to all of the following:~~

- 28 ~~(1) The Department of Consumer Affairs.~~
- 29 ~~(2) The purchaser of the dog.~~
- 30 ~~(3) The new owner of the dog, if different from the~~
31 ~~purchaser.~~

32 ~~(e) Publicly operated pounds and humane societies~~
33 ~~are exempt from subdivision (c), and may operate~~
34 ~~pursuant to local ordinances or regulations and~~
35 ~~requirements of local jurisdictions governing this activity.~~
36 ~~Privately operated rescue organizations are exempt from~~
37 ~~subdivision (c) if these organizations spay or neuter a dog~~
38 ~~before placing it.~~

39 ~~(f) The Department of Consumer Affairs shall enforce~~
40 ~~this section.~~



1 ~~SEC. 8. Section 122050 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~122050. (a) Every breeder of dogs shall deliver to~~
4 ~~each purchaser of a dog a written disclosure containing all~~
5 ~~of the following:~~

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

10 ~~(2) The date of the dog's birth and the date the~~
11 ~~breeder received the dog. If the dog is not advertised or~~
12 ~~sold as purebred, registered, or registerable, the date of~~
13 ~~birth may be approximated if not known by the breeder.~~

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

20 ~~(4) If the dog is being sold as being capable of~~
21 ~~registration, the names and registration numbers of the~~
22 ~~sire and dam, and the litter number, if known.~~

23 ~~(5) A record of inoculations and worming treatments~~
24 ~~administered, if any, to the dog as of the time of sale,~~
25 ~~including dates of administration and the type of vaccine~~
26 ~~or worming treatment.~~

27 ~~(6) A record of any veterinarian treatment or~~
28 ~~medication received by the dog while in the possession of~~
29 ~~the breeder and either of the following:~~

30 ~~(A) A statement, signed by the breeder at the time of~~
31 ~~sale, that:~~

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

33 ~~(ii) The dog has no known congenital or hereditary~~
34 ~~condition that adversely affects the health of the dog at~~
35 ~~the time of the sale or that is likely to adversely affect the~~
36 ~~health of the dog in the future.~~

37 ~~(B) A record of any known disease, illness, or~~
38 ~~congenital or hereditary condition that adversely affects~~
39 ~~the health of the dog at the time of sale, or that is likely~~
40 ~~to affect the health of the dog in the future, along with a~~



1 ~~statement signed by a veterinarian licensed in the State~~
2 ~~of California that authorizes the sale of the dog,~~
3 ~~recommends necessary treatment, if any, and verifies~~
4 ~~that the disease, illness, or condition does not require~~
5 ~~hospitalization or nonelective surgical procedures, nor is~~
6 ~~it likely to require hospitalization or nonelective surgical~~
7 ~~procedures in the future. A veterinarian statement is not~~
8 ~~required for intestinal or external parasites unless their~~
9 ~~presence makes the dog clinically ill or is likely to make~~
10 ~~the dog clinically ill. The statement shall be valid for~~
11 ~~seven days following examination of the dog by the~~
12 ~~veterinarian.~~

13 ~~(b) The written disclosure made pursuant to this~~
14 ~~section shall be signed by both the breeder certifying the~~
15 ~~accuracy of the statement, and by the purchaser of the~~
16 ~~dog acknowledging receipt of the statement.~~

17 ~~(e) In addition, all medical information required to be~~
18 ~~disclosed pursuant to this section shall be made orally by~~
19 ~~the breeder to the purchaser.~~

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

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

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

38 ~~SEC. 9.—~~

39 ~~SEC. 2. Section 122060 of the Health and Safety Code~~
40 ~~is amended to read:~~



1 122060. Except as provided for in paragraph (6) of
 2 subdivision (a) of Section 122050, no breeder shall
 3 knowingly sell a dog that is diseased, ill, or has a condition,
 4 any one of which that requires hospitalization or
 5 nonelective surgical procedures. In lieu of the civil
 6 penalties imposed pursuant to Section 122110, any
 7 breeder who violates this section shall be subject to a civil
 8 penalty of up to one thousand dollars (\$1,000), or shall be
 9 prohibited from selling dogs for up to six months, or both.
 10 If there is a second offense, the breeder shall be subject
 11 to a civil penalty of up to two thousand five hundred
 12 dollars (\$2,500), or a prohibition from selling dogs for up
 13 to three years, or both. For a third offense, the breeder
 14 shall be subject to a civil penalty of up to five thousand
 15 dollars (\$5,000), or a prohibition from selling dogs for up
 16 to five years, or both. For a fourth and subsequent offense,
 17 the breeder shall be subject to a civil penalty of up to ten
 18 thousand dollars (\$10,000) or a prohibition from selling
 19 dogs for up to 10 years, or both. For the purpose of this
 20 section, a violation that occurred over five years prior to
 21 the most recent violation shall not be considered.

22 An action for recovery of the civil penalty and for a
 23 court order enjoining the breeder from engaging in the
 24 business of selling dogs at retail or wholesale for the
 25 period set forth in this section, may be prosecuted by the
 26 district attorney for the county in which the violation
 27 occurred, or the city attorney for the city in which the
 28 violation occurred, in the appropriate court.

29 ~~SEC. 10. Section 122111 is added to the Health and~~
 30 ~~Safety Code, to read:~~

31 ~~122111. Commencing January 1, 2000,~~
 32 ~~notwithstanding Section 13340 of the Government Code,~~
 33 ~~the sum of six hundred thousand dollars (\$600,000) is~~
 34 ~~continuously appropriated from the General Fund,~~
 35 ~~without regard to fiscal years, for allocation as follows:~~

36 ~~(a) Three hundred fifty thousand dollars (\$350,000) to~~
 37 ~~the Department of Consumer Affairs for the purposes of~~
 38 ~~implementing, monitoring, and enforcing Sections~~
 39 ~~122046 and 122048.~~

1 ~~(b) Two hundred fifty thousand dollars (\$250,000) to~~
2 ~~the Board of Equalization for purposes of implementing,~~
3 ~~monitoring, and enforcing Section 122047.~~

4 ~~SEC. 11. Section 122125 of the Health and Safety Code~~
5 ~~is amended to read:~~

6 ~~122125. (a) This article shall be known and may be~~
7 ~~cited as the Lockyer-Polanco-Farr Pet Protection Act.~~

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

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

27 ~~(d) This article shall not apply to publicly operated~~
28 ~~pounds and humane societies.~~

29 ~~SEC. 12. Section 122300 of the Health and Safety Code~~
30 ~~is amended to read:~~

31 ~~122300. For purposes of this article:~~

32 ~~(a) “Dog dealer” means any person, firm, partnership,~~
33 ~~corporation, or other association that engages in the~~
34 ~~acquisition of dogs for retail sale to the public operating~~
35 ~~from a retail outlet. “Dog dealer” does not include duly~~
36 ~~incorporated nonprofit humane societies dedicated to~~
37 ~~the care of unwanted animals that make animals available~~
38 ~~for adoption, whether or not a fee for the adoption is~~
39 ~~charged, or pet dealers who do not in the normal course~~



1 of business sell dogs, but who sometimes exhibit dogs for
2 adoption.

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

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

10 SEC. 13. Section 7102 of the Revenue and Taxation
11 Code is amended to read:

12 7102. The money in the fund shall, upon order of the
13 Controller, be drawn therefrom for refunds under this
14 part, credits or refunds pursuant to Section 60202, and
15 refunds pursuant to Section 1793.25 of the Civil Code, or
16 be transferred in the following manner:

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

31 (2) All revenues, less refunds, derived under this part
32 at the 4 ³/₄-percent rate, resulting from increasing after
33 December 31, 1989, the rate of tax imposed pursuant to
34 the Motor Vehicle Fuel License Tax Law on motor
35 vehicle fuel, as defined for purposes of that law, shall be
36 transferred quarterly to the Transportation Planning and
37 Development Account, a trust fund in the State
38 Transportation Fund.

39 (3) All revenues, less refunds, derived under this part
40 at the 4 ³/₄-percent rate from the imposition of sales and

1 use taxes on fuel, as defined for purposes of the Use Fuel
2 Tax Law (Part 3 (commencing with Section 8601)) and
3 the Diesel Fuel Tax Law (Part 31 (commencing with
4 Section 60001)), shall be estimated by the State Board of
5 Equalization, with the concurrence of the Department of
6 Finance, and shall be transferred quarterly to the
7 Transportation Planning and Development Account, a
8 trust fund in the State Transportation Fund.

9 (4) All revenues, less refunds, derived under this part
10 from a rate of more than 4 ³/₄ percent pursuant to
11 Sections 6051.1 and 6201.1 for the period December 1,
12 1989, to June 5, 1990, inclusive, shall be transferred to the
13 Disaster Relief Fund created by Section 16419 of the
14 Government Code.

15 (5) All revenues, less refunds, derived under this part
16 from a rate of more than 4 ³/₄ percent pursuant to
17 Sections 6051.1 and 6201.1 for the period June 6, 1990, to
18 December 31, 1990, inclusive, which is attributable to the
19 imposition of sales and use taxes with respect to the sale,
20 storage, use, or other consumption of tangible personal
21 property other than fuel, as defined for purposes of the
22 Use Fuel Tax Law (Part 3 (commencing with Section
23 8601)), shall be transferred to the Disaster Relief Fund
24 created by Section 16419 of the Government Code.

25 (6) All revenues, less refunds, derived under this part
26 from a rate of more than 4 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 fuel, as defined for
31 purposes of the Use Fuel Tax Law (Part 3 (commencing
32 with Section 8601)), shall be transferred to the Disaster
33 Relief Fund created by Section 16419 of the Government
34 Code.

35 (7) All revenues, less refunds, derived under this part
36 from the taxes imposed pursuant to Sections 6051.2 and
37 6201.2 shall be transferred to the Sales Tax Account of the
38 Local Revenue Fund for allocation to cities and counties
39 as prescribed by statute.



1 ~~(8) All revenues, less refunds, derived under this part~~
2 ~~from the taxes imposed pursuant to Sections 6051.6 and~~
3 ~~6201.6 shall be transferred to the Interim Public Safety~~
4 ~~Account in the Local Public Safety Fund created in~~
5 ~~Section 30051 of the Government Code for allocation to~~
6 ~~counties as prescribed by statute.~~

7 ~~(9) All revenues, less refunds, derived from the taxes~~
8 ~~imposed pursuant to Section 35 of Article XIII of the~~
9 ~~California Constitution shall be transferred to the Public~~
10 ~~Safety Account in the Local Public Safety Fund created~~
11 ~~in Section 30051 of the Government Code for allocation~~
12 ~~to counties as prescribed by statute.~~

13 ~~(10) An amount equal to all revenues, less refunds,~~
14 ~~derived under this part at a 4 ³/₄-percent rate for the~~
15 ~~period between January 1, 1994, and July 1, 1994, from the~~
16 ~~increase in sales and use tax revenue attributable to the~~
17 ~~increase in the rate of the federal motor vehicle fuel tax~~
18 ~~between January 1, 1993, and the rate in effect on January~~
19 ~~1, 1994, shall be estimated by the State Board of~~
20 ~~Equalization, with the concurrence of the Department of~~
21 ~~Finance, and an amount equal to that amount, but not~~
22 ~~exceeding seven million five hundred thousand dollars~~
23 ~~(\$7,500,000) shall be transferred from the Retail Sales Tax~~
24 ~~Fund to the Small Business Expansion Fund created by~~
25 ~~Article 5 (commencing with Section 14030) of Chapter 1~~
26 ~~of Part 5 of Division 3 of Title 1 of the Corporations Code.~~

27 ~~(11) All revenues, less refunds, derived under this part~~
28 ~~from taxes imposed upon the retail sales of a dog or dogs~~
29 ~~and not subject to transfer by any other provision of this~~
30 ~~subdivision, shall be transferred to the Dog and Cat~~
31 ~~Spaying and Neutering Compliance Fund, created by~~
32 ~~subdivision (d) of Section 122046 of the Health and Safety~~
33 ~~Code, but in no event shall the amount so transferred in~~
34 ~~any fiscal year exceed the amount that, when combined~~
35 ~~with any other moneys deposited in that fund for that~~
36 ~~same fiscal year, equals a total of two million dollars~~
37 ~~(\$2,000,000).~~

38 ~~(b) The balance shall be transferred to the General~~
39 ~~Fund.~~



1 ~~(c) The estimates required by subdivision (a) shall be~~
2 ~~based on taxable transactions occurring during a calendar~~
3 ~~year, and the transfers required by subdivision (a) shall~~
4 ~~be made during the fiscal year that commences during~~
5 ~~that same calendar year. Transfers required by~~
6 ~~paragraphs (1), (2), and (3) of subdivision (a) shall be~~
7 ~~made quarterly.~~

8 ~~(d) Notwithstanding the designation of the~~
9 ~~Transportation Planning and Development Account as a~~
10 ~~trust fund pursuant to subdivision (a), the Controller may~~
11 ~~use the Transportation Planning and Development~~
12 ~~Account for loans to the General Fund as provided in~~
13 ~~Sections 16310 and 16381 of the Government Code. The~~
14 ~~loans shall be repaid with interest from the General Fund~~
15 ~~at the Pooled Money Investment Account rate.~~

16 ~~(e) The Legislature may amend this section, by statute~~
17 ~~passed in each house of the Legislature by rollell vote~~
18 ~~entered in the journal, two-thirds of the membership~~
19 ~~concurring, if the statute is consistent with, and furthers~~
20 ~~the purposes of this section.~~

21 ~~SEC. 14. The sum of three hundred thirty thousand~~
22 ~~dollars (\$330,000) is hereby appropriated from the~~
23 ~~General Fund to be allocated as follows for the 1998-99~~
24 ~~fiscal year:~~

25 ~~(a) One hundred sixty-five thousand dollars~~
26 ~~(\$165,000) to the Department of Consumer Affairs for~~
27 ~~purposes of startup costs associated with the~~
28 ~~implementation and enforcement of Sections 122046 and~~
29 ~~122048 of the Health and Safety Code.~~

30 ~~(b) One hundred sixty-five thousand dollars~~
31 ~~(\$165,000) to the Board of Equalization for purposes of~~
32 ~~startup costs associated with the implementation of~~
33 ~~Section 122047 of the Health and Safety Code.~~

