

AMENDED IN ASSEMBLY JUNE 25, 1998

AMENDED IN SENATE MAY 18, 1998

AMENDED IN SENATE MAY 6, 1998

AMENDED IN SENATE APRIL 22, 1998

**SENATE BILL**

**No. 2102**

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**Introduced by Senator Rosenthal**

February 20, 1998

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An act to amend Sections 122045 ~~and 122060~~, 122060, and 122070 of the Health and Safety Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 2102, as amended, Rosenthal. Dogs: 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 *subject to certain civil penalties, or shall be prohibited from selling dogs for specified periods of time, or both. For a first offense, a breeder is subject to a civil penalty of up to \$1,000, and may be prohibited from selling dogs for up to 30 days, or both.*

This bill would ~~increase the amount of time a breeder would be prohibited from selling dogs if the breeder violates~~ *instead*

*impose a civil penalty of up to \$500 against any breeder for a first offense violation of these provisions.*

*(3) Existing law provides purchaser remedies in cases where a breeder has sold an ill or diseased dog. Existing law further provides that if the dog has died, regardless of the date of death of the dog, the purchaser shall obtain a refund for the purchase price of the dog and other specified expenses if certain conditions exist.*

*This bill would provide that if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, the dog dies or must be destroyed, and if certain other remedies have not been exercised, then the purchaser shall obtain a refund for the purchase price of the dog and other expenses.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 122045 of the Health and Safety  
2 Code is amended to read:  
3 122045. (a) This article shall be known and may be  
4 cited as the Polanco-Lockyer Pet Breeder Warranty Act.  
5 (b) Every breeder of dogs shall comply with this  
6 article. As used in this article, “dog breeder,” or  
7 “breeder” means a person, firm, partnership,  
8 corporation, or other association that has sold or  
9 transferred for the purpose of selling one litter of dogs, or  
10 any portion of a litter, more than once in a ~~36-month~~  
11 *24-month* period that were bred and reared on the  
12 premises of the person, firm, partnership, corporation, or  
13 other association or were bred by a third party through  
14 a contractual arrangement and then returned to the  
15 breeder for the purpose of selling or transferring for the  
16 purpose of selling the dog or dogs.  
17 (c) For the purposes of this article, “purchaser” means  
18 any person who purchases a dog from a breeder or who  
19 purchases a dog from an individual acting on the  
20 breeder’s behalf.



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

5 SEC. 2. Section 122060 of the Health and Safety Code  
6 is amended to read:

7 122060. Except as provided for in paragraph (6) of  
8 subdivision (a) of Section 122050, no breeder shall  
9 knowingly sell a dog that is diseased, ill, or has a condition,  
10 any one of which that requires hospitalization or  
11 nonelective surgical procedures. In lieu of the civil  
12 penalties imposed pursuant to Section 122110, any  
13 breeder who violates this section shall be subject to a civil  
14 ~~penalty of up to one thousand dollars (\$1,000), or shall be~~  
15 ~~prohibited from selling dogs for up to six months, or both.~~  
16 *penalty of up to five hundred dollars (\$500).* If there is a  
17 second offense, the breeder shall be subject to a civil  
18 penalty of up to two thousand five hundred dollars  
19 (\$2,500), or a prohibition from selling dogs for up to three  
20 years, or both. For a third offense, the breeder shall be  
21 subject to a civil penalty of up to five thousand dollars  
22 (\$5,000), or a prohibition from selling dogs for up to five  
23 years, or both. For a fourth and subsequent offense, the  
24 breeder shall be subject to a civil penalty of up to ten  
25 thousand dollars (\$10,000) or a prohibition from selling  
26 dogs for up to 10 years, or both. For the purpose of this  
27 section, a violation that occurred over five years prior to  
28 the most recent violation shall not be considered.

29 An action for recovery of the civil penalty and for a  
30 court order enjoining the breeder from engaging in the  
31 business of selling dogs at retail or wholesale for the  
32 period set forth in this section, may be prosecuted by the  
33 district attorney for the county in which the violation  
34 occurred, or the city attorney for the city in which the  
35 violation occurred, in the appropriate court.

36 SEC. 3. Section 122070 of the Health and Safety Code  
37 is amended to read:

38 122070. (a) If a licensed veterinarian states in writing  
39 that within 15 days after the purchaser has taken physical  
40 possession of a dog following the sale by a breeder, the dog



1 has become ill due to any illness or disease that existed in  
2 the dog on or before delivery of the dog to the purchaser,  
3 or, if within one year after the purchaser has taken  
4 physical possession of the dog after the sale by a breeder,  
5 a veterinarian licensed in this state states in writing that  
6 the dog has a congenital or hereditary condition ~~which~~  
7 that adversely affects the health of the dog, or ~~which~~ that  
8 requires, or is likely in the future to require,  
9 hospitalization or nonelective surgical procedures, the  
10 dog shall be considered unfit for sale, and the breeder  
11 shall provide the purchaser with any of the following  
12 remedies that the purchaser elects:

13 (1) Return the dog to the breeder for a refund of the  
14 purchase price, plus sales tax, and reimbursement for  
15 reasonable veterinary fees for diagnosis and treating the  
16 dog in an amount not to exceed the original purchase  
17 price of the dog, including sales tax.

18 (2) Exchange the dog for a dog of the purchaser's  
19 choice of equivalent value, providing a replacement dog  
20 is available, and receive reimbursement for reasonable  
21 veterinary fees for diagnosis and treating the dog in an  
22 amount not to exceed the original purchase price of the  
23 dog, plus sales tax on the original purchase price of the  
24 dog.

25 (3) Retain the dog, and receive reimbursement for  
26 reasonable veterinary fees for diagnosis and treating the  
27 dog in an amount not to exceed 150 percent of the original  
28 purchase price of the dog, plus sales tax.

29 ~~(b) If the dog has died, regardless of the date of death~~  
30 ~~of the dog within one year after the purchaser has taken~~  
31 ~~physical possession of the dog after the sale by a breeder,~~  
32 ~~the dog dies or must be destroyed, and if a remedy has not~~  
33 ~~been exercised under subdivision (a) prior to the dog's~~  
34 ~~death,~~ obtain a refund for the purchase price of the dog,  
35 plus sales tax, or a replacement dog of equivalent value of  
36 the purchaser's choice, and reimbursement for  
37 reasonable veterinary fees for diagnosis and treatment of  
38 the dog in an amount not to exceed the purchase price of  
39 the dog, plus sales tax, if any of the following conditions  
40 exist:



1 (1) A veterinarian, licensed in this state, states in  
2 writing that the dog has died due to an illness or disease  
3 that existed within 15 days after the purchaser obtained  
4 physical possession of the dog after the sale by a breeder.

5 (2) A veterinarian, licensed in this state, states in  
6 writing that the dog has died due to a congenital or  
7 hereditary condition that was diagnosed by the  
8 veterinarian within one year after the purchaser obtained  
9 physical possession of the dog after the sale by a breeder.

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