

AMENDED IN ASSEMBLY JULY 21, 1998
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

Introduced by Senator Rosenthal

February 20, 1998

An act to amend Sections 122045, 122060, ~~and 122070~~ 122070, and 122110 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 ~~instead impose a civil penalty of up to \$500 against any breeder for a first offense violation of these provisions~~ *revise these penalties.*

(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.

(4) Existing law provides that, except as otherwise specified, any person violating any provision relating to the sale of dogs by breeders, other than the provisions relating to the sale of ill or diseased dogs, shall be subject to civil penalty of up to \$1,000 per violation, and an action may be prosecuted in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court, or by the city attorney in the city where the violation occurred.

This bill would provide that every seller of dogs who claims that he or she does not meet the definition of breeder shall, in response to a court action, produce documentation of sales for the most recent 12-month period to verify his or her claim, and that failure to produce this documentation shall give rise to a presumption that the seller of dogs is a breeder. It would further provide that any seller of dogs who fails to produce documentation verifying the claim that he or she does not meet the definition of breeder, and who has also violated provisions relating to the sale of ill or diseased dogs, shall be subject to additional specified penalties.

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 24-month~~
11 ~~period~~ *eight or more dogs in a 12-month period, or whose*
12 *gross sales of dogs for a 12-month period is three thousand*
13 *dollars (\$3,000) or more, that were bred and reared on*
14 *the premises of the person, firm, partnership,*
15 *corporation, or other association or were bred by a third*
16 *party through a contractual arrangement and then*
17 *returned to the breeder for the purpose of selling or*
18 *transferring for the purpose of selling the dog or dogs.*

19 (c) For the purposes of this article, “purchaser” means
20 any person who purchases a dog from a breeder or who
21 purchases a dog from an individual acting on the
22 breeder’s behalf.

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

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

29 122060. Except as provided for in paragraph (6) of
30 subdivision (a) of Section 122050, no breeder shall
31 knowingly sell a dog that is diseased, ill, or has a condition,
32 any one of which that requires hospitalization or
33 nonelective surgical procedures. In lieu of the civil
34 penalties imposed pursuant to Section 122110, any
35 breeder who violates this section shall be subject to a civil
36 penalty of up to five hundred dollars (\$500). If there is a
37 second offense, the breeder shall be subject to a civil
38 penalty of up to two thousand five hundred dollars



1 (\$2,500), or a prohibition from selling dogs for up to ~~three~~
2 ~~years~~ *nine months*, or both. For a third offense, the
3 breeder shall be subject to a civil penalty of up to five
4 thousand dollars (\$5,000), or a prohibition from selling
5 dogs for up to ~~five years~~ *18 months*, or both. For a fourth
6 and subsequent offense, the breeder shall be subject to a
7 civil penalty of up to ten thousand dollars (\$10,000) or a
8 prohibition from selling dogs for up to ~~10~~ *three* years, or
9 both. For the purpose of this section, a violation that
10 occurred over five years prior to the most recent violation
11 shall not be considered.

12 An action for recovery of the civil penalty and for a
13 court order enjoining the breeder from engaging in the
14 business of selling dogs at retail or wholesale for the
15 period set forth in this section, may be prosecuted by the
16 district attorney for the county in which the violation
17 occurred, or the city attorney for the city in which the
18 violation occurred, in the appropriate court.

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

21 122070. (a) If a licensed veterinarian states in writing
22 that within 15 days after the purchaser has taken physical
23 possession of a dog following the sale by a breeder, the dog
24 has become ill due to any illness or disease that existed in
25 the dog on or before delivery of the dog to the purchaser,
26 or, if within one year after the purchaser has taken
27 physical possession of the dog after the sale by a breeder,
28 a veterinarian licensed in this state states in writing that
29 the dog has a congenital or hereditary condition that
30 adversely affects the health of the dog, or that requires,
31 or is likely in the future to require, hospitalization or
32 nonelective surgical procedures, the dog shall be
33 considered unfit for sale, and the breeder shall provide
34 the purchaser with any of the following remedies that the
35 purchaser elects:

36 (1) Return the dog to the breeder for a refund of the
37 purchase price, plus sales tax, and reimbursement for
38 reasonable veterinary fees for diagnosis and treating the
39 dog in an amount not to exceed the original purchase
40 price of the dog, including sales tax.



1 (2) Exchange the dog for a dog of the purchaser's
2 choice of equivalent value, providing a replacement dog
3 is available, and receive reimbursement for reasonable
4 veterinary fees for diagnosis and treating the dog in an
5 amount not to exceed the original purchase price of the
6 dog, plus sales tax on the original purchase price of the
7 dog.

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

12 (b) If within one year after the purchaser has taken
13 physical possession of the dog after the sale by a breeder,
14 the dog dies or must be destroyed, and if a remedy has not
15 been exercised under subdivision (a) prior to the dog's
16 death, obtain a refund for the purchase price of the dog,
17 plus sales tax, or a replacement dog of equivalent value of
18 the purchaser's choice, and reimbursement for
19 reasonable veterinary fees for diagnosis and treatment of
20 the dog in an amount not to exceed the purchase price of
21 the dog, plus sales tax, if any of the following conditions
22 exist:

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

27 (2) A veterinarian, licensed in this state, states in
28 writing that the dog has died due to a congenital or
29 hereditary condition that was diagnosed by the
30 veterinarian within one year after the purchaser obtained
31 physical possession of the dog after the sale by a breeder.

32 *SEC. 4. Section 122110 of the Health and Safety Code*
33 *is amended to read:*

34 122110. (a) Except as otherwise specified herein, any
35 person violating any provision of this article other than
36 Section 122060 shall be subject to civil penalty of up to one
37 thousand dollars (\$1,000) per violation. An action may be
38 prosecuted in the name of the people of the State of
39 California by the district attorney for the county where



1 the violation occurred in the appropriate court or by the
2 city attorney in the city where the violation occurred.

3 (b) *Every seller of dogs who claims that he or she does*
4 *not meet the definition of breeder specified in*
5 *subdivision (b) of Section 122045, shall, in response to a*
6 *court action, produce documentation of sales for the most*
7 *recent 12-month period to verify his or her claim. Failure*
8 *to produce documentation of sales to verify the claim*
9 *shall give rise to a presumption that the seller of dogs is*
10 *a breeder.*

11 (c) *Any seller of dogs who fails to produce*
12 *documentation verifying the claim that he or she does not*
13 *meet the definition of breeder, in accordance with*
14 *subdivision (b), and who has also violated Section 122060,*
15 *shall be subject to the penalties specified under both*
16 *subdivision (a) and Section 122060.*

17 (d) Nothing in this article limits or authorizes any act
18 or omission that violates Section 5971 of the Penal Code.

