

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1122

Introduced by Assembly Member Lieu

February 27, 2009

An act to add Section 597.4 to the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as amended, Lieu. Animal abuse: sale of live animals: flea markets.

Existing law proscribes animal abuse, as specified, including the failure to maintain and care for the premises and animals at pet shops. Existing law also generally provides that a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under 8 weeks of age, but may sell, offer for sale, trade, or barter a dog or cat over 8 weeks of age only if the animal is weaned.

This bill would provide, in addition and with specified exceptions, that it shall be a crime, punishable as specified, for any person to willfully sell, display, or offer for sale or give away as part of a commercial transaction, a live animal on any street, highway, public right-of-way, commercial parking lot, or at any outdoor special sale, swap meet, flea market, parking lot sale, carnival, or boardwalk. The bill would provide that a notice describing the charge and the penalty for a violation of this bill may be issued by a peace officer, animal control officer, or humane officer. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 597.4 is added to the Penal Code, to read:
2 597.4. (a) It shall be unlawful for any person to willfully sell,
3 display, or offer for sale or give away as part of a commercial
4 transaction, a live animal on any street, highway, public
5 right-of-way, commercial parking lot, or at any outdoor special
6 sale, swap meet, flea market, parking lot sale, carnival, or
7 boardwalk.
8 (b) (1) A person who violates this section for the first time shall
9 be guilty of an infraction punishable by a fine not to exceed two
10 hundred fifty dollars (\$250).
11 (2) A person who violates this section for the first time and by
12 that violation either causes or permits any animal to suffer or be
13 injured, or causes or permits any animal to be placed in a situation
14 in which its life or health may be endangered, shall be guilty of a
15 misdemeanor.
16 (3) A person who violates this section for a second or subsequent
17 time shall be guilty of a misdemeanor.
18 (c) A person who is guilty of a misdemeanor violation of this
19 section shall be punishable by a fine not to exceed one thousand
20 dollars (\$1,000) per violation; the court shall weigh the gravity of
21 the violation in setting the fine.
22 (d) A notice describing the charge and the penalty for a violation
23 of this section may be issued by any peace officer; animal control
24 officer, as defined in Section 830.9; or humane officer qualified
25 pursuant to Section 14502 or 14503 of the Corporations Code.
26 (e) This section shall not apply to the following:
27 (1) Events held by 4-H Clubs, Junior Farmers Clubs, or Future
28 Farmers Clubs.
29 (2) California Exposition and State Fair or county fairs.

1 (3) Stockyards with respect to which the Secretary of the United
2 States Department of Agriculture has posted notice that the
3 stockyards are regulated by the federal Packers and Stockyards
4 Act (7 U.S.C. Sec. 181 et seq.).

5 (4) The sale of cattle on consignment at any public cattle sales
6 market; the sale of sheep on consignment at any public sheep sales
7 market; the sale of swine on consignment at any public swine sales
8 market; the sale of goats on consignment at any public goat sales
9 market; and the sale of equine on consignment at any public equine
10 sales market.

11 (5) Live animal markets regulated under Section 597.3.

12 (6) A public animal control agency or shelter, society for the
13 prevention of cruelty to animals shelter, humane society shelter,
14 or rescue group regulated under Division 14 (commencing with
15 Section 30501) of the Food and Agricultural Code. For purposes
16 of this section, “rescue group” is a not-for-profit entity whose
17 primary purpose is the placement of dogs, cats, or other animals
18 that have been removed from a public animal control agency or
19 shelter, society for the prevention of cruelty to animals shelter, or
20 humane society shelter, or that have been surrendered or
21 relinquished to the entity by the previous owner.

22 (f) Nothing in this section shall be construed to in any way limit
23 or affect the application or enforcement of any other law that
24 protects animals or the rights of consumers, including, but not
25 limited to, the Lockyer-Polanco-Farr Pet Protection Act contained
26 in Article 2 (commencing with Section 122125) of Chapter 5 of
27 Part 6 of Division 105 of the Health and Safety Code, or Sections
28 597 and 597l of this code.

29 (g) Nothing in this section limits or authorizes any act or
30 omission that violates Section 597 or 597l of this code, or any
31 other local, state, or federal law. The procedures set forth in this
32 section shall not apply to any civil violation of any other local,
33 state, or federal law that protects animals or the rights of
34 consumers, or to a violation of Section 597 or 597l of this code,
35 which is cited or prosecuted pursuant to one or both of those
36 sections, or to a violation of any other local, state, or federal law
37 that is cited or prosecuted pursuant to that law.

38 SEC. 2. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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