

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 introduced, 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, trade, barter, display, or offer for sale, trade, or barter, 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 and by imposing new duties on local animal control officers, 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 trade, barter, display, or offer for sale, trade, or barter, or give away
- 4 as part of a commercial transaction a live animal on any street,
- 5 highway, public right-of-way, commercial parking lot, or at any
- 6 outdoor special sale, swap meet, flea market, parking lot sale,
- 7 carnival, or 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) An event held primarily for the auction or sale of agricultural
- 28 livestock.
- 29 (2) A tax-exempt nonprofit organization founded for the
- 30 prevention of cruelty to animals.
- 31 (3) A public animal control department.
- 32 (f) Nothing in this section shall be construed to in any way limit
- 33 or affect the application or enforcement of any other law that

1 protects animals or the rights of consumers, including, but not
2 limited to, the Lockyer-Polanco-Farr Pet Protection Act contained
3 in Article 2 (commencing with Section 122125) of Chapter 5 of
4 Part 6 of Division 105 of the Health and Safety Code, or Sections
5 597 and 5971 of this code.

6 (g) Nothing in this chapter limits or authorizes any act or
7 omission that violates Section 597 or 5971 of this code, or any
8 other local, state, or federal law. The procedures set forth in this
9 section shall not apply to any civil violation of any other local,
10 state, or federal law that protects animals or the rights of
11 consumers, or to a violation of Section 597 or 5971 of this code,
12 which is cited or prosecuted pursuant to one or both of those
13 sections, or to a violation of any other local, state, or federal law
14 that is cited or prosecuted pursuant to that law.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.