



CALIFORNIA BILL TO BAN ANIMAL SALES AT SWAP MEETS, FLEA MARKETS, & OUTDOOR PUBLIC SALES

ARE BIRD, REPTILE, CAT SHOWS AND CONSUMER PET SHOWS BANNED?

ACT NOW!

The Issue.

Assembly Member Lieu introduced Assembly Bill AB 1122 which, as amended, would make it a crime “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 fails to define a swap meet or flea market and could inadvertently encompass bird shows, reptile shows, cat shows, and aquarium shows.

The Impact.

As drafted, it could be interpreted that this bill would ban reptile shows, bird shows, fish shows, dog and cat shows, etc. that are sponsored events, normally housed within buildings and under supervision of an organization specializing in promoting and hosting of such events for such types of animals. The poor definition could also prohibit pet fairs such as the annual America’s Family Pet Expo in Orange County, pet industry trade shows, or other specialty shows that would not fall within the general perception of a swap meet or a flea market. **The definition of “swap meet” under the Business and Professions Code makes it clear that the term “swap meet” and “flea market” are interchangeable and applies to both “outdoor” and “indoor” events whether or not the event is “inside a building or outside in the open.”**

Recommended Action.

PIJAC recommends that everyone interested in supporting the ability of people to host, promote and participate in reptile shows, bird shows, fish shows, cat shows, dog shows, trade shows, consumer pet shows, etc. where animals are displayed and/or sold and/or funds are raised to support the organization’s goals and objectives, contact members of the California Senate Committee on Public Safety and point out the need for an exemption for such activities or clear definitions of a “swap meet” or a “flea market.”

ACT TODAY – CALL AND EMAIL -- AB 1122 will be heard by the Senate Committee on Public Safety on July 7, 2009 (Room 4203, 9:30 a.m.)

Members can be reached by contacting the members on the following page and explain why the bill needs to be amended to clearly exempt such shows and the activities associated with those events.



**State of California
Senate Committee on Public Safety
Capitol Building, Room #2031
Sacramento, CA 95814
916/651-4118**

<u>SENATOR</u>	<u>DISTRICT(S)</u>	<u>TEL. #</u>	<u>FAX</u>	<u>EMAIL</u>
Mark Leno (Ch)(D-3)	San Francisco, Marin, Sonoma	916/651-4003		senator.leno@senate.ca.gov
John J. Benoit (R-37)	Riverside	916/651-4037	916/327-2187	senator.benoit@senate.ca.gov
Gilbert Cedillo (D-22)	Los Angeles	916/651-4022	916/327-8817	senator.cedillo@senate.ca.gov
Loni Hancock (D-9)	Alameda, Albany, Berkeley, Castro Valley, Dublin, El Sobrante, Emeryville, Livermore, Oakland, Piedmont, Richmond, San Pablo	916/651-4009	916/327-1997	senator.hancock@senate.ca.gov
Robert Huff (R-29)	Arcadia, Bradbury, Brea, Charter Oak, Chino, Chino Hills, Claremont, Diamond Bar, Glendora, La Crescenta-Montrose, La Habra, La Habra Hts., La Verne, Mayflower Village, Monrovia, N El Monte, Placentia, San Dimas, Sierra Madre, Walnut, Anaheim	916/651-3029	916/324-0922	senator.huff@senate.ca.gov
Darrell Steinberg (D-6)	Sacramento	916/651-4006	916/323-2263	senator.steinberg@senate.ca.gov
Roderick Wright (D-25)	Compton, Gardena, Hawthorne, Inglewood, Lawndale, Lynwood, Los Angeles, Long Beach, San Pedro	916/651-4025		senator.wright@senate.ca.gov

2009 CA A 1122 **AUTHOR:** Lieu
 VERSION: Amended
 VERSION DATE: 06/29/2009

STATE OF CALIFORNIA

ASSEMBLY BILL

No. 1122

=====

INTRODUCED BY Assembly Member Lieu
(Coauthors: Assembly Members Eng and Jones)

=====

AMENDED IN SENATE JUNE 29, 2009
AMENDED IN ASSEMBLY MAY 14, 2009
AMENDED IN ASSEMBLY APRIL 23, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009

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.

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, 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:

SECTION 1. Section 597.4 is added to the Penal Code, to read:

597.4. (a) It shall be unlawful for any person to willfully sell, display ~~or for sale,~~ 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, parking lot sale, carnival, or boardwalk.~~

(b) (1) A person who violates this section for the first time shall be guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250).

(2) A person who violates this section for the first time and by that violation either causes or permits any animal to suffer or be injured, or causes or permits any animal to be placed in a situation in which its life or health may be endangered, shall be guilty of a misdemeanor.

(3) A person who violates this section for a second or subsequent time shall be guilty of a misdemeanor.

(c) A person who is guilty of a misdemeanor violation of this section shall be punishable by a fine not to exceed one thousand dollars (\$1,000) per violation; the court shall weigh the gravity of the violation in setting the fine.

(d) A notice describing the charge and the penalty for a violation of this section may be issued by any peace officer; animal control officer, as defined in Section 830.9; or humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(e) This section shall not apply to the following:

(1) Events held by 4-H Clubs, Junior Farmers Clubs, or Future Farmers Clubs.

(2) The California Exposition and State Fair, district agricultural association fairs, or county fairs.

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

(4) The sale of cattle on consignment at any public cattle sales market; the sale of sheep on consignment at any public sheep sales market; the sale of swine on consignment at any public swine sales market; the sale of goats on consignment at any public goat sales market; and the sale of equine on consignment at any public equine sales market.

(5) Live animal markets regulated under Section 597.3.

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

(7) The sale of fish or shellfish, live or dead, from a fishing vessel, at a pier or wharf, or at a farmer's market by any licensed commercial fisherman to the public for human consumption.

(8) A cat show, dog show, or bird show, provided that all of the following circumstances exist:

(A) The show is validly permitted by the city or county in which the show is held.

(B) Each and every participant in the show complies with all federal, state, and local animal welfare and animal control laws.

(C) The participant has written documentation of the payment of a fee for the entry of his or her cat, dog, or bird in the show.

(D) The sale of a cat, dog, or bird occurs only on the premises and within the confines of the show.

(E) The show is a competitive event where the cats, dogs, or birds are exhibited and judged by an established standard or set of ideals established for each breed or species.

(f) Nothing in this section shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, the Lockyer-Polanco-Farr Pet Protection Act contained in Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, or Sections 597 and 5971 of this code.

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

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