

**ASSEMBLY BILL**

**No. 1045**

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**Introduced by Assembly Member Blumenfield**

February 22, 2013

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An act to amend Section 4827 of the Business and Professions Code, to amend Sections 1834.6, 1834.7, 1846, and 1847 of the Civil Code, to amend Sections 17003, 31607, 31621, 31622, 32001, and 32003 of the Food and Agricultural Code, to amend Sections 121916 and 122322 of the Health and Safety Code, and to amend Sections 597, 597.1, 597.2, 597e, 597f, 597u, 597v, and 599e of the Penal Code, relating to animal shelters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1045, as introduced, Blumenfield. Animal shelters.

Existing law governs the seizure, rescue, adoption, and euthanasia of abandoned and surrendered animals by animal shelters and rescue organizations.

This bill would make technical, nonsubstantive changes to those provisions by replacing references to a “pound” with references to an “animal shelter” and by replacing references to destroying an animal with references to humanely euthanizing the animal.

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 4827 of the Business and Professions
- 2 Code is amended to read:
- 3 4827. Nothing in this chapter prohibits any person from:

1 (a) Practicing veterinary medicine as a bona fide owner of one's  
2 own animals. This exemption applies to the following:

3 (1) The owner's bona fide employees.

4 (2) Any person assisting the owner, provided that the practice  
5 is performed gratuitously.

6 (b) Lay testing of poultry by the whole blood agglutination test.  
7 For purposes of this section, "poultry" means flocks of avian  
8 species maintained for food production, including, but not limited  
9 to, chickens, turkeys, and exotic fowl.

10 (c) Making any determination as to the status of pregnancy,  
11 sterility, or infertility upon livestock, equine, or food animals at  
12 the time an animal is being inseminated, providing no charge is  
13 made for this determination.

14 (d) Administering sodium pentobarbital for euthanasia of sick,  
15 injured, homeless, or ~~unwanted~~ *surrendered* domestic pets or  
16 animals without the presence of a veterinarian when the person is  
17 an employee of an animal control shelter and its agencies or  
18 humane society and has received proper training in the  
19 administration of sodium pentobarbital for these purposes.

20 SEC. 2. Section 1834.6 of the Civil Code is amended to read:

21 1834.6. An abandoned animal, as described in Section 1834.5,  
22 shall not be used for scientific or any other type of experimentation,  
23 nor shall such an abandoned animal be turned over to ~~a pound~~ *an*  
24 *animal shelter* or animal regulation department of a public agency.

25 SEC. 3. Section 1834.7 of the Civil Code is amended to read:

26 1834.7. (a) In any ~~pound~~ *animal shelter* or animal regulation  
27 department of a public or private agency where animals are turned  
28 over dead or alive to a biological supply facility or a research  
29 facility, a sign (measuring a minimum of 28 x 21 cm— 11 x 8½  
30 inches —with lettering of a minimum of 3.2 cm high and 1.2 cm  
31 wide— 1¼ x ½ inch —(91 point)) stating:

32 "Animals Turned In To This Shelter May Be Used For Research  
33 Purposes or to Supply Blood, Tissue, or Other Biological  
34 Products"

35 shall be posted in a place where it will be clearly visible to a  
36 majority of persons when turning animals over to the shelter. This  
37 statement shall also be included on owner surrender forms. The  
38 owner surrender forms shall also include the definition of  
39 "biological supply facility" contained in subdivision (c).

1 (b) For purposes of this section, “animal research facility”  
2 includes any laboratory, firm, association, corporation,  
3 copartnership, and educational institution.

4 (c) For purposes of this section, “biological supply facility”  
5 includes any blood bank, laboratory, firm, association, corporation,  
6 copartnership, or educational institution that sells biological  
7 materials such as blood or animals, either alive or dead, to research  
8 facilities, educational institutions, or veterinarians.

9 SEC. 4. Section 1846 of the Civil Code is amended to read:

10 1846. (a) A gratuitous depositary must use, at least, slight care  
11 for the preservation of the thing deposited.

12 (b) A gratuitous depositary of a living animal shall provide the  
13 animal with necessary and prompt veterinary care, adequate  
14 nutrition and water, and shelter, and shall treat it humanely and,  
15 if the animal has any identification, make reasonable attempts to  
16 notify the owner of the animal’s location. Any gratuitous depositary  
17 that does not have sufficient resources or desire to provide that  
18 care shall promptly turn the animal over to an appropriate care  
19 facility.

20 (c) If the gratuitous depositary of a living animal is a public  
21 ~~pound~~ *animal shelter*, shelter operated by a society for the  
22 prevention of cruelty to animals, or humane shelter, the depositary  
23 shall comply with all other requirements of the Food and  
24 Agricultural Code regarding the impounding of live animals.

25 SEC. 5. Section 1847 of the Civil Code is amended to read:

26 1847. The duties of a gratuitous depositary cease:

27 (a) Upon restoration by the depositary of the thing deposited to  
28 its owner.

29 (b) Upon reasonable notice given by the depositary to the owner  
30 to remove it, and the owner failing to do so within a reasonable  
31 time. But an involuntary depositary, under subdivision (b) of  
32 Section 1815, may not give notice until the emergency that gave  
33 rise to the deposit is past. This subdivision shall not apply to a  
34 public ~~pound~~ *animal shelter*, a shelter operated by a society for  
35 the prevention of cruelty to animals, or a humane shelter. The duty  
36 to provide care, as required by Section 1846, continues until the  
37 public ~~pound~~ or private ~~shelter~~ *animal shelter* is lawfully relieved  
38 of responsibility for the animal.

39 SEC. 6. Section 17003 of the Food and Agricultural Code is  
40 amended to read:

1 17003. (a) Except as provided in this section, this chapter does  
 2 not affect any law, ordinance, or regulation regarding estrays, the  
 3 ~~poundkeeper shelter director~~, or other ~~pound~~ *animal control*  
 4 officer, or a public animal control agency or shelter within the  
 5 limits of any city or county where ~~such~~ *those* laws, ordinances, or  
 6 regulations are in force.

7 (b) Upon the impounding of any bovine animal, horse, mule,  
 8 or burro, the ~~poundkeeper shelter director~~, other ~~pound~~ *animal*  
 9 *control* officer, or public animal control agency or shelter shall  
 10 immediately notify the secretary. Upon receipt of that notice, the  
 11 secretary shall take possession of any bovine animal and shall  
 12 dispose of it pursuant to this chapter.

13 (c) Any city, county, or city and county that establishes or has  
 14 established laws, ordinances, or regulations regarding estrays, may  
 15 opt to follow those laws, ordinances, or regulations instead of this  
 16 chapter in the handling of estrays that are not bovine animals in  
 17 accordance with the applicable laws, ordinances, or regulations of  
 18 the city, county, or city and county.

19 (d) This section does not authorize any act that violates Section  
 20 597 of the Penal Code.

21 SEC. 7. Section 31607 of the Food and Agricultural Code is  
 22 amended to read:

23 31607. “Impounded” means taken into the custody of the public  
 24 ~~pound~~ *animal shelter* or animal control department or provider of  
 25 animal control services to the city or county where the potentially  
 26 dangerous or vicious dog is found.

27 SEC. 8. Section 31621 of the Food and Agricultural Code is  
 28 amended to read:

29 31621. If an animal control officer or a law enforcement officer  
 30 has investigated and determined that there exists probable cause  
 31 to believe that a dog is potentially dangerous or vicious, the chief  
 32 officer of the public ~~pound~~ *animal shelter* or animal control  
 33 department or his or her immediate supervisor or the head of the  
 34 local law enforcement agency, or his or her designee, shall petition  
 35 the superior court of the county wherein the dog is owned or kept  
 36 for a hearing for the purpose of determining whether or not the  
 37 dog in question should be declared potentially dangerous or vicious.  
 38 A proceeding under this section is a limited civil case. A city or  
 39 county may establish an administrative hearing procedure to hear  
 40 and dispose of petitions filed pursuant to this chapter. Whenever

1 possible, any complaint received from a member of the public  
2 which serves as the evidentiary basis for the animal control officer  
3 or law enforcement officer to find probable cause shall be sworn  
4 to and verified by the complainant and shall be attached to the  
5 petition. The chief officer of the public ~~pound~~ *animal shelter* or  
6 animal control department or head of the local law enforcement  
7 agency shall notify the owner or keeper of the dog that a hearing  
8 will be held by the superior court or the hearing entity, as the case  
9 may be, at which time he or she may present evidence as to why  
10 the dog should not be declared potentially dangerous or vicious.  
11 The owner or keeper of the dog shall be served with notice of the  
12 hearing and a copy of the petition, either personally or by first-class  
13 mail with return receipt requested. The hearing shall be held  
14 promptly within no less than five working days nor more than 10  
15 working days after service of notice upon the owner or keeper of  
16 the dog. The hearing shall be open to the public. The court may  
17 admit into evidence all relevant evidence, including incident reports  
18 and the affidavits of witnesses, limit the scope of discovery, and  
19 may shorten the time to produce records or witnesses. A jury shall  
20 not be available. The court may find, upon a preponderance of the  
21 evidence, that the dog is potentially dangerous or vicious and make  
22 other orders authorized by this chapter.

23 SEC. 9. Section 31622 of the Food and Agricultural Code is  
24 amended to read:

25 31622. (a) After the hearing conducted pursuant to Section  
26 31621, the owner or keeper of the dog shall be notified in writing  
27 of the determination and orders issued, either personally or by  
28 first-class mail postage prepaid by the court or hearing entity. If a  
29 determination is made that the dog is potentially dangerous or  
30 vicious, the owner or keeper shall comply with Article 3  
31 (commencing with Section 31641) in accordance with a time  
32 schedule established by the chief officer of the public ~~pound~~ *animal*  
33 *shelter* or animal control department or the head of the local law  
34 enforcement agency, but in no case more than 30 days after the  
35 date of the determination or 35 days if notice of the determination  
36 is mailed to the owner or keeper of the dog. If the petitioner or the  
37 owner or keeper of the dog contests the determination, he or she  
38 may, within five days of the receipt of the notice of determination,  
39 appeal the decision of the court or hearing entity of original  
40 jurisdiction. The fee for filing an appeal, payable to the clerk of

1 the court, is as provided in subdivision (b) of Section 70626 of the  
2 Government Code. If the original hearing held pursuant to Section  
3 31621 was before a hearing entity other than a court of the  
4 jurisdiction, appeal shall be to the superior court. If the original  
5 hearing was held in the superior court, appeal shall be to the  
6 superior court before a judge other than the judge who originally  
7 heard the petition. The petitioner or the owner or keeper of the dog  
8 shall serve personally or by first-class mail, postage prepaid, notice  
9 of the appeal upon the other party.

10 (b) The court hearing the appeal shall conduct a hearing de  
11 novo, without a jury, and make its own determination as to  
12 potential danger and viciousness and make other orders authorized  
13 by this chapter, based upon the evidence presented. The hearing  
14 shall be conducted in the same manner and within the time periods  
15 set forth in Section 31621 and subdivision (a). The court may admit  
16 all relevant evidence, including incident reports and the affidavits  
17 of witnesses, limit the scope of discovery, and may shorten the  
18 time to produce records or witnesses. The issue shall be decided  
19 upon the preponderance of the evidence. If the court rules the dog  
20 to be potentially dangerous or vicious, the court may establish a  
21 time schedule to ensure compliance with this chapter, but in no  
22 case more than 30 days subsequent to the date of the court's  
23 determination or 35 days if the service of the judgment is by  
24 first-class mail.

25 SEC. 10. Section 32001 of the Food and Agricultural Code is  
26 amended to read:

27 32001. All public ~~pounds~~ *animal shelters*, shelters operated  
28 by societies for the prevention of cruelty to animals, and humane  
29 shelters, that contract to perform public animal control services,  
30 shall provide the owners of lost animals and those who find lost  
31 animals with all of the following:

32 (a) Ability to list the animals they have lost or found on "Lost  
33 and Found" lists maintained by the ~~pound~~ *or animal shelter*.

34 (b) Referrals to animals listed that may be the animals the  
35 owners or finders have lost or found.

36 (c) The telephone numbers and addresses of other ~~pounds and~~  
37 *animal shelters* in the same vicinity.

38 (d) Advice as to means of publishing and disseminating  
39 information regarding lost animals.

1 (e) The telephone numbers and addresses of volunteer groups  
2 that may be of assistance in locating lost animals.

3 The duties imposed by this section are mandatory duties for  
4 public entities for all purposes of the Government Code and for  
5 all private entities with which a public entity has contracted to  
6 perform those duties.

7 SEC. 11. Section 32003 of the Food and Agricultural Code is  
8 amended to read:

9 32003. All public ~~pounds~~ and private *animal* shelters shall  
10 keep accurate records on each animal taken up, medically treated,  
11 or impounded. The records shall include all of the following  
12 information and any other information required by the California  
13 Veterinary Medical Board:

14 (a) The date the animal was taken up, medically treated,  
15 euthanized, or impounded.

16 (b) The circumstances under which the animal was taken up,  
17 medically treated, euthanized, or impounded.

18 (c) The names of the personnel who took up, medically treated,  
19 euthanized, or impounded the animal.

20 (d) A description of any medical treatment provided to the  
21 animal and the name of the veterinarian of record.

22 (e) The final disposition of the animal, including the name of  
23 the person who euthanized the animal or the name and address of  
24 the adopting party. These records shall be maintained for three  
25 years after the date the animal's impoundment ends.

26 SEC. 12. Section 121916 of the Health and Safety Code is  
27 amended to read:

28 121916. (a) Any person or owner of an attack, guard, or sentry  
29 dog that operates or maintains a business to sell, rent, or train an  
30 attack, guard, or sentry dog shall obtain a permit from the local  
31 public agency or private society or ~~pound~~ *animal shelter*  
32 contracting with the local public agency for animal care or  
33 protection services.

34 (b) Each local agency shall adopt and implement a permit  
35 program for the administration of subdivision (a) by the local  
36 agency or private society or ~~pound~~ *animal shelter* contracting with  
37 the local public agency for animal care or protection services. A  
38 local agency may charge a fee for the issuance or renewal of a  
39 permit required under this section. The fee shall not exceed the  
40 actual costs for the implementation of the permit program.

1 (c) For purposes of this section, “local public agency” means  
2 a city, county, or city and county.

3 SEC. 13. Section 122322 of the Health and Safety Code is  
4 amended to read:

5 122322. (a) Any person violating any provision of this chapter  
6 shall be subject to a civil penalty of up to one thousand dollars  
7 (\$1,000) per violation. The action may be prosecuted in the name  
8 of the people of the State of California by the district attorney for  
9 the county where the violation occurred in the appropriate court  
10 or by the city attorney in the city where the violation occurred.

11 (b) Nothing in this chapter limits or authorizes any act or  
12 omission that violates Section 597 of the Penal Code.

13 (c) Nothing in this chapter shall authorize the seizure of an  
14 unweaned bird by a peace officer, officer of a humane society, or  
15 officer of ~~a pound~~ *an animal shelter* or animal regulation  
16 department of a public agency.

17 SEC. 14. Section 597 of the Penal Code is amended to read:

18 597. (a) Except as provided in subdivision (c) of this section  
19 or Section 599c, every person who maliciously and intentionally  
20 maims, mutilates, tortures, or wounds a living animal, or  
21 maliciously and intentionally kills an animal, is guilty of a crime  
22 punishable pursuant to subdivision (d).

23 (b) Except as otherwise provided in subdivision (a) or (c), every  
24 person who overdrives, overloads, drives when overloaded,  
25 overworks, tortures, torments, deprives of necessary sustenance,  
26 drink, or shelter, cruelly beats, mutilates, or cruelly kills any  
27 animal, or causes or procures any animal to be so overdriven,  
28 overloaded, driven when overloaded, overworked, tortured,  
29 tormented, deprived of necessary sustenance, drink, shelter, or to  
30 be cruelly beaten, mutilated, or cruelly killed; and whoever, having  
31 the charge or custody of any animal, either as owner or otherwise,  
32 subjects any animal to needless suffering, or inflicts unnecessary  
33 cruelty upon the animal, or in any manner abuses any animal, or  
34 fails to provide the animal with proper food, drink, or shelter or  
35 protection from the weather, or who drives, rides, or otherwise  
36 uses the animal when unfit for labor, is, for each offense, guilty  
37 of a crime punishable pursuant to subdivision (d).

38 (c) Every person who maliciously and intentionally maims,  
39 mutilates, or tortures any mammal, bird, reptile, amphibian, or



1 fish, as described in subdivision (e), is guilty of a crime punishable  
2 pursuant to subdivision (d).

3 (d) A violation of subdivision (a), (b), or (c) is punishable as a  
4 felony by imprisonment pursuant to subdivision (h) of Section  
5 1170, or by a fine of not more than twenty thousand dollars  
6 (\$20,000), or by both that fine and imprisonment, or alternatively,  
7 as a misdemeanor by imprisonment in a county jail for not more  
8 than one year, or by a fine of not more than twenty thousand dollars  
9 (\$20,000), or by both that fine and imprisonment.

10 (e) Subdivision (c) applies to any mammal, bird, reptile,  
11 amphibian, or fish which is a creature described as follows:

12 (1) Endangered species or threatened species as described in  
13 Chapter 1.5 (commencing with Section 2050) of Division 3 of the  
14 Fish and Game Code.

15 (2) Fully protected birds described in Section 3511 of the Fish  
16 and Game Code.

17 (3) Fully protected mammals described in Chapter 8  
18 (commencing with Section 4700) of Part 3 of Division 4 of the  
19 Fish and Game Code.

20 (4) Fully protected reptiles and amphibians described in Chapter  
21 2 (commencing with Section 5050) of Division 5 of the Fish and  
22 Game Code.

23 (5) Fully protected fish as described in Section 5515 of the Fish  
24 and Game Code.

25 This subdivision does not supersede or affect any provisions of  
26 law relating to taking of the described species, including, but not  
27 limited to, Section 12008 of the Fish and Game Code.

28 (f) For the purposes of subdivision (c), each act of malicious  
29 and intentional maiming, mutilating, or torturing a separate  
30 specimen of a creature described in subdivision (e) is a separate  
31 offense. If any person is charged with a violation of subdivision  
32 (c), the proceedings shall be subject to Section 12157 of the Fish  
33 and Game Code.

34 (g) (1) Upon the conviction of a person charged with a violation  
35 of this section by causing or permitting an act of cruelty, as defined  
36 in Section 599b, all animals lawfully seized and impounded with  
37 respect to the violation by a peace officer, officer of a humane  
38 society, or officer of a ~~pond~~ *an animal shelter* or animal regulation  
39 department of a public agency shall be adjudged by the court to  
40 be forfeited and shall thereupon be awarded to the impounding

1 officer for proper disposition. A person convicted of a violation  
 2 of this section by causing or permitting an act of cruelty, as defined  
 3 in Section 599b, shall be liable to the impounding officer for all  
 4 costs of impoundment from the time of seizure to the time of proper  
 5 disposition.

6 (2) Mandatory seizure or impoundment shall not apply to  
 7 animals in properly conducted scientific experiments or  
 8 investigations performed under the authority of the faculty of a  
 9 regularly incorporated medical college or university of this state.

10 (h) Notwithstanding any other ~~provision of~~ law, if a defendant  
 11 is granted probation for a conviction under this section, the court  
 12 shall order the defendant to pay for, and successfully complete,  
 13 counseling, as determined by the court, designed to evaluate and  
 14 treat behavior or conduct disorders. If the court finds that the  
 15 defendant is financially unable to pay for that counseling, the court  
 16 may develop a sliding fee schedule based upon the defendant's  
 17 ability to pay. An indigent defendant may negotiate a deferred  
 18 payment schedule, but shall pay a nominal fee if the defendant has  
 19 the ability to pay the nominal fee. County mental health  
 20 departments or Medi-Cal shall be responsible for the costs of  
 21 counseling required by this section only for those persons who  
 22 meet the medical necessity criteria for mental health managed care  
 23 pursuant to Section 1830.205 of Title 9 of the California Code of  
 24 Regulations or the targeted population criteria specified in Section  
 25 5600.3 of the Welfare and Institutions Code. The counseling  
 26 specified in this subdivision shall be in addition to any other terms  
 27 and conditions of probation, including any term of imprisonment  
 28 and any fine. This provision specifies a mandatory additional term  
 29 of probation and is not to be utilized as an alternative in lieu of  
 30 imprisonment pursuant to subdivision (h) of Section 1170 or county  
 31 jail when that sentence is otherwise appropriate. If the court does  
 32 not order custody as a condition of probation for a conviction under  
 33 this section, the court shall specify on the court record the reason  
 34 or reasons for not ordering custody. This subdivision shall not  
 35 apply to cases involving police dogs or horses as described in  
 36 Section 600.

37 SEC. 15. Section 597.1 of the Penal Code is amended to read:

38 597.1. (a) (1) Every owner, driver, or keeper of any animal  
 39 who permits the animal to be in any building, enclosure, lane,  
 40 street, square, or lot of any city, county, city and county, or judicial

1 district without proper care and attention is guilty of a  
2 misdemeanor. Any peace officer, humane society officer, or animal  
3 control officer shall take possession of the stray or abandoned  
4 animal and shall provide care and treatment for the animal until  
5 the animal is deemed to be in suitable condition to be returned to  
6 the owner. When the officer has reasonable grounds to believe that  
7 very prompt action is required to protect the health or safety of the  
8 animal or the health or safety of others, the officer shall  
9 immediately seize the animal and comply with subdivision (f). In  
10 all other cases, the officer shall comply with the provisions of  
11 subdivision (g). The full cost of caring for and treating any animal  
12 properly seized under this subdivision or pursuant to a search  
13 warrant shall constitute a lien on the animal and the animal shall  
14 not be returned to its owner until the charges are paid, if the seizure  
15 is upheld pursuant to this section.

16 (2) Notwithstanding any other law, if an animal control officer  
17 or humane officer, when necessary to protect the health and safety  
18 of a wild, stray, or abandoned animal or the health and safety of  
19 others, seeks to administer a tranquilizer that contains a controlled  
20 substance, as defined in Division 10 (commencing with Section  
21 11000) of the Health and Safety Code, to gain control of that  
22 animal, he or she may possess and administer that tranquilizer with  
23 direct or indirect supervision as determined by a licensed  
24 veterinarian, provided that the officer has met each of the following  
25 requirements:

26 (A) Has received training in the administration of tranquilizers  
27 from a licensed veterinarian. The training shall be approved by  
28 the California Veterinary Medical Board.

29 (B) Has successfully completed the firearms component of a  
30 course relating to the exercise of police powers, as set forth in  
31 Section 832.

32 (C) Is authorized by his or her agency or organization to possess  
33 and administer the tranquilizer in accordance with a policy  
34 established by the agency or organization and approved by the  
35 veterinarian who obtained the controlled substance.

36 (D) Has successfully completed the euthanasia training set forth  
37 in Section 2039 of Title 16 of the California Code of Regulations.

38 (E) Has completed a state and federal fingerprinting background  
39 check and does not have any drug- or alcohol-related convictions.

1 (b) Every sick, disabled, infirm, or crippled animal, except a  
2 dog or cat, that is abandoned in any city, county, city and county,  
3 or judicial district may be ~~killed~~ *humanely euthanized* by the officer  
4 if, after a reasonable search, no owner of the animal can be found.  
5 It shall be the duty of all peace officers, humane society officers,  
6 and animal control officers to cause the animal to be ~~killed~~  
7 *humanely euthanized* or rehabilitated and placed in a suitable home  
8 on information that the animal is stray or abandoned. The officer  
9 may likewise take charge of any animal, including a dog or cat,  
10 that by reason of lameness, sickness, feebleness, or neglect, is unfit  
11 for the labor it is performing, or that in any other manner is being  
12 cruelly treated, and provide care and treatment for the animal until  
13 it is deemed to be in a suitable condition to be returned to the  
14 owner. When the officer has reasonable grounds to believe that  
15 very prompt action is required to protect the health or safety of an  
16 animal or the health or safety of others, the officer shall  
17 immediately seize the animal and comply with subdivision (f). In  
18 all other cases, the officer shall comply with subdivision (g). The  
19 full cost of caring for and treating any animal properly seized under  
20 this subdivision or pursuant to a search warrant shall constitute a  
21 lien on the animal and the animal shall not be returned to its owner  
22 until the charges are paid.

23 (c) (1) Any peace officer, humane society officer, or animal  
24 control officer shall convey all injured cats and dogs found without  
25 their owners in a public place directly to a veterinarian known by  
26 the officer to be a veterinarian who ordinarily treats dogs and cats  
27 for a determination of whether the animal shall be immediately  
28 and ~~humanely destroyed~~ *euthanized* or shall be hospitalized under  
29 proper care and given emergency treatment.

30 (2) If the owner does not redeem the animal within the locally  
31 prescribed waiting period, the veterinarian may personally perform  
32 euthanasia on the animal. If the animal is treated and recovers from  
33 its injuries, the veterinarian may keep the animal for purposes of  
34 adoption, provided the responsible animal control agency has first  
35 been contacted and has refused to take possession of the animal.

36 (3) Whenever any animal is transferred to a veterinarian in a  
37 clinic, such as an emergency clinic that is not in continuous  
38 operation, the veterinarian may, in turn, transfer the animal to an  
39 appropriate facility.

1 (4) If the veterinarian determines that the animal shall be  
2 hospitalized under proper care and given emergency treatment,  
3 the costs of any services that are provided pending the owner's  
4 inquiry to the responsible agency, department, or society shall be  
5 paid from the dog license fees, fines, and fees for impounding dogs  
6 in the city, county, or city and county in which the animal was  
7 licensed or, if the animal is unlicensed, shall be paid by the  
8 jurisdiction in which the animal was found, subject to the provision  
9 that this cost be repaid by the animal's owner. The full cost of  
10 caring for and treating any animal seized under this subdivision  
11 shall constitute a lien on the animal and the animal shall not be  
12 returned to the owner until the charges are paid. No veterinarian  
13 shall be criminally or civilly liable for any decision that he or she  
14 makes or for services that he or she provides pursuant to this  
15 subdivision.

16 (d) An animal control agency that takes possession of an animal  
17 pursuant to subdivision (c) shall keep records of the whereabouts  
18 of the animal from the time of possession to the end of the animal's  
19 impoundment, and those records shall be available for inspection  
20 by the public upon request for three years after the date the animal's  
21 impoundment ended.

22 (e) Notwithstanding any other provision of this section, any  
23 peace officer, humane society officer, or any animal control officer  
24 may, with the approval of his or her immediate superior, humanely  
25 ~~destroy~~  *euthanize* any stray or abandoned animal in the field in  
26 any case where the animal is too severely injured to move or where  
27 a veterinarian is not available and it would be more humane to  
28 euthanize the animal.

29 (f) Whenever an officer authorized under this section seizes or  
30 impounds an animal based on a reasonable belief that prompt action  
31 is required to protect the health or safety of the animal or the health  
32 or safety of others, the officer shall, prior to the commencement  
33 of any criminal proceedings authorized by this section, provide  
34 the owner or keeper of the animal, if known or ascertainable after  
35 reasonable investigation, with the opportunity for a postseizure  
36 hearing to determine the validity of the seizure or impoundment,  
37 or both.

38 (1) The agency shall cause a notice to be affixed to a  
39 conspicuous place where the animal was situated or personally  
40 deliver a notice of the seizure or impoundment, or both, to the

1 owner or keeper within 48 hours, excluding weekends and holidays.

2 The notice shall include all of the following:

3 (A) The name, business address, and telephone number of the  
4 officer providing the notice.

5 (B) A description of the animal seized, including any  
6 identification upon the animal.

7 (C) The authority and purpose for the seizure or impoundment,  
8 including the time, place, and circumstances under which the  
9 animal was seized.

10 (D) A statement that, in order to receive a postseizure hearing,  
11 the owner or person authorized to keep the animal, or his or her  
12 agent, shall request the hearing by signing and returning an  
13 enclosed declaration of ownership or right to keep the animal to  
14 the agency providing the notice within 10 days, including weekends  
15 and holidays, of the date of the notice. The declaration may be  
16 returned by personal delivery or mail.

17 (E) A statement that the full cost of caring for and treating any  
18 animal properly seized under this section is a lien on the animal  
19 and that the animal shall not be returned to the owner until the  
20 charges are paid, and that failure to request or to attend a scheduled  
21 hearing shall result in liability for this cost.

22 (2) The postseizure hearing shall be conducted within 48 hours  
23 of the request, excluding weekends and holidays. The seizing  
24 agency may authorize its own officer or employee to conduct the  
25 hearing if the hearing officer is not the same person who directed  
26 the seizure or impoundment of the animal and is not junior in rank  
27 to that person. The agency may utilize the services of a hearing  
28 officer from outside the agency for the purposes of complying with  
29 this section.

30 (3) Failure of the owner or keeper, or of his or her agent, to  
31 request or to attend a scheduled hearing shall result in a forfeiture  
32 of any right to a postseizure hearing or right to challenge his or  
33 her liability for costs incurred.

34 (4) The agency, department, or society employing the person  
35 who directed the seizure shall be responsible for the costs incurred  
36 for caring and treating the animal, if it is determined in the  
37 postseizure hearing that the seizing officer did not have reasonable  
38 grounds to believe very prompt action, including seizure of the  
39 animal, was required to protect the health or safety of the animal  
40 or the health or safety of others. If it is determined the seizure was

1 justified, the owner or keeper shall be personally liable to the  
2 seizing agency for the full cost of the seizure and care of the  
3 animal. The charges for the seizure and care of the animal shall  
4 be a lien on the animal. The animal shall not be returned to its  
5 owner until the charges are paid and the owner demonstrates to  
6 the satisfaction of the seizing agency or the hearing officer that  
7 the owner can and will provide the necessary care for the animal.

8 (g) Where the need for immediate seizure is not present and  
9 prior to the commencement of any criminal proceedings authorized  
10 by this section, the agency shall provide the owner or keeper of  
11 the animal, if known or ascertainable after reasonable investigation,  
12 with the opportunity for a hearing prior to any seizure or  
13 impoundment of the animal. The owner shall produce the animal  
14 at the time of the hearing unless, prior to the hearing, the owner  
15 has made arrangements with the agency to view the animal upon  
16 request of the agency, or unless the owner can provide verification  
17 that the animal was humanely ~~destroyed~~ *euthanized*. Any person  
18 who willfully fails to produce the animal or provide the verification  
19 is guilty of an infraction, punishable by a fine of not less than two  
20 hundred fifty dollars (\$250) nor more than one thousand dollars  
21 (\$1,000).

22 (1) The agency shall cause a notice to be affixed to a  
23 conspicuous place where the animal was situated or personally  
24 deliver a notice stating the grounds for believing the animal should  
25 be seized under subdivision (a) or (b). The notice shall include all  
26 of the following:

27 (A) The name, business address, and telephone number of the  
28 officer providing the notice.

29 (B) A description of the animal to be seized, including any  
30 identification upon the animal.

31 (C) The authority and purpose for the possible seizure or  
32 impoundment.

33 (D) A statement that, in order to receive a hearing prior to any  
34 seizure, the owner or person authorized to keep the animal, or his  
35 or her agent, shall request the hearing by signing and returning the  
36 enclosed declaration of ownership or right to keep the animal to  
37 the officer providing the notice within two days, excluding  
38 weekends and holidays, of the date of the notice.

39 (E) A statement that the cost of caring for and treating any  
40 animal properly seized under this section is a lien on the animal,

1 that any animal seized shall not be returned to the owner until the  
2 charges are paid, and that failure to request or to attend a scheduled  
3 hearing shall result in a conclusive determination that the animal  
4 may properly be seized and that the owner shall be liable for the  
5 charges.

6 (2) The preseizure hearing shall be conducted within 48 hours,  
7 excluding weekends and holidays, after receipt of the request. The  
8 seizing agency may authorize its own officer or employee to  
9 conduct the hearing if the hearing officer is not the same person  
10 who requests the seizure or impoundment of the animal and is not  
11 junior in rank to that person. The agency may utilize the services  
12 of a hearing officer from outside the agency for the purposes of  
13 complying with this section.

14 (3) Failure of the owner or keeper, or his or her agent, to request  
15 or to attend a scheduled hearing shall result in a forfeiture of any  
16 right to a preseizure hearing or right to challenge his or her liability  
17 for costs incurred pursuant to this section.

18 (4) The hearing officer, after the hearing, may affirm or deny  
19 the owner's or keeper's right to custody of the animal and, if  
20 reasonable grounds are established, may order the seizure or  
21 impoundment of the animal for care and treatment.

22 (h) If any animal is properly seized under this section or pursuant  
23 to a search warrant, the owner or keeper shall be personally liable  
24 to the seizing agency for the cost of the seizure and care of the  
25 animal. Further, if the charges for the seizure or impoundment and  
26 any other charges permitted under this section are not paid within  
27 14 days of the seizure, or if the owner, within 14 days of notice of  
28 availability of the animal to be returned, fails to pay charges  
29 permitted under this section and take possession of the animal, the  
30 animal shall be deemed to have been abandoned and may be  
31 ~~disposed of~~ *humanely euthanized* by the seizing agency.

32 (i) If the animal requires veterinary care and the humane society  
33 or public agency is not assured, within 14 days of the seizure of  
34 the animal, that the owner will provide the necessary care, the  
35 animal shall not be returned to its owner and shall be deemed to  
36 have been abandoned and may be disposed of by the seizing  
37 agency. A veterinarian may ~~humanely destroy~~ *euthanize* an  
38 impounded animal without regard to the prescribed holding period  
39 when it has been determined that the animal has incurred severe  
40 injuries or is incurably crippled. A veterinarian also may



1 immediately humanely ~~destroy~~ *euthanize* an impounded animal  
2 afflicted with a serious contagious disease unless the owner or his  
3 or her agent immediately authorizes treatment of the animal by a  
4 veterinarian at the expense of the owner or agent.

5 (j) No animal properly seized under this section or pursuant to  
6 a search warrant shall be returned to its owner until the owner can  
7 demonstrate to the satisfaction of the seizing agency or hearing  
8 officer that the owner can and will provide the necessary care for  
9 the animal.

10 (k) (1) In the case of cats and dogs, prior to the final disposition  
11 of any criminal charges, the seizing agency or prosecuting attorney  
12 may file a petition in a criminal action requesting that, prior to that  
13 final disposition, the court issue an order forfeiting the animal to  
14 the city, county, or seizing agency. The petitioner shall serve a  
15 true copy of the petition upon the defendant and the prosecuting  
16 attorney.

17 (2) Upon receipt of the petition, the court shall set a hearing on  
18 the petition. The hearing shall be conducted within 14 days after  
19 the filing of the petition, or as soon as practicable.

20 (3) The petitioner shall have the burden of establishing beyond  
21 a reasonable doubt that, even in the event of an acquittal of the  
22 criminal charges, the owner will not legally be permitted to retain  
23 the animal in question. If the court finds that the petitioner has met  
24 its burden, the court shall order the immediate forfeiture of the  
25 animal as sought by the petition.

26 (4) Nothing in this subdivision is intended to authorize a seizing  
27 agency or prosecuting attorney to file a petition to determine an  
28 owner's ability to legally retain an animal pursuant to paragraph  
29 (3) of subdivision (l) if a petition has previously been filed pursuant  
30 to this subdivision.

31 (l) (1) Upon the conviction of a person charged with a violation  
32 of this section, or Section 597 or 597a, all animals lawfully seized  
33 and impounded with respect to the violation shall be adjudged by  
34 the court to be forfeited and shall thereupon be transferred to the  
35 impounding officer or appropriate public entity for proper adoption  
36 or other disposition. A person convicted of a violation of this  
37 section shall be personally liable to the seizing agency for all costs  
38 of impoundment from the time of seizure to the time of proper  
39 disposition. Upon conviction, the court shall order the convicted  
40 person to make payment to the appropriate public entity for the

1 costs incurred in the housing, care, feeding, and treatment of the  
2 seized or impounded animals. Each person convicted in connection  
3 with a particular animal may be held jointly and severally liable  
4 for restitution for that particular animal. The payment shall be in  
5 addition to any other fine or sentence ordered by the court.

6 (2) The court may also order, as a condition of probation, that  
7 the convicted person be prohibited from owning, possessing, caring  
8 for, or residing with, animals of any kind, and require the convicted  
9 person to immediately deliver all animals in his or her possession  
10 to a designated public entity for adoption or other lawful disposition  
11 or provide proof to the court that the person no longer has  
12 possession, care, or control of any animals. In the event of the  
13 acquittal or final discharge without conviction of the person  
14 charged, if the animal is still impounded, the animal has not been  
15 previously deemed abandoned pursuant to subdivision (h), the  
16 court has not ordered that the animal be forfeited pursuant to  
17 subdivision (k), the court shall, on demand, direct the release of  
18 seized or impounded animals to the defendant upon a showing of  
19 proof of ownership.

20 (3) Any questions regarding ownership shall be determined in  
21 a separate hearing by the court where the criminal case was finally  
22 adjudicated and the court shall hear testimony from any persons  
23 who may assist the court in determining ownership of the animal.  
24 If the owner is determined to be unknown or the owner is  
25 prohibited or unable to retain possession of the animals for any  
26 reason, the court shall order the animals to be released to the  
27 appropriate public entity for adoption or other lawful disposition.  
28 This section is not intended to cause the release of any animal,  
29 bird, reptile, amphibian, or fish seized or impounded pursuant to  
30 any other statute, ordinance, or municipal regulation. This section  
31 shall not prohibit the seizure or impoundment of animals as  
32 evidence as provided for under any other provision of law.

33 (m) It shall be the duty of all peace officers, humane society  
34 officers, and animal control officers to use all currently acceptable  
35 methods of identification, both electronic and otherwise, to  
36 determine the lawful owner or caretaker of any seized or  
37 impounded animal. It shall also be their duty to make reasonable  
38 efforts to notify the owner or caretaker of the whereabouts of the  
39 animal and any procedures available for the lawful recovery of the  
40 animal and, upon the owner's and caretaker's initiation of recovery

1 procedures, retain custody of the animal for a reasonable period  
2 of time to allow for completion of the recovery process. Efforts to  
3 locate or contact the owner or caretaker and communications with  
4 persons claiming to be the owner or caretaker shall be recorded  
5 and maintained and be made available for public inspection.

6 SEC. 16. Section 597.2 of the Penal Code is amended to read:

7 597.2. (a) It shall be the duty of an officer of ~~a pound~~ *an*  
8 *animal shelter*, a humane society, or *an* animal regulation  
9 department of a public agency to assist in a case involving the  
10 abandonment or voluntary relinquishment of an equine by the  
11 equine's owner. This section does not require ~~a pound~~, *an animal*  
12 *shelter*, a humane society, or *an* animal regulation department of  
13 a public agency to take actual possession of the equine.

14 (b) If ~~a pound~~ *an animal shelter*, a humane society, or *an* animal  
15 regulation department of a public agency sells an equine at a private  
16 or public auction or sale, it shall set the minimum bid for the sale  
17 of the equine at a price above the current slaughter price of the  
18 equine.

19 (c) (1) This section does not prohibit *an animal shelter*, a  
20 humane society, or *an* animal regulation department of a public  
21 agency from placing an equine through an adoption program at an  
22 adoption fee that may be set below current slaughter price.

23 (2) A person adopting an equine under paragraph (1) shall  
24 submit a written statement declaring that the person is adopting  
25 the equine for personal use and not for purposes of resale, resale  
26 for slaughter, or holding or transporting the equine for slaughter.

27 SEC. 17. Section 597e of the Penal Code is amended to read:

28 597e. Any person who impounds, or causes to be impounded  
29 in any ~~pound~~ *animal shelter*, any domestic animal, shall supply it  
30 during ~~such~~ confinement with a sufficient quantity of good and  
31 wholesome food and water, and in default thereof, is guilty of a  
32 misdemeanor. In case any domestic animal is at any time so  
33 impounded and continues to be without necessary food and water  
34 for more than 12 consecutive hours, it is lawful for any person,  
35 from time to time, as may be deemed necessary, to enter into and  
36 upon any ~~pound~~ *animal shelter* in which the animal is confined,  
37 and supply it with necessary food and water so long as it remains  
38 so confined. ~~Such~~ *That* person is not liable for the entry and may  
39 collect the reasonable cost of the food and water from the owner  
40 of the animal, and the *owner of the* animal is subject to enforcement

1 of a money judgment for the reasonable cost of ~~such~~ food and  
2 water.

3 SEC. 18. Section 597f of the Penal Code is amended to read:

4 597f. (a) Every owner, driver, or possessor of any animal, who  
5 permits the animal to be in any building, enclosure, lane, street,  
6 square, or lot, of any city, city and county, or judicial district,  
7 without proper care and attention, shall, on conviction, be deemed  
8 guilty of a misdemeanor. And it shall be the duty of any peace  
9 officer, officer of the humane society, or officer of ~~a pound~~ *an*  
10 *animal shelter* or animal regulation department of a public agency,  
11 to take possession of the animal so abandoned or neglected and  
12 care for the animal until it is redeemed by the owner or claimant,  
13 and the cost of caring for the animal shall be a lien on the animal  
14 until the charges are paid. Every sick, disabled, infirm, or crippled  
15 animal, except a dog or cat, which shall be abandoned in any city,  
16 city and county, or judicial district, may, if after due search no  
17 owner can be found therefor, be ~~killed~~ *humanely euthanized* by  
18 the officer; and it shall be the duty of all peace officers, an officer  
19 of ~~such~~ *that* society, or officer of ~~a pound~~ *an animal shelter* or  
20 animal regulation department of a public agency to cause the  
21 animal to be ~~killed~~ *humanely euthanized* on information of ~~such~~  
22 *that* abandonment. The officer may likewise take charge of any  
23 animal, including a dog or cat, that by reason of lameness, sickness,  
24 feebleness, or neglect, is unfit for the labor it is performing, or that  
25 in any other manner is being cruelly treated; and, if the animal is  
26 not then in the custody of its owner, the officer shall give notice  
27 thereof to the owner, if known, and may provide suitable care for  
28 the animal until it is deemed to be in a suitable condition to be  
29 delivered to the owner, and any necessary expenses which may be  
30 incurred for taking care of and keeping the animal shall be a lien  
31 thereon, to be paid before the animal can be lawfully recovered.

32 (b) (1) It shall be the duty of all officers of ~~pounds~~ *animal*  
33 *shelters* or humane societies, and animal regulation departments  
34 of public agencies to convey, and for police and sheriff  
35 departments, to cause to be conveyed all injured cats and dogs  
36 found without their owners in a public place directly to a  
37 veterinarian known by the officer or agency to be a veterinarian  
38 that ordinarily treats dogs and cats for a determination of whether  
39 the animal shall be immediately and humanely ~~destroyed~~

1 *euthanized* or shall be hospitalized under proper care and given  
2 emergency treatment.

3 ¶

4 (2) *If* the owner does not redeem the animal within the locally  
5 prescribed waiting period, the veterinarian may personally perform  
6 euthanasia on the animal; or, if the animal is treated and recovers  
7 from its injuries, the veterinarian may keep the animal for purposes  
8 of adoption, provided the responsible animal control agency has  
9 first been contacted and has refused to take possession of the  
10 animal.

11 ~~Whenever~~

12 (3) *Whenever* any animal is transferred pursuant to this  
13 subdivision to a veterinarian in a clinic, such as an emergency  
14 clinic which is not in continuous operation, the veterinarian may,  
15 in turn, transfer the animal to an appropriate facility.

16 ¶

17 (4) *If* the veterinarian determines that the animal shall be  
18 hospitalized under proper care and given emergency treatment,  
19 the costs of any services which are provided pending the owner's  
20 inquiry to the agency, department, or society shall be paid from  
21 the dog license fees, fines, and fees for impounding dogs in the  
22 city, county, or city and county in which the animal was licensed  
23 or if the animal is unlicensed the jurisdiction in which the animal  
24 was found, subject to the provision that this cost be repaid by the  
25 animal's owner. No veterinarian shall be criminally or civilly liable  
26 for any decision which he or she makes or services which he or  
27 she provides pursuant to this section.

28 (c) An animal control agency which takes possession of an  
29 animal pursuant to subdivision (b), shall keep records of the  
30 whereabouts of the animal for a 72-hour period from the time of  
31 possession and those records shall be available to inspection by  
32 the public upon request.

33 (d) Notwithstanding any other provisions of this section, any  
34 officer of ~~a pound~~ *an animal shelter* or animal regulation  
35 department or humane society, or any officer of a police or sheriff's  
36 department may, with the approval of his or her immediate  
37 superior, ~~humanely-destroy~~ *euthanize* any abandoned animal in  
38 the field in any case where the animal is too severely injured to  
39 move or where a veterinarian is not available and it would be more  
40 humane to ~~dispose of~~ *euthanize* the animal.

1 SEC. 19. Section 597u of the Penal Code is amended to read:

2 597u. (a) No person, peace officer, officer of a humane society,  
 3 or officer of ~~a pound~~ *an animal shelter* or animal regulation  
 4 department of a public agency shall kill any animal by using any  
 5 of the following methods:

- 6 (1) Carbon monoxide gas.
- 7 (2) Intracardiac injection of a euthanasia agent on a conscious  
 8 animal, unless the animal is heavily sedated or anesthetized in a  
 9 humane manner, or comatose, or unless, in light of all the relevant  
 10 circumstances, the procedure is justifiable.

11 (b) With respect to the killing of any dog or cat, no person,  
 12 peace officer, officer of a humane society, or officer of ~~a pound~~  
 13 *an animal shelter* or animal regulation department of a public  
 14 agency shall use any of the methods specified in subdivision (a)  
 15 or any of the following methods:

- 16 (1) High-altitude decompression chamber.
- 17 (2) Nitrogen ~~gas~~ *gas*.

18 SEC. 20. Section 597v of the Penal Code is amended to read:

19 597v. No person, peace officer, officer of a humane society,  
 20 or officer of ~~a pound~~ *an animal shelter* or animal regulation  
 21 department of a public agency shall kill any newborn dog or cat  
 22 whose eyes have not yet opened by any other method than by the  
 23 use of chloroform vapor or by inoculation of barbiturates.

24 SEC. 21. Section 599e of the Penal Code is amended to read:

25 599e. Every animal which is unfit, by reason of its physical  
 26 condition, for the purpose for which ~~such~~ *those* animals are usually  
 27 employed, and when there is no reasonable probability of ~~such~~  
 28 *that* animal ever becoming fit for the purpose for which it is usually  
 29 employed, shall be by the owner or lawful possessor of the same,  
 30 deprived of life within 12 hours after being notified by any peace  
 31 officer, officer of said society, or employee of ~~a pound~~ *an animal*  
 32 *shelter* or animal regulation department of a public agency who is  
 33 a veterinarian, to kill the same, and ~~such~~ *the* owner, possessor, or  
 34 person omitting or refusing to comply with the provisions of this  
 35 section shall, upon conviction, be deemed guilty of a misdemeanor,  
 36 and after ~~such~~ *that* conviction the court or magistrate having  
 37 jurisdiction of ~~such~~ *that* offense shall order any peace officer,  
 38 officer of said society, or officer of ~~a pound~~ *an animal shelter* or  
 39 animal regulation department of a public agency, to immediately  
 40 kill ~~such~~ *that* animal; provided, that this shall not apply to ~~such~~ *an*

- 1 owner keeping any old or diseased animal belonging to him *or her*
- 2 on his *or her* own premises with proper care.

O