

AMENDED IN SENATE AUGUST 17, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1117**

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**Introduced by Assembly Member Smyth**  
**(Coauthors: Assembly Members Solorio and Williams)**  
(Coauthors: Senators Hancock, Lieu, and Strickland)

February 18, 2011

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An act to amend Section 597.1 of, and to add Section 597.9 to, the Penal Code, relating to animal abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1117, as amended, Smyth. Animal abuse: penalties.

Existing law provides that the cost of seizing, caring for, and treating any animal seized pursuant to specified provisions regarding the failure to care for animals shall constitute a lien on the animal and that the animal shall not be returned to its owner until the charges are paid. Existing law provides that no animal properly seized pursuant to these provisions shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit, or the

owner can demonstrate that the owner can and will provide the necessary care.

This bill would additionally apply these provisions to animals seized pursuant to a search warrant.

Existing law establishes various other crimes regarding cruelty to animals and the failure to care for animals.

This bill would provide that any person who has been convicted of certain of these crimes, and who within a specified period after conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal, is guilty of a public offense punishable by a \$1,000 fine. The bill would provide that the court may reduce the duration of, or, in the case of livestock owners and in the interest of justice, exempt a defendant from, these restrictions under specified circumstances. By creating a new crime and by increasing the duties of local humane officers, this bill would impose a state-mandated local program.

*This bill would incorporate changes made by AB 1279 to become operative if both this bill and AB 1279 are enacted and become operative.*

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 597.1 of the Penal Code is amended to
- 2 read:
- 3 597.1. (a) Every owner, driver, or keeper of any animal who
- 4 permits the animal to be in any building, enclosure, lane, street,
- 5 square, or lot of any city, county, city and county, or judicial district
- 6 without proper care and attention is guilty of a misdemeanor. Any
- 7 peace officer, humane society officer, or animal control officer

1 shall take possession of the stray or abandoned animal and shall  
2 provide care and treatment for the animal until the animal is  
3 deemed to be in suitable condition to be returned to the owner.  
4 When the officer has reasonable grounds to believe that very  
5 prompt action is required to protect the health or safety of the  
6 animal or the health or safety of others, the officer shall  
7 immediately seize the animal and comply with subdivision (f). In  
8 all other cases, the officer shall comply with the provisions of  
9 subdivision (g). The cost of caring for and treating any animal  
10 properly seized under this subdivision or pursuant to a search  
11 warrant shall constitute a lien on the animal and the animal shall  
12 not be returned to its owner until the charges are paid, if the seizure  
13 is upheld pursuant to this section.

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

35 (c) (1) Any peace officer, humane society officer, or animal  
36 control officer shall convey all injured cats and dogs found without  
37 their owners in a public place directly to a veterinarian known by  
38 the officer to be a veterinarian who ordinarily treats dogs and cats  
39 for a determination of whether the animal shall be immediately

1 and humanely destroyed or shall be hospitalized under proper care  
2 and given emergency treatment.

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

9 (3) Whenever any animal is transferred to a veterinarian in a  
10 clinic, such as an emergency clinic that is not in continuous  
11 operation, the veterinarian may, in turn, transfer the animal to an  
12 appropriate facility.

13 (4) If the veterinarian determines that the animal shall be  
14 hospitalized under proper care and given emergency treatment,  
15 the costs of any services that are provided pending the owner's  
16 inquiry to the responsible agency, department, or society shall be  
17 paid from the dog license fees, fines, and fees for impounding dogs  
18 in the city, county, or city and county in which the animal was  
19 licensed or, if the animal is unlicensed, shall be paid by the  
20 jurisdiction in which the animal was found, subject to the provision  
21 that this cost be repaid by the animal's owner. The cost of caring  
22 for and treating any animal seized under this subdivision shall  
23 constitute a lien on the animal and the animal shall not be returned  
24 to the owner until the charges are paid. No veterinarian shall be  
25 criminally or civilly liable for any decision that he or she makes  
26 or for services that he or she provides pursuant to this subdivision.

27 (d) An animal control agency that takes possession of an animal  
28 pursuant to subdivision (c) shall keep records of the whereabouts  
29 of the animal from the time of possession to the end of the animal's  
30 impoundment, and those records shall be available for inspection  
31 by the public upon request for three years after the date the animal's  
32 impoundment ended.

33 (e) Notwithstanding any other provision of this section, any  
34 peace officer, humane society officer, or any animal control officer  
35 may, with the approval of his or her immediate superior, humanely  
36 destroy any stray or abandoned animal in the field in any case  
37 where the animal is too severely injured to move or where a  
38 veterinarian is not available and it would be more humane to  
39 dispose of the animal.

1 (f) Whenever an officer authorized under this section seizes or  
2 impounds an animal based on a reasonable belief that prompt action  
3 is required to protect the health or safety of the animal or the health  
4 or safety of others, the officer shall, prior to the commencement  
5 of any criminal proceedings authorized by this section, provide  
6 the owner or keeper of the animal, if known or ascertainable after  
7 reasonable investigation, with the opportunity for a postseizure  
8 hearing to determine the validity of the seizure or impoundment,  
9 or both.

10 (1) The agency shall cause a notice to be affixed to a  
11 conspicuous place where the animal was situated or personally  
12 deliver a notice of the seizure or impoundment, or both, to the  
13 owner or keeper within 48 hours, excluding weekends and holidays.  
14 The notice shall include all of the following:

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

17 (B) A description of the animal seized, including any  
18 identification upon the animal.

19 (C) The authority and purpose for the seizure, or impoundment,  
20 including the time, place, and circumstances under which the  
21 animal was seized.

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

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

34 (2) The postseizure hearing shall be conducted within 48 hours  
35 of the request, excluding weekends and holidays. The seizing  
36 agency may authorize its own officer or employee to conduct the  
37 hearing if the hearing officer is not the same person who directed  
38 the seizure or impoundment of the animal and is not junior in rank  
39 to that person. The agency may utilize the services of a hearing

1 officer from outside the agency for the purposes of complying with  
2 this section.

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

7 (4) The agency, department, or society employing the person  
8 who directed the seizure shall be responsible for the costs incurred  
9 for caring and treating the animal, if it is determined in the  
10 postseizure hearing that the seizing officer did not have reasonable  
11 grounds to believe very prompt action, including seizure of the  
12 animal, was required to protect the health or safety of the animal  
13 or the health or safety of others. If it is determined the seizure was  
14 justified, the owner or keeper shall be personally liable to the  
15 seizing agency for the cost of the seizure and care of the animal,  
16 the charges for the seizure and care of the animal shall be a lien  
17 on the animal, and the animal shall not be returned to its owner  
18 until the charges are paid and the seizing agency or hearing officer  
19 has determined that the animal is physically fit or the owner  
20 demonstrates to the seizing agency's or the hearing officer's  
21 satisfaction that the owner can and will provide the necessary care.

22 (g) Where the need for immediate seizure is not present and  
23 prior to the commencement of any criminal proceedings authorized  
24 by this section, the agency shall provide the owner or keeper of  
25 the animal, if known or ascertainable after reasonable investigation,  
26 with the opportunity for a hearing prior to any seizure or  
27 impoundment of the animal. The owner shall produce the animal  
28 at the time of the hearing unless, prior to the hearing, the owner  
29 has made arrangements with the agency to view the animal upon  
30 request of the agency, or unless the owner can provide verification  
31 that the animal was humanely destroyed. Any person who willfully  
32 fails to produce the animal or provide the verification is guilty of  
33 an infraction, punishable by a fine of not less than two hundred  
34 fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

35 (1) The agency shall cause a notice to be affixed to a  
36 conspicuous place where the animal was situated or personally  
37 deliver a notice stating the grounds for believing the animal should  
38 be seized under subdivision (a) or (b). The notice shall include all  
39 of the following:

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

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

5 (C) The authority and purpose for the possible seizure or  
6 impoundment.

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

13 (E) A statement that the cost of caring for and treating any  
14 animal properly seized under this section is a lien on the animal,  
15 that any animal seized shall not be returned to the owner until the  
16 charges are paid, and that failure to request or to attend a scheduled  
17 hearing shall result in a conclusive determination that the animal  
18 may properly be seized and that the owner shall be liable for the  
19 charges.

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

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

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

36 (h) If any animal is properly seized under this section or pursuant  
37 to a search warrant, the owner or keeper shall be personally liable  
38 to the seizing agency for the cost of the seizure and care of the  
39 animal. Furthermore, if the charges for the seizure or impoundment  
40 and any other charges permitted under this section are not paid

1 within 14 days of the seizure, or, if the owner, within 14 days of  
2 notice of availability of the animal to be returned, fails to pay  
3 charges permitted under this section and take possession of the  
4 animal, the animal shall be deemed to have been abandoned and  
5 may be disposed of by the impounding officer.

6 (i) If the animal requires veterinary care and the humane society  
7 or public agency is not assured, within 14 days of the seizure of  
8 the animal, that the owner will provide the necessary care, the  
9 animal shall not be returned to its owner and shall be deemed to  
10 have been abandoned and may be disposed of by the impounding  
11 officer. A veterinarian may humanely destroy an impounded animal  
12 without regard to the prescribed holding period when it has been  
13 determined that the animal has incurred severe injuries or is  
14 incurably crippled. A veterinarian also may immediately humanely  
15 destroy an impounded animal afflicted with a serious contagious  
16 disease unless the owner or his or her agent immediately authorizes  
17 treatment of the animal by a veterinarian at the expense of the  
18 owner or agent.

19 (j) No animal properly seized under this section or pursuant to  
20 a search warrant shall be returned to its owner until, in the  
21 determination of the seizing agency or hearing officer, the animal  
22 is physically fit or the owner can demonstrate to the seizing  
23 agency's or hearing officer's satisfaction that the owner can and  
24 will provide the necessary care.

25 (k) (1) Upon the conviction of a person charged with a violation  
26 of this section, or Section 597 or 597a, all animals lawfully seized  
27 and impounded with respect to the violation shall be adjudged by  
28 the court to be forfeited and shall thereupon be transferred to the  
29 impounding officer or appropriate public entity for proper adoption  
30 or other disposition. A person convicted of a violation of this  
31 section shall be personally liable to the seizing agency for all costs  
32 of impoundment from the time of seizure to the time of proper  
33 disposition. Upon conviction, the court shall order the convicted  
34 person to make payment to the appropriate public entity for the  
35 costs incurred in the housing, care, feeding, and treatment of the  
36 seized or impounded animals. Each person convicted in connection  
37 with a particular animal may be held jointly and severally liable  
38 for restitution for that particular animal. The payment shall be in  
39 addition to any other fine or sentence ordered by the court.



1 (2) The court may also order, as a condition of probation, that  
2 the convicted person be prohibited from owning, possessing, caring  
3 for, or residing with, animals of any kind and require the convicted  
4 person to immediately deliver all animals in his or her possession  
5 to a designated public entity for adoption or other lawful disposition  
6 or provide proof to the court that the person no longer has  
7 possession, care, or control of any animals. In the event of the  
8 acquittal or final discharge without conviction of the arrested  
9 person, the court shall, on demand, direct the release of seized or  
10 impounded animals upon a showing of proof of ownership.

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

24 (l) It shall be the duty of all peace officers, humane society  
25 officers, and animal control officers to use all currently acceptable  
26 methods of identification, both electronic and otherwise, to  
27 determine the lawful owner or caretaker of any seized or  
28 impounded animal. It shall also be their duty to make reasonable  
29 efforts to notify the owner or caretaker of the whereabouts of the  
30 animal and any procedures available for the lawful recovery of the  
31 animal and, upon the owner's and caretaker's initiation of recovery  
32 procedures, retain custody of the animal for a reasonable period  
33 of time to allow for completion of the recovery process. Efforts to  
34 locate or contact the owner or caretaker and communications with  
35 persons claiming to be the owner or caretaker shall be recorded  
36 and maintained and be made available for public inspection.

37 *SEC. 1.5. Section 597.1 of the Penal Code is amended to read:*

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

1 without proper care and attention is guilty of a misdemeanor. Any  
2 peace officer, humane society officer, or animal control officer  
3 shall take possession of the stray or abandoned animal and shall  
4 provide care and treatment for the animal until the animal is  
5 deemed to be in suitable condition to be returned to the owner.  
6 When the officer has reasonable grounds to believe that very  
7 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 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 (b) Every sick, disabled, infirm, or crippled animal, except a  
17 dog or cat, that is abandoned in any city, county, city and county,  
18 or judicial district may be ~~killed~~ *humanely euthanized* by the officer  
19 if, after a reasonable search, no owner of the animal can be found.  
20 It shall be the duty of all peace officers, humane society officers,  
21 and animal control officers to cause the animal to be ~~killed~~  
22 *humanely euthanized* or rehabilitated and placed in a suitable home  
23 on information that the animal is stray or abandoned. The officer  
24 may likewise take charge of any animal, including a dog or cat,  
25 that by reason of lameness, sickness, feebleness, or neglect, is unfit  
26 for the labor it is performing, or that in any other manner is being  
27 cruelly treated, and provide care and treatment for the animal until  
28 it is deemed to be in a suitable condition to be returned to the  
29 owner. When the officer has reasonable grounds to believe that  
30 very prompt action is required to protect the health or safety of an  
31 animal or the health or safety of others, the officer shall  
32 immediately seize the animal and comply with subdivision (f). In  
33 all other cases, the officer shall comply with subdivision (g). The  
34 cost of caring for and treating any animal properly seized under  
35 this subdivision *or pursuant to a search warrant* shall constitute  
36 a lien on the animal and the animal shall not be returned to its  
37 owner until the charges are paid.

38 (c) (1) Any peace officer, humane society officer, or animal  
39 control officer shall convey all injured cats and dogs found without  
40 their owners in a public place directly to a veterinarian known by

1 the officer to be a veterinarian who ordinarily treats dogs and cats  
2 for a determination of whether the animal shall be immediately  
3 and humanely ~~destroyed~~  *euthanized* or shall be hospitalized under  
4 proper care and given emergency treatment.

5 ~~If~~

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

12 ~~Whenever~~

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

17 ~~If~~

18 (4) *If* the veterinarian determines that the animal shall be  
19 hospitalized under proper care and given emergency treatment,  
20 the costs of any services that are provided pending the owner's  
21 inquiry to the responsible agency, department, or society shall be  
22 paid from the dog license fees, fines, and fees for impounding dogs  
23 in the city, county, or city and county in which the animal was  
24 licensed or, if the animal is unlicensed, shall be paid by the  
25 jurisdiction in which the animal was found, subject to the provision  
26 that this cost be repaid by the animal's owner. The cost of caring  
27 for and treating any animal seized under this subdivision shall  
28 constitute a lien on the animal and the animal shall not be returned  
29 to the owner until the charges are paid. No veterinarian shall be  
30 criminally or civilly liable for any decision that he or she makes  
31 or for services that he or she provides pursuant to this subdivision.

32 (d) An animal control agency that takes possession of an animal  
33 pursuant to subdivision (c) shall keep records of the whereabouts  
34 of the animal from the time of possession to the end of the animal's  
35 impoundment, and those records shall be available for inspection  
36 by the public upon request for three years after the date the animal's  
37 impoundment ended.

38 (e) Notwithstanding any other provision of this section, any  
39 peace officer, humane society officer, or any animal control officer  
40 may, with the approval of his or her immediate superior, humanely

1 ~~destroy~~ *euthanize* any stray or abandoned animal in the field in  
2 any case where the animal is too severely injured to move or where  
3 a veterinarian is not available and it would be more humane to  
4 dispose of the animal.

5 (f) Whenever an officer authorized under this section seizes or  
6 impounds an animal based on a reasonable belief that prompt action  
7 is required to protect the health or safety of the animal or the health  
8 or safety of others, the officer shall, prior to the commencement  
9 of any criminal proceedings authorized by this section, provide  
10 the owner or keeper of the animal, if known or ascertainable after  
11 reasonable investigation, with the opportunity for a postseizure  
12 hearing to determine the validity of the seizure or impoundment,  
13 or both.

14 (1) The agency shall cause a notice to be affixed to a  
15 conspicuous place where the animal was situated or personally  
16 deliver a notice of the seizure or impoundment, or both, to the  
17 owner or keeper within 48 hours, excluding weekends and holidays.  
18 The notice shall include all of the following:

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

21 (B) A description of the animal seized, including any  
22 identification upon the animal.

23 (C) The authority and purpose for the seizure, or impoundment,  
24 including the time, place, and circumstances under which the  
25 animal was seized.

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

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

38 (2) The postseizure hearing shall be conducted within 48 hours  
39 of the request, excluding weekends and holidays. The seizing  
40 agency may authorize its own officer or employee to conduct the

1 hearing if the hearing officer is not the same person who directed  
2 the seizure or impoundment of the animal and is not junior in rank  
3 to that person. The agency may utilize the services of a hearing  
4 officer from outside the agency for the purposes of complying with  
5 this section.

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

10 (4) The agency, department, or society employing the person  
11 who directed the seizure shall be responsible for the costs incurred  
12 for caring and treating the animal, if it is determined in the  
13 postseizure hearing that the seizing officer did not have reasonable  
14 grounds to believe very prompt action, including seizure of the  
15 animal, was required to protect the health or safety of the animal  
16 or the health or safety of others. If it is determined the seizure was  
17 justified, the owner or keeper shall be personally liable to the  
18 seizing agency for the cost of the seizure and care of the animal,  
19 the charges for the seizure and care of the animal shall be a lien  
20 on the animal, and the animal shall not be returned to its owner  
21 until the charges are paid and the seizing agency or hearing officer  
22 has determined that the animal is physically fit or the owner  
23 demonstrates to the seizing agency's or the hearing officer's  
24 satisfaction that the owner can and will provide the necessary care.

25 (g) Where the need for immediate seizure is not present and  
26 prior to the commencement of any criminal proceedings authorized  
27 by this section, the agency shall provide the owner or keeper of  
28 the animal, if known or ascertainable after reasonable investigation,  
29 with the opportunity for a hearing prior to any seizure or  
30 impoundment of the animal. The owner shall produce the animal  
31 at the time of the hearing unless, prior to the hearing, the owner  
32 has made arrangements with the agency to view the animal upon  
33 request of the agency, or unless the owner can provide verification  
34 that the animal was humanely ~~destroyed~~ *euthanized*. Any person  
35 who willfully fails to produce the animal or provide the verification  
36 is guilty of an infraction, punishable by a fine of not less than two  
37 hundred fifty dollars (\$250) nor more than one thousand dollars  
38 (\$1,000).

39 (1) The agency shall cause a notice to be affixed to a  
40 conspicuous place where the animal was situated or personally

1 deliver a notice stating the grounds for believing the animal should  
2 be seized under subdivision (a) or (b). The notice shall include all  
3 of the following:

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

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

8 (C) The authority and purpose for the possible seizure or  
9 impoundment.

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

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

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

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

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

39 (h) If any animal is properly seized under this ~~section~~, *section*  
40 *or pursuant to a search warrant*, the owner or keeper shall be

1 personally liable to the seizing agency for the cost of the seizure  
2 and care of the animal. Furthermore, if the charges for the seizure  
3 or impoundment and any other charges permitted under this section  
4 are not paid within 14 days of the seizure, or, if the owner, within  
5 14 days of notice of availability of the animal to be returned, fails  
6 to pay charges permitted under this section and take possession of  
7 the animal, the animal shall be deemed to have been abandoned  
8 and may be ~~disposed of~~ *humanely euthanized* by the impounding  
9 officer.

10 (i) If the animal requires veterinary care and the humane society  
11 or public agency is not assured, within 14 days of the seizure of  
12 the animal, that the owner will provide the necessary care, the  
13 animal shall not be returned to its owner and shall be deemed to  
14 have been abandoned and may be disposed of by the impounding  
15 officer. A veterinarian may ~~humanely destroy~~ *euthanize* an  
16 impounded animal without regard to the prescribed holding period  
17 when it has been determined that the animal has incurred severe  
18 injuries or is incurably crippled. A veterinarian also may  
19 immediately ~~humanely destroy~~ *euthanize* an impounded animal  
20 afflicted with a serious contagious disease unless the owner or his  
21 or her agent immediately authorizes treatment of the animal by a  
22 veterinarian at the expense of the owner or agent.

23 (j) No animal properly seized under this section *or pursuant to*  
24 *a search warrant* shall be returned to its owner until, in the  
25 determination of the seizing agency or hearing officer, the animal  
26 is physically fit or the owner can demonstrate to the seizing  
27 agency's or hearing officer's satisfaction that the owner can and  
28 will provide the necessary care.

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

1 with a particular animal may be held jointly and severally liable  
2 for restitution for that particular animal. The payment shall be in  
3 addition to any other fine or sentence ordered by the court.

4 (2) *The court may also order, as a condition of probation, that*  
5 *the convicted person be prohibited from owning, possessing, caring*  
6 *for, or residing with, animals of any kind and require the convicted*  
7 *person to immediately deliver all animals in his or her possession*  
8 *to a designated public entity for adoption or other lawful*  
9 *disposition or provide proof to the court that the person no longer*  
10 *has possession, care, or control of any animals. In the event of the*  
11 *acquittal or final discharge without conviction of the arrested*  
12 *person, the court shall, on demand, direct the release of seized or*  
13 *impounded animals upon a showing of proof of ownership.*

14 ~~The court may also order, as a condition of probation, that the~~  
15 ~~convicted person be prohibited from owning, possessing, caring~~  
16 ~~for, or having any contact with, animals of any kind and require~~  
17 ~~the convicted person to immediately deliver all animals in his or~~  
18 ~~her possession to a designated public entity for adoption or other~~  
19 ~~lawful disposition or provide proof to the court that the person no~~  
20 ~~longer has possession, care, or control of any animals. In the event~~  
21 ~~of the acquittal or final discharge without conviction of the arrested~~  
22 ~~person, the court shall, on demand, direct the release of seized or~~  
23 ~~impounded animals upon a showing of proof of ownership. Any~~

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

37 (l) *It shall be the duty of all peace officers, humane society*  
38 *officers, and animal control officers to use all currently acceptable*  
39 *methods of identification, both electronic and otherwise, to*  
40 *determine the lawful owner or caretaker of any seized or*



1 impounded animal. It shall also be their duty to make reasonable  
2 efforts to notify the owner or caretaker of the whereabouts of the  
3 animal and any procedures available for the lawful recovery of the  
4 animal and, upon the owner's and caretaker's initiation of recovery  
5 procedures, retain custody of the animal for a reasonable period  
6 of time to allow for completion of the recovery process. Efforts to  
7 locate or contact the owner or caretaker and communications with  
8 persons claiming to be the owner or caretaker shall be recorded  
9 and maintained and be made available for public inspection.

10 SEC. 2. Section 597.9 is added to the Penal Code, to read:

11 597.9. (a) Except as provided in subdivision (c) or (d), any  
12 person who has been convicted of a misdemeanor violation of  
13 subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h,  
14 597j, 597s, or 597.1, and who, within five years after the  
15 conviction, owns, possesses, maintains, has custody of, resides  
16 with, or cares for any animal is guilty of a public offense,  
17 punishable by a fine of one thousand dollars (\$1,000).

18 (b) Except as provided in subdivision (c) or (d), any person who  
19 has been convicted of a felony violation of subdivision (a) or (b)  
20 of Section 597, or Section 597b or 597.5, and who, within 10 years  
21 after the conviction, owns, possesses, maintains, has custody of,  
22 resides with, or cares for any animal is guilty of a public offense,  
23 punishable by a fine of one thousand dollars (\$1,000).

24 (c) (1) In cases of owners of livestock, as defined in Section  
25 14205 of the Food and Agricultural Code, a court may, in the  
26 interest of justice, exempt a defendant from the injunction required  
27 under subdivision (a) or (b), as it would apply to livestock, if the  
28 defendant files a petition with the court to establish that the  
29 imposition of the provisions of this section would result in  
30 substantial or undue economic hardship to the defendant's  
31 livelihood and that the defendant has the ability to properly care  
32 for all livestock in his or her possession.

33 (2) Upon receipt of a petition from the defendant, the court shall  
34 set a hearing to be conducted within 30 days after the filing of the  
35 petition. The petitioner shall serve a copy of the petition upon the  
36 prosecuting attorney 10 calendar days prior to the requested  
37 hearing. The court shall grant the petition for exemption from  
38 subdivision (a) or (b) unless the prosecuting attorney shows by a  
39 preponderance of the evidence that either or both of the criteria  
40 for exemption under this subdivision are untrue.

1 (d) (1) A defendant may petition the court to reduce the duration  
2 of the mandatory ownership prohibition. Upon receipt of a petition  
3 from the defendant, the court shall set a hearing to be conducted  
4 within 30 days after the filing of the petition. The petitioner shall  
5 serve a copy of the petition upon the prosecuting attorney 10  
6 calendar days prior to the requested hearing. At the hearing, the  
7 petitioner shall have the burden of establishing probable cause to  
8 believe all of the following:

9 (A) He or she does not present a danger to animals.

10 (B) He or she has the ability to properly care for all animals in  
11 his or her possession.

12 (C) He or she has successfully completed all classes or  
13 counseling ordered by the court.

14 (2) If the petitioner has met his or her burden, the court may  
15 reduce the mandatory ownership prohibition and may order that  
16 the defendant comply with reasonable and unannounced inspections  
17 by animal control agencies or law enforcement.

18 *SEC. 3. Section 1.5 of this bill incorporates amendments to*  
19 *Section 597.1 of the Penal Code proposed by both this bill and*  
20 *Assembly Bill 1279. It shall only become operative if (1) both bills*  
21 *are enacted and become effective on or before January 1, 2012,*  
22 *(2) each bill amends Section 597.1 of the Penal Code, and (3) this*  
23 *bill is enacted after Assembly Bill 1279, in which case Section 1*  
24 *of this bill shall not become operative.*

25 ~~SEC. 3.~~

26 *SEC. 4.* No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution for certain  
28 costs that may be incurred by a local agency or school district  
29 because, in that regard, this act creates a new crime or infraction,  
30 eliminates a crime or infraction, or changes the penalty for a crime  
31 or infraction, within the meaning of Section 17556 of the  
32 Government Code, or changes the definition of a crime within the  
33 meaning of Section 6 of Article XIII B of the California  
34 Constitution.

35 However, if the Commission on State Mandates determines that  
36 this act contains other costs mandated by the state, reimbursement  
37 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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