CIVIL CODE - CIV

DIVISION 3. OBLIGATIONS [1427 - 3273.69] *(Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)*

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] *(Part 4 enacted 1872.)*

TITLE 3. DEPOSIT [1813 - 1881.2] *(Title 3 enacted 1872.)*

CHAPTER 2. Deposit for Keeping [1833 - 1867] *(Chapter 2 enacted 1872.)*

ARTICLE 1. General Provisions [1833 - [1840.]] *(Article 1 enacted 1872.)*

1833. A depositor must indemnify the depositary:

1. For all damage caused to him by the defects or vices of the thing deposited; and,

2. For all expenses necessarily incurred by him about the thing, other than such as are involved in the nature of the undertaking.

(Enacted 1872.)

1834. A depositary of living animals shall provide the animals with necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly. Any depositary that fails to perform these duties may be liable for civil damages as provided by law.

(Amended by Stats. 1998, Ch. 752, Sec. 4. Effective January 1, 1999.)

1834.4. (a) It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home. Adoptable animals include only those animals eight weeks of age or older that, at or subsequent to the time the animal is impounded or otherwise taken into possession, have manifested no sign of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

(b) It is the policy of the state that no treatable animal should be euthanized. A treatable animal shall include any animal that is not adoptable but that could become adoptable with reasonable efforts. This subdivision, by itself, shall not be the basis of liability for damages regarding euthanasia.

(Added by Stats. 1998, Ch. 752, Sec. 5. Effective January 1, 1999.)

1834.5. (a) Notwithstanding any other provision of law, whenever an animal is delivered to a veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to a written or oral agreement entered into after the effective date of this section, and the owner of the animal does not pick up the animal within 14 calendar days after the day the animal was initially due to be picked up, the animal shall be deemed to be abandoned. The person into whose custody the animal was placed for care shall first try for a period of not less than 10 days to find a new owner for the animal or turn the animal over to a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or nonprofit animal rescue group, provided that the shelter or rescue group has been contacted and has agreed to take the animal. If unable to place the animal with a new owner, shelter, or rescue group, the animal care facility may have the abandoned animal euthanized.

(b) If an animal so abandoned was left with a veterinarian or with a facility that has a veterinarian, and a new owner cannot be found pursuant to this section, the veterinarian may euthanize the animal.

(c) Nothing in this section shall be construed to require an animal care facility or a veterinarian to euthanize an abandoned animal upon the expiration of the 10-day period described in subdivision (a).

(d) There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn a person depositing an animal at an animal care facility of the provisions of this section.

(e) An abandoned animal shall not be used for scientific or any other type of experimentation.

(Amended by Stats. 2014, Ch. 86, Sec. 1. (AB 1810) Effective January 1, 2015.)

1834.7. (a) For purposes of this section:

(1) “Animal dealer” means a person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, or who buys, sells, or negotiates the purchase or sale of any animal, whether alive or dead, for research, teaching, exhibition, or biological supply.

(2) “Animal shelter entity” includes, but is not limited to, an animal regulation agency, humane society, society for the prevention of cruelty to animals, or other private or public animal shelter.

(3) “Person” means an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, governmental agency, or other legal entity.

(4) “Research facility” means a research facility as defined by Section 2132 of Title 7 of the United States Code, effective February 7, 2014.

(b) (1) An animal shelter entity where dead animals are turned over to a biological supply facility or a research facility for research purposes or to supply blood, tissue, or other biological products shall post a sign as described by this paragraph in a place where it will be clearly visible to a majority of persons when turning animals over to the shelter. The sign shall measure a minimum of 28 x 21 cm— 11 x $8^{1}/_{2}$ inches —with lettering of a minimum of 3.2 cm high and 1.2 cm wide— $1^{1}/_{4}$ x $^{1}/_{2}$ inch —(91 point) and shall state:

“Animals Euthanized at This Shelter May Be Used for Research Purposes or to Supply Blood, Tissue, or Other Biological Products”

(2) The statement in paragraph (1) shall also be included on owner surrender forms.

(3) An animal shelter or other person shall not euthanize an animal for the purpose of transferring the carcass to a research facility or animal dealer.

(c) (1) An animal shelter entity or other person that accepts animals from the public or takes in stray or unwanted animals shall not sell, give, or otherwise transfer a living animal to a research facility, an animal dealer, or other person for the purpose of research, experimentation, or testing.

(2) A research facility, animal dealer, or other person shall not procure, purchase, receive, accept, or use a living animal for the purpose of research, experimentation, or testing if that animal is transferred from, or received from, an animal shelter entity or other person that accepts animals from the public or takes in stray or unwanted animals.

(d) Nothing in this section shall prohibit a research facility from working in collaboration with an animal shelter to investigate problems and provide services to shelter animals.

(e) A violation of this section is subject to a civil penalty of one thousand dollars ($1,000) in an action to be brought by the district attorney or city attorney of the county or city where the violation occurred. When collected, the civil penalty shall be payable to the general fund of the governmental entity that brought the action to assess the penalty.

(Repealed and added by Stats. 2016, Ch. 568, Sec. 2. (AB 2269) Effective January 1, 2017.)

1834.8. (a) At any public auction or sale where equines are sold, the management of the auction or sale shall post a sign (measuring a minimum of 15 x 9 inches with lettering of a minimum of $1^{1}/_{4}$ x $^{1}/_{2}$ (91 point)) or shall insert into its consignment agreement with the seller in boldface type the notice stated in subdivision (b). If a sign is posted, it shall be posted in a conspicuous place so that it will be clearly visible to a majority of persons attending the sale. If the notice is inserted into the consignment agreement, space shall be provided adjacent to the notice for the seller to initial their acknowledgment of the notice.

(b) The notice required by subdivision (a) shall read as follows:

“WARNING

The sale of horses in California for slaughter for human consumption is a felony.”

(c) For the purposes of this section, the management of the auction or sale shall post current slaughter prices or make them available to sellers upon request.

(Amended by Stats. 2019, Ch. 765, Sec. 2. (AB 128) Effective January 1, 2020.)

1834.9. (a) Manufacturers and contract testing facilities shall not use traditional animal test methods within this state for which an appropriate alternative test method or strategy exists, or a waiver has been granted by the agency responsible for regulating the specific product or activity for which the test is being conducted. When there is no appropriate alternative test method or strategy available, manufacturers and contract testing facilities shall use a traditional animal test method using the fewest number of animals possible and reducing the level of pain, suffering, and stress of an animal used for testing.

(b) This section does not prohibit the use of any nonanimal test method or strategy for the testing of any product, product formulation, chemical, drug, medical device, vaccine, or ingredient that is not described in paragraph (1) of subdivision (g).

(c) (1) This section does not prohibit the use of traditional animal test methods to comply with requirements of state or federal agencies.

(2) This section does not prohibit the use of traditional animal test methods to comply with requests from state or federal agencies when the agency has approved an alternative nonanimal test method or strategy pursuant to subdivision (a), but concludes that a traditional animal test method is needed to fully assess the impacts on the health or safety of consumers.

(d) This section shall be enforced in a civil action for injunctive relief brought by the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or a city and county having a population in excess of 750,000 and in which the violation is alleged to have occurred. If the court determines that the Attorney General or district attorney is the prevailing party in the enforcement action, the official may also recover costs, attorney's fees, and a civil penalty not to exceed five thousand dollars ($5,000) in that action.

(e) This section shall not apply to any traditional animal test methods performed for the purpose of medical research.

(f) (1) Starting January 1, 2027, and annually thereafter, a manufacturer or contract testing facility in this state using traditional animal test methods, except for those traditional animal test methods exempt under subdivision (e), shall report to the department the number and species of animals used, the type and number of alternative test methods or strategies used, the number of waivers used, and the purpose of the use of the traditional animal tests, alternative test methods or strategies, and waivers.

(2) The department shall develop and maintain a portal on its internet website to receive the information required by paragraph (1) and make the information collected publicly available on its internet website. The department shall ensure that information made available to the public does not include personally identifiable information or proprietary information.

(g) For the purposes of this section, the following terms apply:

(1) "Alternative test method or strategy" means a test method, including a new or revised method, that fulfills all of the following criteria:

(A) Does not use animals.

(B) Provides information of equivalent or better scientific quality and relevance compared to traditional animal test methods, and includes, but is not limited to, computational toxicology and bioinformatics, high-throughput screening methods, testing of categories of chemical substances, tiered testing methods, in vitro studies, and systems biology.

(C) Has been identified and accepted for use by a federal agency or program within an agency responsible for regulating the specific product or activity for which the test is being conducted.

(2) "Animal" means vertebrate nonhuman animal.

(3) "Contract testing facility" means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in this state.

(4) "Department" means the State Department of Public Health.

(5) "Manufacturer" means any partnership, corporation, association, or other legal relationship that produces chemicals, ingredients, product formulations, or products in this state.

(6) "Medical research" means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined in Section 321(g)(1) of Title 21 of the United States Code. Medical research does not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal methods to characterize the ingredient and to substantiate its safety for human use, and is now proposed for use in a product other than a biomedical product, medical device, or drug.

(7) “Person” means an individual with managerial control, or a partnership, corporation, association, or other legal relationship.

(8) “Traditional animal test method” means a process or procedure using animals to obtain information on the characteristics of a chemical or agent and that generates information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions.

(Amended by Stats. 2023, Ch. 430, Sec. 1. (AB 357) Effective January 1, 2024.)

1834.9.3. (a) For purposes of this section, the following definitions apply:

(1) “Alternative test method” means a test method that does not use animals, or in some cases reduces or refines the use of animals, for which the reliability and relevance for a specific purpose has been established by validation bodies, including, but not limited to, the Interagency Coordinating Committee for the Validation of Alternative Methods and the Organization for Economic Co-operation and Development. Alternative test methods include, but are not limited to, high-throughput screening methods, testing of categories of chemical substances, tiered testing methods, in vitro studies, and systems biology.

(2) “Canine or feline toxicological experiment” means any test or study of any duration that seeks to determine the effect, if any, of the application or exposure, whether internal or external, of any amount of a chemical substance on a dog or cat. “Application or exposure” includes, but is not limited to, oral ingestion, skin or eye contact, or inhalation.

(3) “Cat” means any member of the species Felis catus.

(4) “Chemical substance” shall have the same meaning as that term is defined under subsection (2) of Section 2602 of Title 15 of the United States Code, except that for purposes of this section, such term shall include any pesticide, as defined under subsection (u) of Section 136 of Title 7 of the United States Code, and any food additive, as defined under subsection (s) of Section 321 of Title 21 of the United States Code.

(5) “Dog” means any member of the species Canis familiaris.

(6) “Food additive” shall have the same meaning as that term is defined in subsection (s) of Section 321 of Title 21 of the United States Code.

(7) “Medical research” means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical drugs or devices as those terms are defined in subsections (g) and (h), inclusive, of Section 321 of Title 21 of the United States Code. Medical research does not include experimentation or testing of a chemical substance or ingredient proposed for use in a product other than a biomedical drug or device as those terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321).

(8) “Pesticide” shall have the same meaning as that term is defined in subsection (u) of Section 136 of Title 7 of the United States Code.

(9) “Testing facility” means any partnership, corporation, association, school, institution, organization, or other legal relationship, whether privately or government owned, leased, or operated, that tests chemicals, ingredients, product formulations, or products in this state.

(b) Notwithstanding any other law, and in addition to the prohibitions set forth in Sections 1834.9 and 1834.9.5, a testing facility shall not conduct a canine or feline toxicological experiment in this state to achieve discovery, approval, maintenance of approval, notification, registration, or maintenance of a pesticide or chemical substance, unless the experiment is conducted pursuant to any of the following:

(1) To satisfy an express requirement imposed by the United States Environmental Protection Agency (EPA) under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), including any EPA rule, regulation, or order.

(2) To support an application to the EPA for a waiver from the requirements in paragraph (1), provided that testing is conducted solely to reduce the total number of animals needed for experiments to achieve discovery, approval, maintenance of approval, notification, registration, or maintenance of a pesticide or chemical substance.

(3) To satisfy an express requirement imposed by the Food and Drug Administration (FDA) per the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or any binding agency regulation promulgated upon notice and comment thereunder.

(c) (1) Notwithstanding any other law, the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or city and county having a population in excess of 750,000 and in which the violation is alleged to have occurred, may bring a civil action for injunctive relief pursuant to this paragraph. If the court determines that the Attorney General, district attorney, or city attorney is the prevailing party in the enforcement action, the official may also recover costs, attorney fees, and a civil penalty not to exceed five thousand dollars ($5,000) for each day that each dog or each cat is used in a canine or feline toxicological experiment in violation of this section.

(2) The procedure set forth in paragraph (1) is the exclusive remedy for enforcing this section.

(d) The prohibition in subdivision (b) shall not apply to either of the following:

(1) Medical research.

(2) Testing or experimentation conducted for the purpose of developing, manufacturing, or marketing any product intended for beneficial use in dogs or cats.

(Added by Stats. 2022, Ch. 551, Sec. 2. (SB 879) Effective January 1, 2023.)

1834.9.5. (a) Notwithstanding any other law, it is unlawful for a manufacturer to import for profit, sell, or offer for sale in this state, any cosmetic, if the cosmetic was developed or manufactured using an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer, on or after January 1, 2020.

(b) For purposes of this section, the following terms apply:

(1) “Animal test” means the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, nonhuman vertebrate.

(2) “Cosmetic” means any article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including, but not limited to, personal hygiene products such as deodorant, shampoo, or conditioner.

(3) “Ingredient” means any component of a cosmetic as defined by Section 700.3 of Title 21 of the Code of Federal Regulations.

(4) “Manufacturer” means any person whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

(5) “Supplier” means any entity that supplies, directly or through a third party, any ingredient used in the formulation of a manufacturer’s cosmetic.

(c) The prohibitions in subdivision (a) do not apply to the following:

(1) An animal test of any cosmetic that is required by a federal or state regulatory authority if all of the following apply:

(A) The ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function.

(B) A specific human health problem is substantiated and the need to conduct animal tests is justified and is supported by a detailed research protocol proposed as the basis for the evaluation.

(C) There is not a nonanimal alternative method accepted for the relevant endpoint by the relevant federal or state regulatory authority.

(2) An animal test that was conducted to comply with a requirement of a foreign regulatory authority, if no evidence derived from the test was relied upon to substantiate the safety of the cosmetic sold in California by the manufacturer.

(3) An animal test that was conducted on any product or ingredient subject to the requirements of Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).

(4) An animal test that was conducted for noncosmetic purposes in response to a requirement of a federal, state, or foreign regulatory authority, if no evidence derived from the test was relied upon to substantiate the safety of the cosmetic sold in California by the manufacturer. A manufacturer is not prohibited from reviewing, assessing, or retaining evidence from an animal test conducted pursuant to this paragraph.

(d) A violation of this section shall be punishable by a fine of five thousand dollars ($5,000) and an additional one thousand dollars ($1,000) for each day the violation continues.

(e) A violation of this section may be enforced by the district attorney of the county in which the violation occurred, or by the city attorney of the city in which the violation occurred. The civil fine shall be paid to the entity that is authorized to bring the action.

(f) A district attorney or city attorney may, upon a determination that there is a reasonable likelihood of a violation of this section, review the testing data upon which a cosmetic manufacturer has relied in the development or manufacturing of the relevant cosmetic product sold in the state. Information provided under this section shall be protected as a trade secret as defined in subdivision (d) of Section 3426.1. Consistent with the procedures described in Section 3426.5, a district attorney or city attorney shall enter a protective order with a manufacturer before receipt of information from a manufacturer pursuant to this section, and shall take other appropriate measures necessary to preserve the confidentiality of information provided pursuant to this section.

(g) This section shall not apply to either of the following:

(1) A cosmetic, if the cosmetic, in its final form, was sold in California or tested on animals prior to January 1, 2020, even if the cosmetic is manufactured after that date.

(2) An ingredient, if the ingredient was sold in California or tested on animals prior to January 1, 2020, even if the ingredient is manufactured after that date.

(h) Notwithstanding any other provision of this section, cosmetic inventory found to be in violation of this section may be sold for a period of 180 days.

(i) No county or political subdivision of the state may establish or continue any prohibition on or relating to animal tests, as defined in this section, that is not identical to the prohibitions set forth in this section and that does not include the exemptions contained in subdivision (c).

(j) This section shall become operative on January 1, 2020.

(Added by Stats. 2018, Ch. 899, Sec. 1. (SB 1249) Effective January 1, 2019.)

1835. A depositary may not use the thing deposited, or permit it to be used, for any purpose, without the consent of the depositor. He may not, if it is purposely fastened by the depositor, open it without the consent of the latter, except in case of necessity.

(Enacted 1872.)

1836. A depositary is liable for any damage happening to the thing deposited, during his wrongful use thereof, unless such damage must inevitably have happened though the property had not been thus used.

(Enacted 1872.)

1837. If a thing deposited is in actual danger of perishing before instructions can be obtained from the depositor, the depositary may sell it for the best price obtainable, and retain the proceeds as a deposit, giving immediate notice of his proceedings to the depositor.

(Enacted 1872.)

1838. If a thing is lost or injured during its deposit, and the depositary refuses to inform the depositor of the circumstances under which the loss or injury occurred, so far as he has information concerning them, or willfully misrepresents the circumstances to him, the depositary is presumed to have willfully, or by gross negligence, permitted the loss or injury to occur.

(Enacted 1872.)

1839. So far as any service is rendered by a depositary, or required from him, his duties and liabilities are prescribed by the Title on Employment and Service.

(Enacted 1872.)

[1840.] Section Eighteen Hundred and Forty. The liability of a depositary for negligence cannot exceed the amount which he is informed by the depositor, or has reason to suppose, the thing deposited to be worth.

(Amended by Code Amendments 1873-74, Ch. 612.)