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AB-1553 Animal impoundment. (2019-2020)

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Assembly Bill No. 1553

CHAPTER 7

An act to amend Section 4827 of the Business and Professions Code, to amend Sections 1846 and 1847 of the Civil Code, to amend Section 14503 of the Corporations Code, to amend Sections 17003, 31607, 31621, 31622, 31752.5, 32001, and 32003 of the Food and Agricultural Code, to amend Section 25802 of the Government Code, to amend Sections 121690, 121916, 122045, 122125, and 122322 of the Health and Safety Code, and to amend Sections 597, 597.1, 597.2, 597e, 597f, 597u, 597v, 599aa, and 599e of the Penal Code, relating to animal impoundment.

[Approved by Governor June 12, 2019. Filed with Secretary of State June 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, Fong. Animal impoundment.

Existing law governs the seizure, rescue, adopting out, and euthanasia of abandoned and surrendered animals by animal control officers, law enforcement officers, 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 Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4827 of the Business and Professions Code is amended to read:

4827. Nothing in this chapter prohibits any person from:

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

(1) The owner's bona fide employees.

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

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

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

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

SEC. 2. Section 1846 of the Civil Code is amended to read:

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

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

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

SEC. 3. Section 1847 of the Civil Code is amended to read:

1847. The duties of a gratuitous depositary cease:

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

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

SEC. 4. Section 14503 of the Corporations Code is amended to read:

14503. The governing body of a local agency, by ordinance, may authorize employees of public animal shelters, societies for the prevention of cruelty to animals, and humane societies, who have qualified as humane officers pursuant to Section 14502, and which societies or animal shelters have contracted with such local agency to provide animal care or protection services, to issue notices to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code for violations of state or local animal control laws. Those employees shall not be authorized to take any person into custody even if the person to whom the notice is delivered does not give a written promise to appear in court. The authority of these employees is to be limited to the jurisdiction of the local agency authorizing the employees.

SEC. 5. Section 17003 of the Food and Agricultural Code is amended to read:

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

(b) Upon the impounding of any bovine animal, horse, mule, sheep, swine, burro, alpaca, llama, or goat, the shelter director, other animal control officer, or public animal control agency or shelter shall immediately notify the secretary. Upon receipt of that notice, the secretary shall take possession of any bovine animal and shall manage it pursuant to this chapter.

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

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

SEC. 6. Section 31607 of the Food and Agricultural Code is amended to read:

31607. "Impounded" means taken into the custody of the public animal shelter or animal control department or provider of animal control services to the city or county where the potentially dangerous or vicious dog is found.

SEC. 7. Section 31621 of the Food and Agricultural Code is amended to read:

31621. If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public animal shelter or animal control department, or the chief officer's immediate supervisor, or the head of the local law enforcement agency, or the agency head's designee, shall petition the superior court of the county in which the dog is owned or kept for a hearing for the purpose of determining whether or not the dog should be declared potentially dangerous or vicious. A proceeding under this section is a limited civil case. A city or county may establish an administrative hearing procedure to hear and dispose of petitions filed pursuant to this chapter. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The chief officer of the public animal shelter or animal control department or head of the local law enforcement agency shall notify the owner or keeper of the dog that a hearing will be held by the superior court or the hearing entity, as the case may be, at which time the owner or keeper of the dog may present evidence as to why the dog should not be declared potentially dangerous or vicious. The owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally or by first-class mail with return receipt requested. The hearing shall be held promptly within no less than five working days nor more than 10 working days after service of notice upon the owner or keeper of the dog. The hearing shall be open to the public. The court may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. A jury shall not be available. The court may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and make other orders authorized by this chapter.

SEC. 8. Section 31622 of the Food and Agricultural Code is amended to read:

31622. (a) After the hearing conducted pursuant to Section 31621, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the court or hearing entity. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper of the dog shall comply with Article 3 (commencing with Section 31641) in accordance with a time schedule established by the chief officer of the public animal shelter or animal control department or the head of the local law enforcement agency, but in no case more than 30 days after the date of the determination or 35 days if notice of the determination is mailed to the owner or keeper of the dog. If the petitioner or the owner or keeper of the dog contests the determination, they may, within five days of the receipt of the notice of determination, appeal the decision of the court or hearing entity of original jurisdiction. The fee for filing an appeal, payable to the clerk of the court, is as provided in subdivision (b) of Section 70626 of the Government Code. If the original hearing held pursuant to Section 31621 was before a hearing entity other than a court of the jurisdiction, appeal shall be to the superior court. If the original hearing was held in the superior court, appeal shall be to the superior court before a judge other than the judge who originally heard the petition. The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

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

SEC. 9. Section 31752.5 of the Food and Agricultural Code is amended to read:

31752.5. (a) The Legislature finds and declares the following:

- (1) Domestic cats' temperaments range from completely docile indoor pets to completely unsocialized outdoor cats that avoid all contact with humans.
- (2) "Feral cats" are cats with temperaments that are completely unsocialized, although frightened or injured tame pet cats may appear to be feral.
- (3) Some people care for or own feral cats.
- (4) Feral cats pose particular safety hazards for animal shelter employees.
- (5) It is cruel to keep feral cats caged for long periods of time; however, it is not always easy to distinguish a feral cat from a frightened tame cat.

(b) For the purposes of this section, a "feral cat" is defined as a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

(c) Notwithstanding Section 31752, if an apparently feral cat has not been reclaimed by its owner or caretaker within the first three days of the required holding period, animal shelter personnel qualified to verify the temperament of the animal shall verify whether it is feral or tame by using a standardized protocol. If the cat is determined to be docile or a frightened or difficult tame cat, the cat shall be held for the entire required holding period specified in Section 31752. If the cat is determined to be truly feral, the cat may be euthanized or relinquished to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code, animal adoption organization that agrees to the spaying or neutering of the cat if it has not already been spayed or neutered. In addition to any required spay or neuter deposit, the animal shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animal released.

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

32001. (a) All public animal shelters operated by societies for the prevention of cruelty to animals, and humane shelters, that contract to perform public animal control services, shall provide the owners of lost animals and those who find lost animals with all of the following:

- (1) Ability to list the animals they have lost or found on "Lost and Found" lists maintained by the animal shelter.
- (2) Referrals to animals listed that may be the animals the owners or finders have lost or found.
- (3) The telephone numbers and addresses of other animal shelters in the same vicinity.
- (4) Advice as to means of publishing and disseminating information regarding lost animals.
- (5) The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

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

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

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

- (a) The date the animal was taken up, medically treated, euthanized, or impounded.
- (b) The circumstances under which the animal was taken up, medically treated, euthanized, or impounded.
- (c) The names of the personnel who took up, medically treated, euthanized, or impounded the animal.
- (d) A description of any medical treatment provided to the animal and the name of the veterinarian of record.
- (e) The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party. These records shall be maintained for three years after the date on which the animal's impoundment ends.

SEC. 12. Section 25802 of the Government Code is amended to read:

25802. The board may maintain, regulate, and govern public animal shelters, fix the limits within which animals shall not run at large, and appoint shelter directors. All expenses of operation and maintenance and the compensation of the shelter directors shall be paid out of the fines imposed and collected from the owners of impounded animals, or from the general fund of the county, or both.

SEC. 13. Section 121690 of the Health and Safety Code is amended to read:

121690. In rabies areas, all of the following shall apply:

- (a) Every owner of a dog, after the dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county. License fees shall be fixed by the responsible city, city and county, or county, at an amount not to exceed limitations otherwise prescribed by state law or city, city and county, or county charter.

(b) (1) Every owner of a dog, after the dog attains the age of three months or older, shall, at intervals of time not more often than once a year, as may be prescribed by the department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by the department and administered according to the vaccine label, unless a licensed veterinarian determines, on an annual basis, that a rabies vaccination would endanger the dog's life due to disease or other considerations that the veterinarian can verify and document. The responsible city, county, or city and county may specify the means by which a dog's owner is required to provide proof of the dog's rabies vaccination, including, but not limited to, by electronic transmission or facsimile.

(2) A request for an exemption from the requirements of this subdivision shall be submitted on an approved form developed by the department and shall include a signed statement by the veterinarian explaining the inadvisability of the vaccination and a signed statement by the dog owner affirming that the owner understands the consequences and accepts all liability associated with owning a dog that has not received the canine antirabies vaccine. The request shall be submitted to the local health officer, who may issue an exemption from the canine antirabies vaccine.

(3) The local health officer shall report exemptions issued pursuant to this subdivision to the department.

(4) A dog that is exempt from the vaccination requirements of this section shall be considered unvaccinated.

(5) A dog that is exempt from the vaccination requirements of this section shall, at the discretion of the local health officer or the officer's designee, be confined to the premises of the owner, keeper, or harborer and, when off the premises, shall be on a leash the length of which shall not exceed six feet and shall be under the direct physical control of an adult. A dog that is exempt from the provisions of this section shall not have contact with a dog or cat that is not currently vaccinated against rabies.

(c) All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the owner, keeper, or harborer. Nothing in this chapter or Section 120435 shall be construed to prevent the sale or transportation of a puppy four months old or younger.

(d) A dog in violation of this chapter or any additional provisions that may be prescribed by a local governing body shall be impounded, as provided by local ordinance.

(e) The governing body of each city, city and county, or county shall maintain or provide for the maintenance of an animal shelter system and a rabies control program for the purpose of carrying out and enforcing this section.

(f) (1) Each city, county, or city and county shall provide dog vaccination clinics, or arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city, city and county, or county. The vaccination and licensing procedures may be combined as a single operation in the clinics. No charge in excess of the actual cost shall be made for any one vaccination at a clinic. No owner of a dog shall be required to have the dog vaccinated at a public clinic if the owner elects to have the dog vaccinated by a licensed veterinarian of the owner's choice.

(2) All public clinics shall be required to operate under antiseptic immunization conditions comparable to those used in the vaccination of human beings.

(g) In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated against rabies or one year for dogs exempted from the vaccination requirement pursuant to subdivision (b). The person to whom the license is issued pursuant to this subdivision may choose a license period as established by the governing body of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination and, if a dog is exempted from the vaccination requirement pursuant to subdivision (b), the license period shall not extend beyond one year. A dog owner who complies with this subdivision shall be deemed to have complied with the requirements of subdivision (a).

(h) All information obtained from a dog owner by compliance with this chapter is confidential to the dog owner and proprietary to the veterinarian. This information shall not be used, distributed, or released for any purpose, except to ensure compliance with existing federal, state, county, or city laws or regulations.

SEC. 14. Section 121916 of the Health and Safety Code is amended to read:

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

(b) Each local agency shall adopt and implement a permit program for the administration of subdivision (a) by the local agency or private society or animal shelter contracting with the local public agency for animal care or protection services. A local agency

may charge a fee for the issuance or renewal of a permit required under this section. The fee shall not exceed the actual costs for the implementation of the permit program.

(c) For purposes of this section, "local public agency" means a city, county, or city and county.

SEC. 15. Section 122045 of the Health and Safety Code is amended to read:

122045. (a) This article shall be known and may be cited as the Polanco-Lockyer Pet Breeder Warranty Act.

(b) Every breeder of dogs shall comply with this article. As used in this article, "dog breeder," or "breeder" means a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

(c) For the purposes of this article, "purchaser" means any person who purchases a dog from a breeder.

(d) This article shall not apply to pet dealers regulated under Article 2 (commencing with Section 122125), or to publicly operated animal shelters, humane societies, or privately operated rescue organizations.

SEC. 16. Section 122125 of the Health and Safety Code is amended to read:

122125. (a) This article shall be known and may be cited as the Lockyer-Polanco-Farr Pet Protection Act.

(b) Every pet dealer of dogs and cats shall conform to the provisions of this article. As used in this article, "pet dealer" means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of the sales of dogs or cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code. For purposes of this article, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code. This definition does not apply to breeders of dogs regulated pursuant to Article 1 (commencing with Section 122045) nor to any person, firm, partnership, corporation, or other association, that breeds or rears dogs on the premises of the person, firm, partnership, corporation, or other association, that has sold, transferred, or given away fewer than 50 dogs in the preceding year.

(c) For purposes of this article, "purchaser" means a person who purchases a dog or cat from a pet dealer without the intent to resell the animal.

(d) This article shall not apply to publicly operated animal shelters and humane societies.

SEC. 17. Section 122322 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

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

(e) (1) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

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

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

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

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

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

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

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

(g) (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

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

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

SEC. 19. Section 597.1 of the Penal Code is amended to read:

597.1. (a) (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

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

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

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

(C) Is authorized by the officer's agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.

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

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

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

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

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

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

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

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

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of the officer's immediate superior, humanely euthanize any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.

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

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

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

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

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

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

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

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

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

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.

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

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

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

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

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

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

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

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

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

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

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

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be humanely euthanized or otherwise properly disposed of by the seizing agency. A veterinarian may humanely euthanize an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely euthanize an impounded animal afflicted with a serious contagious disease unless the owner or the owner's agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

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

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

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

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

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

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

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in the convicted person's possession to a designated public entity for adoption or other lawful disposition or provide proof to the court

that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the release of seized or impounded animals to the defendant upon a showing of proof of ownership.

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

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

SEC. 20. Section 597.2 of the Penal Code is amended to read:

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

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

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

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

SEC. 21. Section 597e of the Penal Code is amended to read:

597e. Any person who impounds, or causes to be impounded in any animal shelter, any domestic animal, shall supply it during confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any animal shelter in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. That person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of food and water.

SEC. 22. Section 597f of the Penal Code is amended to read:

597f. (a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of an animal shelter or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be humanely euthanized by the officer; and it shall be the duty of all peace officers, an officer of that society, or officer of an animal shelter or animal regulation department of a public agency to cause the animal to be humanely euthanized on information of that abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is

deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) (1) It shall be the duty of all officers of animal shelters or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely euthanized or shall be hospitalized under proper care and given emergency treatment.

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

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

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

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

(d) Notwithstanding any other provisions of this section, any officer of an animal shelter or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of the officer's immediate superior, humanely euthanize any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.

SEC. 23. Section 597u of the Penal Code is amended to read:

597u. (a) A person, peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency shall not kill an animal by using either of the following methods:

(1) Carbon monoxide gas.

(2) Intracardiac injection of a euthanasia agent on a conscious animal, unless the animal is heavily sedated or anesthetized in a humane manner, or comatose, or unless, in light of all the relevant circumstances, the procedure is justifiable.

(b) With respect to the killing of a dog or cat, a person, peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency shall not use any of the methods specified in subdivision (a) or any of the following methods:

(1) High-altitude decompression chamber.

(2) Nitrogen gas.

(3) Carbon dioxide gas.

SEC. 24. Section 597v of the Penal Code is amended to read:

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

SEC. 25. Section 599aa of the Penal Code is amended to read:

599aa. (a) Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b, 597c, 597j, or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating

to the fighting of birds or animals that can be used in animal or bird fighting, in training animals or birds to fight, or to inflict pain or cruelty upon animals or birds with respect to animal or bird fighting.

(b) (1) Upon taking possession, the officer shall inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The inventory list shall identify the location where the items were seized, the names of the persons from whom the property was seized, and the names of any known owners of the property.

(2) Any person claiming ownership or possession of any item shall be provided with a signed copy of the inventory list, which shall identify the seizing officer and the officer's employing agency. If no person claims ownership or possession of the items, a copy of the inventory list shall be left at the location from which the items were seized.

(c) The officer shall file with the magistrate before whom the complaint against the arrested person is made, a copy of the inventory list and an affidavit stating the affiant's basis for the officer's belief that the property and items taken were in violation of this code. On receipt of the affidavit, the magistrate shall order the items seized to be held until the final disposition of any charges filed in the case subject to subdivision (e).

(d) All animals and birds seized shall, at the discretion of the seizing officer, be taken promptly to an appropriate animal storage facility. For purposes of this subdivision, an appropriate animal storage facility is one in which the animals or birds may be stored humanely. However, if an appropriate animal storage facility is not available, the officer may cause the animals or birds used in committing or possessed for the purpose of the alleged offenses to remain at the location at which they were found. In determining whether it is more humane to leave the animals or birds at the location at which they were found than to take the animals or birds to an animal storage facility, the officer shall, at a minimum, consider the difficulty of transporting the animals or birds and the adequacy of the available animal storage facility. When the officer does not seize and transport all animals or birds to a storage facility, the officer shall do both of the following:

(1) Seize a representative sample of animals or birds for evidentiary purposes from the animals or birds found at the site of the alleged offenses. The animals or birds seized as a representative sample shall be transported to an appropriate animal storage facility.

(2) Cause all animals or birds used in committing or possessed for the purpose of the alleged offenses to be banded, tagged, or marked by microchip, and photographed or video recorded for evidentiary purposes.

(e) (1) If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely euthanize or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper of general circulation. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which the magistrate may order the animals or birds to be humanely euthanized or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. No animal or bird may be euthanized or otherwise disposed of until four days after the order.

(2) Paragraph (1) shall apply only to those animals and birds seized under any of the following circumstances:

(A) After having been used in violation of any of the provisions of this code relating to the fighting of birds or animals.

(B) At the scene or site of a violation of any of the provisions of this code relating to the fighting of birds or animals.

(f) Upon the conviction of the arrested person, all property seized shall be adjudged by the court to be forfeited and shall then be, in the case of animals or birds, humanely euthanized or otherwise disposed of, and, in the case of other property, destroyed or otherwise disposed of, as the court may order. Upon the conviction of the arrested person, the court may order the person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds. Each person convicted in connection with a particular animal or bird, excluding any person convicted as a spectator pursuant to Section 597b or 597c, or subdivision (b) of Section 597.5, may be held jointly and severally liable for restitution pursuant to this subdivision. This payment shall be in addition to any other fine or other sentence ordered by the court. The court shall specify in the order that the public entity shall not enforce the order until the defendant satisfies all other outstanding fines, penalties, assessments, restitution fines, and restitution orders. The court may relieve any convicted person of the obligation to make payment pursuant to this subdivision for good cause but shall state the reasons for that decision in the record. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the delivery of the property held in custody to the owner. If the owner is unknown, the court shall order the animals or birds to be humanely euthanized or otherwise disposed of.

SEC. 26. Section 599e of the Penal Code is amended to read:

599e. Every animal which is unfit, by reason of its physical condition, for the purpose for which those animals are usually employed, and when there is no reasonable probability of that animal ever becoming fit for the purpose for which it is usually employed, shall be by the owner or lawful possessor of the same, deprived of life within 12 hours after being notified by any peace officer, officer of said society, or employee of an animal shelter or animal regulation department of a public agency who is a veterinarian, to kill the animal, and the owner, possessor, or person omitting or refusing to comply with the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor, and after that conviction the court or magistrate having jurisdiction of that offense shall order any peace officer, officer of said society, or officer of an animal shelter or animal regulation department of a public agency, to immediately kill that animal; provided, that this shall not apply to the owner of any old or diseased animal keeping the animal on the owner's premises with proper care.