

# ANIMAL LAW ENFORCEMENT FIELD GUIDE

*An Organized Compilation of  
All California Laws Pertaining to  
Animal Protection & Welfare*



**2006 Edition**

**by Brenda Carey, Esq.**



*This Animal Law Enforcement Field Guide is a field guide for law enforcement officers. It has been created to address the problem of low enforcement of the many wonderful animal laws that the people of California and the legislature have seen fit to pass. The reason most often given for the lack of enforcement is lack of knowledge and/or understanding of animal law. This guide is designed to remedy this problem and allow law enforcement officers to access and use these laws to protect California's animals, on-the-spot with no previous training in animal law whatsoever.*

2006 Animal Law Guide  
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### HOW TO USE THIS GUIDE

This guide was created for law enforcement officers such as humane officers, animal control officers, rangers, police, sheriff deputies and other peace officers. Therefore it is meant to be utilized both in the field when encountering a suspicious situation and later as a desk reference when the officer is building a case against a suspect.

**NOTE:** This guide does not contain every California law that pertains to animals, but it does contain every law that provides protection for animals. (If you find a state statute that protects animals that is not included here, please let us know so that we can add it in the next edition).

When you first obtain this guide, please read the introduction and then skim through any sections of interest. When you encounter a situation that involves suspected mistreatment of animals, please read the entire section pertaining to the particular group of animals involved in your case. Additional research may be necessary to prosecute a case, but there is enough information in this guide to let an officer know when s/he has probable cause to take action, and then to give that officer grounds to proceed with a Notice to Comply, a seizure, a citation, or an arrest. The prosecutor (or an attorney seeking to assist in the prosecution) may then conduct additional research regarding pertinent case law to strengthen the case.

The purpose of this guide is to increase the enforcement of animal protection laws by making it easier for all who have the power to enforce these laws to do so. Our goal is to distribute this guide to every law enforcement officer in the state. If you would like to help support this project by sponsoring your local law enforcement agency/ies, please let us know.

### CODE ABBREVIATIONS

Following is a list of code abbreviations used throughout the guide:

B&P = Business and Professions Code	Govt Code = Government Code
Civ Code = Civil Code	H&S = Health and Safety Code
CCP = Code of Civil Procedure	PC = Penal Code
CCR = Code of Regulations	ProbC = Probate Code
Corp Code = Corporations Code	PR = Public Resources Code
EduC = Education Code	R&T = Revenue and Taxation Code
F&A = Food and Agriculture Code	VehC = Vehicle Code
F&G = Fish and Game Code	W&I = Welfare and Institutions Code

## INTRODUCTION

### WHAT IS AN “ANIMAL”?

Scientifically speaking, the Kingdom Animalia includes mammals, birds, reptiles, amphibians, and fish.  
*In this title [the California Penal Code], the word “animal” includes every dumb [non-speaking] creature... (PC 599b)*

► **NOTE:** THERE ARE NO EXCEPTIONS FOR ANY GROUPS OF ANIMALS, SUCH AS FARM ANIMALS OR LABORATORY ANIMALS. IN CALIFORNIA, ALL ANIMALS ARE PROTECTED UNDER THE LAW.

The Penal Code does say that this title is not to interfere with *the killing of* animals by hunters, the killing of venomous reptiles, dangerous animals, animals traditionally eaten by humans, or animals in “properly conducted scientific experiments.” (PC 599c) But remember, even though “killing” is allowed, “cruelty” is NOT, even in these referenced situations.

## “OWNERSHIP” AS IT PERTAINS TO ANIMALS AS “PROPERTY”

*The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this Code, the thing of which there may be ownership is called property. (Civ Code 654)*

*There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the good will of a business, trade marks and signs, and of rights created or granted by statute. (Civ Code 655)*

*Animals wild by nature are the subjects of ownership, while living, only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued. (Civ Code 656)*

## WHAT IS A HUMANE OFFICER?

A Humane Officer is very different from an Animal Control Officer since Animal Control Officers are not required by California law to complete the training that Humane Officers must complete and they do not typically have the powers of a peace officer like a Humane Officer does. Another difference is that Animal Control Officers work for the city or county in which they operate and Humane Officers work for private, non-governmental, non-profit organizations called Humane Societies OR SPCAs. Often Humane Societies or SPCAs contract with the city or county to provide Animal Control Officers and receive compensation from the city or county to do so. But this arrangement is not the norm.

A California Humane Officer must operate under the authority of a corporation that has incorporated under California Corporations Code section 10400. This statute governs the formation of a society for the prevention of cruelty to animals (often also referred to as a Humane Society or an SPCA). An organization is not required by law to use the descriptor “SPCA” or “Humane Society” in its name, but many do.

The process for becoming a 10400 Corporation is a long one. Among other things, the founders must have gathered 20 California incorporators, the endorsement of a Superior Court judge, which requires a motion and at least one, but possibly many, court appearance(s) by a lawyer, and the endorsement of the Secretary of State, which requires the assistance of attorneys as well. Once the above is complete, the corporation must then wait six months before it may appoint duly trained (see below) Humane Officers. (Corp Code 10400-10406).

### State Required Humane Officer Training

In the state of California, Humane Officers must complete the following training:

(1) *...successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code...*

**(Corp Code 14502 ((i)(2)(B))**

(2) *At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.*

**(Corp Code 14502 (i)(2)(D)(i))**

(3) *At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.*

**(Corp Code 14502(i)(2)(D)(ii))**

► **NOTE:** Number (1) is usually accomplished at a Police Academy or a Community College and numbers (2) and (3) are accomplished at the Animal Law Enforcement Training Academy offered once a year in Marin and once a year in San Diego.

► **NOTE:** The above training, as extensive as it is, is not adequate to prepare a new officer for the field. Therefore, it is recommended that officers attend additional training such as that offered in the training center of the Los Angeles Humane Society. LAHS Humane Officers must receive MUCH more training than that required by state statute in order to be eligible for appointment, and prides itself on having the most highly trained personnel in its field!

## THE POWER OF HUMANE OFFICERS

### Humane Officers Have the Power to Enforce ALL Animal Laws

Any Humane Officer may file a criminal complaint against *any* person, before *any* court or magistrate having jurisdiction, **for the violation of ANY law relating to or affecting animals** and may aid in the prosecution of any such offender before such court or magistrate. (Corp Code 10404)

### Other Law Enforcement Officers Must Cooperate With Humane Officers

All magistrates, sheriffs, and officers of police **shall**, as occasion may require, aid Humane Officers in the enforcement of **ALL laws relating to or affecting children or animals**. (Corp Code 10405)

- ▶ Humane Officers have gained knowledge of the law relating to animals through training and experience that other law enforcement officers do not possess. It is important that other law enforcement officers support and do not hinder Humane Officers as they enforce animal laws.

*Every person resisting a humane officer in the performance of his or her duty as provided in this section, is guilty of a misdemeanor...* (Corp Code 14502 (k))

*Every person who willfully resists, delays, or obstructs any public officer, peace officer...in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.* (PC 148)

## WHOSE JOB IS IT TO ENFORCE LAWS THAT PERTAIN TO ANIMALS?

### All Law Enforcement Officers MUST Enforce Animal Protection Laws

- ◆ When encountering situations that involve animals, officers who have not received training as a Humane Officer must not refrain from enforcing the law simply because the law is in an area in which the officer is not an expert.

### Officers MUST Seize and Provide Proper Care

*[I]t shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]...* (PC 597f (a))

*It shall be the **duty** of all officers of pounds 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 animals and dogs found without their owners in a public place directly to a veterinarian....* (PC 597f (b))

*Any peace officer, humane society officer, or animal control officer **shall** take possession of [an animal in need of proper care and attention] and **shall** provide care and treatment for the animal...The cost of caring for and treating any animal properly seized under this subsection shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid...* (PC 597.1 (a))

### Peace Officers MUST Arrest Animal Abusers When Charged

*Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest that person shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.* (PC 142 (a))

- ▶ **What is a “Charge”?** A criminal charge is an accusation of a crime, supported by evidence, brought by a person with authority to enforce criminal law such as a peace officer, a humane officer or a prosecutor. A suspect is “charged” through a warrant for arrest or by an officer during a warrantless arrest. The charge is placed into the record when the suspect is booked. (*Black’s Law Dictionary*)

## USING THE CALIFORNIA PENAL CODE

*The rule of the common law, that penal statutes are to be strictly construed, has no application to this code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its objects and promote justice.* (PC 4)

- ▶ Applied to the statutes that refer to protecting animals, this means that **when law enforcement officers are faced with terms that are open to interpretation, they should err on the side of protecting animals from possible harm**. Officers should never err on the side of possibly allowing a crime against an animal



to continue, or go unpunished. Unclear or vague terms should be defined by those who are known for seeking justice for animals, such as animal rescue or animal welfare non-profits who bear the brunt of society's callousness toward its animals. Legislative intent, as well as the principles of fairness, also require that animals be protected by the laws that were set out to do that, just as children and other humans are protected by the laws designed to protect them. **Animal laws should NEVER be considered "optional" for enforcement by any law enforcement officer!!!**

## ISSUING CITATIONS

### Officers Use General Misdemeanor Pad to Issue Citations

Law enforcement officers who do not have pre-printed pads with animal laws inscribed, must use their general misdemeanor pad to cite violators of animal laws. Officers must simply state the statute, its elements, and the facts of the situation that meet the elements. This guide is designed to help officers recognize legal violations and their elements and then cite or arrest perpetrators and/or seize animals who have been the victims of the criminal violations.

### Issuing Citations: Misdemeanors

(a) *In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the person is released, the officer or his or her superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court...*

(b) *Unless waived by the person, the time specified in the notice to appear shall be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.*

(c) *The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.*

(d) *The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice which shall be retained by the officer, and the officer may require the arrested person, if he or she has no satisfactory identification, to place a right thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear. Except for law enforcement purposes relating to the identity of the arrestee, no person or entity may sell, give away, allow the distribution of, include in a database, or create a database with, this print. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.*

(e) *The officer shall, as soon as practicable, file the duplicate notice, as follows:*

(1) *It shall be filed with the magistrate if the offense charged is an infraction*(2) *It shall be filed with the magistrate if the prosecuting attorney has previously directed the officer to do so.*

(3) *The duplicate notice and underlying police reports in support of the charge or charges shall be filed with the prosecuting attorney in cases other than those specified in paragraphs (1) and (2)*

*If the duplicate notice is filed with the prosecuting attorney, he or she, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified in the duplicate notice within 25 days from the time of arrest. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear. The failure by the prosecutor to file the notice or formal complaint within 25 days of the time of the arrest shall not bar further prosecution of the misdemeanor charged in the notice to appear. However, any further prosecution shall be preceded by a new and separate citation or an arrest warrant...*

(f) *No warrant shall be issued for the arrest of a person who has given a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail, to appear for arraignment, trial, or judgment or to comply with the terms and provisions of the judgment as required by law.*

(g) *The officer may book the arrested person prior to release or indicate on the citation that the arrested person shall appear at the arresting agency to be booked or indicate on the citation that the arrested person shall appear at the arresting agency to be fingerprinted prior to the date the arrested person appears in court. If it is indicated on the citation that the arrested person shall be booked or fingerprinted prior to the date of the person's court appearance, the arresting agency at the time of booking or fingerprinting shall provide the arrested person with verification of the booking or fingerprinting by making an entry on the citation. If it is indicated on the citation that the arrested person is to be booked or fingerprinted, the magistrate, judge, or court shall, before the proceedings begin, order the defendant to provide verification that he or she was booked or fingerprinted by the arresting agency. If the defendant cannot produce the verification, the magistrate, judge or court shall require that the defendant be booked or fingerprinted by the arresting agency before the next court appearance, and that the defendant provide the verification at the next court appearance unless both parties stipulate that booking or fingerprinting is not necessary.*

(h) *A peace officer shall use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the*

officer has arrested a person without a warrant pursuant to [Penal Code] Section 836 or which he or she has taken custody of a person pursuant to Section 847.

(i) Whenever any person is arrested by a peace officer for a misdemeanor, that person shall be released according to the procedures set forth by this chapter unless one of the following is a reason for nonrelease, in which case the arresting officer may release the person, or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the nonrelease:

- (1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
- (2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
- (3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
- (4) There were one or more outstanding arrest warrants for the person.
- (5) The person could not provide satisfactory evidence of personal identification.
- (6) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.
- (7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.
- (8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.
- (9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arresting officer, and to any person authorized by law to release him or her from custody before trial.

(j) Once the arresting officer has prepared the written notice to appear and has delivered a copy to the person arrested, the officer shall deliver the remaining original and all copies as provided by subdivision (e).

Any person, including the arresting officer and any member of the officer's department or agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate or with a person authorized by the magistrate to receive deposit of bail, is guilty of a misdemeanor...

(l) For the purposes of this section, the term "arresting agency" includes any other agency designated by the arresting agency to provide booking or fingerprinting services. (PC 853.6)

### **What Does the Above Subsection (g) Mean When It Says "Book the Arrested Person"?**

To "book" signifies the recordation of an arrest in official police records, and the taking by the police of fingerprints and photographs of the person arrested, or any of these acts following an arrest. (PC 7)

- The purpose of this is clear—it is to make sure the same person arrested on probable cause is the person made to appear in court. Therefore, it is perfectly lawful—and recommended for humane officers—to conduct basic booking procedures (such as taking photos and fingerprints) for misdemeanors at the scene, immediately upon issuing a citation.

### **Violation of "Promise to Appear on Citation"**

Any person who willfully violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court is guilty of a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested. (PC 853.7)

When a person signs a written promise to appear at the time and place specified in the written promise to appear and had not posted bail as provided in Section 853.6, the magistrate shall issue and have delivered for execution a warrant for his or her arrest within twenty (20) days after his or her failure to appear as promised or within 20 days after his or her failure to appear after a lawfully granted continuance of his or her promise to appear. (PC 853.8)

(a) Whenever written notice to appear has been prepared, delivered, and filed by an officer or the prosecuting attorney with the court pursuant to the provisions of Section 853.6 of this code, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead "guilty" or "nolo contendere."

If, however, the defendant violates his or her promise to appear in court, or does not deposit lawful bail, or pleads other than "guilty" or "nolo contendere" to the offense charge, a complaint shall be filed which shall conform to the provision of this code and which shall be deemed to be an original complaint; and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding the provisions of subdivision (a) of this section, whenever the written notice to appear has been prepared on a form approved by the Judicial Council, and exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed. (PC 853.9)



### **Defendant Taken Into Custody by Magistrate Based on Complaint**

(a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant is guilty thereof, the magistrate must make or indorse on the complaint an order, signed by him, to the following effect: "It appearing to me that the offense within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe the within named A. B. is guilty thereof, I order that he or she be held to answer to the same."

(b) Notwithstanding Section 1200 of the Evidence Code, the finding of probable cause may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. **Any law enforcement officer testifying as to hearsay statements shall either have five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training which includes training in the investigation and reporting of cases and testifying at preliminary hearings.** (PC 872)

## **SEARCHES**

### **Search Warrant**

A search is an order in writing in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (PC 1523)

### **Grounds for Issuance of a Search Warrant**

- (a) A search warrant may be issued upon any of the following grounds:
- (1) When the property was stolen or embezzled.
  - (2) When the property or things were used as the means of committing a felony.
  - (3) **When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for purpose of concealing them or preventing their being discovered.**
  - (4) **When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.**
  - (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring.
  - (6) When there is a warrant to arrest a person.
  - (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- (b) The property or things or person or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be. (PC 1524)

### **Search Warrant Must Be Served by Officer Listed in Warrant**

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer in his requiring it, he being present and acting in its execution. (PC 1530)

## **SEIZURE**

### **Seizure of Animal by Law Enforcement Officer (3 Reasons to Seize)**

- (1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

**Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal...** (PC 597.1)

It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned...** and care for the animal... (PC 597f(a))

It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals **when making an arrest** for animal fighting OR when making an arrest **with a warrant** for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### **Post Seizure Procedure**

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the animal within 48 hours (excluding weekends and holidays) that the animal was seized, the name and address of the officer providing notice, a description of the animal and any identifying tags or markings, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the animal or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the animal shall be a lien on the animal and that the animal shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the animal. The owner shall produce the animal at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### **ARREST**

#### ♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

## **WHO MAY REQUEST A WARRANT?**

### **“Inspection Warrant”**

*An inspection warrant is an order, in writing, in the name of the people, signed by a judge of a court of record, directed to a state or local official, commanding him to conduct any inspection required or authorized by state or local law or regulation relating to building, fire, safety, plumbing, electrical, health, labor, or zoning. (CCP 1822.50)*

**NOTE:** Humane Officers are authorized by state law to enforce all laws relating to or affecting animals, including health and safety codes (both state and local) and all other codes that “relate to or affect animals” under California Corporations Code section 10404.

### **Grounds for Issuance of Inspection Warrant—Lower Showing Required than Probable Cause for an Ordinary Search Warrant (but may require more legal paperwork, see 1822.52 below)**

*An inspection warrant shall be issued upon cause, unless some other provision of state or federal law makes another standard applicable. An inspection warrant shall be supported by an affidavit, particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. (CCP 1822.51)*

### **What Is “Cause” for the Above Section?**

*Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises, or vehicle, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, premises, or vehicle. (CCP 1822.52)*

### **Grounds for Judge Granting Inspection Warrant**

*Before issuing an inspection warrant, the judge may examine on oath the applicant and any other witness, and shall satisfy himself of the existence of grounds for granting such application. (CCP 1822.53)*

### **Judge Shall Issue Warrant if Standard Is Met**

*If the judge is satisfied that the proper standard for issuance of the warrant has been met, he or she shall issue the warrant particularly describing each place, dwelling, structure, premises, or vehicle to be inspected and designating on the warrant the purpose and limitations of the inspection, including the limitations required by this title. (CCP 1822.54)*

### **Warrants Are Only Good for a Maximum of 14 Days**

*An inspection warrant shall be effective for the time specified therein, but not for a period of more than 14 days, unless extended or renewed by the judge who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant must be executed and returned to the judge by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void. (CCP 1822.55)*

### **Warrants May Usually Only Be Served in the Daytime**

*An inspection pursuant to this warrant may not be made between 6:00 p.m. of any day and 8:00 a.m. of the succeeding day, nor in the absence of an owner or occupant of the particular place, dwelling, structure, premises, or vehicle unless specifically authorized by the judge upon a showing that such authority is reasonably necessary to effectuate the purpose of the regulation being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the judge may expressly authorize a forcible entry where facts are shown sufficient to create a reasonable suspicion of a violation of a state or local law or regulation relating to building, fire, safety, plumbing, electrical, health, labor, or zoning, which, if such violation existed, would be an immediate threat to health or safety, or where*

*facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. Where prior consent has been sought and refused, notice that a warrant has been issued must be given at least 24 hours before the warrant is executed, unless the judge finds that immediate execution is reasonably necessary in the circumstances shown. (CCP 1822.56)*

#### **Refusing Admittance Under Warrant Is a Misdemeanor**

*Any person who willfully refuses to permit an inspection lawfully authorized by warrant issued pursuant to this title is guilty of a misdemeanor. (CCP 1822.57)*

#### **Fish and Game May Obtain Warrant**

*A warrant may be issued under the requirements of this title to authorize personnel of the Department of Fish and Game to conduct inspections of locations where fish, amphibia, or aquatic plants are held or stored under Division 12 (commencing with Section 15000) of the Fish and Game Code. (CCP 1822.58)*

#### **Department of Food and Agriculture May Obtain Warrant**

*(a) Notwithstanding the provisions of Section 1822.54, for purposes of an animal or plant pest or disease eradication effort pursuant to Division 4 (commencing with Section 5001) or Division 5 (commencing with Section 9101) of the Food and Agricultural Code, the judge may issue a warrant under the requirements of this title describing a specified geographic area to be inspected by authorized personnel of the Department of Food and Agriculture.*

*(b) A warrant issued pursuant to this section may only authorize the inspection of the exterior of places, dwellings, structures, premises or vehicles, and only in areas urban in character. The warrant shall state the geographical area which it covers and the purpose of and limitations on the inspection.*

*(c) A warrant may be issued pursuant to this section whether or not the property owners in the area have refused to consent to the inspection. A peace officer may use reasonable force to enter a property to be inspected if so authorized by the warrant. (CCP 1822.59)*

#### **Division of Gambling Control of the Department of Justice May Obtain Warrant**

*A warrant may be issued under the requirements of this title to authorize personnel of the Division of Gambling Control of the Department of Justice to conduct inspections as provided in subdivision (a) of Section 19827 of the Business and Professions Code. (CCP 1822.60)*

### **COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

### **ADDITIONAL PENALTY FOR CONVICTION OF CRUELTY TO ANIMALS**

#### **Persons Convicted of the Crime "Cruelty to Animals" May Not Hold These Jobs:**

- Any job in a Community Care Facility (22 CCR 80019.1(a)(4)(H))
- Any job in a Residential Care Facility for the Elderly (22 CCR 87219.1(a)(4)(H))
- Any job in a Residential Care Facility for the Chronically Ill (22 CCR 87819.1(a)(4)(H))
- Any Child Care Facility (22 CCR 101170.1(a)(4)(H))

# MINIMUM STANDARDS FOR QUARANTINED ANIMALS

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## STATUTES REGARDING QUARANTINED ANIMALS

### Imported Animals Must Be Quarantined

*All imported animals must be maintained for such period of quarantine as may be required by the Department and under such conditions as prescribed herein:*

*(a) Quarantine Period and Conditions for Release Therefrom.*

*(1) **Primates.** The normal quarantine period required for primates is that which provides for a physical examination, administration of a tuberculin test by a veterinarian upon entry and a repeat physical examination and tuberculin test 30 days later. Primates may be released from quarantine by the department upon completion of the second tuberculin test provided that in the judgment of the attending veterinarian:*

*(A) Both tuberculin tests are negative.*

*(B) The animals exhibit no visible oral ulcers at the end of quarantine period.*

*(C) The animals show no clinical evidence of dysentery or diarrhea, emesis, emaciation, contagious skin lesions, central nervous system disturbances, jaundice, or abnormal respiratory signs at the end of quarantine period.*

*(D) There is no evidence of a zoonotic disease traced back to the quarantined animals.*

*(E) In the opinion of the attending veterinarian the animals are healthy. A summary report by the attending veterinarian, in writing over his signature, shall be made to the department incorporating 1) the results of all tests, physical examinations, etc., performed and 2) his opinion that the animals are healthy (See Section 30084).*

*(2) **Carnivores.** Carnivores shall be confined in a place and manner approved by the Department for a 90 day period. A primary enclosure as defined under Section 2-9302 and set forth under Section 2-9305, Title 24, California Code of Regulations, or an equivalent approved by the Department, is acceptable for confinement. If at the end of quarantine, the animals are examined and found healthy by a veterinarian, they may be released by the Department upon receipt of such certification in writing by the attending veterinarian without further restriction.*

*(b) Imported animals refused release from quarantine shall be handled in such manner as approved and specified by the department.*

*(c) Where the quarantine procedures specified herein are not compatible with the objective of a specific research project, the department may authorize variations from the requirements specified herein provided that no public health hazard will result from the variations allowed.*

*(d) Any person importing animals for purposes of sale to any educational and research institution, zoological garden, laboratory, college or university, may satisfy the requirements of this section and Sections 30081.1-30084 by contract with such institution. Such quarantine shall meet all of the requirements herein with regard to period, observation, reporting and other conditions of quarantine.*

**(17 CCR 30081)**

### Minimum Standards for Holding Facilities

*(a) Structural. The housing facilities used for quarantine of imported animals shall be constructed in accordance with the complied State Building Code, Part 2, Chapter 2-93, Title 24, California Code of Regulations. All quarantine structures, fixtures, equipment and facilities shall be maintained so as to be clean, sanitary and in good repair. All quarantined animals shall be contained within the facility.*

*(b) Storage. Supplies of food and bedding shall be adequately protected against contamination with zoonotic disease causing organisms. Refrigeration shall be provided for supplies of perishable food.*

*(c) Medical Waste Disposal. Animal and food wastes, bedding, debris and any items present in the quarantine facility while a wild animal quarantine is in effect shall be disposed of as medical waste in accordance with Health and Safety Code, Section 25020, et seq. Disposal facilities shall be provided and operated as to prevent vermin infestation and minimize orders and diseases hazards.*

*(d) Handwashing Facilities. Handwashing facilities, such as basins or sinks, shall be provided to maintain cleanliness among caretakers. Handwashing facilities shall include hot and cold running water, soap, paper towels, and a waste container. Handwashing facilities shall conform to the State Building Code, Part 5, Title 24, California Code of Regulations.*

*(e) Drainage. A suitable method shall be provided to rapidly eliminate excessive water from housing facilities. If drains are used, they shall be properly constructed and shall be kept in good repair to avoid disease transmission within the facility. Draining facilities to rapidly eliminate excessive water from housing facilities shall conform to the State Building Code, Part 5, Basic Plumbing Regulations, Title 24, California Code of Regulations.*

*(f) Local Building Codes, Zoning Codes, Use and Business Permits. Notwithstanding the provisions of these regulations, the provisions of local building codes, zoning codes, and applicable use and business permits shall be complied with by the owner or operator of quarantine facilities as a condition to approval by the Department, provided such provisions are at least equal to these regulations. Construction shall be in accordance with Title 24, California Code of Regulations.*

**(17 CCR 30077)**



**Minimum Standards for Quarantined Animals' Health and Husbandry Standards***(a) Food.*

- (1) The food shall be free from contamination, wholesome, and of sufficient quality and nutritive value to meet the known normal daily requirements for the condition and size of the animal.*
- (2) Food, and food receptacles if used, shall be accessible to all animals and shall be placed so as to minimize contamination by excreta. Food receptacles, except self feeders, shall be kept clean and sanitized at least once a week.*

*(b) Watering.*

- (1) All watering receptacles shall be kept clean and shall be sanitized at least once a week.*
- (2) Automatic watering devices shall be maintained in accordance with good husbandry practices. They shall be sanitized when occupancy in the primary enclosure is changed and at the end of quarantine period.*

*(c) Sanitation.*

- (1) Cleaning of Primary Enclosures. Excreta shall be removed from the primary enclosures at least daily, or as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent animals confined in such enclosures from being wetted or contaminated involuntarily.*

*(2) Sanitization of Primary Enclosures.*

*(A) Prior to the introduction of animals into primary enclosures previously occupied by other animals, such enclosures shall be sanitized in the manner provided in subparagraph (c)(3) of this subdivision. (B) Primary enclosures shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard: Provided, however, that such enclosures shall be sanitized at least once every two weeks in the manner provided in subparagraph (c)(3) of this subdivision.*

- (3) Sanitizing Procedures. Cages, rooms, vehicles and hard surfaced pens or runs shall be sanitized either by washing them with hot water (180 F) and soap or detergent, as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.*

*(d) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this section. Premises shall remain free of accumulations of trash.*

*(e) Pest Control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.*

*(f) Employees. A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth herein. Persons well trained and competent in retrieving, restraining and releasing animals in a humane manner for testing and examination procedures during quarantine must be provided. Such practices shall be carried out by or under the supervision of an animal caretaker who has a background in animal husbandry or care. Proper safeguards and precautions shall be practiced by employees so as not to endanger themselves, other persons, or animals. Outer work clothing, gloves, boots, etc., used in caring for animals in quarantine shall not be worn outside the quarantine area.*

*(g) Classification and Separation.*

- (1) Animals housed in the same primary enclosure shall be maintained in compatible groups and shall not be housed in the same primary enclosure with other animal species.*
- (2) Animals entering quarantine on different dates shall not be housed in the same room, unless the quarantine periods commence with the date of the last animal(s) admitted to the room (See Section 30081).*

*(h) Veterinary Care.*

- (1) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a veterinarian.*
- (2) Each animal shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame, or blind animals shall be provided with veterinary care or humanely disposed of unless such action is inconsistent with the purposes for which the animals are being imported.*

*(i) Vehicles.*

- (1) Vehicles used in transporting animals shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts. The vehicles shall contain the animals and restrict the entry of other animals and unauthorized persons.*
- (2) The ability to view the interior of the cargo space is necessary to observe any animals that may have escaped from their primary enclosures.*
- (3) The interior of the animal cargo space shall be kept clean.*
- (4) The animal cargo space and all primary enclosures used in transport shall be cleaned and sanitized in the manner provided in subsection (c)(3) of this section after each shipment has been transported from the point of arrival to the quarantine facility. Animals entering quarantine and those having completed the quarantine shall not be transported concurrently in the same vehicle.*

**(17 CCR 30079)**

**Primary Enclosures**

*Primary enclosures shall conform to the following requirements:*

- (a) They shall be maintained so as to be clean and dry.*
- (b) They shall provide convenient access to clean food and water.*
- (c) Primary enclosures shall conform to the State Building Code, Part 2, Chapter 2-93, Title 24, California Code of Regulations.*

**(17 CCR 30078)**

**Approved Quarantine Facilities for Imported Animals**

*(a) Approval. Quarantine facilities used to house imported animals are subject to inspection and approval by representatives of the Department for such periods of time as the Department deems indicated. Such facilities may be used for housing imported animals only as long as they are maintained and operated in conformance with standards prescribed in Sections 30070 through 30086; in Title 42 of the Code of Federal Regulations, Section 71.53; and in "Biosafety in Microbiological and Biomedical Laboratories", U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and National Institutes of Health, 2nd edition, 1988; which are hereby incorporated by reference.*

*(b) Inspection. The department may make such inspection of approved facilities as it deems necessary to insure compliance with prescribed standards. Such inspections shall be carried out by department representatives at any time, normally during but not restricted to working hours.*

*(c) Notification of Change in Name or Ownership. The department shall be notified of any change in name, address, management or substantial control or ownership of any approved facility.*

**(17 CCR 30080)**

**Imported Animal Quarantine Records**

*Adequate records shall be kept by permit number showing daily health status of each animal in the shipment, together with notation, under veterinary supervision, of signs of any illness, deaths, any treatment given, results of any tests or examinations performed, etc., on all animals in the shipment. (17 CCR 30082)*

**Identification of Quarantined Animals**

*Identification of animals shall be maintained through use of cage numbers, tags on individual animals, or by means of tattoo.*

**(17 CCR 30083)**

**Reporting Requirements for Quarantined Animals**

*(a) A written summary report by the attending veterinarian of the results of all tests, physical examinations, etc., performed shall be made to the department in writing over a signature of the attending veterinarian.*

*(b) Deaths or illnesses in quarantined animals shall be immediately reported to the attending veterinarian and then to the Department without delay. Dead animals shall be handled as biohazardous medical waste and kept under refrigeration pending necropsy instructions by the attending veterinarian. A necropsy shall be conducted under strict infection control precautions by the attending veterinarian or otherwise qualified pathologist, and adequate specimens shall be obtained for diagnostic laboratory examination to determine the cause of illness or death. Following necropsy, the carcass shall be handled and disposed of as biohazardous waste.*

*(c) Records shall be maintained by the quarantine facility for a two-year period and shall be available for department examination upon request.*

**(17 CCR 30084)**

**Exceptions to the Above Quarantine Regulations**

*The department upon application may grant variances from the requirements of these regulations as it determines are authorized by law and will not result in hazard to the public health. Such applications, and variances made thereon, shall be in writing; any variances granted under this section shall set forth conditions designed to protect the public health, and shall be granted only for a specified period, not to exceed 6 months. (17 CCR 30086)*

**"Pets" Are Exempted from the Above Quarantine Regulations**

*The term "pets" includes any animals (e.g., fish, birds, insects, cats, dogs, horses) held for noncommercial purposes and not as an investment. A show animal that is awarded ribbons or cups would not be considered as held in connection with a trade, profession, or business. However, when the animal's proficiency gains monetary or other awards of substantial value, or when the animal is used in the production of offspring that are sold or exchanged for items of substantial value, it is no longer considered a pet entitled to the exemption. Storage in a warehouse or other place of safekeeping in and of itself does not alter the status of such property. No claim for exemption need be filed by an eligible owner, and no entries need be shown on the assessment roll. (18 CCR 134)*

# **MINIMUM STANDARDS FOR ANIMAL SHELTERS**

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**NOTE:** When an animal is taken in by a shelter, it is a “deposit” of that animal for legal purposes. (See below)

## **DEPOSITORY LAW**

*A deposit may be voluntary or involuntary; and for safe keeping or for exchange. (Civ Code 1813)*

*A voluntary deposit is made by one giving to another, with his consent, the possession of personal property to keep for the benefit of the former, or of a third party. The person giving is called the depositor; and the person receiving the depositary. (Civ Code 1813)*

*An involuntary deposit is made:*

- (a) By the accidental leaving or placing of personal property in the possession of any person, without negligence on the part of its owner.*
  - (b) In cases of fire, shipwreck, inundation, insurrection, riot, or like extraordinary emergencies, by the owner of personal property committing it, out of necessity, to the care of any person.*
  - (c) By the delivery to, or picking up by, and the holding of, a stray live animal by any person or public or private entity.*
- (Civ Code 1815)**

*(a) The person or private entity with whom a thing is deposited in the manner described in Section 1815 is bound to take charge of it, if able to do so.*

*(b) A public agency or shelter with whom a thing is deposited in the manner described in Section 1815 is bound to take charge of it, as provided in Section 597.1 of the Penal Code.*

**(Civ Code 1816)**

*A deposit for keeping is one in which the depositary is bound to return the identical thing deposited. (Civ Code 1817)*

*A deposit for exchange is one in which the depositary is only bound to return a thing corresponding in kind to that which is deposited. (Civ Code 1818)*

*A depositary must deliver the thing to the person for whose benefit it was deposited, on demand, whether the deposit was made for a specified time or not, unless he has a lien upon the thing deposited, or has been forbidden or prevented from doing so by the real owner thereof, or by the act of the law, and has given the notice required by Section 1825. (Civ Code 1822)*

*A depositary is not bound to deliver a thing deposited without demand, even where the deposit is made for a specified time. (Civ Code 1823)*

*A depositary must deliver the thing deposited at his residence or place of business, as may be most convenient for him. (Civ Code 1824)*

*A depositary must give prompt notice to the person for whose benefit the deposit was made, of any proceedings taken adversely to his interest in the thing deposited, which may tend to excuse the depositary from delivering the thing to him. (Civ Code 1825)*

*A depositary, who believes that a thing deposited with him is wrongfully detained from its true owner, may give him notice of the deposit; and if within a reasonable time afterwards he does not claim it, and sufficiently establish his right thereto, and indemnify the depositary against the claim of the depositor, the depositary is exonerated from liability to the person to whom he gave the notice, upon returning the thing to the depositor; or assuming, in good faith, a new obligation changing his position in respect to the thing, to his prejudice. (Civ Code 1826)*

*If a thing deposited is owned jointly or in common by persons who cannot agree upon the manner of its delivery, the depositary may deliver to each his proper share thereof, if it can be done without injury to the thing. (Civ Code 1827)*

*When a deposit is made in the name of two or more persons, deliverable or payable to either or to their survivor or survivors, such deposit or any part thereof, or increase thereof, may be delivered or paid to either of said persons or to the survivor or survivors in due course of business. (Civ Code 1828)*

*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.*
- (Civ Code 1833)**

*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. (Civ Code 1834)*

*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. (Civ Code 1835)*

*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. (Civ Code 1836)*

*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. (Civ Code 1837)*

*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. (Civ Code 1838)*

*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. (Civ Code 1839)*

*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. (Civ Code 1840)*

*Gratuitous deposit is a deposit for which the depositary receives no consideration beyond the mere possession of the thing deposited. (Civ Code 1844)*

*An involuntary deposit is gratuitous, the depositary being entitled to no reward. However, an involuntary depositary of any live animal may accept advertised rewards or rewards freely offered by the owner of the animal. (Civil Code 1845)*

*(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 pound, 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. (Civ Code 1846)*

*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 pound, 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 pound or private shelter is lawfully relieved of responsibility for the animal. (Civ Code 1847)*

*A deposit not gratuitous is called storage. The depositary in such case is called a depositary for hire. (Civ Code 1851)*

*A depositary for hire must use at least ordinary care for the preservation of the thing deposited. (Civ Code 1852)*

*In the absence of a different agreement or usage, a depositary for hire is entitled to one week's hire for the sustenance and shelter of living animals during any fraction of a week, and to half a month's hire for the storage of any other property during any fraction of a half month. (Civ Code 1853)*

*In the absence of an agreement as to the length of time during which a deposit is to continue, it may be terminated by the depositor at any time, and by the depositary upon reasonable notice. (Civ Code 1854)*



*Notwithstanding an agreement respecting the length of time during which a deposit is to continue, it may be terminated by the depositor on paying all that would become due to the depositary in case of the deposit so continuing. (Civ Code 1855)*

*A depositary for hire has a lien for storage charges and for advances and insurance incurred at the request of the bailor, and for money necessarily expended in and about the care, preservation and keeping of the property stored, and he also has a lien for money advanced at the request of the bailor, to discharge a prior lien, and for the expenses of a sale where default has been made in satisfying a valid lien. The rights of the depositary for hire to such lien are regulated by the title on liens. (Civ Code 1856)*

*If from any cause other than want of ordinary care and diligence on his part, a depositary for hire is unable to deliver perishable property, baggage, or luggage received by him for storage, or to collect his charges for storage due thereon, he may cause such property to be sold, in open market, to satisfy his lien for storage; provided, that no property except perishable property shall be sold, under the provisions of this section, upon which storage charges shall not be due and unpaid for one year at the time of such sale.*

*All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.*

*This Act shall take effect from and after its passage. (Civ Code 1857)*

## **ABANDONMENT**

► **Willful Abandonment** is a misdemeanor. (PC 597s)

**Abandonment:** knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession, (*Black's Law Dictionary*). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

## **Constructive Abandonment**

*Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within **14 calendar days** after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.*

*If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.*

***There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section.** (Civ Code 1834.5)*

## **Abandoned Animals Shall Not be Vivisected or Taken to a Pound or Animal Regulation Department**

*An abandoned animal, as described in Section 1834.5, shall not be used for scientific or any other type of experimentation, nor shall such an abandoned animal be turned over to a pound or animal regulation department of a public agency. (Civ Code 1834.6)*

## **TAKING THE LIFE OF AN ANIMAL IN A SHELTER**

♦ **Ending a Life Must Be Done by a Veterinarian or Other Professional in a Humane Manner**

Failure to do so is a misdemeanor or a felony.

*"...every person who ...maliciously and intentionally kills an animal, is guilty of a [felony]...every person who... cruelly kills any animal...or causes or procures any animal to be... cruelly killed is guilty of a **misdemeanor or a felony**..." (PC 597)*

♦ **Killing a Cat with Carbon Monoxide Is a Misdemeanor** (PC 597u and 597y)

♦ **Newborn Kittens May Only Be Euthanized with Chloroform Vapor or Inoculation of Barbiturates**

Violation of this section is a misdemeanor. (PC 597v and 597y)

♦ **Killing Dogs or Cats with High-altitude Decompression Chamber or Nitrogen Gas Is a Misdemeanor** (PC 597w, 597y)



## OTHER STATUTES REGULATING SHELTERS

### Adoptable Animals Should Not Be Euthanized

(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. (Civ Code 1834.4)

### Pounds or Animal Regulation Departments that Turn Animals Over to Research Facilities Must Warn with a Large Sign

(a) In any pound or animal regulation department of a public or private agency where animals are turned over dead or alive to a biological supply facility or a research facility, a sign (measuring a minimum of 28x21 cm-- 11x8 1/2 inches --with lettering of a minimum of 3.2 cm high and 1.2 cm wide-- 1 1/4x1/2 inch --(91 point)) stating: "Animals Turned In To This Shelter May Be Used For Research Purposes or to Supply Blood, Tissue, or Other Biological Products" shall be posted in a place where it will be clearly visible to a majority of persons when turning animals over to the shelter. This statement shall also be included on owner surrender forms. The owner surrender forms shall also include the definition of "biological supply facility" contained in subdivision (c).

(b) For purposes of this section, "animal research facility" includes any laboratory, firm, association, corporation, copartnership, and educational institution.

(c) For purposes of this section, "biological supply facility" includes any blood bank, laboratory, firm, association, corporation, copartnership, or educational institution that sells biological materials such as blood or animals, either alive or dead, to research facilities, educational institutions, or veterinarians. (Civ Code 1834.7)

### Owner Must Be Informed When Animal Is Rescued and Rescued Animal Must Be Treated Humanely

Any person who finds a thing lost is not bound to take charge of it, unless the person is otherwise required to do so by contractor law, but when the person does take charge of it he or she is thenceforward a depositary for the owner, with the rights and obligations of a depositary for hire. Any person or any public or private entity that finds and takes possession of any money, goods, things in action, or other personal property, **or saves any domestic animal from harm, neglect, drowning, or starvation**, shall, within a reasonable time, inform the owner, if known, and make restitution without compensation, except a reasonable charge for saving and taking care of the property. **Any person who takes possession of a live domestic animal shall provide for humane treatment of the animal.** (Civ Code 2080)

### Shelters Shall Not Adopt Out Unaltered Dogs

- (a) (1) Except as otherwise provided in subdivision (b), no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any dog that has not been spayed or neutered.
- (2) For the purposes of this section a "rescue group" is a for-profit or not-for-profit entity, or a collaboration of individuals with at least one of its purposes being the sale or placement of dogs that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane shelter or that have been previously owned by any person other than the original breeder of that dog.
- (b) (1) If a veterinarian licensed to practice veterinary medicine in this state certifies that a dog is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog to be spayed or neutered, the adopter or purchaser shall pay the public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group a deposit of not less than forty dollars (\$40), and not more than seventy-five dollars (\$75).
- (2) The entity shall establish the amount of the deposit at the level it determines is necessary to encourage the spaying or neutering of dogs.
- (3) The deposit shall be temporary, and shall only be retained until the dog is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state.
- (4) The dog shall be spayed or neutered within 14 business days of that certification.
- (5) The adopter or purchaser shall obtain written proof of spaying or neutering from the veterinarian performing the operation.
- (6) If the adopter or purchaser presents proof of spaying or neutering to the entity from which the dog was obtained within 30 business days of obtaining the proof, the adopter or purchaser shall receive a full refund of the deposit.
- (c) Public animal control agencies or shelters, society for the prevention of cruelty to animals shelters, humane society shelters, and rescue groups may enter into cooperative agreements with each other and with veterinarians in lieu of requiring spaying and neutering deposits to carry out this section.
- (d) Any funds from unclaimed deposits made pursuant to this section, as it read on January 1, 1999, and any funds from deposits that

are unclaimed after January 1, 2000, may be expended only for programs to spay or neuter dogs and cats, including agreements with a society for the prevention of cruelty to animals or a humane society or licensed veterinarian to operate a program to spay or neuter dogs and cats.

(e) This section only applies to a county that has a population exceeding 100,000 persons as of January 1, 2000, and to cities within that county.

**(F&A 30503)**

### **An Entire Litter of Kittens Only Counts as One Cat**

For the purposes of this division, each member of a litter of kittens, weaned or unweaned, shall be treated as an individual animal. **(F&A 31751)**

### **Shelters Shall Not Adopt Out Unaltered Cats**

- (a) (1) Except as otherwise provided in subdivision (b), no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any cat that has not been spayed or neutered.
  - (2) For the purposes of this section, a "rescue group" is a for-profit or not-for-profit entity, or a collaboration of individuals with at least one of its purposes being the sale or placement of cats that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane shelter or that have been previously owned by any person other than the original breeder of that cat.
  - (b) (1) If a veterinarian licensed to practice veterinary medicine in this state certifies that a cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the cat to be spayed or neutered, the adopter or purchaser shall pay the public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group a deposit of not less than forty dollars (\$40), and not more than seventy-five dollars (\$75).
  - (2) The entity shall establish the amount of the deposit at the level it determines is necessary to encourage the spaying or neutering of cats.
  - (3) The deposit shall be temporary, and shall only be retained until the cat is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state.
  - (4) The cat shall be spayed or neutered within 14 business days of that certification.
  - (5) The adopter or purchaser shall obtain written proof of spaying or neutering from the veterinarian performing the operation.
  - (6) If the adopter or purchaser presents proof of spaying or neutering to the entity from which the cat was obtained within 30 business days of obtaining the proof, the adopter or purchaser shall receive a full refund of the deposit.
  - (c) Public animal control agencies or shelters, society for the prevention of cruelty to animals shelters, humane society shelters, and rescue groups may enter into cooperative agreements with each other and with veterinarians in lieu of requiring spaying and neutering deposits to carry out this section.
  - (d) Any funds from unclaimed deposits made pursuant to this section, as it read on January 1, 1999, and any funds from deposits unclaimed after January 1, 2000, may be expended only for programs to spay or neuter cats and dogs, including agreements with a society for the prevention of cruelty to animals or a humane society or licensed veterinarian, to operate a program to spay or neuter cats and dogs.
  - (e) This section only applies to a county that has a population exceeding 100,000 persons as of January 1, 2000, and to cities within that county.
- (F&A 31751.3)**

### **Shelters MUST Hold Strays and MUST Adopt to Rescues Rather than Euthanize**

(a) The required holding period for a stray cat impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows:

- (1) If the public or private shelter has made the cat available for owner redemption on one weekday evening until at least 7:00 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.
- (2) If the public or private shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their cats by appointment at a mutually agreeable time when the public or private shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Sections 17006 and 31752.5, stray cats shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

(b) Except as provided in Section 17006, any stray cat that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501 (c)(3) of the Internal Revenue Code, animal rescue or adoption organization if requested by the organization prior to the scheduled euthanasia of that animal. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released. The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization.

(c) During the holding period required by this section and prior to the adoption or euthanasia of a cat impounded pursuant to this division, a public or private shelter shall scan the cat for a microchip that identifies the owner of that cat and shall make reasonable efforts to contact the owner and notify him or her that his or her cat is impounded and is available for redemption.  
(F&A 31752)

#### **Only Proven Owner May Relinquish Cat to Shelter**

(a) Upon relinquishment of a cat to a public or private shelter, the owner of that cat shall present sufficient identification to establish his or her ownership of the cat and shall sign a statement that he or she is the lawful owner of the cat.

(b) Any person who provides false information pursuant to this subdivision about his or her ownership of the cat shall be liable to the true owner of the cat in the amount of one thousand dollars (\$1,000).  
(F&A 31752.2)

#### **Special Rule for Feral Cats**

(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 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, 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 pound or shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animal released.  
(F&A 31752.5)

#### **Adoptable Animals Should Not Be Euthanized**

(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.

(Civ Code 1834.4)

#### **Pounds or Animal Regulation Departments that Turn Animals Over to Research Facilities Must Warn with a Large Sign**

(a) In any pound or animal regulation department of a public or private agency where animals are turned over dead or alive to a biological supply facility or a research facility, a sign (measuring a minimum of 28x21 cm—11x8 1/2 inches—with lettering of a minimum of 3.2 cm high and 1.2 cm wide—1 1/4x1/2 inch—91 point)) stating: "Animals Turned In To This Shelter May Be Used For Research Purposes or to Supply Blood, Tissue, or Other Biological Products" shall be posted in a place where it will be clearly visible to a majority of persons when turning animals over to the shelter. This statement shall also be included on owner surrender forms. The owner surrender forms shall also include the definition of "biological supply facility" contained in subdivision (c).

(b) For purposes of this section, "animal research facility" includes any laboratory, firm, association, corporation, copartnership, and educational institution.

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

(Civ Code 1834.7)

### **Kittens Relinquished by Owner May Be Adopted Immediately**

*(b) Notwithstanding subdivision (a), kittens or puppies relinquished by the purported owner, or brought in by any other person with authority to relinquish them, to public or private shelters, may be available immediately for adoption. (F&A 31754)*

# MINIMUM STANDARDS FOR PET BIRDS

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

1. **Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible **24 hours a day**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...**is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  2. **Proper Food:** bird food containing all the essential nutrients  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
    - ♦ Providing means making sure the bird has nutritious food such as seed, fruit and other treats, at all times.
- **NOTE:** Impounding a bird without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

**VETERINARY NOTE:** Fruit must be checked, and discarded if uneaten, within a few hours to avoid mold since birds have very sensitive lungs and can die from a moldy environment.

### Steps 3-5: Necessary Shelter

*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”...[is] for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

Necessary Shelter consists of a clean environment with protection from the weather. IT MUST—AT A MINIMUM—PROVIDE FOR THE FOLLOWING:

3. **Clean Environment**  
*Every person “having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**”... is for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*
  - ♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (For instance, ammonia fumes from bird urine cause many serious illnesses.)
    - No urine-ammonia or other odor, garbage or debris
    - No fleas, ticks, parasites, or other insects that harm birds
4. **Protection from the Weather**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives [the animal] of **necessary... shelter**”... “or fails to provide the animal **protection from the weather...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ What is REQUIRED to provide Protection from the Weather?
    - A bird cage or aviary (unless allowed to fly free outside or within a house) that is free of rust and broken wires or anything else that might harm the bird.
    - The shelter MUST be protected from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!
      - Hot weather—temperatures should not be above 85° F inside
      - Cold weather—temperatures should not be below 55° F inside
      - Wet weather—the inside of the shelter must be dry
5. **Adequate Space to Exercise (PC 597t)**  
*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal’s access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*

  - ♦ Adequate exercise area means that each bird has enough room to spread its wings to their full capacity and to flit from one perch to another.

### Step 6: Free of Cruelty and Neglect

PC 599b defines the word “cruelty” to include “...every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...”



## 6. Free of Cruelty and Neglect

- ♦ Cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597)

*“...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 [felony]...every person who...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...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... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...”*

► **NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Civ Code 3340)

## Steps 7-10: Proper Care Must Be Provided

*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 guilty of a misdemeanor... (PC 597f)*

**NOTE:** [I]t shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

*...[A]ny officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy **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 dispose of the animal. (PC 507f (d))*

## 7. Veterinary Care Must Be Provided Upon Illness or Injury

## 8. Mites and Other Pests Must Be Eradicated Immediately

Mites and other pests must be eradicated immediately from the body of the bird in a humane manner.

## 9. Beaks and Feet or Talons Must Be Maintained

## 10. Habitat Must Be Maintained in a Manner Similar to its Natural Environment

Habitat must be maintained in a manner similar to the habitat it would be found in if it were in the wild (temperature, limbs, ground cover, etc.).

## ABANDONMENT

► **Willful Abandonment** is a misdemeanor. (PC 597s)

Abandonment: knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession, (*Black's Law Dictionary*). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

## Constructive Abandonment

*Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within **14 calendar days** after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.*

*If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.*

*There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section. (Civ Code 1834.5)*

**Abandoned Animals Shall Not be Vivisected or Taken to a Pound or Animal Regulation Department**

*An abandoned animal, as described in Section 1834.5, shall not be used for scientific or any other type of experimentation, nor shall such an abandoned animal be turned over to a pound or animal regulation department of a public agency. (Civ Code 1834.6)*

**PET SHOPS****Conditions in Pet Shops**

- (a) *It shall be unlawful [a misdemeanor, see below] for any person who operates a pet shop to fail to do all of the following:*
- (1) *Maintain the facilities used for the keeping of pet animals in a sanitary condition.*
  - (2) *Provide proper heating and ventilation for the facilities used for the keeping of pet animals.*
  - (3) *Provide adequate nutrition for, and humane care and treatment of, all pet animals under his or her care and control*
  - (4) *Take reasonable care to release for sale, trade, or adoption only those pet animals that are free of disease or injuries*
  - (5) *Provide adequate space appropriate to the size, weight, and specie of pet animals.*
- (b)(1) *Sellers of pet animals shall provide buyers of a pet animal with general written recommendations for the generally accepted care of the class of pet animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal...*

**Penalty:**

(d) *Any person who violates any provision of subdivision (a) is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1000), or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment. (PC 5971)*

**Restrictions on Unweaned Birds in Pet Shops**

- (a) *A pet shop with five or fewer employees may not possess an unweaned bird unless the pet shop employs at least one person per pet shop location who has completed the Pet Industry Joint Advisory Council's avian certification program.*
- (b) *A pet shop with six or more employees may not possess an unweaned bird unless the pet shop employs at least two people who have completed the Pet Industry Joint Advisory Council's avian certification program.*
- (c) ***A pet shop may not sell a bird unless the bird is weaned.***
- (d) *A vendor may not sell a bird at a swap meet or bird mart, unless the bird is weaned.*
- (e) *At the time of sale, a pet shop location or vendor shall document the weight of any hand-fed bird under one year of age, and note the weight on the sales receipt. (H&S 122321)*

**Penalty:**

- (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 [the anti-cruelty/negligence statute].*
- (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 a pound or animal regulation department of a public agency. (H&S 122322)*

**NOTE:** OFFICERS MAY STILL SEIZE UNDER THE AUTHORITY OF 597.1 IF THE BIRD NEEDS VETERINARY CARE

**ENDANGERED SPECIES****Misdemeanor/ \$1,000 Fine to Possess with Intent to Sell or to Sell Dead Body Part or Product of Any of These Species (Some Endangered, Some Not)**

*It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any alligator, crocodile, polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable, antelope, wolf (Canis lupus), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vocuna, sea otter, free-roaming feral horse, dolphin or porpoise (Delphinidae), Spanish lynx, or elephant.*

*Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation... (PC 653o)*

**Importation, Possession with Intent to Sell and Selling of Endangered Species OR Protected Marine Bird Body Parts or Products of Such Body Parts Is a Federal Offense that May Be Enforced by Local Law Enforcement**

*It is unlawful [a misdemeanor] to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any species or subspecies of any fish, **bird**, mammal, amphibian, reptile, mollusk,*

invertebrate, or plant, the importation of which is illegal under the Federal Endangered Species Act of 1973 (Title 16, United States Code Sec. 1531 et seq.) and subsequent amendments, or under the Marine Mammal Protection Act of 1972 (Title 16, United States Code Sec. 1361 et seq.), or which is listed in the Federal Register by the Secretary of the Interior pursuant to the above acts. The violation of any federal regulations adopted pursuant to the above acts shall also be deemed a violation of this section and shall be prosecuted by the appropriate state or local officials. (PC 653p, 653r)

## OTHER STATUTES REGULATING THE TREATMENT OF PET BIRDS

### Harming Birds in Public Cemetery is a Misdemeanor

Every person who, within any public cemetery or burying ground, kills, wounds, or traps any bird, destroys any bird's nest other than swallow's nests, or removes any eggs or young birds from any nest, is guilty of a misdemeanor. (PC 598)

### Eating Animals Traditionally Kept as Pets is a Misdemeanor

Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)

## SEIZURE

### Seizure of Bird by Law Enforcement Officer (3 Reasons to Seize)

(1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer **shall** take possession of the...animal [found without proper care and attention] and **shall** provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned**... and care for the animal... (PC 597f(a))*

*It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))*

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*"Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]..." (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** "A person convicted of a violation of [PC 597] by causing or permitting an act of "cruelty"[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition." (PC 597 (f)(1))

### Post Seizure Procedure

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the bird within 48 hours (excluding weekends and holidays) that the bird was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the bird or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the bird shall be a lien on the bird and that the bird shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

- Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.
- Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the bird. The owner shall produce the bird at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### **ARREST**

#### ♦ Warrantless Arrest:

- (1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**
  - (2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.
- (PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor.  
(Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

### **COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

# **MINIMUM STANDARDS FOR CATS**

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

#### 1. **Proper Drink:** clean, filtered water (in a spill-proof container) easily accessible **24 hours a day**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...** is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

**VETERINARY NOTE:** Cats are unable to gulp down large amounts of water all at once, so they must have access to water 24 hours a day to take small drinks periodically.

♦ A dehydration test is performed by pinching skin at back of neck, if it sticks together and does not snap back immediately the animal is dehydrated; also, red eyes when the perimeter of the eye ball is examined and dry, pale gums indicate dehydration.

#### 2. **Proper Food:** cat food containing all the essential nutrients

*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...** is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

♦ Providing means given to the cat in a safe manner **at least twice a day**.

♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis.

► **NOTE:** Impounding a cat without giving “a sufficient quantity of good and wholesome food and water” is a **misdemeanor**. (PC 597e)

### Steps 3-5: Necessary Shelter

*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... is, for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**” (PC 597 (b))*

#### 3. **Clean Environment**

*Every person “having the charge or custody of any animal, either as owner or otherwise, subjects any animal to **needless suffering**”... is, for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**” (PC 597(b))*

♦ Needless Suffering means (among other, more obvious things) forcing an animal to live in a dirty, unhealthy environment.

**VETERINARY NOTE:** Ammonia fumes from cat urine cause many serious illnesses including upper-respiratory infections, eye infections, skin disorders, etc.

The cat's environment should have:

- No urine-ammonia smell or other odor, garbage or debris
- No fleas, ticks, or parasites on the cat or in the cat's environment
- A **clean** litter box (that does not smell of ammonia), easily accessible **24 hours a day** (the litter should be cleaned at least once a day, per cat)

#### 4. **Protection from the Weather**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather...** is, for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**” (PC 597 (b))*

♦ What is REQUIRED to provide Protection from the Weather?

- A sound structure for shelter (not a vehicle or crawl space under a structure or structure made of flimsy materials). It must have **4 walls, a roof, and a floor** to protect from the sun, the heat, the cold and the rain.
- The shelter must provide **temperature control** in order to protect from the weather.
- The shelter **MUST** protect from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!
  - Hot weather—temperatures should not be above 85° F inside
  - Cold weather—temperatures should not be below 55° F inside
  - Wet weather—the inside of the shelter **must be dry**

#### 5. **Adequate Space to Exercise (PC 597t)**

*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area...** Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*

♦ Adequate exercise area means 250 sq ft per cat

UNLESS a legitimate rescuer is **temporarily** keeping cats in cages:



- If in cage for 1 day= 3 sq ft per cat
- If in cage for 2 days-30 days = 6 sq ft per cat
- Must not be kept in cages for longer than 30 days (this is also cruelty)

#### **Step 6: Free of Cruelty and Neglect**

PC 599b defines the word “***cruelty***” to include “...***every act. omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...***”

#### **6. Free of Cruelty and Neglect**

- ♦ Cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597)

*“...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 [felony]...every person who...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...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...**for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**”*

**VETERINARY NOTE:** Cats are social creatures and become stressed when left alone for extended periods. Therefore, keeping them in **isolation**, without contact with other companion animals or humans for the majority of the time, is “subjecting the animal to needless suffering”. (PC 597) It also constitutes neglect (PC 599b) and failure to provide *proper care and attention*. (PC 597.1) Violation of these statutes are misdemeanors.

**LITIGATION NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THE ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Civ Code 3340)

#### **Example of cruelty specified in the law:**

#### **Using Cats as Lure Is a Misdemeanor (such as for Dog Fighters and Dog Racers)**

It is a misdemeanor to attach a live animal to a machine or propelled device to lure another animal to pursue the attached animal. (PC 597h)

#### **Unlawful neglect specified in the law:**

#### **Steps 7-10: Proper Care Must Be Provided**

#### **Proper Care MUST Be Provided—by the Owner or a Law Enforcement Officer**

*Every owner, drive, or keeper of any animal who permits the animal to be...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... animal and shall provide care and treatment for the animal... (PC 597.1)*

#### **7. Basic Vaccinations Must Be Provided**

FVRCP and Rabies are the basics to protect from disease (most local ordinances require licensing of cats and licensing requirements include these vaccinations).

#### **8. Fleas and Ticks Must Be Eradicated**

Fleas and ticks must be eradicated immediately from the body of the cat in a humane manner (such as the use of a topical pesticide such as Advantage or Frontline).

- ♦ Flea dander is proof of failure to provide adequate veterinary care

#### **9. Veterinary Care Must Be Provided Upon Illness or Injury**

Failure to do so is a misdemeanor. (PC 597f)

#### **10. Spay and Neuter**

You may be fined for failure to do so.

*(a) The owner of a nonspayed or unneutered cat that is impounded once by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society, shall be fined thirty-five dollars (\$35) on the first occurrence, fifty dollars (\$50) on the second occurrence, and one hundred dollars (\$100) for the third or subsequent occurrence. These fines are for unneutered impounded animals only, and are not in lieu of any fines or impound fees imposed by any individual city, county, public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter.*

*(b) An animal control officer, humane officer, police officer, peace officer, or any agency authorized to enforce the Penal Code may write citations with a civil penalty stated in an amount corresponding to the violation as provided in subdivision (a). The fines shall be paid to the local municipality or public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter. Any funds collected under this section shall be expended for the purpose of humane education, programs*

for low cost spaying and neutering of cats, and any additional costs incurred by the animal shelter in the administration of the requirements of this division.

(c) Local ordinances concerning the adoption or placement procedures of any public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall be at least as restrictive as this division.

(d) This section applies to each county and cities within each county, regardless of population.

(e) No city or county, society for the prevention of cruelty to animals, or humane society is subject to any civil action by the owner of a cat that is spayed or neutered in accordance with this section.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date. (F&A 31751.7)

♦ **Further Incentive to Spay or Neuter**

Whenever a city or county requires cat license tags, any such tag shall be issued for one-half or less of the fee required for a cat, if a certificate is presented from a licensed veterinarian that the cat has been spayed or neutered. (F&A 31751.5)

## **ABANDONMENT**

► **Willful Abandonment** is a misdemeanor. (PC 597s)

Abandonment: knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession, (Black's Law Dictionary). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

### **Constructive Abandonment**

Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within **14 calendar days** after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.

If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.

**There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section.**

(Civ Code 1834.5)

### **Abandoned Animals Shall not be Vivisected or Taken to a Pound or Animal Regulation Department:**

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

(Civ Code 1834.6)

## **TAKING THE LIFE OF A CAT**

### ♦ **Ending a Life Must Be Done by a Veterinarian or Other Professional in a Humane Manner**

Failure to do so is a misdemeanor or a felony.

"...every person who ...maliciously and intentionally kills an animal, is guilty of a [felony]...every person who... cruelly kills any animal... or causes or procures any animal to be... cruelly killed is guilty of a **misdemeanor or a felony**..." (PC 597)

### ♦ **Killing a Cat with Carbon Monoxide Is a Misdemeanor.** (PC 597u and 597y)

### ♦ **Newborn Kittens May Only Be Euthanized with Chloroform Vapor or Inoculation of Barbiturates**

Violation of this section is a misdemeanor. (PC 597v and 597y)

### ♦ **Killing Dogs or Cats with High-altitude Decompression Chamber or Nitrogen Gas Is a Misdemeanor** (PC 597w, 597y)

• **Killing Cat for or Possessing Its Pelt Is a Misdemeanor**

“Every person is guilty of a misdemeanor who kills [for the pelt] possesses, imports into this state, sells, buys, gives away or accepts any pelt of a...cat with the sole intent of selling or giving away the pelt of the...cat, or who possesses, imports into this state, sells, buys, gives away, or accepts any dog or cat, with the sole intent of killing or having killed such...cat for the purpose of selling or giving away the pelt of such animal.” (PC 598a)

♦ **Killing Cat for or Possessing Cat Meat Is a Misdemeanor**

Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)

♦ **Killing a Cat with Poison May Be a Misdemeanor or a Felony**

Every person is guilty of a misdemeanor who poisons animals owned by another, or not owned by another without posting conspicuous signs of warning “located at intervals not greater than a distance of one-third of a mile apart, and in any case not less than three such signs having words with letters at least one-inch high reading “Warning—Poisoned bait placed out on these premises,” which signs shall be kept in place until the poisonous substances have been removed.”. (PC 596)

**NOTE:** Depending on the cruelty of the method of death delivered by the poison, there may also be a **felony** violation of PC 597 for poisoning an animal.

## **SHELTERS**

### **Shelters Shall Not Adopt Out Unaltered Cats**

(a) No public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall sell or give away any cat that has not been spayed or neutered, unless a deposit for spaying or neutering the cat has been tendered to the pound or shelter. The deposit shall be in the amount determined by the pound or shelter to be comparable to the lowest fee charged by veterinarians in the locale, but shall not exceed thirty dollars (\$30). A veterinarian shall perform the operation. If a female cat and her kittens are sold or given away to one individual, only a single deposit shall be required. The pound or shelter may make appropriate arrangements for the spaying or neutering of the cat, or may return the deposit to the person purchasing or receiving the cat upon presentation of a written statement or receipt from the veterinarian or clinic that the cat has been spayed or neutered. The deposit may also include the amount necessary to recover any additional costs under this section.

(b) All cats over six months of age at the time they are sold or given away by the pound or shelter shall be spayed or neutered within 60 days, or the deposit shall be deemed unclaimed. All cats six months of age or younger at the time they are sold or given away by the pound or shelter shall be spayed or neutered within six months, or the deposit shall be deemed unclaimed.

(c) Any deposits not claimed under subdivision (a) shall be used only for the following purposes:

- (1) A public education program to prevent overpopulation of cats and dogs.
- (2) A program to spay or neuter cats and dogs.
- (3) A follow up program to assure that animals sold or given away by the pound or shelter are spayed or neutered.
- (4) Any additional costs incurred under this section.

(d) Public pounds, society for the prevention of cruelty to animals shelters, and humane shelters may enter into cooperative agreements with each other and with veterinarians in carrying out this section.

(e) This section shall become operative on January 1, 2006.

(F&A 31751.3)

### **Shelters MUST Hold Strays and MUST Adopt to Rescues Rather than Euthanize**

(a) The required holding period for a stray cat impounded pursuant to this division shall be six business days, not including the day of impoundment, except as follows:

- (1) If the public or private shelter has made the cat available for owner redemption on one weekday evening until at least 7:00 p.m. or one weekend day, the holding period shall be four business days, not including the day of impoundment.
- (2) If the public or private shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their cats by appointment at a mutually agreeable time when the public or private shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Except as provided in Sections 17006 and 31752.5, stray cats shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption or adoption for the remainder of the holding period.

(b) Except as provided in Section 17006, any stray cat that is impounded pursuant to this division shall, prior to the euthanasia of that animal, be released to a nonprofit, as defined in Section 501 (c)(3) of the Internal Revenue Code, animal rescue or adoption

organization if requested by the organization prior to the scheduled euthanasia of that animal. In addition to any required spay or neuter deposit, the public or private shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals adopted or released. The public or private shelter may enter into cooperative agreements with any animal rescue or adoption organization.

(c) During the holding period required by this section and prior to the adoption or euthanasia of a cat impounded pursuant to this division, a public or private shelter shall scan the cat for a microchip that identifies the owner of that cat and shall make reasonable efforts to contact the owner and notify him or her that his or her cat is impounded and is available for redemption.

(F&A 31752)

#### **Only Proven Owner May Relinquish Cat to Shelter**

(a) Upon relinquishment of a cat to a public or private shelter, the owner of that cat shall present sufficient identification to establish his or her ownership of the cat and shall sign a statement that he or she is the lawful owner of the cat.

(b) Any person who provides false information pursuant to this subdivision about his or her ownership of the cat shall be liable to the true owner of the cat in the amount of one thousand dollars (\$1,000).

(F&A 31752.2)

#### **Special Rule for Feral Cats**

(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 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, 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 pound or shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animal released.

(F&A 31752.5)

#### **Adoptable Animals Should Not be Euthanized**

(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.

(Civ Code 1834.4)

#### **Pounds or Animal Regulation Departments that Turn Animals Over to Research Facilities Must Warn With a Large Sign**

(a) In any pound or animal regulation department of a public or private agency where animals are turned over dead or alive to a biological supply facility or a research facility, a sign (measuring a minimum of 28x21 cm-- 11x8 1/2 inches --with lettering of a minimum of 3.2 cm high and 1.2 cm wide-- 1 1/4x1/2 inch --(91 point)) stating: "Animals Turned In To This Shelter May Be Used For Research Purposes or to Supply Blood, Tissue, or Other Biological Products" shall be posted in a place where it will be clearly visible to a majority of persons when turning animals over to the shelter. This statement shall also be included on owner surrender forms. The owner surrender forms shall also include the definition of "biological supply facility" contained in subdivision (c).

(b) For purposes of this section, "animal research facility" includes any laboratory, firm, association, corporation, copartnership, and educational institution.

(c) For purposes of this section, "biological supply facility" includes any blood bank, laboratory, firm, association, corporation,



copartnership, or educational institution that sells biological materials such as blood or animals, either alive or dead, to research facilities, educational institutions, or veterinarians.

(Civ Code 1834.7)

### **Kittens Relinquished by Owner May be Adopted Immediately**

(b) Notwithstanding subdivision (a), kittens or puppies relinquished by the purported owner, or brought in by any other person with authority to relinquish them, to public or private shelters, may be available immediately for adoption. (F&A 31754)

### **PET DEALERS**

(b)...“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 and cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code... This definition does not apply to breeders of dogs [as defined in Health & Safety Code 122045] nor to any person, firm, partnership, corporation, or other association, that has sold, transferred, or given away fewer than 50 dogs or cats 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 pounds or humane societies. (H&S 122125)

### **Must Retrieve from Common Carrier within 4 Hours**

Every pet dealer receiving dogs or cats from a common carrier shall transport, or have transported, dogs and cats from the carrier’s premises **within four hours** after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier’s point of destination. (H&S 122130)

### **Quarantine**

All dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness. Any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals. (H&S 122135)

### **Written Material Required with Purchase**

- (a) (1) It is the intent of the Legislature and the purpose of this section to inform consumers who purchase dogs and cats from retail pet dealers about the benefits of spaying and neutering and the importance of establishing a relationship with a veterinarian, and to facilitate dog licensing by encouraging pet dealers to promote licensure compliance.
- (2) The Legislature declares that pet dealers, when feasible, should offer incentives to purchasers to encourage the use of spaying and neutering services, and that local animal control agencies should investigate selling licenses through pet shops, or making licensure applications available in pet shops, since these businesses already serve a large number of pet owners through the sale of pet supplies.

(b) Every pet dealer shall deliver to the purchaser of each dog or cat at the time of sale, written material, in a form determined by the pet dealer, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(c) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council, the California Animal Control Directors Association, the State Humane Association of California, and the California Veterinary Medical Association shall satisfy the requirements of subdivision (b).

### **Information Statement Required for Purchasers**

Every pet dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) For cats:

- (1) The breeder’s and broker’s name and address, if known, or if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person’s name, address, and federal dealer identification number.
- (2) The date of the cat’s birth, unless unknown because of the source of the cat and the date the dealer received the cat.
- (3) A record of the immunizations and worming treatments administered, if any, to the cat as of the time of the sale, including the dates of administration and the type of vaccine or worming treatment.
- (4) A record of any known disease or sickness that the cat is afflicted with at the time of sale. In addition, this information shall also be orally disclosed to the purchaser. (H&S 122140)



**Pet Dealer Must Maintain Records**

*A pet dealer shall maintain a written record on the health, status, and disposition of each dog and each cat for a period of not less than one year after disposition of the dog or cat. The record shall also contain all of the information required to be disclosed pursuant to Sections 122140 and 122220. **These records shall be available to humane officers, animal control officers, and law enforcement officers for inspection during normal business hours.** (H&S 122145)*

**Penalty:**

*(a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122205 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 article limits or authorizes any act or omission that violates Section 597l of the Penal Code (basic standards of care, violation is misdemeanor).*

**(H&S 122150)**

**OTHER STATUTES REGULATING THE TREATMENT OF CATS****Leaving Carcass on the Side of the Road Is a Misdemeanor**

*Every person who knowingly allows the carcass of any dead animal which belonged to him at the time of its death to be put, or to remain, within 100 feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within 100 feet of any street, alley, highway, or road in common use is guilty of a **misdemeanor**. (PC 374c)*

*(a) It is unlawful [an **infraction**] to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for that purpose...*

*(c) Each day that waste is placed, deposited, or dumped... is a separate violation...*

*(e) A person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$75) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction.*

*(h) (1) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in commercial quantities shall be guilty of a **misdemeanor** punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) upon a first conviction, not less than three thousand dollars (\$3,000) nor more than six thousand dollars (\$6,000) upon a second conviction, and not less than six thousand dollars (\$6,000) nor more than ten thousand dollars (\$10,000) upon a third or subsequent conviction.*

*(2) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This subdivision does not apply to the dumping of household waste at a person's residence. (PC 374)*

**Wild Cats May Not Be Kept (also, see the section on Wild/Exotic Animals)**

*(a) It is unlawful to possess or confine any live cat (family Felidae), except house cats (*Felis domesticus*), except as provided in this division and in Section 3202. Any cat possessed or confined in violation of this section may be seized by the department for disposal as directed by the commission.*

*The commission shall adopt regulations permitting the temporary confinement of cats, other than house cats, for the purpose of required veterinary treatment or care, or for utilization in television or motion picture productions.*

*The following institutions, as defined, are exempt from this section:*

*(1) Any zoo, as defined in Section 2150.*

*(2) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.*

*(b) The following organizations or individuals, as defined by the commission, in compliance with permits and standards, as specified by the commission, that safeguard the health and well-being of cats are exempt from the provisions of subdivision (a):*

*(1) Circuses.*

*(2) Other professional exhibitors qualified by the department and licensed by the United States Department of Agriculture.*

*(3) Dealers and breeders qualified by the department and licensed by the United States Department of Agriculture.*

*(4) Wildlife rehabilitation centers, as qualified by the department.*

*(c) Subdivision (a) of this section shall not prohibit the possession or confinement of any cat by a person who had lawful possession of*

the cat on January 1, 1979, pursuant to a permit issued by the department under Section 2150 or Section 3200. The annual fee for the permit shall be set by the department in an amount calculated to cover the costs of administration. Progeny determined to have been conceived before January 1, 1979, are exempt from subdivision (a) of Section 3005.9 but are subject to department regulations regarding their possession or confinement.

(d) Cats possessed pursuant to subdivisions (b) and (c) of this section may be sold, transferred, or disposed of to the institutions or individuals defined as exempt under this section, when the sale, transfer or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.

The commission shall adopt regulations regarding the possession or confinement of progeny determined to have been conceived after January 1, 1979. These cats may be sold, transferred, or disposed of to the institutions defined as exempt under this section, when the sale, transfer, or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.

This section does not apply to the lawful taking of mammals found to be injuring crops or property, or to the taking of mammals under depredation permits, or to the lawful taking of these mammals as authorized by the commission. (F&G 3005.9)

#### **Domesticated Cat on Game Preserve Is a NonGame Mammal**

Any house cat (*Felis domesticus*) found within the limits of any fish and game refuge is a nongame mammal, unless it is in the residence of its owner or upon the grounds of the owner adjacent to such residence. (F&G 4151)

#### **► NOTE: NonGame Mammals May Not Be “Taken”**

All mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals or parts thereof may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

#### **Antifreeze Sold in California Must Taste Bad**

(a) Any engine coolant or anti-freeze sold in this state after January 1, 2004, that is manufactured after July 1, 2003, and that contains ethylene glycol, shall include denatonium benzoate at a minimum of 30 parts per million as a bittering agent within the product so as to render it unpalatable. Another aversive agent may be used if it meets or exceeds the degree of aversion in test subjects obtained by utilizing the formation of 30 parts of denatonium benzoate in antifreeze. Any manufacturer or packager of a product subject to this section shall maintain a record of the trade name, scientific name, and active ingredients of any bittering agent used pursuant to this chapter. Information and documentation maintained pursuant to this section shall be furnished to any member of the public upon request.

(b) (1) A manufacturer, distributor, recycler, or seller of an automotive product that is required to contain an aversive agent under this section is not liable to any person for any personal injury, death, or property damage that results from the inclusion of denatonium benzoate in ethylene glycol antifreeze.

(2) The limitation on liability provided by this subdivision is only applicable if denatonium benzoate is included in ethylene glycol antifreeze in concentrations mandated by this section.

(3) The limitation on liability provided by this subdivision does not apply if the personal injury, death, or property damage results from willful or wanton misconduct by the manufacturer, distributor, recycler, or seller of the ethylene glycol antifreeze.

(c) This section shall not be construed to apply to any of the following:

(1) The sale of a motor vehicle that contains engine coolant or antifreeze.

(2) Wholesale containers of antifreeze containing 55 gallons or more of the antifreeze.

(B&P 17582)

### **SEIZURE**

#### **Seizure of Cat by Law Enforcement Officer (3 Reasons to Seize)**

(1) Animals in need of “proper care and attention” MUST be seized and given proper care upon discovery by the officer.

**Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)**

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned...** and care for the animal... (PC 597f(a))

*It shall be the duty of all officers of pounds 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.... (PC 597f(b))*

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### **Post Seizure Procedure**

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the cat within 48 hours (excluding weekends and holidays) that the cat was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the cat or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the cat shall be a lien on the cat and that the cat shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the cat. The owner shall produce the cat at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000.

(PC 597.1 (g))

### **ARREST**

#### ♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building*

or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))

### **COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*





# **MINIMUM STANDARDS FOR DOGS**

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

#### 1. **Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible **24 hours a day**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...**is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

♦ A dehydration test is performed by pinching skin at back of neck, if it sticks together and does not snap back immediately the animal is dehydrated; also, red eyes when the perimeter of the eye ball is examined and dry or pale gums may indicate dehydration.

#### 2. **Proper Food:** dog food containing all the essential nutrients

*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

♦ Providing means given to the dog in a safe manner and place **at least twice a day**.

♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis.

► **NOTE:** Impounding a dog without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

### Steps 3-5: Necessary Shelter

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... is for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

#### 3. **Clean Environment**

*Every person “having the charge or custody of any animal, either as owner or otherwise, subjects any animal to **needless suffering**”... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*

♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (For instance, ammonia fumes from dog urine cause many serious illnesses.)

The dog's environment should have:

- No urine-ammonia or other odor, garbage or debris
- No fleas, ticks, parasites, or other insects that harm dogs

#### 4. **Protection from the Weather**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

♦ What is REQUIRED to provide Protection from the Weather?

– A sound structure for shelter (not a vehicle or crawl space under a structure or structure made of flimsy materials). It must have **4 walls, a roof, and a floor** to protect from the sun, the heat, the cold and the rain.

– The shelter must provide **temperature control** in order to protect from the weather.

– The shelter MUST protect from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!

Hot weather—temperatures should not be above 85° F inside

Cold weather—temperatures should not be below 55° F inside

Wet weather—the inside of the shelter **must be dry**

#### 5. **Adequate Space to Exercise**

*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*

♦ Adequate exercise area means 250 sq ft per 15 lbs of dog weight

UNLESS a legitimate rescuer is **temporarily** keeping dogs in cages:

- If in cage for 1 day= 3 sq ft per 15 lbs of dog weight
- If in cage for 2 days-30 days = 6 sq ft per 15 lbs of dog weight
- Must not be kept in cages for longer than 30 days (this is also cruelty)

## ♦ LEASHES:

- Dogs kept on a leash for 30 minutes or less, leash must be 3 feet long or longer
- Dogs kept on leash for longer than 30 minutes, leash must be 6 feet long or longer and incapable of becoming entangled
- Dogs must not be kept on a leash for longer 3 hours at a time

**Step 6: Free of Cruelty and Neglect**

PC 599b defines the word “**cruelty**” to include “...**every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...**”

**6. Free of Cruelty and Neglect**

- ♦ Cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597)

*“...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 [felony]...every person who...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...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...**for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**”*

**VETERINARY NOTE:** Dogs are social creatures and become stressed when left alone for extended periods. Therefore, keeping them in **isolation**, without contact with other companion animals or humans for the majority of the time, is “subjecting the animal to needless suffering”. (PC 597) It also constitutes neglect (PC 599b) and failure to provide *proper care and attention*. (PC 597.1) Violation of these statutes are misdemeanors.

**LITIGATION NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THE ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

**Steps 7-10: Proper Care and Attention Must Be Provided**

*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... (PC 597.1)*

What Does “Proper Care and Attention” Mean?**7. Veterinary Care Must Be Provided upon Illness or Injury**

Upon injury or disease, the dog must be immediately given veterinary care.

**8. Fleas and Ticks Must Be Eradicated**

Fleas and ticks must be eradicated immediately from the body of the dog in a humane manner (such as the use of a topical pesticide such as Advantage or Frontline)

- ♦ Flea dander is proof of failure to provide adequate care

**9. Basic Vaccinations**

FVRCP and rabies (most local ordinances require licensing of dogs and licensing requires these vaccinations).

**10. Spay and Neuter**

Spaying and neutering minimize overpopulation, fighting, spraying and other problems that harm both dogs and humans. (An unaltered dog, is a sign that proper care and attention are not provided).

*An animal control officer, humane officer, police officer, or any agency authorized to enforce the Penal Code may write citations upon impounding a dog, for failure to spay or neuter the dog, for fines of thirty-five dollars (\$35) on the first occurrence, fifty dollars (\$50) on the second occurrence, and one hundred dollars (\$100) for the third or subsequent occurrence. (F&A 30804.7)*

**ABANDONMENT IS A CRIME**

- Willful abandonment of a dog is a misdemeanor. (PC 597s)

Abandonment: knowing relinquishment of one’s right or claim to property without any future intent to again gain title or possession, (Black’s Law Dictionary). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time

longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

### **Constructive Abandonment**

*Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within 14 calendar days after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.*

*If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.*

*There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section. (Civ Code 1834.5)*

### **Abandoned Animals Shall Not Be Vivisected or Taken to a Pound or Animal Regulation Department**

*An abandoned animal, as described in Section 1834.5, shall not be used for scientific or any other type of experimentation, nor shall such an abandoned animal be turned over to a pound or animal regulation department of a public agency. (Civil Code 1834.6)*

## **KILLING OR INJURING DOGS**

### **Officers Must Also Be Aware that Killing a Dog Is a Crime**

**Killing of a dog must be done by a veterinarian or other professional in a humane manner.** Killing by another method is a misdemeanor or a felony. (PC 597, 597u, 597v, 597w, 597y)

#### **► NOTE: OFFICERS SHOULD BE AWARE OF PENALTIES FOR SHOOTING A DOG**

#### **– Large awards in civil penalties levied on the officer's department**

(Numerous suits have been filed nationwide. Departments frequently settle and the terms of the settlement are confidential. However, it was well publicized when \$77,000 was recently awarded to the owners of a dog who was shot by an officer in Tennessee.)

#### **– Loss of officer's job**

(It was publicized recently that an officer lost his job in Denver, CO for shooting a dog. Other officers have been suspended without pay for shooting dogs.)

#### **– Loss of respect for officers by dog lovers in the community**

**► Ricocheted and poorly aimed bullets from officers attempting to shoot dogs have also resulted in tragedy to humans:** an 11-year old boy (8/02 Minneapolis, MN), other innocent bystanders (11/02, Detroit, MI), and even a fellow officer (11/02, Sacramento, CA).

**NOTE:** profiling dogs based on breed is ignorant: Statistically speaking, it is widely known among dog experts that cocker spaniels and golden retrievers are responsible for the majority of dog bites every year.

### **Killing Dog for or Possessing Its Pelt Is a Misdemeanor**

*“Every person is guilty of a misdemeanor who kills [for the pelt] possesses, imports into this state, sells, buys, gives away or accepts any pelt of a...dog with the sole intent of selling or giving away the pelt of the...dog, or who possesses, imports into this state, sells, buys, gives away, or accepts any dog or dog, with the sole intent of killing or having killed such...dog for the purpose of selling or giving away the pelt of such animal.” (PC 598a)*

### **Killing Dog for or Possessing Dog Meat Is a Misdemeanor**

*“Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food.” (PC 598b)*

### **Poisoning Dog May Be a Misdemeanor or a Felony**

Every person is guilty of a misdemeanor who poisons animals owned by another, or not owned by another without posting conspicuous signs of warning “lodged at intervals not greater than a distance of one-third of a mile apart, and in any case not less than three such signs having words with letters at least one-inch high reading “Warning—Poisoned bait placed out on these premises,” which signs shall be kept in place until the poisonous substances have been removed.”. (PC 596)

Depending on the cruelty of the method of death delivered by the poison, there may also be a misdemeanor or felony violation of PC 597.

### **Intentionally Injuring or Killing a Guide, Signal or Service Dog Is a Crime**

► Every person who injures or kills a guide, signal, or service dog is guilty of a misdemeanor punishable by imprisonment in county jail for up to a year, or by a fine of up to ten thousand dollars (\$10,000), or both. The defendant must also pay restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog, or other reasonable costs. (PC 600.5)

### **Allowing a Dog to Injure or Kill a Guide, Signal, or Service Dog Is a Crime**

- ♦ If caused by owner negligence, it is an infraction punishable of a fine up to \$250
- ♦ If caused by owner reckless disregard (“*circumstances that constitute such a departure from the conduct of a reasonable person as to be incompatible with a proper regard for the safety and life of any guide, signal, or service dog*”), it is a misdemeanor punishment in county jail for up to a year or by a fine of not less than \$2,500 and not more than \$5,000, or both.
- ♦ Defendant must also make restitution to cover veterinary bills and replacement costs and other reasonable costs associated with the loss of the dog. (PC 600.2)

### **Injuring or Interfering with Police Horses or Dogs Is a Crime (PC 600)**

“ (a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers and poison or harmful stupefying substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by, or any dog under the supervision of, any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment in the state prison for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.

(b) Any person who willfully and maliciously and with no legal justification interferes with or obstructs any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties by frightening, teasing, agitating, harassing, or hindering the horse or dog shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or both by a fine and imprisonment.

(c) Any person who, in violation of this section, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of any horse or dog, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for one year.

(d) Any person who, in violation of this section, and with intent to inflict such injury, personally causes great bodily injury...to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement...

(e) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the agency owning the animal and employing the peace officer for any veterinary bills, replacement costs of the animal of it is disabled or killed, and the salary of the peace officer for the period of time his or her services are lost to the agency.”

## **SHELTERS**

### **Shelters Shall Not Adopt Out Unaltered Dogs**

(a) Except as otherwise provided in subdivision (b), no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any dog that has not been spayed or neutered.

For the purposes of this section a rescue group is a for profit or not for profit entity, or a collaboration of individuals with at least one of its purposes being the sale or placement of dogs that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane shelter or that have been previously owned by any person other than the original breeder of that dog.

(b) If a veterinarian licensed to practice veterinary medicine in this state certifies that a dog is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog to be spayed or neutered, the adopter or purchaser shall pay the public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group



a deposit of not less than forty dollars (\$40), and not more than seventy-five dollars (\$75). The entity shall establish the amount of the deposit at the level it determines is necessary to encourage the spaying or neutering of dogs. The deposit shall be temporary, and shall only be retained until the dog is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this state. The dog shall be spayed or neutered within 14 business days of that certification. The adopter or purchaser shall obtain written proof of spaying or neutering from the veterinarian performing the operation. If the adopter or purchaser presents proof of spaying or neutering to the entity from which the dog was obtained within 30 business days of obtaining the proof, the adopter or purchaser shall receive a full refund of the deposit.

(c) Public animal control agencies or shelters, society for the prevention of cruelty to animals shelters, humane society shelters, and rescue groups may enter into cooperative agreements with each other and with veterinarians in lieu of requiring spaying and neutering deposits to carry out this section.

(d) Any funds from unclaimed deposits made pursuant to this section, as it read on January 1, 1999, and any funds from deposits that are unclaimed after January 1, 2000, may be expended only for programs to spay or neuter dogs and cats, including agreements with a society for the prevention of cruelty to animals or a humane society or licensed veterinarian to operate a program to spay or neuter dogs and cats.

(e) This section only applies to a county that has a population exceeding 100,000 persons as of January 1, 2000, and to cities within that county.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date. (F&A 30503)

### **Deposit Required for Unaltered Dog Adopted Out with Promise to Alter**

(a) No public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall sell or give away any dog that has not been spayed or neutered, unless a deposit for spaying or neutering the dog has been tendered to the pound or shelter. The deposit shall be in the amount determined by the pound or shelter to be comparable to the lowest fee charged by veterinarians in the locale, but shall not exceed forty dollars (\$40). A veterinarian shall perform the operation. If a female dog and her puppies are sold or given away to one individual, only a single deposit shall be required. The pound or shelter may make appropriate arrangements for the spaying or neutering of the dog, or may return the deposit to the person purchasing or receiving the dog upon presentation of a written statement or receipt from the veterinarian or clinic that the dog has been spayed or neutered. The deposit may also include an amount necessary to recover any additional costs under this section.

(b) Any dog over six months of age at the time it is sold or given away by the pound or shelter shall be spayed or neutered within 60 days, or the deposit shall be deemed unclaimed. Any dog six months of age or younger at the time it is sold or given away by the pound or shelter shall be spayed or neutered within six months, or the deposit shall be deemed unclaimed.

(c) Any deposit not claimed under subdivision (a) shall be used only for the following purposes:

- (1) A public education program to prevent overpopulation of dogs and cats.
- (2) A program to spay or neuter dogs and cats.
- (3) A followup program to assure that animals sold or given away by the pound or shelter are spayed or neutered.
- (4) Any additional costs incurred under this section.

(d) Public pounds, society for the prevention of cruelty to animals shelters, and humane shelters may enter into cooperative agreements with each other and with veterinarians in carrying out this section.

(e) This section shall become operative on January 1, 2006. (F&A 30503)

### **Adoptable Animals Should Not Be Euthanized**

(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.

(Civil Code 1834.4)

## **SERVICE DOGS**

### **State Board for Guide Dogs for the Blind**

(a) There is in the department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or

his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it became inoperative and is repealed.

(B&P 7200)

### **Requirements for Instructors of Seeing Eye Dogs**

A person to be eligible for examination as an instructor must (1) have a knowledge of the special problems of the blind and how to teach them, (2) be able to demonstrate by actual blindfold test under traffic conditions his ability to train guide dogs with whom a blind person would be safe, (3) be suited temperamentally and otherwise to instruct blind persons in the use of guide dogs, and (4) have at least three years' actual experience, comprising such number of hours as the board may require, as an instructor, and have handled twenty-two (22) man-dog units; or its equivalent, as determined by the board, as an apprentice under a licensed instructor in a school satisfactory to the board. (B&P 7209)

### **License Required for Instructors of Seeing Eye Dogs**

(a) Each applicant for an instructor's license shall file an application with the secretary of the boards at least 10 days before the date fixed for examination, and shall pay to the secretary at the time of filing an application the sum of two hundred fifty dollars (\$250). No license shall be granted until the applicant has satisfactorily completed the examination prescribed by the boards and has shown that he or she is equipped by a school or by equivalent facilities satisfactory to the boards. An annual fee of one hundred dollars (\$100) shall be required for the renewal of a license.

(b) All fees received under this chapter shall be deposited in the Guide Dogs for the Blind Fund. (B&P 7211)

### **Grounds for Suspension or Revocation of License to Train Seeing Eye Dogs**

The board may suspend or revoke a license issued under this chapter if it determines that the license or its manager or responsible directing officer has:

(a) Made any false statements given any false information in connection with an application for a license or a renewal or reinstatement thereof.

(b) Violated any provision of this chapter.

(c) Violated any rule of the board adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a felony or any crime involving moral turpitude, or has been convicted of any offense involving cruelty to animals. The records of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

(B&P 7211.9)

### **Violation of Any Provision of this Chapter is a Misdemeanor.** (B&P 7213)

### **License Required for Seeing-Eye Dog Business**

It shall be unlawful for any person to sell, offer for sale, give, hire, or furnish under any other arrangement, any guide dog or seeing-eye dog or to engage in the business or occupation of training any such dog unless he holds a valid and unimpaired license issued pursuant to the provisions of this chapter. (B&P 7210)

### **School That Provides Training of Seeing-Eye Dogs May Recover Dog from Trainer and Refuse to Allow the Trainer to Go Forward with Training or Providing Dog to Blind Person if:**

(1) In the school's opinion, the guide dog is being misused or neglected or mistreated by its blind user.

(2) If the blind person to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another blind person.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

(B&P 7215.5)

### **Persons With Service Dogs Must Have Equal Access to All Public Places**

(a) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal

regulation, and applicable alike to all persons.

(2) As used in this section, “telephone facilities” means tariff items and other equipment and services that have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

(3) “Full and equal access,” for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) “Housing accommodations” means any real property, or portion thereof, that is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) (A) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to permit an individual with a disability, at that person’s expense, to make reasonable modifications of the existing rented premises if the modifications are necessary to afford the person full enjoyment of the premises. However, any modifications under this paragraph may be conditioned on the disabled tenant entering into an agreement to restore the interior of the premises to the condition existing prior to the modifications. No additional security may be required on account of an election to make modifications to the rented premises under this paragraph, but the lessor and tenant may negotiate, as part of the agreement to restore the premises, a provision requiring the disabled tenant to pay an amount into an escrow account, not to exceed a reasonable estimate of the cost of restoring the premises.

(B) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to make reasonable accommodations in rules, policies, practices, or services, when those accommodations may be necessary to afford individuals with a disability equal opportunity to use and enjoy the premises.

(4) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(5) Except as provided in paragraph (6), nothing in this part shall require any person renting, leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(6) (A) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with any other disability on the basis that the individual uses the services of a service dog, or to refuse to permit such an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with any other disability to keep a service dog on the premises.

(B) Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement that reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of the same exists.

(C) (i) As used in this subdivision, **“guide dog” means any guide dog that was trained by a person licensed under Chapter 9 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336).**  
 (ii) As used in this subdivision, **“signal dog” means any dog trained to alert an individual who is deaf or hearing impaired to intruders or sounds.**  
 (iii) As used in this subdivision, **“service dog” means any dog individually trained to the requirements of the individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.**

(7) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or

rental agreement. Nothing in this subdivision, however, shall prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Visually impaired or blind persons and persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and other individuals with a disability and persons authorized to train service dogs for individuals with a disability, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall ensure that the dog is on a leash and tagged as a guide dog, signal dog, or service dog by identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Division 14 of the Food and Agricultural Code. In addition, the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

(d) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

(e) Nothing in this section shall preclude the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code. (Civil Code 54.1)

### **Disabled Have Right to Service Dog**

(a) Every individual with a disability has the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the individual shall be liable for any damage done to the premises or facilities by his or her dog.

(b) Individuals who are blind or otherwise visually impaired and persons licensed to train guide dogs for individuals who are blind or visually impaired pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and individuals who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, **and individuals with a disability and persons who are authorized to train service dogs for the individuals with a disability may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit** for the guide dog, signal dog, or service dog. However, the person shall be liable for any damage done to the premises or facilities by his or her dog. These persons shall ensure the dog is on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Title 14 of the Food and Agricultural Code.

**A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.**

(c) **As used in this section, the terms “guide dog,” “signal dog,” and “service dog” have the same meanings as specified in Section 54.1.**

(d) Nothing in this section precludes the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code. (Civil Code 54.2)

### **Penalty for Denying Access to Disabled with Service Dog**

(a) Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages and any amount as may be determined by a jury, or the court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000), and attorney's fees as may be determined by the court in addition thereto, suffered by any person denied any of the rights provided in Sections 54, 54.1, and 54.2. “Interfere,” for purposes of this section, includes, but is not limited to, preventing or causing the prevention of a guide dog, signal dog, or service dog from carrying out its functions in assisting a disabled person.

(b) Any person who claims to be aggrieved by an alleged unlawful practice in violation of Section 54, 54.1, or 54.2 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code. The remedies in this section are nonexclusive and are in addition to any other remedy provided by law, including, but not limited to, any action for injunctive or other equitable relief available to the aggrieved party or brought in the name of the people of this state or of the United States.

(c) A person may not be held liable for damages pursuant to both this section and Section 52 for the same act or failure to act. (Civ Code 54.3)



**Exception: Service Dogs in Zoos**

(a) Notwithstanding any other provision of law, the provisions of this part shall not be construed to require zoos or wild animal parks to allow guide dogs, signal dogs, or service dogs to accompany individuals with a disability in areas of the zoo or park where zoo or park animals are not separated from members of the public by a physical barrier. As used in this section, “physical barrier” does not include an automobile or other conveyance.

(b) Any zoo or wild animal park that does not permit guide dogs, signal dogs, or service dogs to accompany individuals with a disability therein shall maintain, free of charge, adequate kennel facilities for the use of guide dogs, signal dogs, or service dogs belonging to these persons. These facilities shall be of a character commensurate with the anticipated daily attendance of individuals with a disability. The facilities shall be in an area not accessible to the general public, shall be equipped with water and utensils for the consumption thereof, and shall otherwise be safe, clean, and comfortable.

(c) Any zoo or wild animal park that does not permit guide dogs to accompany blind or visually impaired persons therein shall provide free transportation to blind or visually impaired persons on any mode of transportation provided for members of the public.

Each zoo or wild animal park that does not permit service dogs to accompany individuals with a disability shall provide free transportation to individuals with a disability on any mode of transportation provided for a member of the public in cases where the person uses a wheelchair and it is readily apparent that the person is unable to maintain complete or independent mobility without the aid of the service dog.

(d) Any zoo or wild animal park that does not permit guide dogs to accompany blind or otherwise visually impaired persons therein shall provide sighted escorts for blind or otherwise visually impaired persons if they are unaccompanied by a sighted person.

(e) As used in this section, “wild animal park” means any entity open to the public on a regular basis, licensed by the United States Department of Agriculture under the Animal Welfare Act as an exhibit, and operating for the primary purposes of conserving, propagating, and exhibiting wild and exotic animals, and any marine, mammal, or aquatic park open to the general public.

(Civ Code 54.7)

**DOG FIGHTING/DANGEROUS DOGS**

Any person who owns, possesses, keeps, or trains any dog for fighting, whether for amusement or gain, is guilty of a **felony** and is punishable by imprisonment in a state prison for 16 months, or two or three years, or by a fine not to exceed fifty thousand dollars (\$50,000), or both such fine and imprisonment. (PC 597.5(a))

Owners of the premises where the fighting occurs and **spectators** or persons who are knowingly present where preparations for fighting are to occur are also guilty of a misdemeanor. (PC 597.5 (b))

**Dog Fighting/Racing, Etc. (PC 597h)**

It is a misdemeanor to attach a live animal to a machine or device propelled by any power to lure dogs to pursue the animal.

**Dangerous Dog License**

All potentially dangerous dogs must be licensed and vaccinated and designated as such, an additional fee may be charged. (F&A 31641)

–If the dog in question dies, or is sold, transferred, or permanently removed from the city or county where the owner or keeper resides, the owner of a potentially dangerous dog shall notify the animal control department of the changed condition and new location of the dog in writing within two working days. (F&A 31643)

**Dangerous Dog Must be Kept Under Control at All Times**

A potentially dangerous dog, while on the owner’s property, shall, at all times, be kept indoors, or in a securely fenced yard from which the dog cannot escape, and to which children cannot trespass. (F&A 31642)

► **NOTE:** F&A 31605 defines an enclosure as a/ fence or structure suitable to prevent the entry of young children, and which is suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the dog. The enclosure must be designed in order to prevent the animal from escaping. The animal shall be housed [with adequate room for exercise]. A potentially dangerous animal may be off the owner’s premises ONLY if it is restrained by a substantial leash, of appropriate length, and if under the control of a responsible adult. (F&A 31642)

► **NOTE:** Officers should use this when persons of small stature have a potentially dangerous-looking dog on a leash or when the leash is not strong enough for the dog, or if the leash is too short for the dog’s comfort or too long for the public’s safety, or if the dog is restrained by something other than a leash (like a chain, etc.).



**Dangerous Dog Causing Serious Bodily Injury or Death: Owner Guilty of Felony**

► Owner who knows of dangerous propensities of their dog and willfully allows the dog to go at large, or keeps it without ordinary care, and the dog, while at large or while not kept with ordinary care kills or causes serious bodily injury to any human being who has taken all the precautions that the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, is guilty of a felony. (PC 399)

**Fighting Dog Bites Human**

Any person owning or having custody or control of a dog trained to fight, attack or kill is guilty of a felony or a misdemeanor, punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not to exceed one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment, if, as a result of that person's failure to exercise ordinary care, the dog bites a human being, on two separate occasions or on one occasion causing substantial physical injury. No person shall be criminally liable under this section, however, unless he or she knew or reasonably should have known of the vicious or dangerous nature of the dog, or if the victim failed to take all the precautions that a reasonable person would ordinarily take in the same situation. (PC 399.5(a))

"Severe Injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery. (Food and Agricultural Code section 31604)

**Owner of Vicious Dog Prohibited from Getting New Dog**

The owner of a dog determined to be a vicious dog may be prohibited by the city or county from owning, possessing, controlling, or having custody of any dog for a period up to three years, when it is found [after a hearing] that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare. (F&A 31646)

**Fines for Potentially Dangerous and Dangerous Dogs** (F&S 31662)

Any violation of this chapter involving a potentially dangerous dog shall be punished by a fine not to exceed five hundred dollars (\$500). Any violation of this chapter involving a vicious dog shall be punished by a fine not to exceed one thousand dollars (\$1000).

**BREEDERS**

(Polanco-Lockyer Pet Breeder Warranty Act)

... "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 of 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. (H&S 122045)

**Required Disclosure to Purchaser**

(a) Every breeder of dogs shall deliver to each purchaser of a dog written disclosure containing all of the following:

(1) The breeder's name and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the federal dealer identification number shall also be indicated.

(2) The date of the dog's birth and the date the breeder received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the breeder.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agricultural licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:

(A) A statement, signed by the breeder at the time of sale, that"

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or that is likely to affect the health of the dog on the future, along with a statement signed by a veterinarian, licensed in the state of California that authorizes the sale of the dog, recommends necessary treatment,

if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures on the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(b) The written disclosure made pursuant to this section shall be signed by both the breeder certifying the accuracy of the statement, and by the purchaser of the dog acknowledging receipt of the statement.

(c) In addition, all medical information required to be disclosed pursuant to this section shall be made orally by the breeder to the purchaser.

(d) For purposes of this article, a disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of the sale, or is likely to adversely affect the health of the dog in the future, shall be one that is apparent at the time of sale or that should have been known by the breeder from the history of veterinary treatment disclosed pursuant to this section.

(e) For the purpose of this article, “nonelective surgical procedure” means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would otherwise interfere with the dog’s ability to walk, run, jump, or otherwise function in a normal manner.

(f) For the purpose of this article, “clinically ill” means an illness that is apparent to a veterinarian based on observation, examination, or testing the dog, or upon a review of the medical records relating to the dog. (H&S 122050)

### **Records on Health, Status, and Disposition**

A breeder shall maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. The record shall also include all of the information that the breeder is required to disclose pursuant to Section 122050. (H&S 122055)

### **Sale of Diseased or Ill Dogs; Penalty**

Except as provided for in paragraph (6) of subdivision (a) of Section 122050, no breeder shall knowingly sell a dog that is diseased, ill or has a condition, any one of which that requires hospitalization or nonelective surgical procedures. In lieu of the civil penalties imposed pursuant to Section 122110, any breeder who violates this section shall be subject to a civil penalty of up to one thousand dollars (\$1,000), or shall be prohibited from selling dogs for up to 30 days or both. If there is a second offense, the breeder shall be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500), or a prohibition from selling dogs for up to 90 days, or both. For a third offense, the breeder shall be subject to a civil penalty of up to five thousand dollars (\$5,000), or a prohibition from selling dogs for up to six months, or both. For a fourth and subsequent offense, the breeder shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) or a prohibition from selling dogs for up to one year, or both. For the purpose of this section, a violation that occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the breeder from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city in that the violation occurred, in the appropriate court. (H&S 122060)

### **Breeder Standards of Care**

It shall be unlawful for a breeder to fail to do any of the following:

- (a) Maintain facilities where the dogs are kept in a sanitary condition.
- (b) Provide dogs with adequate nutrition and potable water.
- (c) Provide adequate space appropriate to the age, size, and breed of dog. For purposes of this subdivision, “adequate space” means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position. [Note: this does not preclude application of the higher standards of PC 597t]
- (d) Provide dogs with a rest board, floormat, or similar device that can be maintained in a sanitary condition.
- (e) Provide dogs with adequate socialization and exercise. For the purpose of this article, “socialization” means physical contact with other dogs and with human beings.
- (f) Wash hands before and after handling each infectious or contagious dog.
- (g) Provide veterinary care without delay when necessary.

(H&S 122065)

### **Wire Floor Prohibited**

It shall be unlawful for a breeder to primarily house a dog on wire flooring. (H&S 122065.5)

### **Remedies for Purchaser of Unhealthy Dog from Breeder**

(a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a breeder, the dog has become ill due to any illness or disease that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by the breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition that adversely affects the health of the dog, or that requires,

or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies that the purchaser elects:

- (1) Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.
  - (2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.
  - (3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.
- (b) If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:
- (1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.
  - (2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

**(H&S 122070)**

### **Presumption of Illness**

(a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 122070, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 122070, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

**(H&S 122075)**

### **Requirements to Obtain 122070 Remedies**

To obtain the remedies provided for in Section 122070, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the breeder as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the breeder, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, that existed on or before delivery of the dog to the purchaser, and that adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but no later than five days of receipt of the veterinarian's statement.

(c) Provide the breeder, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog from an illness that existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required. **(H&S 122080)**

### **122070 Remedy for Unhealthy Dog Not Available if:**

No refund, replacement, or reimbursement of veterinary fees shall be made under Section 122070 if any of the following conditions exist:

(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, plus sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 122050 that disclosed the disease, illness, or condition for which the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. The subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed. **(H&S 122085)**

**122070 Remedy for Unhealthy Dog Requires a Veterinarian's Statement**

(a) *The veterinarian's statement pursuant to Section 122070 shall contain all of the following information:*

- (1) *The purchaser's name and address.*
- (2) *The date or dates the dog was examined.*
- (3) *The breed and age of the dog, of known.*
- (4) *That the veterinarian examined the dog.*
- (5) *That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 122050 that renders it unfit for purchase or resulted in its death.*
- (6) *The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.*

(b) *If a refund for reasonable veterinary expenses is being requested, the veterinarian's statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.*

(c) *Refunds and payments of reimbursable expenses provided for in Section 122070 shall be paid, unless contested, by the pet dealer to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 122070 or, where applicable, not later than 10 business days after the date on that the dog is returned to the pet dealer.*

**(H&S 122090)**

**Procedure for Breeder to Contest Demand for 122070 Remedies**

(a) *In the event that a breeder wishes to contest a demand for a demand for any of the remedies specified in Section 122070, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.*

(b) *If the purchaser and the breeder are unable to reach an agreement within 10 business days following receipt by the breeder of the veterinarian's statement pursuant to Section 122070, or following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.*

(c) *The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy. (H&S 122095)*

**Purchaser's Rights Must Be Provided by Breeder to Buyer**

*Every breeder that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:*

**"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS"**

*The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease that existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:*

- (1) *Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.*
- (2) *Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.*
- (3) *Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus tax on the original purchase price of the dog.*

*In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a dog breeder, or states that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus tax.*

*In order to exercise these rights, you must notify the dog breeder as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.*

*If you are making a claim, you must also present to the dog breeder a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have received the written statement from the veterinarian.*

*In the event that the dog breeder wishes to contest the statement or the veterinarian's bill, the dog breeder may request that you produce the dog for examination by a licensed veterinarian of the dog breeder's choice. The dog breeder shall pay the cost of this examination.*



*In the event of death, the deceased dog need not be returned to the dog breeder if you submit a statement issued by a licensed veterinarian stating the cause of death.*

*If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the dog breeder's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the dog breeder does not contest the matter, the dog breeder must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.*

*This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect dog breeders from abuse. If you have questions, obtain a copy of the complete relevant statutes.*

*This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The dog breeder shall permit persons to review the written notice upon request.*

*NOTE: This disclosure of rights is a summary of California law.*

*The actual statutes are contained in Article 1 (commencing with Section 122045) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code. (H&S 122100)*

### **Other Remedies Are Still Available to Consumers**

*Nothing in this article shall in any way limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this article in any way limit the breeder and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this article. However, any agreement or contract by a purchaser to waive any rights under this article shall be null and void and shall be unenforceable. (H&S 122105)*

### **Penalties**

*(a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122060 shall be the subject to civil penalty of up to one thousand dollars (\$1,000) per violation. An 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.*

*(b) Nothing in this article limits or authorizes any act or omission that violates Section 5971 of the Penal Code. (H&S 122110)*

## **PET DEALER / RETAIL SALE OF DOGS AND CATS**

*(b)... "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 and cats is required to possess a permit pursuant to Section 6066 of the Revenue and Taxation Code... This definition does not apply to breeders of dogs [as defined in H&S 122045] nor to any 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 pounds or humane societies. (H&S 122125)*

### **Receipt from Common Carrier**

*Every pet dealer receiving dogs or cats from a common carrier shall transport, or have transported, dogs and cats from the carrier's premises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrier's point of destination. (H&S 122130)*

### **Importation of Dogs**

*All dogs four months of age or older imported into this State for any purpose shall be accompanied by a certificate issued by a licensed veterinarian, stating that the dog or dogs have been vaccinated against rabies within 30 months of the date of importation for dogs vaccinated over 12 months of age or within 12 months for dogs vaccinated under 12 months of age with a canine rabies vaccine of a type approved by the Department for an immunity duration of at least 36 months. (17 CCR 2606.6)*

### **Quarantine**

*All dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness. Any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals. (H&S 122135)*

### **Written Material Required with Purchase**

- (1) It is the intent of the Legislature and the purpose of this section to inform consumers who purchase dogs and cats from retail pet dealers about the benefits of spaying and neutering and the importance of establishing a relationship with a veterinarian, and to facilitate dog licensing by encouraging pet dealers to promote licensure compliance.*



(2) *The Legislature declares that pet dealers, when feasible, should offer incentives to purchasers to encourage the use of spaying and neutering services, and that local animal control agencies should investigate selling licenses through pet shops, or making licensure applications available in pet shops, since these businesses already serve a large number of pet owners through the sale of pet supplies.*

(b) *Every pet dealer shall deliver to the purchaser of each dog or cat at the time of sale, written material, in a form determined by the pet dealer, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian, information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.*

(c) *The delivering of any model materials prepared by the Pet Industry Joint Advisory Council, the California Animal Control Directors Association, the State Humane Association of California, and the California Veterinary Medical Association shall satisfy the requirements of subdivision (b).*

**(H&S 122137)**

### **Information Statement Required for Purchasers**

*Every pet dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:*

(b) *For dogs:*

(1) *The breeder's name and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.*

(2) *The date of the dog's birth, and the date the dealer received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the seller.*

(3) *The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.*

(4) *If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.*

(5) *A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.*

(6) *A record of any veterinarian treatment or medication received by the dog while in the possession of the pet dealer and either of the following:*

(A) *A statement, signed by the pet dealer at the time of sale, containing all of the following:*

(i) *The dog has no known disease or illness.*

(ii) *The dog has no known congenital or hereditary condition that adversely affect the health of the dog in the future.*

(B) *A record of any known disease, illness, and any congenital or hereditary condition that adversely affects the health of the dog at the time of the sale, or is likely to adversely affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is, not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.*

(c) *For the purposes of this article, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.*

(d) *For the purpose of this article, "clinically ill" means an illness that is apparent to a veterinarian based on observation, examination, or testing the dog, or upon a review of the medical records relating to the dog.*

(e) *A disclosure made pursuant to subdivision (b) shall be signed by both the pet dealer certifying the accuracy of the statement, and the purchaser of the dog acknowledging receipt of the statement. In addition, all medical information required to be disclosed pursuant to subdivision (b) shall be made orally to the purchaser.*

(f) *For purposes of this article, a disease, illness, or congenital or hereditary condition that adversely affects the health of a dog at the time of sale or is likely to adversely affect the health of the dog in the future shall be one that is apparent at the time of sale or that should have been known by the pet dealer from the history of veterinary treatment disclosed pursuant to this section.*

**(H&S 122140)**

**Pet Dealer Must Maintain Records**

*A pet dealer shall maintain a written record on the health, status, and disposition of each dog and each cat for a period of not less than one year after disposition of the dog or cat. The record shall also contain all of the information required to be disclosed pursuant to Sections 122140 and 122220. **These records shall be available to humane officers, animal control officers, and law enforcement officers for inspection during normal business hours.***

**(H&S 122145)**

**Penalty**

*(a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122205 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 article limits or authorizes any act or omission that violates Section 597l of the Penal Code.*

**(H&S 122150)**

**Standards of Care for Pet Dealers Who Sell Dogs**

*(a) It shall be unlawful for a pet dealer to fail to do any of the following:*

- (1) Maintain facilities where the dogs are kept in a sanitary condition.*
- (2) Provide dogs with adequate nutrition and potable water.*
- (3) Provide adequate space appropriate to the age, size, and breed of dog. For purposes of this subdivision, "adequate space" means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position. [Note: this does not preclude application of the higher standards of PC 597t]*
- (4) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.*
- (5) Provide dogs with adequate socialization and exercise. For the purpose of this article, "socialization" means physical contact with other dogs and with human beings.*
- (6) Wash hands before and after handling each infectious or contagious dog.*
- (7) Maintain either of the following:*
  - (A) A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire.*
  - (B) Maintain a fire suppression sprinkler system.*
- (8) Provide veterinary care without delay when necessary.*

*(b) A pet dealer shall not be in possession of a dog that is less than eight weeks old.*

**(H&S 122155)**

**Remedies for Purchaser of Unfit Dog from Pet Dealer**

*(a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a pet dealer, the dog has become ill due to any illness or disease that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by the breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition that adversely affects the health of the dog, or that requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies that the purchaser elects:*

- (1) Return the dog to the pet dealer for a refund of the of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.*
- (2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.*
- (3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.*

*(b) If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:*

- (1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.*
- (2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that*

*was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer.*  
(H&S 122160)

#### **Presumption that Illness Existed at Time of Sale**

*(a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.*

*(b) For purposes of Section 122160, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.*

*(c) For purposes of Section 122160, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.*

(H&S 122165)

#### **Requirements to Obtain 122160 Remedies**

*To obtain the remedies provided for in Section 122160, the purchaser shall substantially comply with all of the following requirements:*

*(a) Notify the pet dealer as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.*

*(b) Return the dog to the pet dealer, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, that existed on or before delivery of the dog to the purchaser, and that adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but no later than five days of receipt of the veterinarian's statement.*

*(c) Provide the pet dealer, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog from an illness that existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required.*

(H&S 122170)

#### **122160 Remedy Not Available if:**

*No refund, replacement, or reimbursement of veterinary fees shall be made under Section 122160 if any of the following conditions exist:*

*(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.*

*(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, plus sales tax.*

*(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 122040 that disclosed the disease, illness, or condition for which the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.*

*(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. The subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed.*

(H&S 122175)

#### **122160 Remedy Requires a Veterinarian's Statement**

*(a) The veterinarian's statement pursuant to Section 122160 shall contain all of the following information:*

*(1) The purchaser's name and address.*

*(2) The date or dates the dog was examined.*

*(3) The breed and age of the dog, of known.*

*(4) That the veterinarian examined the dog.*

*(5) That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 122050 that renders it unfit for purchase or resulted in its death.*

*(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.*

*(b) If a refund for reasonable veterinary expenses is being requested, the veterinarian's statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.*

(c) Refunds and payments of reimbursable expenses provided for in Section 122160 shall be paid, unless contested, by the pet dealer to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 122160 or, where applicable, not later than 10 business days after the date on that the dog is returned to the pet dealer. (H&S 122180)

#### **Procedure for Pet Dealer to Contest Demand for 122070 Remedies**

(a) In the event that a pet dealer wishes to contest a demand for a demand for any of the remedies specified in Section 122160, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.

(b) If the purchaser and the pet dealer are unable to reach an agreement within 10 business days following receipt by the pet dealer of the veterinarian's statement pursuant to Section 122160, or following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy. (H&S 122185)

#### **Purchaser's Rights Must Be Provided by Pet Dealer to Buyer**

Every pet dealer that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

##### **"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS**

The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease that existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

- (1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.
- (2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.
- (3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer, or states that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus tax.

In order to exercise these rights, you must notify the pet dealer as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the pet dealer a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have received the written statement from the veterinarian.

In the event that the pet dealer wishes to contest the statement or the veterinarian's bill, the pet dealer may request that you produce the dog for examination by a licensed veterinarian of the dog breeder's choice. The pet dealer shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the pet dealer if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the pet dealer's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the pet dealer does not contest the matter, the pet dealer must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect pet dealers from abuse. If you have questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The pet dealer shall permit persons to review the written notice upon request.



NOTE: This disclosure of rights is a summary of California law.

The actual statutes are contained in Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code.  
(H&S 122190)

#### **Other Remedies Are Available in Addition to These for Buyers**

*Nothing in this article shall in any way limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this article in any way limit the pet dealer and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this article. However, any agreement or contract by a purchaser to waive any rights under this article shall be null and void and shall be unenforceable. (H&S 122195)*

#### **Pet Dealer Cannot Lie About Pedigree Potential of Dog**

*(a) A pet dealer shall not state, promise, or represent to the purchaser, directly or indirectly, that a dog is registered or capable of being registered with an animal pedigree registry organization, unless the pet dealer provides the purchaser with the documents necessary for that registration within 120 days following the date of sale of the dog.*

*(b) In the event that a pet dealer fails to provide the documents necessary for registration within 120 days following the date of sale, in violation of subdivision (a), the purchaser shall, upon written notice to the pet dealer, be entitled to retain the animal and receive a partial refund of 75 percent of the purchase price, plus sales tax, or return the dog along with all documentation previously provided the purchaser for a full refund, including sales tax.*

**(H&S 122200)**

#### **Pet Dealer Must Not Knowingly Sell Unhealthy Dog (Penalty Fines)**

*Except as provided for in subparagraph (B) of paragraph (6) of subdivision (b) of Section 122140, no pet dealer shall knowingly sell a dog that is diseased, ill, or has a condition, any one of which requires hospitalization or surgical procedures. In lieu of the civil penalties imposed pursuant to Section 122150, any pet dealer who violates this section shall be subject to a civil penalty of up to one thousand dollars (\$1,000), or shall be prohibited from selling dogs at retail for up to 30 days, or both. If there is a second offense, the pet dealer shall be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500), or a prohibition from selling dogs at retail for up to 90 days, or both. For a third offense, the pet dealer shall be subject to a civil penalty of up to five thousand dollars (\$5,000) or a prohibition from selling dogs at retail for up to six months, or both. For a fourth and subsequent offense, the pet dealer shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) or a prohibition from selling dogs at retail for up to one year, or both. For purposes of this section, a violation that occurred over five years prior to the most recent violation shall not be considered.*

*An action for recovery of the civil penalty and for a court order enjoining the pet dealer from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county where the violation occurred, or the city attorney for the city where the violation occurred, in the appropriate court. (H&S 122205)*

#### **Standards for Veterinary Care by a Pet Dealer**

*(a) No dog may be offered for sale by a pet dealer to a purchaser until the dog has been examined by a veterinarian licensed in this state. Each dog shall be examined within five days of receipt of the dog and once every 15 days thereafter while the dog is in the possession or custody of the pet dealer. **The pet dealer shall provide any sick dog with proper veterinary care without delay.***

*(b) Any dog diagnosed with a contagious or infectious disease, illness, or condition shall be caged separately from healthy dogs until a licensed veterinarian determines that the dog is free from contagion or infection. The area shall meet the following conditions when contagious or infectious dogs are present:*

- (1) The area shall not be used to house other healthy dogs or new arrivals awaiting the required veterinary examination.*
- (2) The area shall not be used for storing open food containers or bowls, dishes, or other utensils that come in contact with healthy dogs.*
- (3) The area shall have an exhaust fan that creates air movement from the isolation area to an area outside the premises of the pet dealer. The removal of exhaust air from the isolation area may be accomplished by the use of existing heating and air-conditioning ducts, provided no exhaust air is permitted to enter or mix with fresh air for use by the general animal population.*
- (4) Upon removal of all of the contagious or infectious dogs, the area shall be cleaned and disinfected before any healthy animal can be placed in the area.*

*(c) If the pet dealer's veterinarian deems the dog to be unfit for purchase due to a disease, illness, or congenital condition, any of which is fatal or that causes, or is likely to cause, the dog to unduly suffer, the veterinarian shall humanely euthanize the dog. The veterinarian shall provide the pet dealer with a written statement as to why the dog was euthanized. Otherwise, the pet dealer shall have a veterinarian treat the dog, or may surrender the dog to a humane organization that consents to the receipt thereof.*

*(d) In the event a dog is returned to a pet dealer due to illness, disease, or a congenital or hereditary condition requiring veterinary care, the pet dealer shall provide the dog with proper veterinary care.*

**(H&S 122210)**



**State Where Dog Was Bred Must Be Posted on Cage**

Every retail dealer shall post conspicuously on the cage of each dog offered for sale a notice indicating the state where the dog was bred and brokered. (H&S 122215)

**Other Postings That Must Be Near Cages of Dogs**

(a) Every pet dealer shall post conspicuously within close proximity to the cages of dogs offered for sale, a notice containing the following language in 100-point type:

“Information on the source of these dogs, and veterinary treatments received by these dogs is available for review.”

“You are entitled to a copy of a statement of consumer rights.”

(b) Every pet dealer shall, upon request for information regarding a dog, make immediately available to prospective purchasers all of the information required to be disclosed to purchasers pursuant to subdivision (b) of Section 122140 and pursuant to Section 122190.

(H&S 122220)

**Dog Dealers**

For purposes of this article:

(a) “Dog dealer” means any person, firm, partnership, corporation, or other association that engages in the acquisition of dogs for retail sale to the public. “Dog dealer” does not include duly incorporated nonprofit humane societies dedicated to the care of unwanted animals that make animals available for adoption, whether or not a fee for the adoption is charged, or pet dealers who do not in the normal course of business sell dogs, but who sometimes exhibit dogs for adoption.

(b) “Dog breeder” means any person, firm, partnership, corporation, or other association that breeds and sells dogs at wholesale or retail.

(c) “Dog pedigree registry” means any of various private agencies that serve to keep track of the breed, lineage, physical characteristics, and historical data regarding dogs that are registered with the agency. (H&S 122300)

**If Claim That Dog Has Pedigree Potential Must Have Special Postings**

Every dog dealer that sells registered dogs or that claims that the dogs being sold are registered or are registerable with a dog pedigree registry shall post conspicuously within close proximity to the dogs offered for sale, a notice containing the following language in at least 100-point type: “Pedigree registration does not assure proper breeding conditions, health, quality, or claims to lineage.” (H&S 122305)

**If Claim That Dog Has Pedigree Potential Must Make Disclosure**

(a) For every dog sold by a dog dealer or dog breeder that is sold with any representation that the dog is registered or registerable with a dog pedigree registry, the following fully completed disclosure shall be made, orally and in writing on a separate sheet from any other statements, including, but not limited to, the name of the dog dealer or breeder and the name of the relevant dog pedigree registry:

“Disclosure by \_\_\_\_\_

DOG PEDIGREE REGISTRATION DISCLOSURE

Description of dog: \_\_\_\_\_

The dog you are purchasing is registered/registerable (circle one) with the \_\_\_\_\_ (enter name of registry). Registration means only that \_\_\_\_\_ (enter name of registry) maintains information regarding the parentage and identity of this dog, it does not guarantee the quality or health of this dog, and it does not guarantee quality lineage. Since dog pedigree registries depend in large part on the honesty and accuracy of persons registering dogs, registration does not guarantee the accuracy of the lineage recorded nor that this dog is purebred.

Acknowledged: \_\_\_\_\_”

Retail purchaser's signature

Date

(b) The disclosure in subdivision (a) shall be signed and dated by the retail purchaser of the dog acknowledging receipt of a copy of the statement and the dog dealer or dog breeder shall retain a copy.

(H&S 122310)

**Penalties**

(a) Any dog dealer or dog breeder who fails to comply with the disclosure requirements in Section 122305 or 122310, as the case may be, shall be liable to the retail purchaser for civil damages in an amount equal to three times the cost of the dog. Claim for payment under this section shall be made within one year from the date of purchase of the dog.

(b) The remedies provided in this section shall be in addition to any other remedies or penalties authorized by other provisions of law. (H&S 122315)

**Pet Shops (PC 5971)**

- (a) *It shall be unlawful [a misdemeanor, see below] for any person who operates a pet shop to fail to do all of the following:*
- (1) *Maintain the facilities used for the keeping of pet animals in a sanitary condition.*
  - (2) *Provide proper heating and ventilation for the facilities used for the keeping of pet animals.*
  - (3) *Provide adequate nutrition for, and humane care and treatment of, all pet animals under his or her care and control*
  - (4) *Take reasonable care to release for sale, trade, or adoption only those pet animals that are free of disease or injuries*
  - (5) *Provide adequate space appropriate to the size, weight, and specie of pet animals.*
- (b)(1) *Sellers of pet animals shall provide buyers of a pet animal with general written recommendations for the generally accepted care of the class of pet animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal...*

**Penalty**

(d) *Any person who violates any provision of subdivision (a) is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1000), or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment.*

**OTHER STATUTES REGULATING THE TREATMENT OF DOGS****Antifreeze Sold in California Must Taste Bad**

(a) *Any engine coolant or anti-freeze sold in this state after January 1, 2004, that is manufactured after July 1, 2003, and that contains ethylene glycol, shall include denatonium benzoate at a minimum of 30 parts per million as a bittering agent within the product so as to render it unpalatable. Another aversive agent may be used if it meets or exceeds the degree of aversion in test subjects obtained by utilizing the formation of 30 parts of denatonium benzoate in antifreeze. Any manufacturer or packager of a product subject to this section shall maintain a record of the trade name, scientific name, and active ingredients of any bittering agent used pursuant to this chapter. Information and documentation maintained pursuant to this section shall be furnished to any member of the public upon request.*

- (b)
- (1) *A manufacturer, distributor, recycler, or seller of an automotive product that is required to contain an aversive agent under this section is not liable to any person for any personal injury, death, or property damage that results from the inclusion of denatonium benzoate in ethylene glycol antifreeze.*
  - (2) *The limitation on liability provided by this subdivision is only applicable if denatonium benzoate is included in ethylene glycol antifreeze in concentrations mandated by this section.*
  - (3) *The limitation on liability provided by this subdivision does not apply if the personal injury, death, or property damage results from willful or wanton misconduct by the manufacturer, distributor, recycler, or seller of the ethylene glycol antifreeze.*
- (c) *This section shall not be construed to apply to any of the following:*
- (1) *The sale of a motor vehicle that contains engine coolant or antifreeze.*
  - (2) *Wholesale containers of antifreeze containing 55 gallons or more of the antifreeze.*

(B&P 17582)

**Pounds or Animal Regulation Departments that Turn Animals Over to Research Facilities Must Warn With a Large Sign**

(a) *In any pound or animal regulation department of a public or private agency where animals are turned over dead or alive to a biological supply facility or a research facility, a sign (measuring a minimum of 28x21 cm-- 11x8 1/2 inches --with lettering of a minimum of 3.2 cm high and 1.2 cm wide-- 1 1/4x1 1/2 inch --(91 point)) stating: "Animals Turned In To This Shelter May Be Used For Research Purposes or to Supply Blood, Tissue, or Other Biological Products" shall be posted in a place where it will be clearly visible to a majority of persons when turning animals over to the shelter. This statement shall also be included on owner surrender forms. The owner surrender forms shall also include the definition of "biological supply facility" contained in subdivision (c).*

(b) *For purposes of this section, "animal research facility" includes any laboratory, firm, association, corporation, copartnership, and educational institution.*

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

(Civ Code 1834.7)

**Dogs and Other Domestic Animals Shall Not be Permitted to Run at Large in any Mobile Home Park (25 CCR 1608)**

## SEIZURE

### Seizure of Dog by Law Enforcement Officer

- (1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer **shall** take possession of the...animal [found without proper care and attention] and **shall** provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected** [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned**... and care for the animal... (PC 597f(a))*

*It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))*

- (2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

- (3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*"Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]..." (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** "A person convicted of a violation of [PC 597] by causing or permitting an act of "cruelty"[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition." (PC 597 (f)(1))

### Post Seizure Procedure

- (1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the dog within 48 hours (excluding weekends and holidays) that the dog was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the dog or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the dog shall be a lien on the dog and that the dog shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

- (2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

- Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.
- Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

- (3) The standard employed by the hearing officer is whether the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(PC 597.1 (l)-(k))

### Pre Seizure Hearing

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the dog. The owner shall produce the dog at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

**ARREST**♦ Warrantless Arrest:

- (1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**
  - (2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.
- (PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

**COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

# **MINIMUM STANDARDS FOR** **EQUINES**

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

1. **Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible **24 hours a day**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...** is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
    - ♦ A dehydration test is performed by pinching the skin on the animal’s back. If the skin stays in the pinched position after letting go instead of snapping back into place, the animal is dehydrated.
  2. **Proper Food:** contains all the essential nutrients  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...** for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
    - ♦ Providing means given to the horse in a safe manner and place at least twice a day
    - ♦ The ribs and spine should not protrude; if they do this is evidence of a failure to provide proper food on a regular basis. If the hip joints protrude the animal is near starvation.
- **NOTE:** Impounding a horse without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

### Steps 3-5: Necessary Shelter

*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

3. **Clean Environment**  
*Every person “having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**”... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*
  - ♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (It can cause many serious illnesses.)
    - No odor, garbage or debris
    - No fleas, ticks, parasites, or other insects that harm horses
4. **Protection from the Weather**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather...** is, for every such offense, guilty of a crime punishable as a **misdemeanor or a felony...**” (PC 597 (b))*
  - ♦ What is REQUIRED to provide Protection from the Weather?
    - A sound structure for shelter (not a vehicle or crawl space under a structure or structure made of flimsy materials). It must have **4 walls, a roof, and a floor** to protect from the sun, the heat, the cold and the rain.
    - The shelter must provide **temperature control** in order to protect from the weather.
    - The shelter MUST protect from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!
      - Hot weather—temperatures should not be above 85° F inside
      - Cold weather—temperatures should not be below 55° F inside
      - Wet weather—the inside of the shelter **must be dry**
5. **Adequate Space to Exercise**  
*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area...** Violation of this section constitutes a misdemeanor.*  
*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.” (PC 597t)*
  - ♦ Adequate exercise area means 10,000 sq ft per horse or 4 horses per acre

### Step 6: Free of Cruelty and Neglect

PC 599b defines the word “**cruelty**” to include “...**every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...**”

6. **Free of Cruelty and Neglect**
  - ♦ Cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597)
  - ♦ “...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 [felony]...every person who...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...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**...for every such offense, guilty of a crime punishable as a **misdemeanor** or a **felony**...*

► **NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Civ Code 3340)

#### **Steps 7-10: Proper Care Must Be Provided —by the Owner or a Law Enforcement Officer**

*Every owner, driver, or keeper of any animal who permits the animal to be...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... animal and shall provide care and treatment for the animal... (PC 597.1 and 597f)*

#### **7. Basic Vaccinations Must Be Provided**

#### **8. External and Internal Parasites Must Be Eradicated**

Lice, ticks, mites and other external parasites must be eradicated immediately from the body of the horse in a humane manner. The horse should be on a regular worming schedule or their manure checked regularly for eggs/larvae and treated for such parasites as necessary.

#### **9. Veterinary Care Must Be Provided Upon Illness or Injury**

Upon injury or disease, the horse must be immediately given veterinary care (and not made to work until the animal has recovered from the injury or disease).

#### **10. Hooves, Shoes and Teeth Must Be Kept in Proper Condition**

—No splitting, overgrowth, etc.

### **ABANDONMENT**

► **Willful Abandonment** is a misdemeanor. (PC 597s)

**Abandonment:** knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession, (*Black's Law Dictionary*). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

#### **Constructive Abandonment**

*Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within **14 calendar days** after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.*

*If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.*

*There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section.*

(Civ Code 1834.5)

### **PROHIBITIONS ON KILLING HORSES**

#### **Horse Slaughter (for Meat) Prohibited** (PC 598c):

► "(a)...it is unlawful for any person to possess, to import into or export from the state, or to sell, buy, give away, hold, or accept any horse with the intent of killing, or having another kill, that horse, if that person knows or should have known that any part of that horse will be used for human consumption.

(b) For purposes of this section, "horse" means any equine, including any horse, pony, burro, or mule.

(c) Violation of this section is a felony punishable by imprisonment in the state prison for 16 months, two, or three years."

**Horse Meat Prohibited (PC 598d, 598b):**

►“(a)...horsemeat may not be offered for sale for human consumption. No restaurant, cafe, or other public eating place may offer horsemeat for human consumption.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by confinement in jail for not less than 30 days nor more than two years, or by both that fine and confinement.

(c) A second or subsequent offense under this section is punishable by imprisonment in the state prison for not less than two years nor more than five years.” (PC 598d)

►“Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, buys, gives away, or accepts any carcass or part of any carcass of any animal traditionally or commonly kept as a pet or companion with the intent of using or having another person use any part of that carcass for food. (PC 598b)

**Sale or Adoption of Equine Must Discourage Possibilities of Slaughter of Equine**

“ (b) If a pound, humane society or 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)(2) A person adopting an equine under [the above circumstance] shall submit a written statement declaring that the person is adopting the equine for personal use and not for the purposes of resale, resale for slaughter, or holding or transporting the equine for slaughter.” (PC 597.2)

**Eating Animals Traditionally Kept as Pets Is a Misdemeanor**

Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)

**Downed Equine Transported for Out of State Slaughter Is Misdemeanor**

(a),(c) ... “[I]t is unlawful [a misdemeanor] for any person to sell, attempt to sell, load, cause to be loaded, transport, or attempt to transport any live horse, mule, burro, or pony that is disabled, if that animal is intended to be sold, loaded, or transported for commercial slaughter out of the state.

(b) For the purposes of this section, “disabled animal” includes, but is not limited to, any animal that has broken limbs, is unable to stand and balance itself without assistance, cannot walk, or is severely injured. (PC 597x)

**Stealing a Carcass Is Grand Theft**

(a) Every person who shall feloniously steal, take, transport or carry the carcass of any bovine, caprine, equine, ovine, or suine animal or any mule, jack, or jenny, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him, is guilty of grand theft.

(b) Every person who shall feloniously steal, take, transport, or carry any portion of the carcass of any bovine, caprine, equine, ovine, or suine animal or any mule, jack or jenny, which has been killed without the consent of the owner thereof, is guilty of grand theft. (PC 487a)

**Paperwork Must Accompany Horse, Pony, Mule or Burro Transported to Slaughter**

No person shall purchase, consign, sell, or accept the donation of an animal [defined as a horse, pony, mule or burro by section 24102] which is destined for slaughter unless the seller or donor of the animal provides, and the purchaser or donee receives, at the time of delivery, a written bill of sale or any written instrument which contains all of the following information:

(a) A description of each animal which is sold that includes its sex, breed, color, approximate height and weight, approximate age, natural marks, or identifying scars, and of each brand or tattoo and its location. If the animal has been branded or tattooed and registered with the Bureau of Livestock Identification in the department, the identification papers shall accompany the animal.

(b) The name, address, signature, and motor vehicle driver's license number of the person who sold or donated the animal.

(c) The date of the transaction.

(d) The name, address, and motor vehicles driver's license number of the purchaser of the animal.

(e) The name, address, and motor vehicle driver's license number of any person who transports the animal to the purchaser or an auction yard. (F&A 24106)

**Sign Must Be Posted Where Equines Sold May Be Slaughtered**

(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 11/4x1/2 (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 his or her acknowledgment of the notice.

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

“WARNING

Horses sold on these premises may be purchased for slaughter.

As a possible safeguard, seller can set minimum bid above current slaughter prices.”

(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. (Civ Code 1834.8)

### **Slaughter of Equines Must Occur in a Special Facility**

Equines shall be slaughtered and prepared in establishments separate from any establishment where any other livestock is slaughtered or any product of any other livestock is prepared. (F&A18733)

## **IMPROPER USE OF SOMEONE ELSE’S EQUINE**

### **Borrowers of Animals Must Treat Animals Properly**

One who borrows a living animal for use, must treat it with great kindness, and provide everything necessary and suitable for it. (Civ Code 1887)

### **Abuse of Hired/Rented Horse Prohibited (PC 537b)**

...“beating, goading, overriding or other willful or malicious conduct..” against the animal, including defrauding the proprietor, keeping the horse for a longer time than contracted for, taking the horse for a longer distance than contracted for, abandoning the animal or failing to pay for the feed, etc. is a misdemeanor.

### **Unauthorized Use of Animal Kept at Livery, Feed or Boarding Stable (PC 537c)**

Driving, riding or other use of the animal kept, without the permission of the owner or other person charged with the care, control or possession of the animal, is a misdemeanor.

### **Equine Theft Is Grand Theft: (PC 487(d)(1))**

► Felonious stealing, taking or carrying away a “horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny... “of another. (Even if such animal is deceased, PC 487a)

**NOTE: If an Equine Animal is Missing or Stolen, a Report MUST be Filed** in a Timely Manner with the Bureau of Livestock Identification pursuant to section 24104 of the Food and Agricultural Code. (PC 13050)

This report will then be distributed to all county sheriff's departments in a timely manner. (PC 13051)

## **OTHER STATUTES THAT PROTECT HORSES**

### **Injuring or Interfering With Police Horses (or Dogs) Is a Crime (PC 600)**

“ (a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers and poison or harmful stupefying substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by, or any dog under the supervision of, any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment in the state prison for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.

(b) Any person who willfully and maliciously and with no legal justification interferes with or obstructs any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties by frightening, teasing, agitating, harassing, or hindering the horse or dog shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or both by a fine and imprisonment.

(c) Any person who, in violation of this section, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of any horse or dog, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for one year.

(d) Any person who, in violation of this section, and with intent to inflict such injury, personally causes great bodily injury...to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement...



(e) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the agency owning the animal and employing the peace officer for any veterinary bills, replacement costs of the animal if it is disabled or killed, and the salary of the peace officer for the period of time his or her services are lost to the agency.”

### **Poling a Horse Is a Misdemeanor**

(a) Poling a horse is a method of training horses to jump which consists of (1) forcing, persuading, or enticing a horse to jump in such a manner that one or more of its legs will come in contact with an obstruction consisting of any kind of wire, or a pole, stick, rope or other object with brads, nails, tacks or other sharp points imbedded therein or attached thereto or (2) raising, throwing, or moving a pole, stick, wire, rope or other object, against one or more of the legs of a horse while it is jumping an obstruction so that the horse, in either case, is induced to raise such leg or legs higher in order to clear the obstruction. Tripping a horse is an act that consists of the use of any wire, pole, stick, or other object or apparatus whatsoever to cause a horse to fall or lose its balance. The poling or tripping of any horse is unlawful and any person violating the provisions of this section is guilty of a misdemeanor.

(b) It is a misdemeanor for any person to intentionally trip or fell an equine by the legs by any means whatsoever for the purposes of entertainment or sport.

(PC 597g)

### **Use of Bristle-Bur, Tack-Bur, etc. Is a Misdemeanor**

Anyone who, having care, custody or control of any horse or other animal, uses what is known as the bristle-bur, tack-bur, or other like device, by whatsoever name known or designated, on such horse or other animal for any purpose whatsoever, is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for not less than 10 days nor more than 75 days, or both such fine and imprisonment. (PC 597k)

NOTE: “Tack” is the bit, reins, bridles, saddle, etc.

### **Docking of Horse’s Tail Is a Misdemeanor**

Any person who cuts the solid part of the tail of any horse...or procures the same to be done, or imports or brings into this state any docked horse, or horses, or drives, works, uses, races, or deals in any unregistered docked horse, or horses, within the state of California except as provided in Section 597r, is guilty of a misdemeanor. (PC 597n)

#### **Exception:**

Section 597n... shall not be applied to persons owning or possessing any docked pure-bred stallions and mares imported from foreign countries for breeding or exhibition purposes only...and to docked native-bred stallions and mares brought into this state and used for breeding or exhibition purposes only; and provided further that a description of each such animal so brought into the state, together with the date of importation and name and address of importer, be filed with the county clerk of the county where such animal is kept, within thirty days after the importation of such animal. (PC 597r)

### **Race Horses Must Be of Age**

(a) On and after July 1, 1995, it shall be unlawful for any person to enter or accept the entry of a horse in a race upon which there is pari-mutuel wagering until two years after the horse’s foaling date.

(b) Every person who violates this section is guilty of a misdemeanor. The board may suspend the license of any person who violates this section for a period of not more than one year. (B&P 19668)

### **Equine Animals for Hire**

A peace officer, [a Humane Officer], or officer of animal control or animal regulation department of a public agency...may issue **a citation [for \$100 per violation and another \$100 for each day the violation continues]**, to any person or entity keeping horses or other equine animals for hire, if the person or entity fails to meet any of the following standards of humane treatment regarding the keeping of horses or other equine animals:

(a) An enclosure where an equine is primarily kept shall be of sufficient size to enable the equine to comfortably stand up, turn around, and lie down, and shall be kept free of excessive urine and waste matter.

(b) Paddocks and corrals shall be of adequate size for the equine to move about freely.

(c) Buildings, premises, and conveyances used in conjunction with equines shall be kept free of sharp objects, protrusions, or other materials that are likely to cause injury.

(d) Equines shall be supplied with nutritionally adequate feed and clean water, in accordance with standards published by the Cooperative Extension of the Division of Agricultural Sciences of the University of California.

(e) Tack and equipment shall be appropriate and fit properly.

(f) After use the equine shall be cooled out to a normal condition at rest.

(g) When not being ridden, a saddled equine shall have available adequate shelter from the elements, and have loosened saddle straps and girths.



(h) An equine shall not be available for hire or use if the equine has [been overworked, over loaded, over driven, beaten, deprived of food or water, or shelter or protection from the weather, has been beaten, is unfit for labor, or is in need of veterinary care, PC 597(b) and 597f], or any of the following conditions:

(1) Sores or abrasions caused if likely to be irritated by the surfaces of saddles, girths, harnesses, or bridles.

(2) Blindness in both eyes.

(3) Improperly or inadequately trimmed and shod feet...

(i) Each equine shall be individually identified, using humane methods, such as a detailed description, including, but not limited to, name, breed, color, markings, size, age, sex, and photograph.

(j) Farrier and veterinary receipts shall be kept and shall identify each equine treated.

(k) **Veterinary, farrier, and feed records shall be made available during normal business hours to the law enforcement officer. Upon failure to provide these records, the equine or equines in questions may not be used for hire until such time as the records are produced or an equine veterinarian shall certify that the equine or equines are fit for labor.**

(H&S 25988, 25988.5)

### **Unlawful to Kill or Possess Undomesticated Burro**

It is unlawful to kill, wound, capture, or have in possession any undomesticated burro.

An undomesticated burro is a wild burro or a burro which has not been tamed or domesticated for a period of three years after its capture. The fact that a burro was killed, wounded, or captured on publicly owned land, or on land owned by a person other than the person who killed, wounded, or captured the burro is prima facie evidence that the burro was an undomesticated burro at the time it was killed, wounded, or captured.

Neither the commission nor any other department or agency has any power to modify the provisions of this section by any order, rule, or regulation. (F&G 4600)

### **Upon Death of Race Horse, Postmortem Exam Required**

(a) Every horse which suffers a fatal injury on the racetrack in training or in competition, or which dies or is euthanized within an area under the jurisdiction of the Board, shall undergo a postmortem examination at a diagnostic laboratory which is under contract with the [Horse Racing] Board to determine the injury or sickness which resulted in euthanasia or natural death...

(c) The costs associated with transportation to the diagnostic laboratory of any horse which has died under the provisions of subparagraph (a) shall be the responsibility of the racing association conducting the meeting where the death occurred or the training center or racetrack where death occurred where no meeting is in progress...

(h) Each owner and trainer accepts responsibility for the postmortem examination provided herein as a requisite for maintaining an occupational license.

(CCR 1846.5)

## **SEIZURE**

### **Seizure of Equine by Law Enforcement Officer (3 Reasons to Seize)**

(1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

**Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal...The cost of caring for the animal shall be a lien on the animal... (PC 597.1)**

It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned...** and care for the animal... (PC 597f(a))

It shall be the duty of **all officers of pounds 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.... (PC 597f(b))

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting **OR** when making an arrest with a warrant for ANY

crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### Post Seizure Procedure

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the horse within 48 hours (excluding weekends and holidays) that the horse was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the horse or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the horse shall be a lien on the horse and that the horse shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### Pre Seizure Hearing

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the horse. The owner shall produce the horse at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### ARREST

#### ♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

**COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*



# **MINIMUM STANDARDS FOR ANIMALS IN MOTION PICTURES**

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**DEFINITIONS**

As used in this title:

- (a) “Animal” means any amphibian, bird, mammal or reptile. It does not include any fish or insect.
  - (b) “Motion picture” means any motion picture, regardless of length or content, which is exhibited in a motion picture theater to paying customers, or is exhibited on television to paying customers or under the sponsorship of a paying advertiser. It shall not include motion pictures made for scientific, research, or educational purposes, or motion pictures exhibited as home movies, or amateur films, which are shown free or at cost to friends, neighbors or civic groups.
  - (c) “Person” means individuals, corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.
- (Civ Code 3504)

**STATUTES REGARDING ANIMALS USED IN MOTION PICTURES****Animals May Not Actually Be Killed or Mistreated in a Film**

(a) The exhibition of any motion picture, if any intentional killing of, or cruelty to, a human being or an animal is shown in the motion picture and such intentional killing of, or cruelty to, a human being or an animal actually occurred in the production of the motion picture for the purpose of such production, is a nuisance, which shall be enjoined, abated, and prevented.

(b) As used in this section, “killing” and “cruelty” mean conduct which both (1) results in the death or the infliction of any physical injury or wound, including, but not limited to, any temporary or permanent physical harm resulting from the administration of any drug or chemical, and (2) is patently offensive to the average person, applying contemporary statewide community standards. It does not include conduct committed against a human being to which the human being has given his or her consent. In determining whether conduct is patently offensive, the trier of fact may consider any or all of the following: (i) the degree or extent of the physical injury inflicted, (ii) the manner in which the injury is inflicted, (iii) the extent to which the injuring or wounding or acts resulting therein are depicted on the screen, (iv) the number of instances of infliction of injury, wound or harm occurring in the making of the motion picture, and (v) whether such conduct is lawful or unlawful under any provision of law other than this title.

(c) For the purposes of this section, it shall not be a requirement that the entire motion picture and all of the conduct resulting therein be taken into account in determining whether a nuisance exists, and to this end, the Legislature finds and declares that any specific conduct which intentionally results in the killing of, or cruelty to, an animal or a human being in the making of a motion picture is unnecessary and is a nuisance, and that if a motion picture cannot be completed in the absence of such conduct, it is, therefore, a nuisance in its entirety.

(Civ Code 3505)

**Nuisance Behavior That Harms Animals Must Be Prevented or Abated**

Whenever there is reasonable cause to believe that a nuisance as defined in this title is kept, maintained or is in existence in any county, the district attorney or the Attorney General, in the name of the people of the State of California, shall, on a proper showing, commence an action in equity to abate and prevent the nuisance and to perpetually enjoin the person conducting or maintaining it, and the owner, lessee or agent of the building, or place, in or upon which the nuisance exists, from maintaining or permitting it. As used herein, a proper showing to commence an action under this title must be based upon evidence independent of the motion picture itself that intentional killing of, or cruelty to, a human being or an animal actually occurred in the production of the motion picture for the purpose of such production. (Civ Code 3506)

**Filmmakers Accused of Nuisance Must Receive a Trial**

Whenever an action is initiated under this title to abate an alleged nuisance, an adversary trial on the merits shall be held pursuant to Section 3507.2. If the court finds that the exhibition of the particular motion picture constitutes a nuisance, it shall issue a permanent injunction to abate and prevent the continuance or recurrence of such nuisance. No temporary restraining order or preliminary injunction shall be granted in such an action. An appeal may be taken from an order issuing a permanent injunction, and any injunction issued pursuant to this title by the trial court may be stayed by such court pending the outcome of such appeal. No appeal may be taken from a ruling by the trial court denying an injunction requested under this title.

(Civ Code 3507)

**Films That Portray Cruelty Are Admissible as Evidence Against the Filmmaker**

In actions brought under this title, the motion picture shall be admissible into evidence. The burden of proof that the exhibition of the particular motion picture constitutes a nuisance shall be met by the district attorney or Attorney General only when clear and convincing evidence, independent of the motion picture itself, is provided that the acts alleged actually occurred in the production of the motion picture. (Civ Code 3507.1)

**Trials Regarding Mistreatment of Animals in Films Must Be Heard Promptly**

Actions brought under this title shall be brought as promptly as possible. Such actions shall have precedence over all actions, excepting criminal proceedings and election contests. It is also the intent of the Legislature that actions commenced under this title be adjudicated in the most speedy and expeditious manner. **(Civ Code 3507.2)**

**Fines for Contempt by Filmmaker Pre-set by Statute**

Any violation or disobedience of an injunction or order expressly provided for by this title is punishable as a contempt of court by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000). **(Civ Code 3507.3)**

**Distributors of Films That Harm Animals Are Also Liable**

The distributor who furnished a motion picture to a person who is made a defendant in an action under this title, and the producer of a motion picture which is the subject of this title shall be jointly and severally liable, upon proof and after an opportunity to appear and interpose any appropriate defenses, to such person and the exhibitor for damages, including loss of profits, attorney's fees, and other costs of defending such action. Such distributor and such producer shall actively assist in such defense to the extent that such person possesses information necessary to such defense concerning the production of the motion picture which is not otherwise available to the defendant. The exhibitor shall not be liable upon any portion of any contract made on or after January 1, 1979, which requires the exhibition or advertisement of a motion picture subject to this title on or after the date of the filing of any action under this title, if the motion picture by final decision of a court is determined to be a nuisance under this title. **(Civ Code 3507.4)**

**Exceptions - Films Which May Portray Cruelty to Animals**

*(a) This title shall not apply to any of the following:*

- (1) The exhibition of any motion picture, such as a newsreel or documentary, involving acts of killing or cruelty which were not intentionally committed for the purpose of producing the motion picture.*
- (2) Any motion picture made, in whole or in part, prior to January 1, 1979.*
- (3) Any motion picture all or part of which has been edited or remade so that any previous conduct which constituted a nuisance under this title no longer appears.*
- (4) The taking of any animal as permitted by any provision of the Fish and Game Code or pursuant thereto in accordance with regulations adopted by the Fish and Game Commission unless the time, place, or manner of such taking violates any provision of law except this title. This title shall apply to any other animal whether or not the time, place, or manner of the taking is prohibited by any laws other than this title, however, this title shall not apply to the taking of any animal authorized by law in any other jurisdiction unless the time, place or manner of such taking is prohibited by law or regulation.*
- (5) A motion picture which includes scenes of killing or cruelty to animals if the acts constituting the killing or cruelty were authorized by the laws governing such acts in the jurisdiction where the scenes were filmed.*
- (6) Any motion picture which bears within its contents a statement from the producer of the motion picture that all scenes depicting animals were filmed without the intentional killing of, or cruelty to an animal or that any killing or cruelty to an animal was authorized by the laws of the jurisdiction where the scenes were filmed or that the film is otherwise exempt under this title.*
- (7) Any motion picture if the exhibitor thereof has a written signed statement, or a copy thereof, from the producer of the motion picture that all scenes depicting animals were filmed without the intentional killing of, or cruelty to an animal or that any killing or cruelty to an animal was authorized by the laws of the jurisdiction where the scenes were filmed or that the film is otherwise exempt under this title.*

*(b) This title shall not apply in any case in which it would conflict with federal supremacy in the field of television broadcasting.*

**(Civ Code 3508)**

**Additional Crime for Perjury by Producers of Films That Harm Animals**

Any producer who willfully misstates or causes to be misstated any fact contained in a statement under paragraph (6) or (7) of Section 3508 is guilty of a misdemeanor. **(Civ Code 3508.1)**



# **MINIMUM STANDARDS FOR** **"TAKING" WILD ANIMALS**

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NOTE: "**Take**" means to kill, harass, or disturb the natural habitat or behavior of the animal in any way.

## **ENDANGERED SPECIES**

**"Endangered Species" means:** a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion of, its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. Any species determined by the commission as "endangered" on or before January 1, 1985, is an "endangered species." (F&G 1062)

**"Threatened Species" means:** a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. Any animal determined by the commission as "rare" on or before January 1, 1985, is a "threatened species." (F&G 2067)

**"Candidate species" means:** a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed as being under review by the department for addition to either the list of endangered species or the list of threatened species, or a species for which the commission has published a notice of proposed regulation to add the species to either list. (F&G 2068)

### **List of Species Shall Be Established**

The commission shall establish a list of endangered species and a list of threatened species. The commission shall add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to this article, that the action is warranted. (F&G 2070)

### **General Protection for Endangered and Threatened Species**

No person shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the commission determines to be an endangered species or a threatened species, or attempt any of those acts, except as otherwise provided in this chapter, the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of this code), or the California Desert Native Plants Act (Division 23 (commencing with Section 80001) of the Food and Agricultural Code). (F&G 2080)

### **Procedure for Legal Incidental Take of Endangered or Threatened Species**

(a) Notwithstanding any other provision of this chapter, or Chapter 10 (commencing with Section 1900) or Chapter 11 (commencing with Section 1925) of Division 2, but subject to subdivision (c), if any person obtains from the Secretary of the Interior or the Secretary of Commerce an incidental take statement pursuant to Section 1536 of Title 16 of the United States Code or an incidental take permit pursuant to Section 1539 of Title 16 of the United States Code that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or a candidate species pursuant to this chapter, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the incidental take statement or incidental take permit, if that person does both of the following:

(1) Notifies the director in writing that the person has received an incidental take statement or an incidental take permit issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C.A. Sec. 1531 et seq.).

(2) Includes in the notice to the director a copy of the incidental take statement or incidental take permit.

(b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(c) Within 30 days after the director has received the notice described in subdivision (a) that an incidental take statement or an incidental take permit has been issued pursuant to the federal Endangered Species Act of 1973, the director shall determine whether the incidental take statement or incidental take permit is consistent with this chapter. If the director determines within that 30-day period, based upon substantial evidence, that the incidental take statement or incidental take permit is not consistent with this chapter, then the taking of that species may only be authorized pursuant to this chapter.

(d) The director shall immediately publish the determination pursuant to subdivision (c) in the General Public Interest section of the California Regulatory Notice Register.

(e) Unless deleted or extended by a later enacted statute that is chaptered before the date this section is repealed, this section shall remain in effect only until, and is repealed on, the effective date of an amendment to Section 1536 or Section 1539 of Title 16 of the United States Code that alters the requirements for issuing an incidental take statement or an incidental take permit, as applicable.

(F&G 2080.1)

### **Authorized Take of Endangered or Threatened Species**

*The department may authorize acts that are otherwise prohibited pursuant to Section 2080, as follows:*

*(a) Through permits or memorandums of understanding, the department may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.*

*(b) The department may authorize, by permit, the take of endangered species, threatened species, and candidate species if all of the following conditions are met:*

*(1) The take is incidental to an otherwise lawful activity.*

*(2) The impacts of the authorized take shall be minimized and fully mitigated. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant's objectives to the greatest extent possible. All required measures shall be capable of successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.*

*(3) The permit is consistent with any regulations adopted pursuant to Sections 2112 and 2114.*

*(4) The applicant shall ensure adequate funding to implement the measures required by paragraph (2), and for monitoring compliance with, and effectiveness of, those measures.*

*(c) No permit may be issued pursuant to subdivision (b) if issuance of the permit would jeopardize the continued existence of the species. The department shall make this determination based on the best scientific and other information that is reasonably available, and shall include consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities.*

*(d) The department shall adopt regulations to aid in the implementation of subdivision (b) and the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code, with respect to authorization of take. The department may seek certification pursuant to Section 21080.5 of the Public Resources Code to implement subdivision (b).*

**(F&G 2081)**

### **California Endangered Species Act Does Not Apply to:**

*This chapter does not apply to the taking of fish otherwise authorized pursuant to Part 3 (commencing with Section 7600) of Division 6 or to the possession of individual animals which were lawfully possessed before the commission listed the species as an endangered species or as a threatened species or as an endangered animal or rare animal prior to January 1, 1985. (F&G 2083)*

### **Accidental Take of Candidate, Threatened or Endangered Species by Rancher OK**

*(a) Accidental take of candidate, threatened, or endangered species resulting from acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.*

*(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.*

**(F&G 2087)**

### **Misdemeanor/ \$1,000 Fine to Possess With Intent to Sell or to Sell Dead Body Part or Product of Any of These Species (Some Endangered, Some Not)**

*It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any alligator, crocodile, polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable, antelope, wolf (*Canis lupus*), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vucuna, sea otter, free-roaming feral horse, dolphin or porpoise (*Delphinidae*), Spanish lynx, or elephant.*

*Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation... (PC 653o)*

### **Importation, Possession With Intent to Sell and Selling of Endangered Species OR Protected Marine Mammals Body Parts or Products of such Body Parts is a Federal Offense That May Be Enforced by Local Law Enforcement**

*It is unlawful [a misdemeanor] to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any species or subspecies of any fish, bird, mammal, amphibian, reptile, mollusk, invertebrate, or plant, the importation of which is illegal under the Federal Endangered Species Act of 1973 (Title 16, United States Code Sec. 1531 et seq.) and subsequent amendments, or under the Marine Mammal Protection Act of 1972 (Title 16, United States Code Sec. 1361 et seq.), or which is listed in the Federal Register by the Secretary of the Interior pursuant to the above acts. The violation of any federal regulations adopted pursuant to the above acts shall also be deemed a violation of this section and shall be prosecuted by the appropriate state or local officials. (PC 653p, 653r)*

## **MAMMALS KEPT IN CAPTIVITY**

### **Sale of Domestically Raised Deer Meat**

(a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or transport for the purpose of sale, any deer meat in this state whether fresh, smoked, canned, or preserved by any means, except fallow deer meat processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, and except that deer meat may be imported into this state from a foreign country for the purpose of processing (manufacturing) and selling a product commonly known as venison or deer jerky or venison or deer salami, properly labeled as such, for human consumption. All deer meat imported into this state shall meet all of the sanitary and inspection requirements for wholesomeness, except an antemortem inspection, but including a postmortem inspection, as required for other meat imported for human consumption. The deer meat shall be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight of the deer meat shipped. A copy of the bill of lading shall be delivered to the nearest office of the department either prior to, or not later than, two days from the date of receipt of the deer meat. No such deer meat imported into this state may leave the premises of the original consignee unless written permission is received from the department, or unless it is processed into the form of the product commonly known as jerky or salami.

(b) As used in this section, "deer" includes any animal of the family Cervidae.

(F&G 4301)

### **Killing Captive Animal Generally Prohibited**

Except as authorized under a domesticated game breeder's license, any deer, elk, or bear kept in captivity may be killed only with the approval of the department, and under such regulations as the commission may prescribe. The carcass, or any part thereof, of any such mammal may not be sold, and shall be disposed of in such manner as the department may direct. (F&G 3006)

### **"Game Mammals" Defined**

(a) Game mammals are: deer (genus *Odocoileus*), elk (genus *Cervus*), prong-horned antelope (genus *Antilocapra*), wild pigs, including feral pigs and European wild boars (genus *Sus*), black and brown or cinnamon bears (genus *Euarctos*), mountain lions (genus *Felis*), jackrabbits and varying hares (genus *Lepus*), cottontails, brush rabbits, pigmy rabbits (genus *Sylvilagus*), and tree squirrels (genus *Sciurus* and *Tamiasciurus*).

(b) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) are game mammals only for the purposes of sport hunting described in subdivision (b) of Section 4902.

(F&G 3950)

## **MOUNTAIN LIONS**

### **Mountain Lions May Not Be Considered "Game Mammals"**

(a) Notwithstanding Section 3950 or any other provision of this code, the mountain lion (genus *Felis*) shall not be listed as, or considered to be, a game mammal by the department or the commission.

(b) Section 219 does not apply to this section. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes this section.

(F&G 3950.1)

### **Mountain Lions Specially Protected—Harming or Possessing Is a Misdemeanor**

(a) The mountain lion (genus *Felis*) is a specially protected mammal under the laws of this state.

(b) It is unlawful to take, injure, possess, transport, import, or sell any mountain lion or any part or product thereof, except as provided in this chapter or in Chapter 2 (commencing with Section 2116) of Division 3. This chapter does not prohibit the sale or possession of any mountain lion or any part or product thereof, when the owner can demonstrate that the mountain lion, or part or product thereof, was in the person's possession on June 6, 1990.

(c) Any violation of this section is a misdemeanor punishable by imprisonment in the county jail for not more than one year, or a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment. An individual is not guilty of a violation of this section if it is demonstrated that, in taking or injuring a mountain lion, the individual was acting in self-defense or in defense of others.

(d) Section 219 does not apply to this chapter. Neither the commission nor the department shall adopt any regulation that conflicts with or supercedes any of the provisions of this chapter. (F&G 4800)

### **Take of Mountain Lion When Imminent Threat to Public or Bighorn Sheep**

The department may remove or take any mountain lion, or authorize an appropriate local agency with public safety responsibility to remove or take any mountain lion that is perceived to be an imminent threat to public health or safety.

The department may remove or take any mountain lion, or authorize an appropriate local agency with public safety responsibility

to remove or take any mountain lion, that is perceived to be an imminent threat to public health or safety or that is perceived to be an imminent threat to the survival of any threatened, endangered, candidate, or fully protected sheep species.

SEC. 2. The Legislature finds and declares that the amendments made by this act to Section 4801 of the Fish and Game Code are consistent with, and further the purposes of, the California Wildlife Protection Act of 1990.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the extinction of the Sierra Nevada Bighorn Sheep as soon as possible, thereby protecting the environment, it is necessary that this act take effect immediately. (F&G 4801)

#### **Rules for Taking Threatening Mountain Lion**

In order to insure that only the depredating mountain lion will be taken, the department shall issue the permit pursuant to Section 4803 with the following conditions attached:

- (a) The permit shall expire 10 days after issuance.
- (b) The permit shall authorize the holder to begin pursuit not more than one mile from the depredation site.
- (c) The permit shall limit the pursuit of the depredating mountain lion to within a 10-mile radius from the location of the reported damage or destruction. (F&G 4804)

**NOTE:** Whenever immediate authorization will materially assist in the pursuit of the particular mountain lion believed to be responsible for the depredation reported pursuant to Section 4802, the department or the animal damage control officer may orally authorize the pursuit and taking of the depredating mountain lion, and the department shall issue a written permit for the period previously authorized as soon as practicable after the oral authorization. (F&G 4805)

**NOTE:** Any person issued a permit pursuant to Section 4803 [sic] or 4805 shall report, by telephone within 24 hours, the capturing, injuring, or killing of any mountain lion to an office of the department or, if telephoning is not practicable, in writing within five days after the capturing, injuring, or killing of the mountain lion. At the time of making the report of the capturing, injuring, or killing, the holder of the permit shall make arrangements to turn over the mountain lion or the entire carcass of the mountain lion which has been recovered to a representative of the department and shall do so in a timely manner. (F&G 4806)

#### **Mountain Lion Found Injuring or Killing Domesticated Animal May Be Taken**

(a) Any mountain lion that is encountered while in the act of pursuing, inflicting injury to, or killing livestock, or domestic animals, may be taken immediately by the owner of the property or the owner's employee or agent. The taking shall be reported within 72 hours to the department. The department shall investigate the depredation, and, if the mountain lion was captured, injured, or killed, the mountain lion or the entire carcass of the mountain lion which has been recovered shall be turned over to the department. Upon satisfactorily completing the investigation and receiving the mountain lion or the carcass, if recovered, the department shall issue a permit confirming that the requirements of this section have been met with respect to the particular mountain lion under these circumstances... (F&G 4807)

#### **Mountain Lions May Only Be Taken Using Certain Methods**

Mountain lions authorized to be taken pursuant to this chapter shall be taken by the most effective means available to take the mountain lion causing the damage or destruction, except that no mountain lion shall be taken by means of poison, leg-hold or metal-jawed traps, and snares. (F&G 4808)

### **BEARS**

#### **Using Dogs to Hunt Bear Is Unlawful Off-Season and During Season in Some Circumstances**

Except as provided in this section, it is unlawful to use dogs to hunt, pursue, or molest bears.

The use of one dog per hunter is permitted for the hunting of bears during the time that the season is open for the taking of deer in the area of the state affected.

The use of more than one dog per hunter is permitted in the hunting of bears during the open season on bears in the area of the state affected except during the period when archery deer seasons or regular deer seasons are open. (F&G 4756)

#### **Unlawful to Sell Bear Meat or Bear Body Parts**

(a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state.

(b) The possession of more than one bear gall bladder is prima facie evidence that the bear gall bladders are possessed for sale.

(c) Nothing in this section prohibits a sale authorized pursuant to Section 3087. (F&G 4758)



## **WILD BIRDS**

### **Fish & Game Have Unique Right to Kill All Birds**

*The department may take any bird which, in its opinion, is unduly preying upon any bird, mammal, or fish. (F&G 3803)*

### **Fish & Game May Order Feeding of Birds to Divert Them from Eating Crops**

*In order to aid in relieving widespread waterfowl depredation of agricultural crops, the department may issue licenses under regulations which the commission may prescribe to permit the feeding of migratory game birds. The commission may prescribe an annual fee for the license. (F&G 3806)*

### **Nongame Birds May Not Be "Taken"; Special Provisions for Miners**

*(a) All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. It is unlawful to take any nongame bird except as provided in this code or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department.*

- (b) (1) Mitigation plans relating to mining operations approved by the department shall, among other criteria, require avoidance of take, where feasible, and include reasonable and practicable methods of mitigating the unavoidable take of birds and mammals. When approving mitigation plans, the department shall consider the use of the best available technology on a site-specific basis.*
- (2) Mitigation plans relating to mining operations approved by the department shall include provisions that address circumstances where mining operations contribute to bird deaths, including ponding of process solutions on heap leach pads and exposure of process solution channels, solution ponds, and tailing ponds.*
- (3) The mine operator shall prepare a mitigation plan that shall be submitted to the department for approval. For ongoing mining operations, the mitigation plan alone or in conjunction with regulations adopted by the commission shall result in an overall reduction in take of avian or mammal species. The department shall provide an opportunity for public review and comment on each mitigation plan during the department's approval process. The mitigation plan shall be prepared on a site-specific basis and may provide for offsite mitigation measures designed to reduce avian mortality. The mine operator shall submit monthly monitoring reports on avian mortality to the department to aid in evaluating the effectiveness of onsite mitigation measures.*
- (4) The mining operator shall reimburse the department for its direct costs to provide appropriate notice of the mitigation plan to affected local government entities and other affected parties. The mine operator shall provide the department a limited number of copies, as determined by the department, of the mitigation plan for public review.*

*(c) The department shall monitor and evaluate implementation of the mitigation plan by the mine operator and require modification of the plan or other remedial actions to be taken if the overall reduction in take of avian or mammal species required pursuant to paragraph (3) is not being achieved.*

**(F&G 3800)**

### **Body Parts of Nongame Birds Cannot Be Possessed**

*Except as otherwise provided in this code or regulations made pursuant thereto, it is unlawful to possess the carcass, skin, or parts of any nongame bird. The carcass, skin, or parts of any nongame bird possessed by any person in violation of any of the provisions of this code shall be seized by the department and delivered to a scientific or educational institution. (F&G 3801.6)*

**"Non Resident Game Birds"** *are those birds of the order Galiformes (pheasant, grouse, quail) which are not established as a wild resident population in this State. (F&G 3514)*

### **Non Resident Game Birds May Only Be Released with a Permit**

*Exotic nonresident game birds may be released in this State only on prior approval of the commission. (F&G 3515)*

### **"Fully Protected" Birds**

*(a) (1) Except as provided in Section 2081.7, fully protected birds or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of those species pursuant to a permit for the protection of livestock. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.*



(2) As used in this subdivision, "scientific research" does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected birds or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

- (1) American peregrine falcon (*Falco peregrinus anatum*).
  - (2) Brown pelican.
  - (3) California black rail (*Laterallus jamaicensis coturniculus*).
  - (4) California clapper rail (*Rallus longirostris obsoletus*).
  - (5) California condor (*Gymnogyps californianus*).
  - (6) California least tern (*Sterna albifrons brown*).
  - (7) Golden eagle.
  - (8) Greater sandhill crane (*Grus canadensis tabida*).
  - (9) Light-footed clapper rail (*Rallus longirostris levipes*).
  - (10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
  - (11) Trumpeter swan (*Cygnus buccinator*).
  - (12) White-tailed kite (*Elanus leucurus*).
  - (13) Yuma clapper rail (*Rallus longirostris yumanensis*).
- (F&G 3511)

#### **Migratory Nongame Birds May Not Be Kept or "Taken"**

It is unlawful to take or possess any migratory nongame bird as designed in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act. (F&G 3513)

#### **WILD BIRDS - IN CAPTIVITY**

##### **Homing Pigeons May Be Kept**

(a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation of public health and safety.

(b) For purposes of this section, a "homing pigeon," sometimes referred to as a racing pigeon, is a bird of the order Columbidae. It does not fall in the category of "fowl" which includes chickens, turkeys, geese, and other domesticated birds other than pigeons. (Govt Code 65852.6)

##### **"Taking" Antwerp and Homing Pigeons Is a Misdemeanor**

Any person, other than the owner thereof, who at any time, by any means or in any manner, takes any Antwerp or homing pigeon is guilty of a misdemeanor. However, during the open legal season on bandtailed pigeons, the taking of Antwerp or homing pigeons incidentally with the shooting or taking of wild bandtailed pigeons, is not a violation of this section. (F&G 3680)

##### **Game Birds Kept in Captivity: Standards of Care: Must Submit to Inspection**

Where domesticated migratory game birds are reared or held for release by the licensee, the licensee shall provide proper and adequate care for the birds and shall raise and hold them only under sanitary conditions. Conditions for proper care and raising shall be prescribed by the commission. The licensee shall provide for the inspection of birds and facilities upon the request of the department. (F&G 3303)

##### **Falconry Only With a License**

It is unlawful to capture, possess, or train any bird in the orders Falconiformes and Strigiformes (birds-of-prey) in the practice of falconry without procuring a falconry license. (F&G 395(b))

#### **WILD BIRDS - HUNTED**

##### **Upland Game Birds Defined**

Upland game bird species include resident game birds, defined as Chinese spotted doves, ringed turtledoves of the family columbidae; California quail and varieties thereof, Gambel's or desert quail, mountain quail and varieties thereof, ruffed grouse, sage hens and sage grouse; white-tailed ptarmigan, Hungarian partridges, red-legged partridges including the chukar and other varieties, ringed-neck pheasants and varieties, and wild turkeys of the order galliformes; and migratory game birds including jacksnipe, western mourning doves, white-winged doves, and band-tailed pigeons. (F&G 3683)

### **License and Stamp Required to Hunt Upland Game Birds**

(a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any upland game bird species without first procuring an upland game bird stamp, and having the stamp permanently affixed to his or her valid hunting license.

(b) Upland game bird stamps may be obtained from the department, or a licensed agent authorized pursuant to Section 1055, for a fee of six dollars and twenty-five cents (\$6.25), adjusted pursuant to Section 713.

(c) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System. (F&G 3682)

### **Upland Game Bird Validation Required to Be Affixed to Hunting License**

(a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any upland game bird species without first procuring an upland game bird hunting validation, as provided in subdivision (b), and having the validation affixed to his or her valid hunting license.

(b) Upland game bird hunting validations may be obtained from the department or a licensed agent authorized pursuant to Section 1055.1 for a fee of six dollars and twenty-five cents (\$6.25), adjusted pursuant to Section 713.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System. (F&G 3682.1)

### **Pheasants Released into Hunting Area Must Be Allowed to Fly Away**

It is unlawful for any person to take any pheasant within 300 yards of any vehicle from which pheasants are being released into an area for hunting while such pheasants are being released. (F&G 3010)

### **Birds Released for Hunters to Shoot Must Be Healthy**

All domesticated migratory game birds at the time of release for shooting shall be at least 14 weeks of age, capable of strong and sustained flight, fully feathered, and otherwise in condition to survive in the wild. Birds that are altered in any manner which would, in the opinion of the department, render them incapable of normal sustained flight, or which are diseased, or show evidence of malnutrition or injury, shall not be released. (F&G 3305)

### **Using Boat, Vehicle or Plane to Drive Birds Is Unlawful**

It is unlawful to use any powerboat, motor vehicle, or airplane to drive any game bird toward another person with the intent that the other person shall take the bird. (F&G 3501)

### **Hunters May Not Hide Behind Other Animals or Decoys**

It is unlawful to use any mammal (except a dog) or an imitation of a mammal as a blind in approaching or taking game birds. (F&G 3502)

### **Hunters May Not Hide Behind Raised Land at Water's Edge or Behind an Object**

In Districts 8 and 9, it is unlawful to take ducks or geese in any manner below the incoming or outgoing tidewater's edge or from any blind, boat, floating device, island, islet, or exposed tidal flat except on Saturdays, Sundays, Wednesdays, holidays and the opening and closing days during the prescribed open season except that the use of boats is permitted to retrieve crippled or dead birds. (F&G 3681)

### **Unlawful to Destroy Nests of ANY Bird**

It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. (F&G 3503)

### **Unlawful to Harm Birds of Prey**

It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Stringiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. (F&G 3503.5)

### **Taking and Selling of Game Birds Is Generally Prohibited Without License**

Subject to the provisions of this code permitting the sale of domestically raised game birds. It is unlawful to sell or purchase any game bird or nongame bird or part thereof. (F&G 3504)

### **Taking or Selling of Designated Birds Specifically Prohibited**

It is unlawful to take, sell, or purchase any egret, osprey, bird of paradise, gaura, numidi, or any part of such a bird. (F&G 3505)

## **BIRD DOGS**

### **Retrieving Dogs Must Be Used in Hunting Birds**

*All birds killed or injured by shooters shall be retrieved without delay, and all injured birds shall be humanely dispatched. The licensee shall not permit injured birds to remain on a pond or feeding area, nor shall he knowingly permit such birds to be used in any subsequent release.*

*In order to prevent the loss of any dead or injured birds, the licensee shall provide the use of a retrieving dog, without cost, to all shooters, except that shooters may provide their own retrieving dogs. The licensee shall not permit the shooting of any birds unless a retrieving dog is immediately available for use by all shooters. (F&G 3307)*

### **Hunting Dogs Must Be Vaccinated**

*The physical control of a dog by its owner while the dog is engaged in hunting in an area where the owner is otherwise authorized to hunt, shall be as required by this code or regulations made pursuant thereto.*

*Dogs which are used for hunting which may have been vaccinated for rabies in their county of residence in conformity with state law regulating vaccinations in rabies areas are not subject to rabies vaccination requirements of local ordinances outside their county of residence. (F&G 3008)*

### **Use of Dog for Simulated Hunting with Birds During Off Season Is Prohibited**

*It is unlawful to break, train, hold field trials with, or practice dogs on any wild game bird or domesticated game bird during the closed season on that bird except as authorized by the commission. (F&G 3508)*

## **TRAPS**

### **Illegal Traps**

*Notwithstanding Sections 1001, 1002, 4002, 4004, 4007, 4008, 4009.5, 4030, 4034, 4042, 4152, 4180, or 4181:*

*(a) It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps shall not be considered body-gripping traps.*

*(b) It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005, of any fur-bearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in subdivision (a).*

*(c) It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat. The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.*

*(d) For purposes of this section, fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.*

**(F&G 3003.1)**

### **Illegal Traps**

*It is unlawful to do any of the following:*

*(a) Use a trap with saw-toothed or spiked jaws.*

*(b) Use or sell leghold steel-jawed traps with a spread of 5 1/2 inches or larger without offset jaws.*

*(c) Use steel-jawed traps larger than size 1 1/2 or with a spread larger than 4 7/8 inches for taking muskrat.*

*(d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.*

*(e) Fail to visit and remove all animals from traps at least once daily. If the trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.*

*(f) Use a steel leghold trap with a spread exceeding 7 1/2 inches or killer-type trap of the conibear type that is larger than 10 inches by 10 inches.*

*(g) Set or maintain steel leghold traps within 30 feet of bait placed in a manner or position so that it may be seen by any soaring bird. As used in this subdivision, "bait" includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.*

*(h) Set or maintain steel leghold traps with a spread of 5 1/2 inches or larger without a tension device.*

**(F&G 4004)**

### **Steel-Jawed Traps Unlawful for Trapping Bear**

*No person, including employees of the state, federal or county government, shall take bear with iron or steel-jawed or any type of metal-jawed traps, and no provision of this code or any other law shall be construed to authorize, or to permit the authorizing of, the use of iron or steeljawed or any type of metal-jawed traps to take bear. (F&G 3011)*

### **License Required to Take Bear, But Cannot Use Jawed Traps Regardless**

*It is unlawful to take any bear with firearm, trap or bow and arrow without first procuring a license tag authorizing the taking of such bear in accordance with the provisions of this chapter, but no iron- or steel-jawed or any type of metal-jawed trap shall be used to take any bear. (F&G 4750)*

### **Trap Guns Prohibited**

*It is unlawful to set, cause to be set, or placed any trap gun.*

*A "trap gun" is a firearm loaded with other than blank cartridges and connected with a string or other contrivance contact with which will cause the firearm to be discharged.*

**(F&G 2007)**

### **Trappers Must Demonstrate Competence and Proficiency to Gain License**

*(a) Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license. "Raw fur" means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.*

*(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. No person shall be issued a license until he or she has passed a test of his or her knowledge and skill in this field.*

*(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.*

*(d) No raw furs taken by persons providing trapping services for profit may be sold.*

*(e) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, are exempt from the license requirement of this section. (F&G 4005)*

### **Procedure for Obtaining Trapping License:**

*A trapping license shall be issued as follows:*

*(a) To any resident of this state over the age of 16 years upon payment of a base fee of forty-five dollars (\$45), as adjusted under Section 713.*

*(b) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section 713.*

*(c) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars (\$225), as adjusted under Section 713.*

*A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license to California residents. Also, a nonresident issued a license under this subdivision may take only those species, and may take or possess only that quantity of a species which a resident of California may take or possess under a nonresident trapping license or permit in the state of residence of that nonresident. (F&G 4006)*

*A trapping license authorizes the person to whom it is issued to take, during the open season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof and to sell the raw fur of any such animal. (F&G 4007)*

*No trapping license shall be issued to any applicant within one year following the expiration of any trapping license previously issued to such applicant unless he has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license and the names and addresses of the persons to whom they were shipped or sold. (F&G 4008)*

### **Fish & Game May Issue Additional Regulations for Trapping**

*The commission may adopt such regulations as it determines to be necessary to regulate the taking and sale of fur-bearing mammals or nongame mammals taken under a trapping license. (F&G 4009.5)*

### **Fox May Not Be "Taken" For Profit**

*It is unlawful to take any cross fox, silver fox, or red fox for profitmaking purposes. (F&G 4012)*



### **Fur Bearing Mammals Defined**

*The following are fur-bearing mammals: pine marten, fisher, wolverine, mink, river otter, gray fox, cross fox, silver fox, red fox, kit fox, raccoon, beaver, badger, and muskrat. (F&G 4000)*

### **UNLAWFUL METHODS OF "TAKING"**

#### **Permit Required to "Take" Fur Bearing Mammals with Poison**

*It is unlawful to use poison to take fur-bearing mammals without a permit from the department. The department may issue such a permit upon a written application indicating the kind of poison desired to be used and the time and place of use. (F&G 4003)*

#### **Unlawful Use of Animal Calls**

*It is unlawful to use any recorded or electrically amplified imitations of bird or mammal calls or sounds, to assist in taking any bird or mammal, except nongame mammals as permitted by regulations of the commission. (F&G 3012)*

#### **Unlawful to Use Artificial Light to Take Animals**

*It is unlawful to use an artificial light to assist in the taking of game birds, game mammals, or game fish, except that this section shall not apply to sport fishing in ocean waters or other waters where night fishing is permitted if the lights are not used on or as part of the fishing tackle, commercial fishing, nor to the taking of mammals, the taking of which is governed by Article 2 (commencing with Section 4180) of Chapter 3, Part 3, Division 4.*

*It is unlawful for any person, or one or more persons, to throw or cast the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon any game mammal, fur-bearing mammal, or nongame mammal, while having in his possession or under his control any firearm or weapon with which such mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.*

*It is unlawful to use or possess at any time any infrared or similar light used in connection with an electronic viewing device sometimes designated as a sniperscope to assist in the taking of birds, mammals, amphibia, or fish.*

*The provisions of this section shall not apply to the following:*

*(a) To the use of a hand held flashlight no larger, nor emitting more light, than a two cell, three-volt flashlight, provided such light is not affixed in any way to a weapon, or to the use of a lamp or lantern which does not cast a directional beam of light.*

*(b) In the case of headlights of a motor vehicle operated in a usual manner and there is no attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.*

*(c) To the owner, or his employee, of land devoted to the agricultural industry while on such land, or land controlled by such an owner and in connection with such agricultural industry.*

*(d) To such other uses as the commission may authorize by regulation.*

*No person shall be arrested for violation of this section except by a peace officer. (F&G 2005)*

#### **Taking Deer in Refuge Requires a Hearing After Notice to Public**

*Before the commission opens any game refuge for the taking of deer, a public hearing shall be held at which at least one member of the commission shall be in attendance and such officers and employees of the department as are deemed necessary or are requested by interested parties, notice of which has been published at least once and at least 30 days prior to the hearing in a newspaper of general circulation which is printed and published in the county, or one of the counties, in which the area lies. If there is no newspaper of general circulation in any such county, the notice shall be published in such newspaper of general circulation as the commission determines will be most likely to give notice to the inhabitants of the area and such determination by the commission shall be final and conclusive. (F&G 10501)*

#### **Allowed Take Must Occur ONLY During Season Designated**

*(a) Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibia except during the open season where taken for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.*

*(b) Except as provided in Section 3080, it is unlawful to possess game birds or mammals except during the open season where taken. (F&G 2001)*

#### **Hunting From Boat, Motor Vehicle or Airplane Prohibited**

*It is unlawful to shoot at any game bird or mammal, including a marine mammal as defined in Section 4500 from a powerboat, sailboat, motor vehicle, or airplane. (F&G 3002)*

#### **Placing Bounty on Animal Prohibited Unless on Private Property**



*It is unlawful for any person, including state, federal, county, and city officials or their agents, to authorize, offer or pay a bounty for any bird or mammal. This section does not apply to any person with respect to the taking of any bird or mammal on the private property of such person. (F&G 2019)*

### **Helicopters Must Stay High Above Animals in a Refuge**

*(a) It is unlawful to fly any aircraft, including any airplane or helicopter, less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less than 1,000 feet above water or land over the Anacapa, San Miguel, Santa Barbara, and San Nicolas Islands, except for rescue operations, in case of any emergency, or for scientific or filmmaking purposes under a permit issued by the department after a review of potential biological impacts.*

*(b) This section does not apply to the landing of any aircraft, including any airplane or helicopter, on Anacapa, San Miguel, Santa Barbara, San Nicolas, and Farallon Islands for administrative or operational purposes of the National Park Service, the United States Navy, or the United States Coast Guard. (F&G 10501.5)*

### **Driving Birds or Mammals With Vehicle Prohibited**

*It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:*

*(a) On private property by the landowner or tenant thereof to drive or herd game mammals for the purpose of preventing damage by such mammals to private property.*

*(b) Pursuant to a permit from the department issued under such regulations as the commission may prescribe.*

*(c) In the pursuit of agriculture. (F&G 3003.5)*

### **Cyanide Poisoning Illegal**

*Notwithstanding Sections 4003, 4152, 4180, or 4180.1 of this code or Section 14063 of the Food and Agricultural Code, no person, including an employee of the federal, state, county, or municipal government, may poison or attempt to poison any animal by using sodium fluoroacetate, also known as Compound 1080, or sodium cyanide. (F&G 3003.2)*

### **Taking of Wild Animals With Nets, Poisons Prohibited**

*(a) It is unlawful to take birds or mammals with any net, pound, cage, trap, set line or wire, or poisonous substance, or to possess birds or mammals so taken, whether taken within or without this state, except as provided in this code or, when relating to ongoing mining operations, in accordance with a mitigation plan approved by the department.*

*(b) (1) Mitigation plans relating to mining operations approved by the department shall, among other criteria, require avoidance of take, where feasible, and include reasonable and practicable methods of mitigating the unavoidable take of birds and mammals. When approving mitigation plans, the department shall consider the use of the best available technology on a site-specific basis.*

*(2) Mitigation plans relating to mining operations approved by the department shall include provisions that address circumstances where mining operations contribute to bird deaths, including ponding of process solutions on heap leach pads and exposure of process solution channels, solution ponds, and tailing ponds.*

*(3) The mine operator shall prepare a mitigation plan that shall be submitted to the department for approval. For ongoing mining operations, the mitigation plan shall result in an overall reduction in take of avian or mammal species. The department shall provide an opportunity for public review and comment on each mitigation plan during the department's approval process. The mitigation plan shall be prepared on a site-specific basis and may provide for offsite mitigation measures designed to reduce avian mortality. The mine operator shall submit monthly monitoring reports on avian mortality to the department to aid in evaluating the effectiveness of onsite mitigation measures.*

*(4) The department shall monitor and evaluate implementation of the mitigation plan by the mine operator and require modification of the plan or other remedial actions to be taken if the overall reduction in take of avian or mammal species required pursuant to paragraph (3) is not being achieved.*

*(5) The mining operator shall reimburse the department for its direct costs to provide appropriate notice of the mitigation plan to affected local government entities and other affected parties. The mine operator shall provide the department a limited number of copies, as determined by the department, of the mitigation plan for public review.*

*(c) Proof of possession of any bird or mammal that does not show evidence of having been taken by means other than a net, pound, cage, trap, set line or wire, or poisonous substance, is prima facie evidence that the birds or mammals were taken in violation of this section.*

*(d) This section does not apply to the lawful taking of fur-bearing mammals, nongame birds, nongame mammals, or mammals found to be injuring crops or property, to the taking of birds or mammals under depredation permits, to taking by employees of the department acting in an official capacity, or to taking in accordance with the conditions of a scientific or propagation permit by the holder of that permit.*

**(F&G 3005)**

### **Capture and Confinement of Wild Game Animal Prohibited**

*It is unlawful to capture any game mammal, game bird, nongame bird, nongame mammal, or furbearer, or to possess or confine any live game mammal, game bird, nongame bird, nongame mammal, or furbearer taken from the wild, except as provided by this code or regulations made pursuant thereto. Any bird or mammal possessed or confined in violation of this section shall be seized by the department.*

*The commission may promulgate regulations permitting the temporary confinement of game mammals, game birds, nongame birds, nongame mammals, or furbearers for the purpose of treating the animals, if injured or diseased. (F&G 3005.5)*

### **REQUIREMENTS/RESPONSIBILITIES FOR HUNTERS**

#### **Deer Head Must Be Kept by Hunter Who Killed Deer**

*Any person taking any deer shall retain in his possession during the open season thereon, and for 15 days thereafter, that portion of the head which in adult males normally bears the antlers, and shall produce the designated portion of the head upon the demand of any officer authorized to enforce the provisions of this code. (F&G 4302)*

#### **Dead Animal Parts Killed by Hunters Must Not Be Left Unused**

*No person shall at any time capture or destroy any deer and detach or remove from the carcass only the head, hide, antlers, or horns; nor shall any person at any time leave through carelessness or neglect any game mammal or game bird which is in his possession, or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of this code. (F&G 4304)*

#### **Those Who Take Wild Animals Must Not Harm Livestock (or Property)**

*It is unlawful for any person, while taking any bird, mammal, fish, reptile, or amphibian, to cause damage, or assist in causing damage, to real property, or to leave gates or bars open, or to break down, destroy, or damage fences, or to tear down or scatter piles of rails, posts, stone, or wood, or, through carelessness or negligence, to injure livestock of any kind. (F&G 2004)*

#### **Hunters Injuring "Owned" Animals Guilty of Misdemeanor**

*Every person who willfully or negligently, while hunting upon the enclosed lands of another, kills, maims, or wounds an animal, the property of another, is guilty of a misdemeanor. (PC 384h)*

**NOTE:** THE ABOVE COULD APPLY TO WILD ANIMALS AS WELL AS PETS, LIVESTOCK, CHICKENS, ETC (ALL ANIMALS) ON THE PROPERTY OF ANOTHER. WILD ANIMALS ARE LEGALLY THE PROPERTY OF THE LAND OWNER.

#### **Hunters Injuring Other Persons May Be Guilty of a Felony**

*Every person who while taking any bird or mammal kills or injures another person by the use of any firearm, bow and arrow, spear, slingshot, or other weapon or device used in such taking and who knowingly either abandons such person or fails to render to such injured person all necessary aid possible under the circumstances is guilty of a felony. (F&G 3009)*

#### **Hunter Killing Animal in Another's Possession Is a MISDEMEANOR**

*Any person who takes, mutilates or destroys any bird or mammal, lawfully in the possession of another, shall be guilty of a misdemeanor. For the purpose of this section, a bird or mammal shall be deemed in possession*

*(a) when it is actually reduced to physical possession or*

*(b) when it is wounded or otherwise maimed and the person who wounded or otherwise maimed it is in hot pursuit.*

**(F&G 2011)**

**NOTE:** PC 597 would also apply to subsection (a) and **this could be a felony.** Also, if the animal is "owned" by another (which could mean it is on property owned by another) exemplary civil damages may be sought under Civil Code 3340).

#### **F&G Warden and Humane Officer May Inspect Hunter**

*All licenses, license tags, and the birds, mammals, fish, reptiles, or amphibia taken or otherwise dealt with under the provisions of this code, and any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia shall be exhibited upon demand to any person authorized by the department to enforce the provisions of this code or any law relating to the protection and conservation of birds, mammals, fish, reptiles, or amphibia. (F&G 2012)*

#### **Restaurant May Not Serve Meat of Animal Killed by Hunter Unless Hunter or the Hunter's Contact Info Is on the Premises**

*It is unlawful to possess any bird, mammal, fish or amphibian which may not be legally sold, in any restaurant or other eating establishment unless the possession is by the person who lawfully took or otherwise legally possessed the bird, mammal, fish, or*

amphibian or is by a person preparing the bird, mammal, fish or amphibian for consumption by the person who lawfully took or possessed it, or such person and others, and the person who took or possessed it is present on the premises.

This section does not apply to birds, mammals, fish or amphibia in a restaurant or other eating establishment which are tagged with a signed statement of the name and address of the person who took them, the date taken, and the total number and kind of birds, mammals, fish or amphibia. (F&G 2015)

## **WEAPONS**

### **Loaded Firearm in Vehicle Prohibited**

It is unlawful to possess a loaded rifle or shotgun in any vehicle or conveyance or its attachments which is standing on or along or is being driven on or along any public highway or other way open to the public.

A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.

The provisions of this section shall not apply to peace officers or members of the armed forces of this State or the United States, while on duty or going to or returning from duty. (F&G 2006)

### **Hunting Shotgun Must Not Be Larger than 10-Gauge /Hold More than 6 Cartridges**

It is unlawful to use or possess a shotgun larger than 10-gauge, or to use or possess a shotgun capable of holding more than six cartridges at one time to take any mammal or bird. However, the commission may, after public hearing, adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are further restrictive or that it determines may be needed to conform to federal law. Shotguns that have been modified with the insertion of a plug are deemed, for the purpose of this section, to have a cartridge capacity equal to the number of cartridges that can be loaded into the weapon as modified. (F&G 2010)

### **Hunting with Firearm or Bow and Arrow when Intoxicated Prohibited**

It is unlawful to take birds or mammals with firearms or with bow and arrow when intoxicated. (F&G 3301)

## **HUNTING ON PRIVATE PROPERTY**

### **No Hunting on Private Property Without WRITTEN Permission of Owner**

It is unlawful to enter any lands under cultivation or enclosed by a fence, belonging to, or occupied by, another, or to enter any uncultivated or unenclosed lands, including lands temporarily inundated by waters flowing outside the established banks of a river, stream, slough, or other waterway, where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands, for the purpose of discharging any firearm or taking or destroying any mammal or bird, including any waterfowl, on such lands without having first obtained written permission from the owner of such lands, or his agent, or the person in lawful possession thereof. Such signs may be of any size and wording, other than the wording required for signs under Section 2017, which will fairly advise persons about to enter the land that the use of such land is so restricted. (F&G 2016)

### **"No Hunting" Signs Absolutely Prohibit Hunting—Even the Owner May Not Hunt There**

It is unlawful to take any mammal or bird or to discharge any firearm upon any land (whether fenced, cultivated, or not) where signs, at least 8 1/2 inches by 11 inches in size and reading: "PRIVATE PROPERTY NO HUNTING" are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the land.

This section applies to all persons, including the owner or the person in lawful possession of the land, and any person obtaining permission, written or oral, from the owner or the person in lawful possession of the land, so long as the signs remain posted on the land.

Nothing in this section prohibits the owner or his or her agent from taking nonprotected mammals or birds on the land. (F&G 2017)

**NOTE:** "Nonprotected Mammals" means mammals for which there is no provision of law, in any code whatsoever, that offers them protection. Remember that PC 597 applies to ALL animals and that any killing that occurs must be humane and not cause suffering.

### **Hunting Near Dwelling**

It is unlawful for any person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, to hunt or to discharge while hunting, any firearm or other deadly weapon within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith. The 150-yard area is a "safety zone." (F&G 3004)

### **Signs Protecting Animals May Not Be Forged or Destroyed**

*It is unlawful to post any sign indicating an area is a state or federal refuge unless it is established by state or federal law, or to post any sign prohibiting trespass or hunting on any land unless authorized by the owner or the person in lawful possession of such lands.*

*It is unlawful for any person to maliciously tear down, mutilate, or destroy any sign, signboard or other notice forbidding hunting or trespass on land. (F&G 2018)*

### **Removing "No Hunting" or "No Trespassing" Signs Placed Pursuant to Law a Crime**

*Every person who intentionally defaces, obliterates, tears down, or destroys any copy or transcript, or extract from or of any law of the United States or of this state, or any proclamation, advertisement, or notification set up at any place in this state, by authority of any law of the United States or of this state, or by order of any court before the expiration of the time for which the same was to remain set up, is punishable by fine not less than twenty nor more than one hundred dollars, or by imprisonment in the county jail not more than one month. (PC 616)*

## **GAME BREEDERS**

### **Domesticated Game Breeding Requires a License**

*Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:*

*(a) Licensed pheasant clubs, except to the extent provided in Section 3283.*

*(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.*

*(c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.*

*(d) Retail meat dealers selling such meat to customers for actual consumption.*

*(e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.*

**(F&G 3200)**

*No person shall sell the carcass of any domesticated game bird or mammal without first obtaining a domesticated game breeder's license from the department. The department may issue such a license upon terms and conditions as the commission may prescribe, and the commission may at any time revoke such a license for sufficient cause. (F&G 3201)*

### **Domesticated Game Breeder's License Requirements**

*Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:*

*(a) Licensed pheasant clubs, except to the extent provided in Section 3283.*

*(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part I of Division 4.*

*(c) Keepers of hotels, restaurants, boarding houses or clubs serving the meat of those birds or mammals for actual consumption on the premises.*

*(d) Retail meat dealers selling such meat to customers for actual consumption. (e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange or donation to other public zoological gardens.*

**(F&G 3200)**

### **Game Bird Breeders Must Display License**

*Licenses issued under the provisions of this article are valid for a term of one year from January 1st, or, if issued after the beginning of such term, for the remainder thereof.*

*A domesticated game breeder's license shall be conspicuously displayed on the property where the birds or mammals are held in captivity. (F&G 3204)*

### **Reporting Requirements for Game Bird Breeders**

*On or before January 31st of each year, every person to whom a domesticated game breeder's license has been issued shall report the following to the department on a form provided by the department:*

*(a) The total number of each species of game birds and mammals killed, sold, or shipped during the preceding year.*



- (b) The names of the persons to whom such game birds or mammals were sold or shipped.
  - (c) The name of the person in whose presence such game birds or mammals were tagged.
  - (d) A complete list of the game birds and mammals held in his possession at the time the report is made.
- Such report shall be verified by the affidavit of the licensee. (F&G 3208)

### **Domesticated Game Breeders Must Not Allow Animals to Escape**

Domesticated game breeders or other persons holding domesticated game animals in captivity shall confine the mammals in escape-proof cages or enclosures. In the event any of the mammals escape from the cages or enclosures, the owner shall immediately make every reasonable effort to recapture them. If the owner fails to recapture the escaped mammals, the department may capture the mammals or remove them from the wild by whatever means may be necessary if, in the opinion of the department, the mammals may conflict with native species of birds or mammals or cause damage to public or private property. The owner shall reimburse the department for all costs incurred in capturing or removing the mammals from the wild. The owner of the mammals shall be responsible for any damage they may cause to public or private property.

Any domesticated big game mammal may be marked with ear tags or other suitable markings or tags, as may be specified by the commission, which shall identify the owner of the mammals. (F&G 3214)

## **CHALLENGING FISH & GAME REGULATIONS**

### **Regulations Adopted Annually by F&G Dept. Include Decision to Allow Take/Hunt/Killing of:**

- Fish, amphibia, and reptiles—F&G 205
- Mammals—F&G 207
- Resident game birds—F&G 208
- Black bear—F&G 302, 303
- Antelope—F&G 331
- Elk—F&G 332
- Deer—F&G 451
- Animal Life for Scientific, Educational or Propagation Purposes—F&G 1002

### **Notes on Challenges to F&G Regs:**

- ♦ Any regulation of the commission made pursuant to this article shall be subject to review in accordance with law by any court of competent jurisdiction. (F&G 218)
  - ♦ Any regulation adopted pursuant to this article may supersede any section of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation. A regulation which is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under one of the following circumstances:
    - (a) The regulation is necessary for the **protection** of fish, wildlife, and other natural resources under the jurisdiction of the commission.
    - (b) The commission determines that an emergency exists or will exist unless the action is taken. An emergency exists if there is **an immediate threat to the public health, safety, and welfare, or to the population or habitat of any species.**
- A regulation which is adopted pursuant to this section shall be supported by written findings adopted by the commission at the time of the adoption of the regulation setting forth the basis for the regulation.
- A regulation adopted pursuant to this section shall remain in effect for not more than 12 months from its effective date. (F&G 219)

### **Regulations May be Added to Protect or Conserve Wild Animals**

- ♦ Notwithstanding this article, the commission may add, amend, or repeal regulations at any regular or special meeting if facts are presented to the commission which were not presented at the time the original regulations were adopted and if the commission determines that those regulations added, amended, or repealed are **necessary to provide proper utilization, protection, or conservation of fish and wildlife species or subspecies.** (F&G 220 (b))

## **OTHER STATUTES REGULATING THE 'TAKING' AND HUNTING OF ANIMALS**

### **Animals Injured by Hunters**

Every person who willfully or negligently, while hunting upon the enclosed lands of another, kills, maims, or wounds an animal, the property of another, is guilty of a misdemeanor. (PC 384h)

**NOTE:** THE ABOVE COULD APPLY TO WILD ANIMALS AS WELL AS PETS, LIVESTOCK, CHICKENS, ETC (ALL ANIMALS) ON THE PROPERTY OF ANOTHER. WILD ANIMALS ARE LEGALLY THE PROPERTY OF THE LAND OWNER.



### **Unlawful Taking/Euthanasia of Wild Animals**

(a) Except as otherwise authorized by this code or regulations made pursuant thereto, it is unlawful for any person to take any mammal as identified by Section 2118.

(b) This section does not prohibit the euthanasia of a mammal as appropriately directed by a licensed veterinarian or animal health technician.

(F&G 2126)

**DEFINITION of "TAKING":** killing, harming, or disturbing the animal's natural behavior or habitat in any way.

### **Generally Prohibited**

*It is unlawful to take any bird, mammal, fish reptile, or amphibian except as provided in this code or regulations made pursuant thereto. Possession of a bird, mammal, fish, or reptile or parts thereof in or on the fields, forests, or waters of this state, or while returning there from with fishing equipment is prima facie evidence the possessor took the bird, mammal, fish or reptile or parts thereof. (F&G 2000)*

**EXCEPTION:** Animals "taken" in accidental vehicle accidents are excluded from this section, but the bodies or parts of the animals may still not be possessed even if taken accidentally in a vehicle accident. (F&G 2000.5)

### **Must Report Killing or Wounding Person or Domestic Animal While Hunting**

*Any person who, while hunting, kills or wounds or witnesses the killing or wounding of any human being, or domestic animal belonging to another, shall, within 48 hours after the incident, forward a complete written report to the Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814, giving his full name and address and all facts relating to the incident. (F&G 1215.5)*

### **"Taking" Birds and Mammals at Night Prohibited**

*It is unlawful to take any bird or mammal, except a nongame mammal, between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking, except as otherwise provided in this code or under such regulations as the commission may adopt. The commission may adopt regulations prohibiting the taking of any nongame mammal between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking. (F&G 3000)*

### **NonGame Mammals**

*All mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals, are nongame mammals. Nongame mammals or parts thereof may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission. (F&G 4150)*

### **License Required to Kill Any Wild Animal**

*Every person who takes any bird or mammal shall procure a license or permit therefor. (F&G 3007)*

### **Mere Possession of Unlawfully "Taken" Animal is Unlawful**

*It is unlawful to possess any bird, mammal, fish, reptile, or amphibian, or parts thereof, taken in violation of any provision of this code, or any regulation made under it. (F&G 2002)*

### **Possession Includes Animals That Were "Taken" While Outside State**

*Unless otherwise provided, the provisions of this code relating to the possession of birds, mammals, fish, reptiles, amphibia, or parts thereof apply to birds, mammals, fish, reptiles, amphibia, or parts thereof taken either in or outside of this state. (F&G 2013)*

### **No Permit Can Be Issued for Certain Non-Endangered Animals to Be "Taken"**

*The commission has no power under this article to make any regulation authorizing or permitting the taking of:*

(a) *Any bird or mammal in any refuge heretofore or hereafter established by statute, the taking or possession of which shall be regulated pursuant to Sections 10500 to 10506, inclusive.*

(b) *Elk, the taking or possession of which shall be regulated pursuant to Section 332.*

(c) *Antelope, the taking or possession of which shall be regulated pursuant to Section 331.*

(d) *Any spike buck or spotted fawn. "Spotted fawn" means a young deer born that year which has spotted pelage. "Spike buck" means a male deer with unbranched antlers on both sides which are more than three inches in length.*

*Any regulation establishing a season to compensate for closure of an area due to extreme fire hazard shall be made pursuant to Section 306.*

*Any regulation setting a special hunting season for mammals, except deer, or game birds which have increased in number to such an extent that a surplus exists or which are damaging property or are overgrazing their range shall be made pursuant to Section 325.*

(F&G 204)

### As Referred to Above in F&G 204: It Is Unlawful to "Take" Animals in a Refuge

*Except under a permit or specific authorization, it is unlawful:*

- (a) *To take or possess any bird or mammal, or part thereof, in any game refuge.*
  - (b) *To use or have in possession in a game refuge, any firearm, bow and arrow, or any trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge any firearm or to release any arrow into any game refuge.*
  - (c) *To take or possess any species of fish or amphibia, or part thereof, in any fish refuge, or to use or have in possession in such refuge any contrivance designed to be used for catching fish.*
  - (d) *To take or possess any bird in, or to discharge any firearm or to release any arrow within or into, any fowl refuge.*
  - (e) *To take or possess any quail in a quail refuge.*
  - (f) *To take or possess any invertebrate or specimen of marine plant life in a marine life refuge.*
  - (g) *To take or possess any clam in a clam refuge or to possess in such a refuge any instrument or apparatus capable of being used to dig clams.*
- (F&G 10500)**

### Elk May Not Be Harmed for Their Antlers

*No part of any elk horn or antler shall be removed from any live elk for commercial purposes. (F&G 2118.3)*

### Dogs May Not Pursue Big Game Mammals When Protected by Law

*It is unlawful to permit or allow any dog to pursue any big game mammal during the closed season on such mammal, to pursue any fully protected, rare, or endangered mammal at any time, or to pursue any mammal in a game refuge or ecological reserve if hunting within such refuge or ecological reserve is unlawful.*

*Employees of the department may capture any dog not under the reasonable control of its owner or handler, when such uncontrolled dog is pursuing, in violation of this section, any big game, fully protected, rare, or endangered mammal.*

*Employees of the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any big game mammal during the closed season on such mammal, and they may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury on any fully protected, rare, or endangered mammal at any time.*

*Employees of the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any mammal in a game refuge or ecological reserve if hunting within such refuge or ecological reserve is unlawful.*

*No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section. For the purpose of this section, "pursue" means pursue, run, or chase.*

*Owners of dogs with identification, that have been captured or dispatched, shall be notified within 72 hours after capture or dispatch. (F&G 3960)*

### Laypersons May Stop Dogs From Harming Deer, Elk, or Antelope

*Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her employee, may seize or dispatch the dog if it is found on his or her land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.*

*No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.*

*The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog under this section if it had the identification tag or license tag which is required pursuant to Section 30951 of the Food and Agricultural Code. (F&G 3961)*

## SEIZURE

### Seizure of Wild Animal by Law Enforcement Officer (3 Reasons to Seize)

(1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned...** and care for the animal... (PC 597f(a))

It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals **when making an arrest** for animal fighting OR when making an arrest **with a warrant** for ANY crime against animals.

*"Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]..." (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *"A person convicted of a violation of [PC 597] by causing or permitting an act of "cruelty"[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition."* (PC 597 (f)(1))

### **Post Seizure Procedure**

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the animal within 48 hours (excluding weekends and holidays) that the animal was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the animal or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the animal shall be a lien on the animal and that the animal shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the animal. The owner shall produce the animal at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### **ARREST**

♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a "wobbler") is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

♦ Warrant for Arrest:

*"When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

**COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

**PENALTIES**

**State May Seek Civil Penalties from Local Agency for Unlawful OR Negligent Take**

*(a) It is the policy of this state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibians.*

*The state may recover damages in a civil action against any person or local agency which unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state.*

*(b) The measure of damages is the amount which will compensate for all the detriment proximately caused by the destruction of the birds, mammals, fish, reptiles, or amphibians.*

*(c) An action to recover damages under this section shall be brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose. The State Water Resources Control Board shall be notified of, and may join in, any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.*

*(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law.*

*(e) No damages may be recovered against a local agency pursuant to this section if civil penalties are assessed against the local agency for the same detriment pursuant to Division 7 (commencing with Section 13000) of the Water Code.*

*(f) Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this section shall be deposited by the department in the subaccounts of the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund as specified in Section 13011.*

*(g) For purposes of this section, "local agency" includes any city, county, city and county, district, public authority, or other political subdivision.*

**(F&G 2014)**

**Civil Penalties for Unlawful Possession, Release or Harming (for Gain, Amusement or Sport) Wild Animals**

*(a) In addition to any other penalty provided by law, any person who violates this article is subject to a civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000) for each violation.*

*(b) The Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of this article occurs, may bring a civil action to recover the civil penalty in subdivision (a) and the costs of seizing and holding the animal listed in Section 2118. The civil action shall be brought in the county in which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13001.*



(c) In an action brought under this section, in addition to the penalty specified in subdivision (a), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees may also be recovered and those amounts shall be credited to the same operating funds as that from which the expenditures for those purposes were derived.  
(F&G 2126)

## **PENALTIES**

### **Violation of Fish and Game Code—Misdemeanor, Penalties**

(a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations, as those statutes or regulations read on January 1, 2003, is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand (\$1,000), or of a misdemeanor:

- (1) Subdivision (a) of Section 6596
  - (2) Section 7149.8.
  - (3) Section 7360.
  - (4) Section 1.74 of Title 14 of the California Code of Regulations.
  - (5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.
  - (6) Sections 27.56, 27.65, and 27.70 of Title 14 of the California Code of Regulations.
  - (7) Sections 27.85 to 30.10, inclusive, of Title 14 of the California Code of Regulations.
  - (8) Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.
  - (9) Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.
  - (10) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.
- (F&G 12000)

### **Violation of Fish and Game Code—Felony**

Any person who takes any bird or mammal in violation of an order issued pursuant to Section 12150 of this code, is guilty of a felony.  
(F&G 12001)

### **Device(s) Used in Violating F&G Code or PC 597 Is Forfeited**

(a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish, reptiles, or amphibians and that was used in committing the offense charges.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

- (c) (1) The judge may, for conviction of a violation of either the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:
- (A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.
  - (B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.
- (2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause a serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle has knowledge of the violation.
- (3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations of Section 2000, as determined by the court.

(d) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

- (e) (1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.
- (2) A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.



(f) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(g) For purposes of this section, a plea of nolo contendere or of no contest, or forfeiture of bail, constitutes a conviction.

(h) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 86.30. (F&G 12157)

**Forfeiture of Motor Vehicle or Snowmobile Used in Committing Offense**

The judge before whom any person is tried and convicted of violating Sections 2004 and 2016 and, at the same proceeding, is also tried and convicted of violating Section 2001 or 2005 may, in his discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charges. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund, except that any valid liens on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction. (F&G 12157.5)



# **MINIMUM STANDARDS FOR LABORATORY ANIMALS**

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## STATUTES REGULATING CARE OF LABORATORY ANIMALS

### Location Must Receive Certificate of Approval from State Dept of Health

(a) All persons desiring to keep or use animals for the study, diagnosis, and treatment of human and animal diseases, for education or research in the advancement of veterinary, dental, medical, and biological sciences for education and research in animal and human nutrition, and for the testing and diagnosis, improvement and standardization of laboratory specimens, biologic products, pharmaceuticals and drugs shall make application to the department on the forms provided by the department for a certification of approval for such activities. They shall supply such other information as may be required by the department for the establishment, and its physical facilities with respect to the care of animals as related to the intent and purpose of this law.

(b) Certificates of approval shall not be issued to any person unless he is at the time of application prepared and equipped to keep and use the animals in accordance with the provisions of this law, and rules and regulations of the board adopted in accordance thereof. The department will provide anyone contemplating keeping or using animals information concerning the requirements and conditions for the compliance with the law.

(c) Each applicant for certification shall designate an individual who will be directly responsible for the use and care of animals and for making appropriate reports thereof. Such individuals shall occupy a responsible position of authority in the applicant organization. A certified institution which transfers such responsibility shall immediately notify the department of such fact. The department may deny any application unless it is satisfied that the animals kept or used by the applicant be used and cared for in a humane manner acceptable to this department.

(d) A certificate of approval must be obtained for each address or campus where animals are kept or used for the purposes specified in this law.

(e) A new application or amendment to existing and approved application must be made for any change of the responsible individual, or change in location of the laboratory of animal quarters.

(f) Any major change in equipment or methods of management must be approved in advance by the department.

(g) The certificate of approval or duplicate thereof as supplied by the department shall be displayed in a prominent place in the approved animal quarters or approved laboratory.

**(h) A certificate of approval shall not be issued unless the conditions of the establishment and facilities are such as to reasonably insure that the animals kept or used receive humane care and treatment.**

(i) Denial, revocation, or suspension of certificates of approval must be in accordance with the provisions of the Administrative Procedure Act.

(17 CCR 1151)

### Renewal of Certificate of Approval for Vivisection Laboratory

(a) Application for renewal of certificates of approval shall be on forms provided by the department.

(b) Each holder of a certificate applying for renewal of his certificate or approval shall be subject to a review of his activities during the previous licensing period and to such inspections of his records, premises, equipment, and animals as may be determined by the department for consideration by the board in passing upon the application for renewal.

(c) Similarly, such licenses shall submit such data and records as may be designated by the department.

(17 CCR 1153)

### Records Vivisection Laboratory Must Keep

Holders of certificates of approval shall keep the following records:

(a) Monthly census of animals kept according to type;

(b) Total number of animals used per month according to type;

(c) Use and disposition of the animals

Such records may be open to inspection by authorized agents of the department during the normal working hours of operation.

(17 CCR 1154)

### Minimum Standards for Care and Treatment of Laboratory Animals

**(a) Careful consideration shall be given to the bodily comfort of such animals. They shall be kindly treated, properly fed, and their quarters shall be clean, properly lighted and maintained at the proper temperature. Exception may be made to this rule only with expressed permission of the responsible individual. This permission may be granted only when the foregoing considerations would defeat the purpose of the work.**

(b) Any operation likely to cause greater discomfort than the attending anesthetization shall not be undertaken until the animal be first rendered incapable of perceiving pain. The animals shall be maintained in that condition until the operation is completed. Exceptions to this rule may be made only when provisions for maximum comfort including anesthesia would defeat the object of the experiment, and then only with the expressed permission of the responsible individual.

(c) At the conclusion of experiments, the animals must be killed painlessly or given care to minimize discomfort which is essentially

equivalent, as determined by the department, to that rendered human beings following an operation. In any event, animals which have been used for any purpose described herein shall not be disposed of as pets, except with the expressed permission of the responsible individual. Due consideration in this master [sic] shall be given to public health and to the animal's welfare. (17 CCR 1155)

#### **Vivisection Animal Quarters**

The animal quarters shall be provided with proper lighting, ventilation, and heating to maintain comfort of the animal except where the provisions of Section 1155 otherwise provide. Equipment must be adequate for the proper care and treatment of all animals kept or used. Cages, or other enclosures, shall be large enough to permit reasonable freedom of movement. Adequate facilities shall be provided for keeping animal quarters and equipment clean. Overcrowding must be avoided in order to limit the transmission of animal diseases. The animals shall be maintained in a room separate from any other activity of the establishment, or under other physical conditions satisfactory to the department. (17 CCR 1156)

#### **Requirements Personnel that Care for Laboratory Animals**

Capable personnel shall be employed for the adequate care and feeding of the animals. In small, as well as in extensive animal facilities, one individual shall be in complete charge of, and therefore, responsible for, the entire operation of the unit. Selection of animal caretakers shall be made with care. Nonprofessional personnel shall be chosen for their dependability and their liking for animals. The training should include a knowledge of the means of transmission of disease and an understanding of the precautions necessary to prevent this. Caretakers should be trained in recognizing early symptoms of the common diseases of the animals under their care. (17 CCR 1157)

#### **Feeding Laboratory Animals**

(a) The animals shall be well fed and shall receive wholesome food suitable to the species and shall receive sufficient clean water except where special studies require specified diet for the animal.

(b) Rules and regulations adopted by the board with reference to shelter, food, sanitation, and the care and treatment of animals shall be prominently displayed in all animal rooms.

(17 CCR 1158)

#### **Filing a Complaint Against Animal Laboratory Personnel**

Anyone who files a complaint to the department against an individual, or person, violating this law shall supply in writing specific information regarding the alleged violation, or violations. Such complaint shall include the time, date, place, individual, or person involved; and the names of other witnesses who may be called to testify. This statement must be in the form of a sworn affidavit and must be notarized. (17 CCR 1159)

#### **Alternative Test Methods Must Be Used**

(a) **Manufacturers and contract testing facilities shall not use traditional animal test methods within this state for which an appropriate alternative test method has been scientifically validated and recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) and adopted by the relevant federal agency or agencies or program within an agency responsible for regulating the specific product or activity for which the test is being conducted.**

(b) Nothing in this section shall prohibit the use of any alternative nonanimal test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by ICCVAM.

(c) Nothing in this section shall prohibit the use of animal tests to comply with requirements of state agencies. Nothing in this section shall prohibit the use of animal tests to comply with requirements of federal agencies when the federal agency has approved an alternative nonanimal test pursuant to subdivision (a) and the federal agency staff concludes that the alternative nonanimal test does not assure the health or safety of consumers.

(d) **Notwithstanding any other provision of law, the exclusive remedy for enforcing this section shall be 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 fees, and a civil penalty not to exceed five thousand dollars (\$5,000) in that action.**

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

(f) For the purposes of this section, these terms have the following meanings:

(1) "Animal" means vertebrate nonhuman animal.

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

(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) “ICCVAM” means the Inter-Agency Coordinating Committee for the Validation of Alternative Methods, a federal committee comprised of representatives from 14 federal regulatory or research agencies, including the Food and Drug Administration, Environmental Protection Agency, and Consumer Products Safety Commission, that reviews the validity of alternative test methods. The committee is the federal mechanism for recommending appropriate, valid test methods to relevant federal agencies.

(5) “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.

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

(7) “Validated alternative test method” means a test method that does not use animals, or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the ICCVAM report provided to the relevant federal agencies.

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

(9) “Adopted by a federal agency” means a final action taken by an agency, published in the Federal Register, for public notice.

**(Civ Code 1834.9)**

# **MINIMUM STANDARDS FOR LIVESTOCK**

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**“Livestock”** means any cattle, sheep, swine, and goat, and pursuant to regulations adopted by the Fish and Game Commission, for the purposes of Chapter 4 (commencing with Section 18650) [the Meat and Poultry Inspection Act], fallow deer (*Dama dama*) whether alive or dead. (F&A 18943)

**“Animal”** includes, but is not limited to, any domesticated fowl or nonhuman mammal and any wild fowl, bird, or mammal that is reduced to captivity. (F&A 9202)

## IN ADDITION, THE 10 STEPS TO A LAW-ABIDING OWNER/GUARDIAN APPLY AS WELL:

### Steps 1-2: Proper Food and Drink (Water)

1. **Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible 24 hours a day  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with proper... drink...is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
    - ♦ A dehydration test is performed by pinching the skin on the animal’s back. If the skin stays in the pinched position after letting go instead of snapping back into place, the animal is dehydrated.
  2. **Proper Food:** contains all the essential nutrients  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with proper food...for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
    - ♦ Providing means given to the livestock in a safe manner and place at least twice a day
    - ♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis. If the hip joints protrude the animal is near starvation.
- **NOTE:** Impounding a livestock or rooster without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

### Steps 3-5: Necessary Shelter

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... for every such offense,[is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

3. **Clean Environment**  
*Every person “having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**”... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*
  - ♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (It can cause many serious illnesses.)
    - No odor, garbage or debris
    - No mites, fleas, ticks, parasites, or other insects that harm livestock
4. **Protection from the Weather**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather**...for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ What is REQUIRED to provide Protection from the Weather?
    - A sound structure for shelter (not a vehicle or crawl space under a structure or structure made of flimsy materials). It must have **4 walls, a roof, and a floor** to protect from the sun, the heat, the cold and the rain.
    - The shelter must provide **temperature control** in order to protect from the weather.
    - The shelter MUST protect from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!
      - Hot weather—temperatures should not be above 85° F inside
      - Cold weather—temperatures should not be below 55° F inside
      - Wet weather—the inside of the shelter **must be dry**
5. **Adequate Space to Exercise**  
*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**... Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*
  - ♦ Adequate exercise area for livestock means 5 sq ft per lb of body weight

## Step 6: Free of Cruelty and Neglect

PC 599b defines the word “**cruelty**” to include “...every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...”

### 6. Free of Cruelty and Neglect

- ♦ Cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597)

*“...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 [felony]...every person who...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...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**...for every such offense, guilty of a crime punishable as a **misdemeanor or a felony**...”*

**NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

### Officer May Euthanize a Suffering Animal Too Large to Move

*...[A]ny officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy **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 dispose of the animal. (PC 507f (d))*

## Steps 7-10: Proper Veterinary Care Must Be Provided

*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 guilty of a misdemeanor... (PC 597.1)*

**NOTE:** *[I]t shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

The determination of whether the animal is to be returned to the owner is to be made at a hearing whereby the standard will be whether the owner has demonstrated that changes have been made which will result in the proper care of the animal if the animal is returned. (PC 597.1(f) or (g))

### 7. Basic Vaccinations

Basic vaccinations must be given (*failure to provide proper care and attention* PC 597.1).

### 8. Mites, Fleas and Ticks Must Be Eradicated

Mites, fleas and ticks must be eradicated immediately from the body of the livestock in a humane manner (*failure to provide proper care and attention* PC 597.1).

### 9. Veterinary Care Must Be Provided Upon Illness or Injury

Upon injury or disease, the animal must be immediately given veterinary care (*failure to provide proper care and attention* PC 597.1).

### 10. Hooves, Horns and Other Body Parts Must Be Kept in Healthy Condition

Failure to keep hooves, horns and other body parts in a healthy condition is a violation of PC 597 (cruelty/neglect) as well as PC 597.1 (*failure to provide proper care and attention*).

## INSPECTION OF MEAT/MEAT FACILITY

**NOTE:** Larger facilities and facilities that sell animals or meat across state lines are subject to federal inspection (by the United States Department of Agriculture). All other facilities are subject to state inspectors and not the USDA inspectors.

### Adoption of Federal Regulations

*Pursuant to Section 18735 of the Agricultural Code regulations of the United States Department of Agriculture governing meat and meat products inspection and poultry and poultry products inspection, Title 9, Part 301 et seq. and part 381, Code of Federal Regulations respectively, are adopted by reference as regulations of the Director, subject to the amendments in this article. (3 CCR 900)*



### **Scope of Inspection by State Inspectors**

(a) As a result of the termination of the State-Federal meat and poultry inspection programs formerly conducted pursuant to 21 U.S.C. 661 et seq. (meat inspection) and 21 U.S.C. 454 (poultry inspection), effective April 1, 1976 and thereafter state inspection of meat and poultry plants and products is required only for those plants and products subject to inspection pursuant to the provisions of the Food and Agricultural Code, Sections 18650-18935 and 24651-25151, which are not under inspection by the United States Department of Agriculture.

(b) The following establishments and products therefrom, while operating and distributing products solely within California and while under exemption from federal inspection pursuant to 9 Code of Federal Regulations Parts 303 and 381, continue to require state inspection:

- (1) The custom slaughter by any person of cattle, sheep, swine, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such livestock, exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees. [9 C.F.R. Parts 303.1(a)(2)]
- (2) The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in intrastate commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees. [9 C.F.R. 381.10(a)(4)]
- (3) Operations involving the preparation of products of cattle, sheep, swine, or goats traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store, restaurant or similar retail-type establishment, for sale in normal retail quantities or service of such articles to consumers at such establishments when involving curing, cooking, smoking, or other preparation of products. [9 C.F.R. 303.1(d)]
- (4) Operations involving the processing of poultry and poultry products traditionally and usually conducted at retail stores and restaurants when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments. [9 C.F.R. 381.10(d)]
- (5) The slaughter of poultry and the processing of products therefrom by any poultry producer on his own premises with respect to poultry raised on his premises, and the distribution by any person of the poultry products derived from such operations. [9 C.F.R. 381.10(a)(5)]
- (6) The slaughtering of poultry and the processing of products therefrom by any poultry producer or other person for distribution by him directly to household consumers, restaurants, hotels, and boardinghouses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers. [9 C.F.R. 381.10(a)(6)]
- (7) Operations and products of small enterprises (including poultry producers) not within subparagraphs (2), (4), (5) or (6) above that are engaged in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof. [9 C.F.R. 381.10(a)(7)]

[Note:] Terms used in 9 C.F.R. 303.1 and 381.10, such as "small enterprises," "retail store," "restaurant," and "retail quantities" when used in this section have the same meaning as the corresponding section in the federal regulations. Accordingly, no operation under subparagraphs (5), (6), or (7) above qualifies for exemption from federal inspection if it slaughters or processes the products of more than 20,000 turkeys or 20,000 poultry of all species in the current calendar year [9 C.F.R. 381.10(b)].

(c) The following establishments which are not under inspection under the Wholesome Meat Act and are required to have state inspection pursuant to Sections 24651-24831 of the Food and Agricultural Code continue to require state inspection: establishments slaughtering domesticated pigeons, squab, pheasants, quail, and rabbits.

(d) This section does not affect activities involving horsemeat and pet food regulated by Sections 19200-19444 of the Food and Agricultural Code.

(e) The following establishments which are not under inspection under the Wholesome Meat Act are required to have state inspection pursuant to Sections 18940-19039 of the Food and Agricultural Code: establishments slaughtering fallow deer and/or preparing fallow deer products for transportation and/or sale. (3 CCR 900.1)

### **Authority of Livestock Meat Inspectors, Processing Inspectors and Persons Responsible for Operation of Livestock Establishments**

No person licensed as a livestock meat inspector or processing inspector and no person responsible for the operation of a livestock slaughter or meat processing establishment shall exercise the authority of the license:

(a) To perform or allow the performance of any operation not in accordance with the applicable provisions of 9 Code of Federal Regulations, Parts 303 and 381, as supplemented by official instructions of the United States Department of Agriculture Food Safety and Inspection Service, Meat and Poultry Inspection Program, as made applicable to California establishments by Section 900 et seq.; or

(b) Contrary to instructions of a Department inspector, including instructions relating to proper procedures, wholesomeness inspection, condemnation, or other disposition of diseased animals, carcasses, parts and adulterated or mislabeled meat and poultry products; sanitation inspection; and the maintenance of accurate records.

(3 CCR 927)

**Meat Inspection Regulation Definitions**

*For the purpose of these regulations the following words, phrases, names, and terms shall be construed respectively to mean:*

- (a) *Bureau.* The Bureau of Meat Inspection of the California Department of Agriculture.
- (b) *Bureau Employee.* An employee of the Bureau of Meat Inspection who is authorized by the chief of the bureau to do any work or perform any duty in connection with plant sanitation or poultry meat inspection.
- (c) *Condition.* Any condition, including, but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to, the processing, handling, or packaging which affects such product.
- (d) *Department.* The California Department of Agriculture.
- (e) *Dressed Poultry.* Poultry which has been slaughtered for human food with head, feet, and viscera intact and from which the blood and feathers have been removed.
- (f) *Edible Poultry By-products.* Any giblets or any edible part of dressed poultry other than eviscerated poultry.
- (g) *Free From Protruding Pinfeathers and Hair.* Pinfeathers and vestigial feathers (hair or down as the case may be) have been removed so that the carcass is free from protruding pinfeathers and vestigial feathers which are visible to a poultry meat inspector or bureau employee during an examination of the carcass at normal operating speed. However, a carcass may be considered as free from protruding pinfeathers or vestigial feathers if it has a generally clean appearance (especially on the breast) and if not more than an occasional protruding pinfeather is in evidence during a more careful examination of the carcass.
- (h) *Giblets.* The liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed and the gizzard from which the lining and contents have been removed: provided, that each such organ has been properly trimmed and washed.
- (i) *Immediate Container, or True Container.* The unit, can, pot, tin, or other receptacle or covering in which any poultry meat or product is customarily packed or shipped.
- (j) *Inspected and Condemned, or Any Authorized Abbreviation Thereof.* That the poultry carcasses, parts of carcasses, poultry meat products or poultry meat food products so designated have been inspected by a poultry meat inspector or bureau employee and found to be unsound, unhealthful, unwholesome, or otherwise unfit for human food.
- (k) *Inspected for Wholesomeness Under Supervision of the California Department of Agriculture, or Any Authorized Abbreviation Thereof.* That the poultry or poultry meat, poultry meat products, or poultry meat food products so marked have been inspected under these regulations, and that at the time they were inspected and so marked they were free from:
  - (1) Physical evidence of disease injurious to human health;
  - (2) Pathological conditions which have rendered or would render the poultry meat unsuited for human food;
  - (3) Serious destruction of the flesh by disease or injury; or
  - (4) Contamination by any substance injurious to human health.
- (l) *Inspection Mark.* A mark or statement, authorized by these regulations, on a product or on the container of a product, indicating that the product has been inspected for wholesomeness by an inspector.
- (m) *Inspector.* Poultry meat inspector who has been issued a valid license by the Director to inspect poultry meat for wholesomeness.
- (n) *Official Plant.* Any premises licensed by the department where poultry is slaughtered or otherwise prepared for food purposes, cannery, factory or similar place, where state inspection is maintained under these regulations.
- (o) *Potable Water.* Water which is free from disease producing organisms and injurious chemicals. It does not possess obnoxious tastes or odors, and is not turbid or colored to a degree that it is rendered repugnant to the consumer. Standards of tests to be used in determining potability shall be the same as the standards of the State Department of Public Health.
- (p) *Poultry.* Domestic fowl and domesticated rabbit to be used for human food. "Fowl" includes chickens, turkeys, ducks, geese, and other domesticated birds.
- (q) *Poultry Meat Food Product.* Any article of food, or any article intended or capable of being used as human food which is derived or prepared, in whole or in substantial and definite part from any portion of poultry.
- (r) *Product.* Dressed poultry, ready-to-cook poultry, edible poultry by-product and poultry meat food product.
- (s) *Ready-to-Cook Domestic Rabbits.* Any domestic rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera has been removed, that is ready to cook without need of further processing, or any cut-up or disjointed portion of such domestic rabbit.
- (t) *Ready-to-Cook Poultry.* Any dressed poultry which is free from protruding pinfeathers, vestigial feathers (hair or down as the case may be), and from which the head, shanks, crop, preen gland, trachea, esophagus, entrails, reproductive organs and lungs have been removed, and with or without the giblets, is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry prepared as described in this paragraph.
- (u) *Regulations or These Regulations.* Regulations contained in Subchapter 5, Chapter 2, Title 3, of the California Administrative Code.
- (v) *Retained for Further Inspection.* That each carcass, including all parts thereof so marked or identified, is held for further examination by an inspector or bureau employee to determine its disposal.
- (w) *Shipping Container, or Outside Container.* The box, bag, barrel, crate, or other receptacle or covering inclosing any product packed in one or more immediate or true containers.

- (x) Soundness. Freedom from external evidence of any disease or condition which may render a carcass unfit for food.
- (y) Major Reconstruction. Major reconstruction shall be construction other than that associated with normal or routine maintenance activities.
- (3 CCR 1200)

### **Applicability of Regulations**

Unless inapplicable, the provisions of these regulations shall apply equally to domesticated fowl and domesticated rabbit used for human food. (3 CCR 1201)

## **“ADULTERATED” MEAT**

**REMEMBER:** Humane officers enforce all laws relating to or affecting animals, such as those below.  
(Corp Code 10404)

### **Meat Must Be Labeled by Inspector**

The director [meat inspector for the region] shall require the identification of livestock and poultry for inspection purposes, and the marking and labeling of any livestock product or poultry product or its containers, or both, as either:

- (a) “California Inspected and Passed,” if the product is found upon inspection to be not adulterated.
- (b) “California Inspected and Condemned,” if the product is found upon inspection to be adulterated. The destruction for food purposes of any product condemned under this subdivision shall be under the supervision of an inspector. (F&G 18722)

### **“Adulterated” Defined:**

A livestock or poultry product is adulterated if it consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food. (F&A 18753)

### **Adulterated Also Includes:**

A livestock or poultry product is **adulterated if it has been prepared, packed, or held under unsanitary conditions** by which it may have become contaminated with filth, or been rendered injurious to health. (F&A 18754)

### **Dead Animals Are “Adulterated”**

A livestock or poultry product is adulterated if it is, in whole or in part, the product of an animal, including any poultry, which has **died otherwise than by slaughter**.  
(F&A 18755)

**“Marked”** means plainly, legibly, and conspicuously labeled, stamped, tagged, stenciled, or branded to show the name and address of the poultry plant where, or the name and address of the distributor in California for whom, the poultry meat was slaughtered, prepared, packed, or repacked, cut up or recut, or handled. (F&A 24654)

**“Mislabel”** means the placing, or presence of any false, deceptive, or misleading mark, tag, brand, design, inscription, statement, billing, invoice, placard, sign, or other descriptive designation. (F&A 24655)

### **Sanitation Requirements (other than that implied in PC 597, etc.)**

The director shall prescribe sanitation requirements for all establishments required to have inspection under Section 18721.  
(F&A 18726)

### **Consequences of Meat Deemed “Adulterated”**

The director shall investigate the sanitary conditions of each establishment required to have inspection under Section 18721 and shall withdraw or otherwise refuse to provide inspection service at any establishment where the sanitary conditions are such as to render adulterated any livestock product or poultry product which is prepared or handled at the establishment. No such establishment shall be operated without inspection. (F&A 18725)

## **HUMANE SLAUGHTER**

(a) Cattle, calves, horses, mules, sheep, swine, goats, or fallow deer or poultry shall be slaughtered by the methods prescribed in this section. No state agency shall contract for, purchase, procure, or sell all or any portion of any animal, unless that animal is slaughtered in conformity with this chapter. This chapter applies to any person engaged in the business of slaughtering animals enumerated in this

section, or any person slaughtering any of those animals when all, or any part of, that animal is subsequently sold or used for commercial purposes.

(b) All cattle, calves, horses, mules, sheep, swine, goats, or fallow deer subject to this part, or poultry subject to Part 1 (commencing with Section 24501) of, Part 2 (commencing with Section 25401) of, Part 3 (commencing with Section 25401) of, Division 12 shall be slaughtered by either of the following prescribed methods:

(1) The animal shall be rendered insensible to pain by a captive bolt, gunshot, electrical or chemical means, or any other means that is rapid and effective before being cut, shackled, hoisted, thrown, or cast, with the exception of poultry which may be shackled.

(2) The animal shall be handled, prepared for slaughter, and slaughtered in accordance with ritual requirements of the Jewish or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

This section does not apply to the slaughter of spent hens and small game birds, as defined by the department by regulation.

(F&A 19501)

### **Forfeiture of Device Used to Wrongfully Take or Kill Cattle**

(a) The judge before whom any person is tried for the wrongful taking, possessing, killing, or slaughter of cattle without the consent of the owner or the person lawfully in possession of those cattle may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to commit the offense charged, and which was used in the committing the offense charged. "Device or apparatus" includes, but is not limited to, any vehicle that is used or intended for use in taking, possessing, harboring, or transporting the cattle.

(b) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(c) The provisions in this section authorizing a judge to order the forfeiture of a device or apparatus are also applicable to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(d) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(e) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of property pursuant to any other provision of law.

## **TRANSPORT**

### **Animal Involved in Collision Does Not Create Presumption of Liability**

In any civil action which is brought by the owner, driver, or occupant of a motor vehicle, or by their personal representatives or assignees, or by the owner of livestock, for damages which are caused by collision between any motor vehicle and any domestic animal on a highway, there is no presumption or inference that the collision was due to negligence on behalf of the owner or the person in possession of the animal. (F&A 16904)

### **Animals Must Be Unloaded For Food and Water Every 36 Hours**

It is unlawful for any officer, agent, or conductor of any railroad in this state, to confine any animals in cars for a longer period than 36 consecutive hours if the animals are being carried or transported by the railroad in carloads. At least every 36 hours the animals shall be unloaded for rest, water, and feeding, into properly equipped pens for a period of not less than five consecutive hours. (F&A 16905)

### **Connecting Roads Should Be Considered in Time Animals' Confined**

In estimating the time of confinement pursuant to Section 16905, the period during which animals have been confined without such rest on connecting roads from which they are received, shall be included. (F&A 16906)

### **Railroad May Feed Animals and Bill Owner**

If the owner or person in charge of the animals refuses or neglects to pay for the care and feed of the animals so rested, the company or person operating the railroad may charge the expense of the care and feeding to the owner or consignee and retain a lien upon the animals until the amount of expense is paid. (F&A 16907)

### **Time Limit for Confined Animals in Transport Without Food and Water**

It is unlawful for any person that owns or operates any motor truck, or motor truck and trailer, or semitrailer, to confine or permit to be confined, in such vehicle, any animal for a longer period than 28 consecutive hours from the time the animal was last fed and watered. Upon the written request of the owner or person in charge of the animal, the period of confinement may be extended to 36 hours. Before the expiration of the permissible period of confinement, the animal shall be unloaded in a humane manner by means of a chute or tailgate of sufficient size into properly equipped pens for rest, water, and feeding, for a period of at least five consecutive hours.



*The failure of a person to feed or water an animal within the time limit prescribed by this section is not a violation of this section if the feeding and watering of the animal is prevented by storm or other accidental or unavoidable causes which could not be anticipated or avoided by the exercise of due diligence and foresight. (F&A 16908)*

### **Time of Confinement Shall Include Loading and Unloading**

*In estimating the period of confinement, the time consumed in loading and unloading the animal shall not be considered, but the time during which the animal has been confined without rest, food, or water on any other or connecting vehicle, or outside of the state, shall be included. (F&A 16909)*

## **SICK ANIMALS**

### **Unlawful to Bring Sick Animals into State**

*It is unlawful [a misdemeanor] to bring, cause to be brought, or aid in bringing into the state any domestic animal which such person knows is infected with any contagious disease. (F&A 9161)*

### **Penalties—Importation of Sick Animals**

*(a) Any person who negligently or intentionally violated any state or federal law or regulation, including any quarantine regulation, by importing any animal or other article, which by virtue of being pest infected or disease infected, causes an infestation or infection of a pest, animal, or disease, or causes an existing infestation to spread beyond any quarantine boundaries is liable civilly in a sum not to exceed twenty-five thousand dollars (\$25,000) for each act that constitutes a violation of the law or regulation.*

*(b) The Attorney General, upon request of the State Veterinarian, shall petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (a). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.*

*(c) The remedy under this section is in addition to, and does not supercede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.*

*(d) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, and research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section [sic]. (F&A 9574)*

### **Sick Animals Must Be Quarantined**

*Any person that owns or has possession or control of any animal which is affected by any contagious or infectious disease, that fails to keep the animal within an enclosure, or herd the animal in a place where it is secure from contact with other animals of like kind that are not so affected, or that permits the infected animal to be driven on any public highway, is guilty of a misdemeanor, which is punishable by a fine of not more than one thousand dollars (\$1,000) for each offense. (F&A 9163)*

### **Quarantine Violation Is an Infraction or a Misdemeanor—Penalties**

*Any violation of any provision of this chapter is an infraction punishable by a fine of not more than one hundred dollars (\$100) for the first offense and is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment, for a second or subsequent offense committed within three years of a prior conviction under this chapter. (F&A 9701)*

## **RODEOS**

*(a) For purposes of this section “rodeo” means a public performance featuring competition between persons, which includes four or more of the following events: bareback bronc riding, saddle bronc riding, bull riding, calf roping, steer wrestling, or team roping.*

*(b) The management of any professionally sanctioned or amateur rodeo that intends to perform in any city, county, or city and county shall ensure that there is a veterinarian licensed to practice in this state present at all times during the performances of the rodeo, or a veterinarian licensed to practice in the state who is on-call and able to arrive at the rodeo within one hour after a determination has been made that there is an injury which requires treatment to be provided by a veterinarian.*

*(c) (1) The attending or on-call veterinarian may, for good cause, declare any animal unfit for use in any rodeo event.*

*(d) (1) Any animal that is injured during the course of, or as a result of, any rodeo event shall receive immediate examination and appropriate treatment by a veterinarian licensed to practice in this state within one hour of the determination of the injury requiring veterinary treatment.*

*(2) The attending or on-call veterinarian shall submit a brief written listing of any animal injury requiring veterinary*



treatment to the Veterinary Medical Board within 48 hours of the conclusion of the rodeo.

(3) The rodeo management shall ensure that no electric prod or similar device is used on any animal once the animal is in the holding chute, unless necessary to protect the participants and spectators of the rodeo.

(f) A violation of this section is an infraction and shall be punishable as follows:

(1) A fine of not less than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000) for a first violation.

(2) A fine of not less than one thousand five hundred dollars (\$1,500) and not more than five thousand dollars (\$5,000) for a second or subsequent violation.

(PC 596.7)

## **BULLFIGHTING**

### **Bullfighting Is a Misdemeanor**

*It shall be unlawful for any person to promote, advertise, stage, hold, manage, conduct, participate in, engage in, or carry on any bullfight exhibition, whether for amusement or gain or otherwise; provided, that nothing herein shall be construed to prohibit rodeos.*

*This section shall not, however, be construed as prohibiting bloodless bullfights, contests or exhibitions held in connection with religious celebrations or religious festivals.*

*Any person violating provisions of this section is guilty of a misdemeanor. (PC 597m)*

## **FALLOW DEER**

### **Handling and Transporting Fallow Deer to Custom Slaughter Establishment**

(a) *Deer shall be handled humanely and quietly, with care and patience.*

(b) *Persons handling or transporting deer shall be knowledgeable about deer behavior and welfare and shall comply with these regulations.*

(c) *It is recommended but not required that groups of deer intended for shipment be allowed to establish social relationships before loading.*

(d) *It is recommended but not required that transportation of deer be by the most direct and appropriate route from point of origin to final destination and be completed without delay.*

(e) *All rooms, compartments, alleyways, ramps, chutes, doors used for transporting, moving, and holding deer shall be free from dangerous projections, such as nails and bolts, and sharp edges that might cause pain and/or injury.*

(f) *All rooms, pens, compartments, alleyways, ramps, chutes and doors used for transporting, moving, and holding deer shall be constructed in a way that prevents deer from jumping out of the area.*

(g) *All rooms, vehicle compartments, pens, alleyways, ramps and chutes used for transporting, moving, and holding deer shall have secure footing and shall be properly drained.*

(h) *If deer are held longer than one hour, clean bedding material shall be provided in deer areas in transportation vehicles and in holding pens. Deer held in excess of 24 hours shall be provided new or additional clean bedding.*

(i) *There shall be no gaps between floors and walls, ramps and vehicles, gates and walls or other such objects which would probably result in injury to deer.*

(j) *Downers (deer unable to stand even with assistance) shall not be brought onto a custom livestock slaughter establishment premises, unless they became disabled during transport to the establishment. In that case, they shall be immediately stunned on the vehicle and removed from the vehicle and bled prior to regaining consciousness.*

(CCR 950)

### **Handling Fallow Deer at Custom Slaughter Establishment**

*Operators of all custom livestock slaughter establishments are responsible for humane handling of deer on the plant premises.*

(a) *Sufficient pens shall be provided to prevent overcrowding, to permit necessary segregation of animals, and to enable all animals to lie down at the same time.*

(b) *Deer pens shall be segregated from those holding other species of food animals.*

(c) *Holding facilities shall protect deer adequately from the elements.*

(d) *Holding pens shall be adequately ventilated to minimize stress to animals and to prevent excessive accumulation of odors and condensation.*

(e) *Deer that are sick, injured, or disabled shall immediately be separated from healthy animals.*

(f) *Objects that might cause pain and/or injury, such as sticks, boards, canes, or electric prods, shall not be used on deer or for safety when handling larger or aggressive deer.*

(3 CCR 955)

## **OTHER STATUTES REGULATING THE TREATMENT OF LIVESTOCK**

### **Permit Required for Transportation of Diseased Animals into California**

*(a) No person shall transport into the State, any livestock as defined in Section 18663 of the Agricultural Code, known to have any of the following conditions or diseases or manifesting any of the following diseased conditions except under permit of the Director:*

- (1) Inability to walk normally or stand*
- (2) Abnormal temperature (high or low)*
- (3) Difficult breathing*
- (4) Abnormal swellings*
- (5) Foul odor and running sores*
- (6) Tumors or cancer growths*
- (7) Gangrene of the udder (blue bag)*
- (8) Water belly or swollen brisket*
- (9) Infections of the region of eye (epithelioma-eye cancer in which the eye is destroyed or covered with a tissue mass showing infection, suppuration, and necrosis, usually accompanied with a foul odor).*

*(b) Applications for permits required under subsection (a) shall be made to the CA Department of Agriculture, Division of Animal Industry, Bureau of Animal Health, 1220 N Street, Sacramento, CA 95814, and shall include the name and address of both the consignor and consignee, and the number, breed, and type of livestock.*

*The consignor, as a condition for the issuance of the permit, shall agree to comply with requirements thereof, which may include*

- (1) Description and marking, or individual identification of the livestock;*
- (2) Designation of the carrier and the time and place of destination;*
- (3) Segregation and holding of the livestock for inspection at destination by the consignor; and*
- (4) Obtaining a certificate signed by a Federal or State veterinary inspector, or an accredited veterinarian, that the livestock to be shipped have been examined and none of the animals appears or is known to be affected with a contagious disease.*

*The consignee, as a condition for the issuance of the permit, shall agree to comply with the requirements thereof which shall include the requirements of Section 1300.11.*

*(c) Each permit granted pursuant to subsection (a) shall state the destination of each shipment, without diversion, as*

- (1) A slaughter establishment under inspection by the Director or the Secretary of Agriculture;*
- (2) An establishment licensed by the Director as a pet food and horse slaughterer or renderer;*
- (3) A named livestock saleyard or public stockyard; or*
- (4) An institution conducting research into animal diseases, employing a professional staff for such purpose. (3 CCR 1300.1)*

### **Meat Prepared Without Inspection Prohibited**

*The director shall prohibit the entry into official establishments of any livestock product or poultry product which was not prepared under federal inspection or inspection pursuant to this chapter and further limit the entry of any such product or other materials into such establishments under such conditions as he deems necessary to effectuate the purposes of this chapter. (F&A18723)*

### **Meat Must Be Labeled When It Leaves the Slaughterhouse**

*The director shall require that when any livestock product or poultry product leaves official establishments it shall bear directly thereon or on its containers, or both, as he may require, all information required under Article 5 (commencing with Section 18781) and require approval of all labeling and containers to be used for such product when it is sold or transported in intrastate commerce to assure that the product and the labeling and containers comply with the requirements of this chapter. (F&A18724)*

### **Livestock Cannot Create a Public Nuisance**

*Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance. (PC 370 and Civ Code 3479)*

*An act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal. (PC 371 and Civ Code 3480)*

*Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor. (PC 372)*

*Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or district attorney or city attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district*

attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state misdemeanors, to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated and removed. (PC 373a)

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it. (Civ Code 3483)

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence. (Civ Code 3484)

No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right. (Civ Code 3490)

The remedies against a public nuisance are:

1. Indictment or information;
2. A civil action; or,
3. Abatement.

(Civ Code 3491)

The remedy by indictment or information is regulated by the Penal Code. (Civ Code 3492)

A private person may maintain an action for a public nuisance, if it is especially injurious to himself, but not otherwise. (Civ Code 3493)

A public nuisance may be abated by any public body or officer authorized thereto by law. (Civ Code 3494)

Any person may abate a public nuisance which is specially injurious to him by removing, or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. (Civ Code 3495)

### **Changed Surroundings of Agricultural Operation Do Not Create Nuisance**

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance. (Civ Code 3482)

No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. (Civ Code 3482.5 (a)(1))

### **Slaughter of "Downed Animal" Is a Misdemeanor**

(a) No slaughterhouse that is not inspected by the United States Department of Agriculture, stockyard, or auction shall buy, sell, or receive a nonambulatory animal.

(b) No slaughterhouse, stockyard, auction, market agency, or dealer shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal or remove the animal from the premises.

(c) While in transit or on the premises of a stockyard, auction, market agency, dealer, or slaughterhouse, a nonambulatory animal may not be dragged at any time, or pushed with equipment at any time, but shall be moved with a sling or on a stoneboat or other sled-like or wheeled conveyance.

(d) A violation of this section is a misdemeanor.

(e) As used in this section, "nonambulatory" means unable to stand and walk without assistance.

(f) As used in this section, "animal" means live cattle, swine, sheep, or goats.

(g) As used in its section, "humanely euthanized" means to kill by a mechanical, chemical or electrical method that rapidly and effectively renders the animal insensitive to pain. (PC 599f)

### **Carcass of Livestock on Side of Road Is a Misdemeanor**

Every person who knowingly allows the carcass of any dead animal which belonged to him at the time of its death to be put, or to remain, within 100 feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within 100 feet of any street, alley, highway, or road in common use is guilty of a **misdemeanor**. (PC 374c)

(a) It is unlawful [an **infraction**] to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for that purpose...

(c) Each day that waste is placed, deposited, or dumped... is a separate violation...

(e) A person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction.

(h) (1) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in commercial quantities shall be guilty of a **misdemeanor** punishable by imprisonment in a county jail for not more

than six months and by a fine. The fine is mandatory and shall amount to not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) upon a first conviction, not less than three thousand dollars (\$3,000) nor more than six thousand dollars (\$6,000) upon a second conviction, and not less than six thousand dollars (\$6,000) nor more than ten thousand dollars (\$10,000) upon a third or subsequent conviction.

(2) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This subdivision does not apply to the dumping of household waste at a person's residence. (PC 374.3)

### **Stealing a Livestock Carcass Is Grand Theft**

(a) Every person who shall feloniously steal, take, transport or carry the carcass of any bovine, caprine, equine, ovine, or suine animal or any mule, jack, or jenny, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him, is guilty of grand theft.

(b) Every person who shall feloniously steal, take, transport, or carry any portion of the carcass of any bovine, caprine, equine, ovine, or suine animal or any mule, jack or jenny, which has been killed without the consent of the owner thereof, is guilty of grand theft. (PC 487a)

### **Injury to Livestock by Domesticated Dog or Other Owned Animal**

The owner, possessor, or harbinger of any dog or other animal, that shall, on the premises of any person other than the owner, possessor, or harbinger of such dog or other animal, kill, worry, or wound any bovine animal, swine, horse, mule, burro, sheep, angora goat, or cashmere goat, or poultry, shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction:

1. In the prosecution of actions under the provisions of this chapter, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger of such dog or other animal, had knowledge of the fact that such dog or other animal would kill, wound or worry bovine animals, swine, horses, mules, burros, sheep, goats, or poultry.

2. Any person on finding any dog or dogs, or other animal, not on the premises of the owner or possessor of such dog or dogs, or other animal, worrying, wounding, or killing any bovine animals, swine, horses, mules, burros, sheep, angora or cashmere goats, may, at the time of finding such dog or dogs, or other animal, kill the same, and the owner or owners thereof shall sustain no action for damages against any person so killing such dog or dogs, or other animal.

Nothing in this section shall render an owner, possessor, or harbinger of a dog liable for the accidental or unavoidable killing or injury of any bovine animal, swine, horse, mule, burro, sheep, angora goat, cashmere goat, or poultry which occurs in connection with or as a incident to the driving or herding the same from the premises of the owner, possessor, or harbinger of the dog, whether such killing or injury occurs upon such premises or off of such premises.

(Civ Code 3341)

### **Animals May Not Graze or Be Driven Along Railroad Tracks**

It is unlawful [a misdemeanor under section 9] for any person to do any of the following:

(a) Lead, drive, or conduct any animal along the track of a railroad, unless the railroad is built within the limits of a public highway or a public place.

(b) Permit any animal to be placed within the fences of a railroad for grazing or other purposes if he has the right to prevent it. (F&A 16901)

### **Livestock May Not Be Allowed to Stray Onto Highway**

A person that owns or controls the possession of any livestock shall not willfully or negligently permit any of the livestock to stray upon, or remain unaccompanied by a person in charge or in control of the livestock upon, a public highway, if both sides of the highway are adjoined by property which is separated from the highway by a fence, wall, hedge, sidewalk, curb, lawn, or building. (F&A 16902)

### **Livestock May Not Be Driven onto Highway at Night Without Numerous Herders**

It is unlawful for any person to drive any livestock upon, over, or across any public highway between the hours of sunset and sunrise unless he keeps a sufficient number of herders on continual duty to open the road so as to permit the passage of vehicles. (F&A 16903)

## **SEARCHES**

### **Search Warrant**

A search is an order in writing in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (PC 1523)



### Grounds for Issuance of a Search Warrant

- (a) A search warrant may be issued upon any of the following grounds:
- (1) When the property was stolen or embezzled.
  - (2) When the property or things were used as the means of committing a felony.
  - (3) **When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for purpose of concealing them or preventing their being discovered.**
  - (4) **When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.**
  - (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring.
  - (6) When there is a warrant to arrest a person.
  - (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- (b) The property or things or person or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be. (PC 1524)

### Search Warrant Must Be Served by Officer Listed in Warrant

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer in his requiring it, he being present and acting in its execution. (PC 1530)

## SEIZURE

### Seizure of Livestock by Law Enforcement Officer (3 Reasons to Seize)

- (1) Animals in need of "proper care and attention" MUST be seized and given proper care upon discovery by the officer.

**Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)**

It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned...** and care for the animal... (PC 597f(a))

It shall be the duty of all officers of pounds 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.... (PC 597f(b))

- (2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

- (3) Officers may seize animals when making an arrest for animal fighting **OR** when making an arrest with a warrant for ANY crime against animals.

"Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]..." (PC 599aa)

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** "A person convicted of a violation of [PC 597] by causing or permitting an act of "cruelty"[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition." (PC 597 (f)(1))



**Post Seizure Procedure**

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the livestock animal within 48 hours (excluding weekends and holidays) that the livestock animal was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the livestock animal or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the livestock animal shall be a lien on the livestock animal and that the livestock animal shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

- Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

- Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

**Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the livestock animal. The owner shall produce the livestock animal at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

**ARREST**♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

**COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the*

*discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

**PROSECUTION NOT OPTIONAL FOR DISTRICT ATTORNEY FOR FOOD AND AGRICULTURAL VIOLATIONS**

*The district attorney of any county in which a violation of any provision of this code occurs shall, upon request of any enforcing officer or other interested person, prosecute any such violation. The prosecutor of any municipality has concurrent jurisdiction as to any violation which is committed within his territorial jurisdiction. (F&A 8)*

# MINIMUM STANDARDS FOR MARINE ANIMALS

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**Definition:** ... “[M]arine mammals” means sea otters, whales, dolphins, porpoises, seals, and sea lions. (Fish & Game Code 4500 (c))

**NOTE:** Other marine animals include every member of the animal kingdom that lives in a marine environment, including fish and crustaceans (such as crabs, crayfish, and lobster).

## 6 SIMPLE STEPS TO A LAW-ABIDING GUARDIAN/OWNER

### 1. **Proper Food:** marine animal food containing all the essential nutrients.

*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food**...for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

- ♦ **Providing** means given to the marine animal in a safe manner and place at least twice a day
- ♦ If the marine animal is thin, this is evidence of a failure to provide proper food on a regular basis

► **NOTE:** Impounding a marine animal without giving “a sufficient quantity of good and wholesome food” is a misdemeanor. (PC 597e)

### 2. **Necessary Shelter**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”...is, for every such offense, guilty of a crime punishable as a **misdemeanor or a felony**...” (PC 597 (b))*

- ♦ Therefore, the Habitat Must Conform to Natural Habitat in Wild, Protect From Predators, and Provide Stimulation, anything else is failure to provide what is **necessary** regarding the animal’s **shelter**
- If the animal swims in the wild, even if it can also survive on land, a swimming area must be provided daily
- If the animal spends time both in water and out of water in the wild, there must be both wet and dry areas in the habitat
- If the habitat is outdoors or in an area where there are natural predators, the animal must be protected from those predators and not left vulnerable to attack
- Marine animals must not be isolated, and must have opportunities for socialization on a daily basis.
- The habitat must provide natural places for the animal to hide if the species hides in the wild (such as rocks or plants).

In short, the animal should be made to feel “right at home” and not “like a fish out of water”.

### 3. **Clean Environment**

*Every person “having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**”...[is] for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*

- ♦ **Needless Suffering** means forcing an animal to live in a dirty, unhealthy environment.
  - No odor, garbage or debris
  - No parasites that harm marine animals

**NOTE:** Often, failure to provide a clean habitat is the most cruel act one can perpetrate against a marine animal. The animal will linger in an unhealthy state and die slowly while suffering. For this reason, failure to provide a clean environment for a marine animal may be a felony.

### 4. **Protection from the Weather**

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives [the animal] of **necessary...shelter**”... “or fails to provide the animal **protection from the weather**...for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

- ♦ Access to shelter that protects from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week
  - **Protection**- must be a permanent structure that does not get excessively hot or cold
    - In Hot weather**- temperatures should not be above 85° F inside
    - In Cold weather**- temperatures should not be below 55° F inside

(Unless advised by an expert that the particular species enjoys temperatures outside of this range—the owner/keeper must be prepared to provide an officer with proof of such an assertion)

### 5. **Adequate Space to Exercise**

*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**... Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.” (PC 597t)*

- ♦ Adequate exercise area means a large enough container for the animal to move around and exercise **as it would in its natural habitat**. For instance, if it swims long distances in the wild, it must have a very large tank.

## 6. Free of Cruelty and Neglect

PC 599b defines the word “**cruelty**” to include “...*every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...*”

The basic anti-cruelty statute in California says that cruelty or neglect (see above) may be a misdemeanor or a felony (PC 597): “...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 [felony]...every person who...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...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**...for every such offense, is guilty of a crime punishable as a misdemeanor or a felony...”

**NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

## 7. Proper Care Must Be Provided

Every owner, driver, or possessor of any animal, who permits the animal to be... without proper care and attention, shall, on conviction, be guilty of a misdemeanor... (PC 597f)

**NOTE:** [I]t shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

- ♦ Parasites must be eradicated immediately from the body of the marine animal in a humane manner
- ♦ Upon injury or disease, the marine animal must be immediately given veterinary care.
- ♦ Keep scales, skin, teeth, shell (if applicable) and eyes in proper health with proper maintenance and veterinary assistance.

## NON NATIVE AQUATIC ANIMALS

### Non Native Wild Aquatic Animals Prohibited

It is unlawful for any person to receive, bring, or cause to be brought into this state, for the purpose of propagation, any fish, reptile, amphibian, or aquatic plant from any place wherein any infected, diseased, or parasitized fish, reptile, amphibia, or aquatic plants are known to exist. (F&G 2270)

### Non Native Wild Aquatic Animals Allowed With Written Approval

(a) No live aquatic plant or animal may be imported into this state without the prior written approval of the department pursuant to regulations adopted by the commission. A written application for the importation, submitted in conformance with the procedural requirements established by the commission, is deemed approved where it has not been denied within 60 days.

(b) This section does not apply to the following plants or animals unless the plants or animals are or may be placed in waters of the state:

- (1) Mollusks.
- (2) Crustaceans.
- (3) Ornamental marine or freshwater plants and animals that are not utilized for human consumption or bait purposes and are maintained in closed systems for personal, pet industry, or hobby purposes.

(c) The section does not apply to any live aquatic plant or animal imported by a registered aquaculturist.

(F&G 2271)

### Fully Protected Fish

- (a) (1) Except as provided in Section 2081.7, fully protected fish or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected shish, and no permits or licenses heretofor issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the



department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected fish or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

- (1) Colorado Rive squawfish (*Ptychocheilus lucius*).
  - (2) Thicketail chub (*Gila crassicauda*).
  - (3) Mohave chub (*Gila mohavensis*).
  - (4) Lost River sucker (*Catostomus luxatus*).
  - (5) Modoc sucker (*Catostomus microps*).
  - (6) Shortnose sucker (*Chasmistes brevirostris*).
  - (7) Humpback sucker (*Xyrauchen texanus*).
  - (8) Owens River pupfish (*Cyprinodon radiosus*).
  - (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
  - (10) Rough sculpin (*Cottus asperimus*).
- (F&G 5515)

## **PET SHOPS**

### **Conditions in Pet Shops**

(a) It shall be unlawful [a misdemeanor, see below] for any person who operates a pet shop to fail to do all of the following:

- (1) Maintain the facilities used for the keeping of pet animals in a sanitary condition.
- (2) Provide proper heating and ventilation for the facilities used for the keeping of pet animals.
- (3) Provide adequate nutrition for, and humane care and treatment of, all pet animals under his or her care and control
- (4) Take reasonable care to release for sale, trade, or adoption only those pet animals that are free of disease or injuries
- (5) Provide adequate space appropriate to the size, weight, and specie of pet animals.

(b) (1) Sellers of pet animals shall provide buyers of a pet animal with general written recommendations for the generally accepted care of the class of pet animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal...

## **MARINE MAMMALS MAY NOT BE KILLED**

### **Live Animal Markets**

(a) Every person who operates a live animal market shall do all of the following:

- (1) Provide that no animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive.
- (2) Provide that no live animals will be confined, held, or displayed in a manner that results, or is likely to result, in injury, starvation, dehydration, or suffocation.

(b) As used in this section:

- (1) "Animal" means frogs, turtles, and birds sold for the purpose of human consumption, with the exception of poultry.
- (2) "Live animal market" means a retail food market where, in the regular course of business, animals are stored alive and sold to consumers for the purpose of human consumption.

(c) Any person who fails to comply with any requirement of subdivision (a) shall for the first violation, be given a written warning in a written language that is understood by the person receiving the warning. A second or subsequent violation of subdivision (a) shall be an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250), nor more than one thousand dollars (\$1,000). However, a fine paid for a second violation of subdivision (a) shall be deferred for six months if a course is available that is administered by a state or local agency on state law and local ordinances relating to live animal markets. If the defendant successfully completes that course within six months of entry of judgment, the fine shall be waived. The state or local agency may charge the participant a fee to take the course, not to exceed one hundred dollars (\$100). (PC 597.3)

### **Eating Animals Traditionally Kept as Pets Is a Misdemeanor**

Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)

**Removing “No Fishing” or “No Trespassing” Signs Placed Pursuant to Law a Crime**

*Every person who intentionally defaces, obliterates, tears down, or destroys any copy or transcript, or extract from or of any law of the United States or of this state, or any proclamation, advertisement, or notification set up at any place in this state, by authority of any law of the United States or of this state, or by order of any court before the expiration of the time for which the same was to remain set up, is punishable by fine not less than twenty nor more than one hundred dollars, or by imprisonment in the county jail not more than one month. (PC 616)*

**Package Containing Live Aquatic Animal Must Be Labeled**

*Each package containing any live aquatic plant or animal shall bear, in a conspicuous place, a tag on which shall be stated the name and address of the consignor, the name and address of the consignee, and the exact contents of the package.*

**(F&G 2272)**

**“Taking” Marine Mammals Generally Prohibited**

*(a) It is unlawful to take any marine mammal except in accordance with provisions of the Marine Mammal Protection Act of 1972 (Chapter 31 (commencing with Section 1361) of Title 16 of the United States Code) or provisions of Title 50 of the Code of Federal Regulations, or pursuant to subdivision (b) of this section.*

*(b) At such time as federal laws or regulations permit the state to assume jurisdiction over marine mammals, the commission may adopt regulations governing marine mammals and the taking thereof.*

*(c) For purposes of this chapter, “marine mammals” means sea otters, whales, dolphins, porpoises, seals, and sea lions. (F&G 4500)*

**Allowed “Take” Must Occur ONLY During Season Designated**

*(a) Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibia except during the open season where taken for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.*

*(b) Except as provided in Section 3080, it is unlawful to possess game birds or mammals except during the open season where taken.*

**(F&G 2001)**

**ENDANGERED SPECIES****Misdemeanor/ \$1,000 Fine to Possess with intent to Sell or to Sell Dead Body Part or Product of Any of These Species (Some Endangered, Some Not)**

*It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any alligator, crocodile, polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable, antelope, wolf (Canis lupus), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vocuna, sea otter, free-roaming feral horse, dolphin or porpoise (Delphinidae), Spanish lynx, or elephant.*

*Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation... (PC 653o)*

**Importation, Possession with Intent to Sell and Selling of Endangered Species OR Protected Marine Mammals Body Parts or Products of such Body Parts Is a Federal Offense that May Be Enforced by Local Law Enforcement**

*It is unlawful [a misdemeanor] to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any species or subspecies of any fish, bird, mammal, amphibian, reptile, mollusk, invertebrate, or plant, the importation of which is illegal under the Federal Endangered Species Act of 1973 (Title 16, United States Code Sec. 1531 et seq.) and subsequent amendments, or under the Marine Mammal Protection Act of 1972 (Title 16, United States Code Sec. 1361 et seq.), or which is listed in the Federal Register by the Secretary of the Interior pursuant to the above acts. The violation of any federal regulations adopted pursuant to the above acts shall also be deemed a violation of this section and shall be prosecuted by the appropriate state or local officials. (PC 653p, 653r)*

**Importation, Possession with Intent to Sell and Selling of Seal Bodies: Misdemeanor**

*It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any seal. Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation. (PC 653q)*

**PENALTIES****Violation of Fish and Game Code—Misdemeanor, Penalties**

(a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations, as those statutes or regulations read on January 1, 2003, is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand (\$1,000), or of a misdemeanor:

- (1) Subdivision (a) of Section 6596
- (2) Section 7149.8.
- (3) Section 7360.
- (4) Section 1.74 of Title 14 of the California Code of Regulations.
- (5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.
- (6) Sections 27.56, 27.65, and 27.70 of Title 14 of the California Code of Regulations.
- (7) Sections 27.85 to 30.10, inclusive, of Title 14 of the California Code of Regulations.
- (8) Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.
- (9) Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.
- (10) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.

**(F&G 12000)**

**Violation of Fish and Game Code—Felony**

Any person who takes any bird or mammal in violation of an order issued pursuant to Section 12150 of this code, is guilty of a felony.

**(F&G 12001)**

**Device(s) Used in Violating F&G Code or PC 597 Is Forfeited**

(a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish, reptiles, or amphibia and that was used in committing the offense charges.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c) (1) The judge may, for conviction of a violation of wither the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:

(A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.

(B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.

(2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause a serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle has knowledge of the violation.

(3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations of Section 2000, as determined by the court.

(d) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(e) (1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.

(2) A lien in which the lienholder is a conspirator is ot a valid lien for purposes of this subdivision.

(f) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(g) For purposes of this section, a plea of nolo contendere or of no contest, or fofeiture of bail, constitutes a conviction.

(h) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 86.30. **(F&G 12157)**

### Forfeiture of Motor Vehicle or Snowmobile Used in Committing Offense

*The judge before whom any person is tried and convicted of violating Sections 2004 and 2016 and, at the same proceeding, is also tried and convicted of violating Section 2001 or 2005 may, in his discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charges. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund, except that any valid liens on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction. (F&G 12157.5)*

## SEIZURE

### Seizure of Marine Animal by Law Enforcement Officer (3 Reasons to Seize)

(1) Animals in need of “proper care and attention” MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned... and care for the animal... (PC 597f(a))*

*It shall be the duty of all officers of pounds 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.... (PC 597f(b))*

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### Post Seizure Procedure

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the marine animal within 48 hours (excluding weekends and holidays) that the marine animal was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the marine animal or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the marine animal shall be a lien on the marine animal and that the marine animal shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.



– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(PC 597.1 (l)-(k))

### Pre Seizure Hearing

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the marine animal. The owner shall produce the marine animal at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### ARREST

#### ♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor.  
(Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

### COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*



# **MINIMUM STANDARDS FOR** **POULTRY BIRDS**

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**DEFINITIONS**

***“Poultry” means any domesticated bird, whether live or dead. (F&A 18675)***

**NOTE:** Regardless of this definition in the statute, the term refers to birds killed for their meat and not pet birds.

***“Animal” includes, but is not limited to, any domesticated fowl or nonhuman mammal and any wild fowl, bird, or mammal that is reduced to captivity. (F&A 9202)***

***“Animal,” “livestock,” or “domestic animal” includes poultry. (F&A 9502)***

**NOTE:** Livestock are covered separately in this guide in its own section.

***“Poultry” includes all domesticated fowl and any wild fowl or bird which is reduced to captivity. (F&A 9503)***

***“Fowl” includes chickens, turkeys, ducks, geese, and other domesticated birds. (F&A 24652)***

***“Growing poultry” means feeding and caring for poultry. (F&A 24653)***

***“Poultry” means domesticated fowl and domesticated rabbit which are intended for use for human food. (F&A 24657)***

***“Poultry meat” means the carcass of poultry or any part of such carcass. (F&A 24658)***

***“Poultry plant” means any of the following:***

- (a) Any place where poultry is slaughtered, dressed, or drawn.*
  - (b) Any place, except a retail store or eating place, where poultry meat or poultry meat food products are cooked, cured, smoked, cut up, recut, packed, or repacked, or otherwise prepared for human food.*
- (F&A 24659)**

***“Producer” means any person that is engaged in the business of growing any poultry, which is marketed as poultry meat, for a period of three weeks or more for the purpose of increasing the size and weight of such poultry. (F&A 24660)***

***“Sanitary” means free from unnecessary dirt, filth, and contamination and free from any other substance or organism which is known to be injurious to human health. (F&A 24661)***

**ANIMAL HUSBANDRY STANDARDS OF CARE*****(a) Food.***

- (1) The food shall be free from contamination, wholesome, and of sufficient quality and nutritive value to meet the known normal daily requirements for the condition and size of the animal.*
- (2) Food, and food receptacles if used, shall be accessible to all animals and shall be placed so as to minimize contamination by excreta. Food receptacles, except self feeders, shall be kept clean and sanitized at least once a week.*

***(b) Watering.***

- (1) All watering receptacles shall be kept clean and shall be sanitized at least once a week.*
- (2) Automatic watering devices shall be maintained in accordance with good husbandry practices. They shall be sanitized when occupancy in the primary enclosure is changed and at the end of quarantine period.*

***(c) Sanitation.***

- (1) Cleaning of Primary Enclosures. Excreta shall be removed from the primary enclosures at least daily, or as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent animals confined in such enclosures from being wetted or contaminated involuntarily.*
- (2) Sanitization of Primary Enclosures.*
  - (A) Prior to the introduction of animals into primary enclosures previously occupied by other animals, such enclosures shall be sanitized in the manner provided in subparagraph (c)(3) of this subdivision.*
  - (B) Primary enclosures shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard: Provided, however, that such enclosures shall be sanitized at least once every two weeks in the manner provided in subparagraph (c)(3) of this subdivision.*

(3) *Sanitizing Procedures.* Cages, rooms, vehicles and hard surfaced pens or runs shall be sanitized either by washing them with hot water (180 F) and soap or detergent, as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.

(d) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this section. Premises shall remain free of accumulations of trash.

(e) *Pest Control.* An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

(f) *Employees.* A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth herein. Persons well trained and competent in retrieving, restraining and releasing animals in a humane manner for testing and examination procedures during quarantine must be provided. Such practices shall be carried out by or under the supervision of an animal caretaker who has a background in animal husbandry or care. Proper safeguards and precautions shall be practiced by employees so as not to endanger themselves, other persons, or animals. Outer work clothing, gloves, boots, etc., used in caring for animals in quarantine shall not be worn outside the quarantine area.

(g) *Classification and Separation.*

(1) *Animals housed in the same primary enclosure shall be maintained in compatible groups and shall not be housed in the same primary enclosure with other animal species.*

(2) *Animals entering quarantine on different dates shall not be housed in the same room, unless the quarantine periods commence with the date of the last animal(s) admitted to the room (See Section 30081).*

(h) *Veterinary Care.*

(1) *Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a veterinarian.*

(2) *Each animal shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame, or blind animals shall be provided with veterinary care or humanely disposed of unless such action is inconsistent with the purposes for which the animals are being imported.*

(i) *Vehicles.*

(1) *Vehicles used in transporting animals shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts. The vehicles shall contain the animals and restrict the entry of other animals and unauthorized persons.*

(2) *The ability to view the interior of the cargo space is necessary to observe any animals that may have escaped from their primary enclosures.*

(3) *The interior of the animal cargo space shall be kept clean.*

(4) *The animal cargo space and all primary enclosures used in transport shall be cleaned and sanitized in the manner provided in subsection (c)(3) of this section after each shipment has been transported from the point of arrival to the quarantine facility. Animals entering quarantine and those having completed the quarantine shall not be transported concurrently in the same vehicle.*

(17 CCR 30079)

## **IN ADDITION, THE 10 STEPS TO A LAW-ABIDING OWNER/GUARDIAN APPLY AS WELL**

### **Steps 1-2: Proper Food and Drink (Water)**

#### **1. Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible 24 hours a day

*Every person "who has the charge or custody of any animal, as owner or otherwise" and "fails to provide the animal with proper... drink...is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))*

♦ A dehydration test is performed by examining the comb for color. It should be bright and not pale. If the poultry bird drinks quickly and vigorously immediately after being given water, this is a sign that water has not been accessible for a while.

#### **2. Proper Food:** contains all the essential nutrients

*Every person "who has the charge or custody of any animal, as owner or otherwise" and "fails to provide the animal with proper food...for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))*

♦ Providing means given to the poultry bird in a safe manner and place at least twice a day

♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis. If the hip joints protrude the animal is near starvation.

► **NOTE:** Impounding a poultry bird without giving "a sufficient quantity of good and wholesome food and water" is a misdemeanor. (PC 597e)

**Steps 3-5: Necessary Shelter**

Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))

**3. Clean Environment**

Every person “having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**”... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))

- ♦ **Needless Suffering** means forcing an animal to live in a dirty, unhealthy environment. (It can cause many serious illnesses.)
  - No odor, garbage or debris
  - No mites, fleas, ticks, parasites, or other insects that harm poultry birds

**4. Protection from the Weather**

Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather**...” for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))

- ♦ What is REQUIRED to provide **Protection from the Weather**?
  - A sound structure for shelter (not a vehicle or crawl space under a structure or structure made of flimsy materials). It must have **4 walls, a roof, and a floor** to protect from the sun, the heat, the cold and the rain.
  - The shelter must provide **temperature control** in order to protect from the weather.
  - The shelter MUST protect from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week!
    - Hot weather—temperatures should not be above 85° F inside
    - Cold weather—temperatures should not be below 55° F inside
    - Wet weather—the inside of the shelter **must be dry**

**5. Adequate Space to Exercise (PC 597t)**

“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**... Violation of this section constitutes a misdemeanor.

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*

- ♦ **Adequate exercise area** means 2 sq ft per pound of body weight per poultry bird (multiply poultry bird body weight by 2 to get proper square footage for habitat)

**Step 6: Free of Cruelty and Neglect**

PC 599b defines the word “**cruelty**” to include “...every act. omission, or **neglect** whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...”

**6. Cruelty (or neglect) may be a misdemeanor or a felony (PC 597)**

“...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 [felony]...every person who...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...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... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...”

**NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

**Steps 7-10: Proper Care and Attention Must Be Provided**

**NOTE:** [I]t shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid... (PC 597f(a))

...[A]ny officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy **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 dispose of the animal. (PC 507f (d))

**7. Basic Vaccinations**

Basic vaccinations must be given.

**8. Mites, Fleas and Ticks Must Be Eradicated**

Mites, fleas and ticks must be eradicated immediately from the body of the poultry bird in a humane manner.

**9. Veterinary Care Must Be Provided**

Upon injury or disease, the poultry bird must be immediately given veterinary care.

**10. Beaks and Feet Must Be Kept in Healthy Condition**

Failure to keep beaks and feet in a healthy condition is a violation of PC 597 (cruelty/neglect) as well as PC 597f (failure to provide vet care) and **PC 597.1** (failure to provide vet care).

**COCKFIGHTING PROHIBITED****Minors Admitted**

*Any minor under the age of 16 years who visits or attends any prizefight, cockfight, or place where any prizefight, or cockfight is advertised to take place, and **any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor** of any place where any prizefight or cockfight is advertised or represented to take place **who admits** any minor to a place where any prizefight or cockfight is advertised or represented to take place or **who admits, sells, or gives to any such minor a ticket** or other paper by which such minor may be admitted to a place where a prizefight or cockfight is advertised to take place is guilty of a **misdemeanor, and is punishable by a fine of not exceeding one hundred dollars (\$100) or by imprisonment in the county jail for not more than 25 days.** (PC 310)*

**Fighting Animals Prohibited; Spectators Also Guilty**

*(a) Except as provided in subdivision (b), any person who, for amusement or gain, **causes** any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or with any human being; or who, for amusement or gain, worries or injures any bull, bear, dog or other animal, or causes any bull, bear or other animal, not including any dog, to worry or injure each other; and any person who **permits the same to be done on any premises under his or her charge or control**; and any person who **aids, abets, or is present** at the fighting or worrying of an animal or creature, as a **spectator**, is guilty of a **misdemeanor**.*

*(b) Notwithstanding subdivision (a), any person who, for amusement or gain, **causes any cock to fight with another cock** or with a different kind of animal or creature or with any human being; or who, for amusement or gain, worries or **injures any cock**, or **causes any cock to worry or injure another** animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.*

*(c) A second or subsequent conviction of this section, Section 597c, or Section 597j is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty five thousand dollars (\$25,000), or by both that imprisonment and fine... (PC 597b)*

**Keeping or Training Fighting Birds/ Presence During Preparation Prohibited**

*(a) Except as provided in subdivision (b), whoever owns, possesses, keeps or trains any animal with the intent that the animal shall be engaged in fighting; or is present at any place, building, or tenement where the preparations are being made for an exhibition of the fighting of animals, with the intent to be present at that exhibition; or is present at that exhibition, is guilty of a misdemeanor.*

*(b) Notwithstanding subdivision (a), whoever owns, possesses, keeps, or trains any **cock or other bird, with the intent that the cock or other bird shall be engaged in an exhibition of fighting** is guilty of a crime punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.*

*(c) A second or subsequent conviction of this section, Section 597b or Section 597j is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence.*

*(d) This section shall not apply to the exhibition of fighting of a dog with another dog. (PC 597c)*

**Trading in Implements of Cockfighting Is a Misdemeanor**

*(a) It shall be unlawful for anyone to manufacture, buy, sell, barter, exchange, or have in his or her possession any of the implements commonly known as gaffs or slashers, or any other sharp implement designed to be attached in place of the natural spur of a gamecock or any other fighting bird.*

*(b) Any person who violates any of the provisions of this section is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine*



and upon conviction thereof shall, in addition to any judgment or sentence imposed by the court, forfeit possession or ownership of those implements. (PC 507i)

### **Possession of Gamecocks for Fighting Is a Misdemeanor**

(a) Any person who owns, possesses, keeps or trains any bird or animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting a dog with another dog.

(c) A second or subsequent conviction of this section, Section 597b, or Section 597c is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence. (PC 597j)

### **Entry and Arrest Without Warrant**

Any sheriff, police, or peace officer, or office qualified as provided in Section 14502 of the Corporations Code [a trained Humane Officer], may enter any place, building, or tenement, where there is an exhibition of the fighting of birds or [other] animals, or where preparations are being made for such an exhibition, and, without a warrant, arrest all persons present. (PC 597d)

## **HUMANE SLAUGHTER**

(a) Cattle, calves, horses, mules, sheep, swine, goats, or fallow deer or **poultry** shall be slaughtered by the methods prescribed in this section. No state agency shall contract for, purchase, procure, or sell all or any portion of any animal, unless that animal is slaughtered in conformity with this chapter. This chapter applies to any person engaged in the business of slaughtering animals enumerated in this section, or any person slaughtering any of those animals when all, or any part of, that animal is subsequently sold or used for commercial purposes.

(b) All cattle, calves, horses, mules, sheep, swine, goats, or fallow deer subject to this part, or poultry subject to Part 1 (commencing with Section 24501) of, Part 2 (commencing with Section 25401) of, Part 3 (commencing with Section 25401) of, Division 12 shall be slaughtered by either of the following prescribed methods:

(1) The animal shall be rendered insensible to pain by a captive bolt, gunshot, electrical or chemical means, or any other means that is rapid and effective before being cut, shackled, hoisted, thrown, or cast, with the exception of poultry which may be shackled.

(2) The animal shall be handled, prepared for slaughter, and slaughtered in accordance with ritual requirements of the Jewish or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

This section does not apply to the slaughter of spent hens and small game birds, as defined by the department by regulation. (F&A 19501)

### **Handling Poultry for Slaughter**

Regardless of the humane method of slaughter employed, the handling of poultry in connection with slaughter shall meet the following criteria.

(a) Poultry shall be delivered to the stunning area in transport cages or other equipment that is of sufficient size to accommodate the size of the poultry being presented for slaughter. Cages must be in good repair, free of broken wire, rough areas, holes, sharp projections, and other protrusions to avoid injury to the poultry.

(b) If improper or injurious conditions exist at delivery to the poultry slaughter establishment, the PMI or Department inspector shall immediately halt slaughter activity until the discrepancy is corrected. A "California Rejected Tag" shall be attached to each cage identified with improper or injurious conditions by the PMI or Department inspector. The unacceptable conditions shall be corrected immediately by the poultry slaughter establishment or its designated representative. The "California Rejected Tag" shall be removed by the PMI or Department inspector after corrective actions have been taken.

(c) Poultry delivered to slaughter shall be held in a location with adequate ventilation to prevent overheating and shall have protection from exposure to adverse weather conditions.

(d) Poultry shall be stunned, rendered unconscious, or killed before bleeding. Stunned poultry shall remain in a state of surgical anesthesia through completion of the bleeding process.

(e) Bleeding shall be accomplished by severing both carotid arteries or by decapitation. Sufficient bleeding time (approximately 2 to 3 minutes) shall be allowed to prevent the unacceptable condition known as "red skins" which may occur with insufficient bleeding.

(f) PMIs shall be trained in humane methods of handling poultry.

(g) Slaughter and handling of poultry shall be performed by operators in a proper and humane manner.

(h) Each poultry slaughter establishment shall ensure that poultry handlers, slaughterers, and operators have been instructed in humane methods of handling poultry and operating stunning or anesthetizing equipment before being assigned to such duties.

(i) Non-commercial stunning or anesthetizing equipment shall not be used.  
(CCR 1245.3)

### **Method of Humane Slaughter of Poultry**

(a) The Department has determined that the following methods are acceptable and practical humane methods for use in the stunning and slaughter of poultry.

- (1) Carbon dioxide and argon gas-induced anoxia.
- (2) Electrical stunning.
- (3) Electrocution to cardiac arrest.
- (4) Captive bolt (ostrich and rabbit only.)
- (5) Cervical dislocation.
- (6) Carotid artery severance.
- (7) Decapitation.
- (8) Other methods approved by the Department.

(b) Any of the above methods may be used in combination to effect the most humane slaughter of poultry.

(c) Each poultry slaughter establishment shall be responsible for the selection of sale equipment and the safe use of such equipment.

(d) Establishments selecting the carbon dioxide and argon gas electrical stunning, or electrocution method shall install all equipment in accordance with the manufacturer's specifications, or under the supervision of a licensed engineer. Such installations shall comply with all applicable building and safety codes as specified by local and state government.

(CCR 1245.4)

### **Use of Gas on Poultry**

Where the carbon dioxide and argon gas mixture is used for the humane slaughter of poultry, it shall be subject to the following requirements.

(a) The poultry shall be delivered to the chamber in the transport cages or other equipment to prevent excessive handling and stress. The delivery of poultry to the chamber shall be done with a minimum of excitement and discomfort to the poultry. Delivery of calm poultry to the chamber is essential to effective and humane slaughter.

(b) The carbon dioxide and argon gas mixture shall be administered in a chamber meeting the requirements of this section and section 1245.4. The poultry shall be exposed to a carbon dioxide and argon gas ratio sufficient to accomplish effective surgical anesthesia in the poultry before severing both of the carotid arteries in the neck or decapitating the poultry. To ensure adequate bleeding in each bird, bleeding shall be done immediately after stunning or killing.

(CCR 1245.6)

### **Requirements for Electrical Slaughter/Stunning Equipment**

Where electric current is used for the humane slaughter of poultry, it shall be subject to the following requirements.

(a) All equipment shall be installed and used in accordance with the manufacturer's instructions and specifications.

(b) Only electric current application equipment with pathways, compartments, current applicators, and all auxiliary equipment designed to properly accommodate the species of poultry being anesthetized or slaughtered shall be used.

(c) The delivery of poultry to the place of application of electric current shall be done with a minimum of excitement and discomfort to the poultry in accordance with the provisions contained in these regulations.\*

(d) The application of electric current to stun or induce cardiac arrest shall be performed by operators so as to assure proper handling and humane application.

(e) The electric current shall be administered so as to produce effective surgical anesthesia or death with a minimum of excitement and discomfort.

(CCR 1245.7)

**VETERINARY NOTE:** To minimize excitement and discomfort, delivery of poultry should be done by carrying the poultry bird, right side up (never by the feet, upside down), with the wings tucked under to prevent flapping.

### **Electrocution to Kill for Slaughter**

Where electrocution to cardiac arrest is used for the humane slaughter of poultry, it shall be subject to the following requirements.

(a) Poultry may be stun-killed with this method.

(b) Sufficient electric current shall be administered to the poultry, depending on size and weight of the species slaughtered, to induce cardiac arrest without the poultry regaining consciousness.

(c) The proper voltage and current setting for each lot of birds may vary due to size and weight variations. Voltage may be adjusted to higher setting to ensure that each poultry is delivered the appropriate amount of current to induce cardiac arrest.

(d) After each poultry has been electrocuted, it shall be immediately bled by severing both carotid arteries or by decapitation to allow

proper bleeding. Adequate bleeding time shall be allowed for each bird. Since electrocuted poultry does not have heart pumping action to facilitate blood loss, more time (approximately 2 to 3 minutes) should be allowed to achieve complete bleeding before being introduced to the scalding tank.  
(CCR 1245.9)

#### **Captive Bolt to Kill for Slaughter**

Captive bolt is an acceptable method of humane slaughter of rabbits, ostriches, and other similar large birds.

- (a) Where captive bolt is used as the humane method of slaughter, the captive bolt device shall be appropriate size for the chosen species.
- (b) The captive bolt device must be properly placed so that the cerebral hemisphere and the brainstem are adequately disrupted by the penetrating bolt to cause immediate unconsciousness. Immediate bleeding must follow use of the captive bolt device.

(CCR 1245.11)

#### **Cervical Dislocation to Kill for Slaughter**

Where dislocation of the neck is used as the humane method of slaughter, it shall be subject to the following requirements.

- (a) Dislocation of the neck by separating the cervical vertebrae from the base of the skull shall be performed quickly to induce rapid unconsciousness with a minimum of excitement and discomfort to the poultry.
- (b) Bleeding shall immediately follow cervical dislocation.

(CCR 1245.11)

#### **Cartoid Artery Severance to Kill for Slaughter**

Where cartoid artery severance is used for the humane slaughter of poultry, it shall be subject to the following requirements.

- (a) Cartoid artery severance may be employed by manual or automatic means.
- (b) Severing the artoid arteries shall be performed using a sharp instrument which is used to sever both cartoid arteries simultaneously.
- (c) Regardless of the method employed, it shall be performed quickly to induce rapid unconsciousness or death within a minimum of excitement to the poultry.

(CCR 1245.12)

#### **Decapitation**

Where decapitation is used as the humane method of poultry slaughter, it shall be subject to following requirements.

- (a) Decapitation may be achieved by manual or automatic means.
- (b) Decapitation shall be performed using a sharp instrument which achieves the complete severance of the head from the body by cutting all the major vessels of the neck and the spinal cord with a sharp instrument.
- (c) Regardless of the method employed, it shall cause quick and complete severance of the cartoid arteries and the spinal cord.
- (d) All mechanical and automatic instruments used in this method shall be sharp and inspected frequently for sharpness. The poultry slaughter establishment shall ensure that all instruments and equipment are maintained in a satisfactory.

(CCR 1245.13)

#### **Slaughterhouse Worker Training**

- (a) Each license PMI shall be responsible for attending formal annual maintenance training provided by the Department, including, but not limited to, humane handling and slaughter of poultry.
- (b) Failure of each PMI to attend annual maintenance training, as specified in paragraph (a) of this section, shall be grounds for nonrenewal, suspension, or revocation of the PMI's license.
- (c) It is the responsibility of the establishment management and the licensed PMI to make arrangements in the work schedule to attend the annual maintenance training.
- (d) Owners and managers shall be responsible for attending at least one scheduled departmental PMI training seminar orientation on humane handling and slaughter of poultry procedures, as specified in paragraph (a) of this section.

(CCR 1245.14)

#### **Kosher Slaughter**

- (a) Where a method of slaughter is prescribed by Kosher or other rules of the Jewish faith, Islamic and other faiths and causes the poultry to lose consciousness through anemia of the brain resulting from the simultaneous severance of both cartoid arteries with a sharp instrument, it shall be considered a humane method of slaughter.
- (b) Exemptions for other methods of ritualistic slaughter of poultry may be obtained upon arrival by the Chief, Meat and Poultry Inspection Branch while effectuating the purpose of these regulations.

(CCR 1245.16)

**Penalty**

*All slaughter of poultry, with the exception\* of “Spent hens” and “Small game birds,” shall be performed in accordance with approved methods of humane poultry slaughter as provided in this article. Violations of humane slaughter procedures specified in this article shall be cause for the suspension of inspection and revocation of the poultry slaughter establishment’s license by the Chief of the Meat and Poultry Inspection Branch after the establishment’s management has been given notice and an opportunity for a hearing. (CCR 1245.1)*

►**REMEMBER:** PC 597 protects ALL animals from being “cruelly killed.” NO EXCEPTIONS—spent hens and small game birds (and all other animals) must NOT be killed in a cruel manner, or subjected to needless suffering, etc. To do so is a misdemeanor or a felony!

**INSPECTION OF POULTRY MEAT/MEAT FACILITY**

**NOTE:** Larger facilities and facilities that sell animals or meat across state lines are subject to federal inspection (by the United States Department of Agriculture). All other facilities are subject to state inspectors and not the USDA inspectors.

**Adoption of Federal Regulations**

*Pursuant to Section 18735 of the Agricultural Code regulations of the United States Department of Agriculture governing meat and meat products inspection and poultry and poultry products inspection, Title 9, Part 301 et seq. and part 381, Code of Federal Regulations respectively, are adopted by reference as regulations of the Director, subject to the amendments in this article. (3 CCR §900)*

**Scope of Inspection**

*(a) As a result of the termination of the State-Federal meat and poultry inspection programs formerly conducted pursuant to 21 U.S.C. 661 et seq. (meat inspection) and 21 U.S.C. 454 (poultry inspection), effective April 1, 1976 and thereafter state inspection of meat and poultry plants and products is required only for those plants and products subject to inspection pursuant to the provisions of the Food and Agricultural Code, Sections 18650-18935 and 24651-25151, which are not under inspection by the United States Department of Agriculture.*

*(b) The following establishments and products therefrom, while operating and distributing products solely within California and while under exemption from federal inspection pursuant to 9 Code of Federal Regulations Parts 303 and 381, continue to require state inspection:*

- (1) The custom slaughter by any person of cattle, sheep, swine, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in intrastate commerce of the carcasses, parts thereof, meat and meat food products of such livestock, exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees. [9 C.F.R. Parts 303.1(a)(2)]*
- (2) The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation in intrastate commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees. [9 C.F.R. 381.10(a)(4)]*
- (3) Operations involving the preparation of products of cattle, sheep, swine, or goats traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store, restaurant or similar retail-type establishment, for sale in normal retail quantities or service of such articles to consumers at such establishments when involving curing, cooking, smoking, or other preparation of products. [9 C.F.R. 303.1(d)]*
- (4) Operations involving the processing of poultry and poultry products traditionally and usually conducted at retail stores and restaurants when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments. [9 C.F.R. 381.10(d)]*
- (5) The slaughter of poultry and the processing of products therefrom by any poultry producer on his own premises with respect to poultry raised on his premises, and the distribution by any person of the poultry products derived from such operations. [9 C.F.R. 381.10(a)(5)]*
- (6) The slaughtering of poultry and the processing of products therefrom by any poultry producer or other person for distribution by him directly to household consumers, restaurants, hotels, and boardinghouses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers. [9 C.F.R. 381.10(a)(6)]*
- (7) Operations and products of small enterprises (including poultry producers) not within subparagraphs (2), (4), (5) or (6) above that are engaged in slaughtering and/or cutting up poultry for distribution as carcasses or parts thereof. [9 C.F.R. 381.10(a)(7)]*

*[Note:] Terms used in 9 C.F.R. 303.1 and 381.10, such as “small enterprises,” “retail store,” “restaurant,” and “retail quantities” when used in this section have the same meaning as the corresponding section in the federal regulations. Accordingly, no operation under subparagraphs (5), (6), or (7) above qualifies for exemption from federal inspection if it slaughters or processes the products of more than 20,000 turkeys or 20,000 poultry of all species in the current calendar year [9 C.F.R. 381.10(b)].*



## SICK ANIMALS

### Unlawful to Bring Sick Animals into State

*It is unlawful [a misdemeanor] to bring, cause to be brought, or aid in bringing into the state any domestic animal which such person knows is infected with any contagious disease. (F&A 9161)*

### Importation of Sick Animals—Penalties

(a) Any person who negligently or intentionally violated any state or federal law or regulation, including any quarantine regulation, by importing any animal or other article, which by virtue of being pest infected or disease infected, causes an infestation or infection of a pest, animal, or disease, or causes an existing infestation to spread beyond any quarantine boundaries is liable civilly in a sum not to exceed twenty-five thousand dollars (\$25,000) for each act that constitutes a violation of the law or regulation.

(b) The Attorney General, upon request of the State Veterinarian, shall petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (a). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.

(c) The remedy under this section is in addition to, and does not supercede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.

(d) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, and research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section [sic].

(F&A 9574)

### Sick Animals Must Be Quarantined

*Any person that owns or has possession or control of any animal which is affected by any contagious or infectious disease, that fails to keep the animal within an enclosure, or herd the animal in a place where it is secure from contact with other animals of like kind that are not so affected, or that permits the infected animal to be driven on any public highway, is guilty of a misdemeanor, which is punishable by a fine of not more than one thousand dollars (\$1,000) for each offense. (F&A 9163)*

### Quarantine Violation Is an Infraction or a Misdemeanor---Penalties

*Any violation of any provision of this chapter is an infraction punishable by a fine of not more than one hundred dollars (\$100) for the first offense and is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment, for a second or subsequent offense committed within three years of a prior conviction under this chapter. (F&A 9701)*

## OTHER STATUTES REGARDING THE TREATMENT OF POULTRY BIRDS

### Chicks Dyed/ Used as Prizes

*Every person is guilty of a misdemeanor who:*

(a) Sells or gives away, any live chicks, rabbits, ducklings, or other fowl as a prize for, as an inducement to enter, any contest, game or other competition or as an inducement to enter a place of amusement or place of business; or

(b) Dyes or otherwise artificially colors any live **chicks**, rabbits, ducklings, or other fowl which has been dyed or artificially colored; or

(c) Maintains or possesses any live **chicks**, rabbits, ducklings, or other fowl for the purpose of sale or display without adequate facilities for supplying food, water, and temperature control needed to maintain the health of such fowl or rabbit; or

(d) Sells, offers for sale, barter, or for commercial purposes gives away, any live **chicks**, rabbits, ducklings, or other fowl on any street or highway...

(PC 599)

### Carcass of Any Animal on Side of Road Is a Misdemeanor

*Every person who knowingly allows the carcass of any dead animal which belonged to him at the time of its death to be put, or to remain, within 100 feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within 100 feet of any street, alley, highway, or road in common use is guilty of a **misdemeanor**. (PC 374c)*

(a) It is unlawful [an **infraction**] to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for that purpose...

(c) Each day that waste is placed, deposited, or dumped... is a separate violation...

(e) A person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars



(\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$75) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction.

(h) (1) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in commercial quantities shall be guilty of a **misdemeanor** punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) upon a first conviction, not less than three thousand dollars (\$3,000) nor more than six thousand dollars (\$6,000) upon a second conviction, and not less than six thousand dollars (\$6,000) nor more than ten thousand dollars (\$10,000) upon a third or subsequent conviction.

(2) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This subdivision does not apply to the dumping of household waste at a person's residence. (PC 374.3)

### **Poultry Birds Cannot Create a Public Nuisance**

*Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance. (PC 370 and Civ Code 3479)*

*An act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal. (PC 371 and Civ Code 3480)*

*Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor. (PC 372)*

*Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or district attorney or city attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state misdemeanors, to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated and removed. (PC 373a)*

*Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it. (Civ Code 3483)*

*The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence. (Civ Code 3484)*

*No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right. (Civ Code 3490)*

*The remedies against a public nuisance are:*

1. Indictment or information;
2. A civil action; or,
3. Abatement.

**(Civ Code 3491)**

*The remedy by indictment or information is regulated by the Penal Code. (Civ Code 3492)*

*A private person may maintain an action for a public nuisance, if it is specially injurious to himself, but not otherwise. (Civ Code 3493)*

*A public nuisance may be abated by any public body or officer authorized thereto by law. (Civ Code 3494)*

*Any person may abate a public nuisance which is specially injurious to him by removing, or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. (Civ Code 3495)*

*The remedies against a private nuisance are:*

1. A civil action; or,
2. Abatement.

**(Civ Code 3501)**

*A person injured by a private nuisance may abate it by removing, or, if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace, or doing unnecessary injury. (Civ Code 3502)*

*Where a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice must be given to him before entering to abate it. (Civ Code 3503)*

*Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance. (Civ Code 3482)*

**Changed Surroundings of Agricultural Operation Do Not Create Nuisance**

*No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. (Civ Code 3482.5 (a)(1))*

**Injury to Poultry Birds by Domesticated Dog or Other Owned Animal**

*The owner, possessor, or harbinger of any dog or other animal, that shall, on the premises of any person other than the owner, possessor, or harbinger of such dog or other animal, kill, worry, or wound any bovine animal, swine, horse, mule, burro, sheep, angora goat, or cashmere goat, or poultry, shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction:*

*1. In the prosecution of actions under the provisions of this chapter, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger of such dog or other animal, had knowledge of the fact that such dog or other animal would kill, wound or worry bovine animals, swine, horses, mules, burros, sheep, goats, or poultry.*

*2. Any person on finding any dog or dogs, or other animal, not on the premises of the owner or possessor of such dog or dogs, or other animal, worrying, wounding, or killing any bovine animals, swine, horses, mules, burros, sheep, angora or cashmere goats, may, at the time of finding such dog or dogs, or other animal, kill the same, and the owner or owners thereof shall sustain no action for damages against any person so killing such dog or dogs, or other animal.*

*Nothing in this section shall render an owner, possessor, or harbinger of a dog liable for the accidental or unavoidable killing or injury of any bovine animal, swine, horse, mule, burro, sheep, angora goat, cashmere goat, or poultry which occurs in connection with or as a incident to the driving or herding the same from the premises of the owner, possessor, or harbinger of the dog, whether such killing or injury occurs upon such premises or off of such premises.*

**(Civ Code 3341)**

**Slaughter of "Downed Animal" Is a Misdemeanor**

*(a) No slaughterhouse that is not inspected by the United States Department of Agriculture, stockyard, or auction shall buy, sell, or receive a nonambulatory animal.*

*(b) No slaughterhouse, stockyard, auction, market agency, or dealer shall hold a nonambulatory animal without taking immediate action to humanely euthanize the animal or remove the animal from the premises.*

*(c) While in transit or on the premises of a stockyard, auction, market agency, dealer, or slaughterhouse, a nonambulatory animal may not be dragged at any time, or pushed with equipment at any time, but shall be moved with a sling or on a stoneboat or other sled-like or wheeled conveyance.*

*(d) A violation of this section is a misdemeanor.*

*(e) As used in this section, "nonambulatory" means unable to stand and walk without assistance.*

*(f) As used in this section, "animal" means live cattle, swine, sheep, or goats.*

*(g) As used in its section, "humanely euthanized" means to kill by a mechanical, chemical or electrical method that rapidly and effectively renders the animal insensitive to pain. (PC 599f)*

**Poultry Slaughterhouse/Rendering Plants Must Keep Reports**

*(a) In lieu of the tag required by Section 3206, poultry processing plants licensed pursuant to Chapter 4 (commencing with Section 18650) or Chapter 4.1 (commencing with Section 18940) of Part 3 of Division 9 of the Food and Agricultural Code, which process domesticated game birds received from persons licensed pursuant to this article, may package each individual carcass in a nonreusable container clearly labeled on the outside with the species of bird and the wording "Product of a Licensed California Domesticated Game Breeder."*

*(b) Each processor receiving domesticated game birds shall keep a complete record of all birds received showing all of the following:*

*(1) The date received.*

*(2) The number and species of birds in each lot or shipment.*

*(3) The complete name, address, and domesticated game breeders' license number of the person from whom the birds were received.*

*(4) The disposition of processed birds, the date of sale or shipment, the quantity and species sold or shipped, and the person to whom the birds were sold or shipped.*

*(c) The records shall be retained by the processor for one year following date of processing. These records shall be subject to inspection upon demand by any officer of the department during hours the processing plant is in operation or open for business.*

*(d) This section does not affect the requirements of Section 3206 governing tagging domesticated game birds for transportation by those other than licensed poultry processors. (F&G 3209)*

## SEIZURE

### Seizure of Poultry Bird(s) by Law Enforcement Officer (3 Reasons to Seize)

(1) Animals in need of “proper care and attention” MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned... and care for the animal... (PC 597f(a))*

*It shall be the duty of all officers of pounds 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.... (PC 597f(b))*

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### Post Seizure Procedure

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the poultry bird within 48 hours (excluding weekends and holidays) that the poultry bird was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the poultry bird or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the poultry bird shall be a lien on the poultry bird and that the poultry bird shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### Pre Seizure Hearing

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the poultry bird. The owner shall produce the poultry bird at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person

who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### ARREST

#### ♦ Warrantless Arrest:

- (1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**
- (2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence. (PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

### COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

### PROSECUTION NOT OPTIONAL FOR DISTRICT ATTORNEY FOR FOOD AND AGRICULTURAL VIOLATIONS

*The district attorney of any county in which a violation of any provision of this code occurs shall, upon request of any enforcing officer or other interested person, prosecute any such violation. The prosecutor of any municipality has concurrent jurisdiction as to any violation which is committed within his territorial jurisdiction. (F&A 8)*

**MINIMUM STANDARDS FOR  
PUBLIC SCHOOLS**

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## ANIMALS MUST BE RESPECTED IN THE PUBLIC SCHOOL

### Teachers Must Teach Kindness to Animals

*Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations, **kindness toward domestic pets and the humane treatment of living creatures**, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government. (EduC 233.5(a))*

## PUPIL'S RIGHT TO REFRAIN FROM THE HARMFUL OR DESTRUCTIVE USE OF ANIMALS

### Definitions

*As use in this chapter:*

(a) "Animal" means any living organism of the kingdom animalia, beings which typically differ from plants in capacity for spontaneous movement and rapid motor response to stimulation, by a usually greater mobility with some degree of voluntary locomotor ability, by greater irritability commonly mediated through a more or less centralized nervous system, beings which are characterized by a requirement for complex organic nutrients including proteins or their constituents which are usually digested in an internal cavity before assimilation into the body proper, which are distinguished from typical plants by lack of chlorophyll, by an inability to perform photosynthesis, by cells that lack cellulose walls, and by the frequent presence of discrete complex sense organs.

(b) "Alternative education project" includes, but is not limited to, the use of video tapes, models, films, books, and computers, which would provide an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question. "Alternative education project" also includes "alternative test."

(c) "Pupil" means a person under 18 years of age who is matriculated in a course of instruction in an educational institution within the scope of Section 32255.5. For the purpose of asserting the pupil's rights and receiving any notice or response pursuant to this chapter, "pupil" also includes the parents of the matriculated minor. (EduC 32255)

### Pupil May Refrain From Harming Animals in School

(a) Except as otherwise provided in Section 32255.6, any pupil with a moral objection to dissecting or otherwise harming or destroying animals, or any parts thereof, shall notify his or her teacher regarding this objection, upon notification by the school of his or her rights pursuant to Section 32255.4.

(b) If the pupil chooses to refrain from participation in an education project involving the harmful or destructive use of animals, and if the teacher believes that an adequate alternative education project is possible, then the teacher may work with the pupil to develop and agree upon an alternate education project for the purpose of providing the pupil an alternate avenue for obtaining the knowledge, information, or experience required by the course of study in question.

(c) The alternative education project shall require a comparable time and effort investment by the pupil. It shall not, as a means of penalizing the pupil be more arduous than the original education project.

(d) The pupil shall not be discriminated against based upon his or her decision to exercise his or her rights pursuant to this chapter.

(e) Pupils choosing an alternative educational project shall pass all examinations of the respective course of study in order to receive credit for that course of study. However, if tests require the harmful or destructive use of animals, a pupil may, similarly, seek alternative tests pursuant to this chapter.

(f) A pupil's objection to participating in an educational project pursuant to this section shall be substantiated by a note from his or her parent or guardian.

(EduC 32255.1)

### Teachers Must Seriously Consider Pupil's Request for Alternative to Harming Animal and Pupil May Seek Recourse if Teacher Refuses Alternative

(a) A teacher's decision in determining if a pupil may pursue an alternative educational project or be excused from the project shall not be arbitrary or capricious.

(b) Nothing in this chapter shall prevent any pupil from pursuing the grievance procedures in existing law.

(EduC 32255.3)

### Teachers Must Inform Pupils That They Have Right to Refuse to Harm Animals

*Each teacher teaching a course that utilizes live or dead animals or animal parts shall also inform the pupils of their rights pursuant to this chapter. (EduC 32255.4)*

**All Public School Grades from Kindergarten –12<sup>th</sup> Grade Grant Such Rights**

*Notwithstanding any provision of law to the contrary, this chapter applies to all levels of instruction in all public schools operating programs from kindergarten through grades 1 to 12, inclusive. (EduC 32255.5)*

**OTHER STATUTES CONCERNING ANIMALS IN PUBLIC SCHOOLS****Agricultural Programs May Be Exempt from Allowing Pupils to Refrain From Harming Animals**

*Classes and activities, conducted as part of a program in agricultural education that provide instruction on the care, management, and evaluation of domestic animals are exempt from the provisions of this chapter. (EduC 32255.6)*

**School Sponsored Activities Must Be Humane to Animals**

*In the public elementary and high schools or in public elementary and high school school-sponsored activities and classes held elsewhere than on school premises, live vertebrate animals shall not, as part of a scientific experiment or any purpose whatever:*

*(a) Be experimentally medicated or drugged in a manner to cause painful reactions or induce painful or lethal pathological conditions.*

*(b) Be injured through any other treatments, including, but not limited to, anesthetization or electric shock.*

*Live animals on the premises of a public elementary or high school shall be housed and cared for in a humane and safe manner.*

*The provisions of this section are not intended to prohibit or constrain vocational instruction in the normal practices of animal husbandry. (EduC 51540)*

**Educational Materials Must Be Humane**

*When adopting instructional materials for use in the schools, governing boards shall require such materials as they deem necessary and proper to encourage thrift, fire prevention and the humane treatment of animals and people. (EduC 60042)*



# **MINIMUM STANDARDS FOR** **RABBITS**

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

1. **Proper Drink:** clean, filtered water in a spill-proof container, easily accessible 24 hours a day  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...**is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ A dehydration test is performed by pinching skin at back of neck, if it sticks together and does not snap back immediately the animal is dehydrated; also, red eyes when the perimeter of the eye ball is examined and dry or pale gums may indicate dehydration.
2. **Proper Food:** rabbit food containing all the essential nutrients  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ Providing means given to the rabbit in a safe manner and place at least twice a day
  - ♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis

► **NOTE:** Impounding a rabbit without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

### Steps 3-5: Necessary Shelter

**Necessary Shelter** means a clean, permanent shelter with protection from the weather. (PC 597(b))

*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

3. **Clean Environment**  
*Every person “having the charge or custody of any animal, either as owner or otherwise, subjects any animal to **needless suffering**”... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*
  - ♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (For instance, ammonia fumes from rabbit urine cause many serious illnesses.)
    - No urine-ammonia or other odor, garbage, rotten food or debris
    - No fleas, ticks, parasites, or other insects that harm rabbits
    - A clean litter box that does not smell of ammonia must be easily accessible 24 hours a day
4. **Protection from the Weather**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and,” deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ Access to shelter that protects from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week
    - Necessary Shelter- for rabbits is a permanent structure, not a vehicle or crawl space under a structure or structure made of flimsy materials (such as cardboard), and must have 4 walls and a roof (preferably the interior of a house occupied by humans).
    - Cages should be well-ventilated (no aquariums) and should include solid flooring areas to prevent sores on the feet from wire mesh floors.
    - Rabbits should also be protected from electric shock and all exposed cords in their living area should be covered with plastic tubing.
    - The area where rabbits are kept must be quiet, but not isolated from humans.
    - Size- at least 8 square feet per adult rabbit PLUS access to safe, enclosed exercise area where rabbit may run and jump for at least an hour daily (see below)
  - ♦ Protection from the Weather- must be insulated and provide proper bedding to protect from heat and cold
    - Hot weather- temperatures should not be above 85° F inside
    - Cold weather- temperatures should not be below 55° F inside
    - Wet weather- the inside of the shelter must be dry
5. **Adequate Space to Exercise (PC 597t)**  
*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area...** Violation of this section constitutes a misdemeanor.*  
*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*



- ♦ Adequate exercise area means about 60 sq ft per rabbit and must be provided *at least* once a day for at least one hour.
- ♦ Exceptions for vehicles contemplate transit of an animal, NEVER long-term housing for an animal. Animals in transit should be allowed access to an exercise area and a place to relieve themselves for a fifteen-minute interval at least every four hours. Failure to provide this is a violation of PC597t as well as 597 since the animal is subjected to needless suffering.

### **Step 6: Free of Cruelty and Neglect**

#### **6. Cruelty or neglect** may be a misdemeanor or a felony (PC 597)

*“...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 [felony]...every person who...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...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... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...”*

PC 599b defines the word “**cruelty**” to include “...every act. **omission, or neglect** whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...”

### **Steps 7-10: Proper Care Must Be Provided**

**NOTE:** *[I]t shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))*

*...[A]ny officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate supervisor, humanely destroy **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 dispose of the animal. (PC 507f (d))*

#### **7. Basic Vaccinations**

Basic vaccinations must be given.

#### **8. Fleas and Ticks Must Be Eradicated**

Fleas and ticks must be eradicated immediately from the body of the rabbit in a humane manner (such as the use of a topical pesticide such as Advantage or Frontline)

- ♦ Flea dander is proof of failure to provide adequate veterinary care.

#### **9. Veterinary Care Must Be Given**

Upon Injury or Disease, the Rabbit Must Be Immediately Given Veterinary Care.

#### **10. Spay/Neuter**

Spaying or Neutering is recommended (although not yet legally required) to minimize overpopulation, fighting, chewing and other health and behavioral problems that harm both rabbits and humans.

### **ABANDONMENT**

#### ► **Willful Abandonment** is a misdemeanor. (PC 597s)

Abandonment: knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession, (*Black's Law Dictionary*). In the case of an animal, abandonment can legally occur when a previous owner of an animal has failed to provide proper care and attention to the animal that is either in their possession or in the possession of another with their knowledge, for a period of time longer than is reasonable. The exception, of course, would be if the person unintentionally lost the animal and has been attempting to find the animal.

**Constructive Abandonment**

*Notwithstanding any other provision of law, whenever any animal is delivered to any veterinarian, dog kennel, cat kennel, pet-grooming parlor, animal hospital, or any other animal care facility pursuant to any written or oral agreement entered into after the effective date of this section, and the owner of such animal does not pick up the animal within **14 calendar days** after the day the animal was 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, and, if unable to place the animal with a new owner, shall thereafter humanely destroy the animal so abandoned.*

*If an animal so abandoned was left with a veterinarian or with a facility which has a veterinarian, and a new owner cannot be found pursuant to this section, such veterinarian shall humanely destroy the animal.*

***There shall be a notice posted in a conspicuous place, or in conspicuous type in a written receipt given, to warn each person depositing an animal at such animal care facilities of the provisions of this section.***

**(Civ Code 1834.5)**

**Abandoned Animals Shall not be Vivisected or Taken to a Pound or Animal Regulation Department:**

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

**(Civ Code 1834.6)**

**KILLING RABBITS**

► A veterinarian or other professional must perform killing in a humane manner. Failure to do so is a misdemeanor or a felony. **(PC 597, 597u, 597y)**

► Killing rabbit for or possessing rabbit meat may be a misdemeanor

*“Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food.” (PC 598b)*

► Poisoning rabbit may be a misdemeanor or a felony

*Every person is guilty of a misdemeanor who poisons animals owned by another, or not owned by another without posting conspicuous signs of warning “located at intervals not greater than a distance of one-third of a mile apart, and in any case not less than three such signs having words with letters at least one-inch high reading “Warning—Poisoned bait placed out on these premises,” which signs shall be kept in place until the poisonous substances have been removed.” (PC 596)*

Depending on the cruelty of the method of death delivered by the poison, there may also be a misdemeanor or felony violation of **PC 597** in the poisoning an animal.

**OTHER STATUTES THAT PROTECT RABBITS****Eating Animals Traditionally Kept as Pets Is a Misdemeanor**

*Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)*

**Rabbits Used as “Bait” for Chase, Etc. Prohibited**

*It is a misdemeanor to attach a live animal to a machine or device propelled by any power to lure another animal to pursue the attached animal. (PC 597h)*

**Rabbits as Prize Prohibited**

*“Every person is guilty of a misdemeanor who:*

*(a) Sells or gives away, any live chicks, rabbits, ducklings, or other fowl as a prize for, or as an inducement to enter, any contest, game or other competition or as an inducement to enter, any contest, game or other competition or as an inducement to enter a place of amusement or place of business;” (PC 599)*

### Dying Rabbit Fur Prohibited

*“Every person is guilty of a misdemeanor who:*

*(b) Dyes or otherwise artificially colors any live chicks, rabbits, ducklings, or other fowl, or sells, offers for sale or gives away any live chicks, rabbits, ducklings, or other fowl which has been dyed or artificially colored;” (PC 599)*

### Petting Zoo Standards

*“Every person is guilty of a misdemeanor who:*

*(c) Maintains or possesses any live chicks, rabbits, ducklings, or other fowl for the purpose of sale or display without adequate facilities for supplying food, water and temperature control needed to maintain the health of such fowl or rabbit;” (PC 599)*

### Selling or Giving Away Rabbits in Public Place Prohibited

*“Every person is guilty of a misdemeanor who:*

*(d) Sells offers for sale, barters, or for commercial purposes gives away, any live chicks, rabbits, ducklings, or other fowl on any street or highway.” (PC 599)*

## SEIZURE

### Seizure of Rabbit By Law Enforcement Officer (3 Reasons to Seize)

(1) Animals in need of “proper care and attention” MUST be seized and given proper care upon discovery by the officer.

*Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... neglected [found to be without proper care and attention] and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))*

*It shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned... and care for the animal... (PC 597f(a))*

*It shall be the duty of all officers of pounds 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.... (PC 597f(b))*

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals when making an arrest for animal fighting OR when making an arrest with a warrant for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### Post Seizure Procedure

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the rabbit within 48 hours (excluding weekends and holidays) that the rabbit was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the rabbit or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the rabbit shall be a lien on the rabbit and

that the rabbit shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

- (2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.
    - Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.
    - Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.
  - (3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*
- (PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the rabbit. The owner shall produce the rabbit at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### **ARREST**

#### ♦ Warrantless Arrest:

- (1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**
  - (2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.
- (PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor.  
(Such as PC 836 and 597)

#### ♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

### **COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*

# MINIMUM STANDARDS FOR REPTILES & AMPHIBIANS

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## 10 STEPS TO A LAW-ABIDING GUARDIAN

### Steps 1-2: Proper Food and Drink (Water)

1. **Proper Drink:** clean, filtered water in a spill-proof container, easily accessible 24 hours a day  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper... drink...**is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ A dehydration test is performed by pinching skin at back of neck, if it sticks together and does not snap back immediately the animal is dehydrated; also, red eyes when the perimeter of the eye ball is examined and dry or pale gums may indicate dehydration.
2. **Proper Food:** reptile food containing all the essential nutrients  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and “fails to provide the animal with **proper food...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*
  - ♦ Providing means given to the reptile in a safe manner and place at least twice a day
  - ♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis

► **NOTE:** Impounding a reptile without giving “a sufficient quantity of good and wholesome food and water” is a misdemeanor. (PC 597e)

### Steps 3-5: Necessary Shelter

Necessary Shelter consists of a clean environment with protection from the weather.

*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

3. **Clean Environment**  
*Every person “having the charge or custody of any animal, either as owner or otherwise, subjects any animal to **needless suffering**”... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597(b))*

- ♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment.

**VETERINARY NOTE:** An unsanitary environment causes many serious illnesses.

- No odor, garbage, rotten food or debris
- No parasites or insects that harm reptiles

4. **Protection from the Weather**  
*Every person “who has the charge or custody of any animal, as owner or otherwise” and, “deprives of **necessary...shelter**”... “or fails to provide the animal **protection from the weather...**for every such offense, guilty of a crime punishable as a misdemeanor or a felony...” (PC 597 (b))*

- ♦ Access to shelter that protects from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week
  - Protection - must be a permanent structure that is the proper sort of habitat for the specific type of reptile.
  - If the reptile swims in its natural habitat, there must be a place for the reptile to swim on a regular basis
- ♦ Protection from the Weather- must be insulated and provide proper bedding to protect from heat and cold
  - Hot weather- temperatures should not be above 85° F inside
  - Cold weather- temperatures should not be below 55° F inside
  - Wet weather- the inside of the shelter must be dry

5. **Adequate Space to Exercise (PC 597t)**  
*“Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area...** Violation of this section constitutes a misdemeanor.*

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.”*

**VETERINARY NOTE:** Adequate space to exercise means adequate room to move in and out of warm or cool temperatures (they are cold blooded and need to move in and out of these zones to regulate their body temperature). They must be able to stretch out, turn around and move around as the particular type of animal would in its natural habitat. They must also have a place to swim if they swim in their natural habitat and a place to stay dry if that is what they would do in the wild. Every reptile is different—owners and officers must familiarize themselves with the particular type of reptile to adequately address the requirements of this code section.

## Step 6: Free of Cruelty and Neglect

### 6. Cruelty or neglect may be a misdemeanor or a felony (PC 597)

“...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 [felony]...every person who...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...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... for every such offense, guilty of a crime punishable as a misdemeanor or a felony...”

PC 599b defines the word “**cruelty**” to include “...every act. **omission, or neglect** whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted...”

**NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

## Steps 7-10: Proper Care and Attention Must Be Provided

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**, is guilty of a misdemeanor... (PC 597.1 and 597f)

### 7. Proper Habitat for the Species

(THIS IS THE MOST IMPORTANT AND FREQUENT AREA OF CRUELTY TO REPTILES!!!)

**VETERINARY NOTE:** Reptiles are sensitive creatures who need highly specialized environments. Failure to provide the proper environment causes the animal to die a slow and painful death. Such failure to provide the proper habitat that results in the animal’s subsequent slow and painful death may amount to multiple misdemeanor or felony violations. (See PC 597, 597f, 597t597.1, 599a)

### 8. Parasites and Mites Must Be Eradicated

Parasites and mites must be eradicated immediately from the body of the reptile in a humane manner.

### 9. Veterinary Care Must Be Provided

Upon injury or disease, the reptile must immediately be given veterinary care.

### 10. Scales, Skin, Teeth, Shell (if applicable) and Eyes Must Be Kept in Proper Health

Keep scales, skin, teeth, shell (if applicable) and eyes in proper health with proper maintenance and veterinary assistance.

## ENDANGERED SPECIES

### Misdemeanor/ \$1,000 Fine to Possess with Intent to Sell Dead Body Part or Product of Any of These Species (Some Endangered, Some Not)

It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any alligator, crocodile, polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable, antelope, wolf (*Canis lupus*), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vocuna, sea otter, free-roaming feral horse, dolphin or porpoise (*Delphinidae*), Spanish lynx, or elephant.

Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation... (PC 653o)

### Importation, Possession with Intent to Sell and Selling of Endangered Species OR Protected Marine Mammals Body Parts or Products of such Body Parts is a Federal Offense that May be Enforced by Local Law Enforcement

It is unlawful [a misdemeanor] to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any species or subspecies of any fish, bird, mammal, amphibian, reptile, mollusk, invertebrate, or plant, the importation of which is illegal under the Federal Endangered Species Act of 1973 (Title 16, United States Code Sec. 1531 et seq.) and subsequent amendments, or under the Marine Mammal Protection Act of 1972 (Title 16, United States Code Sec. 1361 et seq.), or which is listed in the Federal Register by the Secretary of the Interior pursuant to the above acts. The violation of any federal regulations adopted pursuant to the above acts shall also be deemed a violation of this section and shall be prosecuted by the appropriate state or local officials.

(PC 653p, 653r)

**Allowed “Take” Must Occur ONLY During Season Designated**

*(a) Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibia except during the open season where taken for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.*

*(b) Except as provided in Section 3080, it is unlawful to possess game birds or mammals except during the open season where taken.*  
(F&G 2001)

**CAPTIVE PROPAGATION AND COMMERCIALIZATION OF NATIVE REPTILES**

*(a) Native Reptile Propagation Permit*

*(1) Permit Required. Except for pet shops as provided in subsection 43(e), every person, who, for commercial purposes, sells, possesses, transports, imports, exports or propagates native reptiles or amphibians pursuant to subsection 43(c), or who propagates native reptiles and amphibians pursuant to subsection 43(b), shall have a native reptile and amphibian propagation permit that has not been revoked or suspended issued to that person. The permit or a legible copy of the permit shall be in the immediate possession of the permittee while native reptiles or amphibians are being displayed to the public, taken, transported, or sold. The permit or a legible copy of the permit shall be kept where native reptiles or amphibians are maintained. No permit is required for the purchase of subspecies of native reptiles authorized pursuant to subsection 43(c) [pet shops].*

*(2) Application. Application for a permit shall be made on Native Reptile and Amphibian Propagation Permit Application, Form FG 391 (7/96), which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, License and Revenue Branch, 3211 S Street, Sacramento, California 95816; Telephone (916) 227-2244. The application form shall be completed in its entirety, including information on the species and/or subspecies proposed for propagation, the location of the rearing facility and other related information.*

*(3) Term of the permit. Permits issued under the provisions of this section shall be valid from January 1 through December 31 or, if issued after the beginning of such term for the remainder thereof..*

*(4) Denial. The department may deny a permit to any person who fails to comply with the provisions of a permit or any regulations pertaining to native reptiles or amphibians. Any person denied a permit may request a hearing before the commission to show cause why his/her permit should be issued.*

*(5) Revocation. The commission, after proper notice and providing for an opportunity to be heard, may revoke or suspend a permit for a violation of Fish and Game Code, or Title 14, California Code of Regulations. This fee shall be annually adjusted pursuant to Section 713 of the Fish and Game Code.*

*(6) Permit Fee. The permit fee shall be the basic fee set forth in subsection 699(b), Title 14, California Code of Regulations. This fee shall be annually adjusted pursuant to Sections 713 of the Fish and Game Code.*

*(7) Albino Native Reptiles and Amphibians. Albino reptiles and amphibians are defined as individual native reptiles and amphibians lacking normal body pigment and having red or pink eyes. No permit is required for the possession, propagation, importation, exportation, transportation, purchase or sale of captively-bred native albino reptiles or amphibians. The provisions of sections 41.5 and 42.5 apply to the taking and possession of albino native reptiles and amphibians from the wild.*

*(b) Non-commercial Propagation. The department may authorize the possession and propagation of no more than three species and no more than 30 individuals in the aggregate including progeny under a native reptile and amphibian propagation permit. Within the overall limit of 30 individuals, the department may authorize no more than four of any one species to be taken from the wild. Individuals may be taken only by the methods authorized by sections 41.5 and 42.5. Native reptiles and amphibians possessed pursuant to this subsection may not be purchased or sold.*

*(c) Propagation and Possession for Commercial Purposes. Native reptiles may not be sold, possessed, transported, imported, exported or propagated for commercial purposes, except as provided in Section 40(e) and except as follows:*

*(1) Subspecies Authorized. Pursuant to the provisions of this section, only the following subspecies may be sold, possessed, transported, imported, exported or propagated for commercial purposes.*

*(A) California common kingsnake (Lampropeltis getulus californiae);*

*(B) California subspecies of the gopher snake (Pituophis melanoleucus): Great Basin gopher snake (Pituophis melanoleucus deserticola), Pacific gopher snake (Pituophis melanoleucus catenifer), San Diego gopher snake (Pituophis melanoleucus annectens), and Sonora gopher snake (Pituophis melanoleucus affinis);*

*(C) California subspecies of the rosy boa (Lichanura trivirgata); Coastal rosy boa (Lichanura trivirgata roseofusca) and Desert rosy boa (Lichanura trivirgata gracia).*

*(2) Bill of Sale. All animals sold pursuant to this section must be accompanied by a numbered bill of sale which shall contain the name and permit number of the permittee, the complete scientific name of each native reptile sold and the name and address of the buyer. A copy of the bill of sale shall be retained by the buyer.*

*(d) Limits, except as otherwise authorized, no person shall take or possess native reptiles and amphibians taken from the wild in excess of the bag and possession limits specified in sections 41.5 and 42.5. There are no possession limits for captively-bred native reptiles and amphibians authorized by subsection 43(c) for persons possessing a native reptile and amphibian propagation permit or for which the person has a bill of sale as required in subdivision 43(c)(2).*

**(e) Pet Shops.**

(1) *Defined.* A “pet shop” means a permanent place of business, licensed by a city or county, that is open to the public and maintains normal business hours, where pet animals are kept for retail sale. An “owner or operator” means the person who owns or is in charge of the pet shop.

(2) *Exemption.* Pet shop owners or operators or their employees or agents, are not required to obtain a native reptile and amphibian propagation permit to purchase, transport directly from the point of purchase to the pet shop, possess or resell native reptiles and amphibians purchased from a permittee pursuant to subsection 43(c). This exemption applies only to native reptiles and amphibians sold by the pet shop from the premises of the pet shop.

(3) *Records of Purchases.* The owner or operator of a pet shop shall retain a legible copy of the bill of sale at the pet shop for each native reptile and amphibian acquired while the animal is at the pet shop and for two years thereafter. The bill of sale shall contain the name and permit number of the native reptile and amphibian permittee from which the animal were purchased or acquired, the date acquired and scientific name and number of each subspecies of animals acquired.

(4) *Records of Sales.* Each native reptile and amphibian sold by pet shops shall be accompanied by a numbered bill of sale which shall contain the name and address of the pet shop, the date sold and the scientific name and number of each subspecies sold. A copy of the bill of sale shall be retained at the pet shop for two years from the date of sale.

(5) *Effect of Violation.* No native reptiles or amphibians shall be sold from any pet shop whose owner or operator, or any employee or agent selling native reptiles or amphibians from the pet shop, has been convicted of a violation pertaining to native reptiles or amphibians within the previous three years.

**(f) Humane Care and Treatment.** Permittees shall comply with the following provisions:

(1) *Enclosures.* The perimeter of the enclosure for snakes 33 inches or less shall be 1.5 times the length of the snake. The perimeter of the enclosure for snake more than 33 inches in length shall be 1.25 times the length of the snake. The perimeter shall be measured on the inside of the top edge of the enclosure. Snakes may kept in smaller cages or containers for 31 days from the date of birth or hatching and while being transported or displayed at trade shows. All enclosures shall be adequately ventilated. The substrate shall facilitate the ability to maintain a clean and healthy environment for each animal.\*

(2) *Food.* Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health.

(3) *Water.* Potable water must be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal. All water receptacles shall be clean and sanitary.

(4) *Cleaning of enclosures.* Excrement shall be removed from enclosures as often as necessary to maintain animals in a healthy condition.

(5) *Disinfection of enclosures.* After an animal with an infectious or transmissible disease is removed from an enclosure, that enclosure shall be disinfected.

(6) *Pest control.* Programs of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained by the permittee.

(7) *Observation.* Animals shall be observed at least twice a week by the permittee or once a week if the animals are in hibernation. Sick, diseased, stressed, or injured animals shall be provided with care consistent with standards and procedures used by veterinarians or humanely destroyed.

(8) *Handling.* Animals shall be handled carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal.

**(g) Records.** Every permittee shall keep accurate accounting records for three years in which all of the following shall be recorded:

(1) The complete scientific name and number of all native reptiles and amphibians purchases, received, sold, delivered, taken and possessed.

(2) The person from whom the native reptiles or amphibians purchased or received.

(3) The person to whom the native reptiles or amphibians were sold or delivered.

(4) The date the native reptiles or amphibians were purchased, received, sold, delivered, or taken.

(5) The price paid or received.

(6) The dates and numbers of eggs laid.

(7) The dates and numbers of births or hatchings.

(h) *Annual Report Requirement.* A copy of the records required in subsection 43(g) shall be submitted to the department by December 31 of each year. No permit shall be renewed unless the records or a signed statement that no species and/or subspecies of native reptiles or amphibians were purchased, received, sold, delivered, taken or possessed during the year is submitted.

(i) *Confidentiality of Records.* The information required in subsections 43(g)(2), (3), and (5) contained in the records and reports filed with the department pursuant to subsection 43(h) shall be confidential and shall not be disclosed to the public.

(j) *Inspection.* The department may enter the premises of any permittee where reptiles or amphibians are maintained, or reasonably may be maintained, at any reasonable hour to inspect reptiles, amphibians, and enclosures and to inspect, audit or copy records and receipts required by this section. Refusal to allow an inspection may be grounds for revocation of the permit by the Commission. (14 CCR 43)

► **REMEMBER:** Enclosures must ALWAYS be large enough for the animal to exercise regardless of what the regulations say here (or anywhere). (See PC 597t and 597l).



## **PET SHOPS**

### **Conditions in Pet Shops**

- (a) *It shall be unlawful [a misdemeanor, see below] for any person who operates a pet shop to fail to do all of the following:*
- (1) *Maintain the facilities used for the keeping of pet animals in a sanitary condition.*
  - (2) *Provide proper heating and ventilation for the facilities used for the keeping of pet animals.*
  - (3) *Provide adequate nutrition for, and humane care and treatment of, all pet animals under his or her care and control*
  - (4) *Take reasonable care to release for sale, trade, or adoption only those pet animals that are free of disease or injuries*
  - (5) *Provide adequate space appropriate to the size, weight, and specie of pet animals.*
- (b) (1) *Sellers of pet animals shall provide buyers of a pet animal with general written recommendations for the generally accepted care of the class of pet animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal... (PC 5971)*

## **LIVE ANIMAL MARKETS**

- (a) *Every person who operates a live animal market shall do all of the following:*
- (1) *Provide that no animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive.*
  - (2) *Provide that no live animals will be confined, held, or displayed in a manner that results, or is likely to result, in injury, starvation, dehydration, or suffocation.*
- (b) *As used in this section:*
- (1) *“Animal” means frogs, turtles, and birds sold for the purpose of human consumption, with the exception of poultry.*
  - (2) *“Live animal market” means a retail food market where, in the regular course of business, animals are stored alive and sold to consumers for the purpose of human consumption.*
- (c) *Any person who fails to comply with any requirement of subdivision (a) shall for the first violation, be given a written warning in a written language that is understood by the person receiving the warning. A second or subsequent violation of subdivision (a) shall be an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250), nor more than one thousand dollars (\$1,000). However, a fine paid for a second violation of subdivision (a) shall be deferred for six months if a course is available that is administered by a state or local agency on state law and local ordinances relating to live animal markets. If the defendant successfully completes that course within six months of entry of judgment, the fine shall be waived. The state or local agency may charge the participant a fee to take the course, not to exceed one hundred dollars (\$100). (PC 597.3)*

## **JUMPING FROGS**

### **Frog Jumping Contest Defined**

*As used in this article, “frog-jumping contest” means a contest generally and popularly known as a frog-jumping contest which is open to the public and is advertised or announced in a newspaper. (F&G 6880)*

### **Frogs May Be Taken from Wild for Jumping Contests Without a Permit**

*Frogs to be used in frog-jumping contests shall be governed by this article only. Frogs to be so used may be taken at any time and without a license or permit. (F&G 6881)*

### **Method of Taking Frog from Wild Must Not be Capable of Injuring Frog**

*If the means used for taking such frogs can, as normally used, seriously injure the frog, it shall be conclusively presumed the taking is not for the purposes of a frog-jumping contest. (F&G 6882)*

### **Jumping Frogs May Not be Eaten**

*Any person may possess any number of live frogs to use in frog-jumping contests, but if such a frog dies or is killed, it must be destroyed as soon as possible, and may not be eaten or otherwise used for any purpose. (F&G 6883)*

### **Only Frogs Kept in Proper Conditions Maybe Kept as Allowed Above**

*A frog which is not kept in a manner which is reasonable to preserve its life is not within the coverage of this article. (F&G 6884)*

### **Unlawful to Take or Possess Frogs for Commercial Purpose**

*Except as provided in this code or in regulations adopted by the commission, it is unlawful to take or possess any frog for commercial purposes.*

*This article does not apply to frogs grown pursuant to Division 12 (commencing with Section 15000). (F&G 6851)*



**EXCEPTIONS:** Any person who conducts a place of business where frogs are sold to the public for food, or who takes or possesses frogs for sale to, or for use by, educational or scientific institutions for scientific purposes, may possess only at the place of business any number of frogs which have been legally obtained pursuant to this code or regulations adopted by the commission. (F&G 6852)

### **Unlawful to Shoot Frogs with Firearm**

It is unlawful to take frogs by the use of firearms of any caliber or type. (F&G 6854)

## **OTHER STATUTES THAT PROTECT REPTILES AND AMPHIBIANS**

### **Eating Animals Traditionally Kept as Pets Is a Misdemeanor**

Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away or accepts any carcass of any animal traditionally or commonly kept as a pet or companion with the intent to using it or having any other person use it as food. (PC 598b)

### **Fully Protected Reptiles and Amphibians May Not be “Taken”**

- (a) (1) Except as provided in Section 2081.7, fully protected reptiles and amphibians or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected reptile or amphibian, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all effected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.
  - (2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.
  - (3) Legally imported fully protected reptiles or amphibians or parts thereof may be possessed under a permit issued by the department.
  - (b) The following are fully protected reptiles and amphibians:
    - (1) Bunt-nosed leopard lizard.
    - (2) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).
    - (3) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).
    - (4) Limestone salamander (*Hydromantes brunus*).
    - (5) Black toad (*Bufo boreas exsul*).
- (F&G 5050)

### **Alligator and Crocodile Farms Not Permitted if Animals Are to Be Meat/Leather**

Notwithstanding any other provision of law, no permit shall be issued for the operation of a farm for alligators or any species of the family crocodylidae if the animals are kept for the use and sale of the meat or hides. No permit for the operation of a farm for alligators or any species of the family crocodylidae shall be renewed if the animals are kept for the use and sale of the meat and hides. F&G 5062)

## **SEIZURE**

### **Seizure of Reptile by Law Enforcement Officer (3 Reasons to Seize)**

- (1) Animals in need of “proper care and attention” MUST be seized and given proper care upon discovery by the officer.

**Any peace officer, humane society officer, or animal control officer shall take possession of the...animal [found without proper care and attention] and shall provide care and treatment for the animal... The cost of caring for the animal shall be a lien on the animal... (PC 597.1)**

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so ... **neglected [found to be without proper care and attention]** and care for the animal until it is redeemed by the owner or claimant, and the cost for caring for the animal shall be a lien on the animal until the charges are paid [by the owner]... (PC 597f(a))

It shall be the **duty** of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so **abandoned**... and care for the animal... (PC 597f(a))

It shall be the **duty** of all officers of pounds 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.... (PC 597f(b))

(2) Officers may seize an animal if they have probable cause to believe a crime against an animal is taking place or is about to take place and exigent circumstances exist, for instance, if the person in possession of the animal might flee with the animal or harm the animal. (U.S. Constitution, 4<sup>th</sup> Amendment)

(3) Officers may seize animals **when making an arrest** for animal fighting OR when making an arrest **with a warrant** for ANY crime against animals.

*“Any authorized officer making an arrest [for animal fighting or with a warrant for a violation of ANY crime against animals] may lawfully take possession of all birds or animals or paraphernalia, implements or other property or things used or employed, or about to be employed, in [animal fighting]...” (PC 599aa)*

► **REMEMBER:** Animals must be transported in a humane manner; all parties (including officers) to inhumane transport of a seized animal are guilty of a misdemeanor. (PC 597a)

► **NO COST TO IMPOUNDING OFFICER:** *“A person convicted of a violation of [PC 597] by causing or permitting an act of “cruelty”[which includes neglect] shall be **liable to the impounding officer** for all costs of impoundment from the time of seizure to the time of proper disposition.” (PC 597 (f)(1))*

### **Post Seizure Procedure**

(1) Notice must be given to the owner (personally or affixed on a conspicuous place where the animal was taken from) of the reptile within 48 hours (excluding weekends and holidays) that the reptile was seized, the name and address of the officer providing notice, a description of the animal and any ID, the authority and purpose of the seizure (time, place, circumstances of the seizure), and a statement that in order to receive a post seizure hearing, the owner or person authorized to keep the reptile or his or her 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 notice. The declaration may be returned in person or by mail. A statement that the costs of caring for and treating the reptile shall be a lien on the reptile and that the reptile shall not be returned until the costs are paid to the agency and failure to request or attend a hearing will result in liability for this cost.

(2) The requested hearing shall be conducted within 48 hours of the request, excluding holidays and weekends.

– Failure of the owner or keeper, or his or her agent to request or attend a hearing results in forfeiture of any right to a post seizure hearing or right to challenge liability for costs.

– Upon adjudication and conviction of the owner, all rights are forfeited and the owner is liable to the agency for costs.

(3) The standard employed by the hearing officer is whether *the animal is physically fit and the owner has demonstrated to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(PC 597.1 (l)-(k))

### **Pre Seizure Hearing**

Where the health or safety of the animal or others is not in jeopardy, prior to seizure, the agency shall provide the owner or keeper the opportunity for a hearing prior to seizure of the reptile. The owner shall produce the reptile at the hearing, unless prior to the hearing the owner made arrangements for the agency to view the animal, or if the animal has deceased. Any person who fails to produce the animal or provide in the alternative is guilty of an infraction and must be fined no less than \$250 and no more than \$1,000. (PC 597.1 (g))

### **ARREST**

♦ Warrantless Arrest:

(1) When the officer has probable cause to believe a misdemeanor has been committed **in their presence**

(2) When an officer has probable cause to believe a **felony** has been committed, even if **not** in the officer's presence.

(PC 836)

**NOTE:** Any crime that can be either a felony or a misdemeanor (known as a “wobbler”) is to be **treated as a felony** for arrest purposes, whether or not it will ultimately be determined to only rise to a misdemeanor. (Such as PC 836 and 597)

♦ Warrant for Arrest:

*“When a complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that provision of law relating to, or in any way affecting dumb animals or birds, is being or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, constable, police, or peace officer or officer of any incorporated association qualified as provided by law [such as Humane Officers], authorizing him [or her] to enter and search such building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring such person before some court or magistrate of competent jurisdiction, within the city, city and county or judicial district within which such offense has been committed or attempted, to be dealt with according to law and such attempt must be held to be a violation of Section 597. (PC 599 (a))*

**COLLECTING ON LIEN ARISING FROM RESCUING ANIMAL FROM CRUELTY**

*Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury. (CCP 1208.5)*



# **MINIMUM STANDARDS FOR VETERINARY PRACTICE**

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**MINIMUM STANDARDS****Minimum Standards for Veterinary Offices**

*All fixed premises where veterinary medicine and its various branches are being practiced, and all instruments, apparatus and apparel used in connection with those practices, shall be kept clean and sanitary at all times and shall conform to or possess the following minimum standards:*

- (a) *Indoor lighting for halls, wards, reception areas, examining and surgical rooms shall be adequate for their intended purpose.*
- (b) *A reception room and office, or a combination of the two.*
- (c) *An examination room separate from other areas of the facility and of sufficient size to accommodate the doctor, assistant, patient and client.*
- (d) *If animals are housed or retained for treatment, the following shall be provided:*
  - (1) *Compartments for animals which are maintained in a comfortable and sanitary manner.*
  - (2) *Effective separation of known or suspected contagious animals.*
  - (3) *If there are to be no personnel on the premises during any time an animal is left at the veterinary facility, prior written notice may be accompanied by posting a sign in a place and manner conspicuous to the clients of the premises, stating that there may be times when there is no personnel on the premises.*
- (e) *When a veterinary premises is closed, a sign shall be posted at the entrance with a telephone number and location where pre-arranged veterinary care is available. An answering machine or service shall be used to notify the public when the veterinary premises will be re-opened and where pre-arranged veterinary care is available. If no after hours emergency care is available, full disclosure shall be provided to the public prior to rendering services.*
- (f) *The veterinary premises shall meet the following standards:*
  - (1) *Fire precautions shall meet the requirements of local and state fire prevention codes.*
  - (2) *The facility, its temperature, and ventilation shall be maintained so as to assure the comfort of all patients.*
  - (3) *The disposal of waste material shall comply with all applicable state, federal, and local laws and regulations.*
  - (4) *The veterinary premises shall have the capacity to render diagnostic radiological services, either on the premises or through other commercial facilities. Radiological procedures shall be conducted in accordance with Health and Safety Code standards.*
  - (5) *Clinical pathology and histopathology diagnostic laboratory services shall be available within the veterinary premises or through outside services.*
  - (6) *All drugs and biologicals shall be maintained, administered, dispensed and prescribed in compliance with state and federal laws.*
  - (7) *Sanitary methods for the disposal of deceased animals shall be provided and maintained.*
  - (8) *Veterinary medical equipment used to perform aseptic procedures shall be sterilized and maintained in a sterile condition.*
  - (9) *Current veterinary reference materials shall be readily available on the premises.*
  - (10) *Anesthetic equipment in accordance with the procedures performed shall be maintained in proper working condition and available at all times.*
  - (11) *The veterinary premises shall have equipment to deliver oxygen in emergency situations.*
  - (12) *Appropriate drugs and equipment shall be readily available to treat an animal emergency.*
- (g) *A veterinary premises which provides aseptic surgical services shall comply with the following:*
  - (1) *A room, separate and distinct from all other rooms shall be reserved for aseptic surgical procedures which require aseptic preparation. Storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures. A veterinarian may perform emergency aseptic surgical procedures in another room when the room designated for aseptic surgery is occupied or temporarily unavailable.*
    - (A) *A veterinary premises which is currently registered with the board, but does not have a separate room reserved for aseptic surgical procedures because it was registered with the board prior to January 1, 1981, shall obtain compliance with the subdivision on or before January 1, 2004.*
    - (B) *The board may exempt a veterinary premises which is currently registered with the board, but does not have a separate aseptic surgery room, where it determines that it would be a hardship for the veterinary premises to comply with the provisions of subsection (g)(1).*
  - In determining whether a hardship exists, the board shall give due consideration to the following factors:*
    1. *Zoning limitations.*
    2. *Whether the premises constitutes a historical building.*
    3. *Whether compliance with this requirement would compel the veterinary practice to relocate to a new location.*
  - (2) *The surgery room shall be well-lighted, shall have an operational viewing box for reviewing radiographs and shall have effective emergency lighting.*
  - (3) *The floors, table tops, and counter tops of the surgery room shall be of a material suitable for regular disinfecting, and cleaning, and shall be cleaned and disinfected regularly.*
  - (4) *Surgical instruments and equipment shall be:*
    - (A) *Adequate for the type of surgical service provided.*

(B) Sterilized by a method acceptable for the type of surgery for which they will be used.

(5) In any sterile procedure, a separate sterile pack shall be used for each animal.

(6) All instruments, packs and equipment that have been sterilized shall have an indicator that reacts to and verifies sterilization.

(7) The following attire shall be required for aseptic surgery:

(A) Each member of the surgical team shall put on an appropriate sanitary cap and sanitary mask which covers his or her hair and mouth, nose and any facial hair, except for eyebrows or eyelashes. All members of the surgical team who will be handling the instruments or touching the surgical site shall wear surgical gowns with long sleeves and sterilized gloves.

(B) Ancillary personnel in the surgery room shall wear clean clothing and footwear. Sanitary cap and mask shall be required of personnel in the immediate proximity of the sterile field.

(h) When performing clean surgery, the instruments used to perform such surgery shall have been sterilized and the surgeon(s) and ancillary personnel shall wear clean clothing and footwear when appropriate.

For purposes of this section, "clean surgery" shall mean the performance of a surgical operation for the treatment of a condition and under circumstances which, consistent with the standards of good veterinary medicine, do not warrant the use of aseptic surgical procedures.

**(16 CCR 2030)**

### **Veterinary Office Must Be Registered**

(a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the board if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

**(B&P 4853)**

### **Minimum Standards for Veterinary Practice**

The delivery of veterinary care shall be provided in a competent and humane manner. All aspects of veterinary medicine shall be performed in a manner consistent with current veterinary medical practice in this state. **(16 CCR 2032)**

It is unlawful for any person to practice veterinary medicine or any branch thereof in this State unless at the time of so doing, such person holds a valid, unexpired, and unrevoked license as provided in this chapter. **(B&P 4825)**

Any person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(a) Represents himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure or relief of a wound fracture, bodily injury, or disease of animals.

(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the drug, medicine, appliance, application, or treatment is administered by a registered veterinary technician or an unregistered assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832). However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(d) Performs a surgical or dental operation upon an animal

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or Equidae.

(f) Uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry. This use shall be prima facie evidence of the intention to represent himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

**(B&P 4826)**

## **VETERINARY MEDICINE**

### **Unauthorized Practice of Veterinary Medicine**

*The board shall take action pursuant to Article 4 (commencing with Section 4875) of this chapter against any veterinarian licensed or authorized to practice in this state who permits any registered veterinary technician or unregistered assistant to perform any animal health care services other than those allowed by this article. (B&P 4836.5)*

### **Vet Techs May Not Practice Veterinary Medicine**

*Registered veterinary technicians and unregistered assistants shall not perform the following health care services:*

- (a) Surgery.*
- (b) Diagnosis and prognosis of animal diseases.*
- (c) Prescribing of drugs, medicine, and appliances.*

**(B&P 4840.2)**

### **Administration of Emergency Care by a Veterinarian**

*A veterinarian who on his or her own initiative, at the request of an owner, or at the request of someone other than the owner, renders emergency treatment to a sick or injured animal at the scene of an accident shall not be liable in damages to the owner of that animal in the absence of gross negligence. (B&P 4826.1)*

### **Administration of Emergency Care by a Vet Tech**

*Any registered veterinary technician registered in this state who in good faith renders emergency animal health care at the scene of emergency, or at his or her employing veterinarian or agency authorized under Section 4840.9, shall not be liable for any civil damages as the result of acts or omissions by a registered veterinary technician rendering the emergency care. This section shall not grant immunity from civil damages when the registered veterinary technician is grossly negligent. (B&P 4840.6)*

### **Laypersons May Provide Veterinary Medicine for Their Own Animals**

*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 unwanted 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. (B&P 4827)*

### **Administration of Anesthesia**

*(a) General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus.*

*(b) A veterinarian shall use appropriate and humane methods of anesthesia, analgesia and sedation to minimize pain and distress during any procedures and shall comply with the following standards:*

- (1) Within twelve (12) hours of surgery prior to the administration of and anesthetic, the animal patient shall be given a physical examination. The results of the physical examination shall be noted in the animal patient's medical records.*
- (2) An animal under general anesthesia shall be under observation for a length of time appropriate for its safety recovery appropriate for its safe recovery appropriate to the species.*
- (3) Provide a method of respiratory monitoring that may include observation of the animal's chest movements, observing the rebreathing bag, or respirometer.*
- (4) A method of cardiac monitoring shall be provided and may include the use of a stethoscope or electrocardiographic monitor.*
- (5) When administering anesthesia in a hospital setting, a veterinarian shall have resuscitation bags of appropriate volumes for the animal patient and an assortment of endotracheal tubes readily available. (16 CCR 2032.4)*

### **Sodium Pentobarbital/Euthanasia Training**

*(a) In accordance with section 4827(d) of the Code, an employee of an animal control shelter or humane society and its agencies who is not a veterinarian or registered veterinary technician (RVT) shall be deemed to have received proper training to administer, without the presence of a veterinarian, sodium pentobarbital for the euthanasia of sick, injured, homeless or unwanted domestic pets or animals if the*

person has completed a curriculum of at least eight (8) hours as specified in the publication by the California Animal Control Directors Association and the State Humane Association of California entitled "Euthanasia Training Curriculum" dated October 24, 1997, that includes the following subjects:

- (1) History and reasons for euthanasia
- (2) Humane animal restraint techniques
- (3) Sodium pentobarbital injection methods and procedures
- (4) Verification of death
- (5) Safety training and stress management for personnel
- (6) Record keeping and regulation compliance for sodium pentobarbital

At least five (5) hours of the curriculum shall consist of hands-on training in humane animal restraint techniques and sodium pentobarbital injection procedures.

(b) The training curriculum shall be provided by a veterinarian, an RVT, or an individual who has been certified by the California Animal Control Directors Association and the State Humane Association of California to train persons in the humane use of sodium pentobarbital as specified in their publication entitled "Criteria for Certification of Animal Euthanasia Instructors in the State of California" dated September 1, 1997.

(16 CCR 2039)

## **RESPONSIBILITY OF VETERINARIANS TO REPORT ABUSE/NEGLECT**

### **Veterinarians Must Report Dog Fighting**

Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 597b of the Penal Code, it shall be the duty of the licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, 597f, 597g, 597n, or 597.5 of the Penal Code.

(B&P 4830.5)

### **Veterinarians Must Report Abuse/Neglect**

Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in Section 597 of the Penal Code, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city or city and county in which it occurred. No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of subdivisions. (B&P 4830.7)

### **Penalties for Noncompliance with the Above**

Any person, who violates or aids or abets in violating any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars (\$500), nor more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment.

(B&P 4831)

The board may deny, revoke, or suspend a license or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

(b) For having professional connection with, or lending one's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the state to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising.

(g) Unprofessional conduct, that includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.



- (2) (A) *The use of or prescribing for or administering to himself or herself, any controlled substance.*  
 (B) *The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed to conduct with safety the practice authorized by the license.*  
 (C) *The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence.*  
*A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.*
- (3) *A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.*
- (h) *Failure to keep one's premises and all equipment therein in a clean and sanitary condition.*  
 (i) *Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.*  
 (j) *Aiding or abetting in any acts that are in violation of any of the provisions of this chapter.*  
 (k) *The employment of fraud, misrepresentation, or deception in obtaining the license.*  
 (l) *The revocation, suspension, or other discipline by another state or territory of a license or certificate to practice veterinary medicine in that state or territory.*  
 (m) ***Cruelty to animals, conviction on a charge of cruelty to animals, or both.***  
 (n) *Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of veterinary medicine.*  
 (o) *Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.*
- (B&P 4883)**

#### **TO REPORT THE ABOVE FOR SUSPENSION OR REVOCATION OF LICENSE:**

Suspected violations of the Veterinary Medical Practice Act should be reported to the Board of Examiners in Veterinary Medicine, Department of Professional and Vocational Standards, 1420 Howe Ave., Suite 6, Sacramento, CA 95825.

### **LIENS**

#### **Veterinarian's Lien on Animal Treated**

*Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid... and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals...*  
**(Civ Code 3051)**

#### **Notice of Lien**

*That portion of any lien, as provided for in the next preceding section, in excess of three hundred dollars (\$300) for any work, services, or care, or in excess of two hundred dollars (\$200) for any safekeeping, rendered or performed at the request of any person other than the holder of the legal title, shall be invalid, unless **prior to commencing any such work, service, care, or safekeeping, the person claiming such lien shall give actual notice in writing** either by personal service or by registered letter addressed to the holder of the legal title to such property, if known. (Civ Code 3051a)*

#### **Default and Sale on Lien**

*If the person entitled to the lien provided in Section 3051 is not paid the amount due, and for which such lien is given, within 10 days after the same shall have become due, then such lienholder may proceed to sell such property, or so much thereof as may be necessary to*



satisfy such lien and costs of sale at public auction, and by giving at least 10 days' but not more than 20 days' previous notice of such sale by advertising in some newspaper published in the county in which such property is situated; or if there be no newspaper printed in such county, then by posting notice of sale in three of the most public places in the town and at the place where such property is to be sold, for 10 days previous to the date of the sale; provided, however, that within 20 days after such sale, the legal owner may redeem any such property so sold to satisfy such lien upon the payment of the amount thereof, all costs and expenses of such sale, together with interest on such sum at the rate of 12 percent per annum from the due date thereof or the date when the same were advanced until the repayment. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the legal owner thereof. (Civ Code 3052)

## **STATUTE OF LIMITATIONS**

### ***Within one year:***

***... (c) An action... against any person who boards or feeds an animal or fowl or who engages in the practice of veterinary medicine as defined in Section 4826 of the Business and Professions Code, for that person's neglect resulting in injury or death to an animal or fowl in the course of boarding or feeding the animal or fowl or in the course of the practice of veterinary medicine on that animal or fowl.***

***(d) An action against an officer to recover damages for the seizure of any property for a statutory forfeiture to the state, or for the detention of, or injury to property so seized, or for damages done to any person in making that seizure.***

**(Code of Civil Procedure 340(c) and (d))**



# **MINIMUM STANDARDS FOR CAPTIVE WILD OR "EXOTIC" ANIMALS**

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## DEFINITIONS AND NOTES

**Definition:** As used in [the California Fish and Game Code], “**wild animal**” means any animal of the class Aves (birds), class Mammalia (mammals), class Amphibia (frogs, toads, salamanders), class Osteichthyes (bony fishes), class Monorhina (lampreys), class Reptilia (reptiles), class Crustacea (crayfish), or class Gastropoda (slugs, snails) which is not normally domesticated in this state as determined by the commission. (F&G 2116)

**NOTE:** Although included in the above definition, Marine Animals are covered in another section of the Animal Law Guide.

**NOTE:** Feral cats are often, incorrectly, considered wild animals by local law enforcement. But, as you can see by the above definition, domestic cats do not fit the definition of “wild animal” since they are normally domesticated in this state.)

**NOTE:** “**Exotic animal**” is a (somewhat slang) term sometimes used to describe an animal that is typically not domesticated, but is being kept as a pet or made to perform for humans.

**LAW ENFORCEMENT NOTE:** Humane Officers are authorized by the state to enforce all laws relating to or affecting animals under Corp Code 10404. Therefore, Humane Officers are authorized to enforce the provisions ALL of the following codes as they relate to or affect animals.

### **FIRST QUESTION FOR LAW ENFORCEMENT: IS THIS WILD/EXOTIC ANIMAL LAWFULLY POSSESSED?**

**NOTE:** Please review all statutes in this chapter to familiarize yourself with laws regarding possession. It is important to know if a captive wild or “exotic” animal is lawfully possessed as there are penalties (some severe) for illegally possessing them.

## **MISCELLANEOUS STATUTES CONCERNING CAPTIVE WILD/EXOTIC ANIMALS**

### **Animals Harmful to Livestock Prohibited from Import**

*It is unlawful for any person to import into the state any English or Australian wild rabbit, flying fox, mongoose, or any other form of animal life which is detrimental to agriculture. Any such animal shall be refused entry and shall be immediately destroyed or shipped out of the state within 48 hours at the option and expense of the owner or bailee of the animal. (F&A 6304)*

### **No Nonnative Wild Animal Possession or Transport**

*(a) No person shall import into this state any live nonnative wild animal except pursuant to this chapter or regulations adopted pursuant thereto.*

*(b) Any live nonnative wild animal which is possessed or transported within this state in violation of this chapter or regulations adopted pursuant thereto shall, upon notice of and within the time specified by the enforcing officer, be disposed of in accordance with regulations adopted pursuant to Section 2122, at the option and expense of the owner or bailee.*

*(c) Any live, nonnative wild animal found at large within this state shall be either summarily destroyed or, if captured, shall be confined for not less than 72 hours following notification of the local humane society.*

*(d) If during the 72 hour holding period, any person claims ownership of the animal, that person shall be allowed to dispose of the animal pursuant to subdivision (b) and this shall be the person's only option.*

*(e) After the 72 hour holding period, if the animal is unclaimed, it shall be disposed of in accordance with regulations adopted pursuant to Section 2122 unless the animal is listed as a threatened or endangered species in either regulation, the department shall be notified of the animal's location and the department shall be responsible for proper disposition. (F&G 2189)*

### **EXCEPTION – Wild Animals May Be Possessed with a Department of Fish and Game Commission Permit (14 CCR 671 and 671.1)**

**(14 CCR 671)—Importation, Transportation and Possession of Live Restricted Animals:**

*(a) It shall be unlawful to import, transport, or possess alive animals restricted in subsection (c) below except under permit issued by the Department of Fish and Game. Permits may be issued by the department as specified herein and for purposes designated in Section 671.1 subject to the conditions and restrictions designated by the department. Except for mammals listed in Fish and Game Code Section 3950 Fish & Game or live aquatic animals requiring a permit pursuant to Fish and Game Code Section 2271 Fish & Game, no permit is required by this section for any animal being imported, transported, or possessed pursuant to any other permit issued by the department. Cities and counties may also prohibit possession or require a permit for these and other species not requiring a state permit.*

*(b) The commission has determined the below listed animals are not normally domesticated in this state. Mammals listed to prevent the depletion of wild populations and to provide for animal welfare are termed “welfare animals”, and are designated by the letter “W”. Those species listed because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety are termed “detrimental animals” and are designated by the letter “D”. The department shall include the list of welfare and detrimental wild animals as part of DFG MANUAL No. 671 (2/25/92) IMPORTATION, TRANSPORTATION AND POSSESSION OF RESTRICTED SPECIES, to be made available to all permittees and other interested individuals.*



(c) **Restricted species include:**

(1) *Class Aves - Birds*

- (A) Family *Alaudidae* – Larks *Alauda arvensis* (Skylark) (D).
- (B) Family *Cuculidae* – Cuckoos All species (D).
- (C) Family *Corvidae* – Crows, Ravens, Rooks, Jackdaws All species (D).
- (D) Family *Turdidae* – Thrushes, Blackbirds, Fieldfare
  - 1. *Turdus merula* (European blackbird) (D).
  - 2. *Turdus viscivorus* (Missel thrush) (D).
  - 3. *Turdus pilaris* (Fieldfare) (D).
  - 4. *Turdus musicus* (Song thrush) (D).
- (E) Family *Sturnidae* -- Starlings, Mynahs All species (D), except *Sturnus vulgaris* (Starling), *Gracula religiosa* or *Eulabes religiosa* (Hill mynahs), and *Leucopsar rothschildi* (Rothschild's mynah) are not restricted.
- (F) Family *Ploceidae* – Sparrows, Weavers, Queleas
  - 1. Genus *Passer* (Sparrow) All species (D), except *Passer domesticus* (English house sparrow) is not restricted.
  - 2. *Foudia madagascariensis* (Madagascar weaver) (D).
  - 3. *Ploceus baya* (Baya weaver) (D).
  - 4. Genus *Quelea* (Queleas) – All species (D).
- (G) Family *Estrildidae* – Waxbills, Munias, Ricebirds
  - 1. *Padda oryzivora* (Java sparrow) (D).
- (H) Family *Emberizidae* – Yellowhammer *Emberiza citrinella* (Yellowhammer) (D).
- (I) Order *Falconiformes* – Falcons, Eagles, Hawks, Vultures
  - 1. Vultures All species (D)
  - 2. Falcons, Eagles, Hawks (D)
- (J) Order *Strigiformes* – Owls All species (D)
- (K) Family *Pyconotidae* --Bulbuls or Fruit Thrushes *Pycnonotus jocosus* (Red-whiskered bulbul) (D).
- (L) Family *Zosteropidae* – Whiteeyes Genus *Zosterops* (Whiteeyes) -- All species (D).
- (M) Family *Psittacidae* --Parrots, Parakeets *Myiopsitta monachus* (Monk or Quaker parakeet) (D).

(2) *Class Mammalia - Mammals*

- (A) Order *Primates* – Monkeys, Apes All species (W), except Family *Hominidae* – not restricted.
- (B) Order *Edentata* – Sloths, Anteaters, Armadillos, etc. All species:
  - 1. Family *Dasypodidae* – Armadillos – All Species (D).
  - 2. Family *Bradypodidae* – Sloths – (W).
  - 3. Family *Myrmecophagidae* – Anteaters – (W).
- (C) Order *Marsupialia* – Marsupials or Pouched Animals All species (W).
- (D) Order *Insectivora* – Shrews, Moles, Hedgehogs, etc. All species (D).
- (E) Order *Dermoptera* – Gliding Lemurs All species (D).
- (F) Order *Chiroptera* – Bats All species (D).
- (G) Order *Monotremata* – Spiny Anteaters, Platypuses All Species (W).
- (H) Order *Pholidota* – Pangolins or Scaly Anteaters All species (W).
- (I) Order *Lagomorpha* – Pikas, Rabbits, and Hares All species, (D), except domesticated races of rabbits and hares of the Family *Leporidae* – not restricted.
- (J) Order *Rodentia* – Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels, Chipmunks, Woodchucks, and Prairie Dogs
  - 1. All species (D), except:
    - a. *Ondatra zibethica* (Muskrats) – Not restricted under conditions set forth in Fish and Game Code Section 2250;
    - b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and domesticated races of dwarf hamsters of the Genus *Phodopus* not restricted;
    - c. Domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared) not restricted;
    - d. Domesticated races of guinea pigs of the species *Cavia porcellus* not restricted; and e. Domesticated races of chinchillas of the species *Chinchilla laniger* not restricted.
- (K) Order *Carnivora* – Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.
  - 1. Family *Felidae* – All species (W) except:
    - a. *Acinonyx jubatus* (cheetahs) – (D).

- b. Domestic cats and hybrids of domestic cats are not restricted.
3. Family Canidae - All species (W).
- a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf).
- i. Any F1 (first) generation wolf hybrid whelped on or before February 4, 1988 may be possessed under permit from the department.
- ii. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.
- b. Domesticated dogs are not restricted.
4. Family Viverridae - All species (D).
5. Family Procyonidae - All species - (D), except:
- a. *Ailurus fulgens* (Lesser Panda) - (W).
- b. *Ailuropoda melanoleuca* (Giant panda) - (W).
- c. *Bassariscus astutus* (Ringtail or Ringtailed cat) - (W).
- d. *Jentinkia sumichrasti* (Mexican and Central American Cacomistle) - (W).
6. Family Mustelidae - All species (D), except:
- a. *Amblopyn cinerea* (Oriental small-clawed otter) - (W).
- b. *Aonyx capensis* (African clawless otter) - (W).
- c. *Pteronura brasiliensis* (Giant otter) - (W).
- d. All species of Genus *Lutra* (River otters) - (W).
7. All others - (W).
- (L) Order Tubulidentata - Armadillos All species - (W).
- (M) Order Proboscidea - Elephants All species - (W).
- (N) Order Hyracoidea - Hyraxes All species - (W).
- (O) Order Sirenia - Dugongs, Manatees All species - (W).
- (P) Order Perissodactyla - Horses, Zebras, Tapirs, Rhinoceroses, etc. All species (W), except Family Equidae is not restricted.
- (Q) Order Artiodactyl - Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc. All species (D) except:
1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.
2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and
3. Permits may be issued pursuant to Section 676, Title 14, CCR, for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.
- (3) Class Amphibia - Frogs, Toads, Salamanders
- (A) Family Bufonidae - Toads *Bufo marinus*, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America (D).
- (B) Family Pipidae - Tongueless Toads All species of the Genus *Xenopus* (D).
- (4) Class Agnatha - Jawless Fishes
- (A) Family Petromyzontidae - Lampreys All nonnative species (D).
- (5) Class Osteichthyes - Bony Fishes
- (A) Family Percichthyidae - Temperate Basses
1. The species *Morone americana* (White perch) (D).
2. The species *Morone chrysops* (White bass) (D).
- (B) Family Clupeidae - Herrings *Dorosoma cepedianum* (Gizzard shad) (D).
- (C) Family Sciaenidae - Drums *Aplodinotus grunniens* (freshwater drum) (D).
- (D) Family Characidae - Characins
1. *Astyanax fasciatus* (Banded tetra) (D).
2. All species of the genera *Serrasalmus*, *Serrasalmo*, *Pygocentrus*, *Taddeiella*, *Roseveltella*, and *Pygopristis* (Piranhas) (D).
3. *Hoplias malabaricus* (Tiger fish) (D).

- (E) Family Salmonidae - Trouts *Salmo salar* (Atlantic salmon) - Restricted in the Smith River watershed (D).
- (F) Family Lepisosteidae - Gars All species (D).
- (G) Family Amiidae - Bowfins All species (D).
- (H) Family Poeciliidae - Livebearers *Belonesox belizanus* (Pike killifish) (D).
- (I) Family Channidae - Snakeheads All species (D).
- (J) Family Cyprinidae - Carps and Minnows
  - 1. *Leuciscus idus* (ide) (D).
  - 2. *Ctenopharyngodon idellus* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
  - 3. *Hypophthalmichthys molitrix* (Silver carp) (D).
  - 4. *Aristichthys nobilis* (Bighead carp) (D).
- (K) Family Trichomycteridae (Pygidiidae) - Parasitic Catfishes. All species (D).
- (L) Family Cetopsidae - Whalelike Catfishes. All species (D).
- (M) Family Clariidae - Labyrinth Catfishes All species of the genera *Clarias*, *Dinotopertus*, and *Heterobranchus* (D).
- (N) Family Heteropneustidae (Saccobranchidae) - Airsac Catfishes All species (D).
- (O) Family Cichlidae - Cichlids
  - 1. *Tilapia sparrmani* (Banded Tilapia) (D).
  - 2. *Tilapia zilli* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
  - 3. *Tilapia aurea* (Blue tilapia) (D).
  - 4. *Tilapia nilotica* (Nile tilapia) (D).
- (P) Family Anguillidae - Freshwater Eels. All species of genus *Anguilla* (D).
- (Q) Family Esocidae - Pikes all species (D).
- (R) Family Percidae - Perches
  - 1. *Perca flavescens* (Yellow perch) (D).
  - 2. *Stizostedion vitreum* (Walleye) (D).
- (S) Family Catostomidae - Suckers All members of the genus *Ictiobus* (Buffalos) (D).
- (T) Family Cyprinodontidae - Killifishes *Cyprinodon variegatus* (Sheepshead minnow) (D).
- (6) Class Elasmobranchiomorpha - Cartilaginous Fishes
  - (A) Family Carcharhinidae - Requiem Sharks All species of genus *Carcharhinus* (Freshwater sharks) (D).
  - (B) Family Potamotrygonidae - River stingrays All species (D).
- (7) Class Reptilia - Reptiles
  - (A) Order Crocodilia - Crocodiles, Caimans, Alligators and Gavials All species (D).
  - (B) Family Chelyridae - Snapping Turtles All species (D).
  - (C) Family Elapidae - Cobras, Coral Snakes, Mambas, Kraits, etc. All species (D).
  - (D) Family Viperidae - Adders and Vipers All species (D).
  - (E) Family Crotalidae - Pit Vipers All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus cerastes* (Sidewinder) not restricted.
  - (F) Family Colubridae - Colubrids
    - 1. *Dispholidus typus* (Boomslang) (D).
    - 2. *Theoltornis kitlandii* (Bird or vine snake) (D).
  - (G) Family Helodermatidae
    - 1. *Heloderma suspectum suspectum* (reticulate Gila monster) (D).
- (8) Class Crustacea - Crustaceans
  - (A) All species of Family Cambaridae - Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.
  - (B) All species of genus *Eriocheir* (D).
- (9) Class Gastropoda - Slugs, Snails All nonnative species of slugs and land snails (D), except:
  - (A) *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.
  - (B) *Helix aspersa* (brown garden snail) not prohibited.
- (10) Class Bivalvia - Bivalves All members of the genus *Dreissena* (zebra mussels) - (D).

(14 CCR 671)

**ALSO, Similar Species For Which a Permit Is Required**

*It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this chapter and the regulations pertaining thereto, any wild animal of the following species:*

- (a) *Class Aves: (birds)*
  - Family Cuculidae (cuckoos)*  
All species.
  - Family Alaudidae (larks)*  
Skylark, *Alauda arvensis*
  - Family Corvidae (crows, jays, magpies)*  
All species.
  - Family Turdidae (thrushes)*  
European blackbird, *Turdus merula*  
Missel (or mistle), thrush, *Turdus viscivorus*
  - Family Sturnidae (starlings and mynas or mynahs)*  
All species of the family, except hill myna (or hill mynah),  
*Gracula religiosa* (sometimes referred to as *Eulabes religiosa*)
  - Family Ploceidae (weavers)*  
The following species:  
Spanish sparrow, *Passer hispaniolensis*  
Italian sparrow, *Passer italiae*  
European tree sparrow, *Passer montanus*  
Cape sparrow, *Passer capensis*  
Madagascar weaver, *Foudia madagascariensis*  
Baya weaver, *Ploceus baya*  
Hawaiian rice bird, *Munia nitoria*  
Red-billed quelea, *Quelea quelea*  
Red-headed quelea, *Quelea erythrops*
  - Family Fringillidae (sparrows, finches, buntings)*  
Yellowhammer, *Emberiza citrinella*
- (b) *Class Mammalia (mammals)*
  - Order Primates*  
All species except those in family *Hominidae*
  - Order Edentata (sloths, anteaters, armadillos, etc.)*  
All species.
  - Order Marsupialia (marsupials or pouched mammals)*  
All species.
  - Order Insectivora (shrews, moles, hedgehogs, etc.)*  
All species.
  - Order Dermoptera (gliding lemurs)*  
All species.
  - Order Chiroptera (bats)*  
All species.
  - Order Monotremata (spiny anteaters, platypuses)*  
All species.
  - Order Pholidota (pangolins, scaly anteaters)*  
All species.
  - Order Lagomorpha (pikas, rabbits, hares)*  
All species, except domesticated races of rabbits.
  - Order Rodentia (rodents)*  
All species, except domesticated golden hamsters, also known as Syrian hamster, *Mesocricetus auratus*; domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared); and domestic strains of guinea pig (*Cavia porcellus*).

- Order Carnivora (carnivores)  
All species, except domestic dogs (*Canis familiaris*)  
and domestic cats (*Felis catus*).
- Order Tubulidentata (aardvarks)  
All species.
- Order Proboscidea (elephants)  
All species.
- Order Hyracoidea (hyraxes)  
All species.
- Order Sirenia (dugongs, manatees)  
All species.
- Order Perissodactyla (horses, zebras, tapirs,  
rhinoceroses, etc.)  
All species except those of the family Equidae.
- Order Artiodactyla (swine, peccaries, camels, deer, elk,  
except elk (genus *Cervus*) which are subject to  
Section 2118.2, moose, antelopes, cattle, goats,  
sheep, etc.)  
All species except: domestic swine of the family  
Suidae; American bison, and domestic cattle, sheep and goats  
of the family Bovidae; races of big-horned sheep (*Ovis*  
*canadensis*) now or formerly indigenous to this state.
- Mammals of the orders Primates, Edentata, Dermoptera,  
Monotremata, Pholidota, Tubulidentata, Proboscidea,  
Perissodactyla, Hyracoidea, Sirenia and Carnivora  
are restricted for the welfare of the animals, except  
animals of the families Viverridae and Mustelidae in  
the order Carnivora are restricted because such animals  
are undesirable and a menace to native wildlife, the  
agricultural interests of the state, or to the public  
health or safety.
- (c) Class amphibia (frogs, toads, salamanders)  
Family Bufonidae (toads)  
Giant toad or marine toad, *Bufo marinus*
- (d) Class Monorhina (lampreys)  
All species.
- (e) Class Osteichthyes (bony fishes)  
Family Serranidae (bass)  
White perch, *Morone* or *Roccus americana*  
Family Clupeidae (herring)  
Gizzard shad, *Dorosoma cepedianum*  
Family Sciaenidae (croakers)  
Freshwater sheepshead, *Aplodinotus grunniens*  
Family Characidae (characins)  
Banded tetra, *Astyanax fasciatus*  
All species of piranhas  
Family Lepisosteidae (gars)  
All species.  
Family Amiidae (bowfins)  
All species.
- (f) Class Reptilia (snakes, lizards, turtles, alligators)  
Family Crocodilidae  
All species.
- (g) Class Crustacea (crustaceans)  
Genus *Cambarus* (crayfishes)  
All species.  
Genus *Astacus* (crayfishes)



*All species.*

*Genus Astacopsis (crayfishes)*

*All species.*

(h) *Class Gastropoda (slugs, snails, clams)*

*All species of slugs.*

*All species of land snails.*

(i) *Other classes, orders, families, genera, and species of wild animals which may be designated by the commission in cooperation with the Department of Food and Agriculture, (1) when the class, order, family, genus, or species is proven to be undesirable and a menace to native wildlife or the agricultural interests of the state, or (2) to provide for the welfare of wild animals.*

(j) *Except as expressly authorized in this code, any live nonindigenous Atlantic salmon or the roe thereof into the Smith River watershed.*

(k) *Classes, families, genera, and species in addition to those listed in this section may be added to or deleted from the above lists from time to time by commission regulations in cooperation with the Department of Food and Agriculture.*

**(F&G 2118)**

### **Permit for Importation, Possession, and Transportation of Wild Animals**

(a) *The department or an eligible local entity, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 2118, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal, as a result of the importation, transportation, or possession.*

*A permit shall be issued only upon application and payment of a nonrefundable application fee in an amount determined by the department pursuant to Section 2150.2. Application forms shall be provided by the department, or an eligible local entity, and shall be designed to ascertain the applicant's ability to properly care for the wild animal or animals the applicant seeks to import, transport, or possess. Proper care includes providing adequate food, shelter, and veterinary care, and other requirements the commission may designate.*

(b) *The commission shall revoke or deny a permit if it finds that a permittee or applicant has failed to meet, or is unable to meet, the requirements for importing, transporting, possessing, or confining any wild animal as established pursuant to Section 2120.*

(c) *A zoo is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety.*

*For purposes of this section, "zoo" means any organization which is accredited as meeting the standards and requirements of the American Association of Zoological Parks and Aquariums (AAZPA). Any California organization which is not accredited by the AAZPA may apply to the department for a waiver of specified permit requirements of this chapter. The department may grant or deny the request for a waiver for justified reasons. Foreign zoos outside this state are not subject to the permit requirements of this chapter beyond those specific permit requirements affecting California zoos or organizations with which they are collaborating. Any organization may appeal the determination of the department to the commission.*

(d) *An exhibitor licensed by the United States Department of Agriculture or a dealer who is so licensed who buys any animal specified in subdivision (c) from a zoo within the state, may sell or transfer it only to a private individual who has a permit issued pursuant to this section prior to the receipt of the animal or to a public or private organization which has a permit issued pursuant to this section prior to the receipt of the animal. The exhibitor or dealer who sells or transfers such an animal shall pay a fee pursuant to Section 2150.2 to the department.*

(e) *Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety.*

**(F&G 2150)**

### **Fully Protected Wild Mammals—Permits and Licenses Have No Effect**

(a) (1) *Except as provided in Section 2081.7, fully protected mammals or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully*

protected mammal, and no permits or licenses heretofore have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Register and made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

(4) Guadalupe fur seal (*Arctocephalus townsendi*).

(5) Ring-tailed cat (genus *Bassaricus*).

(6) Pacific right whale (*Eubalaena sieboldi*).

(7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

(8) Southern sea otter (*Enhydra lutris nereis*).

(9) Wolverine (*Gulo luscus*).

(F&G 4700)

### **Inspection of Wild Animal Facilities**

(a) Consistent with Section 3005.91, the department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 or the facilities and care provided for any wild animal in any zoo, for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department or the eligible local entity, whichever conducts the inspection, shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2.

If the eligible local agency conducts the inspection, it shall transmit the fee to the department.

(F&G 2150.4)

### **Wild Animals Legally Kept Must Not Be Released**

No person having possession or control over any wild animal legally imported under the provisions of this chapter shall intentionally free, or knowingly permit the escape, or release of such animals, except in accordance with the regulations of the commission.

(F&G 2121)

### **Log of Health Care Must Be Kept**

Log requirement. Permittees shall maintain a written log in the English language for each animal in their possession which documents each animal's health care. The log shall contain the following information: date of acquisition, name and address or person from whom the animal was acquired, identifying marks or characteristics, date and description of illness and/or injury, health care treatment provided, name and signature of the person treating the animal, if applicable. This log shall be made available to department officers or its authorized agent on demand. (14 CCR 671.2 (b))

### **Veterinarians May Treat Prohibited Wild Animals**

Notwithstanding any other provision of law, a veterinarian, registered veterinary technician, or an unregistered assistant working under the supervision of a veterinarian, may provide veterinary care and treatment for any animal restricted pursuant to Section 2118 of the Fish and Game Code. A veterinarian, registered veterinary technician, or an unregistered assistant working under the supervision of a veterinarian, may lawfully possess one or more of the animals only for the period of time that, in his or her judgment, veterinary care and treatment are necessary. No veterinarian, registered veterinary technician, or unregistered assistant working under the supervision of a veterinarian, has a duty to advise law enforcement if he or she becomes aware that one or more of the animals is possessed in the state. For the purposes of this section, "veterinary care and treatment" does not include boarding when no veterinary care or treatment is required.

(B&P 4826.2)

**Public Display of Wild Animals**

*Public display. Animals shall be publicly displayed only for periods of time and under conditions consistent with the animal's health and comfort. The animal must be handled so there is no perceived risk to the public in the judgment of the department's enforcement officer, with sufficient distance allowed between animal acts and the viewing public to assure safety to both the public and the animals. Animals on display shall be contained within an escape-proof area or enclosure at all times when not under the immediate control of a handler.*

***Circus or traveling show animals shall be allowed a rest period of at least 4 hours per day within an enclosure as directed by a licensed veterinarian. (14 CCR 671.2 (a)(10))***

**Fighting Animals Prohibited, Spectators Also Guilty**

*(a) Except as provided in subdivision (b), any person who, for amusement or gain, **causes any bull, bear, or other animal**, not including any dog, to fight with like kind of animal or creature, or with any human being; or who, for amusement or gain, worries or injures any bull, bear, dog or other animal, or causes any bull, bear or other animal, not including any dog, to worry or injure each other; and any person who **permits the same to be done on any premises under his or her charge or control**; and any person who **aids, abets, or is present** at the fighting or worrying of an animal or creature, as a **spectator**, is guilty of a **misdemeanor**.*

*(c) A second or subsequent conviction of this section... is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty five thousand dollars (\$25,000), or by both that imprisonment and fine...*

**(PC 597b)**

**Carcass of Any Animal on Side of Road Is a Misdemeanor**

*Every person who knowingly allows the carcass of any dead animal which belonged to him at the time of its death to be put, or to remain, within 100 feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within 100 feet of any street, alley, highway, or road in common use is guilty of a **misdemeanor**. (PC 374c)*

*(a) It is unlawful [an **infraction**] to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for that purpose...*

*(c) Each day that waste is placed, deposited, or dumped... is a separate violation...*

*(e) A person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$75) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction.*

*(h) (1) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in commercial quantities shall be guilty of a **misdemeanor** punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) upon a first conviction, not less than three thousand dollars (\$3,000) nor more than six thousand dollars (\$6,000) upon a second conviction, and not less than six thousand dollars (\$6,000) nor more than ten thousand dollars (\$10,000) upon a third or subsequent conviction.*

*(2) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This subdivision does not apply to the dumping of household waste at a person's residence. (PC 374.3)*

**Disturbing/Harming Cave Dwelling Animals Is a Misdemeanor**

*(a) Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment:*

*...(3) Kills, harms, or removes any animal or plant life found in any cave....*

*(b) For purposes of this section:*

*(1) "Cave" means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter....*

*(c) The entering or remaining in a cave by itself shall not constitute a violation of this section. (PC 623)*

**Wild Mammal Cannot be Harmed for Gain, Amusement or Sport**

*(a) Except as otherwise authorized by this code or regulations adopted pursuant thereto, including, but not limited to, those provisions that authorize raising deer to produce venison for market it is unlawful for any person to possess, transport, import, export, propagate, purchase, sell, or transfer any live mammal listed under Section 2118 for the purposes of maiming, injuring, or killing the mammal for gain, amusement, or sport. Except as otherwise authorized by this code or regulations adopted pursuant thereto, the buyer of a live mammal listed in Section 2118 shall not resell the live mammal to another buyer who has the intent to maim, injure, or kill that mammal for purposes of gain, amusement, or sport.*

(b) *This section does not apply to the meat, hide, or parts of a dead mammal.*  
(F&G 2124)

**Wild Animals Should Not be Chained Unless Meets an Exception Below:**

(8)...*Except as provided below, an animal may be placed on a chain and collar only when being transported by an attendant between areas on a permittee's premises or between a mode of conveyance and a worksite or veterinarian's office, or when the handler is working or exercising the animal(s) within the compound. Care shall be exercised to avoid harm to the handler or the general public. Animals shall be kept under control at all times and shall not be allowed to roam free outside of a compound, except when under the control of the handler during filming or exhibition.*

*Exceptions: Elephants chained pursuant to subsection 671.3(b)(2)(M)4. (see Department of Fish and Game Manual no. 671-2/25/92). Raptors may be jessed and tethered.*

(9) *Chaining/staking. Animal(s) shall not be chained or otherwise tethered to a stake, post, tree, building or other anchorage, except during filming, training or exhibition, in an emergency situation or when repairs are being made to the cage. The animal(s) shall be under the direct supervision of the handler or his designee at all times. (14 CCR 671.2 (a)(8) and (9))*

**ELK**

**Elk May Not Be Imported**

*Except as provided in Section 1007, it is unlawful to import any elk (genus Cervus) into this state. The department may import elk pursuant to Section 1007, if prior to such importation, the department issues written findings justifying the need for and explaining the purpose of the importation.*

*This section shall not apply to zoos certified by the United States Department of Agriculture.*  
(F&G 2118.2)

**Unlawfully Imported Elk Shall Be Seized**

*The department shall seize any elk imported in violation of Section 2118.2 (F&G 2118.4)*

**TURTLES**

**Possessing or Harming Tortoise Is Unlawful**

*It is unlawful to sell, purchase, harm, take, possess, or transport any tortoise (Gopherus) or part thereof, or to shoot any projectile at a tortoise (Gopherus). This section does not apply to the taking of any tortoise when authorized by the department. (F&G 5000)*

**Grandfathered Tortoise Possession**

*The provisions of Section 5000 do not prohibit the possession of any tortoise (Gopherus) when the owner can demonstrate that such tortoise was legally acquired and possessed before the effective date of this section. The owner of a tortoise which may be possessed under this section shall mark or otherwise identify such tortoise to the satisfaction of the department, and shall not transfer such tortoise to any other person without prior approval of the department. (F&G 5001)*

**NOTE:** Section 5000 was enacted in 1957, and amended in 1977. section 5001 was enacted in 1972.

**Tortoise May Be Possessed with Permit**

*The department may issue permits, subject to such terms and conditions as the commission may prescribe, authorizing the possession of any tortoise (Gopherus) or any part of product thereof by an educational or scientific institution or a public zoological garden. (F&G 5002)*

**Unlawful to Take Terrapin**

*It is unlawful to take diamond-back terrapin at any time.*

**WILD CATS**

**Capture and Confinement of Wild Cat Prohibited**

(a) *It is unlawful to possess or confine any live cat (family Felidae), except house cats (Felis domesticus), except as provided in this division and in Section 3202. Any cat possessed or confined in violation of this section may be seized by the department for disposal as directed by the commission.*



*The commission shall adopt regulations permitting the temporary confinement of cats, other than house cats, for the purpose of required veterinary treatment or care, or for utilization in television or motion picture productions.*

*The following institutions, as defined, are exempt from this section:*

*(1) Any zoo, as defined in Section 2150.*

*(2) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.*

*(b) The following organizations or individuals, as defined by the commission, in compliance with permits and standards, as specified by the commission, that safeguard the health and well-being of cats are exempt from the provisions of subdivision (a):*

*(1) Circuses.*

*(2) Other professional exhibitors qualified by the department and licensed by the United States Department of Agriculture.*

*(3) Dealers and breeders qualified by the department and licensed by the United States Department of Agriculture.*

*(4) Wildlife rehabilitation centers, as qualified by the department.*

*(c) Subdivision (a) of this section shall not prohibit the possession or confinement of any cat by a person who had lawful possession of the cat on January 1, 1979, pursuant to a permit issued by the department under Section 2150 or Section 3200. The annual fee for the permit shall be set by the department in an amount calculated to cover the costs of administration. Progeny determined to have been conceived before January 1, 1979, are exempt from subdivision (a) of Section 3005.9 but are subject to department regulations regarding their possession or confinement.*

*(d) Cats possessed pursuant to subdivisions (b) and (c) of this section may be sold, transferred, or disposed of to the institutions or individuals defined as exempt under this section, when the sale, transfer or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.*

*The commission shall adopt regulations regarding the possession or confinement of progeny determined to have been conceived after January 1, 1979. These cats may be sold, transferred, or disposed of to the institutions defined as exempt under this section, when the sale, transfer, or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.*

*This section does not apply to the lawful taking of mammals found to be injuring crops or property, or to the taking of mammals under depredation permits, or to the lawful taking of these mammals as authorized by the commission. (F&G 3005.9)*

#### **If Wild Cat Kept with Permit, Inspections Are Required**

*The department or an eligible local entity, pursuant to regulations of the commission, shall inspect the cat facilities of each person holding a permit issued pursuant to regulations of the commission authorizing the possession of a cat, other than a house cat. These inspections shall be to ensure that the animal is being held in conformity with law. The department or an eligible local entity shall collect an inspection fee in an amount determined by the department pursuant to Section 2150.2. The fee shall be paid over to the department. (F&G 3005.91)*

#### **F&G Regs on Keeping Wild Cats Shall Include:**

*(a) The commission shall promulgate regulations regarding the possession and confinement of privately owned cats (family felidae) other than house cats. Such regulations shall include the following requirements:*

*(i) Specific cage or enclosure standards for each cat species. Such requirements shall be met by any person applying for a permit or renewal of a permit prior to such issuance or renewal.*

*(ii) That every cat be inspected by a licensed veterinarian every year, who shall thereafter issue a health certificate. The certificate shall be attached to the cage or enclosure of the examined cat.*

*(b) When it is shown that the holder of a permit issued pursuant to Section 2150, or a license issued pursuant to subdivision (c) of Section 3202, authorizing the possession or confinement of a cat, has been convicted of a violation of Section 3005.92, such permit or license may be revoked. (F&G 3005.92)*

*The department shall make available upon request information on the possession of a cat, other than a house cat, and information on regulations and standards applicable to permit holders. (F&G 3005.93)*

#### **Declawing Wild Cat Is a Misdemeanor:**

*(b) Punishment is imprisonment in a county jail for a period not to exceed one year, by a fine of ten thousand dollars (\$10,000), or by both that imprisonment and fine.*

*(c) (3) "Wild or native wild cat species" include all members of the taxonomic family Felidae, except domestic cats (Felis catus or Felis domesticus) or hybrids of wild and domestic cats that are greater than three generations removed from an wild or native cat. "Wild or native wild cat species" include, but are not limited to, lions, tigers, cougars, leopards, lynxes, bobcats, caracals, ocelots, margays, servals, cheetahs, snow leopards, clouded leopards, jungle cats, leopard cats, and jaguars, or any hybrid thereof.*

*(2) The exception is if done for a therapeutic purpose.*

*(4) "Therapeutic purpose" means for the purpose of addressing an existing or recurring infection, disease, injury, or abnormal*



condition in the claw that jeopardizes the cat's health, where addressing the infection, disease, injury, or abnormal condition is a medical necessity. (PC 597.6)

## **WILD RODENTS**

### **Definition**

**"Wild Rodents"** as used in this chapter means wild ground squirrels, chipmunks, rats, mice or any other members of the order Rodentia native to California except muskrats and beavers. (F&G 2575)

### **Capture, Transport or Sale of Wild Rodents**

It is unlawful to knowingly capture for sale, transport for sale or sell rodents, except as provided in Article 1.5 (F&G 2576)

## **MUSKRATS**

### **Muskrats Prohibited**

It is unlawful to import or transport into or possess any live muskrat (genus *Ondatra*) in California except under permit issued by the department pursuant to Section 2118, or as otherwise provided by law. A county agricultural commissioner, fish and game deputy, or state plant quarantine officer may enter upon lands or waters west of the crest of the Cascade-Sierra Nevada mountain system, and west and south of the Tehachapi, Liebre, San Gabriel, San Bernadino, San Jacinto, Cuyamaca, and connected mountains south to the international boundary, or in any watershed tributary to, or draining into, the Pacific Ocean to remove or destroy the muskrats. (F&G 2250)

## **ELEPHANTS**

### **Abuse of Elephants**

It shall be a misdemeanor for any owner or manager of an elephant to engage in abusive behavior towards the elephant, which behavior shall include the discipline of the elephant by any of the following methods:

- (a) Deprivation of food, water, or rest.
- (b) Use of electricity.
- (c) Physical punishment resulting in damage, scarring, or breakage of skin.
- (d) Insertion of any instrument into any bodily orifice.
- (e) Use of martingales [choke collars].
- (f) Use of block and tackle [pulley system of restraint]. (PC 596.5)

## **PERMITS**

### **Permits for Wild Animals:**

(a) *General.* It is unlawful for any person to import, export, transport, maintain, dispose of, or use for any purpose any animal restricted by Section 671 except as authorized in a permit issued by the department.

(1) *Limited Scope.* A permit issued pursuant to this Section 671.1 does not supersede any Federal, State, or local law regulating or prohibiting the mammals or the activities authorized in the permit.

(2) **Inspections.** The department may approve an application prior to facilities being inspected and approved. A permit shall not be issued unless the applicant's facilities have been inspected and approved by the department or persons designated by the department.

The department may enter any facility at a reasonable hour, where restricted species are kept or may be kept to inspect animals, facilities, animal equipment, or to inspect, audit, or copy any permit, book or record required to be kept by these regulations or federal regulations relating to such species.

(3) *Change of Address or Name.* The permittee must notify the Department's License and Revenue Division, 3211 S Street, Sacramento, California 95816, in writing of any change of address or name related to the permit within fourteen (14) days of the change.

(4) *Records.* Any record, log, invoice, or other document required by this Section 671.1 shall be maintained by the permittee for at least three years from the date issued, and be made available to the department immediately upon demand.

(5) *Transportation Records Required of Broker/Dealer.* The permittee shall prepare and sign an invoice in duplicate prior to any

animals leaving their facility. The invoice shall contain the name and address of the Broker/Dealer, a phone number where the Broker/Dealer and the consignee can be reached 24 hours, the name and address of the consignee, the date of the shipment, and the number and scientific name of each animal. The invoice shall accompany the animals being shipped. The consignee shall sign and date the invoice receipt of the shipment and retain a copy.

(6) *Permits for Business.* A person (as defined in Fish and Game Code Section 67) other than a natural person can qualify for and be issued a permit, only by employing at least one full time employee who possesses the requirements for obtaining a permit. The permittee must continue to employ such qualified persons as long as the animals are possessed in California.

(7) *Financial Responsibility.* The department may require an applicant for a nonresident permit to provide proof he/she will immediately cover all expenses incurred by the department for personnel, equipment, and facilities used to locate, capture, house, care for, and transport animals that escape or that are released or abandoned. The written proof must be in the form of an insurance bond or other financial guarantee payable to the department, local government agency, or entity contracting for the animals.

(8) *Health Certificates.* The department may require as a condition on any permit that restricted animals be approved for interstate shipment pursuant to applicable federal or state agency standards for diseases such as but not limited to tuberculosis, brucellosis, and pseudo rabies. Permit conditions may be more restrictive than federal standards.

(b) *Permits and Fees.* The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR. The department may issue permits with the conditions it determines are necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety to:

(1) *Animal Care.* A person who is a resident and who has the demonstrated experience and ability to house an animal, and who legally possessed the animal in California prior to January 1992. The permittee may only possess and provide care for the animal(s) specifically listed on their department approved permit inventory. No other activity is authorized except that which is medically necessary for the care of the animal. The base permit fees for this activity in 1998 are \$34.75 for Welfare species and \$289.50 for Detrimental species.

(14 CCR 671.1)

### **Wild Animals May Be Possessed with a Permit from the Health and Safety Department**

These regulations are intended to provide safeguards for the protection of persons in the State of California from disease hazards associated with imported wild animals. The regulations apply to all persons, including but not limited to the following: educational and research institutions, zoological gardens, schools, colleges, universities, pet stores, animal care facilities, and laboratories, who import, hold, sell, purchase or possess any wild animal for which an import permit is required under the provisions of Chapter 14, Division 20, California Health and Safety Code. (17 CCR 30070)

### **Requirements for Health and Safety Department Permit to Possess Wild Animals**

No person shall import into or receive in this State any animals of the following orders, families, and genera specified herein without first obtaining a permit and paying to the Department such fees as required under these regulations.

(a) *Birds (Class Aves).* Admissible without permit from the department.

(b) *Mammals (Class Mammalia)*

(1) *Primates (Order Primates)*--Members of the following families, all genera therein:

Family Lorisidae, Genus Loris (Slender Loris), Genus Nycticebus (Slow Loris), Genus Arctocebus (Golden Potto), Genus Perodicticus (Potto), Genus Galago (Galago), and Genus Euoticus (Needle-clawed Galago).

Family Callithricidae, Genus Callithrix (Short-tusked Marmoset), Genus Cebuella (Pygmy Marmoset), Genus Saguinus (Long-tusked Marmoset), and Genus Leontideus (Lion-headed Marmoset).

Family Cebidae, Genus Aotus (Douroucoulis), Genus Callicebus (Titi Monkey), Genus Cacajao (Ukari), Genus Pithecia (Saki), Genus Chiropotes (Red-backed Saki), Genus Alouatta (Howler Monkey), Genus Cebus (Capuchin), Genus Saimiri (Squirrel Monkey), Genus Ateles (Spider Monkey), Genus Brachyteles (Woolly Spider Monkey), Genus Lagothrix (Woolly Monkey), and Genus Callimico (Goeldi's Marmoset).

Family Cercopithecidae, Genus Macaca (Macaque), Genus Cynomacaca (Celebes Macaque), Genus Cynopithecus (Celebes Crested Macaque), Genus Cercocebus (Mangabey), Genus Chaeropithecus (Baboon), Genus Comopithecus (Hamadryas Baboon), Genus Mandrillus (Mandrill), Genus Theropithecus (Gelada Baboon), Genus Cercopithecus (Guenon), Genus Miopithecus (Talapoin Monkey), Genus Allenopithecus (Allen's Monkey), Genus Erythrocebus (Patas Monkey), Genus Presbytis (Langur), Genus Pygathrix (Douc Langur), Genus Rhinopithecus (Snub-nosed Langur), Genus Simias (Mentawi Islands Snub-nosed Langur), Genus Nasalis (Proboscis Monkey), and Genus Colobus (Colobus Monkey).

Family Pongidae, Genus Hylobates (Gibbon), Genus Symphalangus (Siamang Gibbon), Genus Pongo (Orangutan), Genus Pan (Chimpanzee), and Genus Gorilla (Gorilla).

(2) *Carnivores (Order Carnivora)*--Members of the following families, all genera therein unless otherwise noted:

(A) Family Felidae, genus Felis and genus Panthera, consisting of New World species: *F. pardalis* (Ocelot), *F. wiedii* (Margay), *F. tigrina* (Little Spotted Cat), *F. colocolo* (Pampas Cat), *F. geoffroyi* (Geoffroy's Cat), *F. guigna* (Kodkod),

*F. jacobita* (Gato Andina), *F. yagouaroundi* (Jaguarundi), and *P. onca* (Jaguar).

All other members of the family Felidae are admissible without permit from the Department.

(B) Family Canidae, genus *Aopex* (Arctic Fox), genus *Vulpes* (Red or Kit Fox), genus *Urocyon* (Gray Fox), and genus *Canis*, including all species other than *Canis familiaris* (the domestic dog).

All other members of the family Canidae are admissible without permit from the Department.

(C) Family Procyinidae, genus *Bassariscus* (Ring-Tailed Cat) and genus *Procyon* (Raccoon).

All other members of the family Procyinidae are admissible without permit from the Department.

(D) Family Mustelidae, genus *Mephitis* (Striped Skunk) and genus *Spilogale* (Spotted Skunk).

All other members of the family Mustelidae are admissible without permit from the Department.

(3) Bats (Order Chiroptera)--Members of all families, all genera therein.

(17 CCR 30072)

## **IF LAWFULLY POSSESSED—APPLY THESE 10 STEPS TO A LAW-ABIDING OWNER/GUARDIAN**

### **Steps 1-2: Proper Food and Water**

1. **Proper Drink:** clean, filtered water (in a spill-proof container), easily accessible 24 hours a day

Every person "who has the charge or custody of any animal, as owner or otherwise" and "fails to provide the animal with **proper... drink...** is, for every such offense, guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))

Water. Potable water must be accessible to animals at all times or provided as often as necessary for the health and comfort of the animal as directed by a licensed veterinarian. All water receptacles shall be clean and sanitary. (14 CCR 671.2 (A)(3))

♦ A dehydration test is performed by pinching the skin between the shoulder blades and checking for elasticity. If the skin sticks together when it is pinched, the animal is dehydrated. If the gums are pale, dehydration is indicated.

2. **Proper Food:** contains all the essential nutrients

Every person "who has the charge or custody of any animal, as owner or otherwise" and "fails to provide the animal with **proper food...** for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))

(1) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health. The diet shall be prepared with consideration for the age, species, condition, and size of the each animal.

(2) Feeding. Animals not in hibernation shall be fed at least once a day. Food receptacles shall be clean and sanitary. Food shall be accessible to all animals in the enclosure and placed to prevent contamination. If self-feeders are used, adequate measures shall be taken to prevent mold, contamination, deterioration or caking of food. (14 CCR 671.2 (a)(1) and (2))

♦ The ribs and spine should not protrude, if they do this is evidence of a failure to provide proper food on a regular basis. If the hip joints protrude the animal is near starvation.

► **NOTE:** Impounding an animal without giving "a sufficient quantity of good and wholesome food and water" is a misdemeanor. (PC 597e)

### **Steps 3-5: Necessary Shelter**

Every person "who has the charge or custody of any animal, as owner or otherwise" and, "deprives of **necessary...shelter**"... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))

3. **Clean Environment**

(4) Cleaning of enclosures. Excrement shall be removed from enclosures at least once per day or in the case of large pasture areas, large flight cages, breeding chambers or large natural habitat enclosures, as often as necessary to maintain animals in a healthy condition. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect confined animals from the direct spray.

(5) Disinfection of enclosures. After an animal with an infectious or transmissible disease is removed from a cage, room, or pen/run, that enclosure shall be disinfected in compliance with the directions of a licensed veterinarian. (14 CCR 671.2 (a)(4) and (5))

Every person "having the charge or custody of any animal, either as owner or otherwise, [who] subjects any animal to **needless suffering**"... for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony..." (PC 597(b))

♦ Needless Suffering means forcing an animal to live in a dirty, unhealthy environment. (It can cause many serious illnesses.)

- No odor, garbage or debris

- No mites, fleas, ticks, parasites, or other insects that harm animals

4. **Protection From the Weather**

Every person "who has the charge or custody of any animal, as owner or otherwise" and, "deprives of **necessary...shelter**"... "or fails

to provide the animal **protection from the weather**...for every such offense, [is] guilty of a crime punishable as a misdemeanor or a felony..." (PC 597 (b))

- ♦ Access to shelter that protects from sun, rain, wind, hot and cold weather, 24 hours a day, 7 days a week
- ♦ Protection- must be a permanent structure for shelter, not a structure made of flimsy materials, and must have 4 walls and a roof
- ♦ Protection From the Weather:
  - Hot weather- temperatures should not be above 85° F inside
  - Cold weather- temperatures should not be below 55° F inside
  - Wet weather- the inside of the shelter must be dry

See General Housing Requirements and Specifications (see Table 1 at end of this chapter)

## 5. Adequate Space to Exercise (PC 597t)

"Every person who keeps an animal confined in an enclosed area shall provide it with an **adequate exercise area**... Violation of this section constitutes a misdemeanor.

*This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person."*

**LAW ENFORCEMENT NOTE TO CLARIFY:** "Adequate exercise area" generally means enough room to run around, fly or jump as pertains to the species normal behavior.

### Wild Animals Should Not be Chained Unless Meets an Exception Below:

(8)...Except as provided below, an animal may be placed on a chain and collar only when being transported by an attendant between areas on a permittee's premises or between a mode of conveyance and a worksite or veterinarian's office, or when the handler is working or exercising the animal(s) within the compound. Care shall be exercised to avoid harm to the handler or the general public. Animals shall be kept under control at all times and shall not be allowed to roam free outside of a compound, except when under the control of the handler during filming or exhibition.

Exceptions: Elephants chained pursuant to subsection 671.3(b)(2)(M)4. (see Department of Fish and Game Manual no. 671-2/25/92). Raptors may be jessed and tethered.

(9) Chaining/staking. Animal(s) shall not be chained or otherwise tethered to a stake, post, tree, building or other anchorage, except during filming, training or exhibition, in an emergency situation or when repairs are being made to the cage. The animal(s) shall be under the direct supervision of the handler or his designee at all times. (14 CCR 671.2 (a)(8) and (9))

## Step 6: Free of Cruelty and Neglect

PC 599b defines the word "cruelty" to include "...every act. omission, or **neglect** whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted..."

## 6. Cruelty (or Neglect) Is a Misdemeanor or a Felony (PC 597)

"...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 [felony]...every person who...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...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...for every such offense, guilty of a crime punishable as a misdemeanor or a felony..."

**NOTE:** OWNER OF ANIMAL MAY RECEIVE EXEMPLARY DAMAGES IF SOMEONE ELSE INJURES THEIR ANIMAL EITHER WILLFULLY OR THROUGH GROSS NEGLIGENCE (Cal Civil Code 3340)

### Wild Mammal Cannot Be Harmed for Gain, Amusement or Sport

(a) Except as otherwise authorized by this code or regulations adopted pursuant thereto, including, but not limited to, those provisions that authorize raising deer to produce venison for market it is unlawful for any person to possess, transport, import, export, propagate, purchase, sell, or transfer any live mammal listed under Section 2118 for the purposes of maiming, injuring, or killing the mammal for gain, amusement, or sport. Except as otherwise authorized by this code or regulations adopted pursuant thereto, the buyer of a live mammal listed in Section 2118 shall not resell the live mammal to another buyer who has the intent to maim, injure, or kill that mammal for purposes of gain, amusement, or sport.

(b) This section does not apply to the meat, hide, or parts of a dead mammal. (F&G 2124)

## 7. Proper Veterinary Care Must Be Provided (PC 597f and 597.1)

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**, is guilty of a misdemeanor... (PC 597.1)

*Daily observation. Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his or her direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed. (14 CCR 671.2 (a)(7))*

*Alternative Care and Treatment Authorized by Veterinarian. When specifically directed in writing by a licensed veterinarian, a person may provide alternative care and treatment. The veterinarian's written instructions for long-term care of the animals held under the permit shall be presented to the inspector at the time of inspection. The implementation of any short-term exceptions to the veterinarian's long-term instructions or to the provisions of subsections 671.2(a)(1) through (10) above shall be verified in writing in the animal's log by the permittee within 10 working days from the date of the action. Such exception shall not exceed two weeks without written concurrence from a licensed veterinarian. (14 CCR 671.2 (c))*

#### 8. Pest Control

*Programs of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained under the supervision of a licensed veterinarian. The pest control program shall be reviewed annually by the veterinarian for the safe use of materials and methods. (14 CCR 671.2 (a)(6))*

#### 9. Handling

*Animals shall be handled expeditiously and carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal... (14 CCR 671.2 (a)(8))*

#### 10. Hooves, Horns and Other Body Parts Must Be Maintained in a Healthy Condition

Failure to keep hooves, horns and other body parts in a healthy condition is a violation of **PC 597** (cruelty/neglect) as well as **PC 597f** (failure to provide vet care) and **PC 597.1** (failure to provide vet care)

### ANIMAL HUSBANDRY STANDARDS OF CARE

#### (a) Food.

*(1) The food shall be free from contamination, wholesome, and of sufficient quality and nutritive value to meet the known normal daily requirements for the condition and size of the animal.*

*(2) Food, and food receptacles if used, shall be accessible to all animals and shall be placed so as to minimize contamination by excreta. Food receptacles, except self feeders, shall be kept clean and sanitized at least once a week.*

#### (b) Watering.

*(1) All watering receptacles shall be kept clean and shall be sanitized at least once a week.*

*(2) Automatic watering devices shall be maintained in accordance with good husbandry practices. They shall be sanitized when occupancy in the primary enclosure is changed and at the end of quarantine period.*

#### (c) Sanitation.

*(1) Cleaning of Primary Enclosures. Excreta shall be removed from the primary enclosures at least daily, or as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors. When hosing or flushing methods are used for this purpose, measures shall be taken to prevent animals confined in such enclosures from being wetted or contaminated involuntarily.*

*(2) Sanitization of Primary Enclosures.*

*(A) Prior to the introduction of animals into primary enclosures previously occupied by other animals, such enclosures shall be sanitized in the manner provided in subparagraph (c)(3) of this subdivision.*

*(B) Primary enclosures shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard: Provided, however, that such enclosures shall be sanitized at least once every two weeks in the manner provided in subparagraph (c)(3) of this subdivision.*

*(3) Sanitizing Procedures. Cages, rooms, vehicles and hard surfaced pens or runs shall be sanitized either by washing them with hot water (180 F) and soap or detergent, as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.*

*(d) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this section. Premises shall remain free of accumulations of trash.*

*(e) Pest Control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.*

*(f) Employees. A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth herein. Persons well trained and competent in retrieving, restraining and releasing animals in a humane manner for testing and examination procedures during quarantine must be provided. Such practices shall be carried out by or under the supervision of an animal caretaker*



who has a background in animal husbandry or care. Proper safeguards and precautions shall be practiced by employees so as not to endanger themselves, other persons, or animals. Outer work clothing, gloves, boots, etc., used in caring for animals in quarantine shall not be worn outside the quarantine area.

(g) *Classification and Separation.*

(1) *Animals housed in the same primary enclosure shall be maintained in compatible groups and shall not be housed in the same primary enclosure with other animal species.*

(2) *Animals entering quarantine on different dates shall not be housed in the same room, unless the quarantine periods commence with the date of the last animal(s) admitted to the room (See Section 30081).*

(h) *Veterinary Care.*

(1) *Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a veterinarian.*

(2) *Each animal shall be observed daily by the animal caretaker in charge or by someone working under his direct supervision. Sick or diseased, injured, lame, or blind animals shall be provided with veterinary care or humanely disposed of unless such action is inconsistent with the purposes for which the animals are being imported.*

(i) *Vehicles.*

(1) *Vehicles used in transporting animals shall be mechanically sound and equipped to provide fresh air to all animals being transported, without injurious drafts. The vehicles shall contain the animals and restrict the entry of other animals and unauthorized persons.*

(2) *The ability to view the interior of the cargo space is necessary to observe any animals that may have escaped from their primary enclosures.*

(3) *The interior of the animal cargo space shall be kept clean.*

(4) *The animal cargo space and all primary enclosures used in transport shall be cleaned and sanitized in the manner provided in subsection (c)(3) of this section after each shipment has been transported from the point of arrival to the quarantine facility. Animals entering quarantine and those having completed the quarantine shall not be transported concurrently in the same vehicle.*

(17 CCR 30079)

## **PENALTIES**

### **Violation of Fish and Game Code—Misdemeanor, Penalties**

(a) *Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.*

(b) *Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations, as those statutes or regulations read on January 1, 2003, is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand (\$1,000), or of a misdemeanor:*

(1) *Subdivision (a) of Section 6596*

(2) *Section 7149.8.*

(3) *Section 7360.*

(4) *Section 1.74 of Title 14 of the California Code of Regulations.*

(5) *Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.*

(6) *Sections 27.56, 27.65, and 27.70 of Title 14 of the California Code of Regulations.*

(7) *Sections 27.85 to 30.10, inclusive, of Title 14 of the California Code of Regulations.*

(8) *Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.*

(9) *Sections 550 to 553, inclusive, of Title 14 of the California Code of Regulations.*

(10) *Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.*

(F&G 12000)

### **Violation of Fish and Game Code—Felony**

*Any person who takes any bird or mammal in violation of an order issued pursuant to Section 12150 of this code, is guilty of a felony.*  
(F&G 12001)

### **Device(s) Used in Violating F&G Code or PC 597 is Forfeited**

(a) *Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish, reptiles, or amphibians and that was used in committing the offense charges.*

(b) The judge shall, if the offense is punishable under Section 12008 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c) (1) The judge may, for conviction of a violation of either the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:

(A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.

(B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.

(2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause a serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle has knowledge of the violation.

(3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations of Section 2000, as determined by the court.

(d) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(e) (1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.

(2) A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(f) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(g) For purposes of this section, a plea of nolo contendere or of no contest, or forfeiture of bail, constitutes a conviction.

(h) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 86.30. (F&G 12157)

#### **Forfeiture of Motor Vehicle or Snowmobile Used in Committing Offense**

The judge before whom any person is tried and convicted of violating Sections 2004 and 2016 and, at the same proceeding, is also tried and convicted of violating Section 2001 or 2005 may, in his discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charges. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund, except that any valid liens on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction. (F&G 12157.5)

TABLE 1: General Housing Requirements and Specifications*(a) General Housing Requirements and Specifications.*

- (1) All cages or enclosures shall be completely enclosed unless otherwise specified.*
- (2) Compatible animals may be held in the same enclosure if the required floor space is provided.*
- (3) Common walls between noncompatible animals shall be constructed so that animals cannot gain access to each other.*
- (4) If the ambient air temperature falls below that necessary to maintain the animal in a healthy condition, an artificial heat source that is sufficient to maintain that minimum ambient air temperature shall be provided.*
- (5) If a pool of water is required, the floor space occupied by the pool shall be in addition to the minimum floor space requirement unless otherwise specified.*
- (6) Night quarters, holding pens and nesting boxes may not be used as primary housing.*
- (7) Except as provided in subsection (b) below, all animals listed shall be housed in facilities that have double doors or, if individual cages do not have double doors, then a perimeter fence shall enclose the entire facility to prevent escape.*
- (8) All enclosures shall be provided with sufficient drainage to prevent standing water from accumulating.*
- (9) Wherever a concrete floor is specified, either wood plank flooring or natural substrate may be used to cover the concrete floor.*
- (10) The following are minimum pen, cage or enclosure size requirements:*

**MINIMUM PEN, CAGE OR ENCLOSURE SIZE REQUIREMENTS**

<i>Type of Animal</i>	<i>Floor Space (SF) One Animal</i>	<i>Floor Space (SF) Two Animals</i>	<i>Floor Space (SF) Each Additional Animal</i>	<i>Height (FT) of Interior Ceiling or or Outside Fence</i>
CLASS AVES— Birds Ploceidae, Estrildidae, Zosteropidae	4	4	+3/animal	2
More than 2 birds requires a cage height of 6 feet.				
Alaudidae, Cuculidae,	6	6	+4/animal	4
Turdidae, Sturnidae				
More than 2 birds requires a cage height of 6 feet.				
Corvidae	12	24	+12/animal	5
More than 2 birds requires a cage height of 6 feet.				
Falconiformes, Strigiformes Eagle, Hawkeagle, Vulture	100	150	+50/animal	7

<i>Red-tailed hawk, Grt Horn Owl</i>	64	96	+32/animal	7
<i>Peregrine falcon, Barn owl</i>	48	72	+24/animal	7
<i>Sparrow hawk, Screech owl, Burrowing owl</i>	36	54	+18/animal	6
CLASS MAMMALIA				
--Mammals				
PRIMATA				
NOTE: The cage size requirement for two primates also meets the cage size requirement for a pair and their progeny under the age of 2 years.				
<i>Gorilla</i>	300	500	+200/animal	8 Ceiling
<i>Orangutans</i>	200	400	+200/animal	10
<i>Chimpanzees</i>	200	300	+100/animal	8
<i>Baboons</i>	100	200	+100/animal	8
<i>Gibbons, Langurs</i>	100	200	+50/animal	9
<i>Macaques</i>	80	120	+40/animal	8
<i>Woollys, Spiders, Howlers, Sakis,</i>				
<i>Capuchins</i>	64	96	+32/animal	8
<i>Marmosets</i>	16	24	+8/animal	8
<i>Squirrel, Titis,</i>				
<i>Owl</i>	36	54	+18/animal	8
<i>Tree Shrew</i>	9	12	+3/animal	3
EDENTATA				
<i>Sloth</i>	30	40	+10/animal	8
<i>Armadillo: (less than 15" length)</i>	12	16	+3/animal	1.5
<i>(15" to 36" length)</i>	30	40	+10/animal	3
<i>(greater than 36")</i>	80	100	+20/animal	5
<i>Tamandua</i>	40	50	+10/animal	7
<i>Giant Anteater</i>	200	300	+100/animal	6
MARSUPIALIA				
<i>Sm. Opossums</i>	9	12	+3/animal	3
<i>Lg. Opossums</i>	20	30	+10/animal	5
<i>Sm. Wallaby</i>	60	90	+30/animal	5
<i>Lg. Wallaby</i>	200	300	+100/animal	6 Fence/Wall
<i>Tree Kangaroo</i>	80	100	+20/animal	8 Fence/Wall
<i>Lg. Kangaroo</i>	200	300	+100/animal	8 Ceiling
<i>Wallaroo</i>	200	300	+100/animal	6 Fence/Wall

INSECTIVORA				
Hedgehog, Shrew, Mole	3	6	+3/animal	1 Ceiling
DERMOPTERA				
Gliding Lemur	50	65	+15/animal	8
CHIROPTERA				
Bats	Use same cage dimensions as comparably sized finches, parrots, or hawks (see bird section).			
MONOTREMATA				
Spiny Anteater	25	35	+10/animal	5 Ceiling
Platypus	(See Monotremata details in subsection (b)(2)(G))			
PHOLIDOTA				
Scaly Anteater				
Terrestrial forms	Same as armadillos			
Arboreal forms	Same as sloth			
LAGOMORPHA				
Wild Rabbit or Hare	20	28	+8/animal	5 Ceiling
RODENTIA				
Squirrel, Flying	20	40	+10/animal	8
Squirrel, Tree	20	40	+10/animal	8
Squirrel, Ground	20	40	+10/animal	5
		Up to 4 animals may be held in 40 sq. ft.)		
Chipmunk	20	30 (Up to 3 animals may be held in 30 sq. ft.)	+10/animal	5
Prairie Dog (males)	20	30	+10/animal	5
Acushi	20	30	+10/animal	5
Agouti	30	40	+10/animal	5
Paca	30	40	+10/animal	5
Crested Porcupine	40	80	+40/animal	6
N.A. Porcupine	30	40	+10/animal	7
S.A. Porcupine	20	30	+10/animal	7
Muskrat	30	40	+10/animal	6
Beaver	80	120	+40/animal	5
Capybara	100	150	+50/animal	5
CARNIVORA				
Canidae				
Fennec or Kit Fox	80	100	+40/animal	6 Ceiling
Bat-eared Fox/				
Arctic Fox	80	100	+40/animal	6
Gray Fox	80	100	+40/animal	8



<i>Red Fox</i>	80	100	+40/animal	6
<i>Jackal</i>	150	200	+100/animal	6
<i>Coyote</i>	150	200	+100/animal	6
<i>Wolf</i>	200	300	+200/animal	6
<i>Cape Hunting Dog</i>	200	300	+100/animal	6
<i>Ursidae</i>				
<i>Sun Bear</i>	200	300	+100/animal	8
				<i>Ceiling</i>
<i>Amer. Black Bear</i>	300	450	+150/animal	8
<i>Asiatic Black Bear</i>	300	450	+150/animal	8
<i>Sloth Bear</i>	300	450	+150/animal	8
<i>Spectacled Bear</i>	300	450	+150/animal	8
<i>Polar Bear</i>	400	600	+200/animal	10
<i>Grizzly Bear</i>	400	600	+200/animal	8
<i>Russian Brown Bear</i>	300	450	+150/animal	8
<i>Kodiak Bear</i>	400	600	+200/animal	10
<i>Procyonidae</i>				
<i>Kinkajou</i>	40	50	+10/animal	7
				<i>Ceiling</i>
<i>Coatimundi</i>	50	60	+10/animal	7
<i>Raccoon</i>	60	80	+20/animal	8
<i>Mustelidae</i>				
<i>Weasel/Mink/Ferret</i>	30	Up to 4 in 30 sq. feet	+10/animal	6
				<i>Ceiling</i>
<i>Tayra</i>	40	50	+10/animal	6
<i>Grison</i>	30	40	+10/animal	6
<i>Marten</i>	40	50	+10/animal	7
<i>Wolverine</i>	100	200	+100/animal	6
<i>Spotted Skunk</i>	20	Up to 2 in 20 sq. feet	+10/animal	6
<i>Striped Skunk</i>	30	Up to 2 in 30 sq. feet	+10/animal	6
<i>Otter</i>	100	200	+100/animal	6
<i>Badger</i>	60	80	+30/animal	6
<i>Viverridae</i>				
<i>Genet, Civet</i>	40	50	+10/animal	7
				<i>Ceiling</i>
<i>Binturong</i>	100	150	+50/animal	8
<i>Mongoose</i>	80	100	+40/animal	6
<i>Hyaenidae</i>				
<i>Hyena</i>	200	300	+100/animal	6
				<i>Ceiling</i>
<i>FELIDAE</i>				
<i>Lion, Tiger, Cheetah, Snow Leopard, and hybrids thereof</i>	300	450	+150/animal	8
				<i>Ceiling</i>
<i>Black &amp; Spotted Leopard, Jaguar, Clouded Leopard, Mountain Lion, European Lynx and hybrids thereof</i>	200	300	+100/animal	8

<i>Caracal, Bobcat, Canada Lynx, Golden Cat, Ocelot, Serval, Jungle Cat, Fishing Cat and hybrids thereof</i>	80	120	+40/animal	8
<i>Margay, Leopard Cat, Pallas Cat, Marble Cat, Geoffroy's Cat, African Wild Cat, European Wild Cat, Jaguarundi, Little Spotted Cat, African Black Footed Cat, Sand Cat, Flatheaded Cat, Pampas Cat and hybrids thereof</i>	60	90	+30/animal	8
<i>TUBULIDENTATA</i>				
<i>Aardvark</i>	200	300	+100/animal	6
<i>PROBOSCIDEA</i>				
<i>Elephant</i>	1500	3000	+1500/animal	12 Barn height
<i>HYRACOIDEA</i>				
<i>Hyrax</i>	16	20	+4/animal	4 Ceiling
<i>PERISSODACTYLA</i>				
<i>Tapir</i>	300	500	+300/animal	6 Fence/Wall
<i>Rhinoceros</i>	1500	3000	+1500/animal	5 Fence/Wall
<i>Wild Ass</i>	900	1300	+400/animal	6 Fence/Wall
<i>ARTIODACTYLA</i>				
<i>Peccary</i>	100	150	+50/animal	4 Fence/Wall
<i>Wild Pig</i>	150	200	+50/animal	4 Fence/Wall
<i>Pigmy Hippopotamus</i>	700	1000	+300/animal	6 Fence/Wall
<i>Hippopotamus</i>	1500	3000	+1500/animal	7 Fence/Wall
<i>Giraffe</i>	1500	3000	+1500/animal	18 Barn height
<i>(The following Artiodactyla may have a 6 foot fence if the facility's perimeter fence is 8 foot.)</i>				
<i>White-tailed Deer</i>	600	800	+200/animal	8
<i>Fallow Deer</i>	600	800	+200/animal	8
<i>Elk/Red Deer</i>	1000	1400	+400/animal	8
<i>Bison, European</i>	1000	1400	+400/animal	6
<i>Buffalo</i>	1000	1400	+400/animal	6
<i>Impala, Eland</i>	1000	1400	+400/animal	8
<i>Other Antelope</i>	600	800	+200/animal	6
<i>Aoudad</i>	600	800	+200/animal	6
<i>Wild Goats &amp; Sheep</i>	600	800	+200/animal	6

(b) *Specific Housing Requirements.* Permittees shall comply with the following provisions except that material or construction may be substituted upon approval of the inspecting officer if the permittee produces written certification from a licensed civil or structural engineer that the material and/or construction is of equivalent strength.

(1) *Class Aves--Birds*

All birds, except indigenous birds and birds in the Orders Falconiformes and Strigiformes, listed in Section 671 shall be housed in cages having double doors so constructed that the exterior door must be closed before the interior door can be opened. Each door or gate shall be secured by a lock. Perches shall be large enough in diameter so that the bird's claws do not meet the toe or pad on the underside of the perch.

(A) *Orders Falconiformes and Strigiformes.* Noncompatible raptors shall be housed separately unless tethered. Birds of these orders held pursuant to a falconry license shall be maintained in accordance with Section 670, Title 14, CCR. Tethered raptors shall be provided with a perch designed for individual species of raptors. Tethered raptors shall be protected from predators and shall be provided with water for drinking and bathing. Tethers shall be constructed to allow the bird freedom of normal movement without becoming tangled; such tethers shall be of equal length (one on each leg). Raptors shall not be tethered continuously unless they are being flown on a daily basis or they are incapable of flying.

(2) *Class Mammalia*

(A) *Order Primates*

1. A shelter or a den box shall be provided. All primates shall be provided with natural or artificial sunlight.
2. Nocturnal primates shall be provided with privacy during their daytime hours.
3. Nest boxes shall be provided for species that use them (e.g., tamarins, marmosets, owl monkeys). Raised perches and roost sites shall be provided for arboreal or semi-arboreal species.
4. For brachiating species (gibbons and spider monkeys), sufficient vertical space must be provided for this activity which means perches shall be above the floor at a height that is at least equivalent to twice the length of an adult. The ceiling shall be high enough to allow room for the animal to stand erect on its perch with arms extended overhead.
5. Primates shall be provided with objects or exercise systems appropriate to the age and species to promote physical and psychological well-being. These may include sturdy ropes, bars, branches, and chains and rings.
6. New World Monkeys such as squirrel, titis, and owl, medium and large South American monkeys, such as spiders, woollys, howlers, capuchins, and sakis held prior to August 3, 1989 may be kept in the currently approved housing so that the prior social structure and environment of those animals may be maintained. All other housing requirements shall pertain to these animals.

7. *Apes:*

a. *Gorilla, Orangutan and Chimpanzee*

(i) The walls and top of the cage shall be constructed of either 6-inch reinforced concrete; or 8-inch reinforced concrete block; or 5/8-inch diameter steel bars spaced on not greater than 4-inch centers and welded to horizontal angle iron bars 1-1/4 inches x 1/4-inch thick which are spaced no greater than 3 feet apart; or 6-gauge chain link or welded wire attached to 1-5/8-inch schedule 40 steel pipe spaced on 5-foot centers with vertical bracing of 1-5/8-inch schedule 40 steel pipe spaced on 4-foot centers. The horizontal angle iron bars shall be welded to the corner posts. The bottom horizontal bar shall be no more than 3 inches above a concrete floor or footing. Welded wire shall be welded to the framework every foot. Chain link fencing shall be secured along all edges to the framework using tension bars which shall be bolted, not welded, to the framework at 12 inch intervals. All bolt attachments shall be further secured by spot welding. Walls shall be secured to a concrete footing deep enough below grade to preclude escape by digging. The framework for the walls and top of the cage shall be made of 1-5/8 inch outside diameter structural weight galvanized steel pipe or equivalent. Vertical support shall be set 2-1/2 feet in concrete.

(ii) Corner posts shall be either one 2-3/8 inch steel pipe or two 1-5/8 inch schedule 40 steel pipes bolted together with 3/8 inch steel bolts or equivalent.

b. *Gibbon*

(i) Construction shall be 9 gauge chain link or welded wire or equivalent.

8. *Old World Monkeys*

a. *Baboon, mandrill, macaque, quemon, mangabey, langur, etc.*

(i) 9 gauge wire or concrete construction.

9. *New World Monkeys*

a. *Marmoset, squirrel, titis, owl and other similar-sized Monkeys.*

(i) Cage mesh no greater than 1" x 2".

b. *Spider, woolly, howler, capuchin, saki, other medium and large sized South American monkeys, etc.*

(i) 11 gauge wire or concrete construction.

(B) Order Edentata--Sloth, Anteater, Armadillo, etc.

1. The floor of the pen shall be at least 50% natural substrate. The walls of the pen shall be secured to a concrete footing or, if they are constructed of 11 gauge non-rusting chain link or welded wire, they shall be buried in the dirt deep enough to prevent escape by digging.

2. The pens for sloths may have a concrete floor and shall have limbs for climbing. One limb shall provide them an opportunity to get to a heat source.

(C) Order Marsupialia--Marsupial or Pouched Animal

1. The floor of the cage shall either be constructed of wood, or it shall be natural substrate. The surface of the paddock shall be natural substrate. Walls of the cage shall be secured to buried concrete or, if walls are constructed of 11 gauge non-rusting chain link or welded wire, they shall be buried in the dirt deep enough to prevent escape by digging.

2. Tree kangaroos and other arboreal marsupials shall be provided with limbs for perching, climbing and resting, a raised nest box or similar structure for seclusion and a heat source.

3. Kangaroos and wallabies shall be provided with a refuge area.

(D) Order Insectivora--Shrew, Mole, Hedgehog, etc.

1. The bottom of the cage shall be dirt, wood shavings or similar material over an escape-proof flooring.

2. A hide box or other refuge and protection from strong light are required.

(E) Order Dermoptera--Gliding Lemur

1. Limbs for perching and climbing and a rectangular cage are required.

(F) Order Chiroptera--Bat

1. Perching or other material shall be provided for the animal to suspend itself.

2. Protection from strong light shall be provided.

(G) Order Monotremata--Spiny Anteater, Platypus.

1. The floor of the cage shall be natural substrate. The walls of the cage shall be constructed of 11 gauge non-rusting chain link or welded wire, secured to buried concrete, or they shall be buried at least one foot below the surface.

2. Nest boxes with dry bedding or a natural burrow shall be provided for spiny anteaters. A heat source shall be provided.

3. A pool measuring at least 4 times the length of the animal(s) by 1-1/2 times the width of the animal by 2-feet deep shall be provided for platypuses for swimming and feeding. Each adult shall be provided with a dry land area equal to the surface area of the pool.

4. Platypuses require at least a 6-foot long, tunnel-like entrance to the nest box where water from the pool can be shed.

5. Platypuses shall be kept singly with young or paired only when breeding.

(H) Order Pholidota--Pangolin, Scaly Anteater

1. The floor of the cage shall be natural substrate or 4 inch concrete covered with permeable soil. The walls of the cage shall be constructed of 11 gauge non-rusting chain link or welded wire, secured to buried concrete, or they shall be buried at least one foot below the surface.

(I) Order Lagomorpha--Rabbit and Hare

All require tooth-resistant restraining materials and bone, wood or fibrous food to gnaw on.

1. The floor of a pen shall be constructed of concrete at least 2 inches thick or of 16 gauge non-rusting chain link or welded wire. Dirt or wood may be placed over the flooring.

(J) Order Rodentia--Muskrats, Porcupine, Squirrel, Beaver, Prairie Dog

All require tooth-resistant restraining materials and bone, wood or fibrous food to gnaw on.

1. Porcupine

a. New World porcupines require climbing perches.

b. A box shelter for seclusion is required.

2. Squirrel and Chipmunk

a. Arboreal forms require climbing perches.

b. Nest boxes are required for each animal.

c. The cage shall be completely enclosed with a welded wire and have a concrete floor.

d. The floor shall be covered with natural substrate, wood shavings or similar material.

3. Muskrat and Beaver

a. A pool of fresh water with easy entry and exit shall be provided. Half of the required floor space shall be a pool of water 2-1/2 feet deep.

b. A nest box or retreat shall be provided for each animal.

c. The walls of the cages for beaver shall be constructed of 9 gauge chain link or welded wire or equivalent construction; 11 gauge for muskrats.

d. The floor of the cages shall be constructed of 4-inch concrete or non-rusting 9 gauge chain link or welded

steel wire. Such floors are not required if the side walls are anchored to equivalent materials which have been buried deep enough underground to prevent the animal's escape by digging.

e. Not more than 2 compatible adults of the same species and their offspring of the year may be held in the same enclosure.

4. *Prairie Dog*

a. The floor of a pen shall be constructed of 4-inch concrete, or 16 gauge, non-rusting woven wire or similar non-rusting material with mesh 1-inch in diameter. At least 1/4-inch diameter reinforcement rods shall be used along the outer edge of a concrete floor to help support concrete or concrete block walls. To facilitate drainage, 6-inch floor drains shall be installed in a concrete floor at the rate of one per 16 square feet. Floor drains shall be covered with 9 gauge non-rusting woven wire or similar material to prevent animals from escaping. Floor drains are not required when wire is used for entire floor. The floor shall be a minimum of 3 feet below ground level and covered with permeable soil or other mixture to ensure adequate drainage.

b. The walls of the pen below ground level shall be anchored to the floor and shall be of 4 inch concrete or concrete blocks or 9 gauge non-rusting woven wire or similar material with 1-inch mesh attached to the framework of steel or cedar posts. Above ground level the wall shall be of 18 gauge fur-farm netting with 1-inch mesh, 4-inch concrete or concrete blocks or similar material. The top shall be covered or the walls shall be at least 3-1/2 feet high and provide a non-climbable escape-proof barrier.

5. *Acushi, Agouti, Paca and Capybara*

a. Gnawing logs shall be provided.

b. A pool shall be provided for capybara.

c. Walls or fencing shall be anchored far enough below ground level to prevent escape by digging. Dirt substrate or similar natural material shall be provided.

(K) *Order Carnivora--Raccoon, Weasel, Skunk, Mongoose, Wolf, Lion, Bear, etc.*

1. *Procyonidae--Raccoon, Coatimundi and Kinkajou*

a. Limbs shall be required.

b. A nest box or sheltered retreat shall be provided.

c. The floor of the pen shall be constructed of 4-inch concrete, wood, or natural substrate over concrete or 9 gauge non-rusting chain link or similar material, or the walls shall be buried deep enough to prevent escape by digging.

d. The walls of the pen shall be constructed of 11 gauge chain link or equivalent, 4-inch concrete or concrete block. If no top is provided, the walls shall be of sufficient height and shall be constructed in a manner which makes them non-climbable to prevent escape.

2. *Mustelidae*

a. *Weasel, Ferret, Mink, Marten, Tayra, Grison, and Skunk*

(i) Limbs shall be required (except skunk).

(ii) A nest box shall be provided for each animal, except neutered European ferrets may have a large communal nest box.

(iii) The floor of the cage shall be constructed of one inch square or one inch by two inch mesh, 4-inch concrete, wood, 11 gauge non-rusting chain link or equivalent material with a covering of dirt or similar natural substrate.

b. *Wolverine and Badger*

(i) A natural or artificial den area shall be provided for each animal.

(ii) The floor of the cage shall be constructed of two inch by six inch wood or 4-inch concrete or non-rusting 9 gauge chain link or welded wire covered with 3 feet of permeable soil. Six-inch floor drains shall be installed in the concrete floor at the rate of one per 16 square feet. Floor drains shall be covered with 9 gauge non-rusting woven wire or similar material to prevent animals from escaping.

(iii) Walls of the cage shall be constructed of 9 gauge chain link or welded steel wire, 4-inch concrete, or concrete block. If no top is provided, walls shall be of sufficient height and shall be constructed in a manner which makes them non-climbable to prevent escape.

c. *River Otter. (Sea otters shall be housed according to 9 CFR Sections 3.100-3.118.)*

(i) A den area shall be provided for each animal.

(ii) A pool with fresh running water covering at least 1/2 of the required floor space and at least 2-1/2 feet deep shall be provided.

(iii) The floor of the cage shall be constructed of 4 inch concrete or dirt over such concrete or 9 gauge chain link or welded steel wire or the side walls shall be anchored to equal materials deep enough underground to prevent escape by digging. If concrete floor is used, 6 inch floor drains shall



be used and they shall be covered with 9 gauge non-rusting woven wire or similar material to prevent animals from escaping.

(iv) The walls of the cage shall be constructed of 11 gauge chain link or welded steel fabric or equivalent construction.

3. *Viverridae--Genet, Civet and Mongoose, Binturong*

a. Limbs shall be provided.

b. A nest box or platform is required. A heat source shall be provided for genet, civet and mongoose.

c. The floor of the cage shall be constructed of 4-inch concrete or for civets and binturongs, it may be 11 gauge non-rusting welded steel fabric with 2-inch mesh and the cage for genets and mongooses shall be of 16 gauge welded steel fabric with 3/4-inch mesh which is covered with soil.

d. The walls of the cage for civets and binturongs shall be of 11 gauge welded steel fabric with 2-inch mesh and the cage for genets and mongooses shall be of 16 gauge welded steel fabric with 3/4-inch mesh, 4-inch concrete or concrete block.

4. *Hyaenidae--Hyena*

a. The floor of the cage shall be constructed of 4-inch concrete, or 2 by 6 inch or larger wood flooring or buried non-rusting 9 gauge chain link or welded wire with mesh no larger than 2 inches by 4 inches.

b. The walls of the cage shall be constructed of 9 gauge chain link or welded wire with mesh no larger than 2 inches by 4 inches, or 6-inch concrete or concrete block. If an animal is kept in a large enclosure in lieu of a cage, the floor shall be of natural substrate and the walls shall be anchored and extend at least 5 feet underground. If no top is provided, the walls shall be at least 10 feet high and constructed to be non-climbable by the animal or the walls shall be 8 feet high and shall have, in addition, a 2-foot overhang angling 45 degrees inward at the top.

c. A sheltered retreat and either a den or elevated wood platform shall be provided.

5. *Canidae--Wolf, Coyote, Fox and Other Members of the Dog Family*

a. Limbs shall be provided for gray and red foxes.

b. The floor of the cage shall be either natural substrate or constructed of two inch by six inch wood or 4-inch concrete or buried non-rusting 9 gauge chain link or welded wire. In lieu of the above, either the walls shall be buried at least 8 feet deep to prevent escape by digging, or a buried 3-foot wide concrete, chain link, or welded wire apron shall be provided which shall be attached to the inside of the bottom of the perimeter walls to prevent escape by digging at the walls. All buried chain link or welded wire shall meet the gauge requirements for walls.

c. The walls of the cage shall be constructed of 6-inch concrete or concrete block, chain link or welded wire. If chain link is used, it shall be 9 gauge for wolves and 11 gauge for other canids. If an animal is kept in a large enclosure in lieu of a cage, the floor shall be of natural substrate and the walls of the cage shall be anchored and extend at least 5 feet underground or a buried 3-foot wide concrete, chain link or welded wire apron shall be provided which shall be attached to the inside of the bottom of the perimeter walls to prevent escape by digging at the walls. If no top is provided, the walls shall be at least 10 feet high and constructed to be non-climbable by the animal or the walls shall be 6 feet high (except that the walls for the gray fox shall be 8 feet high) and shall have, in addition, a 2-foot overhang angling 45 degrees inward at the top.

d. A sheltered retreat and either a den or elevated wood platform shall be provided.

6. *Felidae--Cat Family*

a. Dens shall be provided and shall be adequate in size to provide privacy and comfort for all animals in the enclosure.

b. An elevated wooden loafing platform or an elevated dry natural substrate loafing area, adequate in size for all animals within the enclosure, shall be provided. The top of the den or den box may be designed to meet this requirement.

c. A tree limb or other suitable scratch block shall be provided.

d. The floor of the cage shall be natural substrate or constructed of wood or 4 inches of concrete or welded wire or the walls shall be buried deep enough to prevent escape by digging. All buried chain link or welded wire shall be non-rusting and shall meet the gauge requirements for walls.

e. Group I--Lion, Tiger, Cheetah, Snow Leopard, and Hybrids Thereof:

(i) A minimum of 100 square feet shall be of concrete or wood planking as a sanitary area for feeding unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and top of the enclosure shall be constructed of at least 9 gauge chain link. The

framework for the walls and top shall be constructed of 1-5/8 inch schedule 40 steel pipe. Vertical posts shall be bolted to or anchored in concrete 1-1/2 feet deep by 10 inches in diameter spaced no more than 10 feet apart. Horizontal pipe supports shall be spaced no more than 4 feet apart and welded at the ends to the vertical posts. The above chain link fencing shall be secured to the vertical and horizontal framing on all sides using tension bars which shall be welded or bolted to the framework every 18 inches. Welded wire shall be welded to the framework every 12 inches on all sides. The bottom horizontal cross bar shall be no more than 3 inches above the concrete floor. If a bottom horizontal cross bar is not used, the walls shall be secured against the natural substrate or a wooden flooring in a manner which precludes escape. Corner posts shall be two 1-5/8-inch schedule 40 steel posts or one 2-3/8-inch schedule 40 steel post. The top cross members shall be spaced no more than 5 feet apart.

f. Group II--Black and Spotted Leopard, Jaguar, Clouded Leopard, Mountain Lion, European Lynx and Hybrids Thereof:

(i) At least 70 square feet of the floor space must be of concrete or wood planking as a sanitary area for feeding unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and tops shall be the same as for Group I cats.

g. Group III--Caracal, Bobcat, Canada Lynx, Golden Cat, Ocelot, Serval, Jungle Cat, Fishing Cat and Hybrids Thereof:

(i) At least 25 square feet of floor space shall be concrete or wood planking as a sanitary area for feeding, unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and top of the enclosure shall be constructed of at least 12 gauge chain link or equivalent. Corner posts shall be either one 2-3/8-inch schedule 40 steel pipe or two 1-5/8-inch schedule 40 steel pipes and anchored as provided for Group I cats.

h. Group IV--Margay, Leopard Cat, Pallas Cat, Marble Cat, Geoffroy's Cat, African Wild Cat, European Wild Cat, Jaguarundi, Little Spotted Cat, African Black Footed Cat, Sand Cat, Flatheaded Cat, Pampas Cat and Hybrids Thereof:

(i) At least 20 square feet of floor space shall be concrete or wood planking as a sanitary area for feeding, unless a secured food receptacle which is cleaned daily is provided.

(ii) Wall and top of the enclosure shall be constructed of at least 12 gauge chain link or equivalent. Corner posts shall be either one 2-3/8-inch schedule 40 steel pipe or two 1-5/8-inch schedule 40 steel pipes and anchored as provided for Group I cats.

#### 7. Ursidae-Bear Family

Bears shall be classified into 3 groups: Group I= Sun Bears, Asiatic Black bears, Sloth bears and Spectacled bears; Group II= American Black bears and European brown bears; and Group III= Polar bears and Brown bears.

(i) Floors of the enclosure shall be constructed of reinforced concrete 4 inches thick or they shall be of natural substrate or wood with the walls secured to a concrete footing deep enough below grade to preclude escape by digging (at least 5 feet for Group III).

(ii) Vertical corner posts shall be made of either one 2-3/8- inch schedule 40 steel pipe or two 1-5/8-inch schedule 40 steel pipe. Other vertical, horizontal, and top cross member supports shall be made of 1-5/8-inch schedule 40 steel pipe for Group I and 1-7/8-inch schedule 40 steel pipe for Groups II and III. All horizontal pipe supports shall be spaced no more than 5 feet apart for any group. The bottom horizontal pipe shall be no more than 3 inches above the concrete floor.

(iii) The framework for the walls and top of the cage shall be constructed of materials that are equal or greater in strength than the corner posts with all upright members set 2-1/2 feet in concrete and spaced no more than 10 feet apart for Group I and II or 5 feet apart for Group III. The cross members (stringers) forming the framework for the top shall be spaced no more than 5 feet apart for any group. Iron pipe shall be standard grade for Groups I and II and structural strength grade for Group III.

(iv) For groups I and II the walls of the cage shall be constructed of 9 gauge chain link or welded wire with mesh no greater than 2 inches in diameter. For Group III bears the walls of the cage shall be constructed of 5 gauge chain link or welded wire. Welded wire shall be welded to the framework every 4 inches.

Chain link fencing shall be secured along all edges to the framework using tension bars which shall be bolted to the framework every foot. The walls of the cage for groups I, II and III bears may also be constructed of vertical steel bars or rods of 5/8-inch diameter, spaced on 4-inch centers, and welded at the ends to 1-1/4 inch x 1/4-inch angle iron. The horizontal angle iron supports shall be welded to the vertical posts. The bottom horizontal support shall be no more than 3 inches above the concrete floor and each horizontal support shall be spaced no more than 4 feet apart between floor and top.

(v) The top of the cage shall be constructed of material equal to the wall requirements for the particular group of bears enclosed. Shade shall be provided by covering 1/4 to 1/2 of the top with exterior grade plywood, fiberglass, or similar material.

(vi) A concrete or concrete block den at least 4 feet high by 4 feet wide by 6 feet long or an equivalent shall be provided for each animal; or one den at least 4 feet high by 6 feet wide by 8 feet long for 2 animals or for a female and her offspring of the year. The top of the den shall be constructed of concrete which may be covered on top with wood for laying. A den shall be provided with shavings, straw, or a wooden platform or flooring for reclining. The den shall be provided with adequate ventilation to prevent condensation of moisture. The den box may be of wood if the den is completely within the cage.

(vii) A bear shall be provided with a suitable scratching post.

(viii) A pool deep enough for complete immersion shall be required for polar bears and the pool surface area shall be in addition to the minimum cage size requirement.

(L) Order Tubulidentata-Aardvarks

1. The floor of the cage shall be dirt. The walls of the cage shall be constructed of 9 gauge non-rusting welded wire or concrete which has been buried to a depth of at least 5 feet to prevent escape by digging.

(M) Order Proboscidea-Elephant

1. A heated barn shall be provided in any geographical area where the ambient air temperature drops below 40 degrees Fahrenheit. The floor of the barn shall be constructed of at least 6 inches of reinforced concrete. All lights and other such objects and obstacles in the barn shall be kept outside the reach of the elephant.

2. Elephants shall be provided free exercise unchained on dirt for a minimum of 5 hours per each 24-hour period.

3. An enclosure constructed of 6-inch reinforced concrete, 2-inch diameter steel bars or 4-inch diameter schedule 40 galvanized steel pipe shall be provided. No roof is required.

4. Chaining requirements:

a. Chains shall be secured to a concrete floor, concrete "dead man," or other immovable anchor.

b. A covered chaining area shall be provided.

c. An elephant may be chained by only one rear leg and the opposite front leg and in such a manner as to restrict movement but still allow the animal to easily lay down and rise again. Chains shall be rotated to the other 2 legs daily.

d. Elephants chained for any extended period shall have their leg chains padded and shall be checked regularly to insure they are secure and to detect any injury to the leg.

e. Snaps and clips may be used only within a primary enclosure. A clevis or stronger type chain attachment shall be used outside the primary enclosure.

5. Either a pool shall be provided or the elephant shall be washed with water daily, as weather or temperature permit.

(N) Order Hyracoidea--Hyrax

1. Limbs shall be provided for arboreal species.

2. Nest box or sheltered retreat shall be provided.

3. The floor of the cage shall be constructed of 4 inch concrete which shall be covered with dirt or natural substrate.

4. The walls of the cage shall be constructed of 1/2 inch by 1 inch mesh welded wire.

(O) Order Sirenia--Dugongs and Manatees--These animals shall be maintained in a manner that complies with 50 CFR, Part 18, Section 18.13(c).

(P) Order Perissodactyla--Tapirs, Rhinoceroses, etc.

1. The floor of the pen shall be dirt or natural substrate.

2. The walls of the pen for tapirs shall be constructed of 9 gauge chain link, or equivalent material. The walls of the enclosure for rhinoceroses shall be constructed of 6-inch reinforced concrete, 2 inch diameter steel bars, or 6-inch heavy duty galvanized steep pipe.

(Q) Order Artiodactyla--Wild Pigs, Hippopotami, Deer, Giraffes, Wild Cattle, Antelope, etc.

1. Wild Pigs and Peccaries

a. A shelter with a roof and three walls shall be provided.

b. The floor of the pen shall be dirt or natural substrate.

c. The animals shall be precluded from escape by digging.

2. Hippopotami

a. A heated barn shall be provided in any geographical area where the ambient air temperature drops below 40 degrees Fahrenheit.

b. A pool shall be provided for the Nile hippopotamus which shall have surface area of at least 300 square feet and a 35-degree nonskid ramp. The pool shall be not less than 5 feet deep. For each additional animal there shall be a 25% increase in the required pool area.

c. A pool shall be provided for the pygmy hippopotamus which shall have a surface area of at least 100

square feet with a 35-degree nonskid ramp. The pool shall be not less than 3 feet deep. For each additional animal there shall be a 25% increase in the required pool area.

d. The walls of the corral or paddock enclosure shall be constructed of 5-inch reinforced concrete or 5-inch structural grade schedule 40 galvanized steel pipe.

3. Deer, Elk, Giraffes, Wild Cattle, Antelope, and Wild Goats and Sheep.

a. The floor of the pen shall be dirt or other natural substrate.

b. All animals shall be provided with a shelter which has a roof and three walls.

Shelters for giraffes shall provide at least 140 square feet of floor space for each giraffe. A heat source shall be provided for giraffes.

c. Fences for giraffe, elk and wild cattle shall be constructed of 9 gauge woven wire or chain link with mesh not more than 6 inches in diameter or equivalent. Posts shall be of structural grade schedule 40 quality steel pipe or structurally sound 4 x 4 wood, spaced not more than 12 feet apart. A 6-foot vertical fence, with or without overhang, shall be required; a 7-foot vertical fence is required for elk.

d. Fences for deer, antelope and wild goats and sheep shall be constructed of 11 gauge woven wire with mesh not more than 6 inches in diameter or equivalent. Posts shall be of structurally sound 4x4 wood or equivalent, spaced not more than 12 feet apart. A 7-foot vertical fence is required for elk, red deer, bison, buffalo, impala, eland, antelope, goats and sheep; a 6-foot vertical fence is required for white-tailed deer, fallow deer, auodad and sika deer.

(3) Class Amphibia--Frogs, Toads, Salamanders

(A) General Requirements:

1. The animal's enclosure shall be kept within a closed and locked room or building which has covers over all drains and openings to prevent escape of the amphibians from the building. All doors shall be equipped with sweeps. Containers or exhibits shall be labeled with the identification of current species and the number of animals contained inside.

2. The rock or aquarium substrate shall be non-abrasive and shall be kept clean.

3. Any transfer containers shall have locked tops and shall be constructed in a manner which shall prevent the likelihood of escape.

(B) Family Bufonidae

1. One ten-gallon standard commercial aquarium shall be provided for one animal and an additional three-fourths of a square foot (equivalent to one 5 gallon aquarium) shall be provided for each additional animal.

2. At least one-third of the bottom of the aquarium shall be covered with water and two-thirds shall be dry.

3. Animals shall be kept at a temperature of between 60-80 degrees Fahrenheit.

(C) Family Pipidae

1. One 10 gallon standard commercial aquarium shall be provided for one animal. The minimum floor space requirement shall be increased by 50 percent for each additional animal. Water at a minimum depth of 1 foot shall cover at least the minimum floor space requirement for the number of animals confined.

2. Animals shall be confined at a temperature of between 60-80 degrees Fahrenheit.

(4) Class Reptilia

(A) Order Crocodilia--Alligators, Caimans, Crocodiles, Gavials

1. The minimum cage length and width dimensions for one animal shall be equal to one and one-half times the length of the animal by one and one-half times the length of the animal. This space requirement shall be doubled for two animals and shall be increased by a factor of two-thirds for each additional animal thereafter.

2. One-third of the minimum cage space shall be water that is deep enough for the animal to immerse itself. If more than one animal is present in the pen, the pool shall be of sufficient size that all animals can immerse themselves simultaneously. Pool surfaces shall be made of non-abrasive material and the pool shall have a drain.

3. That portion of the pen not occupied by the pool shall be covered with non-abrasive material such as dirt or grass.

4. Crocodilians, except alligators and caimans less than 4 feet in length, shall be kept in a totally enclosed building or exhibit. Animals shall be confined in a manner which precludes their coming in contact with the public. The walls of an open pen for other crocodilians shall be equivalent to at least one foot in height for every one foot in length of the largest animal up to a maximum of 6 feet high. If any of the walls are made of a climbable material such as fencing, the top 1-1/2 feet of the wall shall be constructed of a slippery, nonclimbable material for all crocodilians except alligators. The walls for all species shall be buried deep enough to prevent escape by digging, or a buried apron shall be used. The walls of an open alligator pen



*shall be at least 4 feet high, and the corners shall be covered to prevent climbing. The upper one-half of the walls of the enclosure shall be constructed of either concrete or concrete block or 9 gauge chain link or welded wire with no greater than 2-inch x 4-inch size mesh. Concrete or concrete block shall be used for the bottom half of the enclosure. All chain link or welded wire edges shall be smoothly secured in a manner which will prevent injury to the animals.*

*5. Alligators may be kept outdoors if:*

- a. An external heat source is provided, and the pool temperature is maintained above freezing;*
- b. The pool is at least three feet deep; and*
- c. The nighttime temperature does not fall below freezing for more than 2 consecutive nights.*

*6. Crocodilians other than alligators may be confined outdoors between sunrise and sunset if:*

- a. The air temperature is above 65 degrees Fahrenheit.*

*7. Crocodilians other than alligators shall not be confined outdoors between sunset and sunrise.*

*(B) Family Chelydridae--Snapping turtles*

*1. The container or exhibit shall be labeled with the common and scientific name of the species and the subspecies, if known, and the number of animals contained inside.*

*2. Each turtle shall be provided with a minimum floor space that is equal to five times the size of the animal.*

*3. At least one-half of the minimum floor space shall be water which is deep enough to immerse the turtle.*

*(C) Snakes--Families Elapidae, Viperidae, Colubridae and Crotalidae*

*1. The container or exhibit for venomous snakes shall be labeled with the common and scientific name of the species and the subspecies, if known, and the number of animals contained inside. The label shall be legibly marked with the warning "Poisonous" or "Venomous."*

*2. The perimeter of the enclosure for snakes less than 6 feet shall be 1-1/2 times the length of the snake. The perimeter of the enclosure for snakes over 6 feet shall be twice the length of the snake.*

*3. All venomous snakes shall be kept in a locked exhibit or container which shall be located within a locked building, compound or enclosure.*

*4. The floor of the enclosure shall be constructed of non-abrasive material and hiding areas shall be provided.*

*5. At least two fully trained people shall be present when an occupied enclosure is opened or when one of these snakes is handled. The names of the trained handlers shall be listed with the department's Wildlife Protection Division in Sacramento.*

*6. Written animal escape "emergency procedures" shall be clearly and conspicuously posted in the building housing these snakes and shall be supplied to the department at the time the permit application is initially submitted.*

*7. A notice shall be clearly and conspicuously posted on the premises which shall provide the location of the nearest most readily available source of appropriate antivenin and a written plan from a hospital stating how a venomous bite should be treated. Each enclosure shall be clearly and conspicuously labeled with the appropriate antivenin to be used for the species in the cage.*

*8. If a snake is transported or removed from its primary enclosure for feeding or in order to clean the enclosure, the snake shall be kept in a fully enclosed container with a secure and locked lid which has air holes or other means of ventilation.*

*9. Snake hooks shall be present for caring for these snakes.*

*10. The permittee shall telephonically notify the department of any snake bite on humans or escapes of any snakes within 24 hours and shall provide a written report of the incident to the department's Wildlife Protection Division in Sacramento within one week.*

*(5) All other Classes, Orders, Families, Genera and species for which specific caging and/or enclosure requirements have not been provided in sections (b)(1)-(4) above shall be humanely confined in a manner which precludes escape.*

*(c) Incorporation by reference of the Federal Animal Welfare Regulations and Federal "Guide for the Care and Use of Laboratory Animals."*

*Except as otherwise provided in subsections (a) and (b) above, permittees shall follow the requirements of the Federal Animal Welfare Regulations contained in 9 Code of Federal Regulations (CFR), Sections 2.33, 2.40, 3.75-3.85, 3.101(a)(3); and 3.136-3.142, as amended from time to time, as the United States Department of Agriculture adopts regulations pursuant to the Laboratory Animal Welfare Act and its Amendments as found at 7 United States Code (USC), Sections 2131-2157. The Commission hereby incorporates by reference the cited Federal Animal Welfare Regulations and the "Guide for the Care and Use of Laboratory Animals," (NIH Publication No. 86-23, Revised 1985) as if they were set out in full.*

*(d) Variances to Minimum Caging and Enclosure Requirements.*

*(1) The general requirements set forth in subsections (a) and (b) above are minimum standards for permanent facilities. Any deviation from these specifications because of the age of the animal being housed, the use of an unusual facility design, such as*



*moats, islands, outdoor natural habitat enclosures, pits or barriers shall be subject to the approval of the inspecting officer with concurrence of the director. In granting any variance of the minimum caging and enclosure requirements, the inspecting officer and the director shall make a finding that the overall welfare of the animal(s) involved has been maintained.*

*(2) Those cat cages which substantially conform to the provisions of Section 671.3(b)(2)(K)6 on or before August 3, 1989, shall be "grandfathered in." Existing cages, except currently approved cat cages, will be given three calendar years or until February 25, 1995 to comply with the new caging requirement set forth herein. The department may approve nonstandard cages on a case by case basis, if they substantially conform to the spatial requirements. The Regional Manager shall make a recommendation to the Chief of Patrol who will make the department's final decision. The department's final decision may be appealed to the commission.*

*(3) These minimum facility and caging standards do not apply to wildlife temporarily maintained pursuant to Section 251.5(f) as provided by Fish and Game Code Section 3005.5.*

*(e) Care of Laboratory Animals. With the approval of the department, prohibited wild animals used for research purposes may be confined and cared for pursuant to the provisions of the "Guide for the Care and Use of Laboratory Animals" adopted by the U.S. Department of Health and Human Services (NIH Publication No. 86-23, Revised 1985). (14 CCR 671.3)*



The 2006 Animal Law Enforcement Field Guide is an organized collection of every state animal protection law in an easy to use guide. While this guide was designed for law enforcement officers in the field, it anticipates the officers to have no training in animal law and, thus, is very user-friendly. The twelve sections of the guide give you every law in the state for a particular species or group of animals (for instance, Cats, Dogs, Marine Animals, or Wildlife). It is organized this way to correspond to the groupings recognized by the state legislature in creating specific laws.



***About the Author:***

Brenda Carey received her B.A. in Communication Studies from Loyola Marymount University in Los Angeles in 1999. She went on to earn a J.D. from Boalt Hall School of Law at the University of California at Berkeley in 2002 where she was a Co-Founder of the Animal Law Society and was an editor for Ecology Law Quarterly, the premier environmental law journal in the country. Brenda has volunteered with various animal welfare organizations for approximately 12 years including animal shelters, animal rescue organizations, and animal rights organizations. She is a 2004 graduate of the Animal Law Enforcement Academy in Novato, CA. She plans to use her education to build better communication and legal understanding among law enforcement agencies and animal advocates. She co-founded the LAHS out of a desire to see the law enforced to protect animals from abuse as has never been done before.