

ASSEMBLY BILL

No. 1571

Introduced by Assembly Member Caldera

February 24, 1995

An act to amend Sections 4827 and 13200 of the Business and Professions Code, to repeal Title 4 (commencing with Section 607d) of Part 4 of Division 1 of the Civil Code, to amend Section 1208.5 of the Code of Civil Procedure, to amend Sections 2020 and 2189 of the Fish and Game Code, to amend Sections 31106, 31252, and 31609 of the Food and Agricultural Code, to amend Section 25988 of the Health and Safety Code, and to amend Sections 597, 597.1, 597d, 597f, 597u, 597v, 597w, 597z, 11165.16, 11166, 11166.5, 11172, 12031, and 12583 of the Penal Code, relating to humane officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1571, as introduced, Caldera. Humane societies.

Existing law provides for, and regulates, humane societies incorporated for the prevention of cruelty to animals. These provisions provide for the appointment of members of those societies as humane officers and authorizes those persons to have specified powers, including the power to arrest and the power to carry weapons.

This bill would repeal these provisions and would make conforming changes to related provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

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

3 4827. Nothing in this chapter prohibits any person
4 from:

5 (a) Practicing veterinary medicine upon his own
6 animals.

7 (b) Being assisted in such practice by his employees
8 when employed in the conduct of such person’s business.

9 (c) Being assisted in such practice by some other
10 person gratuitously.

11 (d) The lay testing of poultry by the whole blood
12 agglutination test.

13 (e) Making any determination as to the status of
14 pregnancy, sterility, or infertility upon livestock at the
15 time an animal is being inseminated, providing no direct
16 charge is made for such determination.

17 (f) Administering sodium ~~pentobarbital~~ *pentobarbital*
18 for euthanasia of sick, injured, homeless, or unwanted
19 domestic pets or animals, without the presence of a
20 veterinarian when such person is an employee of a public
21 pound ~~or humane society~~ and has received proper
22 training in the administration of sodium ~~pentobarbital~~
23 *pentobarbital* for such purposes.

24 SEC. 2. Section 13200 of the Business and Professions
25 Code is amended to read:

26 13200. For purposes of this chapter “animal
27 euthanasic device” means any carbon monoxide gas
28 chamber used by a person, peace officer, ~~officer of a~~
29 ~~humane society~~, or officer of a pound or animal regulation
30 department of a public agency, for the killing of any dog
31 or cat.

32 SEC. 3. Title 4 (commencing with Section 607d) of
33 Part 4 of Division 1 of the Civil Code is repealed.

34 SEC. 4. Section 1208.5 of the Code of Civil Procedure
35 is amended to read:

36 1208.5. Any person having a lien upon any animal or
37 animals under the provisions of Section 597a or 597f of the
38 Penal Code may satisfy such lien as follows: If such lien is



1 not discharged and satisfied, by the person responsible,
2 within three days after the obligation becomes due, then
3 the person holding such lien may resort to the proper
4 court to satisfy the claim; or he, three days after the
5 charges against the property become due, may sell the
6 property, or an undivided fraction thereof as may
7 become necessary, to defray the amount due and costs of
8 sale, by giving three days' notice of the sale by advertising
9 in some newspaper published in the county, or city and
10 county, in which the lien has attached to the property; or,
11 if there is no paper published in the county, then by
12 posting notices of the sale in three of the most public
13 places in the town or judicial district for three days
14 previous to the sale. The notices shall contain an accurate
15 description of the property to be sold, together with the
16 terms of sale, which must be for cash, payable on the
17 consummation of the sale. The proceeds of the sale shall
18 be applied to the discharge of the lien and the costs of sale;
19 the remainder, if any, shall be paid over to the owner, if
20 known, and if not known shall be paid into the ~~treasury~~
21 ~~of the humane society of the county, or city and county,~~
22 ~~wherein the sale takes place; if no humane society exists~~
23 ~~in the county, then the remainder shall be paid into the~~
24 county treasury.

25 SEC. 5. Section 2020 of the Fish and Game Code is
26 amended to read:

27 2020. (a) The department may reimburse eligible
28 local entities, pursuant to a memorandum of
29 understanding entered into under this section, for costs
30 incurred by the eligible local entities in the
31 administration and enforcement of any provision
32 concerning the possession of, handling of, care for, or
33 holding facilities provided for, a wild animal designated
34 pursuant to Section 2118, by any person.

35 (b) The director may enter into ~~memorandums~~
36 *memoranda* of understanding with eligible local entities
37 for the administration and enforcement of any provision
38 concerning the possession of, handling of, care for, or
39 holding facilities provided for, a wild animal designated



1 pursuant to Section 2118, or a cat specified in Section
2 3005.9.

3 (c) For purposes of this division, “eligible local entity”
4 means a county, local animal control officer, ~~local humane~~
5 ~~society—official~~, an educational institution, or trained
6 private individual which enters into a memorandum of
7 understanding with the director pursuant to this section.

8 SEC. 6. Section 2189 of the Fish and Game Code is
9 amended to read:

10 2189. (a) No person shall import into this state any
11 live nonnative wild animal except pursuant to this
12 chapter or regulations adopted pursuant thereto.

13 (b) Any live nonnative wild animal which is possessed
14 or transported within this state in violation of this chapter
15 or regulations adopted pursuant thereto shall, upon
16 notice of and within the time specified by the enforcing
17 officer, be disposed of in accordance with regulations
18 adopted pursuant to Section 2122, at the option and
19 expense of the owner or bailee.

20 (c) Any live, nonnative wild animal found at large
21 within this state shall be either summarily destroyed or,
22 if captured, shall be confined for not less than 72 hours
23 following notification of the local ~~humane—society~~ *animal*
24 *control officer*.

25 (d) If during the 72-hour holding period, any person
26 claims ownership of the animal, that person shall be
27 allowed to dispose of the animal pursuant to subdivision
28 (b) and this shall be the person’s only option.

29 (e) After the 72-hour holding period, if the animal is
30 unclaimed, it shall be disposed of in accordance with
31 regulations adopted pursuant to Section 2122 unless the
32 animal is listed as a threatened or endangered species by
33 either state or federal regulation. If the animal is listed as
34 a threatened or endangered species in either regulation,
35 the department shall be notified of the animal’s location
36 and the department shall be responsible for proper
37 disposition.

38 SEC. 7. Section 31106 of the Food and Agricultural
39 Code is amended to read:



1 31106. The board of supervisors may appoint proper
2 persons to take up, impound, and kill dogs pursuant to this
3 division or it may enter into a contract with any humane
4 society or other organization or association which will do
5 both of the following:

6 (a) Undertake to carry out the provisions of this
7 division regarding the taking up, impounding, and killing
8 of dogs.

9 (b) Give a proper bond in whatever amount may be
10 fixed by the board of supervisors for the faithful
11 performance of the contract.

12 SEC. 8. Section 31252 of the Food and Agricultural
13 Code is amended to read:

14 31252. If the impounding of a dog is done by an
15 appointee of the board of supervisors or by a humane
16 society or other an organization or association which has
17 entered into a contract for impounding dogs, the fees for
18 taking up, impounding, and keeping the dog shall be a
19 charge upon the county treasury, to be paid as other
20 claims against the county are paid.

21 SEC. 9. Section 31609 of the Food and Agricultural
22 Code is amended to read:

23 31609. (a) This chapter does not apply to licensed
24 kennels, humane society shelters, animal control
25 facilities, or veterinarians.

26 (b) This chapter does not apply to dogs while utilized
27 by any police department or any law enforcement officer
28 in the performance of police work.

29 SEC. 10. Section 25988 of the Health and Safety Code
30 is amended to read:

31 25988. A peace officer, ~~officer of a humane society as~~
32 ~~qualified under Section 607f or 607g of the Civil Code,~~ or
33 officer of an animal control or animal regulation
34 department of a public agency, as qualified under Section
35 830.9 of the Penal Code, may issue a citation as prescribed
36 in Section 25988.5, to any person or entity keeping horses
37 or other equine animals for hire, if the person or entity
38 fails to meet any of the following standards of humane
39 treatment regarding the keeping of horses or other
40 equine animals:



- 1 (a) Any enclosure where an equine is primarily kept
2 shall be of sufficient size to enable the equine to
3 comfortably stand up, turn around, and lie down, and
4 shall be kept free of excessive urine and waste matter.
- 5 (b) Paddocks and corrals shall be of adequate size for
6 the equine to move about freely.
- 7 (c) Buildings, premises, and conveyances used in
8 conjunction with equines shall be kept free of sharp
9 objects, protrusions, or other materials that are likely to
10 cause injury.
- 11 (d) Equines shall be supplied with nutritionally
12 adequate feed and clean water, in accordance with
13 standards published by the Cooperative Extension of the
14 Division of Agricultural Sciences of the University of
15 California.
- 16 (e) Tack and equipment shall be appropriate and fit
17 properly.
- 18 (f) After use the equine shall be cooled out to a normal
19 condition at rest.
- 20 (g) When not being ridden, a saddled equine shall
21 have available adequate shelter from the elements, and
22 have loosened saddle straps and girths.
- 23 (h) An equine shall not be available for hire or use if
24 the equine has any conditions that violate subdivision (b)
25 of Section 597 or Section 597f of the Penal Code or any of
26 the following conditions:
- 27 (1) Sores or abrasions caused or likely to be irritated by
28 the surfaces of saddles, girths, harnesses, or bridles.
- 29 (2) Blindness in both eyes.
- 30 (3) Improperly or inadequately trimmed and shod
31 feet contrary to the standards published by the
32 Cooperative Extension of the Division of Agricultural
33 Sciences of the University of California.
- 34 (i) Each equine shall be individually identified, using
35 humane methods, such as a detailed description,
36 including, but not limited to, name, breed, color,
37 markings, size, age, sex, and photograph.
- 38 (j) Farrier and veterinary receipts shall be kept and
39 shall identify each equine treated.

1 (k) Veterinary, farrier, and feed records shall be made
2 available during normal business hours to the law
3 enforcement officer. Upon failure to provide these
4 records, the equine or equines in question may not be
5 used for hire until such time as the records are produced
6 or an equine veterinarian shall certify that the equine or
7 equines are fit for labor.

8 SEC. 11. Section 597 of the Penal Code is amended to
9 read:

10 597. (a) Except as provided in subdivision (c) of this
11 section or Section 599c, every person who maliciously and
12 intentionally maims, mutilates, tortures, or wounds a
13 living animal, or maliciously and intentionally kills an
14 animal, is guilty of an offense punishable by
15 imprisonment in the state prison, or by a fine of not more
16 than twenty thousand dollars (\$20,000), or by both the
17 fine and imprisonment, or, alternatively, by
18 imprisonment in the county jail for not more than one
19 year, or by a fine of not more than twenty thousand
20 dollars (\$20,000), or by both the fine and imprisonment.

21 (b) Except as otherwise provided in subdivision (a) or
22 (c), every person who overdrives, overloads, drives when
23 overloaded, overworks, tortures, torments, deprives of
24 necessary sustenance, drink, or shelter, cruelly beats,
25 mutilates, or cruelly kills any animal, or causes or procures
26 any animal to be so overdriven, overloaded, driven when
27 overloaded, overworked, tortured, tormented, deprived
28 of necessary sustenance, drink, shelter, or to be cruelly
29 beaten, mutilated, or cruelly killed; and whoever, having
30 the charge or custody of any animal, either as owner or
31 otherwise, subjects any animal to needless suffering, or
32 inflicts unnecessary cruelty upon the animal, or in any
33 manner abuses any animal, or fails to provide the animal
34 with proper food, drink, or shelter or protection from the
35 weather, or who drives, rides, or otherwise uses the
36 animal when unfit for labor, is, for every such offense,
37 guilty of a crime punishable as a misdemeanor or as a
38 felony or alternatively punishable as a misdemeanor or a
39 felony and by a fine of not more than twenty thousand
40 dollars (\$20,000).

1 (c) Every person who maliciously and intentionally
2 maims, mutilates, or tortures any mammal, bird, reptile,
3 amphibian, or fish as described in subdivision (d), is guilty
4 of an offense punishable by imprisonment in the state
5 prison, or by a fine of not more than twenty thousand
6 dollars (\$20,000), or by both the fine and imprisonment,
7 or, alternatively, by imprisonment in the county jail for
8 not more than one year, by a fine of not more than twenty
9 thousand dollars (\$20,000), or by both the fine and
10 imprisonment.

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

14 (1) Endangered species or threatened species as
15 described in Chapter 1.5 (commencing with Section
16 2050) of Division 3 of the Fish and Game Code.

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

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

22 (4) Fully protected reptiles and amphibians described
23 in Chapter 2 (commencing with Section 5050) of Division
24 5 of the Fish and Game Code.

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

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

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

38 (f) Upon the conviction of a person charged with a
39 violation of this section by causing or permitting an act of
40 cruelty, as defined in Section 599b, all animals lawfully



1 seized and impounded with respect to the violation by a
2 peace officer, ~~officer of a humane society~~, or officer of a
3 pound or animal regulation department of a public
4 agency shall be adjudged by the court to be forfeited and
5 shall thereupon be awarded to the impounding officer for
6 proper disposition. A person convicted of a violation of
7 this section by causing or permitting an act of cruelty, as
8 defined in Section 599b, shall be liable to the impounding
9 officer for all costs of impoundment from the time of
10 seizure to the time of proper disposition.

11 Mandatory seizure or impoundment shall not apply to
12 animals in properly conducted scientific experiments or
13 investigations performed under the authority of the
14 faculty of a regularly incorporated medical college or
15 university of this state.

16 SEC. 12. Section 597.1 of the Penal Code is amended
17 to read:

18 597.1. (a) Every owner, driver, or keeper of any
19 animal who permits the animal to be in any building,
20 enclosure, lane, street, square, or lot of any city, county,
21 city and county, or judicial district without proper care
22 and attention is guilty of a misdemeanor. Any peace
23 officer, ~~humane society officer~~, or animal control officer
24 shall take possession of the stray or abandoned animal and
25 shall provide care and treatment for the animal until the
26 animal is deemed to be in suitable condition to be
27 returned to the owner. When the officer has reasonable
28 grounds to believe that very prompt action is required to
29 protect the health or safety of the animal or the health or
30 safety of others, the officer shall immediately seize the
31 animal and comply with subdivision (f). In all other cases,
32 the officer shall comply with the provisions of subdivision
33 (g). The cost of caring for and treating any animal
34 properly seized under this subdivision shall constitute a
35 lien on the animal and the animal shall not be returned
36 to its owner until the charges are paid, if the seizure is
37 upheld pursuant to this section.

38 (b) Every sick, disabled, infirm, or crippled animal,
39 except a dog or cat, which is abandoned in any city,
40 county, city and county, or judicial district may be killed



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

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

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

38 Whenever any animal is transferred to a veterinarian
39 in a clinic, such as an emergency clinic which is not in



1 continuous operation, the veterinarian may, in turn,
2 transfer the animal to an appropriate facility.

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

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

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

33 (f) Whenever an officer authorized under this section
34 seizes or impounds an animal based on a reasonable belief
35 that prompt action is required to protect the health or
36 safety of the animal or the health or safety of others, the
37 officer shall, prior to the commencement of any criminal
38 proceedings authorized by this section, provide the
39 owner or keeper of the animal, if known or ascertainable
40 after reasonable investigation, with the opportunity for a



1 postseizure hearing to determine the validity of the
2 seizure or impoundment, or both.

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

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

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

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

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

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

30 (2) The postseizure hearing shall be conducted within
31 48 hours of the request, excluding weekends and holidays.
32 The seizing agency may authorize its own officer or
33 employee to conduct the hearing if the hearing officer is
34 not the same person who directed the seizure or
35 impoundment of the animal and is not junior in rank to
36 that person. The agency may utilize the services of a
37 hearing officer from outside the agency for the purposes
38 of complying with this section.

39 (3) Failure of the owner or keeper, or of his or her
40 agent, to request or to attend a scheduled hearing shall



1 result in a forfeiture of any right to a postseizure hearing
2 or right to challenge his or her liability for costs incurred.

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

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

37 (1) The agency shall cause a notice to be affixed to a
38 conspicuous place where the animal was situated or
39 personally deliver a notice stating the grounds for



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

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

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

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

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

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

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

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

39 (4) The hearing officer, after the hearing, may affirm
40 or deny the owner's or keeper's right to custody of the



1 animal and, if reasonable grounds are established, may
2 order the seizure or impoundment of the animal for care
3 and treatment.

4 (h) If any animal is properly seized under this section,
5 the owner or keeper shall be personally liable to the
6 seizing agency for the cost of the seizure and care of the
7 animal. Furthermore, if the charges for the seizure or
8 impoundment and any other charges permitted under
9 this section are not paid within 14 days of the seizure, or,
10 if the owner, within 14 days of notice of availability of the
11 animal to be returned, fails to pay charges permitted
12 under this section and take possession of the animal, the
13 animal shall be deemed to have been abandoned and may
14 be disposed of by the impounding officer.

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

30 (j) No animal properly seized under this section shall
31 be returned to its owner until, in the determination of the
32 seizing agency or hearing officer, the animal is physically
33 fit or the owner can demonstrate to the seizing agency's
34 or hearing officer's satisfaction that the owner can and
35 will provide the necessary care.

36 (k) Upon the conviction of a person charged with a
37 violation of this section, all animals lawfully seized and
38 impounded with respect to the violation shall be
39 adjudged by the court to be forfeited and shall thereupon
40 be transferred to the impounding officer for proper



1 disposition. A person convicted of a violation of this
2 section shall be personally liable to the seizing agency for
3 all costs of impoundment from the time of seizure to the
4 time of proper disposition. This section shall not prohibit
5 the seizure or impoundment of animals as evidence as
6 provided for under any other provision of law.

7 (l) This section shall be operative in a public agency ~~or~~
8 ~~a humane society under the jurisdiction of the public~~
9 ~~agency, or both,~~ only if the governing body of that public
10 agency, by ordinance or resolution, determines that this
11 section shall be operative in the public agency ~~or the~~
12 ~~humane society~~ and that Section 597f shall not be
13 operative.

14 SEC. 13. Section 597d of the Penal Code is amended
15 to read:

16 597d. Any sheriff, constable, police, or peace officer;
17 ~~or officer qualified as provided in Section 607f of the Civil~~
18 ~~Code,~~ may enter any place, building, or tenement, where
19 there is an exhibition of the fighting of birds or animals,
20 or where preparations are being made for such an
21 exhibition, and, without a warrant, arrest all persons
22 present.

23 SEC. 14. Section 597f of the Penal Code is amended
24 to read:

25 597f. (a) Every owner, driver, or possessor of any
26 animal, who permits the animal to be in any building,
27 enclosure, lane, street, square, or lot, of any city, city and
28 county, or judicial district, without proper care and
29 attention, shall, on conviction, be deemed guilty of a
30 misdemeanor. And it shall be the duty of any peace
31 officer, ~~officer of the humane society,~~ or officer of a pound
32 or animal regulation department of a public agency, to
33 take possession of the animal so abandoned or neglected
34 and care for the animal until it is redeemed by the owner
35 or claimant, and the cost of caring for the animal shall be
36 a lien on the animal until the charges are paid. Every sick,
37 disabled, infirm, or crippled animal, except a dog or cat,
38 which shall be abandoned in any city, city and county, or
39 judicial district, may, if after due search no owner can be
40 found therefor, be killed by the officer; and it shall be the



1 duty of all peace officers, ~~an officer of such society,~~ or
2 officer of a pound or animal regulation department of a
3 public agency to cause the animal to be killed on
4 information of such abandonment. The officer may
5 likewise take charge of any animal, including a dog or cat,
6 that by reason of lameness, sickness, feebleness, or
7 neglect, is unfit for the labor it is performing, or that in
8 any other manner is being cruelly treated; and, if the
9 animal is not then in the custody of its owner, the officer
10 shall give notice thereof to the owner, if known, and may
11 provide suitable care for the animal until it is deemed to
12 be in a suitable condition to be delivered to the owner,
13 and any necessary expenses which may be incurred for
14 taking care of and keeping the animal shall be a lien
15 thereon, to be paid before the animal can be lawfully
16 recovered.

17 (b) It shall be the duty of all officers of pounds ~~or~~
18 ~~humane societies,~~ and animal regulation departments of
19 public agencies to convey, and for police and sheriff
20 departments, to cause to be conveyed all injured cats and
21 dogs found without their owners in a public place directly
22 to a veterinarian known by the officer or agency to be a
23 veterinarian that ordinarily treats dogs and cats for a
24 determination of whether the animal shall be
25 immediately and humanely destroyed or shall be
26 hospitalized under proper care and given emergency
27 treatment.

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

36 Whenever any animal is transferred pursuant to this
37 subdivision to a veterinarian in a clinic, such as an
38 emergency clinic which is not in continuous operation,
39 the veterinarian may, in turn, transfer the animal to an
40 appropriate facility.



1 If the veterinarian determines that the animal shall be
2 hospitalized under proper care and given emergency
3 treatment, the costs of any services which are provided
4 pending the owner's inquiry to the agency, *or*
5 department, ~~or society~~ shall be paid from the dog license
6 fees, fines, and fees for impounding dogs in the city,
7 county, or city and county in which the animal was
8 licensed or if the animal is unlicensed the jurisdiction in
9 which the animal was found, subject to the provision that
10 this cost be repaid by the animal's owner. No veterinarian
11 shall be criminally or civilly liable for any decision which
12 he or she makes or services which he or she provides
13 pursuant to this section.

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

19 (d) Notwithstanding any other provisions of this
20 section, any officer of a pound or animal regulation
21 department ~~or humane society~~, or any officer of a police
22 or sheriff's department may, with the approval of his or
23 her immediate superior, humanely destroy any
24 abandoned animal in the field in any case where the
25 animal is too severely injured to move or where a
26 veterinarian is not available and it would be more
27 humane to dispose of the animal.

28 SEC. 15. Section 597u of the Penal Code is amended
29 to read:

30 597u. No person, peace officer, ~~officer of a humane~~
31 ~~society~~, or officer of a pound or animal regulation
32 department of a public agency shall kill any dog or cat by
33 the use of carbon monoxide gas unless all of the following
34 are satisfied:

35 (a) The carbon monoxide gas chamber is equipped
36 with internal lighting and viewport providing direct
37 visual surveillance of the collapse and death of any dog or
38 cat within the chamber.

39 (b) The gas generation process is adequate to achieve
40 a carbon monoxide gas concentration throughout the



1 chamber of at least 5 percent within 20 minutes after any
2 dog or cat is placed in the chamber.

3 (c) If chemical generation through the use of sodium
4 formate and sulfuric acid is used, the generated carbon
5 monoxide gas has the irritating acid vapors filtered out by
6 passing it through a 10 percent solution of sodium
7 hydroxide prior to its entry into the carbon monoxide gas
8 chamber.

9 (d) If carbon monoxide gas generation is by
10 combustion of gasoline in an engine, all of the following
11 shall be satisfied:

12 (1) The engine is maintained in good operating
13 condition.

14 (2) The engine is operated only at idling speed with
15 the richest fuel-air mixture the choke permits.

16 (3) Prior to entry into the chamber, the exhaust gas is
17 cooled so that it does not exceed 125° Fahrenheit.

18 (4) The chamber is equipped with accurate
19 temperature gauges monitored by attendants to assure
20 that internal temperature of the chamber does not
21 exceed 110° Fahrenheit.

22 (5) Prior to its entry into the lethal chamber the
23 exhaust gas is first passed through an adequate water
24 filtration process and subsequently through a cloth
25 filtration process to remove irritants and carbon particles.

26 (6) The noise level from the engine shall not exceed 70
27 dBA when measured within the chamber.

28 (7) A flexible tubing or pipe at least 24 inches in length
29 shall be placed between the chamber and the engine to
30 minimize vibrations.

31 (e) Any dog or cat not covered by Section 597v is
32 placed in an individual container or compartment of the
33 carbon monoxide chamber, except dogs or cats from the
34 same litter and their parents may be placed in the same
35 container or compartment.

36 (f) The carbon monoxide gas chamber and its
37 compartments shall be cleaned thoroughly after every
38 cycle of operation.

39 SEC. 16. Section 597v of the Penal Code is amended
40 to read:



1 597v. No person, peace officer, ~~officer of a humane~~
2 ~~society~~, or officer of a pound or animal regulation
3 department of a public agency shall kill any newborn dog
4 or cat whose eyes have not yet opened by any other
5 method than by the use of chloroform vapor or gas or by
6 inoculation of barbiturates.

7 SEC. 17. Section 597w of the Penal Code is amended
8 to read:

9 597w. No person, peace officer, ~~officer of a humane~~
10 ~~society~~, or officer of a pound or animal regulation
11 department of a public agency shall kill any dog or cat by
12 the use of any high-altitude decompression chamber or
13 nitrogen gas.

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

16 597z. ~~A humane officer appointed under Section 607f~~
17 ~~of the Civil Code or the~~ *The* State Sealer may enter any
18 facility utilizing a carbon monoxide gas chamber for the
19 purpose of inspecting the operation of such facility to
20 determine whether there is compliance with Section
21 597u.

22 SEC. 19. Section 11165.16 of the Penal Code is
23 amended to read:

24 11165.16. (a) For the purposes of this article, ~~the~~
25 ~~following terms have the following meanings:~~

26 (1) ~~“Animal control officer”~~ means any person
27 employed by a city, county, or city and county for the
28 purpose of enforcing animal control laws or regulations.

29 (2) ~~“Humane society officer”~~ means any person
30 ~~appointed or employed by a public or private entity as a~~
31 ~~humane officer who is qualified pursuant to Section 607f~~
32 ~~or 607g of the Civil Code.~~

33 (b) No firefighter; ~~or~~ animal control officer; ~~or~~
34 ~~humane society officer~~ shall be subject to the reporting
35 requirements of this article unless he or she has received
36 training in identification and reporting of child abuse
37 equivalent to that received by teachers and child care
38 custodians.

39 SEC. 20. Section 11166 of the Penal Code is amended
40 to read:



1 11166. (a) Except as provided in subdivision (b), any
2 child care custodian, health practitioner, employee of a
3 child protective agency, child visitation monitor,
4 firefighter, *or* animal control officer, ~~or humane society~~
5 ~~officer~~ who has knowledge of or observes a child, in his or
6 her professional capacity or within the scope of his or her
7 employment, whom he or she knows or reasonably
8 suspects has been the victim of child abuse, shall report
9 the known or suspected instance of child abuse to a child
10 protective agency immediately or as soon as practically
11 possible by telephone and shall prepare and send a
12 written report thereof within 36 hours of receiving the
13 information concerning the incident. A child protective
14 agency shall be notified and a report shall be prepared
15 and sent even if the child has expired, regardless of
16 whether or not the possible abuse was a factor
17 contributing to the death, and even if suspected child
18 abuse was discovered during an autopsy. For the purposes
19 of this article, “reasonable suspicion” means that it is
20 objectively reasonable for a person to entertain a
21 suspicion, based upon facts that could cause a reasonable
22 person in a like position, drawing when appropriate on his
23 or her training and experience, to suspect child abuse. For
24 the purpose of this article, the pregnancy of a minor does
25 not, in and of itself, constitute a basis of reasonable
26 suspicion of sexual abuse.

27 (b) Any child care custodian, health practitioner,
28 employee of a child protective agency, child visitation
29 monitor, firefighter, *or* animal control officer, ~~or humane~~
30 ~~society officer~~ who has knowledge of or who reasonably
31 suspects that mental suffering has been inflicted upon a
32 child or that his or her emotional well-being is
33 endangered in any other way, may report the known or
34 suspected instance of child abuse to a child protective
35 agency.

36 (c) Any commercial film and photographic print
37 processor who has knowledge of or observes, within the
38 scope of his or her professional capacity or employment,
39 any film, photograph, videotape, negative, or slide
40 depicting a child under the age of 14 years engaged in an



1 act of sexual conduct, shall report the instance of
2 suspected child abuse to the law enforcement agency
3 having jurisdiction over the case immediately, or as soon
4 as practically possible, by telephone, and shall prepare
5 and send a written report of it with a copy of the film,
6 photograph, videotape, negative, or slide attached within
7 36 hours of receiving the information concerning the
8 incident. As used in this subdivision, “sexual conduct”
9 means any of the following:

10 (1) Sexual intercourse, including genital-genital,
11 oral-genital, anal-genital, or oral-anal, whether between
12 persons of the same or opposite sex or between humans
13 and animals.

14 (2) Penetration of the vagina or rectum by any object.

15 (3) Masturbation for the purpose of sexual stimulation
16 of the viewer.

17 (4) Sadoomasochistic abuse for the purpose of sexual
18 stimulation of the viewer.

19 (5) Exhibition of the genitals, pubic, or rectal areas of
20 any person for the purpose of sexual stimulation of the
21 viewer.

22 (d) Any other person who has knowledge of or
23 observes a child whom he or she knows or reasonably
24 suspects has been a victim of child abuse may report the
25 known or suspected instance of child abuse to a child
26 protective agency.

27 (e) When two or more persons who are required to
28 report are present and jointly have knowledge of a known
29 or suspected instance of child abuse, and when there is
30 agreement among them, the telephone report may be
31 made by a member of the team selected by mutual
32 agreement and a single report may be made and signed
33 by the selected member of the reporting team. Any
34 member who has knowledge that the member
35 designated to report has failed to do so shall thereafter
36 make the report.

37 (f) The reporting duties under this section are
38 individual, and no supervisor or administrator may
39 impede or inhibit the reporting duties, and no person
40 making a report shall be subject to any sanction for



1 making the report. However, internal procedures to
2 facilitate reporting and apprise supervisors and
3 administrators of reports may be established provided
4 that they are not inconsistent with this article.

5 The internal procedures shall not require any
6 employee required to make reports pursuant to this
7 article to disclose his or her identity to the employer.

8 (g) A county probation or welfare department shall
9 immediately, or as soon as practically possible, report by
10 telephone to the law enforcement agency having
11 jurisdiction over the case, to the agency given the
12 responsibility for investigation of cases under Section 300
13 of the Welfare and Institutions Code, and to the district
14 attorney's office every known or suspected instance of
15 child abuse, as defined in Section 11165.6, except acts or
16 omissions coming within subdivision (b) of Section
17 11165.2, or reports made pursuant to Section 11165.13
18 based on risk to a child which relates solely to the inability
19 of the parent to provide the child with regular care due
20 to the parent's substance abuse, which shall be reported
21 only to the county welfare department. A county
22 probation or welfare department also shall send a written
23 report thereof within 36 hours of receiving the
24 information concerning the incident to any agency to
25 which it is required to make a telephone report under this
26 subdivision.

27 A law enforcement agency shall immediately, or as
28 soon as practically possible, report by telephone to the
29 agency given responsibility for investigation of cases
30 under Section 300 of the Welfare and Institutions Code
31 and to the district attorney's office every known or
32 suspected instance of child abuse reported to it, except
33 acts or omissions coming within subdivision (b) of Section
34 11165.2, which shall be reported only to the county
35 welfare department. A law enforcement agency shall
36 report to the county welfare department every known or
37 suspected instance of child abuse reported to it which is
38 alleged to have occurred as a result of the action of a
39 person responsible for the child's welfare, or as the result
40 of the failure of a person responsible for the child's



1 welfare to adequately protect the minor from abuse when
2 the person responsible for the child's welfare knew or
3 reasonably should have known that the minor was in
4 danger of abuse. A law enforcement agency also shall
5 send a written report thereof within 36 hours of receiving
6 the information concerning the incident to any agency to
7 which it is required to make a telephone report under this
8 subdivision.

9 SEC. 21. Section 11166.5 of the Penal Code is
10 amended to read:

11 11166.5. (a) On and after January 1, 1985, any person
12 who enters into employment as a child care custodian,
13 health practitioner, firefighter, *or* animal control officer,
14 ~~or humane society officer~~, or with a child protective
15 agency, prior to commencing his or her employment, and
16 as a prerequisite to that employment, shall sign a
17 statement on a form provided to him or her by his or her
18 employer to the effect that he or she has knowledge of the
19 provisions of Section 11166 and will comply with those
20 provisions.

21 On and after January 1, 1993, any person who acts as a
22 child visitation monitor, as defined in Section 11165.15,
23 prior to engaging in monitoring the first visit in a case,
24 shall sign a statement on a form provided to him or her
25 by the court which ordered the presence of that third
26 person during the visit, to the effect that he or she has
27 knowledge of the provisions of Section 11166 and will
28 comply with those provisions.

29 The statement shall include all of the following
30 provisions:

31 Section 11166 of the Penal Code requires any child care
32 custodian, health practitioner, firefighter, *or* animal
33 control officer, or ~~humane society officer~~, employee of a
34 child protective agency, or child visitation monitor who
35 has knowledge of, or observes, a child in his or her
36 professional capacity or within the scope of his or her
37 employment whom he or she knows or reasonably
38 suspects has been the victim of child abuse to report the
39 known or suspected instance of child abuse to a child
40 protective agency immediately, or as soon as practically



1 possible, by telephone and to prepare and send a written
2 report thereof within 36 hours of receiving the
3 information concerning the incident.

4 “Child care custodian” includes teachers; an
5 instructional aide, a teacher’s aide, or a teacher’s assistant
6 employed by any public or private school, who has been
7 trained in the duties imposed by this article, if the school
8 district has so warranted to the State Department of
9 Education; a classified employee of any public school who
10 has been trained in the duties imposed by this article, if
11 the school has so warranted to the State Department of
12 Education; administrative officers, supervisors of child
13 welfare and attendance, or certificated pupil personnel
14 employees of any public or private school; administrators
15 of a public or private day camp; administrators and
16 employees of public or private youth centers, youth
17 recreation programs, or youth organizations;
18 administrators and employees of public or private
19 organizations whose duties require direct contact and
20 supervision of children and who have been trained in the
21 duties imposed by this article; licensees, administrators,
22 and employees of licensed community care or child day
23 care facilities; headstart teachers; licensing workers or
24 licensing evaluators; public assistance workers;
25 employees of a child care institution including, but not
26 limited to, foster parents, group home personnel, and
27 personnel of residential care facilities; social workers,
28 probation officers, or parole officers; employees of a
29 school district police or security department; any person
30 who is an administrator or a presenter of, or a counselor
31 in, a child abuse prevention program in any public or
32 private school; a district attorney investigator, inspector,
33 or family support officer unless the investigator,
34 inspector, or officer is working with an attorney
35 appointed pursuant to Section 317 of the Welfare and
36 Institutions Code to represent a minor; or a peace officer,
37 as defined in Chapter 4.5 (commencing with Section 830)
38 of Title 3 of Part 2 of this code, who is not otherwise
39 described in this section.



1 “Health practitioner” includes physicians and
2 surgeons, psychiatrists, psychologists, dentists, residents,
3 interns, podiatrists, chiropractors, licensed nurses, dental
4 hygienists, optometrists, or any other person who is
5 licensed under Division 2 (commencing with Section
6 500) of the Business and Professions Code; marriage,
7 family, and child counselors; emergency medical
8 technicians I or II, paramedics, or other persons certified
9 pursuant to Division 2.5 (commencing with Section 1797)
10 of the Health and Safety Code; psychological assistants
11 registered pursuant to Section 2913 of the Business and
12 Professions Code; marriage, family, and child counselor
13 trainees as defined in subdivision (c) of Section 4980.03 of
14 the Business and Professions Code; unlicensed marriage,
15 family, and child counselor interns registered under
16 Section 4980.44 of the Business and Professions Code;
17 state or county public health employees who treat minors
18 for venereal disease or any other condition; coroners;
19 paramedics; and religious practitioners who diagnose,
20 examine, or treat children.

21 “Child visitation monitor” means any person as defined
22 in Section 11165.15.

23 The signed statements shall be retained by the
24 employer or the court, as the case may be. The cost of
25 printing, distribution, and filing of these statements shall
26 be borne by the employer or the court.

27 This subdivision is not applicable to persons employed
28 by child protective agencies, public or private youth
29 centers, youth recreation programs, and youth
30 organizations as members of the support staff or
31 maintenance staff and who do not work with, observe, or
32 have knowledge of children as part of their official duties.

33 (b) On and after January 1, 1986, when a person is
34 issued a state license or certificate to engage in a
35 profession or occupation, the members of which are
36 required to make a report pursuant to Section 11166, the
37 state agency issuing the license or certificate shall send a
38 statement substantially similar to the one contained in
39 subdivision (a) to the person at the same time as it
40 transmits the document indicating licensure or



1 certification to the person. In addition to the
2 requirements contained in subdivision (a), the statement
3 also shall indicate that failure to comply with the
4 requirements of Section 11166 is a misdemeanor,
5 punishable by up to six months in a county jail, by a fine
6 of one thousand dollars (\$1,000), or by both that
7 imprisonment and fine.

8 (c) As an alternative to the procedure required by
9 subdivision (b), a state agency may cause the required
10 statement to be printed on all application forms for a
11 license or certificate printed on or after January 1, 1986.

12 (d) On and after January 1, 1993, any child visitation
13 monitor, as defined in Section 11165.15, who desires to act
14 in that capacity shall have received training in the duties
15 imposed by this article, including training in child abuse
16 identification and child abuse reporting. The person,
17 prior to engaging in monitoring the first visit in a case,
18 shall sign a statement on a form provided to him or her
19 by the court which ordered the presence of that third
20 person during the visit, to the effect that he or she has
21 received this training. This statement may be included in
22 the statement required by subdivision (a) or it may be a
23 separate statement. This statement shall be filed, along
24 with the statement required by subdivision (a), in the
25 court file of the case for which the visitation monitoring
26 is being provided.

27 SEC. 22. Section 11172 of the Penal Code is amended
28 to read:

29 11172. (a) No child care custodian, health
30 practitioner, firefighter, animal control officer, humane
31 society officer, employee of a child protective agency,
32 child visitation monitor, or commercial film and
33 photographic print processor who reports a known or
34 suspected instance of child abuse shall be civilly or
35 criminally liable for any report required or authorized by
36 this article. Any other person reporting a known or
37 suspected instance of child abuse shall not incur civil or
38 criminal liability as a result of any report authorized by
39 this article unless it can be proven that a false report was
40 made and the person knew that the report was false or



1 was made with reckless disregard of the truth or falsity of
2 the report, and any such person who makes a report of
3 child abuse known to be false or with reckless disregard
4 of the truth or falsity of the report is liable for any
5 damages caused. No person required to make a report
6 pursuant to this article, nor any person taking
7 photographs at his or her direction, shall incur any civil
8 or criminal liability for taking photographs of a suspected
9 victim of child abuse, or causing photographs to be taken
10 of a suspected victim of child abuse, without parental
11 consent, or for disseminating the photographs with the
12 reports required by this article. However, this section
13 shall not be construed to grant immunity from this
14 liability with respect to any other use of the photographs.

15 (b) Any child care custodian, health practitioner,
16 firefighter, animal control officer, ~~humane society officer~~,
17 employee of a child protective agency, or child visitation
18 monitor who, pursuant to a request from a child
19 protective agency, provides the requesting agency with
20 access to the victim of a known or suspected instance of
21 child abuse shall not incur civil or criminal liability as a
22 result of providing that access.

23 (c) The Legislature finds that even though it has
24 provided immunity from liability to persons required to
25 report child abuse, that immunity does not eliminate the
26 possibility that actions may be brought against those
27 persons based upon required reports of child abuse. In
28 order to further limit the financial hardship that those
29 persons may incur as a result of fulfilling their legal
30 responsibilities, it is necessary that they not be unfairly
31 burdened by legal fees incurred in defending those
32 actions. Therefore, a child care custodian, health
33 practitioner, firefighter, animal control officer, ~~humane~~
34 ~~society officer~~, employee of a child protective agency,
35 child visitation monitor, or commercial film and
36 photographic print processor may present a claim to the
37 State Board of Control for reasonable attorneys' fees
38 incurred in any action against that person on the basis of
39 making a report required or authorized by this article if
40 the court has dismissed the action upon a demurrer or



1 motion for summary judgment made by that person, or
2 if he or she prevails in the action. The State Board of
3 Control shall allow that claim if the requirements of this
4 subdivision are met, and the claim shall be paid from an
5 appropriation to be made for that purpose. Attorneys'
6 fees awarded pursuant to this section shall not exceed an
7 hourly rate greater than the rate charged by the Attorney
8 General of the State of California at the time the award
9 is made and shall not exceed an aggregate amount of fifty
10 thousand dollars (\$50,000).

11 This subdivision shall not apply if a public entity has
12 provided for the defense of the action pursuant to Section
13 995 of the Government Code.

14 (d) A court may award attorney's fees to a commercial
15 film and photographic print processor when a suit is
16 brought against the processor because of a disclosure
17 mandated by this article and the court finds this suit to be
18 frivolous.

19 (e) Any person who fails to report an instance of child
20 abuse which he or she knows to exist, or reasonably should
21 know to exist, as required by this article, is guilty of a
22 misdemeanor, punishable by confinement in a county jail
23 for a term not to exceed six months, by a fine of not more
24 than one thousand dollars (\$1,000), or by both that
25 imprisonment and fine.

26 SEC. 23. Section 12031 of the Penal Code is amended
27 to read:

28 12031. (a) (1) Every person who carries a loaded
29 firearm on his or her person or in a vehicle while in any
30 public place or on any public street in an incorporated
31 city or in any public place or on any public street in a
32 prohibited area of unincorporated territory is guilty of a
33 misdemeanor.

34 (2) Notwithstanding paragraphs (2) and (3) of
35 subdivision (a) of Section 836, a peace officer may make
36 an arrest without a warrant:

37 (A) When the person arrested has violated this
38 section, although not in the officer's presence.

39 (B) Whenever the officer has reasonable cause to
40 believe that the person to be arrested has violated this



1 section, whether or not this section has, in fact, been
2 violated.

3 (3) (A) Every person convicted under this section
4 who has previously been convicted of an offense
5 enumerated in Section 12001.6, or of any crime made
6 punishable under this chapter, shall serve a term of at
7 least three months in a county jail, or, if granted
8 probation, or if the execution or imposition of sentence is
9 suspended, it shall be a condition thereof that he or she
10 be imprisoned for a period of at least three months.

11 (B) The court shall apply the three-month minimum
12 sentence except in unusual cases where the interests of
13 justice would best be served by granting probation or
14 suspending the imposition or execution of sentence
15 without the minimum imprisonment required in this
16 subdivision or by granting probation or suspending the
17 imposition or execution of sentence with conditions other
18 than those set forth in this subdivision, in which case, the
19 court shall specify on the record and shall enter on the
20 minutes the circumstances indicating that the interests of
21 justice would best be served by that disposition.

22 (b) Subdivision (a) shall not apply to any of the
23 following:

24 (1) Peace officers listed in Section 830.1 or 830.2,
25 whether active or honorably retired, other duly
26 appointed peace officers, honorably retired peace
27 officers listed in subdivision (c) of Section 830.5, other
28 honorably retired peace officers who during the course
29 and scope of their employment as peace officers were
30 authorized to, and did, carry firearms, full-time paid
31 peace officers of other states and the federal government
32 who are carrying out official duties while in California, or
33 any person summoned by any of those officers to assist in
34 making arrests or preserving the peace while the person
35 is actually engaged in assisting that officer. Any peace
36 officer described in this paragraph who has been
37 honorably retired shall be issued an identification
38 certificate by the law enforcement agency from which
39 the officer has retired. The issuing agency may charge a
40 fee necessary to cover any reasonable expenses incurred



1 by the agency in issuing certificates pursuant to this
2 paragraph and paragraph (3).

3 Any officer, except an officer listed in Section 830.1,
4 830.2, or subdivision (c) of Section 830.5 who retired prior
5 to January 1, 1981, shall have an endorsement on the
6 identification certificate stating that the issuing agency
7 approves the officer's carrying of a loaded firearm.

8 No endorsement or renewal endorsement issued
9 pursuant to paragraph (2) shall be effective unless it is in
10 the format set forth in subparagraph (D) of paragraph
11 (1) of subdivision (a) of Section 12027, except that any
12 peace officer listed in subdivision (f) of Section 830.2 or
13 in subdivision (c) of Section 830.5, who is retired between
14 January 2, 1981, and on or before December 31, 1988, and
15 who is authorized to carry a loaded firearm pursuant to
16 this section, shall not be required to have an endorsement
17 in the format set forth in subparagraph (D) of paragraph
18 (1) of subdivision (a) of Section 12027 until the time of the
19 issuance, on or after January 1, 1989, of a renewal
20 endorsement pursuant to paragraph (2).

21 (2) A retired peace officer, except an officer listed in
22 Section 830.1, 830.2, or subdivision (c) of Section 830.5
23 who retired prior to January 1, 1981, shall petition the
24 issuing agency for renewal of his or her privilege to carry
25 a loaded firearm every five years. An honorably retired
26 peace officer listed in Section 830.1 or 830.2 or subdivision
27 (c) of Section 830.5 who retired prior to January 1, 1981,
28 shall not be required to obtain an endorsement from the
29 issuing agency to carry a loaded firearm. The agency from
30 which a peace officer is honorably retired may, upon
31 initial retirement of the peace officer, or at any time
32 subsequent thereto, deny or revoke, for good cause, the
33 retired officer's privilege to carry a loaded firearm. A
34 peace officer who is listed in Section 830.1 or 830.2 or
35 subdivision (c) of Section 830.5 who is retired prior to
36 January 1, 1981, shall have his or her privilege to carry a
37 loaded firearm denied or revoked by having the agency
38 from which the officer retired stamp on the officer's
39 identification certificate "No CCW privilege."



1 (3) An honorably retired peace officer who is listed in
2 subdivision (c) of Section 830.5 and authorized to carry
3 loaded firearms by this subdivision shall meet the training
4 requirements of Section 832 and shall qualify with the
5 firearm at least annually. The individual retired peace
6 officer shall be responsible for maintaining his or her
7 eligibility to carry a loaded firearm. The Department of
8 Justice shall provide subsequent arrest notification
9 pursuant to Section 11105.2 regarding honorably retired
10 peace officers listed in subdivision (c) of Section 830.5 to
11 the agency from which the officer has retired.

12 (4) Members of the military forces of this state or of the
13 United States engaged in the performance of their duties.

14 (5) Persons who are using target ranges for the
15 purpose of practice shooting with a firearm or who are
16 members of shooting clubs while hunting on the premises
17 of those clubs.

18 (6) The carrying of pistols, revolvers, or other firearms
19 capable of being concealed upon the person by persons
20 who are authorized to carry those weapons pursuant to
21 Article 3 (commencing with Section 12050) of Chapter 1
22 of Title 2 of Part 4.

23 (7) Armored vehicle guards, as defined in Section 7521
24 of the Business and Professions Code, (A) if hired prior to
25 January 1, 1977; or (B) if hired on or after that date, if they
26 have received a firearms qualification card from the
27 Department of Consumer Affairs, in each case while
28 acting within the course and scope of their employment.

29 (8) Upon approval of the sheriff of the county in which
30 they reside, honorably retired federal officers or agents of
31 federal law enforcement agencies, including, but not
32 limited to, the Federal Bureau of Investigation, the Secret
33 Service, the United States Customs Service, the Federal
34 Bureau of Alcohol, Tobacco, and Firearms, the Federal
35 Bureau of Narcotics, the Drug Enforcement
36 Administration, the United States Border Patrol, and
37 officers or agents of the Internal Revenue Service who
38 were authorized to carry weapons while on duty, who
39 were assigned to duty within the state for a period of not



1 less than one year, or who retired from active service in
2 the state.

3 Retired federal officers or agents shall provide the
4 sheriff with certification from the agency from which
5 they retired certifying their service in the state, the
6 nature of their retirement, and indicating the agency's
7 concurrence that the retired federal officer or agent
8 should be accorded the privilege of carrying a loaded
9 firearm.

10 Upon approval, the sheriff shall issue a permit to the
11 retired federal officer or agent indicating that he or she
12 may carry a loaded firearm in accordance with this
13 paragraph. The permit shall be valid for a period not
14 exceeding five years, shall be carried by the retiree while
15 carrying a loaded firearm, and may be revoked for good
16 cause.

17 The sheriff of the county in which the retired federal
18 officer or agent resides may require recertification prior
19 to a permit renewal, and may suspend the privilege for
20 cause. The sheriff may charge a fee necessary to cover any
21 reasonable expenses incurred by the county.

22 (c) Subdivision (a) shall not apply to any of the
23 following who have completed a regular course in
24 firearms training approved by the Commission on Peace
25 Officer Standards and Training:

26 (1) Patrol special police officers appointed by the
27 police commission of any city, county, or city and county
28 under the express terms of its charter who also, under the
29 express terms of the charter, (A) are subject to suspension
30 or dismissal after a hearing on charges duly filed with the
31 commission after a fair and impartial trial, (B) are not less
32 than 18 years of age or more than 40 years of age, (C)
33 possess physical qualifications prescribed by the
34 commission, and (D) are designated by the police
35 commission as the owners of a certain beat or territory as
36 may be fixed from time to time by the police commission.

37 (2) The carrying of weapons by animal control officers
38 or zookeepers, regularly compensated as such by a
39 governmental agency when acting in the course and
40 scope of their employment and when designated by a



1 local ordinance or, if the governmental agency is not
2 authorized to act by ordinance, by a resolution, either
3 individually or by class, to carry the weapons, ~~or by~~
4 ~~persons who are authorized to carry the weapons~~
5 ~~pursuant to Section 607f of the Civil Code~~, while actually
6 engaged in the performance of their duties pursuant to
7 that section.

8 (3) Harbor police officers designated pursuant to
9 Section 663.5 of the Harbors and Navigation Code.

10 (d) Subdivision (a) shall not apply to any of the
11 following who have been issued a certificate pursuant to
12 Section 12033. The certificate shall not be required of any
13 person who is a peace officer, who has completed all
14 training required by law for the exercise of his or her
15 power as a peace officer, and who is employed while not
16 on duty as a peace officer.

17 (1) Guards or messengers of common carriers, banks,
18 and other financial institutions while actually employed
19 in and about the shipment, transportation, or delivery of
20 any money, treasure, bullion, bonds, or other thing of
21 value within this state.

22 (2) Guards of contract carriers operating armored
23 vehicles pursuant to California Highway Patrol and
24 Public Utilities Commission authority (A) if hired prior
25 to January 1, 1977; or (B) if hired on or after January 1,
26 1977, if they have completed a course in the carrying and
27 use of firearms which meets the standards prescribed by
28 the Department of Consumer Affairs.

29 (3) Private investigators and private patrol operators
30 who are licensed pursuant to Chapter 11.5 (commencing
31 with Section 7512) of, and alarm company operators who
32 are licensed pursuant to Chapter 11.6 (commencing with
33 Section 7590) of, Division 3 of the Business and
34 Professions Code, while acting within the course and
35 scope of their employment.

36 (4) Uniformed security guards or night watch persons
37 employed by any public agency, while acting within the
38 scope and course of their employment.

39 (5) Uniformed security guards, regularly employed
40 and compensated in that capacity by persons engaged in



1 any lawful business, and uniformed alarm agents
2 employed by an alarm company operator, while actually
3 engaged in protecting and preserving the property of
4 their employers or on duty or en route to or from their
5 residences or their places of employment, and security
6 guards and alarm agents en route to or from their
7 residences or employer-required range training. Nothing
8 in this paragraph shall be construed to prohibit cities and
9 counties from enacting ordinances requiring alarm
10 agents to register their names.

11 (6) Uniformed employees of private patrol operators
12 and private investigators licensed pursuant to Chapter
13 11.5 (commencing with Section 7512) of Division 3 of the
14 Business and Professions Code, while acting within the
15 course and scope of their employment.

16 (e) In order to determine whether or not a firearm is
17 loaded for the purpose of enforcing this section, peace
18 officers are authorized to examine any firearm carried by
19 anyone on his or her person or in a vehicle while in any
20 public place or on any public street in an incorporated
21 city or prohibited area of an unincorporated territory.
22 Refusal to allow a peace officer to inspect a firearm
23 pursuant to this section constitutes probable cause for
24 arrest for violation of this section.

25 (f) As used in this section, “prohibited area” means
26 any place where it is unlawful to discharge a weapon.

27 (g) A firearm shall be deemed to be loaded for the
28 purposes of this section when there is an unexpended
29 cartridge or shell, consisting of a case which holds a
30 charge of powder and a bullet or shot, in, or attached in
31 any manner to, the firearm, including, but not limited to,
32 in the firing chamber, magazine, or clip thereof attached
33 to the firearm; except that a muzzle-loader firearm shall
34 be deemed to be loaded when it is capped or primed and
35 has a powder charge and ball or shot in the barrel or
36 cylinder.

37 (h) Nothing in this section shall prevent any person
38 engaged in any lawful business, including a nonprofit
39 organization, or any officer, employee, or agent
40 authorized by that person for lawful purposes connected



1 with that business, from having a loaded firearm within
2 the person's place of business, or any person in lawful
3 possession of private property from having a loaded
4 firearm on that property.

5 (i) Nothing in this section shall prevent any person
6 from carrying a loaded firearm in an area within an
7 incorporated city while engaged in hunting, provided
8 that the hunting at that place and time is not prohibited
9 by the city council.

10 (j) (1) Nothing in this section is intended to preclude
11 the carrying of any loaded firearm, under circumstances
12 where it would otherwise be lawful, by a person who
13 reasonably believes that the person or property of himself
14 or herself or of another is in immediate, grave danger and
15 that the carrying of the weapon is necessary for the
16 preservation of that person or property. As used in this
17 subdivision, "immediate" means the brief interval before
18 and after the local law enforcement agency, when
19 reasonably possible, has been notified of the danger and
20 before the arrival of its assistance.

21 (2) A violation of this section is justifiable when a
22 person who possesses a firearm reasonably believes that
23 he or she is in grave danger because of circumstances
24 forming the basis of a current restraining order issued by
25 a court against another person or persons who has or have
26 been found to pose a threat to his or her life or safety. This
27 paragraph may not apply when the circumstances
28 involve a mutual restraining order issued pursuant to
29 Division 10 (commencing with Section 6200) of the
30 Family Code absent a factual finding of a specific threat
31 to the person's life or safety. It is not the intent of the
32 Legislature to limit, restrict, or narrow the application of
33 current statutory or judicial authority to apply this or
34 other justifications to defendants charged with violating
35 Section 12025 or of committing other similar offenses.

36 Upon trial for violating this section, the trier of fact shall
37 determine whether the defendant was acting out of a
38 reasonable belief that he or she was in grave danger.



1 (k) Nothing in this section is intended to preclude the
2 carrying of a loaded firearm by any person while engaged
3 in the act of making or attempting to make a lawful arrest.

4 (l) Nothing in this section shall prevent any person
5 from having a loaded weapon, if it is otherwise lawful, at
6 his or her place of residence, including any temporary
7 residence or campsite.

8 SEC. 24. Section 12583 of the Penal Code is amended
9 to read:

10 12583. Nothing in this article shall prohibit the sale to,
11 purchase by, possession of, or use of blowguns or blowgun
12 ammunition by zookeepers, animal control officers,
13 Department of Fish and Game personnel, ~~humane~~
14 ~~officers whose names are maintained in the county record~~
15 ~~of humane officers pursuant to Section 607f of the Civil~~
16 ~~Code~~, or veterinarians in the course and scope of their
17 business in order to administer medicine to animals.

