

THE ANIMAL COUNCIL

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July 18, 2011

Via Facsimile (916) 558-3160

Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814

Re: SB 917, "Animal Abuse", VETO REQUEST

Dear Governor Brown:

We urge you to veto SB 917, because Section 2 extends far beyond its supposed intent to stop roadside sales of animals, typically addressed by ordinances tailored to local conditions, and appears to classify a wide scope of communications and actions involving eventual transfer of animals as "abuse" with exceptions so restrictive and unrealistic to be meaningless. This is a bill California does not need and Californians do not understand.

Section 2 of SB 91, which we opposed in its 2009 iteration as AB 1122 was vetoed as unnecessary. That bill began with apparent intention to protect the public from unscrupulous, unidentified pet sellers in parking lots, but in the course of four amendments created specific venue exceptions conditioned on impossible, unrealistic requirements. These are presented again this year in SB 917 and could not be mitigated in the legislature.

EXISTING LOCAL ORDINANCES ADDRESSING LOCAL NEEDS:

Many local jurisdictions in California already have ordinance provisions covering casual sales or giveaways of pets, usually dogs or cats, where the customer or recipient is merely passing by. But SB 917 now tries to criminalize all transfers in public places including initial contacts that might lead to later transfer in these places. It lists many exceptions so restrictive and uncertain these are meaningless or worse. In 2009, the author's approach suggested the issue is unidentifiable sellers of puppies and gullible buyers. For this, there is a straightforward solution of requiring transferors provide written identification to transferees regardless of the location of transfer as even in excluded places, an individual transferor may not be identifiable.

SAFETY OF TRANSFERORS AND TRANSFEREES SHOULD BE PREVAILING POLICY:

There is a general safety concern for all parties in excessive restriction on public venue contacts and transfers between individuals. Both transferors and transferees are subject to an array of personal dangers in meetings in private or secluded places including residences. The dangers of selling your own used car or other personal property are well known – violence, theft, invasion of privacy in varied and even long term ways, including cyber-

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stalking and cyber-bullying. Individuals do not have the relative protection of a retail or institutional facility and need to be afforded the ability to determine for themselves how and where to meet and deal with prospective buyers. Why should a person wishing to offer or transfer an animal be offered less ability to choose the place of contact than a used car owner? The legitimate policy issue is identification of parties, not location of any stage of the transaction.

IMPOSSIBLE EXCEPTIONS ARE MEANINGLESS AND COUNTERPRODUCTIVE TO PUBLIC INTEREST:

Our specific concerns involve Section 2(e)(8). Most local jurisdictions in California have NO PERMITTING process for shows, typically held at rented premises on a one-time basis. We have no expertise as to bird show sales, but cat show hall sales are traditional whereas sales are not a part of dog shows except as to beginning conversations that will lead to sales later and elsewhere or sometimes finalizing a sale that has previously and elsewhere been negotiated. In other words, the public does not expect to buy a dog at a dog show, or soon learns this is not done in one transaction at the show. However the public seeking a pedigreed cat knows that a few kittens may be available at shows as a convenience to both sellers and potential buyers and long accepted practice. For dogs, the limitation to the show premises seems to raise even First Amendment concerns for continuing conversations about sales that lead to completion of sales later and elsewhere, possibly another public venue for convenience sake. While the April 27 amendments deleted the language in (8)(b) about “each and every participant” complying with all laws, the resulting language does not specify whose compliance with laws is to be “ensured” by the “show’s sponsor or permittee”. This amendment only changed the impossible to a vaguer version of impossible.

COMPLEX, EXCESSIVE OFFENSE LEVELS:

The complex offense levels ranging from an initial infraction to multiple misdemeanors, especially based on the vague standard of “causes or permits any animal to be placed in a situation in which its life or health may be endangered” can put ordinary people doing ordinary things in enough criminal jeopardy to seriously disrupt or impair their lives and circumstances. For this, the prohibited conduct should be sufficiently harmful and well-defined as to not ensnare the unknowing who do no harm. Criminal fines imposed by the Penal Code are subject to high sur-charges that are separately and rather obscurely set forth in the Penal Code so that even a modest fine of a few hundred dollars compounds into a substantial amount disproportionate to trivial, harmless offenses. Creating such crimes requires a careful balancing of policy issues and consequences.

For these reasons, we ask that you veto SB 917 as an insidious intrusion on the public’s opportunity to purchase animals even from reputable sources as well as protecting the personal safety interests of those sources including their homes and families. The provisions of Section 2 are not about animal abuse.

THE ANIMAL COUNCIL (TAC) is a California nonprofit, public benefit corporation founded in 1991 to seek positive, humane solutions to the challenges of detrimental animal public policies, legislation and regulation through study, analysis and application of animal husbandry, statistics and law, and at the same time preserve human benefit from all species, breeds and registries.

Very truly yours,



SHARON A. COLEMAN
President, The Animal Council