

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1491

Introduced by Assembly Member Caballero
(Coauthor: Assembly Member Maienschein)

February 17, 2017

An act to add ~~Article 4 (commencing with Section 122316) to Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, Section 1670.9 to the Civil Code,~~ relating to dogs and cats.

LEGISLATIVE COUNSEL'S DIGEST

AB 1491, as amended, Caballero. Sales of dogs and cats: *contracts and advertising.*

Existing law generally regulates formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals. Existing law, the Unruh Act, provides for the regulation of retail installment contracts, as defined. Existing law, the Karmette Rental-Purchase Act, provides for the regulation of rental-purchase agreements, as defined.

Existing law regulates the sale of dogs and cats in this state, including provisions governing the retail sale of dogs and cats.

~~This bill would make it unlawful to offer pictures or otherwise make representations regarding a dog or cat that do not depict the actual dog or cat available for purchase by the public, make or disseminate any statement about the dog or cat being advertised for sale that is known, or by the exercise of reasonable care should be known, to be false or misleading, or make or disseminate any statement about the dog or cat~~

being advertised for sale with the intent not to sell to the public the actual dog or cat so advertised. The bill would also make it unlawful to fail to withdraw in writing an advertisement for the sale of a dog or cat within 48 hours after selling the dog or cat or withdrawing the dog or cat from sale. The bill would make a person who violates these provisions subject to a civil penalty of not less than \$500 and not more than \$5,000 for each violation. The bill would authorize the Attorney General and local entities, as specified, to bring a civil action to assess and recover the civil penalty.

This bill would declare a contract entered into on or after January 1, 2018, to transfer ownership of a dog or cat in which ownership is contingent upon the making of payments over a period of time subsequent to the transfer of possession of the dog or cat void as against public policy unless those payments are on an unsecured loan for the purchase of that animal. This bill would also declare a contract entered into on or after January 1, 2018, for the lease of a dog or cat void as against public policy. The bill would require that the consumer taking possession of a dog or cat transferred under the terms of one of these contracts be deemed the owner of the dog or cat and be entitled to return all amounts paid under the contract.

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

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

- 1 SECTION 1. Section 1670.9 is added to the Civil Code, to read:
- 2 1670.9. (a) (1) Except as provided in paragraph (2), a
- 3 contract entered into on or after January 1, 2018, to transfer
- 4 ownership of a dog or cat in which ownership is contingent upon
- 5 the making of payments over a period of time subsequent to the
- 6 transfer of possession of the dog or cat is void as against public
- 7 policy.
- 8 (2) Paragraph (1) shall not apply to payments to repay an
- 9 unsecured loan for the purchase of the dog or cat.
- 10 (b) A contract entered into on or after January 1, 2018, for the
- 11 lease of a dog or cat is void as against public policy.
- 12 (c) In addition to any other remedies provided by law, the
- 13 consumer taking possession of a dog or cat transferred under the
- 14 terms of a contract described in paragraph (1) of subdivision (a)

1 *or in subdivision (b) shall be deemed the owner of the dog or cat*
2 *and shall be entitled to return all amounts paid under the contract.*

3 SECTION 1. ~~Article 4 (commencing with Section 122316) is~~
4 ~~added to Chapter 5 of Part 6 of Division 105 of the Health and~~
5 ~~Safety Code, to read:~~

6
7 ~~Article 4. Sales of Dogs and Cats: Advertising~~
8

9 ~~122316. It is unlawful to do any of the following when~~
10 ~~advertising the sale of a dog or cat to the public in this state:~~

11 ~~(a) Offer pictures or otherwise make representations regarding~~
12 ~~a dog or cat that do not depict the actual dog or cat available for~~
13 ~~purchase by the public.~~

14 ~~(b) Make or disseminate any statement about the dog or cat~~
15 ~~being advertised for sale that is known, or by the exercise of~~
16 ~~reasonable care should be known, to be false or misleading.~~

17 ~~(c) Make or disseminate any statement about the dog or cat~~
18 ~~being advertised for sale with the intent not to sell to the public~~
19 ~~the actual dog or cat so advertised.~~

20 ~~122317. It is unlawful to fail to withdraw in writing an~~
21 ~~advertisement for the sale of a dog or cat within 48 hours after~~
22 ~~selling the dog or cat or withdrawing the dog or cat from sale.~~

23 ~~122318. (a) A person who violates this article is subject to a~~
24 ~~civil penalty of not less than five hundred dollars (\$500) and not~~
25 ~~more than five thousand dollars (\$5,000) for each violation.~~

26 ~~(b) The Attorney General, or the city attorney of the city or the~~
27 ~~district attorney or county counsel of the county in which a~~
28 ~~violation of this article occurs, may bring a civil action in a court~~
29 ~~of competent jurisdiction to assess and recover the civil penalty~~
30 ~~described in subdivision (a). The civil penalty, when collected,~~
31 ~~shall be payable, as appropriate, to the general fund of whichever~~
32 ~~governmental entity brought the action to assess the civil penalty.~~