

BILL NUMBER: SB 1349 AMENDED IN SENATE MARCH 29, 2006
INTRODUCED BY Senator Soto FEBRUARY 17, 2006
An act to amend Sections 597b and 597j of, and to repeal and add
Section 597c of, the Penal Code, relating to animal fighting
exhibitions.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Soto Animal fighting exhibitions.

Existing law generally prohibits persons from causing or permitting specified animals to engage in fighting, and prohibits owning or training specified animals for those purposes. Existing law provides that these offenses are misdemeanors with various penalties, and that subsequent violations of these provisions are misdemeanors with additional specified penalties.

This bill would increase the penalties for the misdemeanors and would provide that subsequent violations of these provisions shall be misdemeanors or felonies with prescribed penalties. The bill would make related legislative findings.

By changing the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. The Legislature finds and declares the following:

(a) Cockfighting has played a significant role in the spread of avian influenza throughout Southeast Asia and other parts of the world. It is estimated that a worldwide outbreak of avian influenza could kill up to 150 million people. In a 2004 study of the avian flu outbreak in Thailand, the United States Centers for Disease Control and Prevention (CDC) concluded that illegal transportation and cockfighting may have worsened the highly pathogenic avian influenza (HPAI) situation. According to the World Health Organization, infected fighting cocks may have caused at least eight confirmed human cases of avian influenza in Thailand and Vietnam since the beginning of 2004.

(b) The presence of cockfighting in California makes the state vulnerable to an outbreak of avian flu. In late 2002 and early 2003, cockfighting played a major role in the spread of Exotic Newcastle Disease (END) throughout Southern California. By the time the state was able to get that virus under control, END had devastated much of California's egg and poultry industry. More than 3.5 million birds died or were euthanized. END cost the United States taxpayers \$200 million to eradicate. It cost the poultry industry millions more in lost overseas exports as it spread across the southwestern United States.

(c) By encouraging cockfighters from other states to come to California, the state's current penalties on cockfighting have made California more vulnerable to an outbreak of the avian flu. Arizona,

Nevada, and Oregon all have felony-level penalties for cockfighting, making California, with its simple misdemeanor-level penalties, a regional refuge for illegal cockfighting activity.

(d) The cost of an outbreak of avian flu in California would far surpass the cost of enacting felony-level penalties against cockfighting. An avian flu outbreak that occurred during 1983 and 1984 in the northeastern United States took two years to control and resulted in the destruction of more than 17 million birds at a cost of nearly \$65 million. This outbreak also caused retail egg prices to increase by more than 30 percent.

(e) It is therefore the intent of the Legislature in enacting this act to put penalties in place that deter cockfighting and thereby diminish risks to California's public health, safety and legitimate multi-million dollar poultry and egg industries.

SEC. 2. Section 597b of the Penal Code is amended to read:

597b. (a) Except as provided in ~~subdivision subdivisions~~ (b) and (c), 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 causes any animal, including any dog, to fight with a different 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~~, or any person who permits the same to be done on any premises under his or her charge or control ~~→ and~~, or 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 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) ~~Notwithstanding subdivision (a), any~~ 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, or 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 or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, 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) For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.

SEC. 3. Section 597c of the Penal Code is repealed.

~~—597c. (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 an exhibition of fighting; or is present at any place, building, or tenement where 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 an exhibition of fighting of a dog with another dog.~~

SEC. 4. Section 597c is added to the Penal Code, to read:

597c. Any person who is knowingly present as a spectator at any place, building, or tenement for an exhibition of animal fighting, or who is knowingly present at that exhibition or is knowingly present where preparations are being made for the acts described in subdivision (a) or (b) of Section 597b, is guilty of a misdemeanor.

SEC. 5. Section 597j of the Penal Code is amended to read:

597j. (a) Any person who owns, possesses, keeps, or trains any bird, cock, or other 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 as described in Section 597b 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 of a dog with another dog.

(c) A second or subsequent conviction of this section ~~or Section 597b, or Section 597e~~ is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, 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.~~

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.