

## COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 697  
AUTHOR : Emmerson  
TOPIC : Veterinary medicine.

## TYPE OF BILL :

Active  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

## BILL HISTORY

2011

Apr. 20 Set, second hearing. Hearing canceled at the request of author.  
Apr. 14 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B., P. & E.D.  
Apr. 6 Set for hearing April 25.  
Apr. 5 Set, first hearing. Hearing canceled at the request of author.  
Mar. 25 Set for hearing April 11.  
Mar. 3 Referred to Com. on B., P. & E.D.  
Feb. 20 From printer. May be acted upon on or after March 22.  
Feb. 18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

BILL NUMBER: SB 697 AMENDED  
BILL TEXT

AMENDED IN SENATE APRIL 14, 2011

INTRODUCED BY Senator ~~Negrete McLeod~~  
Emmerson

FEBRUARY 18, 2011

An act to amend Sections 4826 ~~and 4875.1 of~~  
, 4875.1, and 4875.2 of, and to Article 4.5 (commencing with  
Section 4890) to Chapter 11 of Division 2 of, the Business and  
Professions Code, relating to veterinary medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 697, as amended, ~~Negrete McLeod~~  
Emmerson . Veterinary medicine.

Existing law, the Veterinary Medicine Practice Act, provides for the licensure and registration of veterinarians and registered veterinary technicians by the Veterinary Medical Board and makes a violation of the act a crime.

Under existing law, a person practices veterinary medicine when he or she, among other things, represents himself or herself as engaged in the practice of veterinary medicine.

This bill would additionally provide that a person practices veterinary medicine when he or she advertises himself or herself as engaged in the practice of veterinary medicine.

Existing law makes it unlawful for any person to practice veterinary medicine without a license and prohibits a person from using the title "registered veterinary technician" unless he or she has satisfied the requirements for registration. Existing law requires the board to prioritize its investigative and prosecutorial resources to ensure that disciplinary cases against veterinarians and registered veterinary technicians are handled expeditiously.

This bill would ~~additionally require the board to prioritize its resources to ensure that cases against unlicensed and unregistered persons and any person aiding and abetting these unlicensed and unregistered persons, as specified, are brought in a similar manner~~ provide that, if upon completion of an inspection or investigation, the board's executive officer has probable cause to believe that an unlicensed person acting as a veterinarian or registered veterinarian technician has violated the act, he or she may issue a civil citation, as specified, and would provide for the person cited to contest the citation. The bill would also authorize the executive officer to seek injunctive relief, as specified. The bill would also provide that failure to comply with a citation is a misdemeanor, and would designate the distribution of fine moneys collected through convictions of that crime .

By changing the definition of a crime, the 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. Section 4826 of the Business and Professions Code is amended to read:

4826. A person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(a) Advertises or represents himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, bodily injury, or disease of animals.

(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the medicine, appliance, application, or treatment is administered by a registered veterinary technician or an unregistered assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832) or where the drug, including, but not limited to, a drug that is a controlled substance, is administered by a registered veterinary technician or an unregistered assistant pursuant to Section 4836.1. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(d) Performs a surgical or dental operation upon an animal.

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or Equidae.

(f) Uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry. This use shall be prima facie evidence of the intention to represent himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

SEC. 2. Section 4875.1 of the Business and Professions Code is amended to read:

4875.1. (a) In order to ensure that its resources are maximized for the protection of the public, the board shall prioritize its investigative and prosecutorial resources to ensure that veterinarians and registered veterinary technicians ~~—and unlicensed persons acting as veterinarians, unregistered persons acting as registered veterinary technicians, and any person aiding and abetting these unlicensed or unregistered persons, representing~~ reporting the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in paragraph (1):

(1) Negligence or incompetence that involves death or serious bodily injury to an animal patient, such that the veterinarian ~~— or registered veterinary technician — or unlicensed person~~ represents a danger to the public.

(2) Cruelty to animals.

(3) A conviction or convictions for a criminal charge or charges or being subject to a felony criminal proceeding without

consideration of the outcome of the proceeding.

(4) Practicing veterinary medicine while under the influence of drugs or alcohol.

(5) Drug or alcohol abuse by a veterinarian or registered veterinary technician involving death or serious bodily injury to an animal patient or to the public.

(6) Self-prescribing of any dangerous drug, as defined in Section 4022, or any controlled substance, as defined in Section 4021.

(7) Repeated acts of excessive prescribing, furnishing, or administering of controlled substances, as defined in Section 4021, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, as defined in Section 4021, without having first established a veterinarian-client-patient relationship pursuant to Section 2032.1 of Title 16 of the California Code of Regulations.

(8) Extreme departures from minimum sanitary conditions such that there is a threat to an animal patient or the public and animal health and safety, only if the case has already been subject to Section 494 and board action.

(b) The board may prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The board shall annually report and make publicly available the number of disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

*SEC. 3. Section 4875.2 of the Business and Professions Code is amended to read:*

4875.2. If, upon completion of an inspection or investigation, the executive officer has probable cause to believe that a veterinarian ~~—~~ or a registered veterinary technician ~~—~~, ~~or an unlicensed person acting as a veterinarian or a registered veterinary technician~~ has violated provisions of this chapter, he or she may issue a citation to the veterinarian ~~—~~ or registered veterinary technician, ~~or unlicensed person,~~ as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the veterinarian ~~—~~ or registered veterinary technician ~~—~~, ~~or unlicensed individual~~ personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the board who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the veterinarian ~~—~~ or registered veterinary technician ~~—~~, ~~or unlicensed person~~ to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that the veterinarian ~~—~~ or registered veterinary technician ~~—~~, ~~or unlicensed person~~ has violated any provisions of this chapter, a civil citation shall be issued to the veterinarian ~~—~~ or registered veterinary technician ~~—~~, ~~or unlicensed person~~.

*SEC. 4. Article 4.5 (commencing with Section 4890) is added to Chapter 11 of Division 2 of the Business and*

Professions Code , to read:

Article 4.5. Unlicensed Activity

4890. If, upon completion of an inspection or investigation, the executive officer has probable cause to believe that an unlicensed person acting as a veterinarian or a registered veterinary technician has violated provisions of this chapter, he or she may issue a citation to the unlicensed person, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the unlicensed individual personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the board who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the unlicensed person to discuss and resolve the alleged violation. Upon conclusion of the board designee's review, the designee shall prepare a finding of fact and a recommendation. If the board designee concludes that probable cause exists that the unlicensed person has violated any provisions of this chapter, a civil citation shall be issued to the unlicensed person. The unlicensed person may administratively contest the civil citation of the board or the proposed assessment of civil penalty pursuant to Section 4875.6.

4891. In addition to all other remedies, when it appears to the executive officer, either upon complaint or otherwise, that an unlicensed person acting as a veterinarian or a registered veterinary technician has violated provisions of this chapter, whether or not there is substantial injury, the executive officer may, either through the Attorney General or through the district attorney of the county in which the violation is alleged to have been committed, apply to the superior court of that county, for an injunction restraining the person from acting as a veterinarian or a registered veterinary technician in violation of this chapter, and, upon a proper showing, a temporary restraining order, a preliminary injunction, or a permanent injunction shall be granted.

4892. (a) The failure of an unlicensed individual to comply with a citation after it is final is a misdemeanor.

(b) Notwithstanding Section 1462.5 or 1463 of the Penal Code or any other provision of law, any fine collected upon conviction in a criminal action brought under this section shall be distributed as follows:

(1) If the action is brought by a district attorney, any fine collected shall be paid to the treasurer of the county in which the judgment was entered to be designated for use by the district attorney.

(2) If the action is brought by a city attorney or city prosecutor, any fine collected shall be paid to the treasurer of the city in which the judgment was entered, to be designated for use by the city attorney.

~~SEC. 3.~~ SEC. 5. 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.