

SUBJECT: State jail felony for certain cruelty to animal offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Dunnam, Galloway, Keel, A. Reyna
1 present, not voting — Hinojosa
0 nays
2 absent — Farrar, Nixon

SENATE VOTE: On final passage, Local and Uncontested Calendar, April 10 — 31-0

WITNESSES: No public hearing

BACKGROUND : Under the Penal Code cruelty to animals is a Class A misdemeanor, with a maximum penalty of one year in jail and a \$4,000 fine.

DIGEST: SB 143 would make third and subsequent offenses of cruelty to animals a state jail felony, with a penalty of six months to two years in state jail and an optional fine of up to \$10,000.

The bill would take effect September 1, 1997.

SUPPORTERS SAY: SB 143 is necessary to adequately punish and deter persons who repeatedly inflict harm on animals. Some persons have been convicted of cruelty to animals numerous times and the current punishments — even those available for repeat offenders — have not deterred further cruelty. Persons already twice convicted of cruelty to animals have received adequate notice that their actions are illegal and on the third offense harsher punishment should be available.

The penalty for subsequent Class A misdemeanors — jail term of 90 days to one year and up to \$4,000 fine — is inadequate to punish or deter the serious, repeat offenders who would be targeted by SB 143. SB 143 would be in line with numerous other Penal Code provisions that establish enhanced punishments for repeat offenses of specific crimes.

Punishing third and subsequent offenses of cruelty to animals as state jail felonies would be an appropriate penalty. The state jail system was designed for non-violent offenders whose crimes are more serious than misdemeanors but not as serious as felonies that result in prison time. Judges have wide discretion in the requirements they can place on state jail felons. In most cases, the sentence is suspended and the person put on probation. However, judges can require state jail felons to submit to periods of incarceration in a state or county jail. This flexibility in the state jail felony punishment scheme would allow judges to tailor punishments to fit individual circumstances.

**OPPONENTS
SAY:**

The 1993 Penal Code was carefully crafted to encompass broad language and eliminate special provisions. Repeat offenses of cruelty to animals should be handled under the standard Penal Code provisions for repeat and habitual misdemeanor offenders instead of enacting a special enhancement for this particular offense. Under the current standard enhancement provisions, persons being tried for a Class A misdemeanor who have been previously convicted of a Class A misdemeanor must be punished by a jail term of 90 days to one year and a fine of up to \$4,000.