

July 22, 2022

Submitted via email

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Dear Ms. Donohue and Ms. Corso,

On behalf of Animal Outlook, I write to notify you of violations of multiple animal protection laws by live markets operating within the city of San Francisco. We respectfully request that Animal Care and Control (“ACC”) investigate this matter and enforce these laws to the fullest extent allowable.

On the dates of February 12-14, 2022 and March 14-16, 2022, an Animal Outlook investigator visited several live markets in San Francisco. During these visits, the investigator recorded the care and condition of animals in these markets. Video of these visits can be accessed with the information below:

- **Link:** <https://vimeo.com/718115866>
- **Password:** 0Alq1X

As detailed in the sections that follow, Animal Outlook’s investigator documented scores of incidents that violate San Francisco and California law. The sections below identify the offending live market, the law violated, and the corresponding timestamp on the aforementioned video where the violation can be viewed. These incidents range from overt abuse such as dismembering animals while still conscious to more passive abuse such as severely overcrowding animals in cages and tanks or allowing them to suffocate. ACC is tasked with “enforc[ing] the provisions [of San Francisco’s code related to animals] and any other ordinances

and laws that pertain to the care and control of animals.”¹ Live markets across the city have violated several of the laws that ACC is tasked with enforcing and we hereby request that you investigate this matter and enforce both San Francisco and California law against these establishments.

I. California’s Neglect Law: Cal. Pen. Code § 597(b)

California’s criminal neglect law, Cal. Pen. Code § 597(b), provides that “any person who . . . deprives of necessary sustenance, drink, or shelter . . . or otherwise, subjects any animal to needless suffering” is guilty of a felony.² The law is vast in the scope of animals protected—the term “animal” means “every dumb creature”³ and applies to “all animals except human beings.”⁴ California courts have upheld application of the state’s cruelty and neglect laws to a vast range of animals, including tortoises, mice, birds, horses, rabbits, and many others.⁵ Thus, every animal captured on the accompanying video is protected by this law. In addition to their immense scope, the cruelty and neglect laws clearly provide that a violation occurs even with respect to a single animal.⁶

Moreover, as irrefutable evidence of the California legislature’s intent to protect even animals consumed as food from acts of cruelty and neglect, California law does not include an exception for customary or routine animal husbandry practices. Although many state cruelty laws include some form of exception that “[has] given the farming community the power to define cruelty to animals in their care,”⁷ California’s animal protection laws are barren of any such provision.

Animal Outlook’s investigator documented numerous instances in which live markets subjected various species of animals to “needless suffering” and/or “deprive[d] them of necessary . . . shelter,” therefore violating California’s neglect law.⁸ In addition to violating the state neglect law, many of these incidents—marked with asterisks in the table below—also violate San Francisco’s own municipal law which states that “[t]he owner or guardian of any animal shall provide proper and adequate food, water, shelter, care, exercise and attention for such animals.”⁹

Live Market	Address	Details	Timestamp
Liang’s Food	1145 Stockton Street, San Francisco, CA 94133	Dismembered sturgeon remains conscious as worker stands by	8:22
		Worker throws frogs on a table and then stuffs them in a bag	56:30

¹ S.F. Mun. Code SEC. 41.4(b)(3).

² Cal. Pen. Code §597(b).

³ Cal. Pen. Code § 599b.

⁴ *People v. Baniqued*, 101 Cal.Rptr.2d 835, 840 (3d Dist. 2000).

⁵ See *Jett v. Mun. Court*, 177 Cal. App. 3d 664 (4th Dist. 1986); *People v. Thomason*, 84 Cal. App. 4th 1064 (2d Dist. 2000); *Baniqued*, 101 Cal.Rptr.2d at 840; *People v. Farley*, 33 Cal. App. 3d Supp. 1 (App. Dep’t. Super. Ct. 1973); *People v. Sanchez*, 94 Cal. App. 4th 622 (3d Dist. 2001).

⁶ Cal. Pen. Code § 597(b) (“any animal”) and Cal. Pen. Code § 597(a) (“an animal...a crime”). See also, e.g., *People v. Burnett*, 2 Cal.Rptr.3d 120 (6th Dist. 2003); *People v. Wood*, 103 Cal.App.4th 803 (3d Dist. 2002) (each applying to one animal).

⁷ D. Wolfson, *Beyond the Law: Agribusiness and the Systematic Abuse of Animals*, 2 Animal L. 123 (1996).

⁸ Cal. Pen. Code § 597(b).

⁹ See S.F. Health Code Art. 1, Sec. 41.12(c); unlike the state law, this section does not include fish.

		Turtles kept in plastic tubs*	1:36:02
		Fish overcrowded in a tank	1:36:44
		Fish upside down in a very shallow tank	1:38:09
Pacific Street Fish Market	1199-E Stockton Street, San Francisco, CA 94133	Fish overcrowded in a tank	22:53
		Fish upside down in a tank and appearing to suffer	24:14
		Fish kept in filthy water	26:28
		Fish appearing barely alive at the bottom of a tank	26:36
		Frogs in plastic tub*	1:14:37
		Crabs severely overcrowded in a tank*	1:53:54
		Fish flopping on the concrete sidewalk outside the market	2:01:23
New Luen Sing	1207 Stockton Street, San Francisco, CA 94133	Turtle left upside down on the slaughter table*	55:50
		Turtles in a plastic tub*	1:13:42
		Turtles in a plastic tub*	1:15:02
		Fish in an extremely shallow tank struggling to breathe	1:58:10
Canton Plaza	1139 Stockton Street, San Francisco, CA 94133	Fish still conscious left on an ice display by front door	9:58
		Fish netted from truck and thrown in a trash can	59:11
W.L. Trading Company	844 Jackson Street, San Francisco, CA 94133	Worker stuffs turtles in a bag*	1:11
		Dead fish in a tank	36:19
M.P. Seafood Market	848 Jackson St, San Francisco, CA 94133	Turtles jammed in crate*	1:08
City Super	1108 Stockton St San Francisco, CA 94133	Fish left to suffocate out of water	1:35:22
Irving Seafood Market	2130 Irving St San Francisco, CA 94122	Frogs crowded in plastic crates*	1:16:36
Saba Live Poultry (San Francisco)	1526 Wallace Ave, San Francisco, CA 94124	Chickens severely overcrowded in cages*	1:18:44
New Century Seafood Market	2427 Noriega St San Francisco, CA 94122	Crabs severely overcrowded in tanks*	1:25:29
Tian Tian Market	1117 Stockton St San Francisco, CA 94133	Frogs in plastic tubs*	1:47:50

*Denotes a violation of both California and San Francisco law

II. California Live Markets Law (Cutting Open While Alive): Cal. Pen. Code § 597.3(a)(1)

In 2000, California passed what would eventually become Cal. Pen. Code § 597.3, a law specifically focused on the welfare of animals kept in live markets.¹⁰ The law states that “Every person who operates a live animal market shall . . . [p]rovide that no animal will be dismembered, flayed, cut open, or have its skin, scales, feathers, or shell removed while the animal is still alive.”¹¹ In the incident below, Liang’s Food violated this law by cutting open a turtle while still alive. In the video, the worker strikes the turtle with a blade, the turtle responds by moving, and then the worker begins cutting.

Live Market	Address	Details	Timestamp
Liang’s Food	1145 Stockton Street, San Francisco, CA 94133	Turtle cut open while alive	3:28

III. California Live Markets Law (Suffocation): Cal. Pen. Code § 597.3(a)(2)

California’s live markets law states that “Every person who operates a live animal market shall . . . [p]rovide that no live animals will be confined, held, or displayed in a manner that results, or is likely to result, in . . . suffocation.”¹² Animal Outlook’s investigator documented several incidents in which animals were stuffed in bags, forced to swim in shallow tanks, or left to suffocate completely out of water.

Live Market	Address	Details	Timestamp
Liang’s Food	1145 Stockton Street, San Francisco, CA 94133	Frogs thrown on a table and then stuffed in a bag	56:30
		Fish upside down in a shallow tank	1:38:09
Pacific Street Fish Market	1199-E Stockton Street, San Francisco, CA 94133	Fish flopping on the concrete sidewalk	2:01:23
New Luen Sing	1207 Stockton Street, San Francisco, CA 94133	Turtle weighed in closed plastic bag	16:26
		Fish in extremely shallow tank struggling to breathe	1:58:10
Canton Plaza	1139 Stockton Street, San Francisco, CA 94133	Fish still conscious left on ice display by front door	9:58
City Super	1108 Stockton St San Francisco, CA 94133	Fish left to suffocate out of water	1:35:22

¹⁰ See 2000 Cal AB 2479 (the law was originally part of Cal. Pen. Code § 597.2).

¹¹ Cal. Pen. Code § 597.3(a)(2).

¹² *Ibid.*

IV. Conclusion

As documented in Animal Outlook's investigation, no less than eleven San Francisco live markets violated California and San Francisco's animal protection laws during a six-day span earlier this year. The city's live markets are not immune from prosecution for crimes involving animals. As ACC is tasked with protecting *all* of the animals of the city, we urge you to investigate and enforce these laws to the fullest extent allowable.

For questions, please contact Will Lowrey at (804) 307-4102 or wlowrey@animaloutlook.org and Piper Hoffman at (347) 720-6395 or phoffman@animaloutlook.org. We look forward to your response.

Sincerely,



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