

3723--B

2013-2014 Regular Sessions

I N S E N A T E

February 12, 2013

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law and the general business law, in relation to the sale of animals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 406 of the agriculture and
2 markets law, as added by chapter 259 of the laws of 2000, is amended to
3 read as follows:
4 2. Violation of any provision of this article, is a civil offense, for
5 which a penalty of not less than [fifty] ONE HUNDRED dollars and not
6 more than one thousand dollars for each violation may be imposed.
7 S 2. Subdivision 1 of section 753 of the general business law, as
8 added by chapter 431 of the laws of 1988, the opening paragraph as
9 amended and such section as renumbered by chapter 68 of the laws of
10 1993, is amended to read as follows:
11 1. If, within fourteen business days following the sale of an animal
12 subject to this article or receipt of the written notice required by
13 section seven hundred fifty-four of this article, whichever occurred
14 last, a veterinarian of the consumer's choosing, licensed by a state
15 certifies such animal to be unfit for purchase due to illness[, a
16 congenital malformation which adversely affects the health of the
17 animal,] or the presence of symptoms of a contagious or infectious
18 disease, OR IF, WITHIN ONE HUNDRED EIGHTY CALENDAR DAYS FOLLOWING SUCH
19 SALE OR RECEIPT, WHICHEVER OCCURRED LAST, A LICENSED VETERINARIAN CERTI-
20 FIES SUCH ANIMAL TO BE UNFIT FOR PURCHASE DUE TO A CONGENITAL MALFORMA-
21 TION WHICH ADVERSELY AFFECTS THE HEALTH OF THE ANIMAL, the pet dealer

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 shall afford the consumer the right to choose one of the following
2 options:

3 (a) The right to return the animal and receive a refund of the
4 purchase price including sales tax and reasonable veterinary costs
5 directly related to the veterinarian's certification that the animal is
6 unfit for purchase pursuant to this section;

7 (b) The right to return the animal and to receive an exchange animal
8 of the consumer's choice of equivalent value and reasonable veterinary
9 costs directly related to the veterinarian's certification that the
10 animal is unfit for purchase pursuant to this section; or

11 (c) The right to retain the animal and to receive reimbursement from a
12 pet dealer for veterinary services from a licensed veterinarian of the
13 consumer's choosing, for the purpose of curing or attempting to cure the
14 animal. The reasonable value of reimbursable services rendered to cure
15 or attempting to cure the animal shall not exceed the purchase price of
16 the animal. The value of such services is reasonable if comparable to
17 the value of similar services rendered by other licensed veterinarians
18 in proximity to the treating veterinarian. Such reimbursement shall not
19 include the costs of initial veterinary examination fees and diagnostic
20 fees not directly related to the veterinarian's certification that the
21 animal is unfit for purchase pursuant to this section.

22 The commissioner by regulations shall prescribe a form for, and the
23 content of, the certification that an animal is unfit for purchase,
24 which shall be provided by an examining veterinarian to a consumer upon
25 the examination of an animal which is subject to the provisions of this
26 section. Such form shall include, but not be limited to, information
27 which identifies the type of animal, the owner, the date and diagnosis
28 of the animal, the treatment recommended if any, and an estimate or the
29 actual cost of such treatment. Such form shall also include the notice
30 prescribed in section seven hundred [forty-three] FIFTY-FOUR of this
31 article.

32 The commissioner by regulations shall prescribe information which
33 shall be provided in writing by the pet dealer to the consumer upon the
34 sale of the animal. Such information shall include, but not be limited
35 to, a description, including breed of the animal, the date of purchase,
36 the name, address and telephone number of the consumer, and the amount
37 of the purchase. The pet dealer shall certify such information by sign-
38 ing the document in which it is contained.

39 S 3. Section 753-b of the general business law, as added by chapter
40 259 of the laws of 2000, paragraph (f) of subdivision 2 as added by
41 chapter 598 of the laws of 2008, is amended to read as follows:

42 S 753-b. Information statement for purchaser. Every pet dealer shall
43 deliver to the purchaser of an animal, at the time of sale, a written
44 statement in a standardized form prescribed by the commissioner of agri-
45 culture and markets containing the following information:

46 1. For cats:

47 (a) The breeder's AND, IF APPLICABLE, BROKER'S name and address, if
48 known, or, if not known, the source of the cat. If the person from whom
49 the cat was obtained is a dealer licensed by the United States depart-
50 ment of agriculture, the person's name, address, and federal identifica-
51 tion number;

52 (b) The date of the cat's birth, unless unknown because of the source
53 of the cat, the date the pet dealer received the cat, and the location
54 where the cat was received;

55 (c) A record of immunizations and worming treatments administered, if
56 any, to the cat as of the time of sale while the cat was in the

possession of the pet dealer, including the dates of administration and the type of vaccines or worming treatments administered;

(d) A record of any known disease, sickness, or congenital condition that adversely affects the health of the cat at the time of sale;

(e) A record of any veterinary treatment or medication received by the cat while in the possession of the pet dealer and either of the following:

(i) A statement, signed by the pet dealer at the time of sale, indicating all of the following: (1) The cat has no known disease or illness; (2) The cat has no known congenital or hereditary condition that adversely affects the health of the cat at the time of sale; or

(ii) A record of any known congenital or hereditary condition, disease, or illness that adversely affects the health of the cat at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the cat, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or [nonelective] NON-ELECTIVE surgical procedures, and is not likely to require hospitalization or [nonelective] NON-ELECTIVE surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the cat clinically ill or is likely to make the cat clinically ill. The statement shall be valid for fourteen business days following examination of the cat by the veterinarian.

2. For dogs:

(a) The breeder's AND, IF APPLICABLE, BROKER'S name and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States department of agriculture, the person's name, address, and federal identification number;

(b) The date of the dog's birth and the date AND LOCATION the pet dealer received the dog. If the dog is not advertised or sold as a purebred, registered or registrable, the date of birth may be approximated if not known by the seller;

(c) The breed, sex, color and identifying marks at the time of sale. If the dog is from a United States department of agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate. If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known;

(d) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale while the dog was in the possession of the pet dealer, including dates of administration and the type of vaccines and/or worming treatments administered;

(e) A record of any veterinary treatment or medication received by the dog while in the possession of the pet dealer and either of the following:

(i) A statement, signed by the pet dealer at the time of sale, indicating all of the following: (1) The dog has no known disease or illness; (2) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale; or

(ii) A record of any known congenital or hereditary condition, disease or illness that adversely affects the health of the dog at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the condition, disease, or illness does not require

1 hospitalization or [nonelective] NON-ELECTIVE surgical procedures, and
2 is not likely to require hospitalization or [nonelective] NON-ELECTIVE
3 surgical procedures in the future. A veterinarian statement is not
4 required for intestinal or external parasites unless their presence
5 makes the dog clinically ill or is likely to make the dog clinically
6 ill. The statement shall be valid for fourteen business days following
7 examination of the dog by the veterinarian.

8 (f) Notification that dogs residing in New York state must be
9 licensed, and that a license may be obtained from the municipality in
10 which the dog resides.

11 3. A disclosure made pursuant to subdivision one or two of this
12 section shall be signed by both the pet dealer certifying the accuracy
13 of the statement and the purchaser acknowledging receipt of the state-
14 ment. At the time of sale, each pet dealer shall provide the purchaser
15 with information on the value of spaying and neutering of dogs and cats.

16 4. Every pet dealer shall post conspicuously within close proximity to
17 the cages of dogs and cats offered for sale, a notice containing the
18 following language in one hundred-point type: "Information on the source
19 of these dogs and cats and the veterinary treatments received by these
20 dogs and cats is available for review by prospective purchasers."

21 S 4. Subdivision 1 of section 755 of the general business law, as
22 amended by chapter 259 of the laws of 2000, is amended to read as
23 follows:

24 1. In addition to the other remedies provided, whenever there shall be
25 a violation of this article, application may be made by the attorney
26 general in the name of the people of the state of New York to a court or
27 justice having jurisdiction by a special proceeding to issue an injunc-
28 tion, and upon notice to the defendant of not less than five days, to
29 enjoin and restrain the continuance of such violations; and if it shall
30 appear to the satisfaction of the court or justice that the defendant
31 has, in fact, violated this article, an injunction may be issued by such
32 court or justice, enjoining and restraining any further violation, with-
33 out requiring proof that any person has, in fact, been injured or
34 damaged thereby. In any such proceeding, the court may make allowances
35 to the attorney general as provided in paragraph six of subdivision (a)
36 of section eighty-three hundred three of the civil practice law and
37 rules, and direct restitution. Whenever the court shall determine that a
38 violation of this article has occurred, the court may impose a civil
39 penalty of not less than [fifty] ONE HUNDRED dollars and not more than
40 one thousand dollars. In connection with any such proposed application,
41 the attorney general is authorized to take proof and make a determi-
42 nation of the relevant facts and to issue subpoenas in accordance with
43 the civil practice law and rules.

44 S 5. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law.