

3723

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

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. Section 403 of the agriculture and markets law is amended
2 by adding a new subdivision 10-a to read as follows:
3 10-A. ANY FINES IMPOSED UPON A PET DEALER IN ACCORDANCE WITH THIS
4 ARTICLE AND ARTICLE THIRTY-FIVE-D OF THE GENERAL BUSINESS LAW SHALL BE
5 SATISFIED PRIOR TO THE ISSUANCE OF A LICENSE OR RENEWAL THEREOF PURSUANT
6 TO THIS ARTICLE AND ARTICLE THIRTY-FIVE-D OF THE GENERAL BUSINESS LAW.
7 S 2. Subdivision 2 of section 406 of the agriculture and markets law,
8 as added by chapter 259 of the laws of 2000, is amended to read as
9 follows:
10 2. Violation of any provision of this article, is a civil offense, for
11 which a penalty of not less than [fifty] ONE HUNDRED FIFTY dollars and
12 not more than one thousand dollars for each violation may be imposed.
13 S 3. Subdivision 1 of section 753 of the general business law, as
14 added by chapter 431 of the laws of 1988, the opening paragraph as
15 amended and such section as renumbered by chapter 68 of the laws of
16 1993, is amended to read as follows:
17 1. If, within fourteen business days following the sale of an animal
18 subject to this article or receipt of the written notice required by
19 section seven hundred fifty-four of this article, whichever occurred
20 last, a veterinarian of the consumer's choosing, licensed by a state
21 certifies such animal to be unfit for purchase due to illness[, a
22 congenital malformation which adversely affects the health of the
23 animal,] or the presence of symptoms of a contagious or infectious
24 disease, OR IF, WITHIN ONE HUNDRED EIGHTY CALENDAR DAYS FOLLOWING SUCH
25 SALE OR RECEIPT, WHICHEVER OCCURRED LAST, A LICENSED VETERINARIAN CERTI-

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

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1 FIES SUCH ANIMAL TO BE UNFIT FOR PURCHASE DUE TO A CONGENITAL MALFORMA-
2 TION WHICH ADVERSELY AFFECTS THE HEALTH OF THE ANIMAL, the pet dealer
3 shall afford the consumer the right to choose one of the following
4 options:

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

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

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

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

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

41 S 4. Section 753-b of the general business law, as added by chapter
42 259 of the laws of 2000, paragraph (f) of subdivision 2 as added by
43 chapter 598 of the laws of 2008, is amended to read as follows:

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

48 1. For cats:

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

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

(c) A record of immunizations and worming treatments administered, if 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

1 authorizes the sale of the dog, recommends necessary treatment, if any,
2 and verifies that the condition, disease, or illness does not require
3 hospitalization or [nonelective] NON-ELECTIVE surgical procedures, and
4 is not likely to require hospitalization or [nonelective] NON-ELECTIVE
5 surgical procedures in the future. A veterinarian statement is not
6 required for intestinal or external parasites unless their presence
7 makes the dog clinically ill or is likely to make the dog clinically
8 ill. The statement shall be valid for fourteen business days following
9 examination of the dog by the veterinarian.

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

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

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

23 S 5. Subdivision 1 of section 755 of the general business law, as
24 amended by chapter 259 of the laws of 2000, is amended and a new subdi-
25 vision 1-b is added to read as follows:

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

46 1-B. ANY FINES IMPOSED UPON A PET DEALER IN ACCORDANCE WITH THIS
47 SECTION AND SECTIONS FOUR HUNDRED FOUR AND FOUR HUNDRED SIX OF THE AGRI-
48 CULTURE AND MARKETS LAW SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A
49 LICENSE OR RENEWAL THEREOF UNDER THIS ARTICLE.

50 S 6. This act shall take effect on the one hundred eightieth day after
51 it shall have become a law.