S T A T E O F N E W Y O R K

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:

Section 1. Section 403 of the agriculture and markets law is amended by adding a new subdivision 10-a to read as follows:

10-A. ANY FINES IMPOSED UPON A PET DEALER IN ACCORDANCE WITH THIS ARTICLE AND ARTICLE THIRTY-FIVE-D OF THE GENERAL BUSINESS LAW SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A LICENSE OR RENEWAL THEREOF PURSUANT TO THIS ARTICLE AND ARTICLE THIRTY-FIVE-D OF THE GENERAL BUSINESS LAW.

S 2. Subdivision 2 of section 406 of the agriculture and markets law, as added by chapter 259 of the laws of 2000, is amended to read as follows:

2. Violation of any provision of this article, is a civil offense, for which a penalty of not less than [fifty] ONE HUNDRED FIFTY dollars and not more than one thousand dollars for each violation may be imposed.

S 3. Subdivision 1 of section 753 of the general business law, as added by chapter 431 of the laws of 1988, the opening paragraph as amended and such section as renumbered by chapter 68 of the laws of 1993, is amended to read as follows:

1. If, within fourteen business days following the sale of an animal subject to this article or receipt of the written notice required by section seven hundred fifty-four of this article, whichever occurred last, a veterinarian of the consumer's choosing, licensed by a state certifies such animal to be unfit for purchase due to illness[, a congenital malformation which adversely affects the health of the animal,] or the presence of symptoms of a contagious or infectious disease, OR IF, WITHIN ONE HUNDRED EIGHTY CALENDAR DAYS FOLLOWING SUCH 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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FIES SUCH ANIMAL TO BE UNFIT FOR PURCHASE DUE TO A CONGENITAL MALFORMATION WHICH ADVERSELY AFFECTS THE HEALTH OF THE ANIMAL, the pet dealer shall afford the consumer the right to choose one of the following options:

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

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

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

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

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

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

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

1. For cats:

(a) The breeder's AND, IF APPLICABLE, BROKER'S name and address, if known, or, if not known, the source of the cat. If the person from whom the cat 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 cat's birth, unless unknown because of the source of the cat, the date the pet dealer received the cat, and the location 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

authorizes the sale of the dog, 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 dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for fourteen business days following examination of the dog by the veterinarian.

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

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

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

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

1. In addition to the other remedies provided, whenever there shall be a violation of this article, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not less than [fifty] ONE HUNDRED FIFTY dollars and not more than one thousand dollars. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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

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