

No. 1997-27

AN ACT

SB 182

Amending the act of December 17, 1968 (P.L.1224, No.387), entitled "An act prohibiting unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, giving the Attorney General and District Attorneys certain powers and duties and providing penalties," providing protection for dog purchasers; imposing duties on the Attorney General; and providing for records and for penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, reenacted and amended November 24, 1976 (P.L.1166, No.260), is amended by adding a section to read:

Section 9.3. Dog Purchaser Protection.—(a) (1) A seller shall provide a purchaser of a dog with a health record for a dog at the time of sale. In addition, the seller shall provide to the purchaser a health certificate issued by a veterinarian within twenty-one days prior to the date of sale for the dog or a guarantee of good health issued and signed by the seller. The health record supplied by the seller shall set forth the following:

(i) The dog's breed. If the breed is unknown or mixed, the health record shall so indicate. If the dog is advertised or represented as registrable, the name and address of the pedigree registry organization where the dam and sire are registered shall be indicated.

(ii) The dog's date of birth. If the dog is not advertised as or sold as purebred, registered or registrable, the date of birth may be approximated if not known by the seller.

(iii) The dog's sex.

(iv) The dog's color and markings.

(v) A list of all vaccinations, if known, administered to the dog, the date and type of vaccinations and the name of the person who administered them, if known, up to the date of sale; a record of any known disease, illness or condition with which the dog is or has been afflicted at the time of the sale; and a record of any veterinary treatment or medication received by the dog while in possession of the seller to treat any disease, illness or condition.

(vi) The date, dosage and type of any parasitical medicine, if known, that was administered to the dog.

(vii) *The name, address and signature of the seller, along with a statement affirming all of the information provided in this subsection is true to the best of the seller's knowledge and belief.*

(2) (i) *A health certificate issued by a veterinarian shall certify the dog sold by the seller to be apparently free of any contagious or infectious illness and apparently free from any defect which is congenital or hereditary and diagnosable with reasonable accuracy and does not appear to be clinically ill from parasitic infestation at the time of the physical examination. The health certificate shall include the name, address and signature of the veterinarian and the date the dog was examined.*

(ii) *A guarantee of good health issued by the seller, and dated and signed by the seller and the purchaser on the date of the sale, warranting that the dog being sold is apparently free of and does not exhibit any signs of any contagious or infectious disease, is apparently free from and does not exhibit any signs of any defect which is congenital or hereditary; and does not exhibit any signs of being clinically ill or exhibit any signs of a parasitic infestation on the date of the sale. The guarantee of good health shall clearly state in bold type:*

THIS GUARANTEE DOES NOT WARRANT THAT THIS DOG HAS BEEN EXAMINED BY A VETERINARIAN. THE PURCHASER IS ENCOURAGED TO HAVE THIS DOG EXAMINED BY A VETERINARIAN AS SOON AFTER PURCHASE AS IS FEASIBLE.

The seller shall also verbally state these facts to the purchaser.

(b) *If, within ten days after the date of purchase, a dog purchased from a seller is determined, through physical examination, diagnostic tests or necropsy by a veterinarian, to be¹ clinically ill or dies from any contagious or infectious illness or any parasitic illness which renders it unfit for purchase or results in its death, the purchaser may exercise one of the following options:*

(1) *Return the dog to the seller for a complete refund of the purchase price, not including the sales tax.*

(2) *Return the dog to the seller for a replacement dog of equal value of the purchaser's choice, providing a replacement dog is available.*

(3) *Retain the dog and be entitled to receive reimbursement from the seller for reasonable veterinary fees incurred in curing or attempting to cure the affected dog, subject to the limitation that the seller's liability for reimbursement shall not exceed the purchase price, not including sales tax, of the dog. This clause shall apply only if the purchaser's veterinarian determines the dog's illness can be treated and corrected by procedures that are appropriate and customary. The value of these services is considered reasonable if comparable to the value of similar services rendered by other*

¹"becomes" in enrolled bill.

licensed veterinarians in reasonable proximity to the treating veterinarian. Reimbursement shall not include the costs of the initial veterinary examination fee and diagnostic or treatment fees not directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section. If, however, the purchaser's veterinarian determines the dog's illness is incurable, only the options in clauses (1) and (2) of this subsection shall apply.

For the purposes of this subsection, veterinary findings of intestinal and external parasites shall not be grounds for declaring the dog unfit for purchase unless the dog is clinically ill or dies due to that condition. A dog shall not be found unfit for purchase on account of injury sustained or illness most likely contracted subsequent to the date of sale. If, within thirty days after the date of purchase, a dog purchased from a seller is certified through physical examination, diagnostic tests or necropsy by a veterinarian that the dog has or died from a defect which is congenital or hereditary and which adversely affects or affected the health of the animal, the purchaser may exercise one of the options as provided in clauses (1), (2) and (3) of this subsection. Remedies available under clauses (1), (2) and (3) of this subsection shall also apply to replacement dogs.

(c) A veterinarian's certification of illness, congenital or hereditary defects or death shall be necessary for a refund or replacement or to receive reimbursement for veterinary costs if the dog is retained by the purchaser and treated for illness or congenital or hereditary defect as provided in this section. The veterinarian's certification shall be supplied at the purchaser's expense. The veterinarian's certification shall state the following information:

- (1) The purchaser's name and address.*
- (2) The date the dog was examined.*
- (3) The breed and age of the dog.*
- (4) (i) That the veterinarian examined the dog.*
(ii) That the dog has or had an illness as described in subsection (b) of this section or a defect as described in subsection (b) of this section which renders it unfit for purchase or which resulted in its death.
- (iii) The precise findings of the examination, diagnostic tests or necropsy.*

(5) The treatment recommended, if any, and an estimate or the actual cost of the treatment should the purchaser choose to retain the dog and seek reimbursement for veterinary fees to cure or attempt to cure the dog.

(6) The veterinarian's name, address, telephone number and signature. Within two business days of a veterinary examination which certifies illness, defect or death, the purchaser shall notify the seller of the name, address and telephone number of the examining veterinarian. Failure to notify the seller or to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis until a remedy as provided for in subsection (b) of this section is agreed upon shall result

in the purchaser's forfeiture of rights under this section. Subsection (b) of this section shall not apply where a seller who has provided a health certificate issued by a veterinarian discloses in writing at the time of sale the health problem for which the buyer later seeks to return the dog. Such disclosures shall be signed by both the seller and purchaser. Where the seller has provided a guarantee of good health, subsection (b) of this section shall apply regardless of whether the seller disclosed the health problem at the time of sale.

(d) The refund or reimbursement required by this section shall be made by the seller not later than fourteen days following receipt of the veterinarian's certification that the dog is unfit for purchase or has died from a condition defined as unfit for purchase in this section. The certification shall be presented to the seller not later than five days following receipt thereof by the purchaser.

(e) In the event that the seller wishes to contest a demand for refund, replacement or reimbursement made by a purchaser pursuant to this section, the seller shall have the right, within two business days of notification by purchaser of a condition which renders the dog unfit for purchase as required in subsection (b) of this section, to require the purchaser to produce the dog for examination by a licensed veterinarian designated by the seller. The veterinarian's fee for this examination, including any diagnostic tests or¹ necropsy, shall be paid by the seller. If the dog is incapable of being transported because of being hospitalized, the purchaser's attending veterinarian shall provide all relevant information regarding the case as requested by the seller's veterinarian. Unless the dog is hospitalized, failure to produce the dog within two business days from examination by the purchaser will nullify any obligation to replace, refund or reimburse by the seller. Upon examination, if the purchaser and the seller are unable to reach an agreement which constitutes one of the options set forth in this section within fourteen days following receipt of the dog for the examination, either party may initiate an action in a court of competent jurisdiction.

(f) (1) Any seller who advertises or otherwise represents that a dog is registered or registerable shall provide the purchaser of the dog with the following information at the time of sale:

(i) The breeder's name and address.

(ii) The name and registration number of the dam and sire of the purchased dog's litter.

(iii) The name and address of the pedigree registry organization where the dam and sire are registered.

(2) All documentation necessary to effect the registration of the dog shall be provided by the seller to the owner within one hundred twenty days

¹"for" in enrolled bill.

of the date of sale. The one-hundred-twenty-day period may be extended by the seller if the dog is being imported from outside the United States by notifying the purchaser in writing of the reason for the extension and a reasonable estimate of the arrival date of the registration documents.

(3) If the seller fails to provide this documentation within one hundred twenty days of the date of sale or fails to notify the purchaser of an extension under clause (2) of this subsection, the purchaser may elect one of the following remedies:

(i) Return the dog and receive a full refund of the purchase price, not including sales tax.

(ii) Retain the dog and receive a refund from the seller in an amount equal to fifty per cent of the purchase price.

(4) The seller may withhold the dog's registration application until the purchaser supplies the seller with a signed veterinarian's certificate stating that the dog has been spayed or neutered, provided that withholding of the application was agreed to in writing by the purchaser at the time of sale. The seller shall provide the registration application within ten days of receiving the veterinarian's certificate if the certificate is supplied beyond the one-hundred-twenty-day period provided for in clause (2) of this subsection.

(g) (1) A summary of the provisions of this section shall be conspicuously posted in the place of business of persons subject to this section. The Office of Attorney General shall promulgate regulations specifying the contents of the summary which must be posted. In addition, the posted notice shall state that the health record information is available on request.

(2) At the time of the sale, the seller shall provide the purchaser with a written notice setting forth the rights provided under this section. The notice shall include the following statement:

THIS DISCLOSURE OF RIGHTS IS A SUMMARY OF PENNSYLVANIA LAW. THE ACTUAL PROVISIONS OF THE LAW ARE IN SECTION 9.3 OF THE UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW.

(h) (1) The Office of Attorney General shall enforce the provisions of this section.

(2) In addition to any other penalty under this act, a civil penalty of up to one thousand dollars (\$1,000) on any current licensee shall be levied against any person who violates any provision of this section or any person who conducts business under this section without proper license to do so. A penalty shall be levied for each violation.

(3) A purchaser shall file a complaint pursuant to this section by reporting it to the Bureau of Consumer Protection of the Office of Attorney General.

(i) As used in this section:

“Seller” means a kennel, pet shop operator or other individual who sells dogs to the public and who owns or operates a kennel or pet shop licensed by the Pennsylvania Department of Agriculture or the United States Department of Agriculture. The term shall not include nonprofit kennels as defined under the act of December 7, 1982 (P.L.784, No.225), known as the “Dog Law.”

“Unfit for purchase” means any disease, deformity, injury, physical condition, illness or any defect which is congenital or hereditary and which severely affects the health of the animal or which was manifest, capable of diagnosis or likely to have been contracted on or before the sale and delivery of the animal to the consumer.

“Veterinarian” means an individual licensed under the laws of this Commonwealth or any other state to practice veterinary medicine and surgery.

Section 2. This act shall take effect in 60 days.

APPROVED—The 25th day of June, A.D. 1997.

THOMAS J. RIDGE