

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 536 Session of
2007

INTRODUCED BY GREENLEAF, M. WHITE, C. WILLIAMS, WONDERLING,
BOSCOLA, FONTANA, RAFFERTY, COSTA, LOGAN AND WOZNIAK,
MARCH 19, 2007

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED,
MAY 6, 2008

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," further providing for dog purchaser protection.

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

9 Section 1. Section ~~9.3(b), (c), (d), (f)~~ 9.3(A)(2), (B), <—
10 (C), (D) and (i) of the act of December 17, 1968 (P.L.1224,
11 No.387), known as the Unfair Trade Practices and Consumer
12 Protection Law, reenacted and amended November 24, 1976
13 (P.L.1166, No.260), and added June 25, 1997 (P.L.287, No.27),
14 are amended AND THE SECTION IS AMENDED BY ADDING A SUBSECTION to <—
15 read:

16 ~~Section 9.3. Dog Purchaser Protection. * * *~~ <—

17 SECTION 9.3. DOG PURCHASER PROTECTION.--(A) * * * <—

18 (2) (I) [A] EXCEPT AS PROVIDED UNDER SUBSECTION (B.2)(3) OF
19 THIS SECTION, A HEALTH CERTIFICATE ISSUED BY A VETERINARIAN

1 SHALL CERTIFY THE DOG SOLD BY THE SELLER TO BE APPARENTLY FREE
2 OF ANY CONTAGIOUS OR INFECTIOUS ILLNESS AND APPARENTLY FREE FROM
3 ANY DEFECT WHICH IS CONGENITAL OR HEREDITARY AND DIAGNOSABLE
4 WITH REASONABLE ACCURACY AND DOES NOT APPEAR TO BE CLINICALLY
5 ILL FROM PARASITIC INFESTATION AT THE TIME OF THE PHYSICAL
6 EXAMINATION. THE HEALTH CERTIFICATE SHALL INCLUDE THE NAME,
7 ADDRESS AND SIGNATURE OF THE VETERINARIAN AND THE DATE THE DOG
8 WAS EXAMINED.

9 (II) A GUARANTEE OF GOOD HEALTH ISSUED BY THE SELLER, AND
10 DATED AND SIGNED BY THE SELLER AND THE PURCHASER ON THE DATE OF
11 THE SALE, WARRANTING THAT THE DOG BEING SOLD IS APPARENTLY FREE
12 OF AND DOES NOT EXHIBIT ANY SIGNS OF ANY CONTAGIOUS OR
13 INFECTIOUS DISEASE, IS APPARENTLY FREE FROM AND DOES NOT EXHIBIT
14 ANY SIGNS OF ANY DEFECT WHICH IS CONGENITAL OR HEREDITARY; AND
15 DOES NOT EXHIBIT ANY SIGNS OF BEING CLINICALLY ILL OR EXHIBIT
16 ANY SIGNS OF A PARASITIC INFESTATION ON THE DATE OF THE SALE.
17 THE GUARANTEE OF GOOD HEALTH SHALL CLEARLY STATE IN BOLD TYPE:

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

22 THE SELLER SHALL ALSO VERBALLY STATE THESE FACTS TO THE
23 PURCHASER.

24 (b) If, within [ten] fourteen days after the date of
25 purchase, a dog purchased from a seller is determined, through
26 physical examination, diagnostic tests or necropsy by a
27 veterinarian, to be clinically ill or [dies] TO HAVE DIED from <—
28 any contagious or infectious illness or any parasitic illness
29 which renders it unfit for purchase [or results in its death], <—
30 the purchaser may exercise one of the following options:

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

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

6 (3) Retain the dog and be entitled to receive reimbursement
7 from the seller for reasonable veterinary fees incurred in
8 curing [or], attempting to cure OR TREATING the affected dog, <—
9 subject to the limitation that the seller's liability for
10 reimbursement shall not exceed the purchase price, not including
11 sales tax, of the dog. This clause shall apply only if the
12 purchaser's veterinarian determines the dog's illness can be
13 treated [and corrected] by procedures that are appropriate and
14 customary. The value of these services is considered reasonable
15 if comparable to the value of similar services rendered by other
16 licensed veterinarians in reasonable proximity to the treating
17 veterinarian. Reimbursement shall not include the costs of the
18 initial veterinary examination fee and diagnostic or treatment
19 fees not directly related to the veterinarian's certification
20 that the animal is unfit for purchase pursuant to this section.
21 [If, however, the purchaser's veterinarian determines the dog's
22 illness is incurable, only the options in clauses (1) and (2) of
23 this subsection shall apply.] <—

24 For the purposes of this subsection, veterinary findings of
25 intestinal and external parasites shall not be grounds for
26 declaring the dog unfit for purchase unless the dog is
27 clinically ill or dies due to that condition. A dog shall not be
28 found unfit for purchase on account of injury sustained or
29 illness most likely contracted subsequent to the date of sale.] <—

30 ~~If, within [thirty] ninety days after the date of purchase, a~~ <—

~~1 dog purchased from a seller is certified through physical~~
~~2 examination, diagnostic tests or necropsy by a veterinarian that~~
~~3 the dog has or died from a defect which is congenital or~~
~~4 hereditary and which adversely affects or affected the health of~~
~~5 the animal, the purchaser may exercise one of the options as~~
~~6 provided in clauses (1), (2) and (3) of this subsection.~~
~~7 Remedies available under clauses (1), (2) and (3) of this~~
~~8 subsection shall also apply to replacement dogs.~~

9 (B.1) (1) IF, WITHIN [THIRTY] NINETY DAYS AFTER THE DATE OF <—
10 PURCHASE, A DOG PURCHASED FROM A SELLER IS [CERTIFIED]
11 DETERMINED, THROUGH PHYSICAL EXAMINATION, DIAGNOSTIC TESTS OR
12 NECROPSY BY A VETERINARIAN [THAT THE DOG HAS OR] TO HAVE OR TO
13 HAVE DIED FROM A DEFECT WHICH IS CONGENITAL OR HEREDITARY AND
14 WHICH [ADVERSELY AFFECTS OR AFFECTED THE HEALTH OF THE ANIMAL]
15 RENDERS IT UNFIT FOR PURCHASE, THE PURCHASER MAY EXERCISE ONE OF
16 THE OPTIONS AS PROVIDED IN [CLAUSES (1), (2) AND (3) OF THIS
17 SUBSECTION.] SUBSECTION (B) OF THIS SECTION.

18 (2) REMEDIES AVAILABLE UNDER [CLAUSES (1), (2) AND (3) OF
19 THIS] SUBSECTION (B) OF THIS SECTION SHALL ALSO APPLY TO
20 REPLACEMENT DOGS.

21 (B.2) (1) A DOG SHALL NOT BE FOUND UNFIT FOR PURCHASE FOR
22 THE PURPOSES OF SUBSECTION (B) OF THIS SECTION BECAUSE OF
23 VETERINARY FINDINGS OF INTESTINAL OR EXTERNAL PARASITES UNLESS
24 THE DOG IS CLINICALLY ILL OR DIES DUE TO THE CONDITION.

25 (2) A DOG SHALL NOT BE FOUND UNFIT FOR PURCHASE ON ACCOUNT
26 OF INJURY SUSTAINED OR ILLNESS MOST LIKELY CONTRACTED SUBSEQUENT
27 TO THE DATE OF SALE.

28 (3) A DOG SHALL NOT BE FOUND UNFIT FOR PURCHASE BECAUSE OF A
29 HEALTH PROBLEM WHICH, IN ADDITION TO A HEALTH CERTIFICATE OR
30 GUARANTEE OF GOOD HEALTH REQUIRED UNDER SUBSECTION (A) OF THIS

1 SECTION, IS SEPARATELY DISCLOSED BY THE SELLER IN WRITING AT THE
2 TIME OF SALE. SUCH DISCLOSURE SHALL BE SIGNED BY BOTH THE SELLER
3 AND THE PURCHASER AT THE TIME OF SALE AND SHALL BE DOCUMENTED IN
4 THE HEALTH CERTIFICATE OR GUARANTEE OF GOOD HEALTH.

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

13 (1) The purchaser's name and address.

14 (2) The date the dog was examined.

15 (3) The breed and age of the dog.

16 (4) (i) That the veterinarian examined the dog.

17 (ii) That the dog has or had an illness as described in
18 subsection (b) of this section or a defect as described in
19 subsection (b) of this section which renders it unfit for
20 purchase or which resulted in its death.

21 (iii) The precise findings of the examination, diagnostic
22 tests or necropsy.

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

27 (6) The veterinarian's name, address, telephone number and
28 signature.

29 Within [two] five business days of a veterinary examination
30 which certifies illness, defect or death, the purchaser shall

1 notify the seller of the name, address and telephone number of
2 the examining veterinarian. Failure to notify the seller or to
3 carry out the recommended treatment prescribed by the examining
4 veterinarian who made the initial diagnosis until a remedy as
5 provided for in subsection (b) of this section is agreed upon
6 shall result in the purchaser's forfeiture of rights under this
7 section. [Subsection (b) of this section shall not apply where a <—
8 seller who has provided a health certificate issued by a
9 veterinarian discloses in writing at the time of sale the health
10 problem for which the buyer later seeks to return the dog. Such
11 disclosures shall be signed by both the seller and purchaser.
12 Where the seller has provided a guarantee of good health,
13 subsection (b) of this section shall apply regardless of whether
14 the seller disclosed the health problem at the time of sale.] <—

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

22 * * *

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

27 ~~(i) The breeder's name and address.~~

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

30 ~~(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 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[.], unless the seller has misrepresented any of the information required to be provided when a dog is advertised or otherwise represented to be registered as registerable as set forth under paragraph (1), in which case the amount of the refund shall be the full purchase price of the dog, not including sales tax.~~

~~(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.~~

~~* * *~~

(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 WHICH IS REQUIRED TO BE 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] has a significant adverse effect on 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.