

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 27 Session of 2011

INTRODUCED BY GREENLEAF, TARTAGLIONE, ALLOWAY, BOSCOLA, BREWSTER
AND LEACH, JANUARY 12, 2011

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 12, 2011

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(a)(2), (b), (c), (d) and (i) of the
10 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
11 Trade Practices and Consumer Protection Law, reenacted and
12 amended November 24, 1976 (P.L.1166, No.260), and added June 25,
13 1997 (P.L.287, No.27), are amended and the section is amended by
14 adding a subsection to read:

15 Section 9.3. Dog Purchaser Protection.--(a) * * *

16 (2) (i) [A] Except as provided under subsection (b.2)(3) of
17 this section, a health certificate issued by a veterinarian
18 shall certify the dog sold by the seller to be apparently free
19 of any contagious or infectious illness and apparently free from

1 any defect which is congenital or hereditary and diagnosable
2 with reasonable accuracy and does not appear to be clinically
3 ill from parasitic infestation at the time of the physical
4 examination. The health certificate shall include the name,
5 address and signature of the veterinarian and the date the dog
6 was examined.

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

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

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

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

29 (1) Return the dog to the seller for a complete refund of
30 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 or treating 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 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.]

(b.1) (1) If, within [thirty] ninety days after the date of purchase, a dog purchased from a seller is [certified] determined, through physical examination, diagnostic tests or

1 necropsy by a veterinarian [that the dog has or] to have or to
2 have died from a defect which is congenital or hereditary and
3 which [adversely affects or affected the health of the animal]
4 renders it unfit for purchase, the purchaser may exercise one of
5 the options as provided in [clauses (1), (2) and (3) of this
6 subsection.] subsection (b) of this section.

7 (2) Remedies available under [clauses (1), (2) and (3) of
8 this] subsection (b) of this section shall also apply to
9 replacement dogs.

10 (b.2) (1) A dog shall not be found unfit for purchase for
11 the purposes of subsection (b) of this section because of
12 veterinary findings of intestinal or external parasites unless
13 the dog is clinically ill or dies due to the condition.

14 (2) A dog shall not be found unfit for purchase on account
15 of injury sustained or illness most likely contracted subsequent
16 to the date of sale.

17 (3) A dog shall not be found unfit for purchase because of a
18 health problem which, in addition to a health certificate or
19 guarantee of good health required under subsection (a) of this
20 section, is separately disclosed by the seller in writing at the
21 time of sale. Such disclosure shall be signed by both the seller
22 and the purchaser at the time of sale and shall be documented in
23 the health certificate or guarantee of good health.

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

1 state the following information:

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

3 (2) The date the dog was examined.

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

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

6 (ii) That the dog has or had an illness as described in
7 subsection (b) of this section or a defect as described in
8 subsection (b) of this section which renders it unfit for
9 purchase or which resulted in its death.

10 (iii) The precise findings of the examination, diagnostic
11 tests or necropsy.

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

16 (6) The veterinarian's name, address, telephone number and
17 signature.

18 Within [two] five business days of a veterinary examination
19 which certifies illness, defect or death, the purchaser shall
20 notify the seller of the name, address and telephone number of
21 the examining veterinarian. Failure to notify the seller or to
22 carry out the recommended treatment prescribed by the examining
23 veterinarian who made the initial diagnosis until a remedy as
24 provided for in subsection (b) of this section is agreed upon
25 shall result in the purchaser's forfeiture of rights under this
26 section. [Subsection (b) of this section shall not apply where a
27 seller who has provided a health certificate issued by a
28 veterinarian discloses in writing at the time of sale the health
29 problem for which the buyer later seeks to return the dog. Such
30 disclosures shall be signed by both the seller and purchaser.

1 Where the seller has provided a guarantee of good health,
2 subsection (b) of this section shall apply regardless of whether
3 the seller disclosed the health problem at the time of sale.]

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

11 * * *

12 (i) As used in this section:

13 "Seller" means a kennel, pet shop operator or other
14 individual who sells dogs to the public and who owns or operates
15 a kennel or pet shop which is required to be licensed by the
16 Pennsylvania Department of Agriculture or the United States
17 Department of Agriculture. The term shall not include nonprofit
18 kennels as defined under the act of December 7, 1982 (P.L.784,
19 No.225), known as the "Dog Law."

20 "Unfit for purchase" means any disease, deformity, injury,
21 physical condition, illness or any defect which is congenital or
22 hereditary and which [severely affects] has a significant
23 adverse effect on the health of the animal or which was
24 manifest, capable of diagnosis or likely to have been contracted
25 on or before the sale and delivery of the animal to the
26 consumer.

27 "Veterinarian" means an individual licensed under the laws of
28 this Commonwealth or any other state to practice veterinary
29 medicine and surgery.

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