CHAPTER 745

SALE OF DOGS AND CATS

§4151. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 589, §1 (NEW).]

1. Animal. "Animal" means a dog, wholly of the species canis familiaris, or a cat, wholly or in part of the species felis domesticus.
[PL 2011, c. 100, §14 (AMD).]

1-A. Animal rescue entity. "Animal rescue entity" means a nonprofit organization having tax-exempt status under the United States Internal Revenue Code, Section 501(c)(3) whose mission and practice is, in whole or in significant part, the rescue and placement into permanent homes of animals and that does not breed animals.
[PL 2019, c. 544, §4 (NEW).]

2. Breeder. "Breeder" means a person, firm, partnership, corporation or association that breeds animals for direct or indirect sale to the public.
[PL 1995, c. 589, §1 (NEW).]

3. Health problem. "Health problem" means any disease, illness or any congenital or hereditary condition that would impair the health or function of an animal.
[PL 1995, c. 589, §1 (NEW).]

3-A. Offer for sale. "Offer for sale" means to sell, offer to transfer, offer for adoption, advertise for sale, barter, auction, give away or otherwise dispose of an animal.
[PL 2019, c. 544, §5 (NEW).]

4. Pet dealer.
[PL 2007, c. 702, §21 (RP).]

4-A. Seller. "Seller" means the owner or operator of a breeding kennel as defined in section 3907, subsection 8-A or the owner or operator of a grandfathered pet shop. "Seller" includes animal dealers required to be licensed by the United States Department of Agriculture. "Seller" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal shelters licensed in accordance with section 3932-A. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933.
[PL 2019, c. 544, §6 (AMD).]

5. Veterinarian. "Veterinarian" means a person licensed as a veterinarian in any state.
[PL 1995, c. 589, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §50 (AMD). PL 2007, c. 439, §31 (AMD). PL 2007, c. 702, §§21, 22 (AMD). PL 2011, c. 100, §14 (AMD). PL 2019, c. 544, §§4-6 (AMD).

§4152. Disclosure

1. Required disclosure. A seller shall deliver to a purchaser of an animal a written disclosure containing the following:

A. An animal history that includes:

(1) For sellers licensed with the United States Department of Agriculture, the name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal. For sellers licensed with the State, the name, address of the seller and the license number issued under section 3931-A, 3933 or 4163;

(2) The date of the animal's birth;

(3) The date the seller received the animal if the animal was not born on the seller's premises;

(4) The breed, sex, color and identifying marks of the animal. If the breed is unknown or mixed, that fact must be stated;

(5) The individual identifying tag, tattoo, microchip identification number or collar number;

(6) For pure bred animals that are advertised as eligible for registration, the name and registration number of the sire and dam and, if available, the litter number; and

(7) A record of inoculations, internal or external parasite treatments, medication or any veterinarian examination or treatment received by the animal while in the possession of the seller; [PL 2009, c. 403, §9 (AMD).]

B. A statement signed by the seller that the animal at time of delivery has no known health problem or a statement disclosing any known health problem.

The statement must include the date at which the seller is aware that the animal was last seen by a veterinarian; [PL 2007, c. 702, §23 (AMD).]

C. A seller who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal; and [PL 2007, c. 702, §23 (AMD).]

D. The seller shall indicate whether or not, to the seller's knowledge, the animal or its sire or dam is registered with, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms. [PL 2007, c. 702, §23 (AMD).]

[PL 2009, c. 403, §9 (AMD).]

2. Optional disclosure. The seller may provide the purchaser with a list of congenital or hereditary problems that are known to affect the breed being purchased and a list of any health problems for which the seller does not warranty the animal.

[PL 2007, c. 702, §23 (AMD).]

3. Disclosure procedures. The following disclosure procedures must be followed.

A. The disclosure required by subsection 1 must be made part of the statement of consumer rights set forth in section 4160. [PL 1995, c. 589, §1 (NEW).]

B. The written disclosure made pursuant to this section must be signed by both the seller certifying the accuracy of the statement and by the purchaser of the animal acknowledging receipt of the statement. [PL 2007, c. 702, §23 (AMD).]

C. The seller shall make a prospective purchaser aware that the purchaser may see this information prior to purchase. [PL 2007, c. 702, §23 (AMD).]

[PL 2007, c. 702, §23 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §51 (AMD). PL 2007, c. 702, §23 (AMD). PL 2009, c. 403, §9 (AMD).

§4152-A. Documents necessary for breed registration

1. Requirement to provide. A seller who states, promises or represents that an animal is registered or capable of registration with an animal pedigree organization shall provide the purchaser with the documents necessary for registration at the time of sale or within 90 days of the sale unless specified otherwise in a contractual agreement signed by the purchaser.
[PL 2009, c. 403, §10 (NEW).]

2. Process to acquire documentation. If the purchaser does not receive the necessary documents within the time period specified in subsection 1, the purchaser may send a written request for the documents to the seller via certified mail. Within 60 days of receiving the request, the seller must deliver the documents directly or send them by certified mail to the purchaser.
[PL 2009, c. 403, §10 (NEW).]

3. Failure to provide documentation; resolution. If the seller fails to provide the necessary documents in accordance with subsection 2, the purchaser is entitled to a partial refund of 50% of the purchase price. Upon payment of the refund, a seller is absolved of the requirement to provide the documents necessary for breed registration. Acceptance of the registration papers by the purchaser outside of the required time period waives the purchaser's right to a partial refund.
[PL 2009, c. 403, §10 (NEW).]

SECTION HISTORY

PL 2009, c. 403, §10 (NEW).

§4153. Sale prohibited

1. Animal with disease, illness or condition. Notwithstanding section 4152, a seller may not sell an animal that has any obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality or has any disease, illness or condition that requires hospitalization or nonelective surgical procedures.
[PL 2019, c. 544, §7 (NEW).]

2. Wolf hybrid. A seller may not sell a wolf hybrid.
[PL 2019, c. 544, §7 (NEW).]

3. Pet shop. Except as provided in this subsection, a pet shop as defined in section 3907, subsection 23 may not offer an animal for sale.

A. A pet shop may provide space to an animal rescue entity to offer to the public animals for adoption for an adoption fee, as long as the pet shop does not have any ownership interest in the animals offered for adoption and does not receive any fee for providing space or for the adoption of any of the animals. [PL 2019, c. 544, §7 (NEW).]

B. A pet shop that lawfully offered animals for sale on the effective date of this paragraph may continue to offer animals for sale as long as the pet shop:

(1) Maintains a valid license under section 3933;

(2) Remains in the same ownership as existed on May 1, 2019; and

(3) Keeps for sale or offers for sale in any calendar year no greater a number of animals than were kept for sale or offered for sale by the pet shop in calendar year 2018.

In order to qualify for the exception allowed under this paragraph, a pet shop must provide to the department, in a form and manner prescribed by the department, documentation of the ownership of the pet shop on May 1, 2019 as well as the number of animals offered for sale in 2018 and annually thereafter. For purposes of this paragraph, "remains in the same ownership" means a static state of ownership in which no ownership interest changes after May 1, 2019, except, in the case of a pet shop that on May 1, 2019 was owned by a family, a transfer of an ownership interest to the spouse, domestic partner or one or more children of the oldest member of the family holding an

ownership interest on May 1, 2019. For purposes of this paragraph, "family" means one person or a group of people whose relationship to the oldest person in the group is either spouse, domestic partner or child. In order to maintain a valid license, the pet shop must provide to the department, in a form and manner prescribed by the department, documentation of any transfer of ownership under this paragraph. If there is ambiguity as to whether a pet shop remains in the same ownership, the pet shop does not satisfy the requirements of subparagraph (2). [PL 2019, c. 544, §7 (NEW).]
[PL 2019, c. 544, §7 (NEW).]

4. Penalties. A person who violates subsection 3 commits a civil violation for which a fine of $500 may be adjudged and is subject to the suspension or revocation of the person's pet shop license pursuant to section 4162, subsection 2. Each offer for sale of an animal in violation of subsection 3 constitutes a separate violation.
[PL 2019, c. 544, §7 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §24 (AMD). PL 2011, c. 100, §15 (AMD). PL 2019, c. 544, §7 (RPR).

§4154. Records

(REPEALED)

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §52 (RP).

§4155. Rights of the purchaser

1. Unfit for sale. If, within 10 days after receipt of the animal by the purchaser, a veterinarian states in writing that the animal has a health problem that existed in the animal at the time of delivery or if, within one year after receipt of the animal by the purchaser, a veterinarian states in writing that due to a hereditary or congenital defect the animal has died or has a condition that will shorten its life or will require constant treatment during its life, the animal is considered to have been unfit for sale at the time of sale.
[PL 1995, c. 589, §1 (NEW).]

2. Death; remedies. When an animal dies due to a health problem that would have rendered the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. An animal of equal value, if available; or [PL 1995, c. 589, §1 (NEW).]

B. A refund of the full purchase price of the animal. [PL 1995, c. 589, §1 (NEW).]
[PL 2007, c. 702, §25 (AMD).]

3. Health problem; remedies. When an animal has a health problem that renders the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. Return of the animal to the seller for a refund of the full purchase price of the animal; [PL 2007, c. 702, §26 (AMD).]

B. Exchange of the animal for an animal of the purchaser's choice of equivalent value, if a replacement is available; [PL 2019, c. 90, §1 (AMD).]

C. Retainment of the animal and reimbursement for 1/2 of the reasonable veterinary fees not to exceed 1/2 of the original purchase price of the animal; or [PL 2019, c. 90, §1 (AMD).]

D. For an animal with less than one year of life expectancy, as determined by a veterinarian pursuant to subsection 1, retainment of the animal and a full refund of the original purchase price of the animal. Reimbursement of veterinary fees by the seller is not required under this paragraph. [PL 2019, c. 90, §2 (NEW).]

[PL 2019, c. 90, §1, 2 (AMD).]

4. Veterinary service; fees. The fee for veterinary service is reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the fee for the service is comparable to fees charged by other veterinarians who are in proximity to the treating veterinarian. [PL 1995, c. 589, §1 (NEW).]

5. Sellers not exempt. Sellers may not, contractually or otherwise, exempt themselves from the remedies provided by this section for deaths or health problems in animals caused by infectious, contagious, parasitic or communicable disease or for deaths or health problems in animals caused by hereditary or congenital defects as described in subsection 1. [PL 2019, c. 90, §3 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 439, §32 (AMD). PL 2007, c. 702, §§25-27 (AMD). PL 2019, c. 90, §§1-3 (AMD).

§4156. Responsibilities of purchaser

To obtain the remedies provided in section 4155, the purchaser has the following responsibilities with respect to an animal with a health problem. [PL 1995, c. 589, §1 (NEW).]

1. Veterinary diagnosis. The purchaser must notify the seller, within 2 business days, of the diagnosis by a veterinarian of a health problem and provide the seller with the name and telephone number of the veterinarian and a copy of the veterinarian report on the animal. [PL 2007, c. 702, §28 (AMD).]

2. Refund. If the purchaser wishes to receive a full refund for the animal, the purchaser must return the animal no later than 2 business days after receipt of a written statement from a veterinarian indicating that the animal is unfit due to a health problem. With respect to a dead animal, the purchaser must provide the seller with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the receipt of the animal by the purchaser. This subsection does not apply to a refund requested pursuant to section 4155, subsection 3, paragraph D. [PL 2019, c. 90, §4 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §§28, 29 (AMD). PL 2019, c. 90, §4 (AMD).

§4157. Rights of seller

1. Refusal to sell. A seller may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter. [PL 2007, c. 702, §30 (AMD).]

2. Exemption from purchaser remedies. A refund, replacement or reimbursement of veterinary fees is not required if any one or more of the following conditions are met.

A. The health problem or death of the animal resulted from maltreatment, neglect or a disease contracted while in the possession of the purchaser or from an injury sustained subsequent to receipt of the animal by the purchaser. [PL 1995, c. 589, §1 (NEW).]

B. A disclosure statement was provided to the purchaser pursuant to section 4152 that disclosed the health problem for which the purchaser seeks to return the animal. [PL 1995, c. 589, §1 (NEW).]

C. The health problem is a hereditary or congenital one covered by section 4152. [PL 1995, c. 589, §1 (NEW).]

D. [PL 2007, c. 439, §33 (RP).]

[PL 2007, c. 439, §33 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 439, §33 (AMD). PL 2007, c. 702, §30 (AMD).

§4158. Contest

1. Demand for remedy; contest. When a seller wishes to contest a demand for the remedy specified in section 4155, the seller may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the seller. The veterinarian designated by the seller must be practicing at a veterinary clinic within 100 miles of the purchaser's residence. The seller shall pay the cost of this examination or autopsy. The seller has a right of recovery against the purchaser if the seller is not obligated to provide a remedy under section 4155.
[PL 2007, c. 702, §31 (AMD).]

2. Right to court action. If the seller does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees.
[PL 2007, c. 702, §32 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §53 (AMD). PL 2007, c. 702, §§31, 32 (AMD).

§4159. Posted notice

A seller whose facility has public access shall post, in a prominent location in the area to which a prospective purchaser would have access, a notice printed in a minimum of 48-point, bold-faced type and containing the following language:

"YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND DISCLOSURE OF YOUR ANIMAL'S HEALTH HISTORY AND THE WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE TIME OF PURCHASE." [PL 2007, c. 702, §33 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §33 (AMD).

§4160. Notice of consumer rights

1. Written notice. A seller shall provide the purchaser a written notice of rights, signed by the seller, certifying the accuracy of the information contained in the notice. The notice must be signed by the purchaser, acknowledging that the purchaser has reviewed and understood the written notice. A signed copy must be retained by the seller and one copy given to the purchaser. The notice must be in a minimum of 16-point, bold-faced type and must state the following:

"A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND CATS:

The sale of dogs and cats is subject to consumer protection regulations. Maine law also provides safeguards to protect sellers and animal purchasers. Attached is a copy of the Maine Revised Statutes, Title 7, chapter 745. Contained in this law is a statement of your consumer rights and remedies. Also attached is your pet's health history and specific warranty information."

[PL 2007, c. 702, §34 (AMD).]

2. Oral notice. In addition, all medical information required to be disclosed pursuant to this section must be orally disclosed to the purchaser by the seller prior to purchase.
[PL 2007, c. 702, §35 (AMD).]

The statement of consumer rights must also contain or have attached the disclosure required under section 4152 and the name and phone number of the state agency to be contacted in the event of perceived violations of this chapter. [PL 1995, c. 589, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §§34, 35 (AMD).

§4161. Limitation

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law. [PL 1997, c. 690, §54 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §54 (AMD).

§4162. Additional penalties

1. Civil violation. A person who fails to meet a requirement of this chapter commits a civil violation for which a fine of not less than $50 or more than $500 per violation may be adjudged.
[PL 2009, c. 343, §24 (AMD).]

2. Action against pet shops and breeding kennels. The department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend the license of a pet shop or breeding kennel that violates any provision of this chapter or rules adopted under section 3906-B, subsection 10 to implement this chapter.

A. [PL 1997, c. 690, §55 (RP).]

B. [PL 1997, c. 690, §55 (RP).]

C. [PL 1997, c. 690, §55 (RP).]

D. [PL 1997, c. 690, §55 (RP).]

E. [PL 1997, c. 690, §55 (RP).]
[PL 2009, c. 343, §24 (AMD).]

3. Action against license.

[PL 1997, c. 690, §55 (RP).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §55 (RPR). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2009, c. 343, §24 (AMD).

§4163. Dog or cat vendor's license

A person may not advertise for sale, sell or exchange for value more than one cat or dog under the age of 6 months in a 12-month period unless that person has a valid animal shelter, kennel or breeding kennel license or a valid vendor's license issued under this section. [PL 2019, c. 544, §8 (AMD).]

1. Vendor's license; fee. A person may apply for a vendor's license by completing and submitting to the department an application form provided by the department. Upon receipt of a completed application, the department shall issue a vendor's license and an identifying license number that is valid for a period of 90 days from the date of issuance. A person is entitled to one vendor's license in a 12-month period at no charge. A fee of $25 must be submitted with each additional application for a vendor's license within a 12-month period.

[PL 2007, c. 702, §37 (AMD).]

2. Advertising. A person possessing a vendor's license issued under this section must include that vendor's license number in any form of advertising, brochure or sign that announces the availability of a dog or cat for sale or exchange. The vendor's name and license number must be provided to a person purchasing or otherwise receiving a dog or cat from the vendor.
[PL 2007, c. 439, §34 (NEW).]

3. Violation. A person who fails to comply with this section commits a civil violation for which a fine of not less than $50 nor more than $200 may be adjudged, none of which may be suspended.
[PL 2007, c. 439, §34 (NEW).]

SECTION HISTORY

PL 2007, c. 439, §34 (NEW). PL 2007, c. 702, §§36, 37 (AMD). PL 2019, c. 544, §8 (AMD).

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