
STATE OF NEW YORK
Department of
AGRICULTURE AND MARKETS
Albany, New York 12235

ARTICLE 35-D
of the General Business Law
Relating to
SALE OF DOGS AND CATS

DIVISION OF ANIMAL INDUSTRY

Amended January 2015

GENERAL BUSINESS

ARTICLE 35-D SALE OF DOGS AND CATS

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§ 751. Legislative intent. It is hereby determined and declared that supervision by the state of the sale of dogs or cats by pet dealers is within the public interest and for the purpose of safeguarding the public and insuring the humane treatment of such animals by guaranteeing the good health of such dogs or cats in the course of such transactions, or providing other alternatives to the consumer.

§ 752. Definitions. As used in this article:

1. "Animal" means a dog or a cat.
2. "Consumer" means any individual purchasing an animal from a pet dealer. A pet dealer shall not be considered a consumer.
3. For purposes of section seven hundred fifty-three of this article, a "pet dealer" shall mean any person who, in the ordinary course of business, engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders of animals who sell or offer for sale animals directly to a consumer but it shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged. For purposes of sections seven hundred fifty-three-a, seven hundred fifty-three-b, seven hundred fifty-three-c, seven hundred

fifty-three-d and seven hundred fifty-three-e of this article, "pet dealer" shall mean any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell animals; provided that a breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeders residential premises shall not be considered a pet dealer as a result of selling or offering to sell such animals. Such definition shall not include duly incorporated humane societies dedicated to the care of unwanted animals which make such animals available for adoption whether or not a fee for such adoption is charged.

4. "Commissioner" shall mean the commissioner of agriculture and markets.

5. "Person" means any individual, corporation, partnership, association, municipality, or other legal entity.

6. "Nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of an animal, to prevent an animal from experiencing pain or discomfort, or to correct a condition that would interfere with an animal's ability to walk, run, jump, or otherwise function in a normal manner.

7. "Clinically ill" means an illness that is apparent to a veterinarian based on observation, examination, or testing of an animal or upon review of the medical records relating to the animal.

§ 753. Sale of animal. 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 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 certifies 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 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.

2. The refund and/or reimbursement required by subdivision one of this section shall be made by the pet dealer not later than ten business days following receipt of a signed veterinary certification as herein

required. Such certification shall be presented to the pet dealer not later than three business days following receipt thereof by the consumer.

2-a. Every pet dealer who sells an animal required to be vaccinated against rabies, pursuant to section twenty-one hundred forty-one of the public health law, to a consumer shall provide the consumer at point of sale with a written notice, provided by the department of health, summarizing rabies immunization requirements.

3. A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for sale unless the animal is clinically ill due to such condition. An animal may not be found unfit for sale on account of an injury sustained or illness contracted subsequent to the consumer taking possession thereof.

4. In the event that a pet dealer wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, such dealer shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such dealer. Upon such examination, if the consumer and the dealer are unable to reach an agreement which constitutes one of the options set forth in subdivision one of this section within ten business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such refund, exchange and/or reimbursement.

§ 753-a. Veterinarian examination. 1. Within five business days of receipt, but prior to the sale of any dog or cat, the pet dealer shall have a duly licensed veterinarian conduct an examination and tests appropriate to the breed and age to determine if the animal has any medical conditions apparent at the time of the examination that adversely affect the health of the animal. For animals eighteen months of age or older, such examination shall include a diagnosis of any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from healthy animals in accordance with section four hundred one of the agriculture and markets law.

2. All animals shall be vaccinated as required by state or local law. Veterinary care appropriate to the species shall be provided without undue delay when necessary. Each animal shall be observed each day by

the pet dealer or by a person working under the pet dealer's supervision.

3. No pet dealer shall knowingly sell any animal that has a diagnosed congenital condition or contagious disease that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.

§ 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 non-elective surgical procedures, and is not likely to require hospitalization or 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 non-elective surgical procedures, and is not likely to require hospitalization or 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 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."

5. Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

§ 753-c. Animal pedigree registration. 1. Representation regarding animal's pedigree registration. Any pet dealer who states, promises, or represents that an animal is registered or capable of registration with an animal pedigree registry organization shall provide the purchaser with the appropriate documents necessary for such registration within one hundred twenty days following sale of the animal. If the purchaser notifies the pet dealer in writing on or before such time that he or she has not received the appropriate registration documents, the pet dealer

shall have, in addition to the one hundred twenty days, sixty more days in which to provide the appropriate documents.

2. If a pet dealer fails to provide documents as required under subdivision one of this section, the purchaser, upon written notice to the pet dealer, may keep the animal and receive a partial refund of seventy-five percent of the purchase price, in which event the pet dealer shall not be required to provide registration documents. Acceptance by the purchaser of appropriate registration documents, whether or not within the time periods set forth in subdivision one of this section, shall be deemed a waiver of the right to a partial refund pursuant to this subdivision.

3. Registration notice-disclosure statement. (a) A pet dealer that sells animals registered or registrable with a pedigree registry shall post conspicuously within close proximity to those animals a notice that states: "Pedigree registration means that the particular registry maintains information on the parentage and identity of the animal".

(b) For every animal sold by a pet dealer that is sold with the representation that the animal is registered or registrable with an animal pedigree registry organization, the following fully completed disclosure shall be made by the pet dealer in writing on a sheet separate from any other statement in substantially the following form: "Disclosure of Animal pedigree registration: Description of animal: The animal you are purchasing is registered/registrable (circle one) with the (enter name of registry). Registration means that (enter name of registry) maintains information regarding the parentage and identity of this animal. Persons buying animals represented by a pet dealer as being registrable are entitled to the papers necessary to effect such registration within 120 days of purchase. Failure to provide such papers entitles the purchaser to remedies under law. However, if the purchaser notifies the pet dealer within the 120 day period that he or she has not received such papers, the pet dealer shall have an additional 60 days commencing at the end of the 120 day period in which to provide the documents. Acknowledged: Date: Purchaser's Signature."

(c) The disclosure shall be signed and dated by the purchaser of the animal, acknowledging receipt of a copy of the statement. The pet dealer shall retain a copy of the signed disclosure.

§ 753-d. Construction with other laws. Nothing in this article shall be construed to (a) limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing articles twenty-six and twenty-six-A of the agriculture and markets law or any other law relating to the humane treatment of, or cruelty to, animals, (b) limit or restrict any municipality from enacting or enforcing any authorized local law, rule, regulation or ordinance of general application to businesses governing public health, safety or the rights of consumers, or (c) limit or restrict any municipality from enacting any local law, rule, regulation or ordinance governing pet dealers, including the source of animals offered for sale by pet dealers, whether spaying or neutering of such animals is required before sale, and the health or safety of animals maintained by pet dealers provided, however, that no such local law, rule, regulation or ordinance shall be less stringent than the applicable provisions of this article or essentially result in the banning of all sales of dogs or cats raised and maintained in a healthy and safe manner and provided, further, that where a penalty may be authorized for the violation of such a local law, rule, regulation or ordinance, the authorized penalty in such local law, rule, regulation or ordinance may not exceed a civil penalty of up to five hundred dollars. Where a municipality adopts such a local law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article, such municipality shall have sole responsibility for enforcement of such specific law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article.

§ 754. Notice. Every pet dealer who sells an animal to a consumer shall post a notice clearly visible to the consumer and provide the consumer at the time of sale with a written notice, printed or typed, setting forth the rights provided under this article. Such notices shall be prescribed by the commissioner, but the written notice may be contained in a written contract, an animal history certificate or separate document, provided such notices are in ten-point boldface type. No pet dealer shall restrict or diminish by contract or otherwise, the rights provided under this article.

§ 755. Penalties and enforcement. 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 one hundred 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-a. Any person who violates any provision of section seven hundred fifty-three-a, seven hundred fifty-three-b, or seven hundred fifty-three-c of this article may also be subject to denial, suspension, revocation of, or refusal to renew a pet dealer license, in accordance with the provisions of sections four hundred three and four hundred four of the agriculture and markets law.

2. The provisions of this article may be enforced concurrently by the director of a municipal consumer affairs office, or by the town attorney, or city corporation counsel, and all moneys collected thereunder shall be retained by such municipality or local government.