
Commerce & Labor Committee

HB 2511

Brief Description: Creating provisions relating to pet dealers.

Sponsors: Representatives Appleton, Campbell, O'Brien, Kirby, Conway and Simpson.

Brief Summary of Bill

- Prohibits pet dealers from selling an animal that has obvious signs of disease or a condition that requires hospitalization or nonelective surgical procedures.
- Requires that pet dealers submit animals to a veterinarian examination within 30 days prior to the sale of animals.
- Requires pet dealers to provide purchasers of animals with records and written disclosures of any diseases or conditions.
- Allows purchasers to obtain remedies in the case of a diseased or dead animal, including returning the animal, exchanging the animal, or retaining the animal and being reimbursed for veterinary fees.

Hearing Date: 1/17/08

Staff: Alison Hellberg (786-7152).

Background:

The federal Animal Welfare Act (AWA) specifies who may possess and sell animals (primarily dogs, cats, primates, and other mammals) and requires humane care and treatment of animals sold as pets at the wholesale level, transported in commerce, and used in research or exhibits. The United States Department of Agriculture (USDA) determines the animal care standards and has enforcement responsibilities under the AWA. Individuals using or working with animals covered by the law must be licensed by the USDA. The AWA does not generally cover retail pet stores, but a division of the USDA inspects the wholesale dealers that supply stores with animals.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. Law enforcement agencies and animal care and control agencies may enforce the provisions of the animal cruelty law.

Under the Consumer Protection Act (CPA), various business practices are declared unlawful. These practices include engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce. In addition to the acts declared unlawful by the CPA itself, other statutes elsewhere in the code declare violations of their provisions to be violations of the CPA. A party injured by a violation of the CPA may bring an action for damages. Recovery may include treble damages and reasonable attorneys' fees. In addition, the Attorney General may bring an action to restrain a person from violating the CPA.

Summary of Bill:

Pet dealers are prohibited from selling an animal that has obvious signs of disease or a condition that requires hospitalization or nonelective surgical procedures. Animals must be examined by a veterinarian within 30 days prior to the sale of the animal.

A person or entity who sells more than 20 animals or three litters, whichever is greater, in a 12 month period is considered a pet dealer and must comply with various prohibitions and requirements when selling animals. An animal is defined as a dog, cat, or bird of any age.

Disclosure and Notice Requirements

Pet dealers are required to maintain certain records and provide them to the purchaser of each animal and upon request to law enforcement agencies and animal care and control agencies. The records must be maintained for three years after the sale of each animal. These records include:

- date of the animal's birth;
- breeder's name and address;
- date the pet dealer received the animal, if not bred by the pet dealer;
- breed, sex, and color of the animal, and identifying marks existing at the time of sale;
- if the animal is being sold as registrable, the names and registration numbers of the sire and dam, and the litter number;
- record of any inoculations and parasite or worming treatments administered to the animal; and
- record of any diagnosis or treatment from a licensed veterinarian.

The pet dealer must also provide a written statement to the purchaser that either states that the animal has no known disease, illness, or congenital or hereditary condition, or discloses any known health problems.

Pet dealers are required to post a notice in a conspicuous location informing purchasers that they have certain rights relating to the purchase of animals. The pet dealer must also provide a prospective purchaser with a written copy of the rights. If a pet dealer represents that an animal is registered or registrable, the pet dealer must notify the purchaser in writing that "a pedigree or a registration does not assure proper breeding condition, health, quality, or claims to lineage."

Remedies

Various remedies are available to purchasers of diseased animals. Purchasers are entitled to a remedy if one of these situations occur:

- within 20 days of purchase, the animal suffers or has died from an illness, disease, or other defect that existed in the animal on or before delivery to the purchaser; or
- within two years after purchase, the animal possesses or has died from a congenital or hereditary condition that requires hospitalization or nonelective surgical procedures within 20 days of purchase, the animal suffers or has died from an illness, disease, or other defect that existed in the animal on or before delivery to the purchaser; or

The following remedies are available:

- return the animal for a full refund of the purchase price and receive reimbursement for reasonable veterinary fees, not to exceed the price of the animal;
- exchange the animal for another animal of comparable value and receive reimbursement for reasonable veterinary fees, not to exceed the price of the animal; or
- retain the animal and receive reimbursement for reasonable veterinary fees, not to exceed 150% of the price of the animal.

If the animal has died, the purchaser may obtain either a refund for the price of the animal or a replacement animal. The purchaser may also receive reimbursement for reasonable veterinary fees, not to exceed the price of the animal.

In order to receive these remedies, the purchaser must notify the pet dealer within 10 days of a veterinarian's diagnosis. The notice must include contact information for the veterinarian and the purchaser, and details about the animal, the diagnosis, and the examination. If a pet dealer contests the findings of an examination, the animal may be examined by a veterinarian of the pet dealer's selection.

An itemized bill for the veterinary expenses must also be included if the purchaser is requesting reimbursement. A veterinarian's fee is presumed reasonable in the absence of evidence to the contrary.

In certain cases, the purchaser will not be entitled to a remedy. This occurs when a:

- death or illness is caused by neglect or maltreatment by a purchaser;
- purchaser fails to carry out treatment recommended by a veterinarian;
- disease or condition is disclosed at the time of sale; or
- purchaser fails to return all necessary documents to the pet dealer.

A violation of these provisions is defined as an unfair or deceptive act for purposes of applying the CPA.

Other remedies available to consumers are not limited by these provisions. Pet dealers and purchasers may agree on additional terms and conditions, but the rights included in these provisions may not be waived. Nothing in these provisions shall limit prosecution of any criminal statute nor should it preclude the imposition of punitive damages.

Rules Authority: This bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.