

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 47

H.P. 53

House of Representatives, January 12, 1995

**An Act to Make Pet Dealers Liable for the Sale of Dogs and Cats That
Have Health Problems.**

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative VIGUE of Winslow.
Cosponsored by Representatives: CAMERON of Rumford, CAMPBELL of Holden,
DiPIETRO of South Portland, KEANE of Old Town, REED of Dexter, RICKER of Lewiston,
TUFTS of Stockton Springs, Senator: STEVENS of Androscoggin.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 7 MRSA c. 745 is enacted to read:

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.

1. Animal. "Animal" means a dog, wholly or in part of the species canis familiaris or a cat, wholly or in part of the species felis domesticus.

2. Breeder. "Breeder" means a person, firm, corporation or association that breeds animals for direct or indirect sale to the public.

3. Broker. "Broker" means a person, firm, partnership, corporation or association that purchases animals for resale to other brokers or pet dealers.

4. Health problem. "Health problem" means a disease, illness or congenital or hereditary condition that would impair the health or function of the animal, that is apparent at the time of sale or that should have been apparent to the seller from the veterinary history of the animal.

5. Pet dealer. "Pet dealer" means a person, firm, partnership, corporation or association, including breeders, that is required to collect sales tax for the sale of animals to the public. Pet dealer does not include humane societies, nonprofit organizations performing the functions of humane societies or animal control agencies.

6. Veterinarian. "Veterinarian" means a licensed veterinarian in this State.

§4152. Disclosure

A pet dealer shall deliver to a retail purchaser of an animal a written disclosure containing the following:

1. Animal history. The name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal; the date of the animal's birth; the date the pet dealer received the animal; the breed, sex, color and identifying marks of the animal; the

2 individual identifying tag, tattoo or collar number; the name and
3 registration number of the sire and dam and the litter number;
4 and a record of inoculations, worming treatments and medication
5 received by the animal while in the possession of the pet dealer;
6 and

7 2. Statement. A statement signed by the pet dealer that
8 the animal has no known health problem or a statement signed by
9 the pet dealer disclosing any known health problem and a
10 statement signed by a veterinarian that recommends necessary
11 treatment.

12 The disclosure must be made part of the statement of
13 consumer rights set forth in section 4161. The animal history
14 required in subsection 1 need not be made for mixed-breed animals
15 if the information is not available and can not be determined by
16 the pet dealer.

17 **§4153. Records**

18 The pet dealer shall maintain, for one year, a copy of the
19 statement of consumer rights delivered to the purchaser.

20 **§4154. Registration**

21 A pet dealer who represents an animal as eligible for
22 registration with an animal pedigree organization shall provide
23 the retail purchaser, within 90 days of final payment, the
24 documents necessary for registration. If these documents are not
25 received from the pet dealer, the purchaser may retain the animal
26 and receive a refund of 50% of the purchase price or return the
27 animal, along with all documentation previously provided, and
28 receive a full refund. The pet dealer is not responsible for
29 delays in registration that are the result of persons other than
30 the pet dealer.

31 **§4155. Health**

32 An animal may not be offered for sale by a broker or pet
33 dealer to a retail purchaser until the animal has been examined
34 by a veterinarian. The veterinarian used by the broker may not
35 be the same veterinarian used by the pet dealer. If the pet
36 dealer is not the breeder of the animal, each animal must be
37 examined within 2 days after receipt of the animal by a pet
38 dealer and within 4 days of delivery of the animal to the
39 purchaser by the pet dealer. The cost of the examination must be
40 paid by the pet dealer.

41 **§4156. Responsibilities of purchaser**

2 To obtain the remedies provided in section 4157, the
3 purchaser shall, with respect to an animal with a health problem:

4 1. Veterinary diagnosis. Notify the pet dealer, within 2
5 business days, of the diagnosis by a veterinarian of a health
6 problem and provide the pet dealer with the name and telephone
7 number of the veterinarian and a copy of the veterinarian report
8 on the animal; and

10 2. Refund. If the purchaser wishes to receive a full
11 refund for the animal, return the animal no later than 2 business
12 days after receipt of a written statement from a veterinarian
13 indicating that the animal is unfit due to a health problem.

14 With respect to a dead animal, the purchaser shall provide
15 the pet dealer with a written statement from a veterinarian
16 indicating that the animal died from a health problem that
17 existed on or before the receipt of the animal by the purchaser.

20 **§4157. Rights of the purchaser**

22 1. Unfit for sale. If, within 10 days after receipt of the
23 animal by the purchaser, a veterinarian states in writing that
24 the animal has a health problem that existed in the animal at the
25 time of delivery or if, within one year after receipt of the
26 animal by the purchaser, a veterinarian states in writing that
27 the animal has died or is ill due to a hereditary or congenital
28 defect or is not of the breed type represented, the animal is
29 considered to have been unfit for sale at the time of sale.

30 2. Animal dies; remedies. When an animal dies due to a
31 health problem that existed in the animal at the time of delivery
32 to the purchaser, the pet dealer shall provide the purchaser with
33 one of the following remedies selected by the purchaser:

36 A. An animal of equal value, if available, and
37 reimbursement for reasonable veterinary fees not to exceed
38 the original purchase price of the animal; or

40 B. A refund of the full purchase price of the animal.

42 3. Health problem; remedies. When an animal has a health
43 problem that existed at the time of delivery to the purchaser,
44 the pet dealer shall provide the purchaser with one of the
45 following remedies selected by the purchaser:

46 A. Return of the animal to the pet dealer for a refund of
47 the full purchase price of the animal;

2 B. Exchange of the animal for an animal of the purchaser's
3 choice of equivalent value, providing a replacement is
4 available; or

5 C. Retainment of the animal and reimbursement for
6 reasonable veterinary fees not to exceed the original
7 purchase price of the animal.

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9 4. Veterinary service; price. The price of veterinary
10 service is reasonable if the service is appropriate for the
11 diagnosis and treatment of the health problem and the price of
12 the service is comparable to that of similar service rendered by
13 other veterinarians in proximity to the treating veterinarian.

14 **§4158. Rights of pet dealer**

15 A refund, replacement or reimbursement of veterinary fees is
16 not required if any one or more of the following conditions
17 exists.

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19 1. Animal possession of purchaser. The health problem or
20 death resulted from maltreatment, neglect or a disease contracted
21 while in the possession of the purchaser or from an injury
22 sustained subsequent to receipt of the animal by the purchaser.

23 2. Veterinarian's statement. A veterinarian's statement
24 was provided to the purchaser pursuant to section 4152,
25 subsection 2, which disclosed the health problem for which the
26 purchaser seeks to return the animal.

27 3. Recommended treatment. The purchaser fails to carry out
28 recommended treatment prescribed by the examining veterinarian
29 pursuant to section 4152, subsection 2.

30 **§4159. Contest**

31 When a pet dealer wishes to contest a demand for the relief
32 specified in section 4154 or 4157, the pet dealer may require the
33 purchaser to produce the animal for examination or autopsy by a
34 veterinarian designated by the pet dealer. The pet dealer shall
35 pay the cost of this examination or autopsy. The pet dealer has
36 a right of recovery against the purchaser if the pet dealer is
37 not obligated to provide a remedy under section 4157.

38 If the pet dealer does not provide the relief selected by
39 the purchaser set forth in section 4154 or 4157, the purchaser
40 may initiate a court action.

41 The prevailing party in the court action has the right to
42 recover costs and reasonable attorney's fees not to exceed \$500.

2 **§4160. Posted notice**

4 A pet dealer shall post, in a prominent location of the
6 facility, a notice printed in 48-point, bold-faced type and
 containing the following language:

8 "INFORMATION ON ALL DOGS AND CATS IS AVAILABLE. YOU ARE ENTITLED
10 TO A STATEMENT OF CONSUMER RIGHTS. MAKE SURE YOU RECEIVE THIS
 STATEMENT AT THE TIME OF PURCHASE."

12 **§4161. Statement of consumer rights**

14 A pet dealer shall provide the retail purchaser a written
16 notice of rights, which must be signed by the purchaser,
18 acknowledging that the purchaser has reviewed the notice and
20 signed by the pet dealer, certifying the accuracy of the
 information contained in the notice. A signed copy must be
 retained by the pet dealer and one given to the purchaser. The
 notice must be in 16-point, bold-faced type and must state the
 following:

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

24 The sale of dogs and cats is subject to consumer protection
26 regulations. Maine law also provides safeguards to protect pet
28 dealers and animal purchasers. Attached is a copy of the Maine
30 Revised Statutes, Title 7, chapter 745. Contained in this law is
 a statement of your consumer rights."

32 The statement of consumer rights must also contain or have
 attached the disclosure required under section 4152.

34 **§4162. Limitation**

36 This chapter does not limit the rights or remedies that are
38 otherwise available to a purchaser under any other law. An
40 agreement or contract by a purchaser to waive rights under this
 chapter is void and unenforceable.

42 **§4163. Additional penalties**

44 1. Criminal penalty. A violation of any United States
46 Department of Agriculture statute or regulation covering animal
 breeders or groomers, pet dealers or the transportation of dogs
 or cats is also a Class E crime in this State.

48 2. Civil penalty. A pet dealer is subject to a forfeiture
50 of \$1,000 per violation if the dealer:

- 2 A. Sells an animal without delivery of the disclosure
 required in section 4152;
- 4 B. Fails to maintain the records required by section 4153;
- 6 C. Fails to provide registration papers as provided in
 section 4154;
- 8 D. Fails to provide payment for the examinations required
10 by section 4155;
- 12 E. Fails to post the notice required by section 4160; or
- 14 F. Fails to provide the statement of consumer rights
 required by section 4161.
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20 **STATEMENT OF FACT**

22 This bill gives purchasers of dogs and cats a recourse when
24 the animal they purchase from a pet dealer is either ill at the
 time of the purchase or dies within a year of the purchase due to
 a disease, an illness or a congenital or hereditary condition.
26 The bill also describes the purchasers' rights and the dealers'
 rights and makes any violation of this law a Class E crime.