

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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NON-EMERGENCY LAWS IS
JULY 4, 1996

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1995

recycling rates and available disposal capacity for solid waste.

Sec. 5. 38 MRSA §2156, as amended by PL 1995, c. 465, Pt. A, §§64 and 65 and affected by Pt. C, §2, is repealed.

Sec. 6. 38 MRSA §2156-A is enacted to read:

§2156-A. Facility development

1. Planning for development. The office shall plan for the development of facilities sufficient to meet needs for municipal solid waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State. The office may plan for the development of facilities sufficient to meet needs for special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State.

2. Recommendation for development. If the office finds that construction and operation of a state-owned solid waste disposal facility is needed to meet needs identified in the state plan, it shall submit a report recommending the construction and operation to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The report must recommend which state agency or department will own the facility and how it will be operated. It is the intent of the Legislature that the facility be operated by a private contractor. A state-owned solid waste disposal facility may not be constructed or operated unless authorized by legislation pursuant to subsection 3.

3. Authorization for development. The joint standing committee of the Legislature having jurisdiction over natural resource matters may report out legislation authorizing construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to subsection 2.

4. Ownership, construction and operation. The office shall maintain ownership of a site acquired for construction of a state-owned solid waste disposal facility until the Legislature authorizes transfer of the site to another state department or agency, except that this subsection does not prohibit any lease or transfer of the site pursuant to an agreement entered into before the effective date of this subsection or pursuant to any amendment to such an agreement entered into before or after the effective date of this subsection.

5. Development by others. This section does not preclude a municipality or regional association from developing and operating solid waste disposal facilities on its own initiative.

See title page for effective date.

CHAPTER 589

H.P. 53 - L.D. 47

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

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

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, partnership, corporation or association that breeds animals for direct or indirect sale to the public.

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.

4. 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.

5. Veterinarian. "Veterinarian" means a person licensed as a veterinarian in any state.

§4152. Disclosure

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

A. An animal history that includes:

(1) The name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal;

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

(3) The date the pet dealer received the animal;

(4) The breed, sex, color and identifying marks of the animal;

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

(6) For pure bred animals, the name and registration number of the sire and dam and the litter number; and

(7) A record of inoculations, worming treatments, medication or any veterinarian treatment received by the animal while in the possession of the breeder or dealer;

B. A statement signed by the pet dealer 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 dealer is aware that the animal was last seen by a veterinarian;

C. A pet dealer 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. Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph; and

D. The pet dealer shall indicate whether or not, to the pet dealer'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. Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph.

2. Optional disclosure. The pet dealer 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 dealer does not warranty the animal.

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.

B. The written disclosure made pursuant to this section must be signed by both the pet dealer certifying the accuracy of the statement and by

the purchaser of the animal acknowledging receipt of the statement.

C. The dealer shall make a prospective purchaser aware that the purchaser may see this information prior to purchase.

§4153. Sale prohibited

Notwithstanding section 4152, a pet dealer 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.

§4154. Records

The pet dealer shall maintain, for 2 years, a copy of the statement of consumer rights delivered to the purchaser.

§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.

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 pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser:

A. An animal of equal value, if available; or

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

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 pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser:

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

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

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.

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.

§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.

1. Veterinary diagnosis. The purchaser must notify the pet dealer, within 2 business days, of the diagnosis by a veterinarian of a health problem and provide the pet dealer with the name and telephone number of the veterinarian and a copy of the veterinarian report on the animal.

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 pet dealer 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.

§4157. Rights of pet dealer

1. Refusal to sell. A pet dealer may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter.

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.

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.

C. The health problem is a hereditary or congenital one covered by section 4152.

D. The health problem is one that the dealer has indicated is not covered in the warranty for the animal.

§4158. Contest

1. Demand for remedy; contest. When a pet dealer wishes to contest a demand for the remedy specified in section 4155, the pet dealer may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the pet dealer. The pet dealer shall pay the cost of this examination or autopsy. The pet dealer has a right of recovery against the purchaser if the pet dealer is not obligated to provide a remedy under section 4155.

2. Right to court action. If the pet dealer does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. Upon request to the department, by the purchaser and dealer, the commissioner or a veterinarian employed by the State shall arbitrate the dispute. This arbitration must be on a nonbinding basis unless both purchaser and dealer agree to binding arbitration. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees not to exceed \$500.

§4159. Posted notice

A pet dealer 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."

§4160. Notice of consumer rights

1. Written notice. A pet dealer shall provide the purchaser a written notice of rights, signed by the pet dealer, 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 pet dealer 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 pet dealers 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."

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 dealer prior to purchase.

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.

§4161. Limitation

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

§4162. Additional penalties

1. Criminal penalty. A person who violates a United States Department of Agriculture statute or regulation covering animal breeders or groomers, pet dealers or the transportation of animals commits a Class E crime.

2. Civil penalty. A pet dealer commits a violation for which a forfeiture not to exceed \$1,000 per violation may be adjudged if the dealer:

A. Sells an animal without delivery of the disclosure required in section 4152;

B. Fails to maintain the records required by section 4154;

C. Fails to post the notice required by section 4159;

D. Fails to provide the statement of consumer rights required by section 4160; or

E. Sells an animal in violation of section 4153.

3. Action against license. The department may file an action in Administrative Court to revoke or suspend the license of a pet dealer who violates any provision of this chapter.

See title page for effective date.

CHAPTER 590**S.P. 342 - L.D. 947****An Act to Amend the Laws Pertaining to the Regulation of Denturists**

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

Sec. 1. 32 MRSA §1085, as amended by PL 1993, c. 600, Pt. A, §68, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 5 years in actual practice in the state in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than \$300.

Sec. 2. 32 MRSA §1099, as amended by PL 1993, c. 600, Pt. A, §85, is further amended to read:

§1099. Endorsement

The board may at its discretion, without examination, issue a license to an applicant to practice dental hygiene who furnishes proof satisfactory to the board that the dental hygienist has been duly licensed to practice in another state after full compliance with the requirements of its dental laws, except that the professional education may not be less than is required in this State. The board may require letters of reference as to ability. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or