

CHAPTER 336

AN ACT concerning the sale of cats and dogs, supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending P.L.1941, c. 151.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.56:8-92 Short title.

1. This act shall be known and may be cited as the "Pet Purchase Protection Act."

C.56:8-93 Definitions relative to sales of cats and dogs.

2. As used in sections 1 through 5 of this act:

"Animal" means a cat or dog;

"Consumer" means a person purchasing a cat or dog;

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Pet dealer" means any person engaged in the ordinary course of business in the sale of cats or dogs to the public for profit or any person who sells or offers for sale more than five cats or dogs in one year;

"Pet shop" means a pet shop as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1);

"Quarantine" means to hold in segregation from the general population any cat or dog because of the presence or suspected presence of a contagious or infectious disease;

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except by death by accident or as a result of injuries sustained during that period, shall mean the animal was unfit for purchase; and

"Veterinarian" means a veterinarian licensed to practice in the State of New Jersey.

C.56:8-94 Construction of act.

3. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke the requirements for pet dealers that are not pet shops or the rights of a consumer purchasing an animal from a pet dealer that is not a pet shop, as may be provided elsewhere in law or any rule or regulation adopted pursuant thereto. Except as provided in section 4 and section 5 of P.L.1999, c.336 (C.56:8-95 and C.56:8-96), any provision of law pertaining to pet shops, or rule or regulation adopted pursuant thereto, shall continue to apply to pet shops. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke any recourse or remedy that is otherwise available to a consumer purchasing a cat or a dog from a pet shop under any other law.

C.56:8-95 Noncompliance by pet shop considered deceptive practice.

4. a. Notwithstanding the provisions of any rule or regulation adopted pursuant to Title 56 of the Revised Statutes as such provisions are applied to pet shops, and without limiting the prosecution of any other practices which may be unlawful pursuant to Title 56 of the Revised Statutes, it shall be a deceptive practice for any owner or operator of a pet shop, or employee thereof, to sell animals within the State without complying with the provisions and requirements of this section.

b. Within five days prior to the offering for sale of any animal, the owner or operator of a pet shop, or employee thereof, shall have the animal examined by a veterinarian licensed to practice in the State. The name and address of the examining veterinarian, together with the findings made and treatment, if any, ordered as a result of the examination, shall be noted on the animal history and health certificate for each animal as required by regulations adopted pursuant to Title 56 of the Revised Statutes. If fourteen days have passed since the last veterinarian examination of the animal, the owner or operator of the pet shop, or employee thereof, shall have the animal reexamined by a veterinarian licensed to practice in the State as provided for in subsection g. of this section, except as otherwise provided in that subsection.

c. Each cage in a pet shop shall have a label identifying the sex and breed of each animal kept in the cage, the date and place of birth of each animal, and the name and address of the veterinarian attending to the animal and the date of the initial examination of the animal.

d. The owner or operator of a pet shop, or employee thereof, shall quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness, or condition and may not sell such an animal until such time as a veterinarian licensed to practice in the State treats the animal and determines that such animal is free of clinical signs of infectious disease or that the animal is fit for sale. All animals required to be quarantined pursuant to this subsection shall be placed in a quarantine area, separated from the general animal population of the pet shop.

e. The owner or operator of a pet shop, or designated employee thereof, may inoculate and vaccinate animals prior to purchase only upon the order of a veterinarian. No owner or operator of a pet shop, or employee thereof, may represent, directly or indirectly, that the owner or operator of the pet shop, or any employee thereof, other than a veterinarian, is qualified to, directly or indirectly, diagnose, prognose, treat, or administer for, prescribe any treatment for, operate concerning, manipulate or apply any apparatus or appliance for addressing, any disease, pain, deformity, defect, injury, wound or physical condition of any animal after purchase of the animal, for the prevention of, or to test for, the presence of any disease, pain, deformity, defect, injury, wound or physical condition in an animal after its purchase. These prohibitions include, but are not limited to, the giving of inoculations or vaccinations after purchase, the diagnosing, prescribing and dispensing of medication to animals and the prescribing of any diet or dietary supplement as treatment for any disease, pain, deformity, defect, injury, wound or physical condition.

f. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall provide each owner or operator of a pet shop with notification forms, to be signed by the owner or operator of the pet shop, or employee thereof, and the consumer at the time of purchase of an animal. The notification form shall provide the following:

(1) The full text of the rights and responsibilities provided for in subsection h. of this section;

(2) The full text and description of the recourse to which the consumer is entitled pursuant to subsection i. of this section;

(3) The statement that it is the responsibility of the consumer to obtain such certification within the required amount of time provided by subsection h. of this section;

(4) The full text of the rights and responsibilities of the owner or operator of the pet shop, and the employees thereof, and the consumer provided in subsection l. of this section; and

(5) The notification, reporting and enforcement provisions provided in section 5 of P.L.1999, c.336 (C.56:8-96), including the name and address of the local health authority with jurisdiction over the pet shop.

The owner or operator of the pet shop, or an employee thereof, shall obtain the signature of the consumer on the form and shall also sign the form at the time of purchase of an animal, and shall provide the consumer with a signed copy of the form and retain a copy of the form on the pet shop premises. Copies of all such notices shall be readily available for inspection by an authorized representative of the Division of Consumer Affairs, upon request. No pet shop owner or operator, or employee thereof, may construe or use the signed notification form required pursuant to this subsection as an abdication of the right to recourse provided for in subsection i., or as a selection of recourse pursuant to subsection k. of this section.

g. The owner or operator of a pet shop, or an employee thereof, shall have any animal that has been examined more than 14 days prior to the date of purchase, reexamined by a veterinarian for the purpose of disclosing its condition, within 72 hours of the delivery of the animal to the consumer, unless the consumer has waived the right to the reexamination in writing. The owner or operator of a pet shop, or an employee thereof, shall provide a copy of the written waiver to the consumer prior to the signing of any contract or agreement to purchase the animal and the written waiver shall be in the form established by the director by regulation.

h. If at any time within 14 days after the sale and delivery of an animal to a consumer, the animal becomes sick or dies and a veterinarian certifies, within the 14 days after the date of purchase of the animal by the consumer, that the animal is unfit for purchase due to a non-

congenital cause or condition, or that the animal died from causes other than an accident, the consumer is entitled to the recourse described in subsection i. of this section.

If the animal becomes sick or dies within 180 days after the date of purchase and a veterinarian certifies, within the 180 days after the date of purchase of the animal by the consumer, that the animal is unfit for sale due to a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition, or died from such a cause or condition or sickness, the consumer shall be entitled to the recourse provided in subsection i. of this section.

It shall be the responsibility of the consumer to obtain such certification within the required amount of time provided by this subsection, unless the owner or operator of the pet shop, or the employee thereof selling the animal to the consumer, fails to provide the notice required pursuant to subsection f. of this section. If the owner or operator of the pet shop, or the employee thereof, fails to provide the required notice, the consumer shall be entitled to the recourse provided for in subsection i. of this section.

i. Only the consumer shall have the sole authority to determine the recourse the consumer wishes to select and accept, provided that the recourse selected is one of the following:

(1) The right to return the animal and receive a full refund of the purchase price, including sales tax, plus the reimbursement of the veterinary fees, including the cost of the veterinarian certification, incurred prior to the receipt by the consumer of the veterinarian certification;

(2) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinarian certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal, including the cost of the veterinarian certification;

(3) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the consumer's receipt of the veterinarian certification; or

(4) In the event of the death of the animal from causes other than an accident, the right to a full refund of the purchase price of the animal, including sales tax, or another animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the death of the animal.

The consumer shall be entitled to be reimbursed an amount for veterinary fees up to and including two times the purchase price, including sales tax, of the sick or dead animal. No reimbursement of veterinary fees shall exceed two times the purchase price, including sales tax, of the sick or dead animal.

j. The veterinarian shall provide to the consumer in writing and within the seven days after the consumer consults with the veterinarian any certification that is appropriate pursuant to this section upon the determination that such certification is appropriate. The certification shall include:

- (1) The name of the owner;
- (2) The date or dates of examination;
- (3) The breed, color, sex and age of the animal;
- (4) A statement of the findings of the veterinarian;
- (5) A statement that the veterinarian certifies the animal to be "unfit for purchase";
- (6) An itemized statement of veterinary fees incurred as of the date of certification;
- (7) If the animal may be curable, an estimate of the possible cost to cure, or attempt to cure, the animal;
- (8) If the animal has died, a statement establishing the probable cause of death; and
- (9) The name and address of the certifying veterinarian and the date of the certification.

k. Upon the presentation of the veterinarian certification required in subsection j. of this section to the pet shop, the consumer shall select the recourse to be provided and the owner or operator of the pet shop, or the employee thereof, shall confirm the selection of recourse in writing. The confirmation of the selection shall be signed by the owner or operator of the pet

shop, or an employee thereof, and the consumer and a copy of the signed confirmation shall be given to the consumer and retained by the owner or operator of the pet shop, or employee thereof, on the pet shop premises. The confirmation of the selection shall be in the form established by the director by regulation.

l. The owner or operator of the pet shop, or an employee thereof, shall comply with the selection of recourse by the consumer no later than 10 days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. In the event the owner or operator of the pet shop, or an employee thereof, wishes to contest the selection of recourse of the consumer, the owner or operator of the pet shop, or an employee thereof, shall notify the consumer and the director in writing within the five days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. After notification to the consumer and the director of the division, the owner or operator of the pet shop, or an employee thereof, may require the consumer to produce the animal for examination by a veterinarian chosen by the owner or operator of the pet shop, or employee thereof, at a mutually convenient time and place, except if the animal has died and was required to be cremated for public health reasons. The director shall set, upon receipt of such notice of contest on the part of the owner or operator of the pet shop, or an employee thereof, a hearing date and hold a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and the Uniform Administrative Procedure Rules adopted pursuant thereto, to determine whether the recourse selected by the consumer should be allowed. The consumer and the owner or operator of the pet shop, or employee thereof, shall be entitled to any appeal of the decision resulting from the hearing as may be provided for under the law, or any rule or regulation adopted pursuant thereto, but upon the exhaustion of such remedies and recourse, the consumer and the owner or operator of the pet shop shall comply with the final decision rendered.

m. Any owner or operator of a pet shop, or employee thereof, shall be guilty of a deceptive practice if the owner or operator, or employee thereof, secures or attempts to secure a waiver of any of the provisions of this section except as specifically authorized under subsection g. of this section.

n. The owner of a pet shop shall be responsible and liable for any recourse or reimbursement due to a consumer because of violations of any provisions of this section by the owner or operator of the pet shop, or any employee thereof, or because of any document signed pursuant to this section by the owner or operator of the pet shop, or any employee thereof.

C.56:8-96 Certification from veterinarian, recourse.

5. a. Any consumer who purchases from a pet shop an animal that becomes sick or dies after the date of purchase may take the sick or dead animal to a veterinarian within the period of time required pursuant to the notification form provided upon the date of purchase, receive certification from the veterinarian of the health and condition of the animal, and pursue the recourse provided for under the circumstances indicated by the veterinarian certification, as required and provided for pursuant to section 4 of P.L.1999, c.336 (C.56:8-95).

b. Upon receipt of the certification from the veterinarian, the consumer may report the sickness or death of the animal and the pet shop where the animal was purchased to the local health authority with jurisdiction over the municipality in which the pet shop where the animal was purchased is located, and to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The consumer shall provide a copy of the veterinarian certificate with any such report. The director shall forward to the appropriate local health authority a copy of any such report the division receives. The local health authority shall record and retain the records of any such report and documentation submitted by a consumer.

c. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located the revocation of the license of any pet shop with reports filed as follows:

(1) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or

a sickness brought on by a congenital or hereditary cause or condition;

(2) 25% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 10% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

d. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located a 90-day suspension of the license of any pet shop with reports filed as follows:

(1) 10% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 3% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

e. Pursuant to the authority and requirements provided in section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet shop shall be afforded a hearing and, upon the recommendation by the local health authority pursuant to subsection c. or d. of this section, the local health authority, in consultation with the State Department of Health and Senior Services, shall set a date for the hearing to be held by the local health authority or the State Department of Health and Senior Services and shall notify the pet shop involved. The municipality may suspend or revoke the license, or part thereof, that authorizes the pet shop to sell cats or dogs after such hearing has been held and as provided in section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the local health authority or the State Department of Health and Senior Services, whichever entity is holding the hearing, shall receive testimony from the pet shop and shall determine if the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody, or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

f. No provision of subsection c. shall be construed to restrict the local health authority or the State Department of Health and Senior Services from holding a hearing concerning any pet shop in the State irrespective of the criteria for recommendation of license suspension or revocation named in subsection c. or d., or from recommending to a municipality the suspension or revocation of the license of a pet shop within its jurisdiction for other violations under other sections of law, or rules and regulations adopted pursuant thereto.

g. No action taken by the local health authority or municipality pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-15.8) shall be construed to limit or replace any action, hearing or review of complaints concerning the pet shop by the Division of Consumer Affairs in the Department of Law and Public Safety to enforce consumer fraud laws or other protections to which the consumer is entitled.

h. The requirements of this section shall be posted in a prominent place in each pet shop in the State along with the name, address and telephone number of the local health authority that has jurisdiction over the pet shop, and this information shall be provided in writing at the time of purchase to each consumer and to each licensed veterinarian contracted for services by the pet shop upon contracting the veterinarian.

i. The Director of the Division of Consumer Affairs may investigate and pursue enforcement against any pet shop reported by a consumer pursuant to subsection b. of this section.

6. Section 8 of P.L.1941, c.151 (C.4:19-15.8) is amended to read as follows:
C.4:19-15.8 Licensing of kennel, pet shop, shelter, pound.

8. a. Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter or a pound shall apply to the clerk or other official designated to license dogs in the municipality where such establishment is located, for a license entitling him to keep or operate such establishment.

The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the local municipal and health authorities showing compliance with the local and State rules and regulations governing location of and sanitation at such establishments.

b. All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of June of each year, and be subject to revocation by the municipality on recommendation of the State Department of Health and Senior Services or the local board of health for failure to comply with the rules and regulations of the State department or local board governing the same, after the owner has been afforded a hearing by either the State department or local board, except as provided in subsection c. of this section.

Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments; such licenses shall not be transferable to another owner or different premises.

c. The license for a pet shop shall be subject to review by the municipality, upon recommendation by the State Department of Health and Senior Services or the local health authority for failure by the pet shop to comply with the rules and regulations of the State department or local health authority governing pet shops or if the pet shop meets the criteria for recommended suspension or revocation provided under subsection c. or d. of section 5 of P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has been afforded a hearing pursuant to subsection e. of section 5 of P.L.1999, c.336 (C.56:8-96).

The municipality, based on the criteria for the recommendation of the local health authority provided under subsections c. and d. of section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license for 90 days or may revoke the license if it is determined at the hearing that the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

d. The municipality may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs, and sell animals other than cats and dogs but restricts the pet shop from selling cats or dogs, or both.

e. Every pet shop licensed in the State shall submit annually and no later than May 1 of each year records of the total number of cats and dogs, respectively, sold by the pet shop each year to the municipality in which it is located, and the municipality shall provide this information to the local health authority.

C.56:8-97 Rules, regulations.

7. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules or regulations as the director deems necessary for the implementation of this act.

8. This act shall take effect on the 90th day following enactment.

Approved January 10, 2000.