

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 822

By: Long

AS INTRODUCED

An Act relating to animals; providing short title; stating legislative intent; defining terms; authorizing return, exchange or retention of certain animals and recovery of certain costs; specifying guidelines for calculating value of veterinary services and reimbursement; construing law; providing for reimbursement of certain costs; providing exemption in certain cases; establishing certain time requirements; providing procedures for certain contests; providing for court costs and attorney fees; defining certain grounds for certification by veterinarian; authorizing Board to designate veterinarian for certain examinations; providing for geographic location; authorizing sellers and consumers to alter statutory remedies by contract; providing for civil liability; requiring certain pet sellers to give notice and information to consumers; specifying content; requiring Board of Agriculture to develop form for information to be provided to certain consumers; requiring the Board of Agriculture to develop certification form; specifying contents; making certain acts unlawful; specifying fine; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601 of Title 4, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Pet Sale Consumer Protection Act".

It is the intent of the Legislature to safeguard the health, safety and welfare of the public and to provide meaningful recourse to buyers of unhealthy or physically defective animals.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 602 of Title 4, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 5 of this act:

1. "Animal" means a dog, puppy, cat or kitten;
2. "Consumer" means any individual purchasing an animal from a pet seller;
3. "Pet seller" means any person, firm, partnership, corporation or other association which in the ordinary course of business, engages in the sale of more than two litters, or twenty dogs or cats per year, whichever is less, to the public. This definition includes breeders of animals who sell such animals directly to consumers. The term "pet seller" shall not include a duly incorporated humane society dedicated to the care of unwanted animals or city or county animal shelter which makes animals available for adoption whether or not a fee for the adoption is charged;
4. "Board" means the Board of Agriculture; and
5. "Pedigreed animal" means a puppy, dog, cat or kitten whose ancestral lineage has been recorded with any club, association, society or company to ensure the purity of the breed and which is registered or is capable of being registered with such club, association, society or company.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 603 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by subsection I of this section, if within three (3) business days following the sale of an animal, a veterinarian designated by the consumer and licensed by the state certifies in writing that the animal, at the time of the examination, has a visible and detectable congenital malformation or injury which adversely affects the health of the animal, or has the

presence of symptoms of a contagious or infectious disease, the pet seller shall afford the consumer the right to choose one of the following remedies:

1. The right to return the animal and to receive a refund of the purchase price including any sales tax paid;

2. The right to return the animal and to receive an exchange animal of the consumer's choice of equivalent value; or

3. The right to retain the animal and to receive reimbursement from the pet seller for the veterinary services of a licensed veterinarian who was designated by the consumer, rendered for the purpose of curing or attempting to cure the animal. Reimbursement for veterinary costs shall not exceed the purchase price of the animal including any sales tax paid. The cost of the veterinary services is reasonable if comparable to the cost of similar services rendered by other licensed veterinarians who are located in proximity to the treating veterinarian. Reimbursement pursuant to this paragraph shall not include any examination or diagnostic fees incurred for the initial diagnosis and examination of an animal or pedigreed animal.

B. The signature of a veterinarian on a certificate or the failure or refusal of a veterinarian to sign any certificate pursuant to the provisions of this section shall not be construed as a warranty as to the health or condition of the animal.

C. 1. The Board of Agriculture, by rule, shall develop a form for the certification by a licensed veterinarian that an animal has a visible and detectable congenital malformation or injury which adversely affects the health of the animal or has the presence of symptoms of a contagious or infectious disease. The certification shall include, but shall not be limited to:

- a. information which identifies the breed, age, sex and color of the animal,
- b. the name of the pet seller,

- c. the date, diagnosis of the animal, and the treatment recommended if any,
- d. the name of the examining veterinarian, and
- e. an estimate or the actual cost of the diagnosis and treatment.

2. The certificate shall contain a statement providing that the signature of the veterinarian on the certificate shall not be construed as a warranty of the health or condition of the animal.

3. The Board shall provide for the distribution of such forms to all veterinarians.

D. A pet seller is not required to comply with the provisions of paragraph 1, 2 or 3 of subsection A of this section if the animal has sustained an injury or contracted a contagious or infectious disease subsequent to the consumer taking possession of such animal.

E. The refund, exchange or reimbursement required by subsection A of this section shall be made by the pet seller no later than ten (10) business days following receipt of a certificate signed by the veterinarian. The certificate shall be presented to the pet seller no later than ten (10) business days, excluding federal holidays, following receipt of the certificate by the consumer. If a consumer is prevented from presenting the certificate to the pet seller within ten (10) days because the pet seller cannot be located or refuses the presentation, the presentation shall be considered complete if the consumer attempts to present the certification to the pet seller by certified mail within the ten-day period.

F. If a pet seller wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, the seller shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian. The cost of the examination shall be paid by the pet seller. The Board shall designate a licensed veterinarian to perform such examination. The Department shall give consideration to geographic location of

the consumer. Provided that if the veterinarian finds the animal does not have a visible and detectable congenital malformation or injury which adversely affects the health of the animal or has the presence of symptoms of a contagious or infectious disease, then the consumer shall not have the remedies provided in subsection A.

G. The remedies provided by this section shall not limit any rights or remedies which are otherwise available to a consumer or seller under any other law. Unless otherwise provided by law, court costs and attorney fees shall be paid by the nonprevailing party in a civil suit in a court of competent jurisdiction.

H. A veterinary finding of intestinal parasites and external parasites shall not be grounds for certifying that the animal has a congenital malformation, injury or the presence of symptoms of a contagious or infectious disease unless the animal is clinically ill due to the condition.

I. The pet seller and the consumer may by written contract alter the provisions of subsection A of this section. Any contract which provides remedies to a consumer which are different from the remedies provided in subsection A of this section shall make reference to the consumer's remedies provided by this section and shall provide a place within the contract for the consumer to waive the consumer's right to the remedies provided by subsection A of this section.

J. In the event the pet seller fails to comply with the provisions of this act, the consumer may file a civil action in district court to enforce the remedies provided for in this act. Court costs and attorney fees shall be paid by the nonprevailing party in a civil suit in a court of competent jurisdiction.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 604 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. 1. Every pet seller who sells a pedigreed animal shall provide at the time of sale to the consumer the following information in writing to the consumer:

- a. date of birth,
- b. state of birth,
- c. the sex and physical description of the animal,
- d. the breed of the animal,
- e. the date and amount of purchase,
- f. the name, address, and telephone number of the pet seller,
- g. whether the animal has received any vaccinations and deworming, and if so, the type of vaccinations and deworming, the manufacturer lot number and serial number of the vaccines given and by whom, and
- h. a listing of the rights provided to a consumer pursuant to Section 3 of this act.

2. The pet seller and the consumer shall sign and date the document.

B. The Board of Agriculture, by rule, shall develop a form for the information required by subsection A of this section.

C. Failure by a pet seller to provide the information to a consumer as required by the provisions of this section may constitute a breach of the sales contract by the pet seller which entitles a consumer to return any animal so purchased and to a refund from the pet seller of the purchase price of the animal at any time. Such refund must be requested within six (6) months from the time of sale.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 605 of Title 4, unless there is created a duplication in numbering, reads as follows:

Any person who by any false pretense shall obtain from any club, association, society or company organized for improving the breed of

any puppy, dog, kitten, or cat, the registration of any such animal, or transfer any such registration, and every person who shall knowingly give a false pedigree of any animal, shall be deemed guilty of a misdemeanor which shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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