

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 588

Introduced by Dierks, 40.

Read first time January 21, 2009

Committee: Agriculture

A BILL

- 1 FOR AN ACT relating to animals; to adopt the Dog and Cat Purchase
- 2 Protection Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and
2 may be cited as the Dog and Cat Purchase Protection Act.

3 Sec. 2. For purposes of the Dog and Cat Purchase
4 Protection Act:

5 (1) Animal control facility has the same meaning as in
6 section 54-626;

7 (2) Animal shelter has the same meaning as in section
8 54-626;

9 (3) Casual breeder is any person who intentionally or
10 accidentally causes or allows the breeding of a cat or dog and who
11 offers for sale, sells, trades, or receives other compensation for
12 one or more dogs or cats from a litter of dogs or cats produced by
13 a female owned by him or her;

14 (4) Cat has the same meaning as in section 54-626;

15 (5) Commercial breeder has the same meaning as in section
16 54-626;

17 (6) Dealer has the same meaning as in section 54-626;

18 (7) Dog has the same meaning as in section 54-626;

19 (8) Health certificate means the official small animal
20 health certificate authorized by the Bureau of Animal Industry of
21 the Department of Agriculture;

22 (9) Pet shop has the same meaning as in section 54-626;

23 (10) Retail purchaser means the final owner of a dog or
24 cat purchased from a pet dealer. Retail purchaser does not include
25 a person who purchases a dog or cat for resale; and

1 (11) Serious health problem means a serious congenital
2 or hereditary defect in a dog or cat that causes severe illness
3 or death up to one year from date of purchase and any contagious
4 disease in a dog or cat that causes severe illness or death up to
5 seven days from date of purchase.

6 Sec. 3. No dog or cat shall be sold by a pet shop,
7 commercial breeder, casual breeder, or dealer that is going out of
8 state unless the dog or cat has been examined prior to the sale by
9 a licensed veterinarian. If the dog or cat is sold by a pet shop,
10 commercial breeder, casual breeder, or dealer within the State of
11 Nebraska to anyone for any purpose, the purchaser shall have the
12 cat or dog health checked by a licensed veterinarian within four
13 business days after the date of purchase of the animal for the
14 protections under the Dog and Cat Purchase Protection Act to apply.

15 Sec. 4. (1) A pet shop, commercial breeder, casual
16 breeder, or dealer shall deliver to each retail purchaser
17 purchasing a dog or cat from such pet dealer, a pet shop,
18 commercial breeder, casual breeder, or dealer a written disclosure
19 containing the following information:

20 (a) The name, address, and United States Department of
21 Agriculture license number or state license number, if applicable,
22 of the breeder and any broker who has had possession of the dog or
23 cat;

24 (b) The date of birth of the dog or cat;

25 (c) The date of receipt of the dog or cat by the pet shop

1 or dealer if the pet shop or dealer is not the breeder;

2 (d) The breed, sex, color, and identifying marks, if any,
3 of the dog or cat;

4 (e) The individual identification tag, tattoo, microchip
5 number, or collar number of the dog or cat;

6 (f) The names and registration numbers of the sire and
7 dam and the litter number, if applicable and if known; and

8 (g) A record of any inoculation, worming treatment, or
9 medication given to the dog or cat while in the possession of the
10 pet shop, dealer, or any other party that had possession of the dog
11 or cat prior to the pet shop or dealer.

12 (2) A pet shop, commercial breeder, casual breeder, or
13 dealer shall provide each retail purchaser purchasing a dog or
14 cat from such pet shop, commercial breeder, casual breeder, or
15 dealer a health certificate of the dog or cat signed by a licensed
16 veterinarian and a statement of the rights and responsibilities of
17 the retail purchaser and the pet shop, commercial breeder, casual
18 breeder, or dealer under sections 5 and 6 of this act if the dog
19 or cat is being sold outside the State of Nebraska. No health
20 certificate is necessary for a dog or cat sold within the State of
21 Nebraska.

22 (3) A copy of such statement of rights and
23 responsibilities shall be maintained by the pet shop, commercial
24 breeder, casual breeder, or dealer for one year after the sale of
25 the dog or cat to the retail purchaser.

1 Sec. 5. (1) A retail purchaser of a dog or cat shall
2 have the dog or cat examined by a licensed veterinarian within
3 seven business days after delivery of the dog or cat to the
4 retail purchaser. The dog or cat shall be declared unfit for sale
5 and the retail purchaser may obtain one of the remedies listed
6 in subsection (2) or (3) of this section if (a) during such
7 examination, the veterinarian diagnoses the dog or cat with a
8 serious health problem that the veterinarian believes existed at
9 the time of delivery of the dog or cat to the retail purchaser or
10 (b) within one year after delivery of the dog or cat to the retail
11 purchaser, a veterinarian diagnoses the dog or cat with a serious
12 congenital or hereditary health defect or states in writing that
13 the dog or cat has died from a serious congenital or hereditary
14 health defect that the veterinarian believes existed at the time of
15 delivery of the dog or cat to the retail purchaser.

16 (2) If a dog or cat is diagnosed with a serious health
17 problem under subsection (1) of this section, the retail purchaser
18 shall notify the pet shop, commercial breeder, casual breeder, or
19 dealer within two business days after the diagnosis and provide the
20 pet dealer, pet shop, commercial breeder, casual breeder, or dealer
21 with the name and telephone number of the veterinarian or a copy
22 of the veterinarian's report. After such notification, the retail
23 purchaser may obtain one of the following remedies from the pet
24 shop, commercial breeder, casual breeder, or dealer:

25 (a) A refund of the full purchase price of the dog or cat

1 upon return of such dog or cat to the pet shop, commercial breeder,
2 casual breeder, or dealer;

3 (b) An exchange for a dog or cat of the retail
4 purchaser's choice of equivalent value, if such dog or cat is
5 available, upon return of the dog or cat to the pet shop,
6 commercial breeder, casual breeder, or dealer; or

7 (c) Reimbursement for reasonable veterinary fees, not to
8 exceed the full purchase price of the dog or cat.

9 (3) If a dog or cat dies from a serious health problem as
10 determined under subsection (1) of this act, the retail purchaser
11 shall notify the pet shop, commercial breeder, casual breeder,
12 or dealer within two business days after receipt of the written
13 statement of the veterinarian by the retail purchaser and shall
14 provide the pet shop, commercial breeder, casual breeder, or dealer
15 with a copy of such statement. After receipt of the written
16 statement by the pet shop, commercial breeder, casual breeder,
17 or dealer, the retail purchaser may obtain one of the following
18 remedies from the pet shop, commercial breeder, casual breeder, or
19 dealer:

20 (a) A refund of the full purchase price of the dog or
21 cat; or

22 (b) A dog or cat of the purchaser's choice of equivalent
23 value, if such dog or cat is available, and reimbursement for
24 reasonable veterinary fees up to the purchase price of the dog or
25 cat.

1 (4) For purposes of this section, veterinary fees shall
2 be deemed reasonable if the service is appropriate for the
3 diagnosis and treatment of the serious health problem and the
4 cost of the service is comparable to similar services provided
5 by licensed veterinarians in close proximity to the treating
6 veterinarian.

7 Sec. 6. No refund, replacement, or reimbursement of fees
8 under section 5 of this act shall be required if one or more of the
9 following conditions exist:

10 (1) The serious health problem or death of the dog or
11 cat resulted from maltreatment, neglect, or injury occurring after
12 delivery of the dog or cat to the retail purchaser;

13 (2) The health certificate provided by the pet shop,
14 commercial breeder, casual breeder, or dealer under section 4 of
15 this act disclosed the serious health problem for which the retail
16 purchaser is seeking a remedy; or

17 (3) The retail purchaser failed to follow through with
18 any reasonable treatment recommended by a licensed veterinarian
19 examining the dog or cat.

20 Sec. 7. (1) If a pet shop, commercial breeder, casual
21 breeder, or dealer does not comply with a demand for remedy by a
22 retail purchaser under section 5 of this act, the retail purchaser
23 may initiate court proceedings.

24 (2) If a pet shop, commercial breeder, casual breeder,
25 or dealer contests a demand for remedy by a retail purchaser under

1 section 5 of this act, the pet shop, commercial breeder, casual
2 breeder, or dealer may require the retail purchaser to produce the
3 dog or cat for examination or autopsy by a licensed veterinarian
4 designated by the pet shop, commercial breeder, casual breeder,
5 or dealer. The pet shop, commercial breeder, casual breeder, or
6 dealer shall pay for all costs associated with such examination
7 or autopsy. The pet shop, commercial breeder, casual breeder, or
8 dealer shall have a right of recovery against the retail purchaser
9 if the pet shop, commercial breeder, casual breeder, or dealer is
10 not obligated to provide the remedy sought.

11 (3) The prevailing party in a court proceeding under this
12 section shall be limited to a recovery of actual costs and no more
13 than five hundred dollars in reasonable attorney's fees.

14 Sec. 8. Nothing in the Dog and Cat Purchase Protection
15 Act shall limit any rights and remedies otherwise available under
16 the laws of this state. Any agreement or contract entered into by
17 a pet shop, commercial breeder, casual breeder, or dealer and a
18 retail purchaser waiving any rights under the act is void.

19 Sec. 9. Animal control facilities and animal shelters are
20 exempt from the Dog and Cat Purchase Protection Act.

21 Sec. 10. This act becomes operative on January 1, 2010.