

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 403
Economic Matters

(Delegate Luedtke, *et al.*)

Business Regulation - Sales of Dogs and Cats - Required Health Certificate

This bill requires a person who sells a dog or cat to provide to the purchaser at the time of the sale a health certificate from a veterinarian licensed in the State, issued within the previous 30 days. A person who sells a dog or cat and who knows or should have known of any illness, disease, or congenital or hereditary condition of the dog or cat must disclose that information to the purchaser at the time of sale. The bill does not apply to specified business entities. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material effect on local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill does not apply to (1) a nonprofit organization established to promote animal welfare that has tax-exempt status and is registered to do business in the State; (2) an animal shelter operated by a county or municipality; or (3) a for-profit retail

pet store open to the public that sells or offers for sale domestic animals to be kept as household pets.

Current Law: In general, a dog or cat younger than eight weeks of age may not be sold or distributed in the State unless it is accompanied by its female parent. The sale of dogs at retail pet stores has similar health certification requirements to those of the bill, as discussed below. No such statewide health certification law exists for the sale of cats, by retail pet stores or any other person.

Inspection of Dog Businesses

To determine if dogs are being treated inhumanely in violation of any law, an authorized director of a humane society, accompanied by a sheriff or a deputy sheriff, with prior written notice, may inspect premises (1) where a person is engaged in the business of buying, selling, trading, or breeding dogs or (2) of a kennel where 25 or more dogs are kept. These premises inspection provisions do not apply to premises:

- where dogs are kept or bred solely for medical or related research or laboratory tests;
- operated by a licensed and regularly practicing veterinarian; or
- where hunting dogs are housed, if the buying, selling, trading, or breeding is incidental to the main purposes of housing, keeping, and using dogs.

Kennel License for Dog Breeders

Chapter 297 of 2011 requires a person to obtain a kennel license if (1) the person owns or has custody of 15 or more unspayed female dogs over six months old; (2) the dogs are kept for the purpose of breeding and selling their offspring; and (3) the person sells dogs from six or more litters per year.

Sale of Dogs by Retail Pet Stores

Chapters 214 and 215 of 2012 established conditions and requirements for remedy when a dog sold at a retail pet store is found to have an undisclosed disease, illness, or prior condition. It also established certification, recordkeeping, and public disclosure requirements for retail pet stores that conduct business in the State, as well as penalties for noncompliance. A violation is an unfair or deceptive trade practice under MCPA, subject to MCPA's civil and criminal penalty provisions.

Retail pet stores that sell dogs in the State must keep detailed written records for each dog held in the store's possession. Information that must be maintained includes:

- the breed, age, and birth date of the dog, if known;
- the gender, color, and any identifying markings of the dog;
- documentation and specific details pertaining to all inoculations, worming treatments, and other medical treatments;
- the name and address of the breeder or dealer who supplied the dog, the facility where the dog was born, and the transporter or carrier of the dog, if any;
- the U.S. Department of Agriculture (USDA) license number of the breeder or dealer, if required;
- any identifier information, including a tag, tattoo, collar number, or microchip; and
- if the dog is being sold as registered or registrable, the names and registration number of the sire and dam and the litter number.

A dog's records must be kept for at least one year after the date of sale of the dog.

Health Certification Requirements at Retail Pet Stores

A retail pet store must provide a health certificate from a State-licensed veterinarian, issued within 30 days before the date of sale, to a purchaser at the time of a sale of a dog. The certificate must state that the dog (1) has no known disease, illness, or congenital or hereditary condition which is diagnosable with reasonable accuracy and (2) does not appear to be clinically ill from parasitic infection at the time of the examination.

A person who has purchased a dog from a retail pet store is entitled to a remedy under certain conditions related to the health of the dog. A person entitled to a remedy may (1) return the dog to the retail pet store for a full refund of the purchase price; (2) exchange the dog for another dog of comparable value chosen by the purchaser, if available; or (3) retain the dog and be reimbursed by the retail pet store for reasonable and documented veterinary fees, not exceeding the purchase price of the dog.

Maryland Consumer Protection Act

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Background: The federal Animal Welfare Act (AWA) of 1966 regulates certain animal activities, including commercial dog and cat breeding. AWA defines the minimum standards of care for dogs, cats, and certain other species of animals bred for commercial resale and exhibition. It also requires that certain commercial breeders be licensed and routinely inspected by USDA. H.R. 1 of 2008 (the “Farm Bill”), which was enacted in February 2009, prohibits the importation of puppies younger than six months of age for the purpose of resale.

Many dogs sold as pets in the United States are bred in commercial dog breeding facilities that mass-produce dogs for sale to pet stores (often called puppy mills). Substandard conditions are commonly reported at these facilities. Similar types of operations exist for other animals kept as pets or used as feed for other animals. Due to the frequently poor breeding conditions, puppies bred by commercial breeders can be ill-tempered and may suffer from poor health. Approximately 21 states have enacted laws that provide specific recourse for the purchaser of a sick or diseased animal from a retail pet store.

Small Business Effect: There is a meaningful impact for businesses in the State due to the certification requirements for the sale of dogs and cats to the extent that the businesses currently do not provide recent health certificates at the time of sale. Veterinarian small businesses benefit from an increased demand for their services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Health and Mental Hygiene; American Veterinary Medical Association; Department of Legislative Services

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