

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. SALE OF ANIMALS

13:45A-12.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Animal” means a dog or cat.

“Consumer” means any natural person purchasing a dog or cat from a pet dealer.

“Division” means the Division of Consumer Affairs, Department of Law and Public Safety.

“Kennel” means the business of boarding dogs or cats or breeding dogs or cats for sale.

“Person” means any person as defined by N.J.S.A. 56:8-1(d).

“Pet dealer” means any person engaged in the ordinary course of business in the sale of animals for profit to the public or any person who sells or offers for sale more than five animals per year.

“Pet shop” means the business of selling, offering for sale or exposing for sale dogs or cats.

“Quarantine” means to hold in segregation from the general animal population any dog or cat 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 to have been 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 death by accident or as a result of injuries sustained during that period shall mean such animal was unfit for purchase.

Amended by R.1995 d.618, effective December 4, 1995.
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Case Notes

Because a dog breeder sold animals to the public for profit, she was a “pet dealer” as defined by N.J.S.A. 56:8-93 and N.J.A.C. 13:45A-12.1, and thus was subject to the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to 56:8-166, and the regulations promulgated thereunder by the Director of the New Jersey Division of Consumer Affairs. The New Jersey Pet Purchase Protection Act, N.J.S.A. 56:8-92 to 56:8-97, did not apply. *Maguire v. Mohrmann*, 397 N.J. Super. 103, 935 A.2d 1259, 2007 N.J. Super. LEXIS 362 (App.Div. 2007).

13:45A-12.2 General provisions

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 et seq., the following acts, practices or omissions shall be deceptive practices in the conduct of the business of a pet dealer:

1. To sell an animal within the State of New Jersey without an animal history and health certificate and without providing the consumer with a completed animal history and health certificate. The animal history and health certificate shall be signed by the pet dealer, his agent or employee, and shall contain the following information:

- i. The animal's breed, sex, age, color, and birth date;
- ii. The name and address of the person from whom the pet dealer purchased the animal;
- iii. The breeder's name and address, and the litter number of the animal;
- iv. The name and registration number of the animal's sire and dam;
- v. The date the pet dealer took possession of the animal;
- vi. The date the animal was shipped to the pet dealer, where such date is known by the dealer;
- vii. The date or dates on which the animal was examined by a veterinarian licensed to practice in the State of New Jersey, the name and address of such veterinarian, the findings made and the treatment, if any, taken or given to the animal;
- viii. A statement of all vaccinations and inoculations administered to the animal, including the identity and quantity of the vaccine or inoculum administered, the name and address of the person or licensed veterinarian administering the same, and the date of administering the vaccinations and inoculations; and
- ix. A 10-point bold-face type warning in the following form:

WARNING

The animal which you have purchased (check one)
 has has not been previously vaccinated or inoculated. Vaccination or inoculation neither guarantees good health nor assures absolute immunity against disease. Examination by a veterinarian is essential at the earliest possible date to enable your veterinarian to insure the good health of your pet.

2. To fail to maintain a copy of the animal history and health certificate signed by the consumer for a period of one year following the date of sale and/or to fail to permit inspection thereof by an authorized representative of the Division upon two days' notice (exclusive of Saturday and Sunday).

3. To include in the animal history and health certificate any false or misleading statement.

4. To directly or indirectly refer, promote, suggest, recommend or advise that a consumer consult with, use, seek or obtain the services of a licensed veterinarian unless the consumer is provided with the names of not less than three licensed veterinarians of whom only one may be the veterinarian retained by the pet dealer for its purposes.

5. To describe or promote the operation of the business as a "kennel" unless the business operation falls within the definition contained in N.J.A.C. 13:45A-12.1 or the operation of the business as a "kennel" has been authorized by the issuance of a license pursuant to N.J.S.A. 4:19-15.8. In the absence of meeting such criteria, a pet dealer shall be considered to be engaged in the operation of a "pet shop" and shall, where the name for the business operation includes the word "kennel," indicate the following disclaimer in proximate location to the name for the business operation in all promotional or advertising activities:

"This business only engages in the operation of a pet shop."

6. To use or employ a name for the business operation which suggests or implies that such business operation is engaged in or is associated with any organization which registers or certifies the pedigree or lineage of animals and/or to represent, expressly or by implication, approval by or affiliation with such organization, unless the following disclaimer, as appropriate, appears in proximate location to the name for the business operation:

"This business only engages in the operation of a pet shop."

"This business only engages in the operation of a kennel."

7. To state, promise or represent, directly or indirectly, that an animal is registered with an animal pedigree registry organization if such registration has not already been accomplished or that an animal is capable of being so registered, followed by a failure either to effect such registration or provide the consumer with the documents necessary therefor 120 days following the date of sale of such animal, if the animal has not already been returned to the pet dealer. In the event that a pet dealer fails to effect registration or to provide the necessary documents within 120 days following the date of sale, the consumer shall, upon written notice to the pet dealer, be entitled to choose one of the following options:

i. To return the animal and to receive a refund of the purchase price plus sales tax; or

ii. To retain the animal and to receive a partial refund of 75 percent of the purchase price plus sales tax.

8. A pet dealer's failure to comply with the consumer's election pursuant to (a)7 above within 10 days of written notice thereof shall be deemed a separate deceptive practice for purposes of this section.

9. To fail to display conspicuously on the business premises a sign not smaller than 22 inches by 18 inches which clearly states to the public in letters no less than one inch high the following:

KNOW YOUR RIGHTS

The sale of dogs and cats is subject to a regulation of the New Jersey Division of Consumer Affairs. Read your animal history and health certificate, the Statement of New Jersey Law Governing the Sale of Dogs and Cats and your Contract. In the event of a complaint you may contact: Division of Consumer Affairs, Post Office Box 45025, 124 Halsey Street, Newark, New Jersey 07101. (201) 504-6200.

(b) It shall be a deceptive practice within the meaning of this section for a pet dealer to secure or attempt to secure a waiver of any of the provisions contained in (a) above.

Administrative change to (a)9.
 See: 25 N.J.R. 1516(b).
 Amended by R.1995 d.618, effective December 4, 1995.
 See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

13:45A-12.3 Required practices related to the health of animals and fitness for sale and purchase

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 et seq., it shall be a deceptive practice for a pet dealer to sell animals within the State of New Jersey without complying with the following minimum standards relating to the health of animals and fitness for sale and purchase:

1. A pet dealer shall have each animal examined by a veterinarian licensed to practice in the State of New Jersey prior to the sale of the animal. 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 each animal's history and health certificate as required by N.J.A.C. 13:45A-12.2(a)1vii.

2. A pet dealer shall label and identify each cage as to the:

- i. Sex and breed of animal;
- ii. Date and place of birth of each animal; and
- iii. Name and address of the attending licensed New Jersey veterinarian and the date of initial examination.

3. A pet dealer shall be required to quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness or condition until such time as a licensed New Jersey veterinarian determines that such

animal is free from contagion or infection. All animals requiring quarantining shall be placed in a quarantine area separated from the general animal population.

4. A pet dealer shall be permitted to inoculate and vaccinate animals prior to purchase only on the order of a veterinarian licensed to practice in the State of New Jersey. A pet dealer, however, shall be prohibited from representing, directly or indirectly, that he is qualified to engage in or is engaging in, directly or indirectly, the following activities: diagnosing, prognosing, treating, administering, prescribing, operating on, manipulating or applying any apparatus or appliance for disease, pain, deformity, defect, injury, wound or physical condition of animals after purchase for the prevention of, or to test for, the presence of any disease in such animals. 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.

5. A pet dealer shall have any animal which has been examined more than 14 days prior to purchase reexamined by a licensed New Jersey veterinarian for the purpose of disclosing its condition at the time of purchase. Such examination shall take place within 72 hours of delivery of the animal to the consumer unless the consumer waives this right to reexamination in writing. The written waiver shall be in the following form and a copy shall be given to the consumer prior to the signing of any contract or agreement to purchase the animal:

KNOW YOUR RIGHTS

To ensure that healthy animals are sold in this State, New Jersey law requires that a dog or cat be examined by a licensed New Jersey veterinarian prior to its sale by a pet dealer and within 72 hours of the delivery of the dog or cat to a consumer who has purchased the animal where the initial examination took place more than 14 days prior to the date of purchase. A pet dealer need not have the animal reexamined if you, the consumer, decide that you do not want such a reexamination performed.

If you do not want a reexamination performed, please indicate your decision below.

WAIVER OF REEXAMINATION RIGHT

I understand that I have the right to have my animal reexamined within 72 hours of its delivery to me. I do not want to have such a reexamination performed.

 Consumer's Name
 (Print)

 Consumer's Signature

 Date

 Pet Dealer's or Agent's
 Name (Indicate Title or
 Position)
 (Print)

 Pet Dealer's or Agent's
 Signature

 Date

6. If at any time within 14 days following the sale and delivery of an animal to a consumer, a licensed veterinarian certifies such animal to be unfit for purchase due to a non-congenital cause or condition or within six months certifies an animal to be unfit for purchase due to a congenital or hereditary cause or condition, a consumer shall have the right to elect one of the following options:

i. The right to return the animal and receive a refund of the purchase price, including sales tax, plus reimbursement of the veterinary fees incurred prior to the consumer's receipt of the veterinary certification. The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;

ii. The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinary certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal. The pet dealer's liability under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;

iii. 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 incurred prior to the consumer's receipt of the veterinary certification. The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;

iv. In the event of the animal's death within 14 days of its delivery to the consumer, except where death occurs by accident or injury sustained during that period, the right to receive a full refund of the purchase price plus sales tax for the animal, or in exchange an animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees incurred prior to the death of the animal. The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal.

7. The pet dealer shall accept receipt of a veterinary certification of unfitness which has been delivered by the consumer within five days following the consumer's receipt thereof, such certification to contain the following information:

- i. The name of the owner;
- ii. The date or dates of examination;
- iii. The breed, color, sex and age of the animal;
- iv. A statement of the veterinarian's findings;
- v. A statement that the veterinarian certifies the animal to be "unfit for purchase";
- vi. An itemized statement of veterinary fees incurred as of the date of the certification;
- vii. Where the animal is curable, the estimated fee to cure the animal;
- viii. Where the animal has died, a statement setting forth the probable cause of death; and
- ix. The name and address of the certifying veterinarian and the date of the certification.

8. When a consumer presents a veterinary certification of unfitness to the pet dealer, the pet dealer shall confirm the consumer's election in writing. The election shall be in the following form and a copy shall be given to the consumer upon signing:

UNFITNESS OF ANIMAL—ELECTION OF OPTION

I understand that, upon delivery of my veterinarian's certification of unfitness, I have the right to elect one of the following options. I am aware of those options and I understand each of them. I have chosen the following option:

1. Return of my animal and receipt of a refund of the purchase price, including sales tax for the animal, plus reimbursement of the veterinary fees incurred prior to the date I received my veterinarian's certification of unfitness. The reimbursement for veterinarian's fees shall not exceed a dollar amount equal to the purchase price including sales tax of my animal.

2. Retention of my animal and reimbursement for the veterinary fees incurred prior to the date I received my veterinarian's certification of unfitness, plus the future cost to be incurred in curing or attempting to cure my animal. The total reimbursement for veterinarian's fees shall not exceed a dollar amount equal to the purchase price including sales tax for my animal.

3. Return of my animal and receipt of an animal of my choice of equivalent value in exchange plus reimbursement of veterinary fees incurred prior to the date I received my veterinarian's certification of unfitness. The reimbursement for veterinarian's fees shall not exceed a dollar amount equal to the purchase price including sales tax of my animal.

4. DEATH OF ANIMAL ONLY. (check one) Receipt of a full refund of the purchase price, including sales tax for the animal, or in exchange an animal of my choice of equivalent value plus reimbursement of the veterinary fees incurred prior to the death of the animal. The reimbursement for veterinarian's fees shall not exceed a dollar amount equal to the purchase price including sales tax of my animal.

Consumer's Name (Print)	Consumer's Signature
	Date
Pet Dealer's or Agent's Name (Indicate Title or Position) (Print)	Pet Dealer's or Agent's Signature
	Date

9. A pet dealer shall comply with the consumer's election as required by (a)7i through iv above not later than 10 days following receipt of a veterinary certification. In the event that a pet dealer wishes to contest a consumer's election, he shall notify the consumer and the Director of the Division of Consumer Affairs in writing within five days following the receipt of the veterinarian's certification, and he may require the consumer to produce the animal for examination by a veterinarian of the dealer's choice at a mutually convenient time and place. The Director shall, upon receipt of such notice, provide a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, to determine why the option elected by the consumer should not be allowed.

10. A pet dealer shall give the following written notice to a consumer prior to the delivery of the animal. Such notice, signed by both the pet dealer and the consumer, shall be embodied in a separate document and shall state the following in 10 point boldface type:

**KNOW YOUR RIGHTS—A STATEMENT OF
NEW JERSEY LAW GOVERNING THE
SALE OF DOGS AND CATS**

The sale of dogs and cats is subject to a regulation of the New Jersey Division of Consumer Affairs. In the event that a licensed veterinarian certifies your animal to be unfit for purchase within 14 days following receipt of your animal or within six months in the case of a congenital or hereditary cause or condition, you may:

- i. Return your animal and receive a refund of the purchase price including sales tax; or
- ii. Keep your animal and attempt to cure it; or
- iii. Return your animal and receive an animal of your choice of equivalent value.

Veterinary fees limited to the purchase price of the animal, including sales tax, which were related to the condition rendering the animal unfit for sale, must be paid by the dealer in the event that you choose to keep the animal. If you choose to return the animal, veterinary fees incurred prior to receipt of the veterinary certification, limited to the purchase price of the animal, including sales tax, which were related to the condition rendering the animal unfit for sale, must be paid by the dealer.

Further, in the event of your animal's death within this 14-day period, except when death occurs by accident or as a result of injuries sustained after delivery, you may choose to receive either a full refund of the purchase price, plus sales tax, or an animal of equivalent value. In addition, veterinary fees, limited to the purchase price, including sales tax must be paid by the pet dealer.

In order to exercise these rights, you must present to the pet dealer a written veterinary certification that the animal is unfit for purchase and an itemized bill of all veterinary fees incurred prior to your receipt of the certification. Both of these items must be presented no later than five days after you have received the certification of unfitness. In the event that the pet dealer wishes to contest the certification or the bill, he may request a hearing at the Division of Consumer Affairs. If the pet dealer does not contest the matter, he must make the refund or reimbursement not later than ten days after receiving the veterinary certification. Although your dog or cat is required to be examined by a licensed veterinarian prior to sale, symptoms of certain conditions may not appear until after sale. If your dog or cat appears ill, you should have it examined by a licensed veterinarian of your choice at the earliest possible time.

If the pet dealer has promised to register your animal or to provide the necessary papers and fails to do so within the 120 days following the date of sale, you are entitled to return the animal and receive a full refund of the purchase price plus sales tax or to keep the animal and receive a refund of 75 percent of the purchase price plus sales tax. In the event you elect to keep the animal and the dealer provides the 75 percent refund, the dealer is no longer obligated to register the animal or to provide the necessary papers to do so.

11. A pet dealer shall maintain copies of all notices required pursuant to (a)10 above, signed by both the pet dealer and the consumer, for at least one year from the date the notice was signed and shall ensure that such notices are

readily available for inspection, upon request, by an authorized representative of the Division of Consumer Affairs.

12. It shall be a deceptive practice within the meaning of this section for a pet dealer to secure or attempt to secure a waiver of any of the provisions of this section except as specifically authorized under (a)5 above.

Administrative correction.

See: 25 N.J.R. 4600(a).

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Case Notes

Dog buyer sued a dog breeder after the dog died within five days of sale. As the breeder chose not to exercise the right to autopsy the animal after the buyer substantially complied with the requirements of N.J.A.C. 13:45A-12.3(a)7 to provide a veterinary certification that the dog was unfit for sale, the buyer was properly awarded the purchase price of the dog and veterinary expenses. *Maguire v. Mohrmann*, 397 N.J. Super. 103, 935 A.2d 1259, 2007 N.J. Super. LEXIS 362 (App.Div. 2007).

Pet consumer entitled to refund from dealer if veterinarian's certificate shows pet unfit for sale. *Dueben v. Therien*, 97 N.J.A.R.2d (CMA) 150.

SUBCHAPTER 13. POWERS TO BE EXERCISED BY COUNTY AND MUNICIPAL OFFICERS OF CONSUMER AFFAIRS

13:45A-13.1 Statement of general purpose and intent

The within regulations are promulgated pursuant to authority conferred by L.1975 c.376 and are intended to operate as working guidelines for county and municipal consumer protection agencies in the exercise of those powers conferred herein. Any and all powers delegated hereby shall be exercised in strict accordance herewith and with such directives as may from time to time be issued by the Attorney General through the Director of the Division of Consumer Affairs.

13:45A-13.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the New Jersey Consumer Fraud Act L.1960 c.39 (C56:8-1 et seq.) as amended and supplemented.

"Director" means the Director of the Division of Consumer Affairs.

"Person" means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner,

officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof.

13:45A-13.3 General provisions

(a) The powers hereinafter delegated shall be exercised consistent herewith in the name of a county or municipal director of consumer affairs. Such a director shall be established by resolution adopted by a county board of chosen freeholders or by ordinance adopted by the governing body of a municipality. In the event that such ordinance or resolution has been adopted prior hereto, the same shall be deemed valid for the purpose of creating a county or municipal director as required hereby.

(b) The powers delegated herein shall be exercised either by the director of a county office of consumer affairs or by a municipal director of consumer affairs. In the event a county office and a municipal office work on a matter concurrently, the Director shall supervise each in order to insure consistent policies and practices.

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

13:45A-13.4 Qualifications of county or municipal director

(a) A county or municipal director of consumer affairs in order to exercise those powers hereinafter delegated shall:

1. Be established by formal appointment by resolution adopted by the county board of chosen freeholders or by ordinance adopted by the governing body of the municipality;

2. Successfully complete such initial educational and training courses as may be established by the director and such supplemental courses as may from time to time be prescribed;

3. Require that all staff employees or representatives dealing with the investigation or mediation of consumer complaints successfully complete such educational and training courses as may be established by the director. In the event that such staff employees or representatives shall fail to successfully complete such courses or shall be employed prior to the giving of such course, such employees or representatives may continue in such employment under the direct supervision and control of an individual who has successfully completed the course;

4. File such reports with the Division of Consumer Affairs as may be required by the director.

Amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).