

# PROPOSED RULEMAKING

## OFFICE OF ATTORNEY GENERAL

### [37 PA. CODE CH. 309] Dog Purchaser Protection

The Office of Attorney General (OAG) proposes to add a new Chapter 309 (relating to dog purchaser protection), to read as set forth in Annex A.

#### A. Effective Date

These proposed regulations will go into effect upon publication in the *Pennsylvania Bulletin* as final rule-making.

#### B. Contact Person

The contact person for these proposed regulations is Douglas P. Yauger, Chief Deputy Attorney General, Bureau of Consumer Protection, 14th Floor, Strawberry Square, Harrisburg, PA 17120, (717) 787-9707.

#### C. Statutory Authority

These proposed regulations are made under the authority of section 9.3(g)(1) of the Unfair Trade Practices and Consumer Protection Law (act) (73 P. S. § 201-9.3(g)(1)).

#### D. Purpose of the Rulemaking

These proposed regulations implement section 9.3(g)(1) of the act which requires the Attorney General to promulgate regulations specifying the information to be contained in the notice to prospective dog purchasers which must be conspicuously posted at the seller's place of business.

#### E. Benefits, Costs and Compliance

1. *Benefits*—The citizens of this Commonwealth will benefit from these proposed regulations because it protects purchasers of dogs from unfair trade practices of dog sellers.

2. *Compliance Costs*—Affected sellers who advertise or represent that a dog is registered or registerable are required to post a public notice as set forth in § 309.2 (relating to notice to be posted), at their place of business. Costs of posting the notice are negligible and are to be borne by the seller.

#### F. Paperwork Requirements

The regulatory provisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions. The private sector will have minimal paperwork in the form of posting of a public notice.

#### G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 7, 1998, the OAG submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Judiciary Committees. In addition to submitting the proposed regulations, the OAG has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the OAG. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulations, it will notify the OAG within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the OAG, the Governor and the General Assembly before publication of the regulations.

#### H. Sunset Date

The information required to be contained in the form of notice as set forth in § 309.2 is fixed by statute. Therefore, no sunset date is proposed for these regulations.

#### I. Public Comments

Written comments may be submitted by interested persons to the Bureau of Consumer Protection, 14th Floor, Strawberry Square, Harrisburg, PA 17120. Comments submitted by facsimile will not be accepted. Comments, suggestions or objections regarding the proposed regulations must be received by the OAG within 30 days after the publication in the *Pennsylvania Bulletin*.

Comments may also be submitted by electronic mail at consumers@attorneygeneral.gov. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the OAG within 30 days after publication in the *Pennsylvania Bulletin*.

D. MICHAEL FISHER,  
*Attorney General*

**Fiscal Note:** 59-6. No fiscal impact; (8) recommends adoption.

### Annex A TITLE 37. LAW

#### PART V. BUREAU OF CONSUMER PROTECTION CHAPTER 309. DOG PURCHASER PROTECTION

Sec.	
309.1.	Definitions.
309.2.	Notice to be posted.

#### § 309.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings:

*Kennel*—A breeding kennel as defined in section 102 of the Dog Law (3 P. S. § 459-102) or a dealer licensed by the United States Department of Agriculture under section 4 of the Animal Welfare Act (7 U.S.C.A. § 2134).

*Pet shop*—A pet shop-kennel as defined in section 102 of the Dog Law.

*Seller*—A kennel, pet shop operator or other individual who sells dogs to the public and who owns or operates a kennel or pet shop licensed by the Department of Agriculture or the United States Department of Agriculture. The term does not include nonprofit kennels as defined under section 102 of the Dog Law.

#### § 309.2. Notice to be posted.

A seller to whom this chapter applies shall keep posted at all times the following notice, in the following form at the seller's place of business in a place easily visible to any purchaser:

#### Public Notice

This notice shall be conspicuously posted in the place of business of persons subject to this section as enforced by the Office of Attorney General of Pennsylvania. A written

notice setting forth the rights provided under Section 9.3 of the Unfair Trade Practices and Consumer Protection Law shall be provided to you at the time of the sale. A civil penalty of up to \$1,000 shall be levied for each violation in addition to any other penalty under this act.

- A seller shall provide you with a health record for the dog at the time of sale. The health record shall include the dog's breed, date of birth, sex, color and markings, vaccinations with who administered them, any parasitical medicine administered to the dog with the date, dosage and type stated, and a statement by the seller that all the information provided is true with the name, address and signature of the seller.
- The seller shall provide a health certificate issued by a veterinarian within 21 days prior to the date of sale OR a guarantee of good health issued and signed by the seller. The health certificate shall certify the dog is free from illness and defects, and does not appear clinically ill from parasitic infestations. The health certificate shall include the name, address, signature of veterinarian and date of examination. The guarantee of good health is issued by the seller, dated and signed by the seller and you. The guarantee of good health shall state the dog is free of disease, defects and does not appear to be clinically ill from parasitic infestation.
- If the dog dies or is determined by a veterinarian to have a contagious, infectious, parasitic illness or becomes clinically ill within 10 days, you may exercise one of the following options: (1) Return the dog for a complete refund; (2) Return the dog for a replacement dog of equal value; OR (3) Retain the dog and receive reimbursement for reasonable veterinary fees, not exceeding the purchase price.
- If the dog has or dies from a congenital or hereditary defect or is certified through physical examination to

have a defect which adversely affects the animal within 30 days, you may exercise one of the following options: (1) Return the dog for a complete refund; (2) Return the dog for a replacement dog of equal value; OR (3) Retain the dog and receive reimbursement for reasonable veterinary fees, not exceeding the purchase price.

- Failure to notify the seller within 2 business days of veterinarian's certification of illness will result in forfeiture of rights, unless a health certificate issued by a veterinarian was provided by the seller and it disclosed that health problem.
- Refunds or reimbursements shall be made no later than 14 days after the seller receives the Veterinarian Certification. Veterinarian Certification shall be presented to the seller not later than 5 days after you receive it.
- Registerable Dogs: If the seller does not provide within 120 days all documentation to effect registration, you may exercise one of the following options: (1) Return the dog and receive a full refund of the purchase price; OR (2) Retain the dog and receive a 50% refund of the purchase price.
- If registerable, the seller shall provide at the time of sale: the breeder's name and address, the name and registration number of the dam and sire, and the name and address of the pedigree registry organization where the dam and sire are registered.

ATTORNEY GENERAL, MIKE FISHER

Consumer Protection Hotline 1-800-441-2555

WWW.ATTORNEYGENERAL.GOV

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