

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 111  
Economic Matters

(Delegate Luedtke, *et al.*)

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

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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 nonprofit, governmental, and business entities. A violation of the bill is a misdemeanor and subject to a maximum penalty of a \$1,000 fine.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenue due to the bill's penalty provision. Any increase in District Court caseloads can be handled with existing resources.

**Local Effect:** Any increase in circuit court caseloads can be handled with existing resources.

**Small Business Effect:** Meaningful.

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**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.

In addition to any other action otherwise authorized by law, a person may bring an action for damages incurred as a result of a violation of the bill. If the person is awarded damages, the person may seek, and the court may award, reasonable attorney's fees; however, if a court finds that an action was brought in bad faith or without substantial justification, the court may award the defendant reasonable attorney's fees.

**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*

A person must obtain a kennel license if (1) the person owns or has custody of 15 or more unspayed female dogs older than six months of age; (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. They 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 the Maryland Consumer Protection Act, subject to the Act'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.

**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. As of June 2014, approximately 21 states had enacted laws that provide specific recourse for the purchaser of a sick or diseased animal from a retail pet store.

### *Circuit and District Court*

Plaintiffs may elect to file cases involving between \$5,000 and \$30,000 in a circuit court, but because the District Court is quicker and cheaper, plaintiffs often prefer to file smaller cases there if possible. Cases involving up to \$5,000 *must* be filed in the District Court, and cases involving more than \$30,000 *must* be filed in circuit court. However, if the amount in controversy exceeds \$15,000, any party to the case has the right to demand a jury trial, in which case the matter should be filed in or transferred to circuit court.

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

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## **Additional Information**

**Prior Introductions:** HB 403 of 2015, a similar bill, received an unfavorable report from the House Economic Matters Committee.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), American Veterinary Medical Association, Department of Legislative Services

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