

Puppy Lemon Laws

By Lisa M. Curry, Esq.

Over the past few years, the pet-store industry has been attacked for what is perceived as a practice of selling unhealthy puppies from disreputable sources such as puppy mills and breeding farms. To help address this problem, an increasing number of states have gone beyond the general consumer protection laws and enacted laws commonly called “puppy lemon laws.” These laws are designed to force sellers to ensure some level of health of the puppies they sell, largely by providing consumers with remedies when their new puppy turns out to be sick. At present, 19 states have such laws.

This column provides only a brief overview designed to alert you, the responsible dog breeder, to the type of issues that are covered by puppy lemon laws. For specifics about your state, you should consult a private attorney knowledgeable in dog law or your state’s Attorney General.

Who is covered

Puppy lemon laws don’t apply just to pet stores: many of them also apply to private breeders. Even the most ethical, careful breeders must be aware of these laws. By and large, the requirements of the law refer to a minimum standard of care far below what conscientious breeders provide. But in some states the laws require specific actions that the breeder may not otherwise think necessary. Also, even the best breeders may unknowingly produce a puppy that becomes ill after sale, triggering application of the law.

Some states’ laws make it hard to tell exactly *who* is covered. The California law applies to a person that has sold or given away 20 dogs or whelped more than three litters in the past 12 months. South Carolina’s law is a bit more complicated: it applies to anyone “engaged in the business of breeding companion animals for profit,” among others. The Pennsylvania law applies to anyone who has a kennel, including a kennel attached to their residence, which houses dogs for various purposes including showing. Does that apply to a breeder who raises show dogs in her house? It seems it might, but the law is unclear. Consulting an attorney knowledgeable in dog law may be the best way to determine if your state’s laws apply to you.

Enforcement

The Attorney General (AG) of each state enforces that state’s consumer protection laws including puppy lemon laws. This is significant: the AG provides aggrieved buyers a *huge* shortcut around the arduous, expensive, and lengthy process of private litigation. An AG accepts claims directly from members of the public, charges no filing fee (unlike a court filing), and prosecutes the claim, obviating the need for buyers to hire a private attorney. The AG’s office also has the ability to easily join claims from different buyers in one proceeding.

This means that a breeder could face a number of charges at one time, for multiple sales – whereas if the parties had to use the civil court system to file their claims, such “teaming up” would rarely occur. Indeed, in a recent Florida case the AG gathered information from no fewer than 40 aggrieved persons and brought dozens of counts against a dealer who had violated Florida’s puppy lemon law; the case settled when the seller agreed to pay tens of thousands of dollars in fines.

Puppy lemon law violations can result in carry financial consequences as well as misdemeanor charges and other penalties. For example, violation of the New Hampshire, Virginia or Florida puppy lemon law is a misdemeanor, punishable by fines. In California, the penalties are only civil (not misdemeanor or criminal), but fines can range up to \$10,000 and a seller could be prohibited from selling dogs for a period of time.

Unlike puppy buyers, breeders receive no assistance from the AG and are well advised to hire a private attorney if they are the subject of prosecution under a puppy lemon law. Breeders also should not count on the AG for help in interpreting the law and determining whether it applies to that breeder’s operation: most Ags will suggest that you contact a private attorney for such guidance.

Health Certificates

Most reputable breeders provide some guarantee of their puppies’ health, but some states require even more. In New Hampshire a guarantee from the breeder is not enough: breeders must provide an official health certificate from a licensed veterinarian within 14 days prior to the sale and provide it to the buyer. In Pennsylvania, the breeder must provide the buyer with the puppy’s health record, and either a vet’s health certificate issued within 21 days prior to sale, or a guarantee of good health issued and signed by the seller. In Arizona, sellers must provide a vet’s health certificate as well as a copy of the Arizona puppy lemon law.

In most states with these laws, if the puppy becomes ill and the buyer seeks a refund or replacement they must obtain a vet’s certificate within a short time after the sale. This is what many reputable breeders require anyway. But breeders may not be aware of the remedies that their state’s laws can require, or the time frame in which a buyer can make a claim.

In Pennsylvania, if the puppy becomes ill (as certified by vet) or dies within 10 days from contagious or parasitic illness, the purchaser can return the dog for a full refund or for replacement, or keep the dog and get reimbursement of veterinary bills up to the full purchase price. The time frame for a vet’s certificate expands to 30 days for a congenital defect. In New Jersey, an ill puppy can be returned for refund or exchange, or the buyer can keep it and obtain reimbursement for vet bills up to twice the purchase price. And in California, vet bills must be reimbursed up to 150 percent of the purchase price, and the time frame for remedies is even greater: if the puppy manifests a congenital condition diagnosed by a vet within *one year* of purchase, the buyer may obtain refund or replacement as well as reimbursement for vet bills.

Registration papers

Registration is obviously not related to the puppy's health, but since disreputable sellers have been known to promise registration papers and then fail to produce them, several states' lemon laws address this topic. The AKC also has seen a rise in recent years in complaints about sellers' failure to provide registration papers. There are now approximately 34 other breed registries besides the AKC, which only compounds the problem when there is confusion about which registry is supposed to document the puppy's pedigree records.

A reputable breeder can be caught off guard by this requirement and the penalties. Innocent mistakes such as an inadvertent signature in the wrong place, losing papers in the mail between co-owners, and other mishaps can cause a delay in getting registration papers to the new owner. In New Jersey, Pennsylvania and Virginia, registration papers must be provided to buyers within 120 days of sale, in most cases. If not, the buyer is entitled to keep the dog and obtain a 50% refund of the purchase price, or return the puppy for a full refund.

One final note: more and more states continue to propose laws for protection of consumers as well as the dogs being sold. Even states that already have lemon laws are exploring the possibility of increasing requirements, such as licensure of breeders, and regulating many other aspects of the breeding and sale of puppies. In some cases, the proposed laws would be draconian: the recently defeated California AB 1634 is only one example. Reputable breeders should educate themselves, remain vigilant about proposed legislation in their states, and let their government representatives know when they think a proposal goes too far.

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