

HEALTH AND SAFETY CODE

SECTION 122045-122110

122045. (a) This article shall be known and may be cited as the Polanco-Lockyer Pet Breeder Warranty Act.

(b) Every breeder of dogs shall comply with this article. As used in this article, "dog breeder," or "breeder" means a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

(c) For the purposes of this article, "purchaser" means any person who purchases a dog from a breeder.

(d) This article shall not apply to pet dealers regulated under Article 2 (commencing with Section 122125), or to publicly operated pounds, humane societies, or privately operated rescue organizations.

122050. (a) Every breeder of dogs shall deliver to each purchaser of a dog a written disclosure containing all of the following:

(1) The breeder's name and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the federal dealer identification number shall also be indicated.

(2) The date of the dog's birth and the date the breeder received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the breeder.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:

(A) A statement, signed by the breeder at the time of sale, that:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or that is likely to affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the

disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(b) The written disclosure made pursuant to this section shall be signed by both the breeder certifying the accuracy of the statement, and by the purchaser of the dog acknowledging receipt of the statement.

(c) In addition, all medical information required to be disclosed pursuant to this section shall be made orally by the breeder to the purchaser.

(d) For purposes of this article, a disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, shall be one that is apparent at the time of sale or that should have been known by the breeder from the history of veterinary treatment disclosed pursuant to this section.

(e) For the purpose of this article, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would otherwise interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner.

(f) For the purposes of this article, "clinically ill" means an illness that is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

122055. A breeder shall maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. The record shall also include all of the information that the breeder is required to disclose pursuant to Section 122050.

122060. Except as provided for in paragraph (6) of subdivision (a) of Section 122050, no breeder shall knowingly sell a dog that is diseased, ill or has a condition, any one of which that requires hospitalization or nonelective surgical procedures. In lieu of the civil penalties imposed pursuant to Section 122110, any breeder who violates this section shall be subject to a civil penalty of up to one thousand dollars (\$1,000), or shall be prohibited from selling dogs for up to 30 days, or both. If there is a second offense, the breeder shall be subject to a civil penalty of up to two thousand five hundred dollars (\$2,500), or a prohibition from selling dogs for up to 90 days, or both. For a third offense, the breeder shall be subject to a civil penalty of up to five thousand dollars (\$5,000), or a prohibition from selling dogs for up to six months, or both. For a fourth and subsequent offense, the breeder shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) or a prohibition from selling dogs for up to one year, or both. For the purpose of this section, a violation that occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the breeder from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted

by the district attorney for the county in which the violation occurred, or the city attorney for the city in that the violation occurred, in the appropriate court.

122065. It shall be unlawful for a breeder to fail to do any of the following:

(a) Maintain facilities where the dogs are kept in a sanitary condition.

(b) Provide dogs with adequate nutrition and potable water.

(c) Provide adequate space appropriate to the age, size, weight, and breed of dog. For purposes of this subdivision, "adequate space" means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(d) Provide dogs with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(e) Provide dogs with adequate socialization and exercise. For the purpose of this article, "socialization" means physical contact with other dogs and with human beings.

(f) Wash hands before and after handling each infectious or contagious dog.

(g) Provide veterinary care without delay when necessary.

122065.5. It shall be unlawful for a breeder to primarily house a dog on wire flooring.

122070. (a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a breeder, the dog has become ill due to any illness or disease that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition that adversely affects the health of the dog, or that requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies that the purchaser elects:

(1) Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.

(2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(3) Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.

(b) If the dog has died, regardless of the date of death of the

dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaser's choice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

122075. (a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 122070, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 122070, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

122080. To obtain the remedies provided for in Section 122070, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the breeder as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the breeder, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, that existed on or before delivery of the dog to the purchaser, and that adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinarian's statement as soon as possible but no later than five days of receipt of the veterinarian's statement.

(c) Provide the breeder, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness that existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required.

122085. No refund, replacement, or reimbursement of veterinary fees shall be made under Section 122070 if any of the following conditions exist:

(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinarian's fee for the diagnosis would exceed the purchase price of the dog, plus sales tax.

(c) A veterinarian's statement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 122050 that disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this subdivision shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed.

122090. (a) The veterinarian's statement pursuant to Section 122070 shall contain all of the following information:

(1) The purchaser's name and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 122050 that renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinarian's statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for in Section 122070 shall be paid, unless contested, by the breeder to the purchaser not later than 10 business days following receipt of the veterinarian's statement required by Section 122070 or, where applicable, not later than 10 business days after the date on that the dog is returned to the breeder.

122095. (a) In the event that a breeder wishes to contest a demand for any of the remedies specified in Section 122070, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.

(b) If the purchaser and the breeder are unable to reach an agreement within 10 business days following receipt by the breeder of the veterinarian's statement pursuant to Section 122070, or

following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorney's fees if the other party acted in bad faith in seeking or denying the requested remedy.

122100. Every breeder that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

"A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF
DOGS

The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease that existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a dog breeder, or states that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the dog breeder as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the dog breeder a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have

received the written statement from the veterinarian.

In the event that the dog breeder wishes to contest the statement or the veterinarian's bill, the dog breeder may request that you produce the dog for examination by a licensed veterinarian of the dog breeder's choice. The dog breeder shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the dog breeder if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the dog breeder's veterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorney's fees. If the dog breeder does not contest the matter, the dog breeder must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect dog breeders from abuse. If you have questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The dog breeder shall permit persons to review the written notice upon request.

NOTE: This disclosure of rights is a summary of California law. The actual statutes are contained in Article 1 (commencing with Section 122045) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code."

122105. Nothing in this article shall in any way limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this article in any way limit the breeder and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this article. However, any agreement or contract by a purchaser to waive any rights under this article shall be null and void and shall be unenforceable.

122110. (a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122060 shall be subject to civil penalty of up to one thousand dollars (\$1,000) per violation. An action may be prosecuted in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred.

(b) Nothing in this article limits or authorizes any act or omission that violates Section 597 1 of the Penal Code.
