

Senate File 2177 - Introduced

SENATE FILE 2177

BY GUTH

A BILL FOR

1 An Act relating to persons selling dogs or cats to persons
2 for their own use and enjoyment, by providing for express
3 warranties covering the condition of the dogs or cats, and
4 including penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.2, Code 2016, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 22A. "*Qualified purchaser*" means a person,
4 other than a commercial establishment, who is transferred
5 ownership and possession of a dog or cat from another person
6 as part of a sale or exchange, if the transfer is for the
7 person's personal use and enjoyment and not for further sale
8 or exchange.

9 NEW SUBSECTION. 24B. "*Seller*" means a commercial
10 establishment or other person who transfers ownership and
11 possession of a dog or cat to another person as part of a sale
12 or exchange.

13 Sec. 2. Section 162.12A, Code 2016, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 1A. A seller who does not honor an express
16 warranty as required in section 162.17 is subject to a civil
17 penalty of not more than five hundred dollars and each day that
18 the seller fails to honor that warranty constitutes a separate
19 offense.

20 Sec. 3. NEW SECTION. 162.17 **Express warranty.**

21 1. A seller who sells or exchanges a dog or cat to a
22 qualified purchaser shall furnish the qualified purchaser with
23 an express warranty in written form covering damages caused by
24 the condition of the dog or cat as provided in this section.
25 The form of the express warranty shall be prescribed by the
26 department.

27 2. If a seller fails to furnish a written express warranty
28 to a qualified purchaser, the express warranty shall apply as
29 if the seller had furnished the written express warranty to the
30 qualified purchaser.

31 3. The express warranty shall expire twenty-one days from
32 the date that the qualified purchaser is transferred possession
33 of the dog or cat from the seller.

34 4. The express warranty shall cover all of the following
35 conditions:

1 *a.* An illness or disease that arose prior to the transfer
2 of possession of the dog or cat and that adversely affects the
3 health of the dog or cat, including the presence of symptoms
4 of a contagious or infectious disease or an obvious sign of
5 severe parasitism that is extreme enough to influence the
6 general health of the dog or cat. An illness or disease does
7 not include the presence of fleas or ticks.

8 *b.* A congenital or hereditary condition that adversely
9 affects the health of the dog or cat, if the condition results
10 in any of the following:

11 (1) The hospitalization of the dog or cat or a nonelective
12 surgical procedure performed on the dog or cat, as recommended
13 by a veterinarian.

14 (2) The death of the dog or cat.

15 5. A qualified purchaser who makes a claim on an express
16 warranty shall demand compensation from the seller in any of
17 the following forms:

18 *a.* A return of the consideration paid by the qualified
19 purchaser to the seller, including a refund of the sales price
20 paid to the seller, upon the qualified purchaser's return of
21 the live dog or cat to the seller or proof provided by the
22 qualified purchaser to the seller that the dog or cat died as a
23 result of a condition covered by the express warranty.

24 *b.* An exchange of the dog or cat for another dog or cat of
25 comparable value as agreed to by the qualified purchaser and
26 the seller.

27 *c.* A reimbursement of reasonable veterinary fees paid by the
28 qualified purchaser to a licensed veterinarian for diagnosing
29 and treating the dog or cat during the twenty-one-day period.
30 The reimbursement shall not exceed the amount of consideration
31 paid by the qualified purchaser to the seller for the dog or
32 cat.

33 6. An express warranty shall not cover the condition of a
34 dog or cat that arises after the seller transfers possession of
35 the dog or cat to the qualified purchaser, including but not

1 limited to any of the following:

2 *a.* An illness or disease afflicting the dog or cat.

3 *b.* An injury sustained by the dog or cat.

4 *c.* Any condition that could be reasonably attributable to
5 neglect, including a failure to provide the dog or cat with the
6 same standard of care applicable to commercial establishments
7 under section 162.10A, subsection 1.

8 *d.* Any condition that could be reasonably attributable to
9 the dog or cat's mistreatment, including but not limited to any
10 mistreatment that could classify the dog or cat as a threatened
11 animal under chapter 717B.

12 7. Any waiver of a right by a qualified purchaser under this
13 section is void, unless the qualified purchaser and seller sign
14 a written statement waiving the express warranty. The written
15 statement must disclose any known illness or disease afflicting
16 the dog or cat and any congenital or hereditary condition that
17 adversely affects the dog or cat. Upon the signing of the
18 statement by the parties, the seller shall not be subject to a
19 claim as described in subsection 5.

20 8. A commercial establishment that transfers a dog or cat
21 must post a notice at a conspicuous public location in the
22 commercial establishment's principal place of business. The
23 notice must briefly explain the terms and conditions of the
24 warranty as required by the department.

25 9. This section shall not limit rights or remedies available
26 to a qualified purchaser under any other law. In addition to
27 pursuing any other remedy, a qualified purchaser who is not
28 compensated under this section may bring an action in district
29 court. The court shall award a qualified purchaser who
30 prevails in such an action the amount of any pecuniary loss,
31 together with costs and reasonable attorney fees which shall
32 be taxed as part of the costs of the action, and any equitable
33 relief that the court determines is appropriate.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 BILL'S PROVISIONS. This bill requires that when a person
3 (seller) transfers possession and ownership of a dog or cat,
4 by sale or exchange, to another person for that person's own
5 personal use and enjoyment (qualified purchaser), the seller
6 must furnish the qualified purchaser with an express warranty
7 in written form covering damages caused by the condition of
8 the dog or cat at the time of sale or exchange. The express
9 warranty applies regardless of whether the seller provides the
10 qualified purchaser with a specific written form required to be
11 promulgated by the department. The express warranty expires
12 21 days from the date that the qualified purchaser takes
13 possession of the dog or cat. The express warranty covers
14 illness, disease, or a congenital or hereditary condition. The
15 express warranty allows the qualified purchaser to make a claim
16 for compensation in one of three forms: (1) return of the paid
17 consideration (refund), (2) exchange for another dog or cat, or
18 (3) reimbursement of veterinarian fees. However, the express
19 warranty does not cover a condition that occurred after the
20 seller transfers possession of the dog or cat to the qualified
21 purchaser. The parties may execute a statement waiving the
22 express warranty, so long as the statement discloses any known
23 illness or disease afflicting the dog or cat and any congenital
24 or hereditary condition that adversely affects the dog or cat.

25 The bill requires a commercial establishment to post a
26 notice briefly explaining the express warranty in a conspicuous
27 place.

28 The bill does not limit the rights or remedies provided to
29 qualified purchasers under other law. A qualified purchaser
30 who does not receive compensation from the seller may bring an
31 action in court to recover pecuniary damages plus court costs
32 and reasonable attorney fees, which are to be taxed as part of
33 the costs of the action. In addition, the court may grant any
34 equitable relief that the court determines is appropriate.

35 CIVIL PENALTY. A seller violating the bill's provisions is

1 subject to a civil penalty of not more than \$500 and each day
2 that the seller fails to honor an express warranty constitutes
3 a separate offense.

4 BACKGROUND. Commercial establishments that are involved in
5 the sale or exchange of dogs and cats include animal shelters
6 and pounds which are required to obtain a certificate of
7 registration; pet shops which are required to obtain a state
8 license; and commercial breeders which are required to obtain
9 a state license or a permit if licensed by the United States
10 department of agriculture (USDA).