SYNOPSIS
Prohibits sight-unseen sale of cats and dogs; requires pet shops to sell cats and dogs only from specified sources; repeals “Pet Purchase Protection Act.”

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning the sale of cats and dogs, amending and
repealing various sections of statutory law, and supplementing
P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. (New section) The Legislature finds and declares that a
significant number of cats and dogs sold at pet shops, over the
Internet, and through brokers come from large-scale, commercial
breeding facilities where the health and welfare of the animals are
not adequately provided for, commonly referred to as “kitten mills”
and “puppy mills”; that, according to the Humane Society of the
United States, an estimated 10,000 puppy mills produce more than
2,400,000 puppies each year in the United States; that the
documented abuses endemic to kitten mills and puppy mills include
over-breeding, inbreeding, minimal to non-existent veterinary care,
and lack of adequate, nutritious food, water, shelter, socialization,
space, and exercise; that the inhumane conditions in kitten mill and
puppy mill facilities often lead to health and behavioral issues in the
animals bred in those facilities; that, due to a lack of education
about the kitten mill and puppy mill issue and, in some cases,
misleading tactics of the seller, many consumers are unaware of
these health and behavioral issues when purchasing a cat or dog;
that the problem is exacerbated by consumers buying cats and dogs
they have never seen, otherwise known as “sight-unseen
purchases”; that, often, a consumer has not seen the conditions in
which the cat or dog was born and raised, and the health and
behavioral issues caused by these conditions may not present
themselves until sometime after the purchase of the cat or dog; and
that these health and behavioral issues can impose exorbitant
financial and emotional costs on the consumer purchasing the cat or
dog.

In addition, the Legislature finds and declares that sight-unseen
dog sales have increased dramatically in recent years due, in
particular, to the Internet providing a new platform through which
to sell dogs; that the United States Department of Agriculture
(USDA) recently estimated that there are between 8,400 and 15,000
breeders selling dogs over the Internet; that breeders selling dogs
over the Internet have largely been unregulated and, according to a
2010 USDA study, 81 percent of them are unlicensed; that when the
USDA began regulating Internet sellers and other sight-unseen sales
in 2013, it noted that there was a parallel increase in consumer
complaints related to the inhumane treatment of animals and the
dramatic rise in sight-unseen sales; that, despite the recently

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
established requirement that people engaging in sight-unseen sales
of cats and dogs obtain a USDA license, the majority of these
people remain unlicensed and unregulated and only a few hundred
new licenses have been issued since the rule took effect in 2013;
that, even if all breeders selling cats or dogs sight-unseen were
licensed and regulated by the USDA, this alone would not ensure
the humane treatment and health of the animals because of under-
enforcement of USDA requirements and lax federal regulatory
standards of care; that a 2010 audit by the USDA Office of the
Inspector General found that the agency’s enforcement of the
federal Animal Welfare Act was ineffective in ensuring compliance
with the minimal standards of care governing the humane treatment
of animals in these facilities; and that pet shops remain unregulated
by the USDA and current federal and State regulations do not
properly address the sale of kitten mill cats or puppy mill dogs in
New Jersey pet shops.

The Legislature further finds and declares that New Jersey
consumers routinely report purchasing sick dogs from pet shops;
that hundreds of the dogs sold annually in New Jersey pet shops
come from large-scale commercial breeders with significant and
multiple USDA violations; that current federal Animal Welfare Act
regulations promulgated by the USDA are inadequate to protect the
health and welfare of breeding cats and their kittens or breeding
dogs and their puppies; that, due in large part to overpopulation,
every year approximately 21,000 cats and dogs are euthanized in
New Jersey; that restricting the retail sale of kittens and puppies at
pet shops to only those that are sourced from shelters, pounds, or
rescue organizations is likely to increase demand for animals from
these facilities; that this increased demand would decrease the
number of animals euthanized and reduce the burden and costs for
shelters, pounds, and organizations providing care and euthanasia
for these animals as well as any costs to the State and its taxpayers
for these services; that across the country, thousands of independent
pet shops and large chains operate profitably with a business model
focused on the sale of pet services and supplies and not on the sale
of cats and dogs; that many of these shops collaborate with local
animal shelters and rescue organizations to offer space and support
for showcasing adoptable homeless pets on their premises; that the
regulation of cat and dog sales as proposed in this act would not
affect a consumer’s ability to obtain the consumer’s choice of a cat
or dog directly from a breed-specific rescue organization or a
shelter or pound, or from a breeder where the consumer can directly
see the conditions in which the cats or dogs are bred or, at a
minimum, can confer directly with the breeder concerning those
conditions.

The Legislature therefore determines that it is in the best
interests of the State and its citizens to reduce costs to the State and
its taxpayers, including the financial and emotional costs inflicted
on the people who own and care for cats and dogs from kitten mills
or puppy mills; promote community awareness of animal welfare;
and foster a more humane environment in the State by adopting
reasonable laws, policies, and regulations to restrict the sources of
cats and dogs sold by pet shops and prohibit sight-unseen sales of
cats and dogs.

2. (New section) As used in P.L. , c. (C. ) (pending
before the Legislature as this bill):

“Animal rescue organization” means an animal rescue
organization, as defined in section 1 of P.L.1941, c.151 (C. 4:19-
15.1), that is also a tax exempt organization under paragraph (3) of
subsection (c) of section 501 of the federal Internal Revenue Code
(26 U.S.C. s.501), or any subsequent corresponding sections of the
federal Internal Revenue Code, as from time to time amended.

“Breeder” means a person, firm, corporation, or organization
engaged in the business of breeding cats or dogs.

“Broker” means a person, firm, corporation, or organization who
sells a cat or dog to a pet shop, regardless of whether the broker is
also the breeder of the cat or dog.

“Consumer” means a person purchasing a cat or dog not for the
purpose of resale.

“Face-to-face transaction” means a sale, offer for sale, transfer,
exchange, barter, or other transaction at which the breeder,
consumer, and the cat or dog involved in the sale are all physically
present in the same location at the time of the transaction. A “face-
to-face transaction” shall not include any transaction conducted by
mail order, the Internet, telephone, at a pet shop, through a broker,
or any other anonymous transaction method in which the consumer
is not in the physical presence of the breeder and the cat or dog at
the time of the transaction.

“Pet shop” means a pet shop as defined in section 1 of P.L.1941,
c.151 (C.4:19-15.1).

“Pound” means a pound, as defined in section 1 of P.L.1941,
c.151 (C.4:19-15.1), that is maintained by or under contract with
any state, county, or municipality.

“Shelter” means a shelter, as defined in section 1 of P.L.1941, c.
151 (C.4:19-15.1), whose primary mission and practice is the
placement of abandoned, unwanted, neglected or abused animals,
and that is also a tax exempt organization under paragraph (3) of
subsection (c) of section 501 of the federal Internal Revenue Code
(26 U.S.C. s.501), or any subsequent corresponding sections of the
federal Internal Revenue Code, as from time to time amended.

3. (New section) Without limiting the prosecution of any other
practices which may be unlawful pursuant to P.L.1960, c.39
(C.56:8-1 et seq.) or any other law, it shall be an unlawful practice
and a violation of P.L.1960, c.39 (C.56:8.1 et seq.) for any person
to sell a cat or dog to any consumer in the State in violation of the provisions and requirements of sections 4 and 5 of P.L. 1999, c. (pending before the Legislature as this bill).

4. (New section) a. No person shall sell, offer for sale, transfer, exchange, or barter a cat or dog, or otherwise engage in a transaction concerning a cat or dog, unless the transaction is a face-to-face transaction. This subsection shall apply to transactions between a breeder or other seller and a consumer who are both in the State, breeder or other seller in the State and a consumer in another state, and breeder or other seller in another state and a consumer in the State.

b. The provisions of subsection a. of this section shall not apply to:

(1) any transfer, regardless of payment or compensation, of a cat or dog by, or to, a shelter, pound, or animal rescue organization;
(2) the sale, transfer, exchange, or barter of a cat or dog by a pet shop that the pet shop has obtained from, or displays in cooperation with, a shelter, a pound, or animal rescue organization; and
(3) the transfer of a cat or dog from the home of an individual pet owner who is not a breeder or broker to the home of another person who is not a breeder or broker, without payment or compensation of any kind, for the purpose of being a household pet and not for resale.

5. (New section) a. No pet shop may offer a cat or dog for sale, or obtain a cat or dog for the purpose of sale, unless the cat or dog has been obtained, with or without payment or compensation of any kind, from a shelter, pound, kennel operating as a shelter or pound, or an animal rescue organization.

b. No pet shop may make any cat or dog available for experimentation. An owner or operator of a pet shop who violates this provision shall be guilty of a crime of the fourth degree, in addition to being liable for any penalties that may be assessed pursuant to section 6 of P.L. 1999, c. (pending before the Legislature as this bill).

6. (New section) In addition to any other penalties that may be imposed pursuant to P.L.1960, c.39 (C.56:8-1 et seq.), P.L.1941, c.151 (C.4:19-15.1 et seq.), or Title 2C of the New Jersey Statutes, any person who violates section 4 or 5 of P.L. 1999, c. (pending before the Legislature as this bill) shall be subject to a fine of $500 for each violation, to be collected by the Division of Consumer Affairs in the Department of Law and Public Safety in a civil action by a summary proceeding under the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.).
7. (New section) Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be construed to limit or restrict any municipality, county, local health agency, or municipal or county board of health from enacting or enforcing, or to interfere with the implementation of, or otherwise invalidate, any local law, ordinance, resolution, rule, or regulation that places additional obligations or restrictions on pet shops or pet shop sales.

8. (New section) The Director of the Division of Consumer Affairs may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations that the director deems necessary to implement P.L. , c. (C. ) (pending before the Legislature as this bill).

9. Section 8 of P.L.1941, c.151 (C.4:19-15.8) is amended to read as follows:

8. a. Any person who keeps or operates or proposes to establish a kennel, a pet shop, a shelter, or a pound shall apply to the clerk or other official designated to license dogs in the municipality where such establishment is located, for a license entitling [him] the applicant to keep or operate such establishment.

The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained, and shall be accompanied by the written approval of the local municipal and health authorities showing compliance with the local and State rules and regulations governing location of and sanitation at such establishments.

b. All licenses issued for a kennel, pet shop, shelter, or pound shall state the purpose for which the establishment is maintained, and all licenses shall expire on the last day of June of each year, and be subject to revocation by the municipality on recommendation of the Department of Health or the local board of health for failure to comply with the rules and regulations of the [State department] Department of Health or local board governing the same, after the owner has been afforded a hearing by either the [State department] Department of Health or local board, except as provided in subsection c. of this section.

Any person holding a license shall not be required to secure individual licenses for dogs owned by a licensee and kept at the establishments [ ; the licenses] . The license for a kennel, pet shop, shelter, or pound shall not be transferable to another owner or different premises.

c. The license for a pet shop shall be subject to review by the municipality, upon recommendation by the Department of Health or the local health authority for failure by the pet shop to comply with the rules and regulations of the [State department] Department of Health or local health authority governing pet shops [ or if the pet shop meets the criteria for recommended suspension or revocation]
provided under subsection c. or d. of section 5 of P.L.1999, c.336 (C.56:8-96), after the owner of the pet shop has been afforded a hearing pursuant to subsection e. of section 5 of P.L.1999, c.336 (C.56:8-96) or for committing an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) as provided by section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

[The] After affording the owner or operator of the pet shop a hearing, the municipality, based on the criteria for the recommendation of the Department of Health or local health authority provided under subsections c. and d. of section 5 of P.L.1999, c.336 (C.56:8-96), may suspend the license for 90 days or may revoke the license if it is determined at the hearing that the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in safeguarding the health of animals in its custody or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase committed an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) as provided by section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. The municipality may issue a license for a pet shop that permits the pet shop to sell pet supplies for all types of animals, including cats and dogs, and sell animals other than cats and dogs but restricts the pet shop from selling cats or dogs, or both.

e. Every pet shop licensed in the State shall submit annually and no later than May 1 of each year records of the total number of cats and dogs, respectively, sold by the pet shop each year to the municipality in which it is located, and the municipality shall provide this information to the local health authority.

(cf:  P.L.2012, c.17, s.5)

10. Section 16 of P.L.1941, c.151 (C.4:19-15.16) is amended to read as follows:

16. a. The certified animal control officer appointed by the governing body of the municipality shall take into custody and impound any animal, to thereafter be euthanized, transferred, or offered for adoption, as provided in this section:

(1) Any dog off the premises of the owner or of the person charged with the care of the dog, which is reasonably believed to be a stray dog;

(2) Any dog off the premises of the owner or the person charged with the care of the dog without a current registration tag on its collar or elsewhere;

(3) Any female dog in season off the premises of the owner or the person charged with the care of the dog;

(4) Any dog or other animal which is suspected to be rabid; or

(5) Any dog or other animal off the premises of the owner or the person charged with its care that is reported to, or observed by, a certified animal control officer to be ill, injured, or creating a threat
to public health, safety, or welfare, or otherwise interfering with the
enjoyment of property.

b. If an animal taken into custody and impounded pursuant to
subsection a. of this section has a collar or harness with
identification of the name and address of any person, or has a
registration tag, or has a microchip with an identification number
that can be traced to the owner or person charged with the care of
the animal, or the owner or the person charged with the care of the
animal is otherwise known, the certified animal control officer shall
ascertain the name and address of the owner or the person charged
with the care of the animal, and serve to the identified person as
soon as practicable, a notice in writing that the animal has been
seized and will be liable to be offered for adoption, transferred, or
euthanized if not claimed within seven days after the service of the
notice.

c. A notice required pursuant to this section may be served: (1)
by delivering it to the person on whom it is to be served, or by
leaving it at the person’s usual or last known place of residence or
the address given on the collar, harness, or microchip identification;
or (2) by mailing the notice to that person at the person’s usual or
last known place of residence, or to the address given on the collar,
harness or microchip identification.

d. A shelter, pound, or kennel operating as a shelter or pound
receiving an animal from a certified animal control officer pursuant
to subsection a. of this section, or from any other individual, group,
or organization, shall hold the animal for at least seven days before
offering it for adoption, or euthanizing, transferring or otherwise
relocating, or sterilizing the animal, except if:

(1) the animal is surrendered voluntarily by its owner to the
shelter, pound, or kennel operating as a shelter or pound, in which
case the provisions of subsection e. of this section shall apply; or

(2) the animal is suspected of being rabid, in which case the
provisions of subsection j. of this section shall apply.

e. If a shelter, pound or kennel operating as a shelter or pound
is not required to hold an animal for at least seven days pursuant to
paragraph (1) of subsection d. of this section, the shelter, pound, or
kennel operating as a shelter or pound:

(1) shall offer the animal for adoption for at least seven days
before euthanizing it or transferring it to a pet shop; or

(2) may transfer the animal to an animal rescue organization
facility or a foster home prior to offering it for adoption if such a
transfer is determined to be in the best interest of the animal by the
shelter, pound, or kennel operating as a shelter or pound.

f. Except as otherwise provided for under subsection e. of this
section, no shelter, pound, or kennel operating as a shelter or pound
receiving an animal from a certified animal control officer may
transfer the animal to an animal rescue organization facility, a pet
shop, or a foster home until the shelter, pound, or kennel operating as a shelter or pound has held the animal for at least seven days.

g. If the owner or the person charged with the care of the animal seeks to claim it within seven days, or after the seven days have elapsed but before the animal has been adopted, transferred to a pet shop, or euthanized, the shelter, pound, or kennel operating as a shelter or pound:

(1) shall, in the case of a cat or dog, release it to the owner or person charged with its care, provided the owner or person charged with the care of the animal provides proof of ownership, which may include a valid cat or dog license, registration, rabies inoculation certificate, or documentation from the owner's veterinarian that the cat or dog has received regular care from that veterinarian;

(2) may, in the case of a cat or dog, charge the cost of sterilizing the cat or dog, if the owner requests such sterilizing when claiming it; and

(3) may require the owner or person charged with the care of the animal to pay all the animal's expenses while in the care of the shelter, pound, or kennel operating as a shelter or pound, not to exceed $4 per day.

h. If the animal remains unclaimed, is not claimed due to the failure of the owner or other person to comply with the requirements of this section, or is not adopted after seven days after the date on which notice is served pursuant to subsection c. of this section or, if no notice can be served, not less than seven days after the date on which the animal was impounded, the impounded animal may be placed in a foster home, transferred to another shelter, pound, kennel operating as a shelter or pound, rescue organization facility, or pet shop, or euthanized in a manner causing as little pain as possible and consistent with the provisions of R.S.4:22-19.

i. At the time of adoption, the right of ownership in the animal shall transfer to the new owner. No dog or other animal taken into custody, impounded, sent or otherwise brought to a shelter, pound, or kennel operating as a shelter or pound, or transferred to a pet shop from a shelter, pound, or kennel operating as a shelter or pound, shall be sold or otherwise be made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a crime of the fourth degree.

j. Any animal seized under this section suspected of being rabid shall be immediately reported to the executive officer of the local board of health and to the Department of Health, and shall be quarantined, observed, and otherwise handled and dealt with as appropriate for an animal suspected of being rabid or as required by the Department of Health for the animals.

k. When a certified animal control officer takes into custody and impounds, or causes to be taken into custody and impounded,
an animal, the certified animal control officer may place the animal
in the custody of, or cause the animal to be placed in the custody of,
only a licensed shelter, pound, or kennel operating as a shelter or
pound. The certified animal control officer may not place the
animal in the custody of, or cause the animal to be placed in the
custody of, any animal rescue organization facility, foster home, or
other unlicensed facility. However, the licensed shelter, pound, or
kennel operating as a shelter or pound may place the animal in an
animal rescue organization facility, foster home, or other unlicensed
facility if necessary pursuant to subsection e. or h. of this section.

1. Notwithstanding the provisions of this section and sections 3
and 4 of P.L.2011, c.142 (C.4:19-15.30 and C.4:19-15.31) to the
contrary, no cat or dog being transferred between shelters, pounds,
or kennels operating as shelters or pounds, or being transferred to a
pet shop or an animal rescue organization facility, or placed in a
foster home, shall be required to be sterilized prior to that transfer.
(cf: P.L.2012, c.17, s.7)

11. Section 5 of P.L.2011, c.142 (C.4:19-15.32) is amended to
read as follows:

5. a. When a cat or dog is put in the custody of and impounded
with a shelter, pound, or kennel operating as a shelter or pound, or
an animal rescue organization facility receives a cat or dog, the
shelter, pound, kennel operating as a shelter or pound, or animal
rescue organization facility shall, if the identity of the owner is not
known, scan the animal for microchip identification, provided the
shelter, pound, kennel operating as a shelter or pound, or animal
rescue organization facility has such technology available.

b. Prior to release of any cat or dog for adoption, transfer to a
pet shop, another facility or foster home, or euthanasia of the cat or
dog, the shelter, pound, kennel operating as a shelter or pound, or
animal rescue organization facility shall, if the identity of the owner
is not known, scan the cat or dog for microchip identification,
provided the shelter, pound, kennel operating as a shelter or pound,
or animal rescue organization facility has such technology
available.

c. If either scan required pursuant to subsection a. or b. of this
section reveals information concerning the owner of the cat or dog,
the shelter, pound, kennel operating as a shelter or pound, or animal
rescue organization facility shall immediately seek to contact and
notify the owner of the whereabouts of the cat or dog. Furthermore,
if microchip identification is found, the shelter, pound, kennel
operating as a shelter or pound, or animal rescue organization
facility shall hold the animal for at least seven days after the
notification to the owner.
(cf: P.L.2011, c.142, s.5)

13. This act shall take effect immediately.

STATEMENT

This bill prohibits any person from selling, offering for sale, transferring, exchanging, or bartering a cat or dog, or otherwise engaging in a transaction concerning a cat or dog, unless the transaction is a face-to-face transaction. This prohibition would apply to transactions between a breeder or other seller and a consumer who are both in the State, a breeder or other seller in the State and a consumer in another state, and a breeder or other seller in another state and a consumer in the State.

The bill also prohibits a pet shop from offering a cat or dog for sale, or obtaining a cat or dog for that purpose, unless the cat or dog comes from with or without payment or compensation of any kind, from a shelter, pound, kennel operating as a shelter or pound, or an animal rescue organization. The bill establishes a penalty of $500 for each violation, in addition to other penalties that may be imposed pursuant to the State consumer fraud law (P.L.1960, c.39 (C.56:8-1 et seq.)), State animal control, dog licensing, and kennel, pet shop, shelter, and pound laws (P.L.1941, c.151 (C.4:19-15.1 et seq.)), or the State criminal code (Title 2C of the New Jersey Statutes).