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
S63 LESNIAK, BEACH

4.

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) Notwithstanding the provisions of any rule or
regulation adopted pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) or
any other law, and without limiting the prosecution of any other
practices which may be unlawful pursuant to P.L.1960, c.39
LESNIAK, BEACH

4. (New section) a. It shall be unlawful for any person to 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. , c. (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.) for a deceptive practice as established in section 3 of P.L. .c. (C. ) (pending before the Legislature as this bill, or imposed pursuant to 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. , c. (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

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. 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
section 4 or 5 of P.L. , c. (C.) the rules and regulations of the
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 a
deceptive practice as established pursuant to 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 a deceptive practice as established in section 3 of P.L.,
c. (C.) (pending before the Legislature as this bill); or (3)
violated section 4 or 5 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, or animal
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.

l. 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)

12. Sections 1 through 5 of P.L.1999, c.336 (C.56:8-92 through
C.56:8-96), section 7 of P.L.1999, c.336 (C.56:8-97) and sections 3,
4, and 5 of P.L.2015, c.7 (C.56:8-95.1 through C.56:8-95.3) are
repealed.

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).