



**TESTIMONY OF PET INDUSTRY JOINT ADVISORY COUNCIL
BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
SENATE BILL 2490**

February 9, 2012

Position: Qualified Opposition

As the world's largest pet trade association, the Pet Industry Joint Advisory Council (PIJAC) appreciates the opportunity to offer this esteemed committee our views on Senate Bill 2490. Representing the interests of all segments of the pet industry throughout the United States, PIJAC counts among its thousands of members various associations, organizations, corporations and individuals involved in the commercial pet trade. More specifically, we represent pet breeders, pet product manufacturers, distributors, retailers and pet owners in Hawaii who would be significantly impacted by the legislation before you today.

Let me emphasize that nobody cares more about healthy pets than does PIJAC. We have, for many years, provided a highly respected animal care certification program intended to ensure that employees are well trained in the care of the animals they sell; a program that is widely utilized not only by persons in the commercial pet trade but also shelters and humane societies throughout the country, and one that has even been adopted as a statutory standard. PIJAC has worked closely with the USDA on effective implementation of the Animal Welfare Act for pets since its inception over three decades ago, and has joined hands with state and local agencies to ensure adoption and enforcement of appropriate regulatory standards. Our association has long been recognized as the voice for a responsible pet trade, and routinely advocates for new statutory standards that are in the best interests of companion animals and the pet-owning public. We also continually seek to advance the voluntary implementation of superior standards in the care, handling and transport of companion animals.

Likewise, PIJAC is strongly supportive of pet warranties and has participated in the process of crafting warranty statutes in various states. Responsible pet stores generally already provide warranties on the animals they sell, and enactment of warranty laws are only one of a number of legal requirements that make pet stores the most heavily regulated provider of pets.

**PET INDUSTRY JOINT
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In discussing SB 2490 we should first emphasize that a legitimate pet store will never knowingly sell a sick puppy or kitten. But dogs and cats, like all living beings, will sometimes become ill. And symptoms of illness may not become apparent until after the animal leaves the store. That occurs in a small minority of pet store puppies and kittens. Where it does occur, a statutory warranty is intended to provide fair compensation to the purchaser for a condition that existed at time of sale. We would point out to the committee that this bill provides not only for a full refund should a seller wish to return the animal, but also gives pet owners the option to keep the puppy and receive a reimbursement of veterinary expenses. This is a unique (indeed, unprecedented) feature of pet warranty statutes. No statutory warranty, requiring multiples of the purchase price, is imposed for the non-negligent provision of any other product or service anywhere in the United States.

That notwithstanding, PIJAC supports the provision allowing recovery of veterinary fees related to curing the illness of up to the original purchase price. But we would oppose allowing recovery of unlimited fees, as permitted by this bill for animals sold with a pre-existing condition that is disclosed to the buyer, because such a requirement is patently unfair and would put pet stores out of business. Indeed, warranties for other products and services routinely preclude consequential damages. Pets are, of course, unlike other products and services. They are living beings, and are not simply interchangeable. It is precisely because they are living beings that the same quality control applied to assembly-line products cannot be employed in the rearing of pets. What does not change, though, are the basic economic realities of retailing to the public. A retailer cannot be liable for damages for which he or she is not responsible that are equal to several times the cost of the puppy or kitten they sell. Such a legal mandate would just lead to businesses shuttering their doors for good; and wrongly so.

We would also point out that shelters and humane societies are exempt from the warranty requirement of this bill. Pet buyers, however, who routinely pay “adoption” fees to these entities for their pet dogs, are left in precisely the same position if they get a sick dog from a shelter as from a pet store. These entities, which not only sell (or “adopt out for a fee”) dogs to the public but also frequently sell pet products as well, are at a competitive advantage over pet dealers. We would suggest that consumers should benefit from the same statutory warranty for dogs they buy from shelters and humane societies as they do for pet store dogs.

But perhaps the most egregious provision of the bill is that which allows recovery for illness or disease two years after sale. Such a provision does not exist in any other pet warranty statute, because it runs completely counter to the whole concept of such statutes! The 12 to 15 day warranty period in such statutes for illness that is standard in such bills exists because that is the maximum incubation period for any condition covered under the warranty. Beyond that period, it would be inherently impossible for any veterinarian to determine that the illness existed at the time of sale, although such a determination is required by this bill.

Were this bill to become law, one of two outcomes would necessarily follow:

Either buyers would be unable to take advantage of the warranty beyond the 14 day incubation period because veterinarians could not legitimately certify that an illness pre-existed sale; OR

That requirement of the law would effectively be disregarded, and buyers would be permitted to recover veterinarian fees for diseases that dogs and cats contract months or years after they were brought home.

In the former case, the statutory warranty would be defeated, and in the latter case pet stores would be unfairly forced to compensate buyers for two years of veterinary care for conditions that the seller had nothing to do with and could have done nothing to prevent. In reality, of course, pet stores would simply stop selling dogs and cats because they would be subjected by law to a strict liability warranty that effectively amounts to a pet health insurance policy.

PIJAC respectfully requests that the committee table this bill pending an opportunity to address provisions that render the bill punitive and unworkable. We would be pleased to work with the sponsor and the committee to address defects in the bill.

Thank you greatly for your consideration of our concerns!

Respectfully Submitted,

Pet Industry Joint Advisory Council

By: Michael P. Maddox, Esq.

To Whom It May Concern:

My name is Libbie Belback, I own The Pet Corner, a locally run family business located in Ward Warehouse. I am submitting testimony in opposition of SB 2490.

Our store provides a written guarantee with every one of our puppy sales; our warranty gives the customer 7 days from the date of purchase to obtain a veterinary exam. This is the second exam that our puppies go thru, we also have an exam on the puppies prior to purchase too. This second exam is provided free for our customers. If at this exam the veterinarian deems something an unfit condition for sale that the first vet didn't detect then we will refund the purchase price of the puppy to our customer. If medication is ever needed to treat anything in, then the customer may bring the receipt in from the vet for a reimbursement of the medicine and/or medical treatment. When a customer purchases a puppy from us we provide the customer the medical record of puppy that includes, vaccines, deworming medicine, date of birth & breed. Along with a lot of information on responsible pet ownership.

My objections are to the wavier or rights—section 3. A customer should not be able to return a puppy to the retailer for a pre-existing medical condition that has been made know to them prior to purchase. The only exception to that rule should be, if there is another medical condition that is detected thru a veterinary exam done by the purchaser within 7 days of purchase. If there is deemed another medical condition to make the pet unfit for sale that wasn't stated as a pre-existing condition, then that should be grounds for a refund or exchange.

Section 4- Cat & Dog express warranty. The 2 year warranty period is too long of a period for a dog to be warrantied. There are too many variables that can occur in the outside world that could arise from this long of a warranty period. Even though this section is designed to protect against congenital or hereditary conditions, there is simply too much stated of a very broad statement of health reasons for a pet to be returned within that 2 year warranty period.

Responsible pet stores as ours, have warranties in place to protect the consumer if in that rare instance there is something wrong with the puppy that is sold to them. We will help and make it right. We love our puppies and our customers and wish to make buying a puppy thru our store a pleasant experience. We have many repeat customers that have been very pleased with their experience with us over the years. I feel like once again the responsible pet community is being thrown under the bus, due to the actions of another not so ethical pet store on the island. Please don't punish the not guilty that are actually trying to do what is best by our customers and puppies.

Thank you for your time & consideration,

Libbie Belback
The Pet Corner