

SENATE No. 2151

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act New Text from the Committee on Ethics and Rules for S2120.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 140 is hereby further amended by striking out section 141, as so appearing, and
2 inserting in place thereof the following section:-

3 Section 141. Whoever violates any provision of section 137, 137A, 137B or 138 shall be
4 assessed a fee of not less than \$50, which shall be paid to the city or town.

5 SECTION 13. Section 145 of said chapter 140, as so appearing, is hereby amended by
6 striking out, in lines 3 and 4, the words “to the director of accounts upon application therefor.”

7 SECTION 14. Section 145A of said chapter 140, as so appearing, is hereby amended by
8 striking out the fourth to seventh sentences, inclusive.

9 SECTION 15. Said chapter 140 of the General Laws is hereby further amended by
10 striking out section 145B and inserting in place thereof the following section:-

11 Section 145B. Whoever is the owner or keeper of a dog, cat or ferret in the
12 commonwealth, 6 months of age or older, shall cause such dog, cat or ferret to be vaccinated
13 against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer’s

14 directions, and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by
15 the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth
16 shall be vaccinated within 30 days after the acquisition or arrival into the commonwealth or upon
17 reaching the age of 6 months, whichever last occurs. It shall be the duty of each veterinarian, at
18 the time of vaccinating any dog, cat or ferret, to complete a certificate of rabies vaccination
19 which shall include, but not be limited to, the following information: the owner's name and
20 address; a description of the animal, including breed, sex, age, name and distinctive markings;
21 the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the
22 route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

23 The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be
24 secured by the owner or keeper of such dog, cat or ferret to a collar or harness made of suitable
25 material to be worn by the dog, cat or ferret; provided, however, that the owner of a cat may
26 choose not to affix a tag to his cat, but shall have the tag available for inspection by authorized
27 persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon presentation
28 of the original vaccination certificate, be issued a new tag.

29 In order for a dog, cat or ferret to be accepted at an animal hospital, veterinarian's office
30 or boarding facility, an owner or keeper of such animal shall show proof of current vaccination
31 against rabies; provided however, that if an animal has not been so vaccinated or such owner or
32 keeper fails to show proof of vaccination, the animal shall be vaccinated against rabies prior to
33 being discharged if the animal's medical condition permits.

34 A licensing authority may grant an exemption from this section for any dog, cat or ferret
35 that;

36 (i) the local board of health, declared exempt upon presentation of a veterinarian's
37 certificate stating that because of an infirmity, other physical condition or regimen of therapy,
38 that inoculation is thereby considered inadvisable for a specified period of time;

39 (ii) is in transit; or

40 (iii) was brought into the commonwealth temporarily for the sole purpose of display in
41 shows or for exhibition.

42 This section shall not apply to dogs, cats or ferrets housed in a research institution.

43 Whoever violates this section shall be punished by a fine of not more than \$100.

44 SECTION 16. Section 146 of said chapter 140, as so appearing, is hereby amended by
45 striking out, in lines 5 to 8, inclusive, the words "to which such dog has been removed, and such
46 clerk shall take up the same and issue to said owner or keeper a transfer license, together with a
47 tag, for such dog upon payment of twenty-five cents" and inserting in place thereof the following
48 words:- or city to which such dog has been removed, and such clerk shall take up the same and
49 issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment
50 of an amount to be determined by the city or town.

51 SECTION 17. Said chapter 140 is hereby further amended by striking out sections 147
52 and 147A, as so appearing, and inserting in place thereof the following section:-

53 Section 147. The police commissioner of the city of Boston and the clerks of other cities
54 and towns shall issue said licenses and tags, receive the money therefore and pay it into the
55 treasuries of their respective cities and towns on the first Monday of each month or more often.
56 The clerks of cities and towns, except the city of Boston, may retain for their own use 75 cents

57 for each license, unless otherwise provided by law, and shall certify under penalties of perjury to
58 the amounts of money thus received and paid over to them. The police commissioner of the city
59 of Boston and each city or town clerk shall make a record of the name of the owner or keeper of
60 each dog licensed and of the name, registered number and description of each dog licensed.
61 Such records shall be open to public inspection during the usual office hours of the city or town
62 clerk. All blanks for the licenses and tags and the record books shall be paid for out of the city or
63 town treasury. The police commissioner of the city of Boston and any city or town clerk or city
64 or town treasurer violating this section shall be punished by a fine of not less than \$50 nor more
65 than \$500 or by imprisonment for not less than 1 month nor more than 1 year in the house of
66 correction, or both. If a city or town clerk neglects or fails to pay the money into the city or town
67 treasury as required by this section, the city or town may recover the amount thereof for the
68 benefit of the city or town, with all damages sustained through such neglect or failure, and
69 interest thereon, in an action on the official bond required, in the case of a city clerk, by section
70 13A of chapter 41 and, in the case of a town clerk, by section 13 of said chapter 41. All
71 payments required under this section shall be subject to section 52 of said chapter 41.

72 SECTION 18. Section 147B of said chapter 140 is hereby repealed.

73 SECTION 19. Said chapter 140 is hereby further amended by striking out sections 149,
74 150, 151, 151A and 151B, as so appearing, and inserting in place thereof the following 6
75 sections:-

76 Section 149. Each city or town treasurer shall keep an accurate and separate account of
77 all money received and expended by him under this chapter relating to animals.

78 Section 150. Persons authorized or directed by section 4 of chapter 51, or by any special
79 law, to make lists of residents 3 years of age or older shall make a list of all dogs owned by the
80 inhabitants at the time of making such lists and shall annually return the same in duplicate to the
81 city or town clerk or, in the city of Boston, to the police commissioner. An owner or keeper of a
82 dog who refuses to answer or answers falsely to persons directed or authorized to make such a
83 list shall be punished by a fine of not less than \$20 which shall be paid to the city or town.

84 Section 151. (a) The mayor of each city and the board of selectmen of each town shall
85 annually designate 1 or more animal control officers, who may be police officers or constables.
86 The mayor or board of selectmen shall forthwith submit to the commissioner the names and
87 addresses of such officers. Except as hereinafter otherwise provided, if any city or town shall fail
88 to make the appointment, the commissioner shall appoint an animal control officer for that city
89 or town. An animal control officer who fails to comply with the terms of the officer's warrant
90 shall forthwith be removed from office by the mayor or board of selectmen and notice of the
91 removal shall forthwith be given to the commissioner. Animal control officers shall have
92 completed, under the supervision of a veterinarian registered under section 55 or 56C of chapter
93 112, a course of instruction in humane techniques for the execution of animals before
94 euthanizing any animal. Before euthanizing or giving or turning over to another any dog or cat
95 in the officer's possession, such animal control officer shall first examine the animal for the
96 presence of a microchip or tattoo, check the description of such animal against descriptions
97 within the city or town relative to such species of animal licensed or registered in such
98 municipality in order to verify the identity of the animal and to provide notice to the owner
99 thereof before the animal is euthanized, given away or turned over to another. Bills for such
100 services shall be approved by the mayor of the city or the board of selectmen of the town in

101 which the dogs or cats are kept or euthanized and shall be paid by the city or town. Each animal
102 control officer appointed under this section shall also attend to all complaints or other matters
103 pertaining to animals, as prescribed by their respective city or town, in addition to the duties
104 imposed upon the officer by the officer's warrant, and shall be paid for such services by the town
105 or city treasurer upon bills approved by the mayor or by the board of selectmen. The mayor of
106 any city or the board of selectmen of any town may, instead of appointing an animal control
107 officer, enter into a contract with a domestic charitable corporation incorporated exclusively for
108 the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of
109 an animal control officer. In that case, the payments to the corporation under the terms of the
110 contract shall be in full for all services rendered by it in that capacity.

111 (b) An animal control officer shall not be a licensed animal dealer registered with the
112 United States Department of Agriculture. An animal control officer shall not give, sell or turn
113 over any animal which may come into the officer's custody to any business or institution
114 licensed or registered as a research facility or animal dealer with the United States Department of
115 Agriculture either privately or in the course of carrying out such officer's official assignments as
116 an agent for the officer's municipality. A municipality shall not give, sell or turn over any
117 animal which may come into its custody to any business or institution licensed or registered as a
118 research facility or animal dealer with the United States Department of Agriculture. Whoever
119 violates this subsection shall be punished by a fine of not more than \$1,000.

120 Section 151A. (a) The mayor or board of selectmen shall annually issue a warrant to the
121 animal control officer or officers directing the officer or officers to seek out, catch and confine
122 all dogs within the city or town which are not licensed, collared or harnessed, or tagged, as
123 required by this chapter, and to enter and prosecute a complaint for failure to comply with this

124 chapter against the owners or keepers thereof, if known, and to euthanize or cause to be
125 euthanized only by a humane method of euthanasia in accordance with the guidelines of the
126 American Veterinary Medical Association and section 174A, except by gunshot in case of
127 emergency, each such dog which after being detained by or for the officer for a period of 7 days
128 shall not have been licensed, collared or harnessed, and tagged; provided, however, that after 7
129 days, the animal control officer may make available for adoption any dog found free of disease
130 for a sum of not less than \$10 and shall keep an account of all moneys received by such officer
131 for the adoption and shall forthwith pay over the sums to the treasurer who shall forward the
132 money to the city or town. Before delivery of a dog so adopted, the animal control officer shall
133 require the purchaser to show identification and to procure a license and tag for the dog from the
134 clerk of the city or town wherein the dog is to be kept. Dogs detained pursuant to this section
135 shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary
136 condition, or they may be placed in the care of the holder of a kennel license or of a domestic
137 charitable corporation incorporated exclusively for the purpose of protecting animals from
138 cruelty, neglect or abuse. The commissioner shall cause such places to be inspected from time to
139 time and shall make necessary orders in relation thereto. An animal control officer having
140 custody of a detained dog or cat shall be allowed a sum determined by the city or town per day
141 for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the city or
142 town.

143 (b) Every animal control officer shall make, keep and maintain systems of records or
144 forms which fully and correctly disclose the following information concerning each animal in the
145 officer's custody:

146 (1) the date and location of apprehension;

- 147 (2) a description of the animal;
- 148 (3) the place of detainment;
- 149 (4) if tagged, the name and address of the owner of the animal;
- 150 (5) the name and address of a new owner, if any, including the date of sale or transfer of
151 the animal; and
- 152 (6) if the animal is euthanized, the method and date thereof and the name of the person
153 who euthanized the animal.

154 Every animal control officer shall forward a copy of the record to the town or city clerk
155 within 30 days. Copies of the record shall be kept for 2 years in the offices of the city or town
156 clerk where such animal control officer is employed.

157 Section 151B. Any veterinarian registered under section 55 or 56A of chapter 112, who
158 renders emergency care or treatment to or who euthanizes a dog or cat that is injured on any way,
159 shall receive payment from the owner of such dog or cat, if known, or if not known, from the city
160 or town in which the injury occurred, in an amount not to exceed \$250 for such care, treatment or
161 euthanization; provided, however, such emergency care, treatment or euthanization shall be for
162 the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or
163 keeper of such dog or cat is identified or for a period of 24 hours, whichever is sooner. Any
164 veterinarian who renders such emergency care or treatment to a dog or cat or euthanizes a dog or
165 cat shall notify the municipal animal control officer and such animal control officer shall assume
166 control of such dog or cat or the remains thereof.

167 Section 151C. Within 1 year of appointment, an animal control officer shall complete a
168 training course offered or approved by the Animal Control Officers Association of
169 Massachusetts or the commissioner.

170 SECTION 20. Section 152 of said chapter 140, as so appearing, is hereby amended by
171 striking out, in line 1, the word “dog” and inserting in place thereof the following words:- animal
172 control.

173 SECTION 21. Said section 152 of said chapter 140, as so appearing, is hereby further
174 amended by inserting after the word “dogs”, in line 6, the following words:- and cats.

175 SECTION 22. Said section 152 of said chapter 140, as so appearing, is hereby further
176 amended by striking out, in line 10, the word “dogs” and inserting in place thereof the following
177 word:- animals.

178 SECTION 23. Section 153 of said chapter 140, as so appearing, is hereby amended by
179 striking out, in line 2, the words “, except Suffolk county”.

180 SECTION 24. Said section 153 of said chapter 140, as so appearing, is hereby further
181 amended by striking out, in lines 13 to 18, inclusive, the words “by methods of execution other
182 than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the
183 control of the federal Drug Enforcement Administration, unless by a veterinarian,
184 succinylcholine choline, any drugs that have curariform-like action, electrocution, or any other
185 method which causes an unnecessarily cruel death” and inserting in place thereof the following
186 words:- only by a humane method of euthanasia in accordance with the guidelines of the
187 American Veterinary Medical Association and section 174A, except by gunshot in case of
188 emergency.

189 SECTION 25. Said section 153 of said chapter 140, as so appearing, is hereby further
190 amended by striking out, in lines 18 to 21, inclusive, the words “ten days, shall not then have
191 been duly licensed, collared or harnessed, and tagged, except that any male or any spayed female
192 dog not found to be diseased may be made available for adoption for not less than three dollars”
193 and inserting in place thereof the following words:- 7 days, shall not then have been duly
194 licensed, collared or harnessed, and tagged, except that any dog not found to be diseased may be
195 made available for adoption for not less than \$10.

196 SECTION 26. Said section 153 of said chapter 140, as so appearing, is hereby further
197 amended by inserting after the word “dogs”, in line 34, the following words:- and cats.

198 SECTION 27. Said section 153 of said chapter 140, as so appearing, is hereby further
199 amended by striking out, in lines 41 to 83, inclusive, the words “nineteen hundred and _____

200 Mayor of (or Chairman of the Selectmen of)

201 In the cities and towns of Suffolk County such warrant may be in the following form:

202 COMMONWEALTH OF MASSACHUSETTS

203 (Seal)

204 , ss.

205 To , constable of the city (or town) of

206 In the name of the commonwealth of Massachusetts, you are hereby required to proceed
207 forthwith to seek out, catch and confine all dogs within said city (or town) not duly licensed,
208 collared or harnessed, and tagged, according to the provisions of chapter one hundred and forty

209 of the General Laws, and you are further required to make and enter complaint against the owner
210 or keeper of every such dog, and to kill or cause to be killed by methods of execution other than
211 gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the
212 control of the federal Drug Enforcement Administration, unless by a veterinarian,
213 succinylcholine choline, any drugs that have a curariform-like action, electrocution, or any other
214 method which causes an unnecessarily cruel death each such dog which, after being detained for
215 a period of seven days, shall not then have been duly licensed, collared or harnessed, except that
216 any male or any spayed female dog not found to be diseased may be made available for adoption
217 for not less than three dollars, and you shall keep an account of any such sale and forthwith pay
218 over the money to the town treasurer. Before delivery of any dog so adopted you shall require the
219 purchaser to show identification and to register and procure a license and tag for such dog from
220 the town clerk of the town where the dog is to be kept, in accordance with the provisions of
221 section one hundred and thirty-seven of said chapter one hundred and forty of the General Laws.

222 Hereof fail not, and make due return of this warrant with your doings therein, on or
223 before the first day of October next, on or before the first day of January next, and on or before
224 the first day of April next, and at the expiration of your term of office, stating the number of dogs
225 caught, confined and/or killed, or adopted, and the names of the owners or keepers thereof, and
226 whether all unlicensed dogs in said city (or town) have been caught, confined and/or killed, or
227 adopted, and the names of persons against whom complaints have been made under the
228 provisions of said chapter one hundred and forty, and whether complaints have been made and
229 entered against all the persons who have failed to comply with the provisions of said chapter one
230 hundred and forty.

231 Given under my hand and seal at ___ aforesaid the ___ day of ___ in the year nineteen
232 hundred and _____ Mayor of (or Chairman of the Selectmen of)” and

233 inserting in place thereof the following words:- two thousand.

234 Mayor of (or Chairman of the Selectmen of).

235 SECTION 28. Section 155 of said chapter 140, as so appearing, is hereby amended by
236 adding the following sentence:- If the dog accused of as having caused the damage or injury has
237 been deemed a dangerous dog under section 157, liability shall be presumed and the burden of
238 proof shall be upon the defendant to such action to rebut liability.

239 SECTION 29. Said chapter 140 is hereby further amended by striking out sections 157,
240 158, 159, 160 and 161, as so appearing, and inserting in place thereof the following 6 sections:-

241 Section 157. (a) Any person may file a complaint in writing to the hearing authority
242 complaining that a dog owned or kept in the city or town wherein the complainant resides is a
243 nuisance dog or is a dangerous dog. Such hearing authority shall investigate the complaint, or
244 cause the investigation thereof, including an examination under oath of the complainant, at a
245 public hearing in such municipality to determine whether the dog is a nuisance or a dangerous
246 dog, whichever is alleged. Based on the credible evidence and testimony presented at the public
247 hearing, the hearing authority shall, if the dog is complained of as a nuisance dog, either: (i)
248 dismiss the complaint; or (ii) deem such dog a nuisance dog, or, if the dog is complained of as a
249 dangerous dog, either: (i) dismiss the complaint; (ii) deem such dog a nuisance dog; or (iii) deem
250 such dog a dangerous dog.

251 (b) If the hearing authority deems a dog a nuisance dog, the hearing authority may
252 further order that the owner or keeper of such dog take remedial action to ameliorate the cause of
253 the nuisance behavior.

254 (c) If the hearing authority deems a dog a dangerous dog, the hearing authority shall
255 order 1 or more of the following:

256 (i) that the dog shall be humanely restrained; provided, however, that no order shall
257 provide that a dog deemed dangerous be chained, tethered or otherwise tied to any inanimate
258 object including, but not limited to, a tree, post or building;

259 (ii) that the dog shall be confined to the premises of the keeper of such dog; provided,
260 however, that “confined” shall mean; securely confined indoors or confined outdoors in a
261 securely enclosed and locked pen or dog run area upon the premises of the owner or keeper;
262 provided further, that such pen or dog run shall have a secure roof and if such enclosure has no
263 floor secured to the sides thereof, the sides shall be embedded into the ground not less than 2
264 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper
265 shelter from the elements shall be provided to protect such dog;

266 (iii) that when removed from the premises of the owner or the premises of the person
267 keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or
268 other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet
269 in length;

270 (iv) that the owner or keeper of the dog shall provide proof of a policy of insurance in an
271 amount not less than \$100,000 insuring such owner or keeper against any claim, loss, damage or
272 injury to persons, domestic animals or property resulting from the acts, whether intentional or

273 unintentional, of such dog or proof that reasonable efforts were made to obtain such insurance if
274 a policy has not been issued. If such a policy has been issued, the owner or keeper shall produce
275 such policy upon request of the hearing authority or a justice of the district court or proof of
276 efforts to obtain same if such a policy has not been issued.

277 (v) that the owner or keeper of the dog shall provide to the licensing authority or animal
278 control officer, or such other entity identified in the order, information by which such dog may
279 be identified, throughout its lifetime including, but not limited to, photographs, videos,
280 veterinary examination, tattooing or microchip implantations or a combination of such methods
281 of identification;

282 (vi) that unless an owner or keeper of the a dog provides evidence that a veterinarian is
283 of the opinion the such dog is unfit for alterations because of medical condition, the owner or
284 keeper of the dog shall cause the dog to be altered such that the dog shall not be reproductively
285 intact; or

286 (vii) that the dog shall be humanely euthanized.

287 No order shall be issued directing that a dog deemed dangerous be removed from the
288 town or city in which the owner of such dog resides.

289 (d) Within 10 days after any order issued pursuant to subsections (a) to (c), inclusive, the
290 owner or keeper of a dog may bring a petition in the district court within the judicial district
291 wherein the order relative to such dog was issued or where the dog is owned or kept, addressed
292 to the justice of the court, praying that the order be reviewed by the court or magistrate thereof.
293 After notice to all parties, the magistrate shall, pursuant to section 62C of chapter 221, review the
294 order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it

295 was made without proper cause or in bad faith, in which case the order shall be reversed. A party
296 shall have the right to request a de novo hearing on the complaint before a justice of the court.

297 (e) (1) Pending an appeal by an owner or keeper under subsection (d), a hearing authority
298 may file a petition in the district court to request an order of impoundment at a facility the
299 municipality uses to shelter animals for a dog complained of as being a dangerous dog. A
300 municipality shall not incur liability for failure to request impoundment of any dog under this
301 subsection.

302 (2) A justice of a district court may, upon probable cause to believe a dog is a dangerous
303 dog or a dog is being kept in violation of this section or in violation of an order issued under this
304 section by a hearing authority or a court, issue an order:

305 of restraint;

306 of confinement of the dog as considered necessary for the safety of other animals and the
307 public; provided, however, that if an order of confinement is issued, the person to whom the
308 order is issued shall confine the dog in accordance with clause (ii) of subsection (c);

309 of impoundment in a humane place of detention where the municipality uses to shelter
310 animals or such other order as the court deems necessary to protect other animals and the public
311 from such dog

312 (f) A justice of the district court shall hear, de novo, an appeal filed under subsection (d).
313 Based on the credible evidence and testimony presented at trial, the court shall, whether the dog
314 was initially complained of as a nuisance dog or as a dangerous dog, either: (i) dismiss the

315 complaint; (ii) deem such dog a nuisance dog; or (iii) deem such dog a dangerous dog. The
316 decision of the court shall be final and conclusive upon the parties.

317 (g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall
318 reimburse the city or town for all reasonable costs incurred for housing and care of such dog
319 during its impoundment and throughout the appeals process, if any. Unpaid costs shall be
320 recovered by the municipality wherein the owner or keeper of the dog resides on behalf of the
321 hearing authority by 1 of the following methods:

322 (1) a lien on any property owned by the owner or keeper of such dog;

323 (2) an additional, earmarked charge to appear on the vehicle excise tax of the owner or
324 keeper of such dog; or

325 (3) a direct bill sent to the owner or keeper of such dog.

326 All funds recovered by a municipality pursuant to this subsection shall be transferred to
327 the organization or entity charged with the responsibility of handling dog complaints and
328 impoundment. If the organization or entity falls under the management or direction of the
329 municipality, costs recovered shall be distributed at the discretion of the municipality.

330 If the court overturns an order or euthanasia the city or town shall pay all reasonable costs
331 incurred for any housing and care of such dog during any period of impoundment.

332 (h) If an owner or keeper of a dog is found in violation of an order issued under this
333 section, such dog shall be subject to seizure and impoundment by a law enforcement or animal
334 control officer. If the keeper, not the owner of such dog, is in violation, all reasonable effort
335 shall be made by the seizing authority to notify the owner of such dog of the seizure. Upon

336 receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for
337 the return of the dog to such owner. Such owner or keeper shall be ordered to immediately
338 surrender to the licensing authority the license and tags in his possession, if any, and he shall be
339 banned from licensing any dog within the commonwealth for 5 years. The hearing authority
340 making a determination that a dog is dangerous or a nuisance or that a dog owner or keeper has
341 violated an order issued pursuant to this section shall report such violations to the issuing
342 licensing authority within 30 days.

343 (i) Orders issued by a hearing authority shall be valid throughout the commonwealth
344 unless and until overturned pursuant to subsections (d) or (f).

345 Section 157A. (a) An owner or keeper of a dog who fails to comply with an order of a
346 hearing authority or district court shall be punished by a fine of not more than \$500 or
347 imprisonment for not more than 60 days in the house of correction, or both, for a first offense
348 and not more than \$1,000 or imprisonment for not more than 90 days in the house of correction,
349 or both, for a second or subsequent such offense.

350 (b) No person over the age of 17 who has actual knowledge that a dog has been deemed
351 dangerous under section 157 shall permit a child under the age of 17 to own, possess or have the
352 care or custody of such dog.

353 (c) No person shall transfer ownership or possession of a dog which such person knows,
354 or reasonably should have known, has been deemed dangerous pursuant to section 157 or offer
355 such a dangerous dog for sale or breed without informing the recipient of the dog of the finding
356 of dangerousness.

357 Section 158. Any police officer, constable or animal control officer may capture, detain
358 or, in the case of a threat to public safety, euthanize a dog, in a humane manner, which is found
359 to be in violation of an order of a hearing authority or a district court and may euthanize a dog, in
360 a humane manner, which is living in a wild state.

361 Section 159. If a hearing authority or a district court has deemed a dog to be a dangerous
362 dog and such dog wounds any person or worries, wounds or kills any live stock or fowl, the
363 owner or keeper of such dog shall be liable in tort to the person injured thereby in treble the
364 amount of damages sustained by him.

365 Section 160. The mayor of any city, the selectmen of any town, or their agents thereto
366 authorized in writing, may, after written notice to the owner or keeper, enter upon the premises
367 of the owner or keeper of any dog known to them to have worried or killed live stock or fowl,
368 and then and there euthanize such dog, in a humane manner, unless such owner or keeper whose
369 premises are thus entered for said purpose shall give a bond in the sum of \$200, with sufficient
370 sureties, conditioned that the dog shall be restrained for 12 months next ensuing. And if the
371 owner or keeper of the dog declares his intention to give such a bond, such selectmen, or chief of
372 police, as the case may be, or the agent of the selectmen or chief, shall allow him 7 days,
373 exclusive of Sundays and holidays, in which to procure and prepare the same and to present it to
374 them, or to file it with the clerk of the town or city where the owner or keeper resides.

375 Section 161. Whoever suffers loss by the worrying, maiming or killing of his live stock
376 or fowl by a dog, outside the premises of the owners or keepers of such dog, may, if the damage
377 is done in a city, inform the animal control officer and may, if the damage is done in a town,
378 inform the chairman of the selectmen of the town or, if he is absent or ill, any 1 of the selectmen

379 who shall proceed to the premises where the damage was done and determine whether the same
380 was inflicted by a dog and, if so, appraise the amount thereof if it does not exceed \$100. If in the
381 opinion of said officer, chairman or selectman, the amount of said damage exceeds \$100, the
382 damage shall be appraised, on oath, by 3 persons, of whom 1 shall be such officer, chairman or
383 selectman, 1 shall be appointed by the person alleged to be damaged, and the third shall be
384 appointed by the other 2. Within 10 days, such appraisers shall consider and include in such
385 damages the labor and time necessarily expended in the finding and collecting of the live stock
386 or fowl injured or separated and the value of those lost or otherwise damaged by a dog. Such
387 officer, chairman or selectman shall return a certificate of the damages found to the treasurer of
388 the city or town wherein the damage was done within 10 days after such appraisal is made. The
389 treasurer shall thereupon submit the same to the city or town clerk who, within 30 days, shall
390 examine all bills for damages. A city or town clerk may summons such appraisers or, upon the
391 request of an interested party, shall summons such appraisers and all parties interested and make
392 such investigation as he deems proper, and shall issue an order upon the treasurer of the city or
393 town for such amounts, if any, as he decides to be just and shall notify all interested parties of his
394 decision. The treasurer shall pay all orders drawn upon him in full, for the above purpose and
395 payments made shall be charged to the city or town.

396 SECTION 30. Section 162 of said chapter 140 is hereby repealed.

397 SECTION 31. Said chapter 140, as appearing in the 2008 Official Edition, is hereby
398 amended by striking out section 163 and inserting in place thereof the following section:-

399 Section 163. If the mayor, aldermen or selectmen determine, after notice to parties
400 interested and a hearing, who is the owner or keeper of any dog which is found to have worried,

401 maimed or killed any live stock or fowl, thereby causing damages for which their owner may
402 become entitled to compensation from the city or town under section 161, they shall serve upon
403 the owner or keeper of such dog a notice directing him, within 24 hours, to euthanize the dog, in
404 a humane manner, or impound the dog.

405 SECTION 32. Section 164 of said chapter 140, as so appearing, is hereby amended by
406 striking out, in lines 4 to 6, inclusive, the words “more than twenty-five dollars; and any police
407 officer, constable or dog officer may kill such dog” and inserting in place thereof the following
408 words:- less than \$25; and any police officer, constable or animal control officer may euthanize
409 such dog in a humane manner.

410 SECTION 33. Said chapter 140 is hereby further amended by striking out section 165, as
411 so appearing, and inserting in place thereof the following section:-

412 Section 165. A city or town may investigate any case of damage done by a dog of which
413 the chairman of the board of selectmen, mayor or animal control officer shall have been
414 informed as provided in section 161 and such chairman, mayor or animal control officer believes
415 that the evidence is sufficient to sustain an action against the owner or keeper of the dog and
416 believes that such owner or keeper is able to satisfy any judgment recovered in such action, he
417 shall bring the action, unless the owner or keeper before the action is brought pays him such
418 amount in settlement of the damage as such chairman, mayor or officer deems reasonable. Such
419 action may be brought in the name of such chairman, mayor or officer and he shall prosecute it.
420 The persons so appointed shall also have throughout their respective municipalities the same
421 powers and authority as police officers, constables or animal control officers appointed under

422 section 151, acting under sections 136A to 175D, inclusive. All damages received or recovered
423 under this section shall be paid over to the city or town treasurer.

424 SECTION 34. Said chapter 140 is hereby amended by striking out section 167, as so
425 appearing, and inserting in place thereof the following section:-

426 Section 167. The mayor, aldermen or selectmen may order that all dogs shall be
427 restrained from running at large during such time as shall be prescribed by the order. After
428 passing the order and posting a certified copy thereof in 2 or more public places in the city or
429 town or, if a daily newspaper is published in the city or town, by publishing a copy once in that
430 newspaper, the mayor, aldermen or selectmen may issue their warrant to 1 or more of the police
431 officers or constables of such town, who shall, after 24 hours from the publication of such notice,
432 euthanize all dogs, in a humane manner, found running at large contrary to such order, and shall
433 receive such compensation therefor as is provided in section 151. Notwithstanding the foregoing,
434 a police officer or constable may, in his discretion, hold any such dog for a period not in excess
435 of 7 days. If the owner thereof claims such dog and pays to such officer or constable \$40 for each
436 day that it is so held, it shall be returned to the owner. The fee shall be paid over to the city or
437 town and the remaining moneys shall be retained by such officer or constable as his fee.

438 SECTION 35. Section 168 of said chapter 140, as so appearing, is hereby amended by
439 striking out, in line 1, the words “aldermen or selectmen” and inserting in place thereof the
440 following words:- aldermen, selectmen or mayor.

441 SECTION 36. Said section 168 of said chapter 140, as so appearing, is hereby further
442 amended by striking out, in line 5, the words “more than twenty-five dollars” and inserting in
443 place thereof the following words:- less than \$25.

444 SECTION 37. Section 169 of said chapter 140, as so appearing, is hereby amended by
445 striking out the first sentence and inserting in place thereof the following sentence:- A city or
446 town officer who refuses or willfully neglects to perform the duties imposed upon him by the
447 provisions of this chapter relating to dogs shall be punished by a fine of not less than \$100,
448 which shall be paid to the city or town.

449 SECTION 38. Section 170 of said chapter 140 is hereby repealed.

450 SECTION 39. Said chapter 140 is hereby further amended by striking out section 171, as
451 so appearing, and inserting in place thereof the following section:-

452 Section 171. The owner or keeper of a dog which has done damage to live stock or fowl
453 shall be liable in tort to the city or town for all damages so done which the mayor, aldermen or
454 selectmen thereof have ordered to be paid as provided in this chapter.

455 SECTION 40. Section 172 of said chapter 140 is hereby repealed.

456 SECTION 41. Said chapter 140, as appearing in the 2008 Official Edition, is hereby
457 further amended by striking out section 173 and inserting in place thereof the following section:-

458 Section 173. A town or city may make additional ordinances or by-laws relative to the
459 licensing and control animals not inconsistent with sections 137 to 174D, inclusive

460 SECTION 42. The first paragraph of section 173A of said chapter 140, as so appearing,
461 is hereby amended by striking out the second through fourth sentences and inserting in place
462 thereof the following 3 sentences:- If it is the first offense subject to this section committed by
463 such person within a calendar year, the clerk shall dismiss the charge without the payment of any
464 fine; if it is the second offense so committed in such city or town in the calendar year the

465 payment to the clerk of a fine of \$50 shall operate as a final disposition of the case; if it is the
466 third offense so committed in such city or town in a calendar year payment of a fine of \$60 shall
467 operate as a final disposition of the case; and if it is the fourth or subsequent offense so
468 committed in such city or town in the calendar year the payment of a fine of \$100 shall operate
469 as a final disposition of the case. Such payment shall be made only by postal note, money order
470 or check. Notwithstanding the foregoing procedure and schedules of fines and subject, however,
471 to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide
472 for an alternative procedure and a different schedule of fines.

473 SECTION 43. Said chapter 140 is hereby further amended by striking out section 174A,
474 as so appearing, and inserting in place thereof the following section:-

475 Section 174A. No dog or cat shall be put to death by use of carbon monoxide or carbon
476 dioxide gas or a carbon monoxide or carbon dioxide chamber.

477 SECTION 44. Section 174B of said chapter 140, as so appearing, is hereby amended by
478 striking out, in line 4, the word “fifty” and inserting in place thereof the following figure: -
479 \$100.

480 SECTION 45. Section 174D of said chapter 140, as so appearing, is hereby amended by
481 inserting after the word “commissioner”, in lines 4, 5, 6, 14, 16, 19, 28, 31 and 36, the following
482 words, in each instance:- of public health.

483 SECTION 46. Said chapter 140 is hereby further amended inserting after section 174D
484 the following section:-

485 Section 174E. The provisions of this chapter regulating dogs shall not apply to a
486 greyhound dog if the care and treatment of such greyhound dog is regulated by the state racing
487 commission.

488 SECTION 47. Section 2 of chapter 27 of the acts of 2009 is hereby amended by
489 inserting, after item 2511-0100, the following item:-

490 2511-0101 The commissioner of the department of agricultural resources may expend
491 not more than \$500,000 from revenues collected from fees under section 139 of chapter 140 for
492 the purposes of operating an animal control program, and not less than one-third of such
493 revenues collected shall be allocated to operating spay/neuter programs in the commonwealth;
494 provided, however, that the department shall annually file a report with the house and senate
495 committees on ways and means detailing the manner of expenditures under this item in the
496 preceding fiscal year and the amount of funding necessary to operate the animal control program,
497 including spay/neuter programs, in the upcoming fiscal year
498\$500,0
499 00

500 SECTION 48. Section 151C of chapter 140 of the General Laws shall not apply to an
501 animal control officer appointed on or before the effective date of this act until 1 year after such
502 effective date.”