

SENATE No. 2172

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act further regulating animal control.

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

1 SECTION 1. Chapter 129 of the General Laws is hereby amended by inserting after
2 section 39F the following section:- Section 39G. (a) A dog or cat brought or shipped into the
3 commonwealth shall be accompanied by an official health certificate issued by an accredited
4 veterinarian, a copy of which shall be sent to the commissioner of agricultural resources.

5 (b) An official health certificate shall mean a legible certificate or form issued by an
6 accredited veterinarian and approved by the chief livestock official of the state or county of
7 origin containing the name and address of the consignor and consignee. The certificate or form
8 shall also show the age, sex, breed and description of each dog or cat and certify that the dog or
9 cat is free from visual evidence of infectious or contagious disease. The certificate or form shall
10 show proof of rabies vaccination within the previous 12 months. A dog or cat imported into the
11 commonwealth that is not currently vaccinated for rabies shall be vaccinated within 30 days of
12 entry or acquisition or upon reaching the age of 6 months. (c) A dog or cat purchased

13 within the commonwealth for resale by a commercial establishment or pet shop shall be
14 accompanied by a health certificate, issued by an accredited veterinarian, which shall show the

15 age, sex, breed, and description of each dog or cat and certify that the dog or cat is free from
16 visual evidence of infectious or contagious disease. (d) A commercial establishment, pet shop,
17 firm or corporation shall not import into the commonwealth, for sale or resale in the
18 commonwealth, any cat or dog less than 8 weeks of age. (e) A dog or cat sold in the
19 commonwealth by a commercial establishment, pet shop, firm or corporation shall be
20 accompanied by a health record indicating the date and type of each vaccine administered to
21 each such dog or cat. (f) The commissioner may, after notice and hearing, revoke or
22 suspend a pet shop, kennel and boarding kennel license issued under section 137 of chapter 140
23 of a person, firm or corporation maintaining the pet shop, kennel and boarding kennel for a
24 violation of this section. (g) A person, firm or corporation aggrieved by an order under this
25 section may, by petition, appeal within 30 days to the superior court in the county wherein such
26 person resides or where such firm or corporation is located. The appellant shall state the findings
27 by the commissioner and the grounds of appeal therefrom. The court shall consider the
28 proceedings de novo and the parties shall have right of exception and appeal. (h) The
29 provisions of this section shall not apply to a greyhound dog if the care and treatment of such
30 greyhound dog is regulated by the state racing commission. SECTION 2. Chapter 140 of
31 the General Laws is hereby amended by striking out sections 136A, 137 and 137A, as appearing
32 in the 2008 Official Edition, and inserting in place thereof the following 3 sections:- Section
33 136A. The following words and phrases as used in sections 137 to 175D, inclusive, unless the
34 context otherwise requires, shall have the following meanings: "Adoption", the delivery of a
35 cat or dog to any person 18 years of age or older for the purpose of harboring such dog or cat as a
36 pet. "Animal control officer", an appointed officer authorized to enforce sections 136A to
37 175D, inclusive. "Attack", aggressive physical contact initiated by an animal.

38 “Commercial boarding or training kennel”, an establishment used for boarding, holding,
39 day care, overnight stays or training of animals that are not the property of the owner of such
40 establishment, at which such services are rendered in exchange for consideration and in the
41 absence of the owner of such animal; provided, however, that this definition shall not include an
42 animal shelter or animal control facility, a pet shop licensed pursuant to section 39A of chapter
43 129, a grooming facility operated solely for the purpose of grooming and not overnight boarding
44 or individuals who temporarily, and not in the normal course of business, board or care for
45 animals owned by others. “Commercial breeder kennel”, an establishment, other than a
46 personal kennel, engaged in the business of breeding animals for sale or for exchange to
47 wholesalers, brokers or pet shops in return for consideration. “Commissioner”, the
48 commissioner of agricultural resources. “Dangerous dog”, a dog that either: (i) without
49 justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves
50 in a manner that a reasonable person would believe poses an unjustified imminent threat of
51 physical injury or death to 1 or more persons, domestic or owned animals; provided, however,
52 that no dog shall be deemed dangerous:

53 (i) solely based upon growling or barking or solely growling and barking; (ii) based upon
54 the breed of such dog; or (iii) if such dog was reacting to another animal or to a person and
55 such dog’s reaction was not grossly disproportionate to any of the following circumstances;
56 provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that
57 such person was not committing a crime, provoking the dog or trespassing: (1) such dog was
58 protecting or defending itself, its offspring, another domestic animal or a person from attack or
59 assault; (2) the person who was attacked or threatened by the dog was committing a
60 crime upon the person or property of the owner or keeper of such dog; (3) the person

61 attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting,
62 injuring or otherwise provoking such dog; or (4) at the time of such attack or threat, the
63 person or animal that was attacked or threatened by such dog had breached an enclosure or
64 structure wherein the dog was kept apart from the public and such person or animal was not
65 authorized by the owner of the premises to be within such enclosure, including, but not limited to
66 a gated, fenced in area if the gate was closed, whether locked or unlocked.

67 “Department”, the department of agricultural resources. “Domestic animal”, any
68 animal on the list of animals appearing in 321 CMR 90.2. “Domestic charitable corporation
69 kennel”, a facility operated, owned or maintained by a domestic charitable corporation registered
70 with the department, or an animal welfare society or other nonprofit organization incorporated
71 for the purpose of providing for and promoting the welfare, protection and humane treatment of
72 animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which
73 operates for the above purpose in addition to providing medical treatment and care.

74 “Hearing authority”, the selectmen of a town, mayor of a city, the officer in charge of the
75 animal commission, the chief or commissioner of a police department, the chief or
76 commissioner’s designee or the person charged with the responsibility of handling dog
77 complaints in a town or city. “Keeper”, any person, business, corporation, entity or society,
78 other than the owner, harboring or having in his possession any dog. “Kennel”, 1 pack or
79 collection of dogs on a single premise, including a commercial boarding or training kennel,
80 commercial breeder kennel, domestic charitable corporation kennel, personal kennel or
81 veterinary kennel. “License period”, the period of time for which a municipal licensing
82 authority prescribes the validity of a dog license, including the date of issuance of such license
83 through the date on which such license expires, inclusive. “Licensing authority”, the police

84 commissioner of the city of Boston and the clerks of any other municipality. “Live stock or
85 fowl”, any fowl or other animal kept or propagated by the owner for food or as a means of
86 livelihood and deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other
87 birds and quadrupeds determined by the department of fisheries, wildlife and environmental law
88 enforcement to be wild and kept by, or under a permit from, said department in proper houses or
89 suitable enclosed yards but excluding dogs, cats and other animals listed under 321 CMR 9.02.

90 “Nuisance dog”, a dog that: (i) by excessive barking or other disturbance is a source of
91 annoyance to any sick person residing in the vicinity; or (ii) by excessive barking, by causing
92 damage or other interference with or disturbance of a person’s quiet enjoyment of his home or
93 workplace and which a reasonable person would find extremely annoying or disturbing; or (iii) a
94 dog that has threatened or attacked livestock, a domestic animal or a person, but such threat or
95 attack was not a grossly disproportionate reaction under all the circumstances. “Personal
96 kennel”, 1 pack or collection of more than 4 dogs 3 months old or older, owned or kept under 1
97 ownership, for private personal use; provided, however, that breeding of personally owned dogs
98 may take place for the purpose of improving, exhibiting or showing the breed, use in sporting
99 activity or other personal reasons; provided, further, that selling, trading, bartering or the
100 distribution of such breeding from a personal kennel shall be to other breeders or individuals by
101 private sale only and not to wholesalers, brokers or pet shops; provided, further, that kennels in
102 this category shall not sell, trade, barter or distribute any dogs not bred from their personally
103 owned dogs; provided, further, that dogs temporarily housed at a personal kennel in conjunction
104 with an animal shelter or rescue registered with the department may be sold, traded, bartered or
105 distributed as long as the transfer is not made for the purpose of making a profit. “Research
106 institution”, any institution operated by the United States or by the commonwealth or a political

107 subdivision thereof, or any school or college of medicine, public health, dentistry, pharmacy,
108 veterinary medicine or agriculture, medical diagnostic laboratory or biological laboratory,
109 hospital or other educational or scientific establishment within the commonwealth above the rank
110 of secondary school, which, in connection with any of its activities, investigates or gives
111 instruction concerning the structure or functions of living organisms or the causes, prevention,
112 control or cure of diseases or abnormal conditions of human beings or animals. “Shelter”, a
113 public animal control facility, or any other facility which is operated by any organization or
114 individual for the purpose of protecting animals from cruelty, neglect, or abuse. “Veterinary
115 kennel”, a veterinary hospital or clinic that boards dogs for reasons in addition to medical
116 treatment or care; provided, however, that this definition shall not include a hospital or clinic
117 used solely to house dogs that have undergone veterinary treatment, observation, or will do so,
118 only for the period of time needed to accomplish the needed veterinary care. Section 137.
119 (a) The owner or keeper of any dog over the age of 6 months shall obtain a license therefore.
120 The registering, numbering, describing and licensing of a dog shall be conducted in the office of
121 a licensing authority. (b) A licensing authority shall not grant a license for a dog unless
122 the owner thereof provides the licensing authority either a veterinarian's certification that the dog
123 has been vaccinated in accordance with section 145B, certification that such dog is exempt from
124 the vaccination requirement under section 145B or a notarized letter from a veterinarian that
125 either such certification was issued relative to such dog. (c) The license shall be subject to the
126 condition expressed therein that the dog which is the subject of the license shall be controlled
127 and restrained from killing, chasing or harassing live stock or fowl. The owner of a dog may add
128 descriptive words, not over 10 in number, upon the license form to indicate the color, breed,
129 weight and special markings of the licensed dog. The owner or keeper of a licensed dog shall

130 cause it to wear around its neck or body a collar or harness of leather or other suitable material,
131 to which shall be securely attached a tag, upon which shall appear the license number, the name
132 of the city or town issuing the license and the year of issue. If the tag shall be lost, the owner or
133 keeper of such dog shall forthwith secure a substitute tag from the licensing authority at a cost to
134 be determined by such city or town and the fee therefore shall, if received by a city or town
135 clerk, be retained by him unless otherwise provided by law. This section shall not apply if
136 otherwise provided by law, nor shall it apply to a person having a kennel license. Section
137 137A. (a) Every person maintaining a kennel shall have a kennel license. An owner or keeper
138 of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a
139 kennel license in lieu of licensing the dogs under section 137, and shall be subject to this section
140 and to sections 137B and 137C and to so much of section 141 as relates to violations of this
141 section to the same extent as though the owner or keeper were maintaining a kennel. The
142 licensing authority shall issue kennel licenses for kennels subsequent to the kennel inspection by
143 the animal control officer. (b) The kennel license shall be in lieu of any other license for any
144 dog while kept at the kennel during any portion of the period for which the kennel license is
145 issued. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is
146 at large, a collar or harness of leather or other suitable material, to which shall be securely
147 attached a tag upon which shall appear the number of the kennel license, the name of the city or
148 town issuing the license and the year of issue. The tags shall be furnished to the owner or keeper
149 by the licensing authority in quantities not less than the number of dogs kept in the kennel. The
150 fee for each kennel license shall be determined by the city or town. For the purpose of
151 determining the amount of the fee for a kennel, a dog under the age of 6 months shall not be
152 counted in the number of dogs kept therein. The name and address of the owner of each dog kept

153 in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and
154 available for inspection by an animal control officer, natural resource officer, deputy natural
155 resource officer, fish and game warden or police officer. (c) The licensing authority shall,
156 upon application, issue a kennel license to a domestic charitable corporation incorporated
157 exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief
158 of suffering, without charge. (d) The commissioner may promulgate rules and regulations for
159 the licensing of kennels and for similar establishments for the breeding, raising or care of cats.

160 SECTION 3. Section 137B of said chapter 140, as so appearing, is hereby amended by
161 inserting after the word "town", in lines 14 and 18, the following words, in each instance:- or
162 city. SECTION 4. Said chapter 140 is hereby further amended by striking out section 137C,
163 as so appearing, and inserting in place thereof the following section:- Section 137C. The
164 mayor of a city, the selectmen of a town, the police commissioner in the city of Boston, a chief
165 of police or an animal control officer may at any time inspect a kennel or cause the inspection
166 thereof. If, in the judgment of such person or body, the kennel is not being maintained in a
167 sanitary and humane manner, or if records are not properly kept as required by law, such person
168 or body shall, by order, revoke or suspend such license. Upon the petition of 25 citizens, filed
169 with the mayor of a city, the selectmen of a town or the police commissioner in the city of
170 Boston, setting forth a statement that such citizens are aggrieved or annoyed to an unreasonable
171 extent by 1 or more dogs maintained in such city or town, due to excessive barking of the dogs
172 or other conditions connected with a kennel constituting a nuisance, the mayor, selectmen or
173 police commissioner, as the case may be, shall, within 7 days after the filing of the petition, give
174 notice to all parties in interest of a public hearing to be held within 14 days after the date of such
175 notice. The mayor, selectmen or police commissioner shall, within 7 days after the public

176 hearing, investigate or cause to be investigated the subject matter of the petition and shall, by
177 order, either suspend or revoke the kennel license or otherwise regulate the kennel, or dismiss the
178 petition. Written notice of an order revoking, suspending or reinstating a license shall be mailed
179 forthwith to the officer issuing the license and to the holder of the license. Within 10 days after
180 the order, the holder of the license may bring a petition in the district court within the judicial
181 district in which the kennel is maintained, addressed to the justice of the court, praying that the
182 order may be reviewed by the court. After notice to all parties as the court may consider
183 necessary, the court shall review the action, hear the witnesses and affirm the order unless it shall
184 appear that it was made without proper cause or in bad faith, in which case the order shall be
185 reversed. The decision of the court shall be final and conclusive upon the parties. A person
186 maintaining a kennel after the license therefor has been so revoked, or while the license therefor
187 is suspended, shall be punished by a fine of not more than \$250. SECTION 5. Section 137D
188 of said chapter 140 , as so appearing, is hereby amended by striking out, in line 15, the word
189 “two” and inserting in place thereof the following figure:- 5. SECTION 6. Section 138 of
190 said chapter 140 , as so appearing, is hereby amended by inserting after the word “town”, in lines
191 2 and 3, the following words, in each instance:- or city. SECTION 7. Said section 138 of
192 said chapter 140, as so appearing, is hereby further amended by striking out, in line 9, the word
193 “three” and inserting in place thereof, in each instance, the following figure:- 6. SECTION 8.
194 Section 138A of said chapter 140 is hereby repealed. SECTION 9. Said chapter 140 is
195 hereby further amended by striking out section 139, as appearing in the 2008 Official Edition,
196 and inserting in place thereof the following section:- Section 139. (a) The fee for every
197 license shall, except as otherwise provided, be determined by a city or town but such fee shall be
198 not more than \$35 for a spayed or neutered dog and shall not exceed \$50 for an intact dog.

199 (b) If a certificate of a registered veterinarian who spayed or neutered a dog has been
200 shown to a city or town clerk, the license fee shall be lower than that of an intact animal. If the
201 city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the
202 dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian
203 who performed the operation, a statement signed under the penalties of perjury by a veterinarian
204 registered and practicing in the commonwealth describing the dog and stating that the
205 veterinarian has examined the dog, which appears to have been spayed or neutered and thereby
206 deprived of the power of propagation. (c) No fee shall be charged for a license issued
207 pursuant to this section: (i) for a service animal as defined by the Americans with Disabilities
208 Act or regulations promulgated thereunder; or (ii) for a dog owned by a person aged 70 years or
209 older. A license fee or part thereof shall not be refunded because of the subsequent death, loss,
210 spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee
211 or part thereof paid by mistake be paid or recovered back after it has been paid over to a city or
212 town under section 147. SECTION 10. Section 139A of said chapter 140, as so appearing,
213 is hereby amended by striking out, in lines 2 and 3, the words “a deposit of not less than ten nor
214 more than thirty dollars ” and inserting in place thereof the following words:- a written
215 agreement is entered into and a deposit of not less than \$40. SECTION 11. Said section
216 139A of said chapter 140, as so appearing, is hereby further amended by adding the following
217 paragraph:- The commissioner may set fines for violations and may further establish
218 regulations to ensure compliance with this section. Additionally, an animal control officer, an
219 officer licensed under section 57 of chapter 22C, a police officer or the owner, director or a duly
220 authorized agent of an animal shelter from which an animal was obtained may bring a petition in
221 the district court within the judicial district of which the dog or cat is owned or kept for an action

222 of forfeiture and relinquishment of ownership. Legal fees or court costs incurred in the
223 enforcement of this section shall be the responsibility of the owner of the animal.

224 SECTION 12. Chapter 140 is hereby further amended by striking out section 141, as so
225 appearing, and inserting in place thereof the following section:- Section 141. Whoever
226 violates any provision of section 137, 137A, 137B or 138 shall be assessed a fee of not less than
227 \$50, which shall be paid to the city or town. SECTION 13. Section 145 of said chapter

228 140, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “to the
229 director of accounts upon application therefor.” SECTION 14. Section 145A of said chapter

230 140, as so appearing, is hereby amended by striking out the fourth to seventh sentences,
231 inclusive. SECTION 15. Said chapter 140 of the General Laws is hereby further amended

232 by striking out section 145B and inserting in place thereof the following section:- Section 145B.
233 Whoever is the owner or keeper of a dog, cat or ferret in the commonwealth, 6 months of age or
234 older, shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian
235 using a licensed vaccine according to the manufacturer’s directions, and shall cause such dog, cat
236 or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs,
237 cats or ferrets acquired or moved into the commonwealth shall be vaccinated within 30 days after
238 the acquisition or arrival into the commonwealth or upon reaching the age of 6 months,

239 whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating any
240 dog, cat or ferret, to complete a certificate of rabies vaccination which shall include, but not be
241 limited to, the following information: the owner’s name and address; a description of the animal,
242 including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies
243 vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration
244 date of the vaccine; and the vaccine lot number. The veterinarian shall issue a tag with each

245 certificate of vaccination. The tag shall be secured by the owner or keeper of such dog, cat or
246 ferret to a collar or harness made of suitable material to be worn by the dog, cat or ferret;
247 provided, however, that the owner of a cat may choose not to affix a tag to his cat, but shall have
248 the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or
249 keeper of the animal shall, upon presentation of the original vaccination certificate, be issued a
250 new tag. In order for a dog, cat or ferret to be accepted at an animal hospital, veterinarian's
251 office or boarding facility, an owner or keeper of such animal shall show proof of current
252 vaccination against rabies; provided however, that if an animal has not been so vaccinated or
253 such owner or keeper fails to show proof of vaccination, the animal shall be vaccinated against
254 rabies prior to being discharged if the animal's medical condition permits. A licensing
255 authority may grant an exemption from this section for any dog, cat or ferret that; (i) the
256 local board of health declared exempt upon presentation of a veterinarian's certificate stating that
257 because of an infirmity, other physical condition or regimen of therapy, that inoculation is
258 thereby considered inadvisable for a specified period of time; (ii) is in transit; or (iii)
259 was brought into the commonwealth temporarily for the sole purpose of display in shows or for
260 exhibition. This section shall not apply to dogs, cats or ferrets housed in a research
261 institution. Whoever violates this section shall be punished by a fine of not more than \$100.

262 SECTION 16. Section 146 of said chapter 140, as so appearing, is hereby amended by
263 striking out, in lines 5 to 8, inclusive, the words "to which such dog has been removed, and such
264 clerk shall take up the same and issue to said owner or keeper a transfer license, together with a
265 tag, for such dog upon payment of twenty-five cents" and inserting in place thereof the following
266 words:- or city to which such dog has been removed, and such clerk shall take up the same and
267 issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment

268 of an amount to be determined by the city or town. SECTION 17. Said chapter 140 is hereby
269 further amended by striking out sections 147 and 147A, as so appearing, and inserting in place
270 thereof the following section:- Section 147. The police commissioner of the city of
271 Boston and the clerks of other cities and towns shall issue said licenses and tags, receive the
272 money therefore and pay it into the treasuries of their respective cities and towns on the first
273 Monday of each month or more often. The clerks of cities and towns, except the city of Boston,
274 may retain for their own use 75 cents for each license, unless otherwise provided by law, and
275 shall certify under penalties of perjury to the amounts of money thus received and paid over to
276 them. The police commissioner of the city of Boston and each city or town clerk shall make a
277 record of the name of the owner or keeper of each dog licensed and of the name, registered
278 number and description of each dog licensed. Such records shall be open to public inspection
279 during the usual office hours of the city or town clerk. All blanks for the licenses and tags and
280 the record books shall be paid for out of the city or town treasury. The police commissioner of
281 the city of Boston and any city or town clerk or city or town treasurer violating this section shall
282 be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less
283 than 1 month nor more than 1 year in the house of correction, or both. If a city or town clerk
284 neglects or fails to pay the money into the city or town treasury as required by this section, the
285 city or town may recover the amount thereof for the benefit of the city or town, with all damages
286 sustained through such neglect or failure, and interest thereon, in an action on the official bond
287 required, in the case of a city clerk, by section 13A of chapter 41 and, in the case of a town clerk,
288 by section 13 of said chapter 41. All payments required under this section shall be subject to
289 section 52 of said chapter 41. SECTION 18. Section 147B of said chapter 140 is hereby
290 repealed. SECTION 19. Said chapter 140 is hereby further amended by striking out

291 sections 149, 150, 151, 151A and 151B, as so appearing, and inserting in place thereof the
292 following 5 sections:- Section 149. Each city or town treasurer shall keep an accurate
293 and separate account of all money received and expended by him under this chapter relating to
294 animals. Section 150. Persons authorized or directed by section 4 of chapter 51, or by any
295 special law, to make lists of residents 3 years of age or older shall make a list of all dogs owned
296 by the inhabitants at the time of making such lists and shall annually return the same in duplicate
297 to the city or town clerk or, in the city of Boston, to the police commissioner. An owner or
298 keeper of a dog who refuses to answer or answers falsely to persons directed or authorized to
299 make such a list shall be punished by a fine of not less than \$20 which shall be paid to the city or
300 town. Section 151. (a) The mayor of each city and the board of selectmen of each town shall
301 annually designate 1 or more animal control officers, who may be police officers or constables.
302 An animal control officer who fails to comply with the terms of the officer's warrant shall
303 forthwith be removed from office by the mayor or board of selectmen. Animal control officers
304 shall have completed, under the supervision of a veterinarian registered under section 55 or 56C
305 of chapter 112, a course of instruction in humane techniques for the execution of animals before
306 euthanizing any animal. Before euthanizing or giving or turning over to another any dog or cat
307 in the officer's possession, such animal control officer shall first examine the animal for the
308 presence of a microchip or tattoo, check the description of such animal against descriptions
309 within the city or town relative to such species of animal licensed or registered in such
310 municipality in order to verify the identity of the animal and to provide notice to the owner
311 thereof before the animal is euthanized, given away or turned over to another. Bills for such
312 services shall be approved by the mayor of the city or the board of selectmen of the town in
313 which the dogs or cats are kept or euthanized and shall be paid by the city or town. Each animal

314 control officer appointed under this section shall also attend to all complaints or other matters
315 pertaining to animals, as prescribed by their respective city or town, in addition to the duties
316 imposed upon the officer by the officer's warrant, and shall be paid for such services by the town
317 or city treasurer upon bills approved by the mayor or by the board of selectmen. The mayor of
318 any city or the board of selectmen of any town may, instead of appointing an animal control
319 officer, enter into a contract with a domestic charitable corporation incorporated exclusively for
320 the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of
321 an animal control officer. In that case, the payments to the corporation under the terms of the
322 contract shall be in full for all services rendered by it in that capacity. (b) An animal control
323 officer shall not be a licensed animal dealer registered with the United States Department of
324 Agriculture. An animal control officer shall not give, sell or turn over any animal which may
325 come into the officer's custody to any business or institution licensed or registered as a research
326 facility or animal dealer with the United States Department of Agriculture either privately or in
327 the course of carrying out such officer's official assignments as an agent for the officer's
328 municipality. A municipality shall not give, sell or turn over any animal which may come into
329 its custody to any business or institution licensed or registered as a research facility or animal
330 dealer with the United States Department of Agriculture. Whoever violates this subsection shall
331 be punished by a fine of not more than \$1,000. Section 151A. (a) The mayor or board of
332 selectmen shall annually issue a warrant to the animal control officer or officers directing the
333 officer or officers to seek out, catch and confine all dogs within the city or town which are not
334 licensed, collared or harnessed, or tagged, as required by this chapter, and to enter and prosecute
335 a complaint for failure to comply with this chapter against the owners or keepers thereof, if
336 known, and to euthanize or cause to be euthanized only by a humane method of euthanasia in

337 accordance with the guidelines of the American Veterinary Medical Association and section
338 174A, except by gunshot in case of emergency, each such dog which after being detained by or
339 for the officer for a period of 7 days shall not have been licensed, collared or harnessed, and
340 tagged; provided, however, that after 7 days, the animal control officer may make available for
341 adoption any dog found free of disease for a sum of not less than \$10 and shall keep an account
342 of all moneys received by such officer for the adoption and shall forthwith pay over the sums to
343 the treasurer who shall forward the money to the city or town. Before delivery of a dog so
344 adopted, the animal control officer shall require the purchaser to show identification and to
345 procure a license and tag for the dog from the clerk of the city or town wherein the dog is to be
346 kept. Dogs detained pursuant to this section shall be confined in a place suitable for the detention
347 and care of dogs and kept in a sanitary condition, or they may be placed in the care of the holder
348 of a kennel license or of a domestic charitable corporation incorporated exclusively for the
349 purpose of protecting animals from cruelty, neglect or abuse. An animal control officer having
350 custody of a detained dog or cat shall be allowed a sum determined by the city or town per day
351 for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the city or
352 town. (b) Every animal control officer shall make, keep and maintain systems of records or
353 forms which fully and correctly disclose the following information concerning each animal in the
354 officer's custody: (1) the date and location of apprehension; (2) a description of the
355 animal; (3) the place of detainment; (4) if tagged, the name and address of the owner of
356 the animal; (5) the name and address of a new owner, if any, including the date of sale or
357 transfer of the animal; and (6) if the animal is euthanized, the method and date thereof and the
358 name of the person who euthanized the animal. Every animal control officer shall forward a copy
359 of the record to the town or city clerk within 30 days. Copies of the record shall be kept for 2

360 years in the offices of the city or town clerk where such animal control officer is employed.

361 Section 151B. Any veterinarian registered under section 55 or 56A of chapter 112, who
362 renders emergency care or treatment to or who euthanizes a dog or cat that is injured on any way,
363 shall receive payment from the owner of such dog or cat, if known, or if not known, from the city
364 or town in which the injury occurred, in an amount not to exceed \$250 for such care, treatment or
365 euthanization; provided, however, such emergency care, treatment or euthanization shall be for
366 the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or
367 keeper of such dog or cat is identified or for a period of 24 hours, whichever is sooner. Any
368 veterinarian who renders such emergency care or treatment to a dog or cat or euthanizes a dog or
369 cat shall notify the municipal animal control officer and such animal control officer shall assume
370 control of such dog or cat or the remains thereof. SECTION 20. Section 152 of said chapter
371 140, as so appearing, is hereby amended by striking out, in line 1, the word “dog” and inserting
372 in place thereof the following words:- animal control. SECTION 21. Said section 152 of
373 said chapter 140, as so appearing, is hereby further amended by inserting after the word “dogs”,
374 in line 6, the following words:- and cats. SECTION 22. Said section 152 of said chapter 140,
375 as so appearing, is hereby further amended by striking out, in line 10, the word “dogs” and
376 inserting in place thereof the following word:- animals. SECTION 23. Section 153 of said
377 chapter 140, as so appearing, is hereby amended by striking out, in line 2, the words “, except
378 Suffolk county”. SECTION 24. Said section 153 of said chapter 140, as so appearing, is
379 hereby further amended by striking out, in lines 13 to 18, inclusive, the words “by methods of
380 execution other than gunshot except in case of emergency, T-61, so-called, an euthanasia
381 solution not under the control of the federal Drug Enforcement Administration, unless by a
382 veterinarian, succinylcholine cholide, any drugs that have curariform-like action, electrocution,

383 or any other method which causes an unnecessarily cruel death” and inserting in place thereof
384 the following words:- only by a humane method of euthanasia in accordance with the guidelines
385 of the American Veterinary Medical Association and section 174A, except by gunshot in case of
386 emergency. SECTION 25. Said section 153 of said chapter 140, as so appearing, is hereby
387 further amended by striking out, in lines 18 to 21, inclusive, the words “ten days, shall not then
388 have been duly licensed, collared or harnessed, and tagged, except that any male or any spayed
389 female dog not found to be diseased may be made available for adoption for not less than three
390 dollars” and inserting in place thereof the following words:- 7 days, shall not then have been
391 duly licensed, collared or harnessed, and tagged, except that any dog not found to be diseased
392 may be made available for adoption for not less than \$10. SECTION 26. Said section 153 of
393 said chapter 140, as so appearing, is hereby further amended by inserting after the word “dogs”,
394 in line 34, the following words:- and cats. SECTION 27. Said section 153 of said chapter 140,
395 as so appearing, is hereby further amended by striking out, in lines 41 to 83, inclusive, the words
396 "nineteen hundred and _____

397 Mayor of (or Chairman of the Selectmen of)

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

399 COMMONWEALTH OF MASSACHUSETTS

400 (Seal) , ss. To , constable of the city (or town) of In the name of
401 the commonwealth of Massachusetts, you are hereby required to proceed forthwith to seek out,
402 catch and confine all dogs within said city (or town) not duly licensed, collared or harnessed, and
403 tagged, according to the provisions of chapter one hundred and forty of the General Laws, and
404 you are further required to make and enter complaint against the owner or keeper of every such

405 dog, and to kill or cause to be killed by methods of execution other than gunshot except in case
406 of emergency, T-61, so-called, an euthanasia solution not under the control of the federal Drug
407 Enforcement Administration, unless by a veterinarian, succinylcholine choline, any drugs that
408 have a curariform-like action, electrocution, or any other method which causes an unnecessarily
409 cruel death each such dog which, after being detained for a period of seven days, shall not then
410 have been duly licensed, collared or harnessed, except that any male or any spayed female dog
411 not found to be diseased may be made available for adoption for not less than three dollars, and
412 you shall keep an account of any such sale and forthwith pay over the money to the town
413 treasurer. Before delivery of any dog so adopted you shall require the purchaser to show
414 identification and to register and procure a license and tag for such dog from the town clerk of
415 the town where the dog is to be kept, in accordance with the provisions of section one hundred
416 and thirty-seven of said chapter one hundred and forty of the General Laws. Hereof fail
417 not, and make due return of this warrant with your doings therein, on or before the first day of
418 October next, on or before the first day of January next, and on or before the first day of April
419 next, and at the expiration of your term of office, stating the number of dogs caught, confined
420 and/or killed, or adopted, and the names of the owners or keepers thereof, and whether all
421 unlicensed dogs in said city (or town) have been caught, confined and/or killed, or adopted, and
422 the names of persons against whom complaints have been made under the provisions of said
423 chapter one hundred and forty, and whether complaints have been made and entered against all
424 the persons who have failed to comply with the provisions of said chapter one hundred and forty.

425 Given under my hand and seal at ___ aforesaid the ___ day of ___ in the year
426 nineteen hundred and _____ Mayor of (or Chairman of the Selectmen of)”
427 and inserting in place thereof the following words:- two thousand. Mayor

428 of (or Chairman of the Selectmen of). SECTION 28. Section 155 of said chapter 140, as
429 so appearing, is hereby amended by adding the following sentence:- If the dog accused of as
430 having caused the damage or injury has been deemed a dangerous dog under section 157,
431 liability shall be presumed and the burden of proof shall be upon the defendant to such action to
432 rebut liability. SECTION 29. Said chapter 140 is hereby further amended by striking out
433 sections 157, 158, 159, 160 and 161, as so appearing, and inserting in place thereof the following
434 6 sections:- Section 157. (a) Any person may file a complaint in writing to the hearing
435 authority complaining that a dog owned or kept in the city or town wherein the complainant
436 resides is a nuisance dog or is a dangerous dog. Such hearing authority shall investigate the
437 complaint, or cause the investigation thereof, including an examination under oath of the
438 complainant, at a public hearing in such municipality to determine whether the dog is a nuisance
439 or a dangerous dog, whichever is alleged. Based on the credible evidence and testimony
440 presented at the public hearing, the hearing authority shall, if the dog is complained of as a
441 nuisance dog, either: (i) dismiss the complaint; or (ii) deem such dog a nuisance dog, or, if the
442 dog is complained of as a dangerous dog, either: (i) dismiss the complaint; (ii) deem such dog a
443 nuisance dog; or (iii) deem such dog a dangerous dog. (b) If the hearing authority deems a
444 dog a nuisance dog, the hearing authority may further order that the owner or keeper of such dog
445 take remedial action to ameliorate the cause of the nuisance behavior. (c) If the hearing
446 authority deems a dog a dangerous dog, the hearing authority shall order 1 or more of the
447 following: (i) that the dog shall be humanely restrained; provided, however, that no
448 order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to any
449 inanimate object including, but not limited to, a tree, post or building; (ii) that the
450 dog shall be confined to the premises of the keeper of such dog: provided, however, that

451 “confined” shall mean; securely confined indoors or confined outdoors in a securely enclosed
452 and locked pen or dog run area upon the premises of the owner or keeper; provided further, that
453 such pen or dog run shall have a secure roof and if such enclosure has no floor secured to the
454 sides thereof, the sides shall be embedded into the ground not less than 2 feet; and provided
455 further, that within the confines of such pen or dog run, a dog house or proper shelter from the
456 elements shall be provided to protect such dog; (iii) that when removed from the
457 premises of the owner or the premises of the person keeping the dog, the dog shall be securely
458 and humanely muzzled and restrained with a chain or other tethering device having a minimum
459 tensile strength of 300 pounds and not exceeding 3 feet in length; (iv) that the owner or
460 keeper of the dog shall provide proof of a policy of insurance in an amount not less than
461 \$100,000 insuring such owner or keeper against any claim, loss, damage or injury to persons,
462 domestic animals or property resulting from the acts, whether intentional or unintentional, of
463 such dog or proof that reasonable efforts were made to obtain such insurance if a policy has not
464 been issued. If such a policy has been issued, the owner or keeper shall produce such policy
465 upon request of the hearing authority or a justice of the district court or proof of efforts to obtain
466 same if such a policy has not been issued. (v) that the owner or keeper of the dog shall
467 provide to the licensing authority or animal control officer, or such other entity identified in the
468 order, information by which such dog may be identified, throughout its lifetime including, but
469 not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations
470 or a combination of such methods of identification; (vi) that unless an owner or
471 keeper of the a dog provides evidence that a veterinarian is of the opinion the such dog is unfit
472 for alterations because of medical condition, the owner or keeper of the dog shall cause the dog
473 to be altered such that the dog shall not be reproductively intact; or (vii) that the

474 dog shall be humanely euthanized.No order shall be issued directing that a dog deemed
475 dangerous be removed from the town or city in which the owner of such dog resides. (d)
476 Within 10 days after any order issued pursuant to subsections (a) to (c), inclusive, the owner or
477 keeper of a dog may bring a petition in the district court within the judicial district wherein the
478 order relative to such dog was issued or where the dog is owned or kept, addressed to the justice
479 of the court, praying that the order be reviewed by the court or magistrate thereof. After notice
480 to all parties, the magistrate shall, pursuant to section 62C of chapter 221, review the order of the
481 hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made
482 without proper cause or in bad faith, in which case the order shall be reversed. A party shall have
483 the right to request a de novo hearing on the complaint before a justice of the court. (e) (1)
484 Pending an appeal by an owner or keeper under subsection (d), a hearing authority may file a
485 petition in the district court to request an order of impoundment at a facility the municipality uses
486 to shelter animals for a dog complained of as being a dangerous dog. A municipality shall not
487 incur liability for failure to request impoundment of any dog under this subsection. (2) A
488 justice of a district court may, upon probable cause to believe a dog is a dangerous dog or a dog
489 is being kept in violation of this section or in violation of an order issued under this section by a
490 hearing authority or a court, issue an order:

491 (i) of restraint; (ii) of confinement of the dog as considered necessary for the
492 safety of other animals and the public; provided, however, that if an order of confinement is
493 issued, the person to whom the order is issued shall confine the dog in accordance with clause
494 (ii) of subsection (c); or (iii) of impoundment in a humane place of detention where the
495 municipality uses to shelter animals or such other order as the court deems necessary to protect
496 other animals and the public from such dog.

497 (f) A justice of the district court shall hear, de novo, an appeal filed under subsection
498 (d). Based on the credible evidence and testimony presented at trial, the court shall, whether the
499 dog was initially complained of as a nuisance dog or as a dangerous dog, either: (i) dismiss the
500 complaint; (ii) deem such dog a nuisance dog; or (iii) deem such dog a dangerous dog. The
501 decision of the court shall be final and conclusive upon the parties. (g) If a court affirms
502 an order of euthanasia, the owner or keeper of the dog shall reimburse the city or town for all
503 reasonable costs incurred for housing and care of such dog during its impoundment and
504 throughout the appeals process, if any. Unpaid costs shall be recovered by the municipality
505 wherein the owner or keeper of the dog resides on behalf of the hearing authority by 1 of the
506 following methods: (1) a lien on any property owned by the owner or keeper of such dog;
507 (2) an additional, earmarked charge to appear on the vehicle excise tax of the owner or
508 keeper of such dog; or (3) a direct bill sent to the owner or keeper of such dog. All funds
509 recovered by a municipality pursuant to this subsection shall be transferred to the organization or
510 entity charged with the responsibility of handling dog complaints and impoundment. If the
511 organization or entity falls under the management or direction of the municipality, costs
512 recovered shall be distributed at the discretion of the municipality. If the court overturns
513 an order of euthanasia the city or town shall pay all reasonable costs incurred for any housing
514 and care of such dog during any period of impoundment. (h) If an owner or keeper of a dog is
515 found in violation of an order issued under this section, such dog shall be subject to seizure and
516 impoundment by a law enforcement or animal control officer. If the keeper, not the owner of
517 such dog, is in violation, all reasonable effort shall be made by the seizing authority to notify the
518 owner of such dog of the seizure. Upon receipt of such notice, the owner may file a petition with
519 the hearing authority, within 7 days, for the return of the dog to such owner. Such owner or

520 keeper shall be ordered to immediately surrender to the licensing authority the license and tags in
521 his possession, if any, and he shall be banned from licensing any dog within the commonwealth
522 for 5 years. The hearing authority making a determination that a dog is dangerous or a nuisance
523 or that a dog owner or keeper has violated an order issued pursuant to this section shall report
524 such violations to the issuing licensing authority within 30 days. (i) Orders issued by a hearing
525 authority shall be valid throughout the commonwealth unless and until overturned pursuant to
526 subsections (d) or (f). Section 157A. (a) An owner or keeper of a dog who fails to
527 comply with an order of a hearing authority or district court shall be punished by a fine of not
528 more than \$500 or imprisonment for not more than 60 days in the house of correction, or both,
529 for a first offense and not more than \$1,000 or imprisonment for not more than 90 days in the
530 house of correction, or both, for a second or subsequent such offense. (b) No person over
531 the age of 17 who has actual knowledge that a dog has been deemed dangerous under section
532 157 shall permit a child under the age of 17 to own, possess or have the care or custody of such
533 dog. (c) No person shall transfer ownership or possession of a dog which such person knows,
534 or reasonably should have known, has been deemed dangerous pursuant to section 157 or offer
535 such a dangerous dog for sale or breed without informing the recipient of the dog of the finding
536 of dangerousness. Section 158. Any police officer, constable or animal control officer may
537 capture, detain or, in the case of a threat to public safety, euthanize a dog, in a humane manner,
538 which is found to be in violation of an order of a hearing authority or a district court and may
539 euthanize a dog, in a humane manner, which is living in a wild state. Section 159. If a
540 hearing authority or a district court has deemed a dog to be a dangerous dog and such dog
541 wounds any person or worries, wounds or kills any live stock or fowl, the owner or keeper of
542 such dog shall be liable in tort to the person injured thereby in treble the amount of damages

543 sustained by him. Section 160. The mayor of any city, the selectmen of any town, or their
544 agents thereto authorized in writing, may, after written notice to the owner or keeper, enter upon
545 the premises of the owner or keeper of any dog known to them to have worried or killed live
546 stock or fowl, and then and there euthanize such dog, in a humane manner, unless such owner or
547 keeper whose premises are thus entered for said purpose shall give a bond in the sum of \$200,
548 with sufficient sureties, conditioned that the dog shall be restrained for 12 months next ensuing.
549 And if the owner or keeper of the dog declares his intention to give such a bond, such selectmen,
550 or chief of police, as the case may be, or the agent of the selectmen or chief, shall allow him 7
551 days, exclusive of Sundays and holidays, in which to procure and prepare the same and to
552 present it to them, or to file it with the clerk of the town or city where the owner or keeper
553 resides. Section 161. Whoever suffers loss by the worrying, maiming or killing of his live
554 stock or fowl by a dog, outside the premises of the owners or keepers of such dog, may, if the
555 damage is done in a city, inform the animal control officer and may, if the damage is done in a
556 town, inform the chairman of the selectmen of the town or, if he is absent or ill, any 1 of the
557 selectmen who shall proceed to the premises where the damage was done and determine whether
558 the same was inflicted by a dog and, if so, appraise the amount thereof if it does not exceed \$100.
559 If in the opinion of said officer, chairman or selectman, the amount of said damage exceeds
560 \$100, the damage shall be appraised, on oath, by 3 persons, of whom 1 shall be such officer,
561 chairman or selectman, 1 shall be appointed by the person alleged to be damaged, and the third
562 shall be appointed by the other 2. Within 10 days, such appraisers shall consider and include in
563 such damages the labor and time necessarily expended in the finding and collecting of the live
564 stock or fowl injured or separated and the value of those lost or otherwise damaged by a dog.
565 Such officer, chairman or selectman shall return a certificate of the damages found to the

566 treasurer of the city or town wherein the damage was done within 10 days after such appraisal is
567 made. The treasurer shall thereupon submit the same to the city or town clerk who, within 30
568 days, shall examine all bills for damages. A city or town clerk may summons such appraisers or,
569 upon the request of an interested party, shall summons such appraisers and all parties interested
570 and make such investigation as he deems proper, and shall issue an order upon the treasurer of
571 the city or town for such amounts, if any, as he decides to be just and shall notify all interested
572 parties of his decision. The treasurer shall pay all orders drawn upon him in full, for the above
573 purpose and payments made shall be charged to the city or town. SECTION 30. Section 162
574 of said chapter 140 is hereby repealed. SECTION 31. Said chapter 140, as appearing in the
575 2008 Official Edition, is hereby amended by striking out section 163 and inserting in place
576 thereof the following section:- Section 163. If the mayor, aldermen or selectmen
577 determine, after notice to parties interested and a hearing, who is the owner or keeper of any dog
578 which is found to have worried, maimed or killed any live stock or fowl, thereby causing
579 damages for which their owner may become entitled to compensation from the city or town
580 under section 161, they shall serve upon the owner or keeper of such dog a notice directing him,
581 within 24 hours, to euthanize the dog, in a humane manner, or impound the dog. SECTION 32.
582 Section 164 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 4 to
583 6, inclusive, the words “more than twenty-five dollars; and any police officer, constable or dog
584 officer may kill such dog” and inserting in place thereof the following words:- less than \$25;
585 and any police officer, constable or animal control officer may euthanize such dog in a humane
586 manner. SECTION 33. Said chapter 140 is hereby further amended by striking out section
587 165, as so appearing, and inserting in place thereof the following section:- Section 165. A city
588 or town may investigate any case of damage done by a dog of which the chairman of the board

589 of selectmen, mayor or animal control officer shall have been informed as provided in section
590 161 and such chairman, mayor or animal control officer believes that the evidence is sufficient to
591 sustain an action against the owner or keeper of the dog and believes that such owner or keeper is
592 able to satisfy any judgment recovered in such action, he shall bring the action, unless the owner
593 or keeper before the action is brought pays him such amount in settlement of the damage as such
594 chairman, mayor or officer deems reasonable. Such action may be brought in the name of such
595 chairman, mayor or officer and he shall prosecute it. The persons so appointed shall also have
596 throughout their respective municipalities the same powers and authority as police officers,
597 constables or animal control officers appointed under section 151, acting under sections 136A to
598 175D, inclusive. All damages received or recovered under this section shall be paid over to the
599 city or town treasurer. SECTION 34. Said chapter 140 is hereby amended by striking out
600 section 167, as so appearing, and inserting in place thereof the following section:- Section 167.
601 The mayor, aldermen or selectmen may order that all dogs shall be restrained from running at
602 large during such time as shall be prescribed by the order. After passing the order and posting a
603 certified copy thereof in 2 or more public places in the city or town or, if a daily newspaper is
604 published in the city or town, by publishing a copy once in that newspaper, the mayor, aldermen
605 or selectmen may issue their warrant to 1 or more of the police officers or constables of such
606 town, who shall, after 24 hours from the publication of such notice, euthanize all dogs, in a
607 humane manner, found running at large contrary to such order, and shall receive such
608 compensation therefor as is provided in section 151. Notwithstanding the foregoing, a police
609 officer or constable may, in his discretion, hold any such dog for a period not in excess of 7 days.
610 If the owner thereof claims such dog and pays to such officer or constable \$40 for each day that
611 it is so held, it shall be returned to the owner. The fee shall be paid over to the city or town and

612 the remaining moneys shall be retained by such officer or constable as his fee. SECTION 35.

613 Section 168 of said chapter 140, as so appearing, is hereby amended by striking out, in line 1, the

614 words “aldermen or selectmen” and inserting in place thereof the following words:- aldermen,

615 selectmen or mayor. SECTION 36. Said section 168 of said chapter 140, as so appearing, is

616 hereby further amended by striking out, in line 5, the words “more than twenty-five dollars” and

617 inserting in place thereof the following words:- less than \$25. SECTION 37. Section 169

618 of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and

619 inserting in place thereof the following sentence:- A city or town officer who refuses or willfully

620 neglects to perform the duties imposed upon him by the provisions of this chapter relating to

621 dogs shall be punished by a fine of not less than \$100, which shall be paid to the city or town.

622 SECTION 38. Section 170 of said chapter 140 is hereby repealed. SECTION 39.

623 Said chapter 140 is hereby further amended by striking out section 171, as so appearing, and

624 inserting in place thereof the following section:- Section 171. The owner or keeper of a dog

625 which has done damage to live stock or fowl shall be liable in tort to the city or town for all

626 damages so done which the mayor, aldermen or selectmen thereof have ordered to be paid as

627 provided in this chapter. SECTION 40. Section 172 of said chapter 140 is hereby repealed.

628 SECTION 41. Said chapter 140, as appearing in the 2008 Official Edition, is hereby

629 further amended by striking out section 173 and inserting in place thereof the following section:-

630 Section 173. A town or city may make additional ordinances or by-laws relative to the

631 licensing and control animals not inconsistent with sections 137 to 174D, inclusive.

632 SECTION 42. The first paragraph of section 173A of said chapter 140, as so appearing,

633 is hereby amended by striking out the second through fourth sentences and inserting in place

634 thereof the following 3 sentences:- If it is the first offense subject to this section committed by

635 such person within a calendar year, the clerk shall dismiss the charge without the payment of any
636 fine; if it is the second offense so committed in such city or town in the calendar year the
637 payment to the clerk of a fine of \$50 shall operate as a final disposition of the case; if it is the
638 third offense so committed in such city or town in a calendar year payment of a fine of \$60 shall
639 operate as a final disposition of the case; and if it is the fourth or subsequent offense so
640 committed in such city or town in the calendar year the payment of a fine of \$100 shall operate
641 as a final disposition of the case. Such payment shall be made only by postal note, money order
642 or check. Notwithstanding the foregoing procedure and schedules of fines and subject, however,
643 to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide
644 for an alternative procedure and a different schedule of fines. SECTION 43. Said chapter
645 140 is hereby further amended by striking out section 174A, as so appearing, and inserting in
646 place thereof the following section:- Section 174A. No dog or cat shall be put to death by use of
647 carbon monoxide or carbon dioxide gas or a carbon monoxide or carbon dioxide chamber.

648 SECTION 44. Section 174B of said chapter 140, as so appearing, is hereby amended by
649 striking out, in line 4, the words “fifty dollars” and inserting in place thereof the following
650 figure: - \$100. SECTION 45. Section 174D of said chapter 140, as so appearing, is
651 hereby amended by inserting after the word “commissioner”, in lines 4, 5, 6, 14, 16, 19, 28, 31
652 and 36, the following words, in each instance:- of public health. SECTION 46. Said chapter
653 140 is hereby further amended inserting after section 174D the following section:- Section
654 174E. The provisions of this chapter regulating dogs shall not apply to a greyhound dog if the
655 care and treatment of such greyhound dog is regulated by the state racing commission.

656 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after
657 section 35LL the following section:-

658 Section 35NN. There shall be established and set up on the books of the commonwealth a
659 separate fund, to be known as the Homeless Animal Prevention and Care Fund, to assist
660 residents of the commonwealth in paying all or part of any costs associated with vaccinating
661 dogs and cats, reducing the number of homeless animals through spaying and neutering, and to
662 assist with the training of animal control officers. The fund shall be used to assist persons
663 meeting income limit standards to vaccinate and sterilize dogs and cats, including feral cats, to
664 train animal control officers, and for necessary and reasonable administrative and personnel costs
665 related to the fund. The commissioner of the department of agricultural resources shall establish
666 rules and regulations relating to the fund.

667 The fund shall consist of all revenues received by the commonwealth: (i) under the
668 provisions of law authorizing the voluntary check-off donation indicated on the department of
669 revenue's annual income tax return, pursuant to section 6L of chapter 62; and (ii) from public
670 and private sources as gifts, grants and donations to further the elimination of homeless animals.

671 The state treasurer shall not deposit the revenues in, or transfer the revenues to, the
672 General Fund or to any other fund other than the Homeless Animal Prevention and Care Fund.
673 The state treasurer shall deposit the fund in accordance with sections 34 and 34A of chapter 29 in
674 such manner as will secure the highest interest rate available consistent with the safety of the
675 fund and with the requirement that all amounts on deposit shall be available for immediate
676 withdrawal at any time. The fund shall be expended only for the purposes stated above at the
677 direction of the commissioner of the department of agricultural resources and any unexpended
678 balances shall be redeposited in the fund for future use consistent with this section.

679 SECTION 2. Chapter 62 of the General Laws is hereby amended by inserting after
680 section 6L the following section:--

681 Section 6M. (a) An individual who files a separate return and a husband and wife filing
682 a return jointly may voluntarily contribute all, or part of any refund to which they are entitled, or
683 may voluntarily add an amount onto any amount due, to be credited to the Homeless Animal
684 Prevention and Care Fund established pursuant to section 35NN of chapter 10.

685 A contribution made under this section may be with respect to any taxable year at the
686 time of filing a return of the tax established by this chapter for such taxable year; provided,
687 however, that the commissioner shall prescribe the manner in which such contribution shall be
688 made on the face of the return required by section 5 of chapter 62C; provided further, that the
689 commissioner shall assure that taxpayers filing any such forms are made clearly aware of their
690 ability to make the contributions provided for by this section.

691 The commissioner shall annually report the total amount designated under this section to
692 the state treasurer, who shall credit such amount to said Homeless Animal Prevention and Care
693 Fund.”