

HOUSE No. 1455

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to dogs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Vincent A. Pedone</i>	<i>15th Worcester</i>	<i>1/20/2011</i>

HOUSE No. 1455

By Mr. Pedone of Worcester, a petition (accompanied by bill, House, No. 1455) of Vincent A. Pedone relative to potentially dangerous and vicious dogs. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1997 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to dogs.

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. Section 136A of chapter 140 of the General Laws, as appearing in the
2 2006 Official Edition, is hereby amended by inserting, after the definition “Adoption”, the
3 following 4 definitions:-

4 “Assistance and service dogs”, any canine specifically trained to help people who have
5 disabilities or any canine trained to help a person with a disability in life. The term shall also
6 include canines trained for search and rescue and medical response dogs.

7 “Breed”, any dog displaying the majority of physical traits of a specific group or
8 any dog exhibiting those distinguishing characteristics which substantially conform to the
9 standards established by the American Kennel Club or United Kennel Club when defining breed
10 of dog.

11 “Competition dog”, a pedigreed dog not used for breeding that is a breed recognized by
12 and registered with an approved dog breed registry, such as the American Kennel Club, United
13 Kennel Club, the American Dog Breeders Association, or any other dog breed registry approved
14 by the city or town; and shows or competes in a confirmation, obedience, agility, carting,
15 herding, protection, rally, sporting, working or other event sponsored by an approved dog breed
16 registry.

17 “Currently vaccinated”, vaccinated against rabies by a licensed veterinarian, with rabies
18 vaccine licensed by the U.S. Department of Agriculture; and:

19 (A) not more than 12 months have elapsed since the animal’s most recent vaccination
20 with the one-year rabies vaccine or was the animals initial vaccination; or

21 (B) not more than 36 months have elapsed since the animal’s most recent vaccination
22 date, if the most recent vaccination with a three- year rabies vaccine and the dog has received at
23 least 2 vaccinations.

24 SECTION 2. Said section 136A of said chapter 140, as so appearing, is hereby further
25 amended by inserting, after the definition “Commissioner”, the following 3 definitions:-

26 “Dangerous dog”, any dog regardless of breed, breeding, type or appearance, which
27 when unprovoked, has attacked, bitten, inflicted serious injury upon, or killed a human being or
28 other domestic animal.

29 “Farm dog”, any canine that works on a farm to assist humans or other animals.

30 “Health Certificate” - a letter by a certified veterinarian stating that the dog named in the
31 application for breeding has been immunized or vaccinated for the distemper virus, hepatitis,
32 parvo virus, para influenza virus, leptospira bacteria, and rabies.

33 SECTION 3. Said section 136A of said chapter 140, as so appearing ,is hereby further
34 amended by inserting, after the definition “Live stock or fowls”, the following 3 definitions:-

35 “Nuisance”, any animal that runs at large without being controlled by a leash,
36 barks for sustained periods of time so as to disturb the peace and quiet of a neighborhood or area,
37 or digs, scratches or defecates on any property other than its owner's.

38 "Owner", any person who owns, possesses, keeps, exercises control over,
39 maintains, harbors, transports or sells an animal.

40 SECTION 4. Said section 136A of said chapter 140, as so appearing, is hereby further
41 amended by inserting, after the definition “Shelter”, the following definition:-

42 “Tether”, to fasten or restrain a dog or cause a dog to be fastened, chained, tied, or
43 restrained to a stationary object. This shall not include competition dogs, and dogs engaged in
44 the training and practice of sled racing.

45 SECTION 5. Said chapter 140 is hereby further amended by striking out section 157,
46 and inserting in place thereof the following sections:-

47 .Section 157. Any person may make a complaint to the officer in charge of the animals
48 or to the person who is responsible for handling dog complaints in a city or town that a dog,
49 owned or harbored within its jurisdiction, is a nuisance for any of the following reasons,
50 including but not limited to:-

- 51 (a) allowing a dog to run at large without being controlled by a leash;
- 52 (b) allowing a dog to bark for sustained periods of time of more than one-half hour,
- 53 or during the evening or night hours so as to disturb the peace and quiet of a neighborhood or
- 54 area; or
- 55 (c) allowing a dog to dig, scratch or defecate on any property belonging to someone
- 56 other than the owner.

57 If an animal is deemed a nuisance after an investigation by the person charged with

58 handling animal complaints, that person can make a recommendation for or can give a warning,

59 order a fine, confinement, neutering, banishment or the destruction of the dog as may be deemed

60 necessary. Within 10 days after the issuance of said order, the owner or keeper of such dog may

61 bring a petition in the district court within the judicial district in which the dog is owned and

62 kept, addressed to the justice of the court, that the order may be reviewed by the court, or

63 magistrate thereof, and after such notice to the officer or officers involved as the magistrate

64 deems necessary, the magistrate shall review with such action, hear the witnesses and affirm

65 such order unless it shall appear that it was made without reasonable cause or in bad faith, in

66 which case such order shall be reversed. Any party shall have the right to request a de novo

67 hearing on the petition before a justice of the court. The decision of the court shall be final and

68 conclusive upon the parties. Any person owning or harboring such a dog who fails to comply

69 with any order of the selectmen or officer in charge of the animal complaints, as the case may be,

70 shall be punished by a fine of not more than \$25 for the first offence and not more than \$100 for

71 the second or subsequent offense, or by imprisonment in a jail or house of correction for not

72 more than 30 days for the first offense and not more than 60 days for second or subsequent
73 offense or both such fine and imprisonment.

74 Magistrates shall exercise their authority hereunder subject to the limitations of section
75 62C of chapter 221.

76 157A. Dangerous Dogs.

77 A dog, regardless of breed, breeding, or type of appearance, shall be declared dangerous
78 after an unprovoked attack in which it has attacked, bitten, inflicted serious injury upon, or killed
79 a human being or other domestic animal. After a city or town has deemed a dog dangerous, the
80 owner or keeper must be notified that the dog may be an immediate threat to the public.

81 The officer in charge of animals or the person charged with the responsibility of handling
82 dog complaints shall have the authority of determining that a dog is dangerous. Once a dog is
83 determined to be an immediate threat, the officer in charge of the animal or the person charged
84 with handling dog complaints shall have the authority to remove the dog from the owner or
85 keeper, or give a warning, order a fine, confinement, neutering, banishment or the destruction of
86 the dog. The owner of the dog can appeal any decision of warning, fine, confinement,
87 banishment, neutering or destruction.

88 The officer in charge of animals or the person charged with the responsibility of handling
89 dog complaints has the authority, if they believe that a dog is dangerous, an immediate threat or
90 that the animal is in danger to seize or impound the animal.

91 If an owner does not follow the order, a fine of \$50 per day, made payable to the
92 municipality, not to exceed \$1,000, may be assessed by the city or town for each day the owner

93 is in violation of the order. The animal control officer in each city or town shall make available
94 such notices of judgments upon request. Records of such notices shall be maintained for a
95 period of not less than 5 years.

96 Following the order of destruction of a dog by a municipality, the officer in charge of
97 animals shall immediately take custody of the dog from the owner or keeper. If the owner or
98 keeper appeals the order of destruction, the organization or entity charged with the responsibility
99 of handling dog complaints and impoundment shall continue to supervise the dog's care until the
100 owner or keeper exhausts all appeals or discontinues the appeals process.

101 If a court affirms the order of destruction, the owner or keeper shall reimburse the
102 city or town for all costs incurred for the housing and care of the dog during its impoundment
103 and throughout the appeals process. Any unpaid costs shall be recovered by the municipality in
104 which the aforementioned owner or keeper resides by one of the following methods:

- 105 (a) a lien is placed on any property owned by the aforementioned owner or keeper;
- 106 (b) an additional itemized cost may appear on the owner's or keeper's vehicle excise
107 tax bill; or
- 108 (c) an itemized bill for reimbursement is mailed to the owner or keeper.

109 Funds recovered by the municipality shall be transferred to the organization or
110 entity charged with the responsibility of handling dog complaints and impoundment to cover the
111 costs associated with the care of the animal. If the organization or entity falls under the
112 management or direction of the municipality, any costs recovered will be distributed at the
113 discretion of the municipality.

114 If the court overturns the order of destruction, the city or town shall pay all
115 costs associated with the care of the dog for housing and care during its impoundment and
116 throughout the appeals process.

117 No dog shall be declared dangerous if any injury or damage is sustained by a person
118 who, at the time of the injury or damage, was committing a willful trespass or other tort upon the
119 premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or
120 assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared
121 dangerous if the dog was protecting or defending a person within the immediate vicinity of the
122 dog from an unjustified attack or assault. A dog cannot be declared dangerous if an injury or
123 damage was sustained by a domestic animal, which at the time of the injury or damage, was
124 teasing, tormenting, abusing, or assaulting the dog.

125 No dog may be declared dangerous if the injury or damage to a domestic animal was
126 sustained while the dog was working as a hunting dog, herding dog, or predator control dog on
127 the property of, or under the control of, its owner or keeper, and the damage or injury was to a
128 species or type of domestic animal appropriate to the work of the dog.

129 SECTION 6. Chapter 140 is hereby amended by striking out section 174B and inserting
130 in place thereof the following:-

131 Section 174B. Whoever is the owner or keeper of a dog must restrain said dog
132 by leash in public places at all times except for assistance and service dogs, dogs engaged in
133 legal hunting or sport, farm dogs, or designated dog recreational areas. Whoever violates the
134 provisions in this section shall be punished pursuant to section 157 of chapter 140.

135 SECTION 7. Said chapter 140 is hereby further amended by inserting, after section
136 174D, the following sections:-

137 Section 174 E. (a) the owner or keeper commits an offense if an unaltered dog is
138 without a valid intact animal permit.

139 (b) An intact permit may only be issued for a dog;

140 (1) dog must have its health certificate and current vaccinations

141 (2) is currently in compliance with the license requirement

142 (c) To obtain an intact animal permit, an owner or keeper must submit an
143 application to the city or town on a form provided by the city or town. The city or town shall
144 promulgate rules, regulations and fee associated with an intact permit.

145 Section 174F. Every person shall have their dog licensed with the city or town in which
146 they reside, 6 months after the date of purchase and said license shall be renewed yearly on or
147 before the original licensing day.

148 Section 174G. No person shall tether, fasten, chain, tie or restrain a dog, or cause
149 a dog to be tethered, fastened, chained, tied, or restrained, to a doghouse, tree, fence, or any other
150 stationary object for more than 3 hours within a 24 hour period.

151 A person may:

152 (a). attach a dog to a running line, pulley, or trolley system, but not by means of a choke
153 collar or a pinch collar; or

154 (b). tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of
155 camping and recreational areas.

156 Any person who violates the provisions of sections 174E, 174F and 174G shall be
157 punished by a fine of no less than \$250 not more than \$1,000 per dog.

158 Section 174H. (a) Nothing in this chapter shall prohibit a city or town or district from
159 banning or further regulating a particular breed of dog.

160 (b) Any city or town may further regulate or ban a particular breed of dog with a
161 majority vote of the governing body.

162 (c) Upon the vote of a city or town to regulate or ban a particular breed of dog, said city
163 or town shall establish a board consisting of 3 members to identify and determine the breed of
164 dogs in said city or town, subject to the governing regulation. The 3 board members shall consist
165 of: 2 members of the public that are appointed by the city manager or mayor, one of which must
166 be considered an expert in field of animals; and the animal control officer or a designee.

167 (d) If a particular breed of dog is further regulated or banned, the regulation or ban shall
168 not take effect until 180 days after the vote by the city or town.