

HOUSE No. 3762

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to protecting puppies and kittens.

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 140 of the General Laws, as so appearing, is hereby amended by
2 inserting after section 141B the following new section:-

3 Section 141C.

4 (a) For the purposes of this section:

5 (1) "Animal" means a dog or cat under 1 year of age.

6 (2) "Buyer" means a person who purchases an animal from a seller without the intent to
7 resell the animal.

8 (3) "Seller" means an individual, or a partnership, association, corporation, or an officer
9 or employee thereof that sells animals to the public.

10 (4) "Unfit for purchase" means any defect which is congenital or hereditary and which
11 has a significant adverse effect on the health of the animal, or any disease, deformity, injury,
12 physical condition, or any illness which has a significant adverse effect on the health of the
13 animal and which was manifest, capable of diagnosis or likely to have been contracted on or
14 before the sale and delivery of the animal to the buyer.

15 (b) No dog or cat less than 8 weeks of age shall be transferred by a person in the
16 Commonwealth. Violation of this section shall result in a \$100 fine per offense.

17 (c) A veterinarian licensed in the Commonwealth may declare an animal unfit for
18 purchase by providing a written statement that includes:

19 (1) The buyer's name and address;

- 20 (2) The date the animal was examined;
- 21 (3) The breed, sex, and age of the animal;
- 22 (4) That the veterinarian examined the animal;
- 23 (5) That either:
- 24
- 25 (i) the animal has, had, or has died from a contagious or infectious disease or severe
26 parasitism, that the veterinarian found the presence of symptoms of said disease or severe
27 parasitism, and that said disease or severe parasitism is likely to have been contracted on or
28 before the sale and delivery of the animal to the buyer; or
- 29 (ii) the animal has a congenital or hereditary condition that significantly and adversely
30 impacts the health of the animal, requires hospitalization or a non-elective surgical procedure, or
31 caused the death of the animal;
- 32 (6) The precise findings of the examination, diagnostic tests, and/or necropsy;
- 33 (7) The treatment recommended, if any, and an estimate or the actual cost of the
34 treatment;
- 35 (8) That the examination occurred either:
- 36 (i) within 14 days of the transfer if the declaration of unfitness for purchase is based on
37 an illness that existed in the animal on or before the sale and transfer of the animal;
- 38 (ii) within one year after the sale and transfer of the animal if the declaration of unfitness
39 for purchase is based on a hereditary or congenital condition that has a significant adverse effect
40 on the health of the animal; or
- 41 (iii) within one year after the sale and transfer of the animal if the breed, sex, or health of
42 the animal was misrepresented at the time of the transfer;
- 43 (9) The veterinarian's name, address, telephone number and signature.
- 44 (d) An animal shall not be found unfit for purchase on account of:
- 45 (1) injuries sustained or illnesses likely to have been contracted subsequent to the date of
46 sale and transfer;
- 47 (2) a health problem or hereditary or congenital condition that is separately disclosed by
48 the seller verbally and in writing at the time of sale, provided that both the seller and the buyer
49 sign such disclosure at the time of sale;

50 (3) a hereditary or congenital condition if the seller provides the buyer with written
51 documentation at the time of sale and/or transfer establishing that prior to breeding, the animal's
52 parents were screened for health issues according to breed-specific protocols and requirements
53 established by the Canine Health Information Center (CHIC) or a comparable recognized animal
54 health registry;

55 (4) veterinary findings of intestinal or external parasites unless the animal is clinically ill
56 or dies due to the condition.

57 (e) If an animal is declared unfit for purchase under (c) above, the seller shall provide the
58 buyer with any of the following remedies that the buyer elects:

59 (1) Return the animal to the seller for a refund of the purchase price, plus sales tax, and
60 reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an
61 amount not to exceed the original purchase price of the animal, plus sales tax; or

62 (2) Exchange the animal for an animal of the buyer's choice of equivalent value,
63 providing a replacement animal is available, and reimbursement for reasonable veterinary fees
64 for diagnosing and treating the animal in an amount not to exceed the original purchase price of
65 the animal, plus sales tax; or

66 (3) Retain the animal, and receive reimbursement for reasonable veterinary fees for
67 diagnosis and treating the animal in an amount not to exceed 150 percent of the original
68 purchase price of the animal, plus sales tax on the original purchase price of the animal.

69 (4) If the animal has died as the result of a condition resulting in a declaration of
70 unfitness for purchase under subsection (c), obtain reasonable veterinary fees for diagnosing,
71 treating and disposing of the animal in an amount not to exceed the original purchase price of the
72 animal, plus sales tax, and either a refund for the purchase price of the animal, plus sales tax, or a
73 replacement animal of equivalent value of the buyer's choice.

74 (5) Nothing in this subsection shall require a seller to provide a buyer with a replacement
75 animal.

76 (f) If a seller wishes to contest a demand for veterinary expenses, refund, or exchange
77 made by a buyer under this section, the seller may require the buyer to produce the animal for
78 examination within ten days by a second licensed veterinarian designated by the seller, at the
79 seller's expense. If the animal is deceased, the seller may choose to have the second veterinarian
80 review any records provided by the buyer's veterinarian, including the necropsy report. If the
81 buyer and the seller are unable to reach an agreement that constitutes one of the options set forth
82 in subsection (e) within 10 business days following receipt of the animal for such examination,
83 the buyer may initiate an action in a court of competent jurisdiction to recover or obtain
84 reimbursement of veterinary expenses, refund, or exchange.

85 (g) Unless the seller contests a reimbursement under section (e) of this section,
86 reimbursement shall be made to the buyer no later than 10 days after the seller receives the
87 veterinarian's statement that the animal was unfit for purchase.

88 (h) This section does not in any way limit the rights or remedies that are otherwise
89 available to a buyer under any other law.

90 (i) This section shall not apply to shelters or non-profit organizations that house or adopt
91 animals for the purpose of protecting them from cruelty, neglect, abuse or homelessness, to
92 municipal animal control facilities or to other facilities when adopting a stray animal as part of a
93 contract with a municipality for animal control services.

94 SECTION 2. Said chapter 140 is hereby further amended by striking section 137C and
95 replacing with the following:

96 Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in
97 the city of Boston, a chief of police or an animal control officer may inspect a kennel or cause
98 the inspection of a kennel. Refusal of such entry and inspection shall be grounds for denial,
99 suspension, or revocation of a person's license to operate a kennel. Inspections of kennels
100 regulated under section 174F of this chapter may also take place by the commissioner and must
101 take place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually
102 agreed upon by the inspector and the licensee. The licensee or their authorized agent shall be
103 present during the inspection, and the licensee shall be given a reasonable notice prior to the
104 inspection; however, if deemed necessary to adequately perform the inspection, the
105 Commissioner or other authorized inspector may determine it is appropriate to not provide
106 advance notice to the licensee before arriving at the facility. If a kennel regulated under section
107 174F is located at a private residence, only the areas of the residence that are used for kennel
108 purposes or for the maintenance of kennel records shall be required to be available for
109 inspection. If, in the judgment of the authorized inspector, any kennel is not being maintained in
110 a sanitary and humane manner or if records are not properly kept as required by law and in
111 compliance with rules established by the department under section 174F of this chapter, such
112 person or body shall, by order, issue the licensee a written citation or notice explaining the
113 noncompliant issue or issues and requiring the licensee to come into compliance within a
114 reasonable specified time frame, or summarily revoke or suspend the license for the kennel,
115 depending on the severity of the offense. If the licensee fails to come into compliance within the
116 time period specified by the inspector, such person or body shall, by order revoke the license for
117 the kennel. Upon the petition of 25 citizens, filed with the mayor of a city, the selectmen of a
118 town or the police commissioner in the city of Boston setting forth a statement that such citizens
119 are aggrieved or annoyed to an unreasonable extent by a dog maintained in such city or town due
120 to excessive barking or other conditions connected with a kennel constituting a nuisance, the
121 mayor, selectmen or police commissioner, as the case may be, shall, within 7 days after the filing
122 of the petition, give notice to all parties in interest of a public hearing to be held within 14 days

123 after the date of such notice. The mayor, selectmen or police commissioner shall, within 7 days
124 after the public hearing, investigate or cause to be investigated the subject matter of the petition
125 and shall, by order, either suspend or revoke the kennel license, otherwise regulate the kennel or
126 dismiss the petition. Any written notice of an order revoking or suspending the license,
127 regulating the kennel or dismissing the petition shall be mailed immediately to the officer issuing
128 the license and to the holder of the license. Within 10 days after the order, the holder of the
129 license may bring a petition in the district court within the judicial district in which the kennel is
130 maintained, addressed to the justice of the court, praying that the order be reviewed by the court.
131 After notice to all parties as the court may consider necessary, the court shall review the action,
132 hear the witnesses and affirm the order unless it shall appear that it was made without proper
133 cause or in bad faith, in which case the order shall be reversed. The decision of the court shall be
134 final and conclusive upon the parties. A person maintaining a kennel after the license to maintain
135 a kennel has been so revoked, or while such a license is suspended, shall be punished by a fine of
136 not more than \$250.

137 SECTION 3. Said chapter 140 is hereby further amended by inserting after section 174E
138 the following new section:-

139 Section 174F. The department shall make rules and regulations for commercial breeder
140 kennels and personal kennels where persons keep at least 6 sexually intact female dogs between
141 1 and 8 years of age for the purpose of breeding such dogs and selling the offspring as household
142 pets. The rules and regulations shall ensure that the animals have proper housing, nutrition,
143 hydration, behavioral requirements, grooming, staffing, handling, health and veterinary care,
144 waste disposal, and other general standards of care. In developing rules and regulations in
145 accordance with this section, the department shall consider corresponding standards in the
146 American Veterinary Medical Association's Regulations to Assure Appropriate Care For
147 Animals Intended For Use As Pets (AVMA Pet Care Standards), as published on April 9, 2010.