SENATE DOCKET, NO. 974 FILED ON: 1/15/2015

SENATE . . . . . No. 1103

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 protecting puppies and kittens.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Karen E. Spilka	*Second Middlesex and Norfolk*	
Timothy R. Madden	*Barnstable, Dukes and Nantucket*	
Josh S. Cutler	*6th Plymouth*	
Jason M. Lewis	*Fifth Middlesex*	
Paul Tucker	*7th Essex*	
Lori A. Ehrlich	*8th Essex*	
Joan B. Lovely	*Second Essex*	
Barbara A. L'Italien	*Second Essex and Middlesex*	
Michelle M. DuBois	*10th Plymouth*	
Angelo J. Puppolo, Jr.	*12th Hampden*	
Marjorie C. Decker	*25th Middlesex*	
Joseph W. McGonagle, Jr.	*28th Middlesex*	
Kenneth J. Donnelly	*Fourth Middlesex*	
Brian M. Ashe	*2nd Hampden*	
Leonard Mirra	*2nd Essex*	
James B. Eldridge	*Middlesex and Worcester*	
Angelo L. D'Emilia	*8th Plymouth*	
Michael O. Moore	*Second Worcester*	

Cynthia S. Creem	*First Middlesex and Norfolk*	
Thomas J. Calter	*12th Plymouth*	
Jeffrey N. Roy	*10th Norfolk*	
William N. Brownsberger	*Second Suffolk and Middlesex*	
Carolyn C. Dykema	*8th Middlesex*	
Thomas M. McGee	*Third Essex*	
Patricia D. Jehlen	*Second Middlesex*	
John F. Keenan	*Norfolk and Plymouth*	
Thomas M. Petrolati	*7th Hampden*	
Linda Dorcena Forry	*First Suffolk*	
Cory Atkins	*14th Middlesex*	
Daniel J. Ryan	*2nd Suffolk*	
Thomas M. Stanley	*9th Middlesex*	
Sean Garballey	*23rd Middlesex*	
Paul R. Heroux	*2nd Bristol*	
Timothy J. Toomey, Jr.	*26th Middlesex*	
Bruce E. Tarr	*First Essex and Middlesex*	
Walter F. Timilty	*7th Norfolk*	
James Arciero	*2nd Middlesex*	
Marc R. Pacheco	*First Plymouth and Bristol*	
Sal N. DiDomenico	*Middlesex and Suffolk*	
Benjamin Swan	*11th Hampden*	
Paul Brodeur	*32nd Middlesex*	
Richard J. Ross	*Norfolk, Bristol and Middlesex*	
Bradley H. Jones, Jr.	*20th Middlesex*	
Sarah K. Peake	*4th Barnstable*	
Robert L. Hedlund	*Plymouth and Norfolk*	
Mark C. Montigny	*Second Bristol and Plymouth*	
Jennifer E. Benson	*37th Middlesex*	
Chris Walsh	*6th Middlesex*	
Thomas P. Kennedy	*Second Plymouth and Bristol*	*3/4/2015*
Edward F. Coppinger	*10th Suffolk*	*10/6/2015*
Harriette L. Chandler	*First Worcester*	*1/26/2016*

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SENATE . . . . . No. 1103

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1103) of Karen E. Spilka, Timothy R. Madden, Josh S. Cutler, Jason M. Lewis and other members of the General Court for legislation to protect animals during pet sales. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *401* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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:

SECTION 1. Chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after section 141B the following new section:-

Section 141C.

(a) For the purposes of this section:

(1) “Animal” means a dog or cat under 1 year of age.

(2) "Buyer" means a person who purchases an animal from a seller without the intent to 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 (i) the animal has, had, or has died from a contagious or infectious disease or
25 severe parasitism, that the veterinarian found the presence of symptoms of said disease or severe
26 parasitism, and that said disease or severe parasitism is likely to have been contracted on or
27 before the sale and delivery of the animal to the buyer; or

28 (ii) the animal has a congenital or hereditary condition that significantly and
29 adversely impacts the health of the animal, requires hospitalization or a non-elective surgical
30 procedure, or caused the death of the animal;

31 (6) The precise findings of the examination, diagnostic tests, and/or necropsy;

32 (7) The treatment recommended, if any, and an estimate or the actual cost of the
33 treatment;

34 (8) That the examination occurred either:

35 (i) within 14 days of the transfer if the declaration of unfitness for purchase is
36 based on an illness that existed in the animal on or before the sale and transfer of the animal;

37 (ii) within one year after the sale and transfer of the animal if the declaration of
38 unfitness for purchase is based on a hereditary or congenital condition that has a significant
39 adverse effect on the health of the animal; or

40 (iii) within one year after the sale and transfer of the animal if the breed, sex, or
41 health of the animal was misrepresented at the time of the transfer;

42 (9) The veterinarian's name, address, telephone number and signature.

43 (d) An animal shall not be found unfit for purchase on account of:

44 (1) injuries sustained or illnesses likely to have been contracted subsequent to the date of
45 sale and transfer;

46 (2) a health problem or hereditary or congenital condition that is separately disclosed by
47 the seller verbally and in writing at the time of sale, provided that both the seller and the buyer
48 sign such disclosure at the time of sale;

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

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

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

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

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

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

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

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

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

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

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

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

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

95 Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in
96 the city of Boston, a chief of police or an animal control officer may inspect a kennel or cattery
97 or cause the inspection of a kennel or cattery. Refusal of such entry and inspection shall be
98 grounds for denial, suspension, or revocation of a person's license to operate a kennel or cattery.
99 Inspections of kennels or catteries regulated under section 174F of this chapter may also take
100 place by the commissioner and must take place between the hours of 7:00 a.m. and 7:00 p.m.
101 unless an alternate time is mutually agreed upon by the inspector and the licensee. The licensee
102 or their authorized agent shall be present during the inspection, and the licensee shall be given a
103 reasonable notice prior to the inspection; however, if deemed necessary to adequately perform
104 the inspection, the Commissioner or other authorized inspector may determine it is appropriate to
105 not provide advance notice to the licensee before arriving at the facility. If a kennel or cattery
106 regulated under section 174F is located at a private residence, only the areas of the residence that
107 are used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall
108 be required to be available for inspection. If, in the judgment of the authorized inspector, any

109 kennel or cattery is not being maintained in a sanitary and humane manner or if records are not
110 properly kept as required by law and in compliance with rules established by the department
111 under section 174F of this chapter, such person or body shall, by order, issue the licensee a
112 written citation or notice explaining the noncompliant issue or issues and requiring the licensee
113 to come into compliance within a reasonable specified time frame, or summarily revoke or
114 suspend the license for the kennel or cattery, depending on the severity of the offense. If the
115 licensee fails to come into compliance within the time period specified by the inspector, such
116 person or body shall, by order revoke the license for the kennel or cattery. Upon the petition of
117 25 citizens, filed with the mayor of a city, the selectmen of a town or the police commissioner in
118 the city of Boston setting forth a statement that such citizens are aggrieved or annoyed to an
119 unreasonable extent by a dog maintained in such city or town due to excessive barking or other
120 conditions connected with a kennel or cattery constituting a nuisance, the mayor, selectmen or
121 police commissioner, as the case may be, shall, within 7 days after the filing of the petition, give
122 notice to all parties in interest of a public hearing to be held within 14 days after the date of such
123 notice. The mayor, selectmen or police commissioner shall, within 7 days after the public
124 hearing, investigate or cause to be investigated the subject matter of the petition and shall, by
125 order, either suspend or revoke the kennel or cattery license, otherwise regulate the kennel or
126 cattery or dismiss the petition. Any written notice of an order revoking or suspending the license,
127 regulating the kennel or cattery or dismissing the petition shall be mailed immediately to the
128 officer issuing the license and to the holder of the license. Within 10 days after the order, the
129 holder of the license may bring a petition in the district court within the judicial district in which
130 the kennel or cattery is maintained, addressed to the justice of the court, praying that the order be
131 reviewed by the court. After notice to all parties as the court may consider necessary, the court

132 shall review the action, hear the witnesses and affirm the order unless it shall appear that it was
133 made without proper cause or in bad faith, in which case the order shall be reversed. The
134 decision of the court shall be final and conclusive upon the parties. A person maintaining a
135 kennel or cattery after the license to maintain a kennel or cattery has been so revoked, or while
136 such a license is suspended, shall be punished by a fine of 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 or catteries and personal kennels or catteries where persons keep at least 10 sexually
141 intact female dogs or cats between 1 and 8 years of age for the purpose of breeding such dogs or
142 cats and selling the offspring as household pets. The rules and regulations shall ensure that the
143 animals have proper housing, nutrition, hydration, behavioral requirements, grooming, staffing,
144 handling, health and veterinary care, waste disposal, and other general standards of care. In
145 developing rules and regulations in accordance with this section, the department shall consider
146 corresponding standards in the American Veterinary Medical Association's Regulations to
147 Assure Appropriate Care For Animals Intended For Use As Pets (AVMA Pet Care Standards), as
148 published on April 9, 2010.

149 SECTION 4: Said chapter 140 is hereby further amended by inserting after section 39F
150 the following section:

151 Section 39G.

152 (a) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or
153 cat that originated at, or was purchased from, any breeder, person, firm or corporation that is
154 required by law to be licensed by the Animal Welfare Act (7 U.S.C. §2131 et seq.) that:

155 (1) is not in possession of a current license issued by the United States Department of
156 Agriculture and any applicable state agency,

157 (2) was found to have committed a direct violation of the federal Animal Welfare Act
158 during the two year period prior to such purchase,

159 (3) was found to have committed three or more indirect violations of the federal Animal
160 Welfare Act during the two year period prior to such purchase provided such violations pertained
161 to the health or welfare of an animal and were not administrative in nature, or

162 (4) is cited on the two most recent United States Department of Agriculture inspection
163 reports prior to the purchase of the animal by the pet shop for no-access violations pursuant to
164 enforcement of the federal Animal Welfare Act.

165 (b) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or
166 cat that originated at, or was purchased from, any breeder, person, firm or corporation not in
167 compliance with the requirements for commercial breeder kennels or catteries or personal
168 kennels or catteries under section 174E of this chapter at the time of purchase of the animal by
169 the pet shop.

170 (c) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or
171 cat that originated at, or was purchased from, any breeder, person, firm or corporation that

172 directly or indirectly obtained such dog or cat from a breeder, person, firm or corporation
173 described in (a) or (b) of this section.

174 (d) A pet shop shall maintain records verifying compliance with this section for a
175 minimum of two years after disposition of the dog or cat.

176 (e) Nothing in this section shall prevent a pet shop from acquiring a dog or cat for resale
177 or from selling or offering for sale a dog or cat obtained from a shelter as defined in section
178 136A of this chapter.

179 (f) Any locality may adopt an ordinance that is more stringent than the provisions set
180 forth in this section.

181 (g) This section shall become effective one year after enactment.