

SENATE No. 2527

Senate, December, 29, 2016 -- Text of the Senate amendment (Senator Montigny) to the House Bill relative to the posting of a security for seized animals in cruelty cases (House, No. 1220)

The Commonwealth of Massachusetts

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

1 Chapter 272 of the General Laws is hereby amended by striking out section 104, as
2 appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

3 Section 104. (a) As used in this section, the word “authority” shall mean an organization
4 or the authorized agent of an organization that seizes or impounds an animal pursuant to the
5 General Laws.

6 (b) If an animal is seized or impounded pursuant to section 112 of chapter 266 or section
7 77 or 94 of chapter 272 resulting in the issuance of a criminal complaint or a criminal indictment,
8 the authority or prosecuting agency, including the district attorney or attorney general, may file a
9 petition with the court requesting that the person from whom the animal was seized or a person
10 claiming an interest in the seized animal be ordered to post a security. The authority or
11 prosecuting agency shall serve a copy of the petition on the person from whom the animal was
12 seized or who is claiming an interest in the seized animal; provided, however, that if such a
13 person cannot be found, service may be made by posting a copy of the petition at the place from
14 which the animal was seized. If the petition is filed by the authority, the authority shall also serve
15 a copy of the petition on the prosecuting agency.

16 (c) The security shall be in an amount sufficient to secure payment for the reasonable
17 expenses incurred by the authority that has custody of the seized or impounded animal and the
18 reasonable expenses anticipated by the authority. In determining the amount of the security,
19 expenses shall be calculated from the date of seizure or impoundment and continue until the
20 authority ends custody of the animal; provided, however, that the amount shall be determined for
21 a period of not less than 30 days. The amount of the security shall be determined by the court
22 upon the recommendation of the authority. Reasonable expenses shall include, but shall not be
23 limited to, estimated medical care, quarantine costs, shelter and board.

24 (d) When a security is posted in accordance with this section, the authority may draw
25 from the security the actual, reasonable costs incurred for medical care, quarantine costs, shelter,
26 board and any other expenses ordered by the court. If the expenses already incurred by the
27 seizing authority at the time of judicial decision on the petition exceed the petitioned for security
28 amount, the court may order the security to be paid in its entirety to the authority through the
29 court or directly from the respondent to the authority, as the court deems appropriate in the
30 interest of justice.

31 (e) If the court orders the posting of a security, the security shall be posted with the clerk
32 within 10 business days of the court's allowance of the petition. The defendant's failure to post
33 the security within the appointed time shall be deemed an immediate forfeiture of the seized
34 animal to the authority. The court may waive the security requirement or reduce the amount of
35 the security for good cause. The court may extend the time for posting the security with the
36 clerk; provided, however, that the time between the court's allowance of the petition and the
37 posting shall be not more than 20 business days.

38 (f) The posting of the security shall not prevent the authority from euthanizing the seized
39 or impounded animal for humane reasons before the expiration of the period covered by the
40 security; provided, however, that the euthanasia shall be done in a humane manner.

41 (g) The authority may humanely transfer or euthanize the animal at the end of the period
42 for which expenses are covered by the security if a transfer or euthanasia is ordered by the court.
43 If the transfer or euthanasia order is denied, the court may require the animal's owner or
44 custodian or any other person claiming interest in the animal to provide an additional security to
45 secure payment of reasonable expenses and to extend the period of time pending adjudication by
46 the court of the charges against the person from whom the animal was seized.

47 (h) The owner or custodian of an animal, or a person claiming interest in such an animal
48 pursuant to this section, that is humanely transferred or euthanized shall not be entitled to recover
49 damages or the actual value of the animal if the owner, custodian or other person failed to post
50 the required security.

51 (i) The court may direct a refund to the person who posted the security, in whole or part,
52 for expenses not incurred by the authority. The court may direct a refund to the person who
53 posted security upon acquittal of the charges.”.