

HOUSE No. 1823

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers

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 relating to the remedy for the sale of sick puppies and kittens.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>

<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>John C. Velis</i>	<i>4th Hampden</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>

<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>
<i>David Biele</i>	<i>4th Suffolk</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>

HOUSE No. 1823

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 1823) of David M. Rogers and others relative to remedy for the sale of sick puppies and kittens. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relating to the remedy for the sale of sick 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 Chapter 140 is hereby further amended by inserting after section 141C the following 2
2 sections:-

3 Section 141D. For the purposes of this, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 “Buyer”, a person who purchases an animal from a seller without the intent to resell the
6 animal.

7 “Cat”, a member of the Felis catus family.

8 “Dog”, a member of the Canis familiaris family or a resultant hybrid.

9 "Kitten”, a cat under 1 year of age.

10 “Offer for sale”, to sell, offer for sale or adoption, barter, auction, give away or otherwise
11 find a permanent physical placement for a dog or cat.

12 “Pet shop”, a business licensed under section 39A of chapter 129.

13 “Puppy”, a dog under 1 year of age.

14 “Rescue organization”, an organization the primary mission and practice of which is the
15 placement of abandoned, unwanted, neglected or abused animals, that does not obtain dogs or
16 cats from a breeder or broker for payment or compensation and that is an organization exempt
17 from taxation under section 501(c)(3) of the federal Internal Revenue Code or any corresponding
18 sections of the federal Internal Revenue Code, as amended from time to time.

19 “Seller”, an individual, partnership, association or corporation or an officer or employee
20 of an individual, partnership, association or corporation that sells animals to the public.

21 “Unfit for sale”, a defect that is congenital or hereditary and that has a significant adverse
22 effect on the health of the puppy or kitten or a disease, deformity, injury, physical condition or
23 illness that has a significant adverse effect on the health of the puppy or kitten and which was
24 manifest, capable of diagnosis or likely to have been contracted prior to or at the time of the sale
25 or delivery of the puppy or kitten to the buyer.

26 Section 141E.

27 (a) A veterinarian licensed in the commonwealth may declare a puppy or kitten unfit for
28 sale in advance of or after the sale by providing a written statement that includes:

29 (i) the name and address of the buyer or potential buyer;

- 30 (ii) the date on which the puppy or kitten was examined;
- 31 (iii) the breed, sex and age of the puppy or kitten;
- 32 (iv) an affirmation that the veterinarian examined the puppy or kitten;
- 33 (v) a diagnosis that: (A)(1) the puppy or kitten had previously had a contagious or
34 infectious disease or severe parasitism, currently has a contagious or infectious disease or severe
35 parasitism or has died from a contagious or infectious disease or severe parasitism; (2) that the
36 veterinarian found the presence of symptoms of the disease or severe parasitism; and (3) that the
37 disease or severe parasitism is likely to have been contracted prior to or at the time of the sale or
38 delivery of the puppy or kitten to the buyer; or (B) the puppy or kitten has a congenital or
39 hereditary condition that: (1) significantly and adversely impacts the health of the puppy or
40 kitten; (2) requires hospitalization or a nonelective surgical procedure; or (3) caused the death of
41 the puppy or kitten;
- 42 (vi) the precise findings of the examination, diagnostic tests or necropsy;
- 43 (vii) the treatment recommended, if any, and an estimate or the actual cost of the
44 treatment;
- 45 (viii) an affirmation that the examination occurred: (A) within 14 days after the transfer
46 of the puppy or kitten if the puppy or kitten was declared unfit for sale based on an illness that
47 existed in the puppy or kitten prior to or at the time of the sale or transfer of the puppy or kitten;
48 (B) within 1 year after the sale or transfer of a puppy or kitten if declared unfit for sale based on
49 a hereditary or congenital condition that has a significant adverse effect on its health; or (C)

50 within 1 year after the sale or transfer of a puppy or kitten if the breed, sex or health of the
51 animal was misrepresented at the time of the transfer; and

52 (ix) the veterinarian's name and signature and the address and telephone number of the
53 veterinarian's primary place of veterinary practice.

54 (b) A puppy or kitten shall not be found unfit for sale based upon:

55 (i) injuries sustained or illnesses likely to have been contracted subsequent to the date of
56 transfer;

57 (ii) a health problem or hereditary or congenital condition if the problem or condition was
58 separately disclosed by the seller in writing at the time of sale and the seller and the buyer sign
59 the written disclosure at the time of sale;

60 (iii) a hereditary or congenital condition if the seller provides the buyer with written
61 documentation at the time of sale or transfer establishing that, prior to breeding, the puppy or
62 kitten's parents were screened for health issues according to breed-specific protocols

63 and requirements established by the Canine Health Information Center or a comparable
64 recognized animal health registry; or

65 (iv) veterinary findings of internal or external parasites unless the puppy or kitten is
66 clinically ill or dies due to the condition.

67 (c)

68 (1) If a purchased puppy or kitten has been declared unfit for sale under subsection (b),
69 the buyer may:

70 (i) return the puppy or kitten to the seller for treatment by a veterinarian at no cost to the
71 buyer; provided, however, that the puppy or kitten shall be returned to the buyer when the puppy
72 or kitten's health has been cleared by the veterinarian.

73 (ii) return the puppy or kitten to the seller for a refund of the purchase price, the sales tax
74 paid and any additional point of sale fees paid, and reimbursement for reasonable veterinary fees
75 paid for the diagnosis and treatment of the puppy or kitten in an amount not to exceed the
76 original purchase price of the puppy or kitten and the sales tax;

77 (iii) if a replacement dog or cat of equivalent value is available and satisfactory to the
78 buyer, exchange the puppy or kitten for the dog or cat and provide reimbursement to the buyer
79 for reasonable veterinary fees paid for the diagnosis and treatment of the puppy or kitten in an
80 amount not to exceed 150 percent of the original purchase price of the puppy or kitten, the sales
81 tax paid and any additional point of sale fees paid; or

82 (iv) retain the purchased puppy or kitten and receive reimbursement for reasonable
83 veterinary fees paid for the diagnosis and treatment of the purchased puppy or kitten in an
84 amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and
85 any additional point of sale fees paid on the original purchase of the puppy or kitten.

86 A seller of a puppy or kitten shall inform a buyer of the buyer's options under this section
87 at the point of sale.

88 (2) If: (i) within 14 days after delivery of the puppy or kitten the puppy or kitten dies
89 because on an illness that existed in the puppy or kitten prior to or at the time of the sale or
90 delivery of the puppy or kitten; or (ii) within 1 year after the sale or delivery of a puppy or kitten
91 the puppy or kitten dies because of a hereditary or congenital condition that has a significant

92 adverse effect on its health, the buyer may obtain reasonable veterinary fees for the diagnosis,
93 treatment and disposal of the purchased puppy or kitten in an amount not to exceed the original
94 purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid
95 and: (A) a refund of the purchase price of the puppy or kitten, the sales tax paid and any
96 additional point of sale fees paid; or (B) a replacement dog or cat that is of equivalent value and
97 satisfactory to the buyer.

98 (3) Nothing in this subsection shall require a seller to provide a buyer with a replacement
99 dog or cat if a replacement dog or cat is not available.

100 For the purpose of this subsection, “puppy” or “kitten” shall mean a puppy or kitten that
101 was under 1 year of age at the time of purchase.

102 (d) If a seller wishes to contest a demand made by a buyer for veterinary expenses or for
103 a refund or an exchange under this section, the seller may require the buyer to produce the puppy
104 or kitten for examination by a second licensed veterinarian designated by the seller and at the
105 seller’s expense not more than 30 days after the demand. If the puppy or kitten is deceased, the
106 seller may have the second veterinarian review records provided by the buyer’s veterinarian,
107 including the necropsy report. If the buyer and the seller are unable to reach an agreement as set
108 forth in subsection (d) within 10 business days after receipt of the purchased puppy or kitten for
109 the examination, the buyer may initiate an action in a court of competent jurisdiction to recover
110 or obtain a reimbursement of veterinary expenses or for a refund or an exchange.

111 (e) Unless the seller contests the remedy chosen by the buyer under subsection (c), the
112 remedy shall be made to the buyer not more than 30 days after the seller receives the
113 veterinarian’s statement that the puppy or kitten was unfit for sale.

114 (f) Nothing in this section shall limit the rights or remedies otherwise available to a buyer
115 under any other law.

116 (g) This section shall not apply to: (i) shelters or nonprofit organizations that house or
117 adopt animals to protect the animals from cruelty, neglect, abuse or homelessness; (ii) municipal
118 animal control facilities; and (iii) facilities that contract with a municipality to assist in the
119 adoption of stray animals as part of the municipality's animal control services.