

SENATE No. 2592

The Commonwealth of Massachusetts

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

SENATE, March 12, 2020.

The committee on Consumer Protection and Professional Licensure, to whom was referred the petitions (accompanied by bill, Senate, No. 175) of Patrick M. O'Connor, Jason M. Lewis, James T. Welch, Marc R. Pacheco and other members of the General Court for legislation to ban the retail sale of cats and dogs in pet shops;(accompanied by bill, House, No.800) (accompanied by bill, House, No. 800) of Natalie M. Higgins and others for legislation to further regulate the sale of certain domestic animals; and (accompanied by bill, House, No. 3828) of Bruce J. Ayers and Thomas M. Stanley relative to the sale of dogs, cats and rabbits in pet shops, report the accompanying Order (Senate, No. 2592).

For the committee,
Paul R. Feeney

SENATE No. 2592

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An Act reforming the sale of cats, dogs, and rabbits in the Commonwealth.

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 39G of chapter 129 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out subsection (e), and inserting in place thereof
3 the following:-

4 (e) A cat, dog, or rabbit sold or gifted in the commonwealth by a pet shop, animal rescue
5 organization, animal shelter, breeder, or broker shall be accompanied by a health record
6 indicating the date and type of each vaccine administered to each such cat, dog, or rabbit, and an
7 official health certificate. For the purposes of this subsection, the definitions contained in section
8 39H shall apply.

9 SECTION 2. Said chapter 129 of the General Laws, as so appearing, is hereby amended
10 by adding at the end thereof the following 6 new sections:-

11 Section 39H. (a) For the purpose of this section and sections 39I through 39M, inclusive
12 the following words shall, unless the context clearly requires otherwise, have the following
13 meanings:

14 “Animal rescue organization”, a non-for-profit organization that has tax-exempt status
15 under section 501(c)(3) of the Internal Revenue Code and is registered with the department of
16 agricultural resources, if required, and that either on its own behalf or as a facilitator for others
17 engages or arranges for others to engage in the activities of transferring ownership of domestic
18 animals; provided, however, an animal rescue organization shall not include a breeder or broker
19 or that obtains dogs, cats, or rabbits from a breeder or broker for payment or compensation.

20 “Animal shelter”, a public animal control facility or other facility which is operated by an
21 organization or individual for the purpose of protecting animals from cruelty, neglect or abuse
22 and, if required, is registered with the department of agricultural resources; provided, however,
23 an animal shelter shall not include an entity that is a breeder or broker or that obtains dogs, cats,
24 or rabbits from a breeder or broker for payment or consideration.

25 “Breeder”, a person that maintains dogs, cats, or rabbits for the purpose of breeding and
26 selling their offspring.

27 “Broker”, a person that transfers dogs, cats, or rabbits for resale by another person.

28 “Pet shop”, a business licensed under section 39A.

29 "Seller", a pet shop.

30 "Unfit for sale", a defect that is congenital or hereditary and that has a significant
31 adverse effect on the health of the dog, cat, or rabbit or a disease, deformity, injury, physical
32 condition or illness that has a significant adverse effect on the health of the dog, cat, or rabbit and
33 which was manifest, capable of diagnosis or likely to have been contracted prior to or at the time
34 of the sale or delivery of the dog, cat, or rabbit to the buyer.

35 Section 39I. (a) A pet shop shall not purchase a dog, cat, or rabbit for resale or offer for
36 sale a dog, cat, or rabbit that originated at or was purchased from a breeder, broker, person, firm
37 or corporation that:

38 (1) is not in possession of a current license issued by the United States Department of
39 Agriculture pursuant to the Animal Welfare Act, 7 U.S.C. 2131, et seq, and any license that may
40 be required by an applicable state agency;

41 (2) has had its federal or state license suspended in the last 5 years;

42 (3) was found to have committed a critical violation of the Animal Welfare Act, 7 U.S.C.
43 2131, et seq, during the 3-year period prior to the purchase;

44 (4) was found to have committed 3 or more noncritical violations of the Animal Welfare
45 Act, 7 U.S.C. 2131, et seq, during the 3-year period prior to the purchase; or

46 (5) has been cited on the 2 most recent United States Department of Agriculture
47 inspection reports prior to the purchase of the dog, cat, or rabbit for no-access violations of the
48 Animal Welfare Act, 7 U.S.C. 2131, et seq.

49 (b) An owner or operator of a pet shop, animal rescue organization, animal shelter,
50 breeder, or broker that offers a dog, cat, or rabbit for sale or adoption shall maintain records that
51 verify compliance with this section for not less than 2 years following the date of acquisition of
52 the dog, cat, or rabbit. Those records shall include: (1) United States Department of Agriculture
53 inspection reports; and (2) the source of each dog or cat the pet shop acquired, including a
54 description of the dog or cat and the name, address and United States Department of Agriculture

55 license number of the breeder. The records shall be made available immediately upon the request
56 of the purchaser or adopter.

57 (c) An owner or operator of a pet shop, animal rescue organization, animal shelter,
58 breeder, or broker that offers a dog, cat, or rabbit for sale or adoption shall post a sign that shall
59 be clear and conspicuous and shall be of such size and so placed that an individual examining the
60 dog, cat, or rabbit in its cage or enclosure may readily view the sign and its contents. The sign
61 shall state:

62 (1) the date and place of birth of each dog, cat, or rabbit and the actual age or, if not
63 known, the approximate age of the dog, cat, or rabbit;

64 (2) the sex, color markings and other identifying information of each dog, cat, or rabbit,
65 including any tag, tattoo, collar number and microchip information; and

66 (3) the business name of the breeder of each dog, cat, or rabbit, the city and state of the
67 breeder's usual place of business, an email address, if available, the breeder's United States
68 Department of Agriculture license number and, if the breeder is required to be licensed in the
69 state in which the breeder is located, the breeder's state license number.

70 (d) No person shall sell or offer for sale a dog, cat, or rabbit that is under 8 weeks of age.

71 (e) Nothing in this section shall prohibit a city or town from adopting an ordinance that is
72 more stringent than this section.

73 Section 39J. (a) No cat, dog, or rabbit shall be sold or gifted in the commonwealth by a
74 pet shop, animal rescue organization, animal shelter, breeder, or broker to a consumer unless
75 accompanied by such records under section 39I and an official health certificate under section

76 39G, as applicable. A consumer may return a cat, dog, or rabbit by presenting it to the providing
77 pet shop, animal rescue organization, animal shelter, breeder, or broker no later than 5 business
78 days after learning of a defect in such records or official health certificate.

79 Section 39K. (a) A veterinarian licensed in the commonwealth may declare a dog, cat, or
80 rabbit unfit for sale in advance of or after the sale by providing a written statement that includes:

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

82 (ii) the date on which the dog, cat, or rabbit was examined;

83 (iii) the breed, sex and age of the dog, cat, or rabbit;

84 (iv) an affirmation that the veterinarian examined the dog, cat, or rabbit;

85 (v) a diagnosis that: (A)(1) the dog, cat, or rabbit had previously had a contagious or
86 infectious disease or severe parasitism, currently has a contagious or infectious disease or severe
87 parasitism or has died from a contagious or infectious disease or severe parasitism; (2) the
88 veterinarian found the presence of symptoms of the disease or severe parasitism; and (3) the
89 disease or severe parasitism is likely to have been contracted prior to or at the time of the sale or
90 delivery of the dog, cat, or rabbit to the buyer; or (B) the dog, cat, or rabbit has a congenital or
91 hereditary condition that: (1) significantly and adversely impacts the health of the puppy or
92 kitten; (2) requires hospitalization or a nonelective surgical procedure; or (3) caused the death of
93 the dog, cat, or rabbit;

94 (vi) the precise findings of the examination, diagnostic tests or necropsy;

95 (vii) the treatment recommended, if any, and an estimate or the actual cost of the
96 treatment;

97 (viii) an affirmation that the examination occurred: (A) within 14 days after the transfer
98 of the dog, cat, or rabbit if the dog, cat, or rabbit was declared unfit for sale based on an illness
99 that existed in the dog, cat, or rabbit prior to or at the time of the sale or transfer of the dog, cat,
100 or rabbit; (B) within 1 year after the sale or transfer of a dog, cat, or rabbit if declared unfit for
101 sale based on a hereditary or congenital condition that has a significant adverse effect on its
102 health; or (C) within 1 year after the sale or transfer of a dog, cat, or rabbit if the breed, sex or
103 health of the animal was misrepresented at the time of the transfer; and

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

106 (b) A dog, cat, or rabbit shall not be found unfit for sale based upon:

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

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

112 (iii) a hereditary or congenital condition if the seller provides the buyer with written
113 documentation at the time of sale or transfer establishing that, prior to breeding, the dog, cat, or
114 rabbit's parents were screened for health issues according to breed-specific protocols and
115 requirements established by the Canine Health Information Center or a comparable recognized
116 animal health registry; or

117 (iv) veterinary findings of internal or external parasites unless the dog, cat, or rabbit is
118 clinically ill or dies due to the condition.

119 (c)(1) If a purchased dog, cat, or rabbit has been declared unfit for sale under subsection
120 (g), the buyer may:

121 (A) return the dog, cat, or rabbit to the seller for treatment by a veterinarian of the seller's
122 choice at no cost to the buyer; provided, however, that the dog, cat, or rabbit shall be returned to
123 the buyer when the dog, cat, or rabbit's health has been cleared by the veterinarian;

124 (B) return the dog, cat, or rabbit for a full refund of the purchase price;

125 (C) if a replacement dog, cat, or rabbit of equivalent value is available and satisfactory to
126 the buyer, exchange the dog, cat, or rabbit for the dog, cat, or rabbit and provide reimbursement
127 to the buyer for reasonable veterinary fees paid for the diagnosis and treatment of the dog, cat, or
128 rabbit in an amount not to exceed the original purchase price of the dog, cat, or rabbit, the sales
129 tax paid and any additional point of sale fees paid; or

130 (D) retain the purchased dog, cat, or rabbit and receive reimbursement for reasonable
131 veterinary fees paid for the diagnosis and treatment of the purchased dog, cat, or rabbit in an
132 amount not to exceed the original purchase price of the dog, cat, or rabbit, the sales tax paid and
133 any additional point of sale fees paid on the original purchase of the dog, cat, or rabbit.

134 A seller of a dog, cat, or rabbit shall inform a buyer of the buyer's options under this
135 section at the point of sale.

136 (c)(2) If: (A) within 14 days after delivery of the dog, cat, or rabbit the dog, cat, or rabbit
137 dies because of an illness that existed in the dog, cat, or rabbit prior to or at the time of the sale or

138 delivery of the dog, cat, or rabbit; or (B) within 1 year after the sale or delivery of a dog, cat, or
139 rabbit the dog, cat, or rabbit dies because of a hereditary or congenital condition that has a
140 significant adverse effect on its health, the buyer may obtain a refund up to the purchase price of
141 the dog, cat, or rabbit, the sales tax paid and any additional point of sale fees paid; or receive a
142 replacement dog, cat, or rabbit that is of equivalent value and satisfactory to the buyer.

143 (c)(3) Nothing in this subsection shall require a seller to provide a buyer with a
144 replacement dog, cat, or rabbit if a replacement dog, cat, or rabbit is not available.

145 (d) If a seller wishes to contest a demand made by a buyer for veterinary expenses or for
146 a refund or an exchange under this section, the seller may require the buyer to produce the dog,
147 cat, or rabbit for examination by a second licensed veterinarian designated by the seller and at
148 the seller's expense not more than 30 days after the demand. If the dog, cat, or rabbit is deceased,
149 the seller may have the second veterinarian review records provided by the buyer's veterinarian,
150 including the necropsy report.

151 (e) Unless the seller contests the remedy chosen by the buyer under subsection (c), the
152 remedy shall be made to the buyer not more than 30 days after the seller receives the
153 veterinarian's statement that the dog, cat, or rabbit was unfit for sale.

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

156 (g) No pet shop, animal rescue organization, animal shelter, breeder, or broker shall
157 release a dog, cat or rabbit to a buyer or adopter unless:

158 (1) such animal has been implanted with a microchip as a permanent identification;

159 (2) such pet shop, animal rescue organization, animal shelter, breeder, or broker has
160 registered such animal's microchip with such purchaser's or adopter's contact information with a
161 bona fide pet microchip registration company; and

162 (3) such pet shop, animal rescue organization, animal shelter, breeder, or broker has
163 provided such purchaser or adopter with (i) usage instructions for such microchip provided by
164 the manufacturer of such microchip or the company with which such microchip is registered and
165 (ii) written certification of compliance with paragraphs (1) and (2) of this subsection, signed by
166 such purchaser or adopter as acknowledgement of receipt, in a form and manner set forth in rules
167 promulgated by the division.

168 (h) Every pet shop, animal rescue organization, animal shelter, breeder, or broker shall
169 retain for a period of 2 years from the date of sale or adoption of any dog, cat, or rabbit, a copy
170 of the certification signed by the purchaser or adopter required by paragraph three of subsection
171 (g) of this section.

172 Section 39L. A person who violates the provisions of sections 39H through 39M,
173 inclusive, shall be punished by fine of not more \$500. Each dog, cat, or rabbit sold or offered for
174 sale or adoption in violation of this section shall constitute a separate offense. A violation of this
175 section shall constitute an unfair or deceptive act or practice in the conduct of trade or commerce
176 under chapter 93A.

177 Section 39M. It is unlawful for any person to offer for sale or adoption, sell, barter,
178 auction, or otherwise transfer any dog, cat, or rabbit for consideration from any roadside, public
179 right-of-way or public property, park, commercial or retail parking lot regardless of whether such
180 access is authorized, or any flea market or festival.

181 This section shall not apply to persons meeting to conduct the final transaction of a
182 previously arranged sale or exchange.

183 SECTION 3. This act shall go into effect 90 days after its passage.