

SENATE No. 2760

The Commonwealth of Massachusetts

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

SENATE, June 11, 2020.

The committee on Municipalities and Regional Government, to whom was referred the petitions (accompanied by bill, Senate, No. 114) of Harriette L. Chandler, Lori A. Ehrlich, Walter F. Timilty, Michael O. Moore and other members of the General Court for legislation to protect the health and safety of puppies and kittens in cities and towns; (accompanied by bill, Senate, No. 1204) of James T. Welch, Walter F. Timilty, Lori A. Ehrlich, Jason M. Lewis and other members of the General Court for legislation relative to the remedy for the sale of sick puppies and kittens; (accompanied by bill, House, No. 1757) of Bruce J. Ayers and others relative to commercial breeder dog kennels; (accompanied by bill, House, No. 1758) of Bruce J. Ayers, Patrick M. O'Connor and Norman J. Orrall relative to increasing the fines for cruelty to animals and establishing a fund dedicated to improvements for local animal shelters; (accompanied by bill, House, No. 1774) of Linda Dean Campbell and others relative to oversight of dogs and cats by cities and towns; (accompanied by bill, House, No. 1822) of Angelo J. Puppolo, Jr., and others for legislation to impose penalties for cruel conditions for animals; and (accompanied by bill, House, No. 1823) of David M. Rogers and others relative to remedy for the sale of sick puppies and kittens, reports the accompanying bill (Senate, No. 2760).

For the committee,
Rebecca L. Rausch

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An Act protecting the health and safety of puppies and kittens in cities and towns and enhancing the issuance of citations for cruel conditions for animals.

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 35WW of chapter 10 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the figure “62”, in line 17, the following
3 words:-

4 , fines collected pursuant to section 37 of chapter 129.

5 SECTION 2. Section 37 of said chapter 129, as so appearing, is hereby amended by
6 inserting after the fourth sentence the following sentence:- A fine assessed under this section
7 shall be deposited into the Homeless Animal Prevention and Care Fund established in section
8 35WW of chapter 10.

9 SECTION 3. Section 136A of chapter 140 of the General Laws, as appearing in the 2018
10 Official Edition, is hereby amended by inserting after the definition of “Attack” the following
11 definition:-

12 “Cattery”, a pack or collection of cats on a single premises, including a commercial
13 boarding or training cattery, a commercial breeder cattery, a domestic charitable corporation
14 cattery, a personal cattery and a veterinary cattery.

15 SECTION 4. Section 137 of chapter 140 of the General Laws, as appearing in the 2018
16 Official Edition, is hereby amended by striking out, in subsection (c), the first and second
17 sentences.

18 SECTION 5. Section 137 of chapter 140 of the General Laws is hereby further amended
19 by striking out, in line 19, the words “leather or other”

20 SECTION 6. Section 137 of chapter 140 of the General Laws is hereby further amended
21 by striking out, in subsection (c), the sixth sentence.

22 SECTION 7. Section 137A of chapter 140 of the General Laws, is hereby amended by
23 striking out subsection (a), as appearing in the 2018 Official Edition, and inserting in place
24 thereof the following subsection:-

25 (a) A person keeping more than 4 dogs, 3 months old or older shall obtain a kennel
26 license. The kennel license is in addition to the individual licenses for dogs over the age of 6
27 months, as required in section 137. In the case of an applicant for initial licensure and in the case
28 of an applicant for license renewal, a licensing authority shall deny a kennel license until a
29 kennel has passed inspection by an animal control officer.

30 SECTION 8. Section 137A of chapter 140 of the General Laws, is hereby further
31 amended by striking out, in subsection (b), the first through the fourth sentences.

32 SECTION 9. Section 137A of chapter 140 of the General Laws, is hereby further
33 amended by striking out, in subsection (b), the sixth sentence.

34 SECTION 10. Section 137A of chapter 140 of the General Laws is hereby further
35 amended by inserting, after subsection (c), the following subsection:- (d) The licensing authority
36 shall specify the maximum number of dogs that may be maintained by the licensee on the
37 license. Such number shall be determined by the licensing authority and the animal control
38 officer following the required inspection.

39 (e) A person who violates this section shall be assessed a fine of \$500 for a first offense
40 and a fine of not more than \$1,000 for a second or subsequent offense.

41 SECTION 11. Said chapter 140 is hereby further amended by striking section 137B, as
42 appearing in the 2018 Official Edition, and inserting in place thereof the following section:-

43 Section 137B. (a) Every holder of a kennel license, on delivering a dog to a purchaser or
44 to any other person, shall record the name and address of such purchaser, the date of purchase,
45 exchange or gift and a description of the dog.

46 (b) The licensee shall retain such records for a period of 36 months.

47 (c) The licensee shall within 30 days of the date of purchase, exchange or gift send a copy
48 of the record to: (i) the clerk in the city or town where the kennel license is held; and (ii) the
49 licensing authority in the city or town where such purchaser resides.

50 SECTION 12. Said chapter 140 is hereby further amended by striking out section 137C,
51 as so appearing, and inserting in place thereof the following section:-

52 Section 137C. (a) The mayor of a city, the selectmen of a town, the police commissioner
53 in the city of Boston, a chief of police or an animal control officer shall inspect a kennel or
54 cattery or cause the inspection of a kennel or cattery at least 1 time per year. If a person holding a
55 license or applying for a license to operate a kennel or cattery refuses to allow an inspector to
56 enter and inspect a kennel or cattery, the refusal shall be grounds for denial, suspension or
57 revocation of a person's license to operate a kennel or cattery.

58 Twenty-five citizens of a city or town may file a petition with the mayor of a city, the
59 selectmen of a town or the police commissioner in the city of Boston, as the case may be, stating
60 that they are aggrieved or annoyed to an unreasonable extent that constitutes a nuisance by a dog
61 or cat maintained in the city or town due to excessive barking or other conditions connected with
62 a kennel or cattery. The mayor, selectmen or police commissioner, as the case may be, shall, not
63 more than 7 days after the filing of the petition, give notice to all interested parties of a public
64 hearing. The hearing shall be held not more than 14 days after the date of the notice. The mayor,
65 selectmen or police commissioner shall, not more than 7 days after the public hearing,
66 investigate or cause to be investigated the subject matter of the petition and shall, by order: (i)
67 suspend the kennel or cattery license; (ii) revoke the kennel or cattery license; (iii) further
68 regulate the kennel or cattery; or (iv) dismiss the petition.

69 (b) The inspection of a kennel or cattery to enforce the rules and regulations promulgated
70 under section 174G may be done by the commissioner or an authorized inspector and shall take
71 place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually agreed
72 upon by the inspector and the operator. The operator or an authorized agent of the operator shall
73 be present during the inspection and the operator shall be given a reasonable notice prior to the
74 inspection; provided, however, that the commissioner or other authorized inspector may

75 determine that it is not appropriate to provide advance notice to the operator before arriving at
76 the facility if necessary to adequately perform the inspection. If a kennel or cattery regulated
77 under said section 174G is located at a private residence, only the areas of the residence that are
78 used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall be
79 required to be available for inspection. If in the judgment of the commissioner or an authorized
80 inspector a kennel or cattery is not being maintained in a sanitary and humane manner or if
81 records have not been properly kept as required by law and in compliance with said section
82 174G, the commissioner or authorized inspector shall, by order, suspend the license for the
83 kennel or cattery depending on the severity of the offense or issue to the operator a written
84 citation or notice which explains the noncompliant issue and requires the operator to come into
85 compliance within a reasonable, specified timeframe. If the operator fails to come into
86 compliance within the time period specified by the commissioner or authorized inspector, the
87 commissioner or authorized inspector shall, by order, revoke the license for the kennel or cattery.

88 (c) A written notice under subsection (a) or (b) of an order revoking or suspending the
89 license, further regulating the kennel or cattery or dismissing the petition shall be mailed
90 immediately to the licensee and to the officer that issued the license. Not more than 10 days after
91 the written notice of the order, the licensee may file a petition in the district court in the judicial
92 district in which the kennel or cattery is maintained seeking review of the order. The decision of
93 the court shall be final and conclusive upon the parties. A person maintaining a kennel or cattery
94 after the license to maintain a kennel or cattery has been revoked or suspended shall be punished
95 by a fine of not more than \$250 for a first offense, by a fine of not less than \$500 for a second
96 offense and by a fine of not more than \$1,500 for a third or subsequent offense.

97 SECTION 13. Said chapter 140 is hereby further amended, as so appearing, by inserting
98 after section 141B the following two sections:-

99 Section 141C. For the purposes of this, the following words shall have the following
100 meanings unless the context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

122 Section 141D.

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

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

126 (ii) the date on which the puppy or kitten was examined;

127 (iii) the breed, sex and age of the puppy or kitten;

128 (iv) an affirmation that the veterinarian examined the puppy or kitten;

129 (v) a diagnosis that: (A)(1) the puppy or kitten had previously had a contagious or
130 infectious disease or severe parasitism, currently has a contagious or infectious disease or severe
131 parasitism or has died from a contagious or infectious disease or severe parasitism; (2) that the
132 veterinarian found the presence of symptoms of the disease or severe parasitism; and (3) that the
133 disease or severe parasitism is likely to have been contracted prior to or at the time of the sale or
134 delivery of the puppy or kitten to the buyer; or (B) the puppy or kitten has a congenital or
135 hereditary condition that: (1) significantly and adversely impacts the health of the puppy or
136 kitten; (2) requires hospitalization or a nonelective surgical procedure; or (3) caused the death of
137 the puppy or kitten;

138 (vi) the precise findings of the examination, diagnostic tests or necropsy;
139 (vii) the treatment recommended, if any, and an estimate or the actual cost of the
140 treatment;
141 (viii) an affirmation that the examination occurred: (A) within 14 days after the transfer
142 of the puppy or kitten if the puppy or kitten was declared unfit for sale based on an illness that
143 existed in the puppy or kitten prior to or at the time of the sale or transfer of the puppy or kitten;
144 (B) within 1 year after the sale or transfer of a puppy or kitten if declared unfit for sale based on
145 a hereditary or congenital condition that has a significant adverse effect on its health; or (C)
146 within 1 year after the sale or transfer of a puppy or kitten if the breed, sex or health of the
147 animal was misrepresented at the time of the transfer; and
148 (ix) the veterinarian's name and signature and the address and telephone number of the
149 veterinarian's primary place of veterinary practice.

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

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

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

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

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

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

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

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

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

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

177 (iv) retain the purchased puppy or kitten and receive reimbursement for reasonable
178 veterinary fees paid for the diagnosis and treatment of the purchased puppy or kitten in an

179 amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and
180 any additional point of sale fees paid on the original purchase of the puppy or kitten.

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

183 (2) If: (i) within 14 days after delivery of the puppy or kitten the puppy or kitten dies
184 because on an illness that existed in the puppy or kitten prior to or at the time of the sale or
185 delivery of the puppy or kitten; or (ii) within 1 year after the sale or delivery of a puppy or kitten
186 the puppy or kitten dies because of a hereditary or congenital condition that has a significant
187 adverse effect on its health, the buyer may obtain reasonable veterinary fees for the diagnosis,
188 treatment and disposal of the purchased puppy or kitten in an amount not to exceed the original
189 purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid
190 and: (A) a refund of the purchase price of the puppy or kitten, the sales tax paid and any
191 additional point of sale fees paid; or (B) a replacement dog or cat that is of equivalent value and
192 satisfactory to the buyer.

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

195 For the purpose of this subsection, "puppy" or "kitten" shall mean a puppy or kitten that
196 was under 1 year of age at the time of purchase.

197 (d) If a seller wishes to contest a demand made by a buyer for veterinary expenses or for
198 a refund or an exchange under this section, the seller may require the buyer to produce the puppy
199 or kitten for examination by a second licensed veterinarian designated by the seller and at the
200 seller's expense not more than 30 days after the demand. If the puppy or kitten is deceased, the

201 seller may have the second veterinarian review records provided by the buyer's veterinarian,
202 including the necropsy report. If the buyer and the seller are unable to reach an agreement as set
203 forth in subsection (d) within 10 business days after receipt of the purchased puppy or kitten for
204 the examination, the buyer may initiate an action in a court of competent jurisdiction to recover
205 or obtain a reimbursement of veterinary expenses or for a refund or an exchange.

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

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

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

215 SECTION 14. Chapter 140 of the General Laws, as appearing in the 2018 Official
216 Edition, is hereby amended by inserting after section 141D the following section:-

217 Section 141E. No person shall sell or offer for sale a puppy or kitten that is under 8
218 weeks of age. A violation of this subsection shall be punished by a fine of \$100 for each puppy
219 or kitten transferred.

220 SECTION 15. Chapter 140 of the General Laws is hereby amended by inserting after
221 section 141E. the following section:-

222 Section 141F. (a) No person shall sell, exchange, trade, barter, lease or display for
223 commercial purposes any dog or cat on any roadside, public right-of-way, parkway, median,
224 park or other recreation area, flea market or other outdoor market, or commercial or retail
225 parking lot.

226 (b) This section shall not apply to: (1) the transfer of a dog or cat by, or to, a shelter,
227 municipal animal control facility or animal rescue organization that is registered with the
228 department, if required, and regardless of payment or compensation; or (2) the display of a dog
229 or cat as part of a state or county fair exhibition, a 4-H program or similar exhibition or
230 educational program.

231 (c) A person that violates this section shall be punished by a fine of not more than \$50 for
232 a first offense, a fine of not more than \$100 for a second offense and a fine of not more than
233 \$300 for a third or subsequent offense. Each dog or cat sold in violation of this section shall
234 constitute a separate offense.

235 (d) A city or town shall enforce this section through its animal control officers or police
236 officers in a manner consistent with the disposition provisions in section 21D of chapter 40.

237 Section 141G: Mandatory micro chipping requirement

238 (a) No pet shop or animal rescue group shall release a dog or cat to a purchaser or adopter
239 unless:

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

241 (2) such pet shop or animal rescue group has registered such animal's microchip with
242 such purchaser's contact information with a bona fide pet microchip registration company; and

243 (3) such pet shop or animal rescue group has provided such purchaser with (i) usage
244 instructions for such microchip provided by the manufacturer of such microchip or the company
245 with which such microchip is registered and (ii) written certification of compliance with
246 paragraphs one and two of this subdivision, signed by such purchaser as acknowledgement of
247 receipt, in a form and manner set forth in rules promulgated by the department.

248 (b) Every pet shop and animal rescue group shall retain for a period of two years from the
249 date of sale of any dog or cat, a copy of the certification signed by the purchaser required by
250 paragraph three of subdivision a of this section.

251 SECTION 16. Section 174E of chapter 140 of the General Laws, as so appearing, is
252 hereby amended by striking subsections (g) through (i) and inserting in place thereof the
253 following 5 subsections:-

254 (g) No person owning or keeping a domestic animal shall subject the animal to “cruel
255 conditions.”

256 For the purposes of this section, a “domestic animal” is all animals, regardless of their
257 purpose or use, including livestock, that are kept as a domestic animal.

258 For the purposes of this subsection, "cruel conditions" includes, but is not limited to, the
259 following:

260 (1) exposure to excessive animal waste, garbage, non-potable water, excessive noxious
261 odors that create a health threat to people or animals, dangerous objects or other animals that
262 could injure or kill an animal upon contact, other circumstances that could cause harm to the

263 health or safety of the animal based on species, age or physical condition; or failure to provide
264 access to appropriate food and water based on the animal's species, age and physical condition.

265 (2) lack of protection when wind or environmental or weather conditions pose an adverse
266 risk to the health or safety of the animal based on the animal's species, age, or physical
267 condition.

268 (h) A person who violates this section shall: (i) for a first offense, be issued a written
269 warning or punished by a fine of not more than \$50; (ii) for a second offense, be punished by a
270 fine of not more than \$200; and (iii) for a third or subsequent offense, be punished by a fine of
271 not more than \$500; provided, however, that for a third or subsequent offense, the animal may be
272 subject to impoundment in a local shelter or appropriate facility at the owner's, keeper's or
273 guardian's expense pending compliance with this section, or loss of ownership of the animal.

274 (i) A special state police officer appointed by the colonel of state police at the request of
275 the Massachusetts Society for the Prevention of Cruelty to Animals or the Animal Rescue
276 League of Boston pursuant to section 57 of chapter 22C may enforce this section pursuant to the
277 notice and court procedures under section 21D of chapter 40 if an animal control officer, after
278 being contacted by the Massachusetts Society for the Prevention of Cruelty to Animals or the
279 Animal Rescue League of Boston in response to a violation of this section, is unresponsive or
280 unavailable.

281 (j) A city or town shall enforce this section through its animal control officers or
282 police officers in a manner consistent with the disposition provisions in section 21D of chapter
283 40.

284 (k) Nothing in this section shall preclude prosecution under section 77 of chapter 272.

285 SECTION 17. Chapter 140 of the General Laws is hereby further amended by inserting
286 after section 174F, the following section:-

287 Section 174G. The department shall promulgate rules and regulations for boarding
288 kennels and daycare facilities for dogs and cats, including home-based kennels and catteries and
289 daycare facilities, including, but not limited to staff to dog and cat ratios, group sizes and
290 supervision, minimum housing and care requirements, indoor and outdoor physical facility
291 requirements, dog and cat handling, insurance, and penalties for violation thereof.

292 The department shall make rules and regulations for the maintenance and inspection of
293 commercial breeder kennels or catteries and personal kennels or catteries in which not less than 5
294 sexually-intact female dogs or cats are kept for the purpose of breeding the dogs or cats and sell
295 the offspring as household pets. The rules and regulations shall ensure that the dogs, cats and
296 offspring thereof: (i) have proper housing, which shall include requirements for adequate space,
297 temperature, solid flooring and a prohibition on the stacking of cages, nutrition, hydration,
298 behavioral requirements, grooming, staffing, handling, health and veterinary care, waste
299 disposal, exercise, socialization and other general standards of care; (ii) are bred in accordance
300 with responsible breeding practices; and (iii) have their housing regularly inspected to ensure
301 that their kennels and catteries are maintained in accordance with this section.

302 In developing rules and regulations under this section, the department shall consider the
303 recommended standards of the American Veterinary Medical Association. The rules and
304 regulations must be promulgated not more than 18 months after date of enactment.

305 SECTION 18. This act shall take effect on January 1, 2021