

SENATE No. 989

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 enhancing the issuance of citations for cruel conditions for animals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/24/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>1/24/2019</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>1/25/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/28/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>1/30/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/30/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>1/31/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/31/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/31/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/31/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/1/2019</i>

<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/1/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>2/1/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/1/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>2/1/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>2/1/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/4/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/7/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/8/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/8/2020</i>

SENATE No. 989

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 989) of Mark C. Montigny, Angelo J. Puppolo, Jr., Walter F. Timilty, James T. Welch and other members of the General Court for legislation to enhance the issuance of citations for cruel conditions for animals. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1145 OF 2017-2018.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-First General Court
(2019-2020)**
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An Act 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 174E of chapter 140 of the General Laws, as appearing in the 2016
2 Official Edition is here by amended by striking in paragraph (a) the first and second sentences
3 and replace with:-

4 (a) No person owning or keeping a dog shall chain, confine, or tether a dog outside and
5 unattended (1) for longer than 5 hours or (2) outside from 10:00 p.m. to 6:00 a.m.

6 “Outside and unattended,” for the purposes of this section, shall mean any dog who is
7 exposed to the elements for a duration of longer than 15 minutes and not in visual range and
8 physical presence of the owner. This expressly includes, but is not limited to, a dog in a securely

9 fenced-in yard, a dog in a kennel, or a dog tethered. For purposes of this section a dog shall be
10 considered “outside” regardless of access to an outdoor doghouse or similar structure.

11 No person owning or keeping a dog shall tether, confine or chain a dog in a manner that
12 allows the dog to leave the owner's, guardian's or keeper's property.

13 SECTION 2. Section 174E of chapter 140 is hereby further amended by inserting after
14 the word “chains”, in line 7, the following words:- , pinch collars, choke collars,

15 SECTION 3. Section 174E of chapter 140 is hereby further amended by striking out, in
16 line 7, the words “lines or”

17 SECTION 4. Section 174E of chapter 140 is hereby further amended by inserting after
18 the word “feet”, in line 19, the following words:- per dog

19 SECTION 5. Section 174E of chapter 140 is hereby further amended by striking out, in
20 lines 35-37, the words “provided, however, that a choke collar and a pinch collar shall not be
21 used to tether a dog to a cable run;”

22 SECTION 6. Section 174E of chapter 140 is hereby further amended by striking out the
23 words “in accordance with subsection (b)”, in lines 52-53, and inserting in place thereof the
24 following words:- and unattended

25 SECTION 7. Section 174E of chapter 140 is hereby further amended by striking out in
26 paragraph (c) the third sentence and inserting in place thereof the following sentence:- The
27 entrance to the shelter shall allow the dog's entry and exit, and in adverse weather have a flap or
28 other mechanism sturdy enough to block entry of weather elements.

29 SECTION 8. Section 174E of chapter 140 is hereby further amended by inserting after
30 the word “outside”, in line 64, the following words:- and unattended

31 SECTION 9. Section 174E of chapter 140 is hereby further amended by striking out, in
32 lines 69-70, the words “, unless the tethering is for not more than 15 minutes”

33 SECTION 10. Section 174E of chapter 140 is hereby further amended by striking out, in
34 line 90, the word “and” and inserting in place thereof the following word:- or

35 SECTION 11. Section 174E of chapter 140 of the General Laws, as so appearing, is
36 hereby amended by striking subsections (g) through (i) and inserting in place thereof the
37 following 5 subsections:-

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

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

42 For the purposes of this subsection, “cruel conditions” includes, but is not limited to, the
43 following:

44 (1) exposure to excessive animal waste, garbage, non-potable water, excessive noxious
45 odors that create a health threat to people or animals, dangerous objects or other animals that
46 could injure or kill an animal upon contact, other circumstances that could cause harm to the
47 health or safety of the animal based on species, age or physical condition; or failure to provide
48 access to appropriate food and water based on the animal’s species, age and physical condition.

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

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

58 (i) A special state police officer appointed by the colonel of state police at the request of
59 the Massachusetts Society for the Prevention of Cruelty to Animals or the Animal Rescue
60 League of Boston pursuant to section 57 of chapter 22C may enforce this section pursuant to the
61 notice and court procedures undersection 21D of chapter 40 if an animal control officer, after
62 being contacted by the Massachusetts Society for the Prevention of Cruelty to Animals or the
63 Animal Rescue League of Boston in response to a violation of this section, is unresponsive or
64 unavailable.

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

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

68 SECTION 12. Section 35WW of chapter 10 of the General Laws, as appearing in the
69 2016 Official Edition, is hereby amended by inserting after the figure "62", in line 17, the
70 following words:- , fines collected pursuant to section 37 of chapter 129.

71 SECTION 13. Section 37 of said chapter 129, as so appearing, is hereby amended by
72 inserting after the fourth sentence the following sentence:-A fine assessed under this section shall
73 be deposited into the Homeless Animal Prevention and Care Fund established in section 35WW
74 of chapter 10.