

HOUSE No. 2146

The Commonwealth of Massachusetts

PRESENTED BY:

Mark J. Cusack

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 to protect pets.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>2/18/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/26/2021</i>

HOUSE No. 2146

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 2146) of Mark J. Cusack and James J. O'Day relative to the care and sale of cats, dogs and rabbits. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to protect pets.

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 in subsection (b) the words “this section” and
3 inserting in place thereof the following:- sections 39G and 39J,

4 SECTION 2. Said section 39G of chapter 129 is hereby further amended by striking out
5 subsection (e), and inserting in place thereof the following:-

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

10 SECTION 3. Said chapter 129 of the General Laws, as so appearing, is hereby amended
11 by adding at the end thereof the following 6 new sections:-

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

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

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

“Organization or Rescue Organization”, An entity that is not otherwise required to be licensed under M.G.L. c. 129, §§ 39, 39A, or 45, or under M.G.L. c. 94, § 152A, and whose primary activity is the placement of abandoned, displaced, unwanted, neglected or abused animals. Such entity does not obtain Dogs or Cats from a breeder or broker for payment or compensation, and is exempt from taxation under § 501(c)(3) of the federal Internal Revenue Code or equivalent nonprofit designation under such Code.

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

“Place or Placement”, To sell, barter, exchange, give away, or otherwise find a permanent physical placement for an Animal that is abandoned, displaced, unwanted, neglected or abused.

“Sale, Sell, Sold or Offer for Sale”, to sell, barter, exchange, give away, or otherwise confer ownership of an Animal to a Person other than the Licensee, or to display or have within view of the public an Animal in a Pet Shop or otherwise make known that an Animal is available for such transactions.

"Seller", a pet shop, organization, breeder or broker.

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

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

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

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

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

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

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

(b) An owner or operator of a pet shop, organization, breeder, or broker that offers a dog, cat, or rabbit for sale or placement shall maintain records that verify compliance with this section

for not less than 2 years following the date of acquisition of the dog, cat, or rabbit. Those records shall include: (1) United States Department of Agriculture inspection reports; and (2) the source of each dog or cat the pet shop acquired, including a description of the dog or cat and the United States Department of Agriculture license number of the breeder. The records shall be made available immediately upon the request of the purchaser or adopter.

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

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

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

(3) the breeder's United States Department of Agriculture license number and, if the breeder is required to be licensed in the state in which the breeder is located, the breeder's state license number.

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

Section 39J. (a) No cat, dog, or rabbit shall be sold or placed in the commonwealth by a pet shop, organization, breeder, or broker to a consumer unless accompanied by such records under section 39I and an official health certificate under section 39G, as applicable. A consumer

may return a cat, dog, or rabbit by presenting it to the providing pet shop, organization, breeder, or broker no later than 48 hours after learning of a defect in such records or official health certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) a hereditary or congenital condition if the seller provides the buyer with written documentation at the time of sale or placement establishing that, prior to breeding, the dog, cat, or rabbit's parents were screened for health issues according to breed-specific protocols and

114 requirements established by the Canine Health Information Center or a comparable recognized
115 animal health registry; or

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

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

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

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

124 (C) if a replacement dog, cat, or rabbit of equivalent value is available and satisfactory to
125 the buyer, exchange the dog, cat, or rabbit for the dog, cat, or rabbit and provide reimbursement
126 to the buyer for reasonable veterinary fees paid for the diagnosis and treatment of the dog, cat, or
127 rabbit in an amount up to 50% of the original purchase price of the dog, cat, or rabbit, the sales
128 tax paid and any additional point of sale fees paid; or

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

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

(c)(2) If: (A) within 14 days after sale or placement of the dog, cat, or rabbit the dog, cat, or rabbit dies because of an illness that existed in the dog, cat, or rabbit prior to or at the time of the sale or placement of the dog, cat, or rabbit; or (B) within 1 year after the sale or placement of a dog, cat, or rabbit the dog, cat, or rabbit dies because of a hereditary or congenital condition that has a significant adverse effect on its health, the buyer may obtain a refund up to the purchase price of the dog, cat, or rabbit, the sales tax paid and any additional point of sale fees paid; or receive a replacement dog, cat, or rabbit that is of equivalent value and satisfactory to the buyer.

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

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

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

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

(g) No pet shop, organization, breeder, or broker shall sell or place a dog, cat or rabbit to a buyer or adopter unless:

(1) such animal has been implanted with a microchip as a permanent identification, provided however that an organization has first contacted the animal's owner after inspection for identification of the animal's owner, including a scan for microchip, so it may be reclaimed;

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

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

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

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

177 Section 39M. It is unlawful for any person to offer for sale or adoption, sell, barter,
178 auction, or otherwise place 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 4. This act shall go into effect 90 days after its passage.