

HOUSE No. 2040

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>1/18/2023</i>

HOUSE No. 2040

By Representative Cusack of Braintree, a petition (accompanied by bill, House, No. 2040) of Mark J. Cusack relative to the care and sale of cats, dogs and rabbits. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2146 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 2020
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, as so appearing, is hereby further amended
5 by striking out 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:-

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

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

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

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

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

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

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

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

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

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

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

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

44 (3) was found to have committed a critical violation of the Animal Welfare Act, 7 U.S.C.
45 2131, et seq, during the 3-year period prior to the purchase;

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

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

51 (b) An owner or operator of a pet shop, organization , breeder, or broker that offers a dog,
52 cat, or rabbit for sale or placement shall maintain records that verify compliance with this section
53 for not less than 2 years following the date of acquisition of the dog, cat, or rabbit. Those records
54 shall include: (1) United States Department of Agriculture inspection reports; and (2) the source
55 of each dog or cat the pet shop acquired, including a description of the dog or cat and the United
56 States Department of Agriculture license number of the breeder. The records shall be made
57 available immediately upon the request of the purchaser or adopter.

58 (c) An owner or operator of a pet shop, organization, breeder, or broker that offers a dog,
59 cat, or rabbit for sale or placement shall post a sign that shall be clear and conspicuous and shall
60 be of such size and so placed that an individual examining the dog, cat, or rabbit in its cage or
61 enclosure may readily view the sign and its contents. The sign 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 breeder's United States Department of Agriculture license number and, if the
67 breeder is required to be licensed in the state in which the breeder is located, the breeder's state
68 license number.

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

71 Section 39J. (a) No cat, dog, or rabbit shall be sold or placed in the commonwealth by a
72 pet shop, organization, breeder, or broker to a consumer unless accompanied by such records
73 under section 39I and an official health certificate under section 39G, as applicable. A consumer
74 may return a cat, dog, or rabbit by presenting it to the providing pet shop, organization, breeder,
75 or broker no later than 48 hours after learning of a defect in such records or official health
76 certificate.

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

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

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

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

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

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

91 kitten; (2) requires hospitalization or a nonelective surgical procedure; or (3) caused the death of
92 the dog, cat, or rabbit;

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

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

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

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

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

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

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

111 (iii) a hereditary or congenital condition if the seller provides the buyer with written
112 documentation at the time of sale or placement establishing that, prior to breeding, the dog, cat,
113 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.

135 (c)(2) If: (A) within 14 days after sale or placement of the dog, cat, or rabbit the dog, cat,
136 or rabbit dies because of an illness that existed in the dog, cat, or rabbit prior to or at the time of
137 the sale or placement of the dog, cat, or rabbit; or (B) within 1 year after the sale or placement of
138 a dog, cat, or rabbit the dog, cat, or rabbit dies because of a hereditary or congenital condition
139 that has a significant adverse effect on its health, the buyer may obtain a refund up to the
140 purchase price of the dog, cat, or rabbit, the sales tax paid and any additional point of sale fees
141 paid; or receive a replacement dog, cat, or rabbit that is of equivalent value and satisfactory to
142 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, organization, breeder, or broker shall sell or place a dog, cat or rabbit to
157 a buyer or adopter unless:

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

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

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

169 (h) Every pet shop, organization, breeder, or broker shall retain for a period of 2 years
170 from the date of sale or placement of any dog, cat, or rabbit, a copy of the certification signed by
171 the purchaser or adopter required by paragraph three of subsection (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 placement in violation of this section shall constitute a separate offense. A violation of
175 this section shall constitute an unfair or deceptive act or practice in the conduct of trade or
176 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.