

Massachusetts House of Representatives

Bill Summary

Bill #: H.2256

Title: An Act to protect pets.

Sponsor: Rep. Mark Cusack

Committee: Municipalities and Regional Government

Hearing Date:

Prior History: H.2040 (2023-2024) put into study; H.2146 (2021-2022) put into study

Current Law: Public Law 89-544, commonly cited as 7 U.S.C. 2131, is the Federal Animal Welfare Act, first enacted in 1966.

Chapter 346 of the Acts of 2024 states that no person shall sell, offer to sell, exchange, trade, barter, lease or transfer for permanent physical placement a dog or cat that is less than 8 weeks of age. The new law also states that no person shall sell, offer to sell, exchange, trade, barter, lease or transfer any dog or cat on any roadside, public right-of-way, parkway, median, park or other recreation area, flea market or other outdoor market or commercial or retail parking lot. It exempts transfers involving an animal shelter, rescue organization, municipal animal control facility, or display of a dog or cat as part of a state or county fair exhibition, a 4-H program or similar exhibition or educational program.

MGL Chapter 93A regulates business practices for consumers protection. Section 2 of the law states that unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful. The law cites the Federal Trade Commission and states that the attorney general may make rules and regulations to interpret the law.

Chapter 94, Section 152A of MGL states that anyone in the business of buying, selling or transporting live poultry must be licensed.

Chapter 129, Section 39G of MGL states that a dog or cat shipped into the commonwealth must have an official health certificate, a copy of which must be provided to the commissioner of agricultural resources. The law contains other provisions such as requiring vaccinations and health records, prohibiting the sale of dogs or cats that are under 8 weeks old or have been surgically devocalized, and empowering the commissioner of agricultural resources to suspend the license of any business that violates any of these provisions. It also includes an appeals process.

Subsection (e) of Section 39G states that a dog or cat sold by a commercial establishment (pet shop, firm or corporation) must have a health record showing the date and type of vaccines it has received.

Section 45 requires anyone dealing in or auctioning equine animals to obtain a license from the department of food and agriculture.

Summary: This legislation expands the scope of certain animal welfare laws and adds new provisions designed to further regulate the importation and sale of certain animals and provide additional consumer protection mechanisms.

Section 1 of the bill replaces language in subsection (b) of Section 39G of Chapter 129 so that the requirement to possess an “official health certificate” will apply to dogs, cats and rabbits, by adding a reference to new section 39J.

Section 2 amends subsection (e) of Section 39G by expanding the health record requirement to include rabbits, and the scope of the law would expand to include dogs, cats or rabbits sold or placed in the state by organizations, breeders or brokers, rather than only commercial establishments, firms or corporations. It also references new definitions of terms established in Section 3 of the bill.

Section 3 adds 6 new sections to Chapter 129:

New section 39H defines terms used in the amended law:

“Breeder” – person that maintains dogs, cats and rabbits to breed and sell their offspring.

“Broker” – person that transfers dogs, cats and rabbits for resale by another person.

“Organization or Rescue Organization” – tax-exempt entities not otherwise licensed under statute that do not pay for dogs or cats from a breeder, whose primary activity is the placement of abandoned, displaced, unwanted, neglected or abused animals.

“Pet shop” – a business licensed under Section 39A of Chapter 129; licenses obtained from the director of animal health.

“Place or Placement” – to sell, barter, exchange or otherwise find a permanent physical placement (home) for an animal that is abandoned, displaced, unwanted, neglected or abused.

“Sale, Sell, Sold or Offer for Sale” – confer ownership of an animal to a person other than the licensee, or publicly display the animal in a pet shop or otherwise show that such a transaction is available.

“Seller” – pet shop, organization, breeder or broker.

“Unfit for Sale” – when a dog, cat or rabbit has a congenital or hereditary defect, disease, deformity, injury, physical condition or illness that has a significant adverse effect on the health of the animal, which existed prior to the sale or placement of that animal to the buyer.

New section 39I adds new restrictions on how pet shops source their animals, by prohibiting them from purchasing a dog, cat or rabbit for resale, or offer for sale a dog, cat or rabbit that originated from a breeder, broker, person, firm or corporation that:

- Does not have a current license from the U.S. Department of Agriculture (USDA) and any applicable state agency;
- Has had its license suspended within the past 5 years;
- Committed a critical violation of the Federal Animal Welfare Act within the 3 years before the sale;
- Committed 3 or more noncritical violations of the Animal Welfare Act in the 3 years prior to the sale; or
- Has been cited on the 2 most recent USDA inspection reports prior to the purchase of a dog, cat or rabbit for no-access violations of the Animal Welfare Act.

Subsection (b) of section 39I requires a pet shop, organization, breeder or broker to maintain records for 2 years after the date of acquisition of the animal, to ensure compliance with the law. The records would have to include USDA animal inspection reports and the source of the dog or cat (rabbit is omitted from this provision) with a physical description and the breeder's USDA license number. Such records would have to be immediately made available to the purchaser or adopter.

Subsection (c) requires the pet shop, organization, breeder or broker that offers a dog, cat or rabbit for sale or placement to display a clear, conspicuous and easily viewable sign that includes:

- Date and place of birth of each animal and actual or approximate age;
- Sex, color markings, and other identifying information including any tag, tattoo, collar, microchip device; and
- USDA breeder license number and, if from MA, state license number.

Subsection (d) prohibits a person from selling, placing or offering dogs, cats, or rabbits less than 8 weeks of age. (already law)

New section 39J states that any dog, cat or rabbit sold or placed in the commonwealth must be accompanied by the records and health certificate. A consumer could return the dog, cat or rabbit to the pet shop, organization, breeder or broker no later than 48 hours after learning of a defect in the records or health certificate. The bill does not define the term "learn" or "defect" nor does it explain when the 48-hour timeline begins.

New section 39K authorizes a local veterinarian to declare a dog, cat or rabbit unfit for sale or placement, either before or after the fact, by providing a written statement containing:

- The name and address of the buyer;
- Date the animal was examined;
- Breed, sex and age of the animal;
- An affirmation that the veterinarian examined the animal;
- A diagnosis of the animal stating that it has or had a severely infectious or contagious disease or parasitism which was present either before or at

the time the animal was sold or placed; the vet found symptoms of the condition and, if it died, was the cause of the animal's death. The diagnosis would also include facts and findings regarding any hereditary or congenital condition that significantly and adversely affects the animal's health, requires hospitalization or non-elective surgical procedure, or caused the death of the animal;

- Precise findings of the exam, diagnostic tests or necropsy;
- Recommended treatment and estimated or actual cost;
- An affirmation that the examination occurred within 14 days after the sale or placement in the case of a pre-existing illness, or within 1 year if there was a congenital or hereditary condition that has a severely adverse effect on the animal's health, or within 1 year if the breed, sex or health of the animal was misrepresented at the time of the sale or placement of the dog, cat or rabbit; and
- Veterinarian's signature and contact information.

Another provision states that an animal shall not be declared unfit for sale or placement if the injuries or illnesses were contracted after the date of the transfer, or there was a separate disclosure that the buyer acknowledged, or in the case of a congenital or hereditary condition, prior to breeding, the animal had been screened for health issues based upon breed-specific protocols and requirements, or in the case of internal or external parasites unless that condition makes the animal clinically ill or causes its death.

The bill gives consumers a way to obtain relief from the place of purchase, if a veterinarian declares the dog, cat or rabbit to be unfit for sale. Such options would be disclosed to the buyer before the sale. The buyer may:

- Return the animal to the seller for treatment by the seller's veterinarian;
- Return the animal for a full refund of the purchase price;
- Exchange the animal for another one of equivalent value, and reimburse the buyer for reasonable veterinary fees up to 50 percent of the purchase price plus sales tax and point-of-sale fees; or
- Keep the animal and be reimbursed for reasonable veterinary fees paid to diagnose and treat the purchased dog, cat or rabbit in an amount not to exceed the purchase price, sales tax and point-of-sale fees paid.

The bill also addresses circumstances where an animal dies within a certain amount of time after purchase, places limitations on the seller's responsibilities and gives the seller the opportunity to contest the buyer's demand for reimbursement of expenses or obtain a second veterinarian's opinion regarding the diagnosis.

In addition, there are provisions governing the implantation, registration and use of microchips to identify animals offered for sale or placement, including giving instructions to the buyer for its use. It also requires pet shops, organizations, breeders and brokers to keep animal records for at least 2 years after the animal has been sold or placed.

Section 39L would impose fines of up to \$500 for violations, which would be considered an unfair or deceptive act or practice under Chapter 93A.

Section 39M would prohibit roadside transactions by making it illegal to offer for sale or adoption, barter, auction or otherwise place any dog, cat or rabbit from a roadside, public right-of-way, public property, park, parking lot, flea market or festival, unless persons are meeting to finalize a previously arranged sale or exchange. Already law, however it does not contain an exemption for previously arranged sales or exchanges.

Section 4 states that this act would take effect 90 days after final passage.