



**OPPOSE SB1159 – An Act to Protect Animal Welfare and Safety  
in Cities and Towns  
[Sen. Bruce Tarr (R)]**

Referred to Joint Committee on Municipalities and Regional Government

**WHAT THIS BILL DOES:**

This bill tries to do everything:

- Ch 140 Section 173A: For violation of a dog-related ordinance or by-law, raises the first offense fine from \$0 to \$50, 2<sup>nd</sup> offense fine from \$50 to \$100, 3<sup>rd</sup> offense fine from \$60 to \$300 and 4<sup>th</sup> offense fine from \$100 to \$500.
- Chapter 140 Section 141: For violation of sections 137 (registration and licensing), 137A (kennel license), 137B (delivering unlicensed dog to purchaser) or 138 (change of owner of licensed dog), it raises the first offense fine from \$50 to \$500 and a fine of not more than \$1000 for 2<sup>nd</sup> and subsequent offenses.
- Chapter 19A Section 3: Directs employees of the Dept. of Elder Affairs to report animal cruelty, abuse or neglect to a police officer or special state police officer.
- Chapter 19C Section 6: Directs employees of the Disabled Persons Protection Commission to report animal cruelty, abuse or neglect to a police officer or special state police officer.
- Chapter 131 Section 19B: Establishes fines of imprisonment of up to 10 years and fines of not more than \$10,000 for any animal put to death by drowning.
- Chapter 272 Section 91: Establishes fines of imprisonment of up to 10 years and fines of not more than \$10,000 for any animal put to death by drowning.
- Chapter 175 Section 19: Precludes insurance companies from denying homeowners insurance based on specific breeds of dogs.
- Chapter 186 Section 20: Provides guidelines and fines for owners with abandoned animals in vacant properties.
- Chapter 239 Section 4: Provides guidelines and fines for owners with abandoned animals in vacant properties.

**WHY YOU SHOULD OPPOSE THIS BILL:**

This bill is a scatter-gun approach to supposedly providing welfare and safety for companion animals ranging from animals left in abandoned/foreclosed properties, to inappropriate cause of death by drowning, even to homeowner's insurance issues.

It enlists employees of the Dept. of Elder Affairs and the Disabled Persons Protection Commission to report animal abuse and neglect.

Though MassFed abhors all animal cruelty, we are concerned that no adequate definition of neglect may result in unreasonable charges against pet owners (such as for conditions that might be treated without the supervision of a veterinarian, i.e., ear infections, or some dental care). It also raises fines, some up to 10 times the previous amounts, which are exorbitant based on the offenses.

**FOR MORE INFORMATION:**

**Massachusetts Federation of Dog Clubs and Responsible Dog Owners**

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03/01/17

**SENATE . . . . . No. 1159**

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The Commonwealth of Massachusetts

PRESENTED BY:  
***Bruce E. Tarr***

*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 animal welfare and safety in cities and towns.

PETITION OF:

Rep. Arciero, James (D); Rep. Berthiaume Jr., Donald (R); Rep. Campbell, Linda (D); Rep. Decker, Marjorie (D); Rep. DiZoglio, Diana (D); Rep. Dubois, Michelle (D); Rep. Ehrlich, Lori (D); Rep. Garry, Colleen (D); Rep. Gregoire, Danielle (D); Rep. Heroux, Paul (D); Rep. Kane, Hannah (R); Rep. Kaufman, Jay (D); Rep. Lewis, Jack (D); Rep. Miceli, James (D); Rep. Murray, Brian (D); Rep. Provost, Denise (D); Rep. Puppolo, Jr., Angelo (D); Rep. Ryan, Daniel (D); Rep. Scibak, John (D); Sen. Brownsberger, William (D); Sen. DiDomenico, Sal (D); Sen. Eldridge, James (D); Sen. Lewis, Jason (D); Sen. Lovely, Joan (D); Sen. Montigny, Mark (D); Sen. Moore, Michael (D); Sen. Pacheco, Marc (D); Sen. Ross, Richard (R); Sen. Rush, Michael (D); Sen. Timilty, Walter (D)

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

An Act to protect animal welfare and safety in cities and towns.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 173A of chapter 140 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in lines 8-21, the second through seventh sentences, inclusive, and replacing with the following sentences: -

The fine for the first offense committed by a person, shall be \$50. The fine for a second offense shall be \$100. The fine for a third offense shall be \$300. For a fourth or subsequent offense the fine shall be \$500 and the municipality may order the animal spayed or neutered. Payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines, provided that fines may not be lower than those stated in this section. Notwithstanding this section, a municipality may seek a remedy under section 157 for a nuisance dog.

SECTION 2. Section 141 of chapter 140 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 2, the word “\$50“ and inserting in place thereof the following words:- \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.

SECTION 3. Section 15 of chapter 19A is of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word “technician,” in line 3, the following words :- animal control officer

SECTION 4. Chapter 19A of the General Laws is hereby amended by inserting after section 41 the following section:-

Section 42. (a) Any employee of the department of elder affairs or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, shall report the known or suspected animal cruelty, abuse or neglect to a police officer or special state police officer appointed under said section 57 of chapter 22C.

(b) The report shall be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so within the time frame indicated in (b) of this section may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Any privilege established by sections 135A and one hundred and 135B of chapter 112 or section 20B of chapter 233 relating to the exclusion of confidential communications shall not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

(f) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(g) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

SECTION 5. Section 1 of chapter 19C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting, after the word “police officer”, in line 28, the following words:- , animal control officer,

SECTION 6. Chapter 19C of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 14. (a) Any employee of the disabled persons protection commission or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, shall report the known or suspected animal cruelty, abuse or neglect to a police officer or special state police officer appointed under said section 57 of chapter 22C.

(b) The report shall be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Any privilege established by sections 135A and 135B of chapter 112 or section 20B of chapter 233 relating to the exclusion of confidential communications shall not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

(f) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(g) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

SECTION 7. Section 85 of chapter 119 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 1, the words “During any investigation or evaluation reported under section 51A, any” and inserting in place thereof the following word:- Any

SECTION 8. Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in line 7, the word “may” and inserting in place thereof the following word:- shall

SECTION 9. Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in lines 8-10, the words “to the entities that investigate reports of animal cruelty, abuse or neglect, as describe in section 57 of chapter 22C or any local animal control authority.” and inserting in place thereof the following words:- to a police officer or special state police officer appointed under said section 57 of chapter 22C.

SECTION 10. Section 85 of chapter 119, as so appearing, is hereby further amended by striking out, in line 11, the word “may” and inserting in place thereof the following word:- shall

SECTION 11. Section 85 of Chapter 119, as so appearing, is hereby further amended by striking out, in line 15, the words “by telephone”

SECTION 12. Section 21 of chapter 119 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the words “police officer;”, in line 64, the following words:- , animal control officer;

SECTION 13. Section 19B of chapter 131 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

(b) No person authorized under this Chapter to take and possess birds, reptiles, amphibians, or mammals, may put any animal to death by the use of drowning. Whoever puts any animal to death by the use of drowning shall be punished by imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

SECTION 14. Section 79 of chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking the words “A corporation violating either of the two preceding section” and inserting in place thereof the following words:-

A for-profit corporation, nonprofit corporation, business, professional corporation, partnership, limited liability company, limited partnership, limited liability partnership, or any other business entity violating sections 77, 77A, 77B, 78, 78A, 79A, 80 ½, 80A, 80B, 80C, 80D, 80F, 80G, 80H, 80I, 81, 85A, 85B, 87, 94, or 95 of this chapter or section 112 of chapter 266

SECTION 15. Section 80E of chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

(b) Whoever puts any animal to death by the use of drowning shall be punished by imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

SECTION 16. Section 91 of Chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 3, the words “district court” and inserting in place thereof the following words:- court having jurisdiction over the offense

SECTION 17. Section 91 of said chapter, as so appearing, is hereby further amended by striking out, in lines 10 to 17, the words “the court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them. The order shall be directed to any officer authorized to serve criminal process and the officer receiving such order shall cause the animals to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof” and inserting in place thereof the following words: - shall be individually assessed by the organization to whom they are forfeited to determine suitability for adoption, transfer to another organization, or other disposition

SECTION 18. Section 58A of Chapter 276 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word “thereof”, on line 8, the following words:- or charged with a violation of section 77 of chapter 272, or a violation of section 112 of chapter 266, or a violation of section 94 of chapter 272

SECTION 19. Chapter 175 of the General Laws is hereby amended by inserting after section 227 the following section:-

Section 228. No insurance company offering homeowners insurance coverage or renters insurance coverage in Massachusetts issuing a policy or contract insuring against liability for injury to any person or injury to or destruction of property arising out of ownership or lease of residential property shall refuse to issue or renew, cancel or charge or impose an increased premium or rate of such a policy or contract based in whole or in part, upon the harboring of any specific breed or breeds of dog upon such real property.

If any such dog has been designated as a dangerous dog pursuant to current statutes, the provisions in this section shall in no manner prohibit an insurer from refusing to issue or renew or from canceling any such contact or policy, nor from imposing an increased premium or rate for such a policy or contract.

SECTION 20. Chapter 186 of the General Laws is hereby amended by adding the following section:-

Section 30. Within 3 days after a lessor or property owner knew or should have known that a property has been vacated through foreclosure, termination of tenancy, abandonment or other removal or exclusion of a tenant from the premises under this chapter or chapter 186A, the lessor, property owner or a designee shall inspect the property for the presence of abandoned animals.

If the lessor, property owner or designee encounters an abandoned animal, the lessor, property owner or designee shall immediately notify an animal control officer as defined in chapter 140, a police officer or other authorized agent of the presence and condition of the animal.

The lessor, property owner or designee who encounters an abandoned animal under this section shall not be considered the owner, possessor or person having charge or custody of the animal under section 77 of chapter 272.

For the purposes of this section, an animal shall be considered abandoned if it is found in a property vacated through foreclosure, termination of tenancy, abandonment or other removal or exclusion of a tenant from the premises under this chapter or said chapter 186A.

If the lessor, property owner or designee fails to comply with this section, the lessor or property owner shall be subject to a civil fine of not more than \$500 for a first offense and not more than \$1,000 for each

subsequent offense. The money collected from this fine shall be deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of chapter 10.

SECTION 21. Section 4 of Chapter 239 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word “thereof”, in line 5, the following words:- ; provided, however, that if an animal is found on the land or tenement, the officer shall immediately notify an animal control officer as defined in chapter 140, a police officer or other authorized agent of the presence and condition of the animal.

SECTION 22. Subsection (a) of said Section 4 of said Chapter 239, as so appearing, is hereby amended by adding the following sentence:- This section shall not apply to an animal removed under section 30 of chapter 186, section 41 of chapter 244 or section 14.

SECTION 23. Said chapter 239 is hereby further amended by adding the following section:-

Section 14. Within 3 days after the lessor or property owner knew or should have known that a property has been vacated as a result of summary process, the lessor, property owner or a designee shall inspect the property for the presence of abandoned animals.

If the lessor, property owner or designee encounters an abandoned animal under this section or section 4, the lessor, property owner or designee shall immediately notify an animal control officer as defined in chapter 140, a police officer or other authorized agent of the presence and condition of the animal.

The lessor, property owner or designee who encounters an abandoned animal pursuant to this section shall not be considered the owner, possessor or person having the charge or custody of the animal under section 77 of chapter 272.

For the purposes of this section, an animal shall be considered abandoned if it is found in a property vacated as a result of summary process.

If the lessor, property owner or designee fails to comply with this section, the lessor or property owner shall be subject to a civil fine of not more than \$500 for a first offense and not more than \$1,000 for each subsequent offense. The money collected from this fine shall be deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of chapter 10.

SECTION 24. Chapter 244 of the General Laws is hereby amended by adding the following section:-

Section 41. Within 3 days after the lessor or property owner knew or should have known that a property was vacated through a mortgage foreclosure, the mortgagee, property owner or a designee shall inspect the property for the presence of abandoned animals. If the mortgagee, property owner or designee encounters an abandoned animal under this section, the mortgagee, property owner or designee shall immediately notify an animal control officer as defined in chapter 140, a police officer or other authorized agent of the presence and condition of the animal.

The mortgagee, property owner or designee who encounters an abandoned animal pursuant to this section shall not be considered the owner, possessor or person having the charge or custody of the animal under section 77 of chapter 272.

For the purposes of this section, an animal shall be considered abandoned if it is found in a property vacated through mortgage foreclosure.

If the mortgagee, property owner or designee fails to comply with this section, the mortgagee or property owner shall be subject to a civil fine of not more than \$500 for a first offense and not more than \$1,000 for each subsequent offense. The money collected from this fine shall be deposited into the Homeless Animal Prevention and Care Fund established in section 35WW of chapter 10.