

HOUSE No. 1773

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 in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>

HOUSE No. 1773

By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 1773) of Mark J. Cusack and others relative to the care and sale of cats and dogs. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to protect pets in the Commonwealth.

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 136A of chapter 140 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the definition of "Attack" the following
3 definition:-

4 "Cattery", a pack or collection of cats on a single premises, including a commercial
5 boarding or training cattery, a commercial breeder cattery, a domestic charitable corporation
6 cattery, a personal cattery and a veterinary cattery.

7 SECTION 2. Said chapter 140 is hereby further amended by striking out section 137C, as
8 so appearing, and inserting in place thereof the following section:-

9 Section 137C. (a) The mayor of a city, the selectmen of a town, the police commissioner
10 in the city of Boston, a chief of police or an animal control officer shall inspect a kennel or
11 cattery or cause the inspection of a kennel or cattery at least 1 time per year. If a person holding a
12 license or applying for a license to operate a kennel or cattery refuses to allow an inspector to

13 enter and inspect a kennel or cattery, the refusal shall be grounds for denial, suspension or
14 revocation of a person's license to operate a kennel or cattery.

15 Twenty-five citizens of a city or town may file a petition with the mayor of a city, the
16 selectmen of a town or the police commissioner in the city of Boston, as the case may be, stating
17 that they are aggrieved or annoyed to an unreasonable extent that constitutes a nuisance by a dog
18 or cat maintained in the city or town due to excessive barking or other conditions connected with
19 a kennel or cattery. The mayor, selectmen or police commissioner, as the case may be, shall, not
20 more than 7 days after the filing of the petition, give notice to all interested parties of a public
21 hearing. The hearing shall be held not more than 14 days after the date of the notice. The mayor,
22 selectmen or police commissioner shall, not more than 7 days after the public hearing,
23 investigate or cause to be investigated the subject matter of the petition and shall, by order: (i)
24 suspend the kennel or cattery license; (ii) revoke the kennel or cattery license; (iii) further
25 regulate the kennel or cattery; or (iv) dismiss the petition.

26 (b) The inspection of a kennel or cattery to enforce the rules and regulations promulgated
27 under section 174G may be done by the commissioner or an authorized inspector and shall take
28 place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually agreed
29 upon by the inspector and the operator. The operator or an authorized agent of the operator shall
30 be present during the inspection and the operator shall be given a reasonable notice prior to the
31 inspection; provided, however, that the commissioner or other authorized inspector may
32 determine that it is not appropriate to provide advance notice to the operator before arriving at
33 the facility if necessary to adequately perform the inspection. If a kennel or cattery regulated
34 under said section 174G is located at a private residence, only the areas of the residence that are
35 used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall be

36 required to be available for inspection. If in the judgment of the commissioner or an authorized
37 inspector a kennel or cattery is not being maintained in a sanitary and humane manner or if
38 records have not been properly kept as required by law and in compliance with said section G,
39 the commissioner or authorized inspector shall, by order, suspend the license for the kennel or
40 cattery depending on the severity of the offense or issue to the operator a written citation or
41 notice which explains the noncompliant issue and requires the operator to come into compliance
42 within a reasonable, specified timeframe. If the operator fails to come into compliance within the
43 time period specified by the commissioner or authorized inspector, the commissioner or
44 authorized inspector shall, by order, revoke the license for the kennel or cattery.

45 (c) A written notice under subsection (a) or (b) of an order revoking or suspending the
46 license, further regulating the kennel or cattery or dismissing the petition shall be mailed
47 immediately to the licensee and to the officer that issued the license. Not more than 10 days after
48 the written notice of the order, the licensee may file a petition in the district court in the judicial
49 district in which the kennel or cattery is maintained seeking review of the order. The decision of
50 the court shall be final and conclusive upon the parties. A person maintaining a kennel or cattery
51 after the license to maintain a kennel or cattery has been revoked or suspended shall be punished
52 by a fine of not more than \$250 for a first offense, by a fine of not less than \$500 for a second
53 offense and by a fine of not more than \$1,500 for a third or subsequent offense.

54 SECTION 3. Said chapter 140 is hereby further amended, as so appearing, by inserting
55 after section 141B the following sections:-

56 Section 141C. For the purposes of this section and sections 141D and 141E, the following
57 words shall have the following meanings unless the context clearly requires otherwise:

58 "Buyer", a person who purchases an animal from a seller without the intent to resell the
59 animal.

60 "Cat", a member of the Felis catus family.

61 "Dog", a member of the Canis familiaris family or a resultant hybrid.

62 "Kitten", a cat under 1 year of age.

63 "Offer for sale", to sell, offer for sale or adoption, barter, auction, give away or otherwise
64 find a permanent physical placement for a dog or cat.

65 "Pet shop", a business licensed under section 39A of chapter 129.

66 "Puppy", a dog under 1 year of age.

67 "Rescue organization", an organization the primary mission and practice of which is the
68 placement of abandoned, unwanted, neglected or abused animals, that does not obtain dogs or
69 cats from a breeder or broker for payment or compensation and that is an organization exempt
70 from taxation under section 501(c)(3) of the federal Internal Revenue Code or any corresponding
71 sections of the federal Internal Revenue Code, as amended from time to time.

72 "Seller", an individual, partnership, association or corporation or an officer or employee
73 of an individual, partnership, association or corporation that sells animals to the public.

74 "Unfit for sale", a defect that is congenital or hereditary and that has a significant adverse
75 effect on the health of the puppy or kitten or a disease, deformity, injury, physical condition or
76 illness that has a significant adverse effect on the health of the puppy or kitten and which was

77 manifest, capable of diagnosis or likely to have been contracted prior to or at the time of the sale
78 or delivery of the puppy or kitten to the buyer.

79 Section 141D. (a) No person shall sell or offer for sale a puppy or kitten that is under 8
80 weeks of age. A violation of this subsection shall be punished by a fine of \$100 for each puppy
81 or kitten transferred.

82 (b) A veterinarian licensed in the commonwealth may declare a puppy or kitten unfit for
83 sale in advance of or after the sale by providing a written statement that includes:

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

85 (ii) the date on which the puppy or kitten was examined;

86 (iii) the breed, sex and age of the puppy or kitten;

87 (iv) an affirmation that the veterinarian examined the puppy or kitten;

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

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

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

100 (viii) an affirmation that the examination occurred: (A) within 14 days after the transfer
101 of the puppy or kitten if the puppy or kitten was declared unfit for sale based on an illness that
102 existed in the puppy or kitten prior to or at the time of the sale or transfer of the puppy or kitten;
103 (B) within 1 year after the sale or transfer of a puppy or kitten if declared unfit for sale based on
104 a hereditary or congenital condition that has a significant adverse effect on its health; or (C)
105 within 1 year after the sale or transfer of a puppy or kitten if the breed, sex or health of the
106 animal was misrepresented at the time of the transfer; and

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

109 (c) A puppy or kitten shall not be found unfit for sale based upon:

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

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

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

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

120 (iv) veterinary findings of internal or external parasites unless the puppy or kitten is
121 clinically ill or dies due to the condition.

122 (d)(1) If a purchased puppy or kitten has been declared unfit for sale under subsection (b),
123 the buyer may:

124 (i) return the puppy or kitten to the seller for treatment by a veterinarian of the seller's
125 choice at no cost to the buyer; provided, however, that the puppy or kitten shall be returned to the
126 buyer when the puppy or kitten's health has been cleared by the veterinarian.

127 (ii) Return the puppy for a full refund of the purchase price

128 (iii) if a replacement dog or cat of equivalent value is available and satisfactory to the
129 buyer, exchange the puppy or kitten for the dog or cat and provide reimbursement to the buyer
130 for reasonable veterinary fees paid for the diagnosis and treatment of the puppy or kitten in an
131 amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and
132 any additional point of sale fees paid; or

133 (iv) retain the purchased puppy or kitten and receive reimbursement for reasonable
134 veterinary fees paid for the diagnosis and treatment of the purchased puppy or kitten in an
135 amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and
136 any additional point of sale fees paid on the original purchase of the puppy or kitten.

137 A seller of a puppy or kitten shall inform a buyer of the buyer's options under this section
138 at the point of sale.

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

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

148 For the purpose of this subsection, "puppy" or "kitten" shall mean a puppy or kitten that
149 was under 1 year of age at the time of purchase.

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

156 (f) Unless the seller contests the remedy chosen by the buyer under subsection (d), the
157 remedy shall be made to the buyer not more than 30 days after the seller receives the
158 veterinarian's statement that the puppy or kitten was unfit for sale.

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

161 Section 141E. (a) A pet shop shall not purchase a dog or cat for resale or offer for sale a
162 dog or cat that originated at or was purchased from a breeder, person, firm or corporation that:

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

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

167 (iii) was found to have committed a critical violation of the Animal Welfare Act, U.S.C.
168 2131, et seq, during the 3-year period prior to the purchase;

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

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

174 (c) An owner or operator of a pet shop that offers a dog or cat for sale shall maintain
175 records that verify compliance with this section for not less than 2 years following the date of
176 acquisition of the dog or cat. Those records shall include: (i) United States Department of
177 Agriculture inspection reports; and (ii) the source of each dog or cat the pet shop acquired,
178 including a description of the dog or cat and the name, address and United States Department of
179 Agriculture license number of the breeder if applicable. The records shall be made available
180 immediately upon the request of the department, the mayor of a city, the selectmen of a town, the
181 police commissioner of the city of Boston, a chief of police or an animal control officer.

182 (d) An owner or operator of a pet shop that offers a dog or cat for sale shall post a sign
183 that shall be clear and conspicuous and shall be of such size and so placed that an individual
184 examining the dog or cat in its cage or enclosure may readily view the sign and its contents. The
185 sign shall state:

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

188 (ii) the sex, color markings and other identifying information of each dog and cat,
189 including any tag, tattoo, collar number and microchip information; and the USDA License
190 number of the breeder (if applicable).

191 (e) Nothing in this section shall prevent a pet shop owner or operator from acquiring a
192 dog or cat for resale or from selling or offering for sale a dog or cat obtained from a shelter as
193 defined in section 136A, a municipal animal control agency, or from a rescue organization.

194 (f) A pet shop owner or operator who violates this section or provides false information
195 pursuant to the requirements of this section shall be punished by a fine of not more than \$50 for a
196 first offense, by a fine of not more than \$100 for a second offense and a fine of not more than
197 \$300 for a third or subsequent offense. Each dog or cat sold or offered for sale in violation of this
198 section shall constitute a separate offense.

199 h) A pet shop may purchase a dog or cat for resale or offer for sale a dog or cat that
200 originated at or was purchased from a breeder, person, firm or corporation that is a USDA
201 exempt hobby breeder. Said USDA exempt breeders shall be required to provide a health
202 certificate for each dog or cat from the state of origin. The state's department of agriculture shall

203 create a standard certification form with which USDA exempt breeders must attest to that they
204 do not qualify for USDA licensure.

205 Section 141F. Prohibiting road side sales

206 It is unlawful for any person to offer for sale or adoption, sell, barter, auction, or
207 otherwise transfer any cat or dog for consideration from any roadside, public right-of-way or
208 public property, park, commercial or retail parking lot regardless of whether such access is
209 authorized, or any flea market or festival.

210 This section shall not apply to persons meeting to conduct the final transaction of a
211 previously arranged sale or exchange.

212 Section 141G: Mandatory micro chipping requirement

213 (a) No pet shop or animal rescue group shall release a dog or cat to a purchaser or adopter
214 unless:

215 (1) such animal has been implanted with a microchip as a permanent identification;

216 (2) such pet shop or animal rescue group has registered such animal's microchip with
217 such purchaser's contact information with a bona fide pet microchip registration company; and

218 (3) such pet shop or animal rescue group has provided such purchaser with (i) usage
219 instructions for such microchip provided by the manufacturer of such microchip or the company
220 with which such microchip is registered and (ii) written certification of compliance with
221 paragraphs one and two of this subdivision, signed by such purchaser as acknowledgement of
222 receipt, in a form and manner set forth in rules promulgated by the department.

223 (b) Every pet shop and animal rescue group shall retain for a period of two years from the
224 date of sale of any dog or cat, a copy of the certification signed by the purchaser required by
225 paragraph three of subdivision a of this section.

226 SECTION 4. This act shall take effect on July 1, 2019.