

**HOUSE . . . . . No. 01455**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Vincent A. Pedone*

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*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 passage of the accompanying bill:

An Act relative to dogs

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\_\_\_\_\_  
PETITION OF:

NAME:

*Vincent A. Pedone*

DISTRICT/ADDRESS:

*15th Worcester*

# HOUSE . . . . . No. 01455

By Mr. Vincent A. Pedone of Worcester, petition (accompanied by bill, House, No. 01455) of Vincent A. Pedone relative to potentially dangerous and vicious dogs. Joint Committee on Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 1997 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
\_\_\_\_\_

An Act relative to dogs

□.

*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  
2 2006 Official Edition, is hereby amended by inserting, after the definition “Adoption”, the  
3 following 4 definitions:-

4 “Assistance and service dogs”, any canine specifically trained to help people who have  
5 disabilities or any canine trained to help a person with a disability in life. The term shall also  
6 include canines trained for search and rescue and medical response dogs.

7 “Breed”, any dog displaying the majority of physical traits of a specific group or  
8 any dog exhibiting those distinguishing characteristics which substantially conform to the

9 standards established by the American Kennel Club or United Kennel Club when defining breed  
10 of dog.

11 “Competition dog”, a pedigreed dog not used for breeding that is a breed recognized by  
12 and registered with an approved dog breed registry, such as the American Kennel Club, United  
13 Kennel Club, the American Dog Breeders Association, or any other dog breed registry approved  
14 by the city or town; and shows or competes in a confirmation, obedience, agility, carting,  
15 herding, protection, rally, sporting, working or other event sponsored by an approved dog breed  
16 registry.

17 “Currently vaccinated”, vaccinated against rabies by a licensed veterinarian, with rabies  
18 vaccine licensed by the U.S. Department of Agriculture; and:

19 (A) not more than 12 months have elapsed since the animal’s most recent vaccination with  
20 the one-year rabies vaccine or was the animals initial vaccination; or

21 (B) not more than 36 months have elapsed since the animal’s most recent vaccination date, if  
22 the most recent vaccination with a three- year rabies vaccine and the dog has received at least 2  
23 vaccinations.

24 SECTION 2. Said section 136A of said chapter 140, as so appearing, is hereby further amended  
25 by inserting, after the definition “Commissioner”, the following 3 definitions:-

26 “Dangerous dog”, any dog regardless of breed, breeding, type or appearance, which  
27 when unprovoked, has attacked, bitten, inflicted serious injury upon, or killed a human being or  
28 other domestic animal.

29 “Farm dog”, any canine that works on a farm to assist humans or other animals.

30           “Health Certificate” - a letter by a certified veterinarian stating that the dog named in the  
31 application for breeding has been immunized or vaccinated for the distemper virus, hepatitis,  
32 parvo virus, para influenza virus, leptospira bacteria, and rabies.

33 SECTION 3. Said section 136A of said chapter 140, as so appearing ,is hereby further  
34 amended by inserting, after the definition “Live stock or fowls”, the following 3 definitions:-

35           “Nuisance”, any animal that runs at large without being controlled by a leash, barks for  
36 sustained periods of time so as to disturb the peace and quiet of a neighborhood or area, or digs,  
37 scratches or defecates on any property other than its owner's.

38           "Owner", any person who owns, possesses, keeps, exercises control over, maintains,  
39 harbors, transports or sells an animal.

40 SECTION 4. Said section 136A of said chapter 140, as so appearing, is hereby further amended  
41 by inserting, after the definition “Shelter”, the following definition:-

42           “Tether”, to fasten or restrain a dog or cause a dog to be fastened, chained, tied, or  
43 restrained to a stationary object. This shall not include competition dogs, and dogs engaged in  
44 the training and practice of sled racing.

45 SECTION 5. Said chapter 140 is hereby further amended by striking out section 157, and  
46 inserting in place thereof the following sections:-

47           .Section 157. Any person may make a complaint to the officer in charge of the animals  
48 or to the person who is responsible for handling dog complaints in a city or town that a dog,  
49 owned or harbored within its jurisdiction, is a nuisance for any of the following reasons,  
50 including but not limited to:-

- 51 (a) allowing a dog to run at large without being controlled by a leash;
- 52 (b) allowing a dog to bark for sustained periods of time of more than one-half hour, or during  
53 the evening or night hours so as to disturb the peace and quiet of a neighborhood or area; or
- 54 (c) allowing a dog to dig, scratch or defecate on any property belonging to someone other  
55 than the owner.

56 If an animal is deemed a nuisance after an investigation by the person charged with  
57 handling animal complaints, that person can make a recommendation for or can give a warning,  
58 order a fine, confinement, neutering, banishment or the destruction of the dog as may be deemed  
59 necessary. Within 10 days after the issuance of said order, the owner or keeper of such dog may  
60 bring a petition in the district court within the judicial district in which the dog is owned and  
61 kept, addressed to the justice of the court, that the order may be reviewed by the court, or  
62 magistrate thereof, and after such notice to the officer or officers involved as the magistrate  
63 deems necessary, the magistrate shall review with such action, hear the witnesses and affirm  
64 such order unless it shall appear that it was made without reasonable cause or in bad faith, in  
65 which case such order shall be reversed. Any party shall have the right to request a de novo  
66 hearing on the petition before a justice of the court. The decision of the court shall be final and  
67 conclusive upon the parties. Any person owning or harboring such a dog who fails to comply  
68 with any order of the selectmen or officer in charge of the animal complaints, as the case may be,  
69 shall be punished by a fine of not more than \$25 for the first offence and not more than \$100 for  
70 the second or subsequent offense, or by imprisonment in a jail or house of correction for not  
71 more than 30 days for the first offense and not more than 60 days for second or subsequent  
72 offense or both such fine and imprisonment.

73 Magistrates shall exercise their authority hereunder subject to the limitations of section 62C of  
74 chapter 221.

75 157A. Dangerous Dogs.

76 A dog, regardless of breed, breeding, or type of appearance, shall be declared dangerous  
77 after an unprovoked attack in which it has attacked, bitten, inflicted serious injury upon, or killed  
78 a human being or other domestic animal. After a city or town has deemed a dog dangerous, the  
79 owner or keeper must be notified that the dog may be an immediate threat to the public.

80 The officer in charge of animals or the person charged with the responsibility of handling  
81 dog complaints shall have the authority of determining that a dog is dangerous. Once a dog is  
82 determined to be an immediate threat, the officer in charge of the animal or the person charged  
83 with handling dog complaints shall have the authority to remove the dog from the owner or  
84 keeper, or give a warning, order a fine, confinement, neutering, banishment or the destruction of  
85 the dog. The owner of the dog can appeal any decision of warning, fine, confinement,  
86 banishment, neutering or destruction.

87 The officer in charge of animals or the person charged with the responsibility of handling  
88 dog complaints has the authority, if they believe that a dog is dangerous, an immediate threat or  
89 that the animal is in danger to seize or impound the animal.

90 If an owner does not follow the order, a fine of \$50 per day, made payable to the  
91 municipality, not to exceed \$1,000, may be assessed by the city or town for each day the owner  
92 is in violation of the order. The animal control officer in each city or town shall make available  
93 such notices of judgments upon request. Records of such notices shall be maintained for a  
94 period of not less than 5 years.

95           Following the order of destruction of a dog by a municipality, the officer in charge of  
96 animals shall immediately take custody of the dog from the owner or keeper. If the owner or  
97 keeper appeals the order of destruction, the organization or entity charged with the responsibility  
98 of handling dog complaints and impoundment shall continue to supervise the dog's care until the  
99 owner or keeper exhausts all appeals or discontinues the appeals process.

100           If a court affirms the order of destruction, the owner or keeper shall reimburse the city or  
101 town for all costs incurred for the housing and care of the dog during its impoundment and  
102 throughout the appeals process. Any unpaid costs shall be recovered by the municipality in  
103 which the aforementioned owner or keeper resides by one of the following methods:

- 104 (a)     a lien is placed on any property owned by the aforementioned owner or keeper;
- 105 (b)     an additional itemized cost may appear on the owner's or keeper's vehicle excise tax bill;
- 106 or
- 107 (c)     an itemized bill for reimbursement is mailed to the owner or keeper.

108           Funds recovered by the municipality shall be transferred to the organization or  
109 entity charged with the responsibility of handling dog complaints and impoundment to cover the  
110 costs associated with the care of the animal. If the organization or entity falls under the  
111 management or direction of the municipality, any costs recovered will be distributed at the  
112 discretion of the municipality.

113           If the court overturns the order of destruction, the city or town shall pay all costs  
114 associated with the care of the dog for housing and care during its impoundment and throughout  
115 the appeals process.

116 No dog shall be declared dangerous if any injury or damage is sustained by a person who,  
117 at the time of the injury or damage, was committing a willful trespass or other tort upon the  
118 premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or  
119 assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared  
120 dangerous if the dog was protecting or defending a person within the immediate vicinity of the  
121 dog from an unjustified attack or assault. A dog cannot be declared dangerous if an injury or  
122 damage was sustained by a domestic animal, which at the time of the injury or damage, was  
123 teasing, tormenting, abusing, or assaulting the dog.

124 No dog may be declared dangerous if the injury or damage to a domestic animal was sustained  
125 while the dog was working as a hunting dog, herding dog, or predator control dog on the  
126 property of, or under the control of, its owner or keeper, and the damage or injury was to a  
127 species or type of domestic animal appropriate to the work of the dog.

128 SECTION 6. Chapter 140 is hereby amended by striking out section 174B and inserting in place  
129 thereof the following:-

130 Section 174B. Whoever is the owner or keeper of a dog must restrain said dog by leash  
131 in public places at all times except for assistance and service dogs, dogs engaged in legal hunting  
132 or sport, farm dogs, or designated dog recreational areas. Whoever violates the provisions in this  
133 section shall be punished pursuant to section 157 of chapter 140.

134 SECTION 7. Said chapter 140 is hereby further amended by inserting, after section 174D, the  
135 following sections:-

136 Section 174 E. (a) the owner or keeper commits an offense if an unaltered dog is  
137 without a valid intact animal permit.



138 (b) An intact permit may only be issued for a dog;

139 (1) dog must have its health certificate and current vaccinations

140 (2) is currently in compliance with the license requirement

141 (c) To obtain an intact animal permit, an owner or keeper must submit an  
142 application to the city or town on a form provided by the city or town. The city or town shall  
143 promulgate rules, regulations and fee associated with an intact permit.

144 Section 174F. Every person shall have their dog licensed with the city or town in which they  
145 reside, 6 months after the date of purchase and said license shall be renewed yearly on or before  
146 the original licensing day.

147 Section 174G. No person shall tether, fasten, chain, tie or restrain a dog, or cause a dog  
148 to be tethered, fastened, chained, tied, or restrained, to a doghouse, tree, fence, or any other  
149 stationary object for more than 3 hours within a 24 hour period.

150 A person may:

151 (a). attach a dog to a running line, pulley, or trolley system, but not by means of a choke  
152 collar or a pinch collar; or

153 (b). tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of  
154 camping and recreational areas.

155 Any person who violates the provisions of sections 174E, 174F and 174G shall be  
156 punished by a fine of no less than \$250 not more than \$1,000 per dog.

157 Section 174H. (a) Nothing in this chapter shall prohibit a city or town or district from  
158 banning or further regulating a particular breed of dog.

159 (b) Any city or town may further regulate or ban a particular breed of dog with a  
160 majority vote of the governing body.

161 (c) Upon the vote of a city or town to regulate or ban a particular breed of dog, said city  
162 or town shall establish a board consisting of 3 members to identify and determine the breed of  
163 dogs in said city or town, subject to the governing regulation. The 3 board members shall consist  
164 of: 2 members of the public that are appointed by the city manager or mayor, one of which must  
165 be considered an expert in field of animals; and the animal control officer or a designee.

166 (d) If a particular breed of dog is further regulated or banned, the regulation or ban shall not take  
167 effect until 180 days after the vote by the city or town.