

SENATE No. 1159

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:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/1/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2017</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>2/1/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/24/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/27/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/27/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/27/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/27/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>1/27/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/30/2017</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>1/30/2017</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>1/31/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/31/2017</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/31/2017</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>

<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/1/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/2/2017</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2017</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>2/2/2017</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/2/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/3/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/3/2017</i>
<i>Brian Murray</i>	<i>10th Worcester</i>	<i>2/3/2017</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/6/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/6/2017</i>

SENATE No. 1159

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1159) of Bruce E. Tarr, Mark C. Montigny, Jason M. Lewis, Marjorie C. Decker and other members of the General Court for legislation to protect animal welfare and safety in cities and towns. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**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:

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

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

11 Notwithstanding this section, a municipality may seek a remedy under section 157 for a nuisance
12 dog.

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

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

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

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

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

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

35 knowledge that the person designated to report has failed to do so within the time frame
36 indicated in (b) of this section may thereafter make the report.

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

41 (e) Any privilege established by sections 135A and one hundred and 135B of chapter
42 112 or section 20B of chapter 233 relating to the exclusion of confidential communications shall
43 not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

117 A for-profit corporation, nonprofit corporation, business, professional corporation,
118 partnership, limited liability company, limited partnership, limited liability partnership, or any

119 other business entity violating sections 77, 77A, 77B, 78, 78A, 79A, 80 ½, 80A, 80B, 80C, 80D,
120 80F, 80G, 80H, 80I, 81, 85A, 85B, 87, 94, or 95 of this chapter or section 112 of chapter 266

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

124 (b) Whoever puts any animal to death by the use of drowning shall be punished by
125 imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the
126 house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or by both
127 fine and imprisonment; provided, however, that a second or subsequent offense shall be punished
128 by imprisonment in the state prison for not more than 10 years or by a fine of not more than
129 \$10,000 or by both such fine and imprisonment.

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

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

140 individually assessed by the organization to whom they are forfeited to determine suitability for
141 adoption, transfer to another organization, or other disposition

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

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

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

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

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

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

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

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

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

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

180 SECTION 21. Section 4 of Chapter 239 of the General Laws, as appearing in the 2014
181 Official Edition, is hereby amended by inserting after the word “thereof”, in line 5, the following

182 words:- ; provided, however, that if an animal is found on the land or tenement, the officer shall
183 immediately notify an animal control officer as defined in chapter 140, a police officer or other
184 authorized agent of the presence and condition of the animal.

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

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

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

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

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

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

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

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

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

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

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

221 If the mortgagee, property owner or designee fails to comply with this section, the
222 mortgagee or property owner shall be subject to a civil fine of not more than \$500 for a first
223 offense and not more than \$1,000 for each subsequent offense. The money collected from this

224 fine shall be deposited into the Homeless Animal Prevention and Care Fund established in
225 section 35WW of chapter 10.