

SENATE No. 02184

Senate, March 19, 2012 -- Recommended new draft from the Senate committee on Ways and Means for the Senate Bill further regulating municipal animal control (Senate, No. 1033)

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act further regulating animal control.

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. Chapter 10 of the General Laws is hereby amended by inserting after
2 section 35SS the following section:-

3 Section 35TT. There shall be established and set up on the books of the commonwealth a
4 separate fund, to be known as the Homeless Animal Prevention and Care Fund. The fund shall be
5 used by the department of agricultural resources to offset costs associated with the vaccination,
6 spaying and neutering of homeless dogs and cats, to offset costs associated with the vaccination,
7 spaying and neutering of dogs and cats owned by low-income residents of the commonwealth
8 and to assist with the training of animal control officers. The department may use the fund for
9 necessary and reasonable administrative and personnel costs related to the specific purposes of
10 the fund. The commissioner of the department of agricultural resources shall establish rules and
11 regulations relating to the fund.

12 The fund shall consist of all revenues received by the commonwealth: (i) under the
13 provisions of law authorizing the voluntary check-off donation indicated on the department of
14 revenue's annual income tax return, pursuant to section 6L of chapter 62; and (ii) from public
15 and private sources as gifts, grants and donations to further reduce the population of homeless
16 animals.

17 The state treasurer shall deposit the fund in accordance with sections 34 and 34A of
18 chapter 29 in such manner as will secure the highest interest rate available consistent with the
19 safety of the fund and with the requirement that all amounts on deposit shall be available for
20 immediate withdrawal at any time. The fund may be expended by the commissioner of the
21 department of agricultural resources without further appropriation for the purposes stated above
22 and any funds remaining at the end of any fiscal year shall not revert but shall be available for
23 use in subsequent fiscal years.

24 SECTION 2. Chapter 62 of the General Laws is hereby amended by inserting after
25 section 6L the following section:-

26 Section 6M. (a) An individual who files a separate return and a husband and wife filing a
27 return jointly may voluntarily contribute all, or part of any refund to which they are entitled, or
28 may voluntarily add an amount onto any amount due, to be credited to the Homeless Animal
29 Prevention and Care Fund established under section 35TT of chapter 10.

30 A contribution made under this section may be with respect to any taxable year at the
31 time of filing a return of the tax established by this chapter for such taxable year; provided,
32 however, that the commissioner shall prescribe the manner in which such contribution shall be
33 made on the face of the return required by section 5 of chapter 62C; provided further, that the

34 commissioner shall assure that taxpayers filing any such forms are made clearly aware of their
35 ability to make the contributions provided for by this section.

36 The commissioner shall annually report the total amount designated under this section to
37 the state treasurer, who shall credit such amount to said Homeless Animal Prevention and Care
38 Fund.

39 SECTION 3. Chapter 129 of the General Laws is hereby amended by inserting after
40 section 39F the following section:-

41 Section 39G. (a) A dog or cat brought or shipped into the commonwealth shall be
42 accompanied by an official health certificate issued by an accredited veterinarian, a copy of
43 which shall be sent to the commissioner of agricultural resources.

44 (b) An official health certificate shall mean a legible certificate or form issued by an
45 accredited veterinarian and approved by the chief livestock official of the state or county of
46 origin containing the name and address of the consignor and consignee. The certificate shall also
47 show the age, sex, breed and description of each dog or cat and certify that the dog or cat is free
48 from visual evidence of infectious or contagious disease. A health certificate shall show proof of
49 rabies vaccination within the previous 12 months. If a dog or cat is imported into the
50 commonwealth with a health certificate that reflects that such dog or cat is not currently
51 vaccinated for rabies, such dog or cat shall be vaccinated as required under section 145B of
52 chapter 140.

53 (c) A dog or cat purchased within the commonwealth for resale by a commercial
54 establishment or pet shop shall be accompanied by a health certificate, issued by an accredited

55 veterinarian, which shall show the age, sex, breed and description of each dog or cat and certify
56 that the dog or cat is free from visual evidence of infectious or contagious disease.

57 (d) A commercial establishment, pet shop, firm or corporation shall not import into the
58 commonwealth, for sale or resale in the commonwealth, any cat or dog less than 8 weeks of age.

59 (e) A dog or cat sold in the commonwealth by a commercial establishment, pet shop, firm
60 or corporation shall be accompanied by a health record indicating the date and type of each
61 vaccine administered to each such dog or cat.

62 (f) No commercial establishment, pet shop, firm, corporation or person shall sell a dog or
63 cat that has been surgically devocalized, as defined in section 80½ of chapter 272, unless written
64 notice that such a procedure has been conducted on the animal is provided to any prospective
65 purchaser before the purchaser enters into an agreement to purchase such animal. In addition to
66 the penalties set forth in this section, a failure to provide such notice shall render any purchase
67 agreement void and a violation of this paragraph shall constitute an unfair and deceptive act or
68 practice in the conduct of a trade or commerce under chapter 93A.

69 (g) The commissioner may, after notice and hearing, revoke or suspend a license issued
70 under section 137A of chapter 140 or section 39A of chapter 129 for a violation of this section.

71 (h) Whoever is aggrieved by an order issued under this section may, by petition, appeal
72 within 30 days to the superior court in the county wherein the aggrieved party resides or where
73 the aggrieved party's kennel or pet shop, which is the subject of the license, is located. The
74 appellant shall state the findings by the commissioner and the grounds of appeal therefrom. The
75 court shall consider the proceedings de novo and the parties shall have right of exception and
76 appeal.

77 SECTION 4. Chapter 140 of the General Laws is hereby amended by striking out
78 sections 136A, 137 and 137A, as appearing in the 2010 Official Edition, and inserting in place
79 thereof the following 3 sections:-

80 Section 136A. The following words and phrases as used in sections 137 to 174D, inclusive,
81 unless the context requires otherwise, shall have the following meanings:

82 “Adoption”, the delivery of a cat or dog to any person 18 years of age or older for the
83 purpose of harboring such dog or cat as a pet.

84 “Animal control officer”, an appointed officer authorized to enforce sections 136A to
85 174D, inclusive.

86 “Attack”, aggressive physical contact initiated by an animal.

87 “Commercial boarding or training kennel”, an establishment used for boarding, holding,
88 day care, overnight stays or training of animals that are not the property of the owner of such
89 establishment, at which such services are rendered in exchange for consideration and in the
90 absence of the owner of such animal; provided, however, that this definition shall not include an
91 animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a
92 grooming facility operated solely for the purpose of grooming and not overnight boarding or
93 individuals who temporarily, and not in the normal course of business, board or care for animals
94 owned by others.

95 “Commercial breeder kennel”, an establishment, other than a personal kennel, engaged in
96 the business of breeding animals for sale or for exchange to wholesalers, brokers or pet shops in
97 return for consideration.

98 “Commissioner”, the commissioner of agricultural resources.

99 “Dangerous dog”, a dog that either: (i) without justification, attacks a person or domestic
100 animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person
101 would believe poses an unjustified imminent threat of physical injury or death to 1 or more
102 persons, domestic or owned animals; provided, however, that no dog shall be deemed dangerous:

103 (A) solely based upon growling or barking or solely growling and barking;

104 (B) based upon the breed of such dog; or

105 (C) if such dog was reacting to another animal or to a person and such dog’s reaction was
106 not grossly disproportionate to any of the following circumstances:

107 (1) such dog was protecting or defending itself, its offspring, another domestic animal or
108 a person from attack or assault;

109 (2) the person who was attacked or threatened by the dog was committing a crime upon
110 the person or property of the owner or keeper of such dog;

111 (3) the person attacked or threatened by the dog was engaged in teasing, tormenting,
112 battering, assaulting, injuring or otherwise provoking such dog; or

113 (4) at the time of such attack or threat, the person or animal that was attacked or
114 threatened by such dog had breached an enclosure or structure in which the dog was kept apart
115 from the public and such person or animal was not authorized by the owner of the premises to be
116 within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed,
117 whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be

118 a rebuttable presumption that such person was not committing a crime, provoking the dog or
119 trespassing.

120 “Department”, the department of agricultural resources.

121 “Domestic animal”, any animal on the list of animals appearing in 321 CMR 9.02.

122 “Domestic charitable corporation kennel”, a facility operated, owned or maintained by a
123 domestic charitable corporation registered with the department, or an animal welfare society or
124 other nonprofit organization incorporated for the purpose of providing for and promoting the
125 welfare, protection and humane treatment of animals, including a veterinary hospital or clinic
126 operated by a licensed veterinarian, which operates consistent with such purpose while providing
127 veterinary treatment and care.

128 “Euthanize”, to take the life of an animal by the administration of barbiturates in a
129 manner deemed acceptable by the American Veterinary Association Guidelines on Euthanasia.

130 “Hearing authority”, the selectmen of a town, mayor of a city, the officer in charge of the
131 animal commission, the chief or commissioner of a police department, the chief or
132 commissioner’s designee or the person charged with the responsibility of handling dog
133 complaints in a town or city.

134 “Keeper”, any person, business, corporation, entity or society, other than the owner,
135 harboring or having in such person’s possession any dog.

136 "Kennel", a pack or collection of dogs on a single premise, including a commercial
137 boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel,
138 personal kennel or veterinary kennel.

139 “License period”, the period of time for which a municipal licensing authority prescribes
140 the validity of a dog license, including the date of issuance of such license through the date on
141 which such license expires, inclusive.

142 “Licensing authority”, the police commissioner of the city of Boston and the clerks of
143 any other municipality.

144 “Live stock or fowl”, any fowl or other animal kept or propagated by the owner for food
145 or as a means of livelihood and deer, elk, cottontail rabbit, northern hare, pheasant, quail,
146 partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and
147 environmental law enforcement to be wild and kept by, or under a permit from, said department
148 in proper houses or suitable enclosed yards. Such phrase shall not include dogs, cats and other
149 pets.

150 “Nuisance dog”, a dog that: (i) by excessive barking or other disturbance is a source of
151 annoyance to any sick person residing in the vicinity; or (ii) by excessive barking, causing
152 damage or other interference, a reasonable person would find disruptive to one’s quiet and
153 peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person,
154 but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

155 "Personal kennel", a pack or collection of more than 4 dogs, 3 months old or older,
156 owned or kept under single ownership, for private personal use; provided, however, that
157 breeding of personally owned dogs may take place for the purpose of improving, exhibiting or
158 showing the breed, use in legal sporting activity or other personal reasons; provided, further, that
159 selling, trading, bartering or the distribution of such breeding from a personal kennel shall be to
160 other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops;

161 provided, further, that personal kennels shall not sell, trade, barter or distribute any dogs not
162 bred from their personally owned dogs; and provided, further, that dogs temporarily housed at a
163 personal kennel, in conjunction with an animal shelter or rescue registered with the department,
164 may be sold, traded, bartered or distributed if the transfer is not made for the purpose of profiting
165 thereby.

166 “Research institution”, any institution operated by the United States, the commonwealth
167 or a political subdivision thereof, a school or college of medicine, public health, dentistry,
168 pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory or biological
169 laboratory, or a hospital or other educational or scientific establishment within the
170 commonwealth above the rank of secondary school, which, in connection with any of the
171 activities thereof, investigates or provides instruction relative to the structure or functions of
172 living organisms or to the causes, prevention, control or cure of diseases or abnormal conditions
173 of human beings or animals.

174 “Shelter”, a public animal control facility or any other facility which is operated by an
175 organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

176 “Veterinary kennel”, a veterinary hospital or clinic that boards dogs for reasons in
177 addition to medical treatment or care; provided, however, that this definition shall not include a
178 hospital or clinic used solely to house dogs that have undergone veterinary treatment,
179 observation, or will do so, only for the period of time needed to accomplish the needed
180 veterinary care.

181 Section 137. (a) The owner or keeper of any dog over the age of 6 months shall obtain a
182 license for the dog. The registering, numbering, describing and licensing of a dog shall be
183 conducted in the office of a licensing authority.

184 (b) A licensing authority shall not grant a license for a dog unless the owner of the dog
185 provides the licensing authority with a veterinarian's certification that the dog has been
186 vaccinated in accordance with section 145B, certification that such dog is exempt from the
187 vaccination requirement under said section 145B or a notarized letter from a veterinarian that
188 either of these certifications was issued relative to such dog.

189 (c) The license shall be subject to the condition expressed in the license that the dog
190 which is the subject of the license shall be controlled and restrained from killing, chasing or
191 harassing live stock or fowl. The owner of a dog may add descriptive words, not over 10 in
192 number, upon the license form to indicate the color, breed, weight and special markings of the
193 licensed dog. The owner or keeper of a licensed dog shall keep affixed around such dog's neck
194 or body, a collar or harness of leather or other suitable material, to which shall be securely
195 attached a tag. This tag shall have inscribed upon it such dog's license number, the name of the
196 city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper
197 of such dog shall immediately secure a substitute tag from the licensing authority at a cost to be
198 determined by such city or town and the fee for the substitute shall, if received by a city or town
199 clerk, be retained by the clerk unless otherwise provided by law. This section shall not apply to a
200 person to whom a valid kennel license has been issued.

201 Section 137A. (a) Every person maintaining a kennel shall obtain a kennel license. An
202 owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may

203 elect to secure a kennel license in lieu of licensing the dogs under section 137, and shall be
204 subject to this section and to sections 137B and 137C and to so much of section 141 as relates to
205 violations of this section to the same extent as though the owner or keeper were maintaining a
206 kennel. In the case of an applicant for initial licensure, and in the case of an applicant for license
207 renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection
208 by an animal control officer.

209 (b) A kennel license shall be in lieu of any other license for a dog kept at a kennel during
210 any portion of the period for which the kennel license is valid. A kennel licensee shall cause each
211 dog kept in its kennel to wear, while it is at large, a collar or harness of leather or other suitable
212 material, to which shall be securely attached a tag. The tag shall have inscribed upon it the
213 number of the kennel license, the name of the city or town issuing the license and the year of
214 issue. Tags shall be furnished to the owner or keeper by the licensing authority in quantities not
215 less than the number of dogs kept in the kennel. The issuing city or town shall determine the
216 period of time for which a kennel license is valid, including the date of issuance of such license
217 through the date on which such license expires, inclusive, and shall further determine the fee for
218 the issuance and renewal of said license. To determine the amount of the license fee for a kennel,
219 a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel. The
220 name and address of the owner of each dog kept in a kennel, if other than the person maintaining
221 the kennel, shall be kept at the kennel and available for inspection by an animal control officer,
222 natural resource officer, deputy natural resource officer, fish and game warden or police officer.

223 (c) The licensing authority shall issue a kennel license without charge to a domestic
224 charitable corporation incorporated exclusively for the purpose of protecting animals from
225 cruelty, neglect or abuse or for the relief of suffering.

226 SECTION 5. Section 137B of said chapter 140, as so appearing, is hereby amended by
227 inserting after the word “town”, in lines 14 and 18, the following words, in each instance:- or
228 city.

229 SECTION 6. Said chapter 140 is hereby further amended by striking out section 137C, as
230 so appearing, and inserting in place thereof the following section:-

231 Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in
232 the city of Boston, a chief of police or an animal control officer may at any time inspect a kennel
233 or cause the inspection of a kennel. If, in the judgment of such person or body, the kennel is not
234 being maintained in a sanitary and humane manner or if records are not properly kept as required
235 by law, such person or body shall, by order, revoke or suspend the license for such kennel. Upon
236 the petition of 25 citizens, filed with the mayor of a city, the selectmen of a town or the police
237 commissioner in the city of Boston setting forth a statement that such citizens are aggrieved or
238 annoyed to an unreasonable extent by 1 or more dogs maintained in such city or town, due to
239 excessive barking of the dogs or other conditions connected with a kennel constituting a
240 nuisance, the mayor, selectmen or police commissioner, as the case may be, shall, within 7 days
241 after the filing of the petition, give notice to all parties in interest of a public hearing to be held
242 within 14 days after the date of such notice. The mayor, selectmen or police commissioner shall,
243 within 7 days after the public hearing, investigate or cause to be investigated the subject matter
244 of the petition and shall, by order, either suspend or revoke the kennel license, otherwise regulate
245 the kennel, or dismiss the petition. Written notice of an order revoking, suspending or reinstating
246 a license shall be mailed immediately to the officer issuing the license and to the holder of the
247 license. Within 10 days after the order, the holder of the license may bring a petition in the
248 district court within the judicial district in which the kennel is maintained, addressed to the

249 justice of the court, praying that the order be reviewed by the court. After notice to all parties as
250 the court may consider necessary, the court shall review the action, hear the witnesses and affirm
251 the order unless it shall appear that it was made without proper cause or in bad faith, in which
252 case the order shall be reversed. The decision of the court shall be final and conclusive upon the
253 parties. A person maintaining a kennel after the license to maintain a kennel has been so revoked,
254 or while such a license is suspended, shall be punished by a fine of not more than \$250.

255 SECTION 7. Section 137D of said chapter 140 , as so appearing, is hereby amended by
256 striking out, in line 15, the word “two” and inserting in place thereof the following figure:- 5.

257 SECTION 8. Section 138 of said chapter 140 , as so appearing, is hereby amended by
258 inserting after the word “town”, in lines 2 and 3, the following words, in each instance:- or city.

259 SECTION 9. Said section 138 of said chapter 140, as so appearing, is hereby further
260 amended by striking out, in line 9, the word “three” and inserting in place thereof the following
261 figure:- 6.

262 SECTION 10. Section 138A of said chapter 140 is hereby repealed.

263 SECTION 11. Said chapter 140 is hereby further amended by striking out section 139, as
264 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

265 Section 139. (a) The fee for every license shall, except as otherwise provided, be
266 determined by a city or town.

267 (b) The license fee for a spayed or neutered dog shall be less than the license fee of an
268 intact dog. Upon application for a license, a city or town clerk shall require a certificate from the
269 veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered;

270 provided, however, that if the city or town clerk is satisfied that the certificate of the veterinarian
271 who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a
272 bill from the veterinarian who performed such procedure or a statement signed under the
273 penalties of perjury by a veterinarian registered and practicing in the commonwealth describing
274 the dog and stating that the veterinarian has examined the dog, which appears to have been
275 spayed or neutered and incapable of propagation.

276 (c) No fee shall be charged for a license issued under this section for a service animal as
277 defined by the Americans with Disabilities Act or regulations promulgated thereunder. No fee
278 shall be charged for a license for a dog owned by a person aged 70 years or over in any city or
279 town that accepts this provision. A license fee, or portion thereof, shall not be refunded because
280 of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of
281 the dog, nor shall a license fee, or portion thereof, paid by mistake be paid or recovered after it
282 has been paid over to a city or town under section 147.

283 SECTION 12. Section 139A of said chapter 140, as so appearing, is hereby amended by
284 striking out, in lines 2 and 3, the words “a deposit of not less than ten nor more than thirty
285 dollars” and inserting in place thereof the following words:- a written agreement is entered into
286 and a deposit of not less than \$40.

287 SECTION 13. Said section 139A of said chapter 140, as so appearing, is hereby further
288 amended by adding the following paragraph:-

289 The commissioner may set fines for violations and may further establish regulations to
290 ensure compliance with this section. Additionally, an animal control officer, an officer licensed
291 under section 57 of chapter 22C, a police officer or the owner, director or a duly authorized agent

292 of an animal shelter from which an animal was obtained may bring a petition in the district court
293 within the judicial district of which the dog or cat is owned or kept for an action of forfeiture and
294 relinquishment of ownership. Legal fees or court costs incurred in the enforcement of this section
295 shall be the responsibility of the owner of the animal.

296 SECTION 14. Said chapter 140 is hereby further amended by striking out section 141, as
297 so appearing, and inserting in place thereof the following section:-

298 Section 141. Whoever violates section 137, 137A, 137B or 138 shall be assessed a fee of
299 not less than \$50, which shall be paid to the city or town wherein the violation occurred.

300 SECTION 15. Section 145 of said chapter 140, as so appearing, is hereby amended by
301 striking out, in lines 3 and 4, the words “to the director of accounts upon application therefor.”

302 SECTION 16. Section 145A of said chapter 140, as so appearing, is hereby amended by
303 striking out the fourth to seventh sentences, inclusive.

304 SECTION 17. Said chapter 140 is hereby further amended by striking out section 145B,
305 as so appearing, and inserting in place thereof the following section:-

306 Section 145B. Whoever is the owner or keeper of a dog, cat or ferret in the
307 commonwealth, 6 months of age or older, shall cause such dog, cat or ferret to be vaccinated
308 against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer’s
309 directions and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by
310 the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth
311 shall be vaccinated within 30 days after the acquisition or arrival of such animal into the
312 commonwealth or upon reaching the age of 6 months, whichever last occurs. It shall be the duty

313 of each veterinarian, at the time of vaccinating any dog, cat or ferret, to complete a certificate of
314 rabies vaccination which shall include, but not be limited to, the following information: the
315 owner's name and address; a description of the animal, including breed, sex, age, name and
316 distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of
317 rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine
318 lot number.

319 The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be
320 secured by the owner or keeper of such dog, cat or ferret to a collar or harness made of suitable
321 material to be worn by the dog, cat or ferret; provided, however, that the owner of a cat or ferret
322 may choose not to affix a tag to a cat, but shall have the tag available for inspection by
323 authorized persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon
324 presentation of the original vaccination certificate, be issued a new tag.

325 In order for a dog, cat or ferret to be accepted at an animal hospital, veterinarian's office or
326 boarding facility, an owner or keeper of such animal shall show proof of current vaccination
327 against rabies; provided, however, that if an animal has not been so vaccinated or such owner or
328 keeper fails to show proof of vaccination, the animal shall be vaccinated against rabies prior to
329 being discharged if the animal's medical condition permits.

330 A licensing authority may grant an exemption from this section for any dog, cat or ferret
331 that:

332 (i) the local board of health has declared exempt from the rabies vaccination requirement
333 upon presentation of a veterinarian's certificate stating that because of an infirmity, other

334 physical condition or regimen of therapy, that such inoculation is considered inadvisable for a
335 specified period of time for such reasons;

336 (ii) is in transit; or

337 (iii) was brought into the commonwealth temporarily for the sole purpose of display in
338 shows or for exhibition.

339 This section shall not apply to dogs, cats or ferrets housed in a research institution.

340 Whoever violates this section shall be punished by a fine of not more than \$100.

341 SECTION 18. Section 146 of said chapter 140, as so appearing, is hereby amended by
342 striking out, in lines 5 to 8, inclusive, the words “to which such dog has been removed, and such
343 clerk shall take up the same and issue to said owner or keeper a transfer license, together with a
344 tag, for such dog upon payment of twenty-five cents” and inserting in place thereof the following
345 words:- or city to which such dog has been removed, and such clerk shall take up the same and
346 issue to such owner or keeper a transfer license and a tag for such dog upon payment of an
347 amount to be determined by the city or town.

348 SECTION 19. Said chapter 140 is hereby further amended by striking out sections 147
349 and 147A, as so appearing, and inserting in place thereof the following section:-

350 Section 147. The police commissioner of the city of Boston and the clerks of other cities
351 and towns shall issue dog licenses and tags, receive the money therefor and pay it into the
352 treasuries of their respective cities and towns on the first Monday of each month or more often.
353 The clerks of cities and towns, except the city of Boston, may retain for their own use 75 cents
354 for each such license issued, unless otherwise provided by law, and shall certify under penalties

355 of perjury to the amounts of money thus received and paid over to them. The police
356 commissioner of the city of Boston and each city or town clerk shall make a record of the name
357 of the owner or keeper of each dog licensed and of the name, registered number and description
358 of each dog licensed. Such records shall be open to public inspection during the usual office
359 hours of the city or town clerk. All blanks for the licenses and tags and the record books shall be
360 paid for out of the city or town treasury. The police commissioner of the city of Boston and any
361 city or town clerk or city or town treasurer violating this section shall be punished by a fine of
362 not less than \$50 nor more than \$500 or by imprisonment for not less than 1 month nor more
363 than 1 year in the house of correction, or both. If a city or town clerk neglects or fails to pay the
364 money into the city or town treasury as required by this section, the city or town may recover the
365 amount thereof for the benefit of the city or town, with all damages sustained through such
366 neglect or failure, and interest thereon, in an action on the official bond required, in the case of a
367 city clerk, by section 13A of chapter 41 and, in the case of a town clerk, by section 13 of said
368 chapter 41. All payments required under this section shall be subject to section 52 of said chapter
369 41.

370 SECTION 20. Section 147B of said chapter 140 is hereby repealed.

371 SECTION 21. Said chapter 140 is hereby further amended by striking out sections 149,
372 150, 151, 151A and 151B, as appearing in the 2010 Official Edition, and inserting in place
373 thereof the following 6 sections:-

374 Section 149. Each city or town treasurer shall keep an accurate and separate account of
375 all money received and expended by such treasurer under this chapter relating to animals.

376 Section 150. Persons authorized or directed by section 4 of chapter 51 or by any special
377 law, to make lists of residents 3 years of age or older shall make a list of all dogs owned by the
378 inhabitants at the time of making such lists and shall annually return the same, in duplicate, to
379 the city or town clerk or, to the police commissioner in the city of Boston. An owner or keeper of
380 a dog who refuses to answer or answers falsely to persons directed or authorized to make such a
381 list shall be punished by a fine of not less than \$20 which shall be paid to the city or town.

382 Section 151. (a) The mayor of each city and the board of selectmen of each town shall
383 annually designate 1 or more animal control officers, who may be police officers or constables.
384 The mayor or board of selectman shall immediately submit to the commissioner the names and
385 addresses of such animal control officers. Except as provided in this section, if any city or town
386 shall fail to make such appointment, the commissioner shall appoint an animal control officer for
387 that city or town. An animal control officer who fails to comply with the terms of such officer's
388 warrant shall immediately be removed from office by the mayor or board of selectmen and
389 notice of the removal shall immediately be given to the commissioner. Animal control officers
390 shall have completed, under the supervision of a veterinarian registered under section 55 or 56C
391 of chapter 112, a course of instruction in humane techniques for the execution of animals before
392 euthanizing any animal. Before euthanizing or giving or turning over to another any dog or cat in
393 the officer's possession, such animal control officer shall first examine the animal for the
394 presence of a microchip or tattoo, check the description of such animal against descriptions
395 within the city or town relative to such species of animal licensed or registered in such
396 municipality in order to verify the identity of the animal and to provide notice to the owner of the
397 animal before the animal is euthanized, given away or turned over to another. Bills for such
398 services shall be approved by the mayor of the city or the board of selectmen of the town in

399 which the dogs or cats are kept or euthanized and shall be paid by such city or town. Each animal
400 control officer appointed under this section shall also attend to all complaints or other matters
401 pertaining to animals, as prescribed by their respective city or town, in addition to the duties
402 imposed upon the officer by the officer's warrant, and shall be paid for such services by the town
403 or city treasurer upon bills approved by the mayor or by the board of selectmen. The mayor of
404 any city or the board of selectmen of any town may, instead of appointing an animal control
405 officer, enter into a contract with a domestic charitable corporation incorporated exclusively for
406 the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of
407 an animal control officer. In that case, the payments to the corporation under the terms of the
408 contract shall be in full for all services rendered by it in that capacity.

409 (b) An animal control officer shall not be a licensed animal dealer registered with the
410 United States Department of Agriculture. An animal control officer shall not give, sell or turn
411 over any animal which may come into the officer's custody to any business or institution
412 licensed or registered as a research facility or animal dealer with the United States Department of
413 Agriculture either privately or in the course of carrying out such officer's official assignments as
414 an agent for the officer's municipality. A municipality shall not give, sell or turn over any animal
415 which may come into its custody to any business or institution licensed or registered as a
416 research facility or animal dealer with the United States Department of Agriculture. Whoever
417 violates this subsection shall be punished by a fine of not more than \$1,000.

418 Section 151A. (a) The mayor or board of selectmen shall annually issue a warrant to the
419 animal control officer or officers directing the officer or officers to seek out, catch and confine
420 all dogs within the city or town which are not licensed, collared or harnessed, or tagged, as
421 required by this chapter, and to enter and prosecute a complaint for failure to comply with this

422 chapter against the owners or keepers of such dogs, if known, and to euthanize or cause to be
423 euthanized only by the administration of barbiturates in a manner deemed acceptable by the
424 American Veterinary Medical Association Guidelines on Euthanasia, except by gunshot in case
425 of emergency, each such dog not licensed, collared or harnessed, or tagged after being detained
426 by or for the officer for a period of 7 days; provided, however, that after 7 days, the animal
427 control officer may make available for adoption any dog found free of disease for a sum of not
428 less than \$10 and shall keep an account of all moneys received by such officer for the adoption
429 and shall immediately pay over the sums to the treasurer who shall forward the money to the city
430 or town. Before delivery of a dog so adopted, the animal control officer shall require the
431 purchaser to show identification and to procure a license and tag for the dog from the clerk of the
432 city or town wherein the dog is to be kept. Dogs detained under this section shall be confined in a
433 place suitable for the detention and care of dogs and kept in a sanitary condition, or they may be
434 placed in the care of the holder of a kennel license or of a domestic charitable corporation
435 incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse.
436 The commissioner from time to time shall cause such places wherein animals are detained under
437 this section to be inspected and shall make necessary order in relation thereto. An animal control
438 officer having custody of a detained dog or cat shall be allowed a sum determined by the city or
439 town per day for the care of the dog or cat, payable by the owner or keeper, if known, otherwise
440 by the city or town.

441 (b) Every animal control officer shall make, keep and maintain systems of records or
442 forms which fully and correctly disclose the following information concerning each animal in the
443 officer's custody:

444 (1) the date and location of apprehension;

445 (2) a description of the animal;

446 (3) the place of detainment;

447 (4) if tagged, the name and address of the owner of the animal;

448 (5) the name and address of a new owner, if any, including the date of sale or transfer of
449 the animal;

450 (6) if the animal is euthanized, the method and date of such euthanization and the name
451 of the person who euthanized the animal; and

452 (7) the date, location, description of any animal shot by gunshot in case of emergency, the
453 disposition of the animal remains, as well as description of the situation requiring such gunshot.

454 Every animal control officer shall forward a copy of the record to the town or city clerk within
455 30 days. Copies of the record shall be kept for 2 years in the offices of the city or town clerk
456 where such animal control officer is employed.

457 Section 151B. Any veterinarian registered under section 55 or 56A of chapter 112, who
458 renders emergency care or treatment to, or who euthanizes, a dog or cat that is injured on any
459 way shall receive payment from the owner of such dog or cat, if known, or, if not known, from
460 the city or town in which the injury occurred in an amount not to exceed \$250 for such care,
461 treatment or euthanization; provided, however, such emergency care, treatment or euthanization
462 shall be rendered for the purpose of maintaining life, stabilizing the animal or alleviating
463 suffering until the owner or keeper of such dog or cat is identified or for a period of 24 hours,
464 whichever is sooner. Any veterinarian who renders such emergency care or treatment to a dog or

465 cat or euthanizes a dog or cat shall notify the municipal animal control officer and such animal
466 control officer shall assume control of such dog or cat or the remains of such dog or cat.

467 Section 151C. The commissioner shall, from time to time, and subject to the availability
468 of funds from the Homeless Animal Prevention and Care Fund in section 35TT of chapter 10,
469 provide for a training course for animal control officers. For any training course established
470 under this section, there shall be a preference for persons who have been in the employ of a city
471 or town as an animal control officer for 12 months or less. Any training course that is offered by
472 any private entity, including, but not limited to, the Animal Control Officers Association, shall
473 be approved by the commissioner.

474 SECTION 22. Section 152 of said chapter 140, as appearing in the 2010 Official Edition,
475 is hereby amended by striking out, in line 1, the word “dog” and inserting in place thereof the
476 following words:- animal control.

477 SECTION 23. Said section 152 of said chapter 140, as so appearing, is hereby further
478 amended by inserting after the word “dogs”, in line 6, the following words:- and cats.

479 SECTION 24. Said section 152 of said chapter 140, as so appearing, is hereby further
480 amended by striking out, in line 10, the word “dogs” and inserting in place thereof the following
481 word:- animals.

482 SECTION 25. Section 153 of said chapter 140, as so appearing, is hereby amended by
483 striking out, in line 2, the words “, except Suffolk county”.

484 SECTION 26. Said section 153 of said chapter 140, as so appearing, is hereby further
485 amended by striking out, in lines 13 to 18, inclusive, the words “by methods of execution other

486 than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the
487 control of the federal Drug Enforcement Administration, unless by a veterinarian,
488 succinylcholine choline, any drugs that have curariform-like action, electrocution or any other
489 method which causes an unnecessarily cruel death” and inserting in place thereof the following
490 words:- only by the administration of barbiturates in a manner deemed acceptable by the
491 American Veterinary Medical Association Guidelines on Euthanasia, except by gunshot in case
492 of emergency.

493 SECTION 27. Said section 153 of said chapter 140, as so appearing, is hereby further
494 amended by striking out, in lines 18 to 21, inclusive, the words “ten days, shall not then have
495 been duly licensed, collared or harnessed, and tagged, except that any male or any spayed female
496 dog not found to be diseased may be made available for adoption for not less than three dollars”
497 and inserting in place thereof the following words:- 7 days, shall not then have been duly
498 licensed, collared or harnessed, and tagged, except that any dog not found to be diseased may be
499 made available for adoption for not less than \$10.

500 SECTION 28. Said section 153 of said chapter 140, as so appearing, is hereby further
501 amended by inserting after the word “dogs”, in line 34, the following words:- and cats.

502 SECTION 29. Said section 153 of said chapter 140, as so appearing, is hereby further
503 amended by striking out, in lines 41 to 84, inclusive, the words "nineteen hundred and _____

504 Mayor of (or Chairman of the Selectmen of)

505 In the cities and towns of Suffolk County such warrant may be in the following form:

506 COMMONWEALTH OF MASSACHUSETTS

507 (Seal)

508 , ss.

509 To , constable of the city (or town) of

510 In the name of the commonwealth of Massachusetts, you are hereby required to proceed
511 forthwith to seek out, catch and confine all dogs within said city (or town) not duly licensed,
512 collared or harnessed, and tagged, according to the provisions of chapter one hundred and forty
513 of the General Laws, and you are further required to make and enter complaint against the owner
514 or keeper of every such dog, and to kill or cause to be killed by methods of execution other than
515 gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the
516 control of the federal Drug Enforcement Administration, unless by a veterinarian,
517 succinylcholine choline, any drugs that have a curariform-like action, electrocution, or any other
518 method which causes an unnecessarily cruel death each such dog which, after being detained for
519 a period of seven days, shall not then have been duly licensed, collared or harnessed, except that
520 any male or any spayed female dog not found to be diseased may be made available for adoption
521 for not less than three dollars, and you shall keep an account of any such sale and forthwith pay
522 over the money to the town treasurer. Before delivery of any dog so adopted you shall require the
523 purchaser to show identification and to register and procure a license and tag for such dog from
524 the town clerk of the town where the dog is to be kept, in accordance with the provisions of
525 section one hundred and thirty-seven of said chapter one hundred and forty of the General Laws.

526 Hereof fail not, and make due return of this warrant with your doings therein, on or
527 before the first day of October next, on or before the first day of January next, and on or before
528 the first day of April next, and at the expiration of your term of office, stating the number of dogs

551 dog is complained of as a nuisance dog, either: (i) dismiss the complaint; or (ii) deem such dog a
552 nuisance dog, or, if the dog is complained of as a dangerous dog, either: (i) dismiss the
553 complaint; (ii) deem such dog a nuisance dog; or (iii) deem such dog a dangerous dog.

554 (b) If the hearing authority deems a dog a nuisance dog, the hearing authority may further
555 order that the owner or keeper of such dog take remedial action to ameliorate the cause of the
556 nuisance behavior.

557 (c) If the hearing authority deems a dog a dangerous dog, the hearing authority shall order
558 1 or more of the following:

559 (i) that the dog shall be humanely restrained; provided, however, that no order
560 shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to any
561 inanimate object including, but not limited to, a tree, post or building;

562 (ii) that the dog shall be confined to the premises of the keeper of such dog;
563 provided, however, that “confined” shall mean securely confined indoors or confined outdoors in
564 a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper;
565 provided further, that such pen or dog run shall have a secure roof and if such enclosure has no
566 floor secured to the sides thereof, the sides shall be embedded into the ground not less than 2
567 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper
568 shelter from the elements shall be provided to protect such dog;

569 (iii) that when removed from the premises of the owner or the premises of the
570 person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a
571 chain or other tethering device having a minimum tensile strength of 300 pounds and not
572 exceeding 3 feet in length;

573 (iv) that the owner or keeper of the dog shall provide proof of a policy of
574 insurance in an amount not less than \$100,000 insuring such owner or keeper against any claim,
575 loss, damage or injury to persons, domestic animals or property resulting from the acts, whether
576 intentional or unintentional, of such dog or proof that reasonable efforts were made to obtain
577 such insurance if a policy has not been issued. If such a policy has been issued, the owner or
578 keeper shall produce such policy upon request of the hearing authority or a justice of the district
579 court or proof of efforts to obtain same if such a policy has not been issued.

580 (v) that the owner or keeper of the dog shall provide to the licensing authority or
581 animal control officer, or such other entity identified in the order, information by which such dog
582 may be identified, throughout its lifetime including, but not limited to, photographs, videos,
583 veterinary examination, tattooing or microchip implantations or a combination of such methods
584 of identification;

585 (vi) that unless an owner or keeper of the a dog provides evidence that a
586 veterinarian is of the opinion the such dog is unfit for alterations because of medical condition,
587 the owner or keeper of the dog shall cause the dog to be altered such that the dog shall not be
588 reproductively intact; or

589 (vii) that the dog shall be humanely euthanized.

590 No order shall be issued directing that a dog deemed dangerous be removed from the town or
591 city in which the owner of such dog resides. No city or town shall regulate dogs in a manner that
592 is specific to breed.

593 (d) Within 10 days after any order issued under subsections (a) to (c), inclusive, the
594 owner or keeper of a dog may bring a petition in the district court within the judicial district in

595 which the order relative to such dog was issued or where the dog is owned or kept, addressed to
596 the justice of the court, praying that the order be reviewed by the court or magistrate of the court.
597 After notice to all parties, the magistrate shall, under section 62C of chapter 221, review the
598 order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it
599 was made without proper cause or in bad faith, in which case the order shall be reversed. A party
600 shall have the right to request a de novo hearing on the complaint before a justice of the court.

601 (e) (1) Pending an appeal by an owner or keeper under subsection (d), a hearing authority
602 may file a petition in the district court to request an order of impoundment at a facility the
603 municipality uses to shelter animals for a dog complained of as being a dangerous dog. A
604 municipality shall not incur liability for failure to request impoundment of any dog under this
605 subsection.

606 (2) A justice of a district court may, upon probable cause to believe a dog is a dangerous
607 dog or a dog is being kept in violation of this section or in violation of an order issued under this
608 section by a hearing authority or a court, issue an order:

609 (i) of restraint;

610 (ii) of confinement of the dog as considered necessary for the safety of other animals and
611 the public; provided, however, that if an order of confinement is issued, the person to whom the
612 order is issued shall confine the dog in accordance with clause (ii) of subsection (c); or

613 (iii) of impoundment in a humane place of detention where the municipality uses to
614 shelter animals or such other order as the court deems necessary to protect other animals and the
615 public from such dog.

616 (f) A justice of the district court shall hear, de novo, an appeal filed under subsection (d).
617 Based on the credible evidence and testimony presented at trial, the court shall, whether the dog
618 was initially complained of as a nuisance dog or as a dangerous dog, either: (i) dismiss the
619 complaint; (ii) deem such dog a nuisance dog; or (iii) deem such dog a dangerous dog. The
620 decision of the court shall be final and conclusive upon the parties.

621 (g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall
622 reimburse the city or town for all reasonable costs incurred for housing and care of such dog
623 during its impoundment and throughout the appeals process, if any. Unpaid costs shall be
624 recovered by the municipality in which the owner or keeper of the dog resides on behalf of the
625 hearing authority by 1 of the following methods:

626 (1) a lien on any property owned by the owner or keeper of such dog;

627 (2) an additional, earmarked charge to appear on the vehicle excise tax of the owner or
628 keeper of such dog; or

629 (3) a direct bill sent to the owner or keeper of such dog.

630 All funds recovered by a municipality under this subsection shall be transferred to the
631 organization or entity charged with the responsibility of handling dog complaints and
632 impoundment. If the organization or entity falls under the management or direction of the
633 municipality, costs recovered shall be distributed at the discretion of the municipality.

634 If the court overturns an order of euthanasia the city or town shall pay all reasonable costs
635 incurred for any housing and care of such dog during any period of impoundment.

636 (h) If an owner or keeper of a dog is found in violation of an order issued under this
637 section, such dog shall be subject to seizure and impoundment by a law enforcement or animal
638 control officer. If the keeper, not the owner of such dog, is in violation, all reasonable effort shall
639 be made by the seizing authority to notify the owner of such dog of the seizure. Upon receipt of
640 such notice, the owner may file a petition with the hearing authority, within 7 days, for the return
641 of the dog to such owner. Such owner or keeper shall be ordered to immediately surrender to the
642 licensing authority the license and tags in such person's possession, if any, and such owner or
643 keeper shall be banned from licensing any dog within the commonwealth for 5 years. A hearing
644 authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has
645 violated an order issued under this section shall report such violations to the issuing licensing
646 authority within 30 days.

647 (i) Orders issued by a hearing authority shall be valid throughout the commonwealth
648 unless and until overturned under subsections (d) or (f).

649 Section 157A. (a) An owner or keeper of a dog who fails to comply with an order of a
650 hearing authority or district court shall be punished by a fine of not more than \$500 or
651 imprisonment for not more than 60 days in the house of correction, or both, for a first offense
652 and not more than \$1,000 or imprisonment for not more than 90 days in the house of correction,
653 or both, for a second or subsequent such offense.

654 (b) No person over the age of 17 who has actual knowledge that a dog has been deemed
655 dangerous under section 157 shall permit a child under the age of 17 to own, possess or have the
656 care or custody of such dog.

657 (c) No person shall transfer ownership or possession of a dog which such person knows,
658 or reasonably should have known, has been deemed dangerous pursuant to section 157 or offer
659 such a dangerous dog for sale or breed without informing the recipient of the dog of the finding
660 of dangerousness.

661 Section 158. Any police officer, constable or animal control officer may capture, detain or, in the
662 case of a threat to public safety, euthanize a dog, in a humane manner if found to be in violation
663 of an order of a hearing authority or a district court and may euthanize a dog, in a humane
664 manner, if it is living in a wild state.

665 Section 159. If a hearing authority or a district court has deemed a dog to be a dangerous dog and
666 such dog wounds any person or worries, wounds or kills any live stock or fowl, the owner or
667 keeper of such dog shall be liable in tort to the person injured by the dog in treble the amount of
668 damages sustained by such person.

669 Section 160. The mayor of any city, the selectmen of any town, or their agents who are
670 authorized in writing, to act in such mayor or selectmen's stead may, after written notice to the
671 owner or keeper, enter upon the premises of the owner or keeper of any dog known to such
672 persons to have worried or killed live stock or fowl, and then and there euthanize such dog, in a
673 humane manner, unless such owner or keeper whose premises are thus entered for said purpose
674 shall give a bond in the sum of \$200, with sufficient sureties, conditioned that the dog shall be
675 restrained for 12 months next ensuing. If the owner or keeper of the dog declares an intention to
676 give such a bond, the selectmen, chief of police, or the agent of the selectmen or chief, as the
677 case may be, shall allow the owner or keeper 7 days, exclusive of Sundays and holidays, in

678 which to procure and prepare such bond and to present it, or to file it with the clerk of the town
679 or city in which the owner or keeper resides.

680 Section 161. Whoever suffers loss by the worrying, maiming or killing of such person's
681 live stock or fowl by a dog, outside the premises of the owner or keeper of such dog, may, if the
682 damage is done in a city, inform the animal control officer and may, if the damage is done in a
683 town, inform the chairman of the selectmen of the town or, if the chairman is absent or ill, any
684 1 of the selectmen. Such chairman or selectman shall proceed to the premises where the damage
685 was done and determine whether the damage was inflicted by a dog and, if so, appraise the
686 amount of damage if it does not exceed \$100. If in the opinion of such officer, chairman or
687 selectman, the amount of damage exceeds \$100, the damage shall be appraised, on oath, by 3
688 persons, of whom 1 shall be such officer, chairman or selectman, 1 shall be appointed by the
689 person alleged to be damaged, and the third shall be appointed by the other 2 appointees. Within
690 10 days, the appraisers shall consider and include in their appraisal the labor and time necessarily
691 to be expended to find and collect the live stock or fowl injured or separated and the value of
692 those lost or otherwise damaged by a dog. Such officer, chairman or selectman shall return a
693 certificate of the damages found to the treasurer of the city or town in which the damage was
694 done within 10 days after such appraisal is made. The treasurer shall immediately submit the
695 appraisal to the city or town clerk who, within 30 days, shall examine all bills for damages. A
696 city or town clerk may summons such appraisers or, upon the request of an interested party, shall
697 summons such appraisers and all parties interested and make such investigation as such clerk
698 deems proper, and shall issue an order upon the treasurer of the city or town for such amounts, if
699 any, determined to be just and shall notify all interested parties of the decision. The treasurer

700 shall pay all orders drawn upon the treasurer in full, for the above purpose and payments made
701 shall be charged to the city or town.

702 SECTION 32. Section 162 of said chapter 140 is hereby repealed.

703 SECTION 33. Said chapter 140 is hereby further amended by striking out section 163, as
704 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

705 Section 163. If the mayor, aldermen or selectmen determine, after notice to parties
706 interested and a hearing, the identity of the owner or keeper of any dog which is found to have
707 worried, maimed or killed any live stock or fowl, thereby causing damages for which the owner
708 of the live stock or fowl may become entitled to compensation from the city or town under
709 section 161, the mayor, aldermen or selectmen shall serve upon the owner or keeper of such dog
710 a notice directing him, within 24 hours, to euthanize the dog in a humane manner or restrain the
711 dog.

712 SECTION 34. Section 164 of said chapter 140, as so appearing, is hereby amended by
713 striking out, in lines 2 to 6, inclusive, the words “such notice and does not within twenty-four
714 hours kill such dog or thereafter keep it on his premises or under the immediate restraint and
715 control of some person, shall be punished by a fine of not more than twenty-five dollars; and any
716 police officer, constable or dog officer may kill such dog” and inserting in place thereof the
717 following words:- such notice under section 163 and does not within 24 hours euthanize such
718 dog or thereafter keep it on such owner’s or keeper’s premises or under the immediate restraint
719 and control of some person, shall be punished by a fine of not less than \$25; and any police
720 officer, constable or animal control officer may euthanize such dog in a humane manner.

721 SECTION 35. Said chapter 140 is hereby further amended by striking out section 165, as
722 so appearing, and inserting in place thereof the following section:-

723 Section 165. A city or town may investigate any case of damage done by a dog of which
724 the chairman of the board of selectmen, mayor or animal control officer shall have been
725 informed as provided in section 161. If the chairman, mayor or animal control officer believes
726 that the evidence is sufficient to sustain an action against the owner or keeper of the dog and
727 believes that such owner or keeper is able to satisfy any judgment recovered in such action, such
728 chairman, mayor or animal control officer shall bring the action, unless the owner or keeper pays
729 such amount in settlement of the damage as such chairman, mayor or officer deems reasonable
730 before the action is brought. Such action may be brought in the name of such chairman, mayor or
731 officer who shall prosecute the action and shall have the same powers and authority as police
732 officers, constables or animal control officers appointed under section 151 and acting under
733 sections 136A to 174D, inclusive. All damages received or recovered under this section shall be
734 paid over to the city or town treasurer.

735 SECTION 36. Said chapter 140 is hereby further amended by striking out section 167, as
736 so appearing, and inserting in place thereof the following section:-

737 Section 167. The mayor, aldermen or selectmen may order that all dogs shall be
738 restrained from running at large during such time as shall be prescribed by the order. Once
739 passed, a certified copy of such order shall be posted in 2 or more public places in the city or
740 town or, if a daily newspaper is published in the city or town, by publishing a copy once in that
741 newspaper. Following such publication, the mayor, aldermen or selectmen may issue their
742 warrant to 1 or more of the police officers or constables of such city or town, who shall, not

743 sooner than 24 hours after the publication of such notice, euthanize all dogs in a humane manner
744 found running at large contrary to such order. Notwithstanding the foregoing, a police officer or
745 constable may, in such officer's or constable's discretion, hold any such dog for a period not to
746 exceed 7 days. If the owner of the dog claims it and pays to such officer or constable a fee of \$40
747 for each day that the dog has been held, the dog shall be returned to its owner. The fee shall be
748 paid over to the city or town.

749 SECTION 37. Section 168 of said chapter 140, as so appearing, is hereby amended by
750 striking out, in line 1, the words "aldermen or selectmen" and inserting in place thereof the
751 following words:- aldermen, selectmen or mayor.

752 SECTION 38. Said section 168 of said chapter 140, as so appearing, is hereby further
753 amended by striking out, in line 5, the words "more than twenty-five dollars" and inserting in
754 place thereof the following words:- less than \$25.

755 SECTION 39. Section 169 of said chapter 140, as so appearing, is hereby amended by
756 striking out the first sentence and inserting in place thereof the following sentence:- A city or
757 town officer who refuses or willfully neglects to perform the duties imposed upon him by the
758 provisions of this chapter relating to dogs shall be punished by a fine of not less than \$100,
759 which shall be paid to the city or town.

760 SECTION 40. Section 170 of said chapter 140 is hereby repealed.

761 SECTION 41. Said chapter 140 is hereby further amended by striking out section 171, as
762 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

763 Section 171. The owner or keeper of a dog which has done damage to live stock or fowl
764 shall be liable in tort to the city or town for all damages so done which the mayor, aldermen or
765 selectmen thereof have ordered to be paid as provided in this chapter.

766 SECTION 42. Section 172 of said chapter 140 is hereby repealed.

767 SECTION 43. Said chapter 140 is hereby further amended by striking out section 173, as
768 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

769 Section 173. A town or city may make additional ordinances or by-laws relative to the
770 licensing and control of animals not inconsistent with sections 136A to 174D, inclusive.

771 SECTION 44. The first paragraph of section 173A of said chapter 140, as so appearing,
772 is hereby amended by striking out the second to fourth sentences, inclusive, and inserting in
773 place thereof the following 3 sentences:- For the first offense committed by a person within a
774 calendar year, the clerk shall dismiss the charge without the payment of any fine; for a second
775 offense in such city or town within a calendar year, the payment of a fine of \$50 shall operate as
776 a final disposition of the case; for a third offense in such city or town in a calendar year, payment
777 of a fine of \$60 shall operate as a final disposition of the case; and for a fourth or subsequent
778 offense in such city or town within the calendar year, payment of a fine of \$100 shall operate as a
779 final disposition of the case. Payment shall be made only by postal note, money order or check.
780 Notwithstanding the foregoing procedure and schedules of fines, but subject to all of the other
781 provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative
782 procedure and a different schedule of fines.

783 SECTION 45. Said chapter 140 is hereby further amended by striking out section 174A,
784 as so appearing, and inserting in place thereof the following section:-

785 Section 174A. A dog or cat whose killing is authorized under this chapter shall be
786 euthanized only by the administration of barbiturates in a manner deemed acceptable by the
787 American Veterinary Medical Association Guidelines on Euthanasia or as allowed by in section
788 151A.

789 SECTION 46. Section 174B of said chapter 140, as so appearing, is hereby amended by
790 striking out, in line 4, the words “fifty dollars” and inserting in place thereof the following
791 figure:- \$100.

792 SECTION 47. Section 174D of said chapter 140, as so appearing, is hereby amended by
793 inserting after the word “commissioner”, in lines 4, 5, 6, 14, 16, 19, 28, 31 and 36, the following
794 words, in each instance:- of public health.