

SENATE No. 2331

The Commonwealth of Massachusetts

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

SENATE, Friday, March 9, 2018

The committee on Ways and Means to whom was referred the Senate Bill relative to protecting puppies and kittens (Senate, No. 1155),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2331).

For the committee,
Karen E. Spilka

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

An Act relative to protecting puppies and kittens.

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 2018
2 Official Edition, is hereby amended by inserting after the definition of “Attack” the following
3 definition:-

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

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

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

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

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

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

36 required to be available for inspection. If in the judgment of the commissioner or an authorized
37 inspector a kennel or cattery is not being maintained in a sanitary and humane manner or if
38 records have not been properly kept as required by law and in compliance with said section
39 174G, the commissioner or authorized inspector shall, by order, suspend the license for the
40 kennel or cattery depending on the severity of the offense or issue to the operator a written
41 citation or notice which explains the noncompliant issue and requires the operator to come into
42 compliance within a reasonable, specified timeframe. If the operator fails to come into
43 compliance within the time period specified by the commissioner or authorized inspector, the
44 commissioner or authorized inspector shall, by order, revoke the license for the kennel or cattery.

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

54 SECTION 3. Said chapter 140 is hereby further amended by inserting after section 141B
55 the following 4 sections:-

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

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

60 “Cat”, a member of the Felis catus family.

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

62 “Kitten”, a cat under 1 year of age.

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

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

66 “Puppy”, a dog under 1 year of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 (ii) return the puppy or kitten to the seller for a refund of the purchase price, the
128 sales tax paid and any additional point of sale fees paid, and reimbursement for up to 50 per cent
129 of the costs incurred by the buyer for reasonable veterinary fees paid for the diagnosis and
130 treatment of the puppy or kitten in an amount not to exceed the original purchase price of the
131 puppy or kitten and the sales tax;

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

137 (iv) retain the purchased puppy or kitten and receive reimbursement for
138 reasonable veterinary fees paid for the diagnosis and treatment of the purchased puppy or kitten

139 in an amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid
140 and any additional point of sale fees paid on the original purchase of the puppy or kitten.

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

143 (2) If: (i) within 14 days after delivery of the puppy or kitten the puppy or kitten
144 dies because on an illness that existed in the puppy or kitten prior to or at the time of the sale or
145 delivery of the puppy or kitten; or (ii) within 1 year after the sale or delivery of a puppy or kitten
146 the puppy or kitten dies because of a hereditary or congenital condition that has a significant
147 adverse effect on its health, the buyer may obtain reasonable veterinary fees for the diagnosis,
148 treatment and disposal of the purchased puppy or kitten in an amount not to exceed the original
149 purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid
150 and: (A) a refund of the purchase price of the puppy or kitten, the sales tax paid and any
151 additional point of sale fees paid; or (B) a replacement dog or cat that is of equivalent value and
152 satisfactory to the buyer.

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

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

157 (e) If a seller wishes to contest a demand made by a buyer for veterinary expenses or for a
158 refund or an exchange under this section, the seller may require the buyer to produce the puppy
159 or kitten for examination by a second licensed veterinarian designated by the seller and at the
160 seller's expense not more than 30 days after the demand. If the puppy or kitten is deceased, the

161 seller may have the second veterinarian review records provided by the buyer's veterinarian,
162 including the necropsy report. If the buyer and the seller are unable to reach an agreement as set
163 forth in subsection (d) within 10 business days after receipt of the purchased puppy or kitten for
164 the examination, the buyer may initiate an action in a court of competent jurisdiction to recover
165 or obtain a reimbursement of veterinary expenses or for a refund or an exchange.

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

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

171 (h) This section shall not apply to: (i) shelters or nonprofit organizations that house or
172 adopt animals to protect the animals from cruelty, neglect, abuse or homelessness; (ii) municipal
173 animal control facilities; and (iii) facilities that contract with a municipality to assist in the
174 adoption of stray animals as part of the municipality's animal control services.

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

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

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

181 (iii) was found to have committed a critical violation of the Animal Welfare Act,
182 7 U.S.C. 2131, et seq, during the 3-year period prior to the purchase;

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

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

188 (b) A pet shop shall not purchase a dog or cat for resale or offer a dog or cat for sale that
189 originated at or was purchased from a breeder, person, firm or corporation that is not in
190 compliance with the requirements for commercial breeder kennels or catteries or personal
191 kennels or catteries under section 174G at the time of purchase of the dog or cat by the pet shop.

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

200 (d) An owner or operator of a pet shop that offers a dog or cat for sale shall post a sign
201 that shall be clear and conspicuous and shall be of such size and so placed that an individual

202 examining the dog or cat in its cage or enclosure may readily view the sign and its contents. The
203 sign shall state:

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

206 (ii) the sex, color markings and other identifying information of each dog and cat,
207 including any tag, tattoo, collar number and microchip information; and

208 (iii) the business name of the breeder of each dog and cat, the city and state of the
209 breeder's usual place of business, an email address, if available, the breeder's United States
210 Department of Agriculture license number and, if the breeder is required to be licensed in the
211 state in which the breeder is located, the breeder's state license number.

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

216 (f) A pet shop owner or operator who violates this section or provides false information
217 pursuant to the requirements of this section shall be punished by a fine of not more than \$50 for a
218 first offense, by a fine of not more than \$100 for a second offense and a fine of not more than
219 \$300 for a third or subsequent offense. Each dog or cat sold or offered for sale in violation of
220 this section shall constitute a separate offense.

221 (g) Nothing in this section shall prohibit a city or town from adopting an ordinance that is
222 more stringent than this section.

223 SECTION 4. Said chapter 140 is hereby further amended by inserting after section 174F
224 the following section:-

225 Section 174G. The department of agricultural resources shall make rules and regulations
226 for the maintenance and inspection of commercial breeder kennels or catteries and personal
227 kennels or catteries in which not less than 5 sexually-intact female dogs or cats are kept to breed
228 the dogs or cats and sell the offspring as household pets. The rules and regulations shall ensure
229 that the dogs, cats and offspring thereof: (i) have proper housing, which shall include
230 requirements for adequate space, temperature, solid flooring and a prohibition on the stacking of
231 cages, nutrition, hydration, behavioral requirements, grooming, staffing, handling, health and
232 veterinary care, waste disposal, exercise, socialization and other general standards of care; (ii)
233 are bred in accordance with responsible breeding practices; and (iii) have their housing regularly
234 inspected to ensure that their kennels and catteries are maintained in accordance with this
235 section. In developing rules and regulations under this section, the department shall consider the
236 recommended standards of the American Veterinary Medical Association.

237 SECTION 5. The department of agricultural resources shall hold a public hearing not
238 later than September 1, 2018 relative to establishing rules and regulations pursuant to section 2
239 of chapter 129 of the General Laws and section 139A of chapter 140 of the General Laws that
240 provide standards relating to the importation, handling and care of domestic animals in
241 connection with their adoption, sale, barter, transfer or exchange by animal rescue organizations
242 and shelter organizations.

243 SECTION 6. This act shall take effect on July 1, 2018.