



DEVOCALIZATION FAQ

The passage of HB344/SB2369 makes it illegal to devocalize or debark a dog or cat in the Commonwealth of Massachusetts. We are assembling questions that have already come to us regarding this bill. We will not have answers from the MVMA as noted in Executive Director Susan Curtis' email: "We will not be addressing your list of questions as we cannot speak on behalf of the state."

Below is information exchanged by a constituent and Rep. Garrett Bradley via his aide.

May 4, 2010 06:26:02 PM, -----@verizon.net wrote:

Please convey my appreciation of Representative Bradley's considered response! Even though we are in opposition to this unfortunate legislation I understand his reasons. You need to understand we are not in favor of devocalization as an "easy fix" to what is often a complicated issue. We do not support it as a first or even second choice to resolve barking.

Our problem is that it goes beyond reasonable steps in the penalties and removes from an owner / veterinarian a legitimate procedure that can be used when other methods fail.

The supporters have taken the position that all barking problems can be fixed by non-surgical methods. That position is inaccurate and overly simplistic as well as wrong! There are breeds that are very prone to barking and resist attempts to quiet them. Granted, it is not a huge number, but it is a severe problem when an owner is unable to resolve it by "training"!

The legislation makes no provision for such situations! It blindly takes the position that ALL BARKING PROBLEMS CAN ALWAYS BE RESOLVED BY NON-SURGICAL METHODS! Sadly they are wrong!

Bottom line? The choice should have been left to be decided on a case by case situation, to be decided by a veterinarian and an owner! Not by misguided people!

Again, we appreciate Representative Bradley's responding, and we are impressed that he did so!

May 4, 2010 04:15:01 PM, -----@state.ma.us wrote:

Rep. Bradley has asked me to forward you his response to your questions regarding CH 82, the new Devocalization Law. Please let me know if you have any questions.

Thank you for your email with questions relative to Chapter 82, An Act Prohibiting Devocalization of Dogs and Cats. H344 was passed by the House of Representatives by a vote of 155 -1. 58 legislators sponsored the bill and a hearing was held on July 14, 2009. I do not sit on the Judiciary Committee which had oversight of this legislation and recommended favorable action. The bill was signed into law by Governor Patrick on April 22, 2009 and will take effect in 90 days.

I received calls from both proponents and opponents of the legislation, although far more favored the bill. In response to your first five questions relative to various animal and dog organizations, I understand and

appreciate the passion and commitment these organizations have for dogs and their well being and I believe these groups have nothing but the best intentions to protecting dogs, as do many of the groups and individuals who asked me to support the legislation. The information I was presented with on this issue led me to the belief that the bill is a reasonable and responsible proposal to protect dogs from inhumane treatment.

Below you'll find a copy of your questions and my brief responses.

Massachusetts Federation of Dog Clubs and Responsible Dog Owners' has fought tirelessly for good dog legislation. It is made up of most of the dog clubs in Massachusetts, and strongly promotes responsible dog ownership! As such, there are many thousands of Massachusetts dog club members represented by MassFed. MassFed opposes HB 344.

Q. Do you seriously believe that an organization dedicated to the care, protection, responsible ownership and support of dogs in MA, with a focus on responsible reasonable legislation would knowingly, intentionally put forward opposition to any bill that purports to be a reasonable piece of legislation that is "needed" to protect dogs from cruel and inhumane treatment?

A. As a dog owner I appreciate your passion and commitment to dogs and their wellness. I believe your organization has the best intentions as do the many dog owners and groups who asked me to support the legislation.

Massachusetts Veterinary Medical Association: MVMA has come out with a position most all of us who are opposed to HB 344 agree with! Basically: the issue of whether or not debarking should occur is a procedure that needs to remain as between a veterinarian and the client on an instance by instance assessment. It must not be a matter of state law. It must not have draconian, ridiculous criminal penalties etc. It must remain as a veterinary tool available as needed. MVMA opposes HB 344.

Q. Do you seriously believe that the MVMA would take this position: opposed to what is allegedly a bill to stop cruel and inhumane behavior? Can you seriously tell me that MVMA is in favor of a procedure that is cruel and inhumane?

A. I supported the legislation because it allowed debarking to occur if a vet felt it was necessary and needed for the dogs wellness.

Massachusetts Society for the Prevention of Cruelty to Animals: MSPCA has not come out with an ALERT regarding HB 344. This signifies that they are not very much concerned over the seriousness of the anti debarking movement. In the past, issues of serious concern has always resulted in MSPCA issuing an ALERT. Not in this instance.

Privately, I have spoken to senior staff at MSPCA and I was told that they believe there are far more serious concerns regarding dog legislation out there, (such as the chapter 140 re-write). This bill does not rate any attention. MSPCA does not support HB 344.

Q. Do you seriously believe that an organization such as MSPCA, long committed and dedicated to preventing animal abuse, neglect and cruelty would not openly and strongly support HB 344 if it believed that there was any merit to it?

A. My understanding from a discussion my aide had with the MSPCA is that they felt the legislation has merit and they support it, but that incidents of devocalization were less significant, compared to other types of animal abuse, and the MSPCA has identified other priority issues.

Animal Rescue League of Boston: ARL, another major player in the world of animal protection, has not posted any support for HB 344. ARL also believes that the issues in HB 344 are too insignificant to be involved in supporting it. Again, I have spoken at length with senior staff who also feel there are too many real, substantive bills on the floor that actually accomplish some good for dogs / animals to waste any time on HB 344. ARL does not support HB 344.

Q. Do you seriously believe that an organization such as ARL, another long committed and dedicated to preventing animal abuse, neglect and cruelty organization would not openly and strongly support HB 344 if it believed that there was any merit to it?

A. As I stated before, I supported the legislation because it allowed a vet to perform the surgery when it was necessary for the dogs wellness.

American Kennel Club: AKC has had many, many years of supporting positive dog legislation and opposing bad bills, such as HB 344. AKC opposes HB 344. AKC is made up of staff, members and others who are dedicated to improving the life, well fare and success of all dogs, not solely. AKC opposes HB 344.

Q. Do you seriously believe that an organization such as AKC, long committed and supportive of all positive dog related legislation and opposed to bad bills would not openly and strongly support HB 344 if it believed that there was any merit to it?

A. As I stated before, I supported the legislation because it allowed a vet to perform the surgery when it was necessary for the dogs health.

Dog Owners: Dog owners who find themselves in an unhappy position of resorting to a de barking procedure are far from being cruel and in humane! It is done as a last resort, in order to be able to keep a much loved family pet! Frequently as a response to complaints by neighbors regarding barking which has not been corrected by other more "conventional" means. They are people who do not want to surrender their family pet to a rescue or shelter, with the very possible outcome of being put down. These are generally not puppies, which would be very adoptable, but more mature dogs whose adoption rate is poorer. People go for pups, not a mature dog that has been surrender due to a behavior problem, i.e. barking. It is a difficult decision, not made any better by those in support of HB 344 making them out to be unfeeling, cruel and in humane people.

Q. Under such circumstances how can you take the position that these owners are cruel, unfeeling, in humane people and take away their last resort to resolve a problem situation in a manner that would result in their pet being able to remain in their loving homes?

A. I did not make any assumptions that these dog owners are cruel. I looked at the information presented to me from both opponents and proponents. Many veterinarians cited serious medical complications as a result of devocalization. Veterinarians stated that even when the procedure is performed correctly, complications are common.

QUESTIONS REGARDING ENFORCEMENT OF SB2359 (HB344)

1. What is the State's position regarding purchasing a dog from out of state that is debarked?
CH 82 does not address this issue.

2. Are there any fines and / or penalties for residents that currently own a debarked dog?
No, the law does not make it illegal to own a debarked dog.

3. Most people, of course, will simply cross the state line to get the procedure done. Will there be any repercussions and / or penalties with doing this?

CH 82 does not address this issue.

4. Who is going to enforce this?

Section 3 of CH 82 provides for enforcement by amending CH 272 of MA General Laws. Enforcement would be done by Sheriffs, deputy sheriffs, constables and police officers who are charged with prosecution of all violations that are brought to their attention.

5. Is there a penalty for purchasing a dog from out of state that has been devocalized/debarked?

Not addressed in CH 82

6. Are there penalties for MA residents who currently own a devocalized dog?

Not addressed in CH 82

7. Will it be necessary to produce veterinary receipts from years ago?

No. CH 82 is not retroactive.

(d) A veterinarian who performs a surgical devocalization procedure on a dog or cat shall keep a record of the procedure for a period of 4 years after the last contact with the animal. This record shall include: the name and address of the animal's owner; the name and address of the person from whom payment is received for the procedure; a description of the animal, including its name, species, breed, date of birth, sex, color, markings and current weight; the license number and municipality that issued the license for the animal; the date and time of the procedure; the reason the procedure was performed; and any diagnostic opinion, analysis or test results to support the diagnosis. These records shall be subject to audit by the board.

Any person who performs a devocalization procedure on a dog or cat shall report the number of all such procedures to the board annually on or before March 30. The board shall maintain all notices received under this subsection for 4 years from the date of receipt.

8. If a devocalized dog is with a second or third owner, will there be penalties for this person who is unable to produce a receipt showing a date and state where the dog was devocalized?

Not addressed in CH 82

9. How will MVMA/the state handle the cases of owners having the procedure done in NH or another state where devocalization is legal?

Not addressed in CH 82

10. Will the primary care veterinarian of an animal be in danger of prosecution for treating a dog that has been devocalized in another state?

Not addressed in CH 82

11. Will that veterinarian need a record of the procedure in his/her file?

CH 82 is a MA law. It does not pertain to procedures done in other states.

Text of the final bill that was passed follows.

MassFed: 05/06/10

SENATE No. 2359

The Commonwealth of Massachusetts

AN ACT PROHIBITING THE DEVOCALIZATION OF DOGS AND CATS.

Be it enacted by the Senate and House of Representatives in General Corm assembled and by the authority of the same as follows:

SECTION 1. Section 1370 of chapter 140 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "seventy-nine", in line 6, the following figure:- , 80 1/2

SECTION 2. Section 138A of said chapter 140, as so appearing, is hereby amended by inserting after the sixth paragraph the following paragraph:--

No commercial establishment, pet shop, firm, corporation or person shall sell a dog or cat that has been surgically devocalized, as defined in section 80 1/2 of chapter 172, unless written notice that such a procedure has been conducted on that animal is provided to any prospective purchaser thereof before any agreement to purchase such animal is entered into. In addition to the penalties provided for violation of this section, failure to provide such notice shall render any purchase agreement void and a violation of this paragraph shall constitute an unfair or deceptive act in the conduct of a trade or commerce for purposes of chapter 93A.

SECTION 3. Chapter 272 of the General Laws is hereby amended by inserting after section 80A the following section:-

Section 80h. (a) For the purposes of this section, the following words shall have the following meanings:--

"Board", the board of registration in veterinary medicine.

"Devocalization", a procedure on the larynx or vocal cords of an animal which causes the reduction or elimination of vocal sounds produced by that animal.

(b) Whoever performs, or causes to be performed, the surgical devocalization of a dog or cat shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 1/2 years, or by a fine not to exceed \$2,500 or by both such fine and imprisonment. In addition to this penalty, the court may order that whoever violates this section shall successfully complete a course of instruction relative to the humane treatment of animals or that such person be barred from owning or keeping a dog or cat or sharing a residence with another who owns or keeps a dog or cat for a period of time as determined by the court.

(c) Subsection (b) shall not apply if:

(1) the person performing such de vocalization is licensed under section 55 of chapter 112; and

(2) surgical devocalization of a dog or cat is medically necessary to treat or relieve an illness, disease or injury of such animal or to correct a congenital abnormality of such animal that is causing, or may cause that animal physical pain or harm; or

(3) the person who causes a devocalization procedure to be performed is relying upon the opinion of a person licensed under section 55 of chapter 112 that surgical devocalization of the dog or cat is medically necessary to treat or relieve an illness, disease or injury of such animal or to correct a congenital abnormality of such animal that is causing or may cause, that animal physical pain or harm.

(d) A veterinarian who performs a surgical devocalization procedure on a dog or cat shall for a period of 4 years after the last contact with the animal keep a record of such procedure. This record shall include the name and address of the animal's owner, the name and address of the person from whom payment is received for the procedure, a description of the animal, including its name, species, breed, date of birth, sex, color, markings and current weight; the license number and municipality that issued such license for the animal, the date and time the procedure was performed, the reason that the devocalization procedure was performed and any diagnostic opinion, analysis or test results to support such diagnosis. These records shall be subject to audit by the board.

Any person who performs a devocalization procedure on a dog or cat shall report the number of all such procedures to the board, annually, not later than March 30. The board shall maintain all notices received pursuant to this subsection for 4 years from the date of receipt.

Records maintained pursuant to this subsection shall not be considered a public record, as defined in clause Twenty-sixth of section 7 of chapter 4 or section 66 of chapter 10, and such records shall not be publicly disseminated.

(e) The board shall, annually, report to the joint committee on the environment, natural resources and agriculture the number of animals that were the subject of devocalization notices received pursuant to subsection (d) not later than March 1.

(f) Whoever, being licensed under section 55 of chapter 112, violates any provision of this section shall be subject to the suspension or revocation of such license pursuant to section 59 of said chapter 112 and 256 CMR 7.00."