

SB2172 - 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:

SECTION 1. Chapter 129 of the General Laws is hereby amended by inserting after section 39F the following section:-

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

(b) An official health certificate shall mean a legible certificate or form issued by an accredited veterinarian and approved by the chief livestock official of the state or county of origin containing the name and address of the consignor and consignee. The certificate or form shall also show the age, sex, breed and description of each dog or cat and certify that the dog or cat is free from visual evidence of infectious or contagious disease. The certificate or form shall show proof of rabies vaccination within the previous 12 months. A dog or cat imported into the commonwealth that is not currently vaccinated for rabies shall be vaccinated within 30 days of entry or acquisition or upon reaching the age of 6 months.

(c) A dog or cat purchased within the commonwealth for resale by a commercial establishment or pet shop shall be accompanied by a health certificate, issued by an accredited veterinarian, which shall show the age, sex, breed, and description of each dog or cat and certify that the dog or cat is free from visual evidence of infectious or contagious disease.

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

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

(f) The commissioner may, after notice and hearing, revoke or suspend a pet shop, kennel and boarding kennel license issued under section 137 of chapter 140 of a person, firm or corporation maintaining the pet shop, kennel and boarding kennel for a violation of this section.

(g) A person, firm or corporation aggrieved by an order under this section may, by petition, appeal within 30 days to the superior court in the county wherein such person resides or where such firm or corporation is located. The appellant shall state the findings by the commissioner and the grounds of appeal therefrom. The court shall consider the proceedings de novo and the parties shall have right of exception and appeal.

(h) The provisions of this section shall not apply to a greyhound dog if the care and treatment of such greyhound dog is regulated by the state racing commission.

SECTION 2. Chapter 140 of the General Laws is hereby amended by striking out sections 136A, 137 and 137A, as appearing in the 2008 Official Edition, and inserting in place thereof the following 3 sections:-

Section 136A. The following words and phrases as used in sections 137 to 175D, inclusive, unless the context otherwise requires, shall have the following meanings:

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

“Animal control officer”, an appointed officer authorized to enforce sections 136A to 175D, inclusive.

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

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

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

“Commissioner”, the commissioner of agricultural resources.

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

- (i) solely based upon growling or barking or solely growling and barking;
 - (ii) based upon the breed of such dog; or
 - (iii) if such dog was reacting to another animal or to a person and such dog's reaction was not grossly disproportionate to any of the following circumstances; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing: (1) such dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
- (2) the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of such dog;
- (3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking such dog; or
- (4) at the time of such attack or threat, the person or animal that was attacked or threatened by such dog had breached an enclosure or structure wherein the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure, including, but not limited to a gated, fenced in area if the gate was closed, whether locked or unlocked.

"Department", the department of agricultural resources.

"Domestic animal", any animal on the list of animals appearing in 321 CMR 90.2.

"Domestic charitable corporation kennel", a facility operated, owned or maintained by a domestic charitable corporation registered with the department, or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates for the above purpose in addition to providing medical treatment and care.

"Hearing authority", the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints in a town or city.

"Keeper", any person, business, corporation, entity or society, other than the owner, harboring or having in his possession any dog.

"Kennel", 1 pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

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

"Licensing authority", the police commissioner or the clerk of the city of Boston and the clerks of any other municipality.

"Live stock or fowl", any fowl or other animal kept or propagated by the owner for food or as a means of livelihood and deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, said department in proper houses or suitable enclosed yards but excluding dogs, cats and other animals listed under 321 CMR 9.02.

"Nuisance dog", a dog that: (i) by excessive barking or other disturbance is a source of annoyance to any sick person residing in the vicinity; or (ii) by excessive barking, by causing damage or other interference with or disturbance of a person's quiet enjoyment of his home or workplace and which a reasonable person would find extremely annoying or disturbing; or (iii) a dog that has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

"Personal kennel", 1 pack or collection of more than 4 dogs 3 months old or older, owned or kept under 1 ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed, use in sporting activity or other personal reasons; provided, further, that selling, trading, bartering or the distribution of such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided, further, that kennels in this category shall not sell, trade, barter or distribute any dogs not bred from their personally owned dogs; provided, further, that dogs temporarily housed at a personal kennel in conjunction with an animal shelter or rescue registered with the department may be sold, traded, bartered or distributed as long as the transfer is not made for the purpose of making a profit.

"Research institution", any institution operated by the United States or by the commonwealth or a political subdivision thereof, or any school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, medical diagnostic laboratory or biological laboratory, hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school, which, in connection with any of its activities, investigates or gives instruction concerning the structure or functions of living organisms or the causes, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

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

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

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

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

(c) The license shall be subject to the condition expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing live stock or fowl. The owner of a dog may add descriptive words, not over 10 in number, upon the license form to indicate the color, breed, weight and special markings of the licensed dog. The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag, upon which shall appear the license number, the name of the city or town issuing the license and the year of issue. If the tag shall be lost, the owner or keeper of such dog shall forthwith secure a substitute tag from the licensing authority at a cost to be determined by such city or town and the fee therefore shall, if received by a city or town clerk, be retained by him unless otherwise provided by law. This section shall not apply if otherwise provided by law, nor shall it apply to a person having a kennel license.

Section 137A. (a) Every person maintaining a kennel shall have a kennel license. An owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137, and shall be subject to this section and to sections 137B and 137C and to so much of section 141 as relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel. The licensing authority shall issue kennel licenses for kennels subsequent to the kennel inspection by the animal control officer.

(b) The kennel license shall be in lieu of any other license for any dog while kept at the kennel during any portion of the period for which the kennel license is issued. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of the kennel license, the name of the city or town issuing the license and the year of issue. The tags shall be furnished to the owner or keeper by the licensing authority in quantities not less than the number of dogs kept in the kennel. The fee for each kennel license shall be determined by the city or town. For the purpose of determining the amount of the fee for a kennel, a dog under the age of 6 months shall not be counted in the number of dogs kept therein. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer.

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

(d) The commissioner may promulgate rules and regulations for the licensing of kennels and for similar establishments for the breeding, raising or care of cats.

SECTION 3. Section 137B of said chapter 140, as so appearing, is hereby amended by inserting after the word “town”, in lines 14 and 18, the following words, in each instance:- or city.

SECTION 4. Said chapter 140 is hereby further amended by striking out section 137C, as so appearing, and inserting in place thereof the following section:-

Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in the city of Boston, a chief of police or an animal control officer may at any time inspect a kennel or cause the inspection thereof. If, in the judgment of such person or body, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, such person or body shall, by order, revoke or suspend such license. Upon the petition of 25 citizens, filed with the mayor of a city, the selectmen of a town or the police commissioner in the city of Boston, setting forth a statement that such citizens are aggrieved or annoyed to an unreasonable extent by 1 or more dogs maintained in such city or town due to excessive barking of the dogs or

other conditions connected with a kennel constituting a nuisance, the mayor, selectmen or police commissioner, as the case may be, shall, within 7 days after the filing of the petition, give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. The mayor, selectmen or police commissioner shall, within 7 days after the public hearing, investigate or cause to be investigated the subject matter of the petition and shall, by order, either suspend or revoke the kennel license or otherwise regulate the kennel, or dismiss the petition. Written notice of an order revoking, suspending or reinstating a license shall be mailed forthwith to the officer issuing the license and to the holder of the license. Within 10 days after the order, the holder of the license may bring a petition in the district court within the judicial district in which the kennel is maintained, addressed to the justice of the court, praying that the order may be reviewed by the court. After notice to all parties as the court may consider necessary, the court shall review the action, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. The decision of the court shall be final and conclusive upon the parties. A person maintaining a kennel after the license therefor has been so revoked, or while the license therefor is suspended, shall be punished by a fine of not more than \$250.

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

SECTION 6. Section 138 of said chapter 140 , as so appearing, is hereby amended by inserting after the word “town”, in lines 2 and 3, the following words, in each instance:- or

SECTION 7. Said section 138 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 9, the word “three” and inserting in place thereof, in each instance, the following figure:- 6.

SECTION 8. Section 138A of said chapter 140 is hereby repealed.

SECTION 9. Said chapter 140 is hereby further amended by striking out section 139, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 139. (a) The fee for every license shall, except as otherwise provided, be determined by a city or town but such fee shall be not more than \$35 for a spayed or neutered dog and shall not exceed \$50 for an intact dog. (b) If a certificate of a registered veterinarian who spayed or neutered a dog has been shown to a city or town clerk, the license fee shall be lower than that of an intact animal. If the city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian who performed the operation, a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and thereby deprived of the power of propagation. (c) No fee shall be charged for a license issued pursuant to this section: (i) for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder; or (ii) for a dog owned by a person aged 70 years or older. A license fee or part thereof shall not be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or part thereof paid by mistake be paid or recovered back after it has been paid over to a city or town under section 147.

SECTION 10. Section 139A of said chapter 140, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “a deposit of not less than ten nor more than thirty dollars ” and inserting in place thereof the following words:- a written agreement is entered into and a deposit of not less than \$40.

SECTION 11. Said section 139A of said chapter 140, as so appearing, is hereby further amended by adding the following paragraph:-
The commissioner may set fines for violations and may further establish regulations to ensure compliance with this section. Additionally, an animal control officer, an officer licensed under section 57 of chapter 22C, a police officer or the owner, director or a duly authorized agent of an animal shelter from which an animal was obtained may bring a petition in the district court within the judicial district of which the dog or cat is owned or kept for an action of forfeiture and relinquishment of ownership. Legal fees or court costs incurred in the enforcement of this section shall be the responsibility of the owner of the animal.

SECTION 12. Chapter 140 is hereby further amended by striking out section 141, as so appearing, and inserting in place thereof the following section:-

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

SECTION 13. Section 145 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "to the director of accounts upon application therefor."

SECTION 14. Section 145A of said chapter 140, as so appearing, is hereby amended by striking out the fourth to seventh sentences, inclusive.

SECTION 15. Said chapter 140 of the General Laws is hereby further amended by striking out section 145B and inserting in place thereof the following section:-

Section 145B. Whoever is the owner or keeper of a dog, cat or ferret in the commonwealth, 6 months of age or older, shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth shall be vaccinated within 30 days after the acquisition or arrival into the commonwealth or upon reaching the age of 6 months, whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating any dog, cat or ferret, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information: the owner's name and address; a description of the animal, including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

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

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

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

(i) the local board of health, declared exempt upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, that inoculation is thereby considered inadvisable for a specified period of time;

(ii) is in transit; or

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

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

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

SECTION 16. Section 146 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 5 to 8, inclusive, the words "to which such dog has been removed, and such clerk shall take up the same and issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment of twenty-five cents" and inserting in place thereof the following words:- or city to which such dog has been removed, and such clerk shall take up the same and issue to said owner or keeper a transfer license, together with a tag, for such dog upon payment of an amount to be determined by the city or town.

SECTION 17. Said chapter 140 is hereby further amended by striking out sections 147 and 147A, as so appearing, and inserting in place thereof the following section:-

Section 147. The police commissioner of the city of Boston and the clerks of other cities and towns shall issue said licenses and tags, receive the money therefore and pay it into the treasuries of their respective cities and towns on the first Monday of each month or more often. The clerks of cities and towns, except the city of Boston, may retain for their own use 75 cents for each license, unless otherwise provided by law, and shall certify under penalties of perjury to the amounts of money thus received and paid over to them. The police commissioner of the city of Boston and each city or town clerk shall make a record of the name of the owner or keeper of each dog licensed and of the name, registered number and description of each dog licensed. Such records shall be open to public inspection during the usual office hours of the city or town clerk. All blanks for the licenses and tags and the record books shall be paid for out of the city or town treasury. The police

commissioner of the city of Boston and any city or town clerk or city or town treasurer violating this section shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 1 month nor more than 1 year in the house of correction, or both. If a city or town clerk neglects or fails to pay the money into the city or town treasury as required by this section, the city or town may recover the amount thereof for the benefit of the city or town, with all damages sustained through such neglect or failure, and interest thereon, in an action on the official bond required, in the case of a city clerk, by section 13A of chapter 41 and, in the case of a town clerk, by section 13 of said chapter 41. All payments required under this section shall be subject to section 52 of said chapter 41.

SECTION 18. Section 147B of said chapter 140 is hereby repealed.

SECTION 19. Said chapter 140 is hereby further amended by striking out sections 149, 150, 151, 151A and 151B, as so appearing, and inserting in place thereof the following 5 sections:-

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

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

Section 151. (a) The mayor of each city and the board of selectmen of each town shall annually designate 1 or more animal control officers, who may be police officers or constables. An animal control officer who fails to comply with the terms of the officer's warrant shall forthwith be removed from office by the mayor or board of selectmen.. Animal control officers shall have completed, under the supervision of a veterinarian registered under section 55 or 56C of chapter 112, a course of instruction in humane techniques for the execution of animals before euthanizing any animal. Before euthanizing or giving or turning over to another any dog or cat in the officer's possession, such animal control officer shall first examine the animal for the presence of a microchip or tattoo, check the description of such animal against descriptions within the city or town relative to such species of animal licensed or registered in such municipality in order to verify the identity of the animal and to provide notice to the owner thereof before the animal is euthanized, given away or turned over to another. Bills for such services shall be approved by the mayor of the city or the board of selectmen of the town in which the dogs or cats are kept or euthanized and shall be paid by the city or town. Each animal control officer appointed under this section shall also attend to all complaints or other matters pertaining to animals, as prescribed by their respective city or town, in addition to the duties imposed upon the officer by the officer's warrant, and shall be paid for such services by the town or city treasurer upon bills approved by the mayor or by the board of selectmen. The mayor of any city or the board of selectmen of any town may, instead of appointing an animal control officer, enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of an animal control officer. In that case, the payments to the corporation under the terms of the contract shall be in full for all services rendered by it in that capacity.

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

Section 151A. (a) The mayor or board of selectmen shall annually issue a warrant to the animal control officer or officers directing the officer or officers to seek out, catch and confine all dogs within the city or town which are not licensed, collared or harnessed, or tagged, as required by this chapter, and to enter and prosecute a complaint for failure to comply with this chapter against the owners or keepers thereof, if known, and to euthanize or cause to be euthanized only by a humane method of euthanasia in accordance with the guidelines of the American Veterinary Medical Association and section 174A, except by gunshot in case of emergency, each such dog which after being detained by or for the officer for a period of 7 days shall not have been

licensed, collared or harnessed, and tagged; provided, however, that after 7 days, the animal control officer may make available for adoption any dog found free of disease for a sum of not less than \$10 and shall keep an account of all moneys received by such officer for the adoption and shall forthwith pay over the sums to the treasurer who shall forward the money to the city or town. Before delivery of a dog so adopted, the animal control officer shall require the purchaser to show identification and to procure a license and tag for the dog from the clerk of the city or town wherein the dog is to be kept. Dogs detained pursuant to this section shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition, or they may be placed in the care of the holder of a kennel license or of a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse. An animal control officer having custody of a detained dog or cat shall be allowed a sum determined by the city or town per day for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the city or town.

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

(1) the date and location of apprehension;

(2) a description of the animal;

(3) the place of detainment;

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

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

(6) if the animal is euthanized, the method and date thereof and the name of the person who euthanized the animal.

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

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

SECTION 20. Section 152 of said chapter 140, as so appearing, is hereby amended by striking out, in line 1, the word "dog" and inserting in place thereof the following words:- animal control.

SECTION 21. Said section 152 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "dogs", in line 6, the following words:- and cats.

SECTION 22. Said section 152 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 10, the word "dogs" and inserting in place thereof the following word:- animals.

SECTION 23. Section 153 of said chapter 140, as so appearing, is hereby amended by striking out, in line 2, the words ", except Suffolk county".

SECTION 24. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 13 to 18, inclusive, the words "by methods of execution other than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the control of the federal Drug Enforcement Administration, unless by a veterinarian, succinylcholine chloride, any drugs that have curariform-like action, electrocution, or any other method which causes an unnecessarily cruel death" and inserting in place thereof the following words:- only by a humane method of euthanasia in accordance with the guidelines of the American Veterinary Medical Association and section 174A, except by gunshot in case of emergency.

SECTION 25. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 18 to 21, inclusive, the words "ten days, shall not then have been duly licensed, collared or harnessed, and tagged, except that any male or any spayed female dog not found to be diseased may be made available for adoption for not less than three dollars" and inserting in place thereof the following words:- 7 days, shall not then have been duly licensed, collared or harnessed, and tagged, except that any dog not found to be diseased may be made available for adoption for not less than \$10.

SECTION 26. Said section 153 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "dogs", in line 34, the following words:- and cats.

SECTION 27. Said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 41 to 83, inclusive, the words "nineteen hundred and _____

Mayor of (or Chairman of the Selectmen of)

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

COMMONWEALTH OF MASSACHUSETTS

(Seal)

, ss.

To , constable of the city (or town) of

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

Hereof fail not, and make due return of this warrant with your doings therein, on or before the first day of October next, on or before the first day of January next, and on or before the first day of April next, and at the expiration of your term of office, stating the number of dogs caught, confined and/or killed, or adopted, and the names of the owners or keepers thereof, and whether all unlicensed dogs in said city (or town) have been caught, confined and/or killed, or adopted, and the names of persons against whom complaints have been made under the provisions of said chapter one hundred and forty, and whether complaints have been made and entered against all the persons who have failed to comply with the provisions of said chapter one hundred and forty.

Given under my hand and seal at ___ aforesaid the ___ day of ___ in the year nineteen hundred and _____ Mayor of (or Chairman of the Selectmen of)" and inserting in place thereof the following words:- two thousand.

Mayor of (or Chairman of the Selectmen of).

SECTION 28. Section 155 of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- If the dog accused of as having caused the damage or injury has been deemed a dangerous dog under section 157, liability shall be presumed and the burden of proof shall be upon the defendant to such action to rebut liability.

SECTION 29. Said chapter 140 is hereby further amended by striking out sections 157, 158, 159, 160 and 161, as so appearing, and inserting in place thereof the following 6 sections:-

Section 157. (a) Any person may file a complaint in writing to the hearing authority complaining that a dog owned or kept in the city or town wherein the complainant resides is a nuisance dog or is a dangerous dog. Such hearing authority shall investigate the complaint, or cause the investigation thereof, including an examination under oath of the complainant, at a public hearing in such municipality to determine whether the dog is a nuisance or a dangerous dog, whichever is alleged. Based on the credible evidence and testimony presented at the public hearing the hearing authority shall if the dog is complained of as a nuisance dog either: (i) dismiss

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

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

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

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

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

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

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

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

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

(vii) that the dog shall be humanely euthanized.

No order shall be issued directing that a dog deemed dangerous be removed from the town or city in which the owner of such dog resides.

(d) Within 10 days after any order issued pursuant to subsections (a) to (c), inclusive, the owner or keeper of a dog may bring a petition in the district court within the judicial district wherein the order relative to such dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or magistrate thereof. After notice to all parties, the magistrate shall, pursuant to section 62C of chapter 221, review the order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. A party shall have the right to request a de novo hearing on the complaint before a justice of the court.

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

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

(i) of restraint;

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

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

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

(g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall reimburse the city or town for all reasonable costs incurred for housing and care of such dog during its impoundment and throughout the

appeals process, if any. Unpaid costs shall be recovered by the municipality wherein the owner or keeper of the dog resides on behalf of the hearing authority by 1 of the following methods:

- (1) a lien on any property owned by the owner or keeper of such dog;
- (2) an additional, earmarked charge to appear on the vehicle excise tax of the owner or keeper of such dog; or
- (3) a direct bill sent to the owner or keeper of such dog.

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

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

(h) If an owner or keeper of a dog is found in violation of an order issued under this section, such dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If the keeper, not the owner of such dog, is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of such dog of the seizure. Upon receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for the return of the dog to such owner. Such owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in his possession, if any, and he shall be banned from licensing any dog within the commonwealth for 5 years. The hearing authority making a determination that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued pursuant to this section shall report such violations to the issuing licensing authority within 30 days.

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

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

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

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

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

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

Section 160. The mayor of any city, the selectmen of any town, or their agents thereto authorized in writing, may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to them to have worried or killed live stock or fowl, and then and there euthanize such dog, in a humane manner, unless such owner or keeper whose premises are thus entered for said purpose shall give a bond in the sum of \$200, with sufficient sureties, conditioned that the dog shall be restrained for 12 months next ensuing. And if the owner or keeper of the dog declares his intention to give such a bond, such selectmen, or chief of police, as the case may be, or the agent of the selectmen or chief, shall allow him 7 days, exclusive of Sundays and holidays, in which to procure and prepare the same and to present it to them, or to file it with the clerk of the town or city where the owner or keeper resides.

Section 161. Whoever suffers loss by the worrying, maiming or killing of his live stock or fowl by a dog, outside the premises of the owners or keepers of such dog, may, if the damage is done in a city, inform the animal control officer and may, if the damage is done in a town, inform the chairman of the selectmen of the town or, if he is absent or ill, any 1 of the selectmen who shall proceed to the premises where the damage was done and determine whether the same was inflicted by a dog and, if so, appraise the amount thereof if it does not exceed \$100. If in the opinion of said officer, chairman or selectman, the amount of said damage exceeds \$100, the damage shall be appraised, on oath, by 3 persons, of whom 1 shall be such officer, chairman or selectman 1 shall be appointed by the person alleged to be damaged and the third shall be appointed by the

other 2. Within 10 days, such appraisers shall consider and include in such damages the labor and time necessarily expended in the finding and collecting of the live stock or fowl injured or separated and the value of those lost or otherwise damaged by a dog. Such officer, chairman or selectman shall return a certificate of the damages found to the treasurer of the city or town wherein the damage was done within 10 days after such appraisal is made. The treasurer shall thereupon submit the same to the city or town clerk who, within 30 days, shall examine all bills for damages. A city or town clerk may summons such appraisers or, upon the request of an interested party, shall summons such appraisers and all parties interested and make such investigation as he deems proper, and shall issue an order upon the treasurer of the city or town for such amounts, if any, as he decides to be just and shall notify all interested parties of his decision. The treasurer shall pay all orders drawn upon him in full, for the above purpose and payments made shall be charged to the city or town.

SECTION 30. Section 162 of said chapter 140 is hereby repealed.

SECTION 31. Said chapter 140, as appearing in the 2008 Official Edition, is hereby amended by striking out section 163 and inserting in place thereof the following section:-

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

SECTION 32. Section 164 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 4 to 6, inclusive, the words "more than twenty-five dollars; and any police officer, constable or dog officer may kill such dog" and inserting in place thereof the following words:- less than \$25; and any police officer, constable or animal control officer may euthanize such dog in a humane manner.

SECTION 33. Said chapter 140 is hereby further amended by striking out section 165, as so appearing, and inserting in place thereof the following section:-

Section 165. A city or town may investigate any case of damage done by a dog of which the chairman of the board of selectmen, mayor or animal control officer shall have been informed as provided in section 161 and such chairman, mayor or animal control officer believes that the evidence is sufficient to sustain an action against the owner or keeper of the dog and believes that such owner or keeper is able to satisfy any judgment recovered in such action, he shall bring the action, unless the owner or keeper before the action is brought pays him such amount in settlement of the damage as such chairman, mayor or officer deems reasonable. Such action may be brought in the name of such chairman, mayor or officer and he shall prosecute it. The persons so appointed shall also have throughout their respective municipalities the same powers and authority as police officers, constables or animal control officers appointed under section 151, acting under sections 136A to 175D, inclusive. All damages received or recovered under this section shall be paid over to the city or town treasurer.

SECTION 34. Said chapter 140 is hereby amended by striking out section 167, as so appearing, and inserting in place thereof the following section:-

Section 167. The mayor, aldermen or selectmen may order that all dogs shall be restrained from running at large during such time as shall be prescribed by the order. After passing the order and posting a certified copy thereof in 2 or more public places in the city or town or, if a daily newspaper is published in the city or town, by publishing a copy once in that newspaper, the mayor, aldermen or selectmen may issue their warrant to 1 or more of the police officers or constables of such town, who shall, after 24 hours from the publication of such notice, euthanize all dogs, in a humane manner, found running at large contrary to such order, and shall receive such compensation therefor as is provided in section 151. Notwithstanding the foregoing, a police officer or constable may, in his discretion, hold any such dog for a period not in excess of 7 days. If the owner thereof claims such dog and pays to such officer or constable \$40 for each day that it is so held, it shall be returned to the owner. The fee shall be paid over to the city or town and the remaining moneys shall be retained by such officer or constable as his fee.

SECTION 35. Section 168 of said chapter 140, as so appearing, is hereby amended by striking out, in line 1, the words "aldermen or selectmen" and inserting in place thereof the following words:- aldermen, selectmen or mayor.

SECTION 36. Said section 168 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 5, the words “more than twenty-five dollars” and inserting in place thereof the following words:- less than \$25.

SECTION 37. Section 169 of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A city or town officer who refuses or willfully neglects to perform the duties imposed upon him by the provisions of this chapter relating to dogs shall be punished by a fine of not less than \$100, which shall be paid to the city or town.

SECTION 38. Section 170 of said chapter 140 is hereby repealed.

SECTION 39. Said chapter 140 is hereby further amended by striking out section 171, as so appearing, and inserting in place thereof the following section:-

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

SECTION 40. Section 172 of said chapter 140 is hereby repealed.

SECTION 41. Said chapter 140, as appearing in the 2008 Official Edition, is hereby further amended by striking out section 173 and inserting in place thereof the following section:-

Section 173. A town or city may make additional ordinances or by-laws relative to the licensing and control animals not inconsistent with sections 137 to 174D, inclusive.

SECTION 42. The first paragraph of section 173A of said chapter 140, as so appearing, is hereby amended by striking out the second through fourth sentences and inserting in place thereof the following 3 sentences:- If it is the first offense subject to this section committed by such person within a calendar year, the clerk shall dismiss the charge without the payment of any fine; if it is the second offense so committed in such city or town in the calendar year the payment to the clerk of a fine of \$50 shall operate as a final disposition of the case; if it is the third offense so committed in such city or town in a calendar year payment of a fine of \$60 shall operate as a final disposition of the case; and if it is the fourth or subsequent offense so committed in such city or town in the calendar year the payment of a fine of \$100 shall operate as a final disposition of the case. Such payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedules of fines and subject, however, to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines.

SECTION 43. Said chapter 140 is hereby further amended by striking out section 174A, as so appearing, and inserting in place thereof the following section:-

Section 174A. No dog or cat shall be put to death by use of carbon monoxide or carbon dioxide gas or a carbon monoxide or carbon dioxide chamber.

SECTION 44. Section 174B of said chapter 140, as so appearing, is hereby amended by striking out, in line 4, the word “fifty” and inserting in place thereof the following figure: - \$100.

SECTION 45. Section 174D of said chapter 140, as so appearing, is hereby amended by inserting after the word “commissioner”, in lines 4, 5, 6, 14, 16, 19, 28, 31 and 36, the following words, in each instance:- of public health.

SECTION 46. Said chapter 140 is hereby further amended inserting after section 174D the following section:-

Section 174E. The provisions of this chapter regulating dogs shall not apply to a greyhound dog if the care and treatment of such greyhound dog is regulated by the state racing commission.

SECTION 47. Chapter 10 of the General Laws is hereby amended by inserting after section 35LL the following section:-

Section 35NN. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Homeless Animal Prevention and Care Fund, to assist residents of the commonwealth in paying all or part of any costs associated with vaccinating dogs and cats, reducing the number of homeless animals through spaying and neutering, and to assist with the training of animal control officers. The fund shall be used to assist persons meeting income limit standards to vaccinate and sterilize dogs and cats, including feral cats, to train animal control officers, and for necessary and reasonable administrative and personnel costs related to the fund. The commissioner of the department of agricultural resources shall establish rules and regulations relating to the fund.

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

The state treasurer shall not deposit the revenues in, or transfer the revenues to, the General Fund or to any other fund other than the Homeless Animal Prevention and Care Fund. The state treasurer shall deposit the fund in accordance with sections 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit shall be available for immediate withdrawal at any time. The fund shall be expended only for the purposes stated above at the direction of the commissioner of the department of agricultural resources and any unexpended balances shall be redeposited in the fund for future use consistent with this section.

SECTION 48. Chapter 62 of the General Laws is hereby amended by inserting after section 6L the following section:--

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

A contribution made under this section may be with respect to any taxable year at the time of filing a return of the tax established by this chapter for such taxable year; provided, however, that the commissioner shall prescribe the manner in which such contribution shall be made on the face of the return required by section 5 of chapter 62C; provided further, that the commissioner shall assure that taxpayers filing any such forms are made clearly aware of their ability to make the contributions provided for by this section.

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