



**06/28/16 Amendments
adopted (Senate Ways
& Means)
New Draft – SB2370
(see below)
Passed by Senate**

**SUPPORT SB1103 – An Act Relative to Protecting Puppies & Kittens
[Sen. Spilka (D)]**

**SUPPORT HB1826 – An Act Relative to Protecting Puppies & Kittens
[Rep. Garrett Bradley (D)]**

Referred to Joint Committee on Municipalities and Regional Government

WHAT THESE BILLS DO:

These bills establish consumer protection for the purchase of puppies and/or kittens in the Commonwealth. They also establish expanded criteria for inspections and the wholesale purchase of animals for pet shop resale.

WHY YOU SHOULD SUPPORT THESE BILLS:

The bulk of these bills is primarily a consumer protection bill but provides protection for the seller as well as the purchaser. These bills allow recourse on the part of the seller and establish clear guidelines for both buyer and seller as to procedure when an animal is found to have a health issue.

They also address kennel inspections by detailing hours of inspection as well as establishing that the licensee or their authorized agent must be present with reasonable notice. Pet shops must purchase their dogs and cats for the purpose of resale from an authorized USDA facility or applicable state agency with a clean record of no direct violations during the two year period prior to purchase.

MassFed feels that these bills not only protect the purchasers in the Commonwealth but also the sellers in a manner that is not restrictive or causes undue burden for either party.

FOR MORE INFORMATION:

Massachusetts Federation of Dog Clubs and Responsible Dog Owners
Darci Brown, dbhappyhr@hotmail.com, 413-498-5006
Virginia Rowland, blackslate@aol.com, 978-424-1044

05/29/15

SENATE NO 1103

SENATE DOCKET, NO. 974 FILED ON: 1/15/15
Senator Karen Spilka

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 140 of the General Laws, as so appearing, is hereby amended by inserting after section 141B the following new section:-

Section 141C.

(a) For the purposes of this section:

(1) Animal means a dog or cat under 1 year of age.

(2) "Buyer" means a person who purchases an animal from a seller without the intent to resell the animal.

(3) Seller means an individual, or a partnership, association, corporation, or an officer or employee thereof that sells animals to the public.

(4) Unfit for purchase means any defect which is congenital or hereditary and which has a significant adverse effect on the health of the animal, or any disease, deformity, injury, physical condition, or any illness which has a significant adverse effect on the health of the animal and which was manifest, capable of diagnosis or likely to have been contracted on or before the sale and delivery of the animal to the buyer.

(b) No dog or cat less than 8 weeks of age shall be transferred by a person in the Commonwealth. Violation of this section shall result in a \$100 fine per offense.

(c) A veterinarian licensed in the Commonwealth may declare an animal unfit for purchase by providing a written statement that includes:

- (1) The buyers name and address;
- (2) The date the animal was examined;
- (3) The breed, sex, and age of the animal;
- (4) That the veterinarian examined the animal;
- (5) That either:

(i) the animal has, had, or has died from a contagious or infectious disease or severe parasitism, that the veterinarian found the presence of symptoms of said disease or severe parasitism, and that said disease or severe parasitism is likely to have been contracted on or before the sale and delivery of the animal to the buyer; or

(ii) the animal has a congenital or hereditary condition that significantly and adversely impacts the health of the animal, requires hospitalization or a non-elective surgical procedure, or caused the death of the animal;

- (6) The precise findings of the examination, diagnostic tests, and/or necropsy;
- (7) The treatment recommended, if any, and an estimate or the actual cost of the treatment;
- (8) That the examination occurred either:

(i) within 14 days of the transfer if the declaration of unfitness for purchase is based on an illness that existed in the animal on or before the sale and transfer of the animal;

(ii) within one year after the sale and transfer of the animal if the declaration of unfitness for purchase is based on a hereditary or congenital condition that has a significant adverse effect on the health of the animal; or

(iii) within one year after the sale and transfer of the animal if the breed, sex, or health of the animal was misrepresented at the time of the transfer;

- (9) The veterinarians name, address, telephone number and signature.

(d) An animal shall not be found unfit for purchase on account of:

(1) injuries sustained or illnesses likely to have been contracted subsequent to the date of sale and transfer;

(2) a health problem or hereditary or congenital condition that is separately disclosed by the seller verbally and in writing at the time of sale, provided that both the seller and the buyer sign such disclosure at the time of sale;

(3) a hereditary or congenital condition if the seller provides the buyer with written documentation at the time of sale and/or transfer establishing that prior to breeding, the animals parents were screened for health issues according to breed-specific protocols and requirements established by the Canine Health Information Center (CHIC) or a comparable recognized animal health registry;

(4) veterinary findings of internal or external parasites unless the animal is clinically ill or dies due to the condition.

(e) If an animal is declared unfit for purchase under (c) above, the seller shall provide the buyer with any of the following remedies that the buyer elects:

(1) Return the animal to the seller for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an amount not to exceed the original purchase price of the animal, plus sales tax; or

(2) Exchange the animal for an animal of the buyer's choice of equivalent value, providing a replacement animal is available, and reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an amount not to exceed the original purchase price of the animal, plus sales tax; or

(3) Retain the animal, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the animal in an amount not to exceed 150 percent of the original purchase price of the animal, plus sales tax on the original purchase price of the animal.

(4) If the animal has died as the result of a condition resulting in a declaration of unfitness for purchase under subsection (c), obtain reasonable veterinary fees for diagnosing, treating and disposing of the animal in an amount not to exceed the original purchase price of the animal, plus sales tax, and either a refund for the purchase price of the animal, plus sales tax, or a replacement animal of equivalent value of the buyer's choice.

(5) Nothing in this subsection shall require a seller to provide a buyer with a replacement animal.

(f) If a seller wishes to contest a demand for veterinary expenses, refund, or exchange made by a buyer under this section, the seller may require the buyer to produce the animal for examination within ten days by a second licensed veterinarian designated by the seller, at the sellers expense. If the animal is deceased, the seller may choose to have the second veterinarian review any records provided by the buyers veterinarian, including the necropsy report. If the buyer and the seller are unable to reach an agreement that constitutes one of the options set forth in subsection (e) within 10 business days following receipt of the animal for such examination, the buyer may initiate an action in a court of competent jurisdiction to recover or obtain reimbursement of veterinary expenses, refund, or exchange.

(g) Unless the seller contests a reimbursement under section (e) of this section, reimbursement shall be made to the buyer no later than 10 days after the seller receives the veterinarians statement that the animal was unfit for purchase.

(h) This section does not in any way limit the rights or remedies that are otherwise available to a buyer under any other law.

(i) This section shall not apply to shelters or non-profit organizations that house or adopt animals for the purpose of protecting them from cruelty, neglect, abuse or homelessness, to municipal animal control facilities or to other facilities when adopting a stray animal as part of a contract with a municipality for animal control services.

SECTION 2. Said chapter 140 is hereby further amended by striking section 137C and replacing with the following:

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 inspect a kennel or cattery or cause the inspection of a kennel or cattery. Refusal of such entry and inspection shall be grounds for denial, suspension, or revocation of a persons license to operate a kennel or cattery. Inspections of kennels or catteries regulated under section 174F of this chapter may also take place by the commissioner and must take place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually agreed upon by the inspector and the licensee. The licensee or their authorized agent shall be present during the inspection, and the licensee shall be given a reasonable notice prior to the inspection; however, if deemed necessary to adequately perform the inspection, the Commissioner or other authorized inspector may determine it is appropriate to not provide advance notice to the licensee before arriving at the facility. If a kennel or cattery regulated under section 174F is located at a private residence, only the areas of the residence that are used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall be required to be available for inspection. If, in the judgment of the authorized inspector, any kennel or cattery is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law and in compliance with rules established by the department under section 174F of this chapter, such person or body shall, by order, issue the licensee a written citation or notice explaining the noncompliant issue or issues and requiring the licensee to come into compliance within a reasonable specified time frame, or summarily revoke or suspend the license for the kennel or cattery, depending on the severity of the offense. If the licensee fails to come into compliance within the time period specified by the inspector, such person or body shall, by order revoke the license for the kennel or cattery. 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 a dog maintained in such city or town due to excessive barking or other conditions connected with a kennel or cattery 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 or cattery license, otherwise regulate the kennel or cattery or dismiss the petition. Any written notice of an order revoking or suspending the license, regulating the kennel or cattery or dismissing the petition shall be mailed immediately 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 or cattery is maintained, addressed to the justice of the court, praying that the order 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 or cattery after the license to maintain a kennel or cattery has been so revoked, or while such a license is suspended, shall be punished by a fine of not more than \$250.

SECTION 3. Said chapter 140 is hereby further amended by inserting after section 174E the following new section:-

Section 174F. The department shall make rules and regulations for commercial breeder kennels or catteries and personal kennels or catteries where persons keep at least 10 sexually intact female dogs or cats between 1 and 8 years of age for the purpose of breeding such dogs or cats and selling the offspring as household pets. The rules and regulations shall ensure that the animals have proper housing, nutrition, hydration, behavioral requirements, grooming, staffing, handling, health and veterinary care, waste disposal, and other general standards of care. In developing rules and regulations in accordance with this section, the department shall consider corresponding standards in the American Veterinary Medical Associations Regulations to Assure Appropriate Care For Animals Intended For Use As Pets (AVMA Pet Care Standards), as published on April 9, 2010.

SECTION 4: Said chapter 140 is hereby further amended by inserting after section 39F the following section:

Section 39G.

(a) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation that is required by law to be licensed by the Animal Welfare Act (7 U.S.C. 2131 et seq.) that:

(1) is not in possession of a current license issued by the United States Department of Agriculture and any applicable state agency,

(2) was found to have committed a direct violation of the federal Animal Welfare Act during the two year period prior to such purchase,

(3) was found to have committed three or more indirect violations of the federal Animal Welfare Act during the two year period prior to such purchase provided such violations pertained to the health or welfare of an animal and were not administrative in nature, or

(4) is cited on the two most recent United States Department of Agriculture inspection reports prior to the purchase of the animal by the pet shop for no-access violations pursuant to enforcement of the federal Animal Welfare Act.

(b) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation not in compliance with the requirements for commercial breeder kennels or catteries or personal kennels or catteries under section 174E of this chapter at the time of purchase of the animal by the pet shop.

(c) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation that directly or indirectly obtained such dog or cat from a breeder, person, firm or corporation described in (a) or (b) of this section.

(d) A pet shop shall maintain records verifying compliance with this section for a minimum of two years after disposition of the dog or cat.

(e) Nothing in this section shall prevent a pet shop from acquiring a dog or cat for resale or from selling or offering for sale a dog or cat obtained from a shelter as defined in section 136A of this chapter.

(f) Any locality may adopt an ordinance that is more stringent than the provisions set forth in this section.

(g) This section shall become effective one year after enactment.

HOUSE NO 1826

HOUSE DOCKET, NO. 2126 FILED ON: 1/20/15

HOUSE NO. 1826

The Commonwealth of Massachusetts

PRESENTED BY:
Rep. Garrett Bradley

SECTION 1. Chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after section 141B the following new section:-

Section 141C.

(a) For the purposes of this section:

(1) Animal means a dog or cat under 1 year of age.

(2) "Buyer" means a person who purchases an animal from a seller without the intent to resell the animal.

(3) Seller means an individual, or a partnership, association, corporation, or an officer or employee thereof that sells animals to the public.

(4) Unfit for purchase means any defect which is congenital or hereditary and which has a significant adverse effect on the health of the animal, or any disease, deformity, injury, physical condition, or any illness which has a significant adverse effect on the health of the animal and which was manifest, capable of diagnosis or likely to have been contracted on or before the sale and delivery of the animal to the buyer.

(b) No dog or cat less than 8 weeks of age shall be transferred by a person in the Commonwealth. Violation of this section shall result in a \$100 fine per offense.

(c) A veterinarian licensed in the Commonwealth may declare an animal unfit for purchase by providing a written statement that includes:

(1) The buyers name and address;

(2) The date the animal was examined;

(3) The breed, sex, and age of the animal;

(4) That the veterinarian examined the animal;

(5) That either:

(i) the animal has, had, or has died from a contagious or infectious disease or severe parasitism, that the veterinarian found the presence of symptoms of said disease or severe parasitism, and that said disease or severe parasitism is likely to have been contracted on or before the sale and delivery of the animal to the buyer; or

(ii) the animal has a congenital or hereditary condition that significantly and adversely impacts the health of the animal, requires hospitalization or a non-elective surgical procedure, or caused the death of the animal;

(6) The precise findings of the examination, diagnostic tests, and/or necropsy;

(7) The treatment recommended, if any, and an estimate or the actual cost of the treatment;

(8) That the examination occurred either:

(i) within 14 days of the transfer if the declaration of unfitness for purchase is based on an illness that existed in the animal on or before the sale and transfer of the animal;

(ii) within one year after the sale and transfer of the animal if the declaration of unfitness for purchase is based on a hereditary or congenital condition that has a significant adverse effect on the health of the animal; or

(iii) within one year after the sale and transfer of the animal if the breed, sex, or health of the animal was misrepresented at the time of the transfer

(9) The veterinarians name, address, telephone number and signature.

(d) An animal shall not be found unfit for purchase on account of:

(1) injuries sustained or illnesses likely to have been contracted subsequent to the date of sale and transfer;

(2) a health problem or hereditary or congenital condition that is separately disclosed by the seller verbally and in writing at the time of sale, provided that both the seller and the buyer sign such disclosure at the time of sale;

(3) a hereditary or congenital condition if the seller provides the buyer with written documentation at the time of sale and/or transfer establishing that prior to breeding, the animals parents were screened for health issues according to breed-specific protocols and requirements established by the Canine Health Information Center (CHIC) or a comparable recognized animal health registry;

(4) veterinary findings of internal or external parasites unless the animal is clinically ill or dies due to the condition.

(e) If an animal is declared unfit for purchase under (c) above, the seller shall provide the buyer with any of the following remedies that the buyer elects:

(1) Return the animal to the seller for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an amount not to exceed the original purchase price of the animal, plus sales tax; or

(2) Exchange the animal for an animal of the buyer's choice of equivalent value, providing a replacement animal is available, and reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an amount not to exceed the original purchase price of the animal, plus sales tax; or

(3) Retain the animal, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the animal in an amount not to exceed 150 percent of the original purchase price of the animal, plus sales tax on the original purchase price of the animal.

(4) If the animal has died as the result of a condition resulting in a declaration of unfitness for purchase under subsection (c), obtain reasonable veterinary fees for diagnosing, treating and disposing of the animal in an amount not to exceed the original purchase price of the animal, plus sales tax, and either a refund for the purchase price of the animal, plus sales tax, or a replacement animal of equivalent value of the buyer's choice.

(5) Nothing in this subsection shall require a seller to provide a buyer with a replacement animal.

(f) If a seller wishes to contest a demand for veterinary expenses, refund, or exchange made by a buyer under this section, the seller may require the buyer to produce the animal for examination within ten days by a second licensed veterinarian designated by the seller, at the sellers expense. If the animal is deceased, the seller may choose to have the second veterinarian review any records provided by the buyers veterinarian, including the necropsy report. If the buyer and the seller are unable to reach an agreement that constitutes one of the options set forth in subsection (e) within 10 business days following receipt of the animal for such examination, the buyer may initiate an action in a court of competent jurisdiction to recover or obtain reimbursement of veterinary expenses, refund, or exchange.

(g) Unless the seller contests a reimbursement under section (e) of this section, reimbursement shall be made to the buyer no later than 10 days after the seller receives the veterinarians statement that the animal was unfit for purchase.

(h) This section does not in any way limit the rights or remedies that are otherwise available to a buyer under any other law.

(i) This section shall not apply to shelters or non-profit organizations that house or adopt animals for the purpose of protecting them from cruelty, neglect, abuse or homelessness, to municipal animal control facilities or to other facilities when adopting a stray animal as part of a contract with a municipality for animal control services.

SECTION 2. Said chapter 140 is hereby further amended by striking section 137C and replacing with the following: 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 inspect a kennel or cattery or cause the inspection of a kennel or cattery. Refusal of such entry and inspection shall be grounds for denial, suspension, or revocation of a persons license to operate a kennel or cattery. Inspections of kennels or catteries regulated under section 174F of this chapter may also take place by the commissioner and must take place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually agreed upon by the inspector and the licensee. The licensee or their authorized agent shall be present during the inspection, and the licensee shall be given a reasonable notice prior to the inspection; however, if deemed necessary to adequately perform the inspection, the Commissioner or other authorized inspector may determine it is appropriate to not provide advance notice to the licensee before arriving at the facility. If a kennel or cattery regulated under section 174F is located at a private residence, only the areas of the residence that are used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall be required to be available for inspection. If, in the judgment of the authorized inspector, any kennel or cattery is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law and in compliance with rules established by the department under section 174F of this chapter, such person or body shall, by order, issue the licensee a written citation or notice explaining the noncompliant issue or issues and requiring the licensee to come into compliance within a reasonable specified time frame, or summarily revoke or suspend the license for the kennel or cattery, depending on the severity of the offense. If the licensee fails to come into compliance within the time period specified by the inspector, such person or body shall, by order revoke the license for the kennel or cattery. 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 a dog maintained in such city or town due to excessive barking or other conditions connected with a kennel or cattery 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 or cattery license, otherwise regulate the kennel or cattery or dismiss the petition. Any written notice of an order revoking or suspending the license, regulating the kennel or cattery or dismissing the petition shall be mailed immediately 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 or cattery is maintained, addressed to the justice of the court, praying that the order 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 or cattery after the license to maintain a kennel or cattery has been so revoked, or while such a license is suspended, shall be punished by a fine of not more than \$250.

SECTION 3. Said chapter 140 is hereby further amended by inserting after section 174E the following new section:- Section 174F. The department shall make rules and regulations for commercial breeder kennels or catteries and personal kennels or catteries where persons keep at least 10 sexually intact female dogs or cats between 1 and 8 years of age for the purpose of breeding such dogs or cats and selling the offspring as household pets. The rules and regulations shall ensure that the animals have proper housing, nutrition, hydration, behavioral requirements, grooming, staffing, handling, health and veterinary care, waste disposal, and other general standards of care. In developing rules and regulations in accordance with this section, the department shall consider corresponding standards in the American Veterinary Medical Associations Regulations to Assure Appropriate Care For Animals Intended For Use As Pets (AVMA Pet Care Standards), as published on April 9, 2010.

SECTION 4: Said chapter 140 is hereby further amended by inserting after section 39F the following section: Section 39G.

(a) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation that is required by law to be licensed by the Animal Welfare Act (7 U.S.C. 2131 et seq.) that:

(1) is not in possession of a current license issued by the United States Department of Agriculture and any applicable state agency,

(2) was found to have committed a direct violation of the federal Animal Welfare Act during the two year period prior to such purchase,

(3) was found to have committed three or more indirect violations of the federal Animal Welfare Act during the two year period prior to such purchase provided such violations pertained to the health or welfare of an animal and were not administrative in nature, or

(4) is cited on the two most recent United States Department of Agriculture inspection reports prior to the purchase of the animal by the pet shop for no-access violations pursuant to enforcement of the federal Animal Welfare Act.

(b) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation not in compliance with the requirements for commercial breeder kennels or catteries or personal kennels or catteries under section 174E of this chapter at the time of purchase of the animal by the pet shop.

(c) No pet shop shall purchase a dog or cat for resale or sell or offer for sale any dog or cat that originated at, or was purchased from, any breeder, person, firm or corporation that directly or indirectly obtained such dog or cat from a breeder, person, firm or corporation described in (a) or (b) of this section.

(d) A pet shop shall maintain records verifying compliance with this section for a minimum of two years after disposition of the dog or cat.

(e) Nothing in this section shall prevent a pet shop from acquiring a dog or cat for resale or from selling or offering for sale a dog or cat obtained from a shelter as defined in section 136A of this chapter.

(f) Any locality may adopt an ordinance that is more stringent than the provisions set forth in this section.

(g) This section shall become effective one year after enactment.

06/28/16

SB2370 - Senate Ways and Means - An Act relative to protecting puppies and kittens

_ Chapter 140 of the General Laws is hereby amended by striking out section 137C, as appearing in the 2014 Official Edition, 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 inspect a kennel or cattery or cause the inspection of a kennel or cattery. If a person holding a license or applying for a license to operate a kennel or cattery refuses to allow an inspector to enter and inspect a kennel or cattery, that shall be grounds for denial, suspension or revocation of a person's license to operate a kennel or cattery. Inspections of kennels or catteries under section 174F may be done by the commissioner and shall take place between the hours of 7:00 a.m. and 7:00 p.m. unless an alternate time is mutually agreed upon by the inspector and the licensee. The licensee or their authorized agent shall be present during the inspection and the licensee shall be given a reasonable notice prior to the inspection; provided, however, that, if deemed necessary to adequately perform the inspection, the commissioner or other authorized inspector may determine it is appropriate to not provide advance notice to the licensee before arriving at the facility. If a kennel or cattery regulated under said section 174F is located at a private residence, only the areas of the residence that are used for kennel or cattery purposes or for the maintenance of kennel or cattery records shall be required to be available for inspection. If, in the judgment of the authorized inspector, a kennel or cattery is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law and in compliance with rules and regulations established by the department under said section 174F, the inspector shall, by order, issue the licensee a written citation or notice explaining the noncompliant issue and requiring the licensee to come into compliance within a reasonable, specified time frame or summarily revoke or suspend the license for the kennel or cattery, depending on the severity of the offense. If the licensee fails to come into compliance within the time period specified by the inspector, the inspector shall, by order, revoke the license for the kennel or cattery. 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 those citizens are aggrieved or annoyed to an unreasonable extent constituting a nuisance by a dog maintained in the city or town due to excessive barking or other conditions connected with a kennel or cattery, the mayor, selectmen or police commissioner, as the case may be, shall give notice, within 7 days after the filing of the petition, to all interested parties of a public hearing to be held within 14 days after the date of the 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 or cattery license, otherwise regulate the kennel or cattery or dismiss the petition. A written notice of an order revoking or suspending the license, regulating the kennel or cattery or dismissing the petition shall be mailed immediately to the officer issuing the license and to the holder of the license. Within 10 days of the written notice of the order, the holder of the license may file a petition in the district court in the judicial district in which the kennel or cattery is maintained seeking review of the order. The decision of the court shall be final and conclusive upon the parties. A person maintaining a kennel or cattery after the license to maintain a kennel or cattery has been so revoked or suspended shall be punished by a fine of not more than \$250.

SECTION 2. Said chapter 140 is hereby further amended by inserting after section 141B the following 3 sections:-

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

“Animal”, a dog or cat under 1 year of age.

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

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

“Direct violation”, a violation of the Animal Welfare Act, 7 U.S.C. 2131, et seq. or the regulations issued under the Animal Welfare Act, that has a high potential for adversely affecting the health of an animal as provided for by the Animal Welfare Inspection Guide, Appendix B, issued by the United States Department of Agriculture.

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

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

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

“Rescue organization”, an organization whose primary mission and practice is the placement of abandoned, unwanted, neglected or abused animals and that does not obtain dogs or cats from a breeder or broker for payment or compensation and that is also a tax exempt organization under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended.

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

“Unfit for purchase”, a defect which is congenital or hereditary and which has a significant adverse effect on the health of the animal or a disease, deformity, injury, physical condition or illness which has a significant adverse effect on the health of the animal and which was manifest, capable of diagnosis or likely to have been contracted prior to or at the time of the sale and delivery of the animal to the buyer.

Section 141D. (a) No dog or cat less than 8 weeks of age shall be transferred by a person. A violation of this subsection shall result in a \$100 fine for each animal transferred.

(b) A veterinarian licensed in the commonwealth may declare an animal unfit for purchase in advance of or after the purchase by providing a written statement that includes:

(i) the buyer’s name and address;

(ii) the date the animal was examined;

(iii) the breed, sex and age of the animal;

(iv) that the veterinarian examined the animal;

(v) a diagnosis that either: (1) the animal previously had, currently has or has died from a contagious or infectious disease or severe parasitism, that the veterinarian found the presence of symptoms of the disease or severe parasitism and that the disease or severe parasitism is likely to have been contracted prior to or at the time of the sale and delivery of the animal to the buyer; or (2) the animal has a congenital or hereditary condition that significantly and adversely impacts the health of the animal, requires hospitalization or a non-elective surgical procedure or caused the death of the animal;

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

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

(viii) that the examination occurred either: (1) within 14 days of the transfer of the animal if the animal was declared unfit for purchase based on an illness that existed in the animal prior to or at the time of the sale and transfer of the animal; (2) within 1 year after the sale and transfer of the animal if the animal was declared unfit for purchase based on a hereditary or congenital condition that has a significant adverse effect on the health of the animal; or (3) within 1 year after the sale and transfer of the animal if the breed, sex or health of the animal was misrepresented at the time of the transfer; and

(ix) the veterinarian’s name, address, telephone number and signature.

(c) An animal shall not be found unfit for purchase based upon:

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

(ii) a health problem or hereditary or congenital condition that is separately disclosed by the seller verbally and in writing at the time of sale and the seller and the buyer sign the written disclosure at the time of sale;

(iii) a hereditary or congenital condition if the seller provides the buyer with written documentation at the time of sale or transfer establishing that prior to breeding, the animal’s parents were screened for health issues according to breed-specific protocols and requirements established by the Canine Health Information Center or a comparable recognized animal health registry; or

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

(d) (1) If an animal is declared unfit for purchase under subsection (b), the seller shall provide the buyer with 1 of the following remedies chosen by the buyer:

(i) return the animal to the seller for a refund of the purchase price, plus the sales tax and reimbursement for reasonable veterinary fees for diagnosing and treating the animal in an amount not to exceed the original purchase price of the animal, plus the sales tax;

(ii) if a replacement animal is available, exchange the animal for an animal of the buyer's choice of equivalent value and reimbursement for reasonable veterinary fees for diagnosing and treating the animal that was unfit for purchase in an amount not to exceed the original purchase price of the animal, plus the sales tax; or

(iii) retain the animal and receive reimbursement for reasonable veterinary fees for diagnosis and treatment of the animal in an amount not to exceed 150 per cent of the original purchase price of the animal, plus the sales tax on the original purchase price of the animal.

(2) If the animal dies as a result of a condition that would have resulted in the animal being declared unfit for purchase under subsection (b), the buyer may obtain reasonable veterinary fees for diagnosing, treating and disposing of the animal in an amount not to exceed the original purchase price of the animal, plus the sales tax and either: (i) a refund for the purchase price of the animal, plus the sales tax; or (ii) a replacement animal of equivalent value of the buyer's choice.

(3) Nothing in this subsection shall require a seller to provide a buyer with a replacement animal if a replacement animal is not available.

(e) If a seller wishes to contest a demand made by a buyer for veterinary expenses, a refund or an exchange under this section, the seller may require the buyer to produce the animal for examination by a second licensed veterinarian designated by the seller within 10 days and at the seller's expense. If the animal is deceased, the seller may choose to have the second veterinarian review records provided by the buyer's veterinarian, including the necropsy report. If the buyer and the seller are unable to reach an agreement as set forth in subsection (d) within 10 business days following receipt of the animal for the examination, the buyer may initiate an action in a court of competent jurisdiction to recover or obtain a reimbursement of veterinary expenses, a refund or an exchange.

(f) Unless the seller contests the remedy chosen by the buyer under subsection (d), the remedy shall be made to the buyer not later than 10 days after the seller receives the veterinarian's statement that the animal was unfit for purchase.

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

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

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

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

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

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

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

(v) is cited on the 2 most recent United States Department of Agriculture inspection reports prior to the purchase of the animal by the pet shop for no-access violations pursuant to enforcement of the Animal Welfare Act, 7 U.S.C. 2131, et seq,.

(b) A pet shop shall not purchase a dog or cat for resale or offer for sale a dog or cat that originated at or was purchased from a

breeder, person, firm or corporation that is not in compliance with the requirements for commercial breeder kennels or catteries or personal kennels or catteries under section 174F at the time of purchase of the animal by the pet shop.

(c) A pet shop offering a dog or cat for sale shall maintain records verifying compliance with this section and documenting the source of each dog or cat the pet shop acquires, including a description of the dog or cat and the name, address and United States Department of Agriculture license number of the breeder for a minimum of 2 years following the date of acquisition of the dog or cat. The records shall be made available immediately upon the request of 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.

(d) A pet shop offering a dog or cat for sale shall post, in a conspicuous location on the cage or enclosure for each dog or cat in the cage or enclosure, a sign declaring:

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

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

(iii) the first and last name of the breeder of the dog or cat, the full street address of where the breeder is doing business, the telephone number of the breeder, an email address, if available, by which to contact the breeder, the breeder's United States Department of Agriculture license number and, if the breeder is required to be licensed in the state in which the breeder is located, the breeder's state license number.

(e) Nothing in this section shall prevent a pet shop from acquiring a dog or cat for resale or from selling or offering for sale a dog or cat obtained from a shelter, as defined in section 136A, or a rescue organization.

(f) A pet shop that violates this section shall be punished by a fine of not more than \$50 for a first offense, a fine of not more than \$100 for a second offense and a fine of not more than \$300 for a third or subsequent offense. Each dog or cat sold in violation of this section shall constitute a separate offense.

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

SECTION 3. Said chapter 140 is hereby further amended by inserting after section 174E the following section:-

Section 174F. The department shall make rules and regulations for commercial breeder kennels or catteries and personal kennels or catteries where at least 8 sexually intact female dogs or cats between the ages of 1 to 8 years of age, inclusive, are kept to breed the dogs or cats and sell the offspring as household pets. The rules and regulations shall ensure that the animals have proper housing, including requirements for adequate space, temperature, solid flooring and a prohibition on the stacking of cages, nutrition, hydration, behavioral requirements, grooming, staffing, handling, health and veterinary care, waste disposal, exercise, socialization and other general standards of care, and are bred in accordance with responsible breeding practices. In developing rules and regulations under this section, the department shall consider the recommended standards of the American Veterinary Medical Association.

SECTION 4. This act shall take effect on January 1, 2017.

06/28/16 Amendments

SB2370 - Senate Ways and Means - An Act relative to protecting puppies and kittens

1

Inspection of Kennels

Messrs. Tarr and Montigny moved that the bill be amended by inserting at the end thereof the following new:-

Section 137C of chapter 140 is hereby amended by adding at the end thereof the following new sentence:-

For the purposes of this section the commissioner of agricultural resources shall promulgate regulations to assure humane treatment of animals which shall at a minimum include; animal health and vaccination records, records of mortality and

euthanasia, documentation of sufficient food, clean water, space such that the animal can turn and stretch freely, the standards and frequency of inspections of commercial breeder kennels as defined section 136A of chapter 140

2

Fair Consumer Warranty Program

Mr. McGee moved that the bill be amended in SECTION 2, by striking out lines 113 to 129 in their entirety and inserting in place thereof the following words:-

"i) Return the animal to the seller for treatment through the seller's veterinarian at no cost to the consumer. When the animal's health is cleared by the veterinarian the animal will be returned back to the consumer. All sellers of animals shall be required to have a published veterinarian care plan and provide a warranty to consumers; or

ii) Have the animal treated at the veterinarian of the consumers' choice through the use of the seller provided warranty. Seller shall provide a reimbursement warranty up to the purchase price of the animal to consumers; or

iii) Return the animal for a full refund of the purchase price of the animal."

And further amend in line 142 by striking delete the words "10 days" and insert the words "30 days".

3

Consistency in Kennel and Cattery Regulation

Mr. Keenan moved that the bill be amended by inserting after the word "dog" in line 28 the words:- "or cat"

4

Clarifying Authorized Inspectors of Kennels and Catteries

Mr. Keenan moved that the bill be amended by striking the word "commissioner" in line 9 and inserting in place thereof the words:- "authorized inspector" and by striking the words "commissioner or other" in line 13

5

Veterinary Practice Contact Information

Mr. Keenan moved that the bill be amended by striking the words "address, telephone number and signature" in line 97 and inserting in place thereof the words:- "and signature, and the address and telephone number of their primary place of veterinary practice"

6

Reimbursement of Additional Point of Sale Fees

Mr. Keenan moved that the bill be amended by inserting after the words "sales tax" in lines 114, 119, 122, 127 and 128, in each instance, the words:- "and any additional point of sale fees"

7

Updating Violation Guidelines

Mr. Keenan moved that the bill be amended by inserting after the word "Agriculture" in line 54, the words:- ", or any successor document published by said department for the same purpose"

8

Corrective Amendment

Ms. Spilka moved that the bill be amended in section 2, by inserting after the word "of", in line 172, the first time it appears, the following words:- "the department,".

Redraft 9

Preventing Animal Abuse

Mr. Montigny moved that the bill be amended by inserting after the first paragraph, in line 42, the following sentence:- "A person maintaining a kennel without a license shall be punished by a fine of not less than \$2,500, unless such person agrees to relinquish

ownership of all dogs on the premises to animal control or other appropriate law enforcement agency. If such person does not own one or more dogs on the premises, then such person shall relinquish custody along with the owner's name and address to animal control or other appropriate law enforcement agency."; and

by inserting after section __ the following 2 sections:-

SECTION __. Section 136A of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word 'kennel' in line 77 the following words:- "at least 1 or more dogs bred on a residential property or".

SECTION __. Section 141 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking, in line 1, the figure "137A".

06/28/16 Senate Floor Amendments

SB2370 - Senate Ways and Means - An Act relative to protecting puppies and kittens

Redraft 2

Fair Consumer Warranty Program

Messrs. McGee and OConnor moved that the bill be amended in section 2, by striking out, in line 119, the word "or"; and in said section 2, by inserting after the word "animal", in line 123, the following words:- "; or (iv) return the animal to the seller for treatment by a veterinarian of the seller's choice at no cost to the buyer; provided, however, that the animal shall be returned to the buyer when the animal's health is cleared by the veterinarian"; and

in said section 2, by striking out, in line 142, the figure "10" and inserting in place thereof the following figure:- "30".

Redraft 4

Clarifying Authorized Inspectors of Kennels and Catteries

Mr. Keenan moved that the bill be amended in section 1, by inserting after the word "commissioner", in line 9, the following words:- " or an authorized inspector".

Redraft 8

Corrective Amendment

Ms. Spilka moved that the bill be amended in section 1, by striking out, in line 1, the word "Chapter" and inserting in place thereof the following words:- "SECTION 1. Chapter"; and

in section 2, by inserting after the word "of", in line 172, the first time it appears, the following words:- "the department,".

2nd Redraft 9

Preventing Animal Abuse

Messrs. Montigny, Tarr and OConnor moved that the bill be amended by inserting after section 1 the following section:-

"SECTION 1A. Chapter 140 of the General Laws is hereby amended by striking out section 141 and inserting in place thereof the following section:-

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

Whoever violates section 137A shall be assessed a fine of not less than \$250 for a first offense, a fine of not less than \$500 for a second offense and a fine of not more than \$1500 for a third or subsequent offense. The fine shall be paid to the city or town wherein the violation occurred; provided, however, that if a person is unable to pay the fine under this paragraph, the individual may agree, in lieu of payment, to relinquish ownership and control of all dogs on the premises to animal control or another appropriate law enforcement agency."