

**HOUSE . . . . . No. 3212**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Mark J. Cusack***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect pets in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>

**HOUSE . . . . . No. 3212**

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By Mr. Cusack of Braintree, a petition (accompanied by bill, House, No. 3212) of Mark J. Cusack and others for legislation to protect pets in the Commonwealth. Municipalities and Regional Government.

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**The Commonwealth of Massachusetts**

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

An Act to protect pets in the Commonwealth.

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

1 SECTION 1. Chapter 140 of the General Laws is hereby amended by inserting after  
2 section 141B the following sections:-

3 Section XXX: Definitions

4 For the purposes of this act the following words shall have the following meanings unless  
5 the context clearly requires otherwise:

6 “Animal”, any living nonhuman creature.

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

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

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

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

16 “Kitten”, a cat under one year of age

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

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

20 “Puppy”, a dog under one year of age.

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

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

29 “Unfit for purchase”, a defect which is congenital or hereditary and which has a  
30 significant adverse effect on the health of the animal or a disease, deformity, injury, physical

31 condition or illness which has a significant adverse effect on the health of the animal and which  
32 was manifest, capable of diagnosis or likely to have been contracted prior to or at the time of the  
33 sale and delivery of the animal to the buyer.

34 “USDA exempt”, a breeder who, because of the number of breeding animals owned, does  
35 not qualify for a USDA license.

36 Section XXX: Sale of puppies and kittens under 8 weeks old

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

39 Section XXX: Consumer Warranty

40 All pet shops doing business in the Commonwealth shall adhere to the following  
41 consumer warranty provisions of this section:

42 (a) If a puppy is declared unfit for purchase the seller shall provide the buyer with one of  
43 the following remedies chosen by the buyer within forty-eight hours of such declaration:

44 (1) Return the animal to the seller for treatment through the seller’s veterinarian at no cost  
45 to the consumer. When the puppy’s health is cleared by the veterinarian the animal will be  
46 returned back to the consumer; or

47 (2) Have the puppy treated at the veterinarian of the consumers’ choice through the use of  
48 the seller provided warranty. Seller shall provide reimbursement up to the purchase price of the  
49 puppy to consumers; or

50 (3) Return the puppy for a full refund of the purchase price.

51 (b)The Office of Consumer Affairs & Business Regulation is hereby directed to create an  
52 arbitration process for pet warranty issues pursuant to this section.

53 Section XXX: Consumer Warranty - period of eligibility

54 (a)The following warranty eligibility provisions shall be in place by each pet shop.

55 (1)The incubation period of a pet found to have a communicable disease shall be fourteen  
56 days.

57 (2)The incubation period of a pet found to have a congenital disorder shall be six months.

58 Section XXX: Sourcing restrictions

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

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

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

65 (3) was found to have committed a direct violation of the Animal Welfare Act, 7 U.S.C.  
66 2131, et seq, during the 2-year period prior to the purchase;

67 (4)was found to have committed 3 or more non-administrative indirect violations of the  
68 Animal Welfare Act, 7 U.S.C. 2131, et seq, during the 2-year period prior to the purchase; or

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

72 (b) A pet shop shall not purchase a dog or cat for resale or offer for sale a dog or cat that  
73 originated at or was purchased from a breeder, person, firm or corporation that meets the  
74 definition of a commercial breeder but is not in compliance with the requirements for  
75 commercial breeder kennels or catteries or personal kennels or catteries under section 174F at the  
76 time of purchase of the animal by the pet shop.

77 (c) A pet shop offering a dog or cat for sale shall maintain records verifying compliance  
78 with this section and documenting the source of each dog or cat the pet shop acquires, including  
79 a description of the dog or cat and the name, address and United States Department of  
80 Agriculture license number of the breeder for a minimum of 2 years following the date of  
81 acquisition of the dog or cat. The records shall be made available immediately upon the request  
82 of the department, the mayor of a city, the selectmen of a town, the police commissioner in the  
83 city of Boston, a chief of police or an animal control officer.

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

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

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

90 (e) Nothing in this section shall prevent a pet shop from acquiring a dog or cat for resale  
91 or from selling or offering for sale a dog or cat obtained from a shelter, as defined in section  
92 136A, or a rescue organization.

93 (f) A pet shop that violates this section shall be punished by a fine of not more than \$50  
94 for a first offense, a fine of not more than \$100 for a second offense and a fine of not more than  
95 \$300 for a third or subsequent offense. Each dog or cat sold in violation of this section shall  
96 constitute a separate offense.

97 (g) No actions described in this Section XXX shall prohibit a pet shop from purchasing a  
98 dog or cat from a USDA exempt breeder.

99 Section XXX: Prohibiting road side sales

100 It is unlawful for any person to offer for sale or adoption, sell, barter, auction, or  
101 otherwise transfer any cat or dog for consideration from any roadside, public right-of-way or  
102 public property, park, commercial or retail parking lot regardless of whether such access is  
103 authorized, or any flea market or festival.

104 This section shall not apply to persons meeting to conduct the final transaction of a  
105 previously arranged sale or exchange.

106 Section XXX: Mandatory micro chipping requirement

107 (a) No pet shop or animal rescue group shall release a dog or cat to a purchaser or adopter  
108 unless:

109 (1) such animal has been implanted with a microchip as a permanent identification;

110 (2) such pet shop or animal rescue group has registered such animal's microchip with  
111 such purchaser's contact information with a bona fide pet microchip registration company; and

112 (3) such pet shop or animal rescue group has provided such purchaser with (i) usage  
113 instructions for such microchip provided by the manufacturer of such microchip or the company  
114 with which such microchip is registered and (ii) written certification of compliance with  
115 paragraphs one and two of this subdivision, signed by such purchaser as acknowledgement of  
116 receipt, in a form and manner set forth in rules promulgated by the department.

117 (b) Every pet shop and animal rescue group shall retain for a period of ten years from the  
118 date of sale of any dog or cat, a copy of the certification signed by the purchaser required by  
119 paragraph three of subdivision a of this section.

120 (c) A pet shop that allows an animal shelter or animal rescue group to use such pet shop's  
121 premises for the purpose of making animals available for adoption shall be exempt from the  
122 requirements of subdivisions a and b of this section with respect to such animals, provided such  
123 pet shop does not have an ownership interest in any of the animals that are being made available  
124 for adoption, and the pet shop does not derive a fee for providing such adoption services.

125 Section XXX: Shelter record keeping & reporting

126 (a) Definitions as used in this section.

127 Singular words shall include the plural. Masculine words shall include the feminine and  
128 neuter.

129 "Abandon." To forsake entirely or neglect or refuse to provide or perform the legal  
130 requirements for the care and support of an animal by its owner or his agent.

131           “Abandonment.” Relinquishment of all rights and claims to an animal by its owner.

132           “Adopt” or “Adoption.” The transfer of a dog or cat from a releasing agency to a new  
133 owner by any means, whether or not a fee is charged, value given or any form of reimbursement  
134 of expenses is received.

135           “Animal Control Agency” or “Pound.” A public agency or a private nonprofit society or  
136 a corporation under contract with a unit of government whose purpose includes holding seized or  
137 confiscated animals or taking in stray, lost or unwanted animals for the purpose of placing them  
138 in new homes or otherwise disposing of them.

139           “Animal Rescue Organization.” A non-profit society or corporation either duly  
140 incorporated pursuant to the laws of Massachusetts as a domestic corporation or duly registered  
141 with the state of Massachusetts as a foreign corporation the purpose of which includes taking in  
142 unwanted domestic animals for transfer to new homes and either houses animals, in its own  
143 facility or a network of homes affiliated with the society or corporation; or An individual taking  
144 in stray, lost or unwanted animals for the purpose of placing them in new homes, transferring  
145 them to Animal Control Agencies or Animal Rescue Organizations or otherwise disposing them  
146 and who handles such animals in aggregate numbers exceeding twenty-five per year.

147           “Cat.” The genus and species known as *Felis catus*.

148           "Confiscate." To appropriate property to the use of the government or to adjudge property  
149 to be forfeited to the public, without compensation to the owner of the property.

150           “Dealer.” A person who:

- 151 (1) Transfers or offers to transfer any dog or cat belonging to another person for  
152 consideration, a fee, or a commission or a percentage of the sales price; or
- 153 (2) Transfers dogs or cats at wholesale for resale to another; or
- 154 (3) Offers dogs or cats at wholesale for resale for another.
- 155 (4) Imports a cat or dog into the State with the intent of selling the dog or cat or  
156 transferring ownership of the cat or dog for value, unless the person is registered as an animal  
157 importer with the Department of Health.

158 “Department.” The Massachusetts Department of Agricultural Resources.

159 “Dog.” The genus species and subspecies known as *Canis lupis familiaris*.

160 “Domestic animal.” Any dog, cat, equine animal or bovine animal, sheep, goat, pig,  
161 poultry, bird, fowl, confined hares, rabbits and mink, or any wild or semi-wild animal legally  
162 maintained in captivity.

163

164 “Humane society or association for the prevention of cruelty to animals.” A nonprofit  
165 society or corporation duly incorporated for the purpose of prevention of cruelty to animals.

166 “Person.” The genus and species known as *Homo sapiens*, including State and local  
167 officers, or employees, individuals, corporations, co-partnerships and associations.

168 “Releasing Agency.” A public or private pound, animal control agency, animal shelter,  
169 humane society, society for the prevention of cruelty to animals or animal rescue organization,  
170 including any person acting on behalf of such organization, that transfers a domestic animal for

171 placement or adoption, regardless of the state, country or source from which the animal was  
172 obtained.

173

174 “Commissioner.” The Commissioner of The Department of Agricultural Resources or  
175 any person to whom the authority has been delegated to by the Commissioner of DAR has  
176 delegated authority under this act.

177

178 "Seizure." The act of taking possession of property for a violation of law or the taking or  
179 removal from the possession of another. The term shall not include the taking of ownership of  
180 property.

181 “Shelter.” A nonprofit society or corporation duly incorporated for the purpose of which  
182 includes taking in stray, lost or unwanted domestic animals for the purpose of placing them in  
183 new homes.

184 “Transfer.” Transfer includes, but is not limited to, transporting, adopting, selling,  
185 buying, giving away, exchanging, bartering, offering an inducement, trading, auctioning,  
186 raffling, temporarily housing, or donating. Transporting a domestic animal to or from an  
187 agricultural, conformation, performance, exhibition or hunting event is not a transfer as defined  
188 herein.

189 "Veterinarian" or "Licensed doctor of veterinary medicine." A person who is currently  
190 licensed to practice by and in Massachusetts.

191 (b)The Commissioner shall issue regulations to require uniform records be kept by each  
192 releasing agency. The regulation shall be based on computerized software systems available and  
193 used by releasing agencies in the United States. At a minimum, the following records shall be  
194 required to be reported on a monthly basis and shall be kept for a period of five years for all  
195 animals received by the releasing agency:

196 (1) The source of the animal and the means obtained, defined as the total number of  
197 animals taken in, divided into species, in the following categories: surrendered by owner; stray;  
198 impounds; confiscations; imported into the state from another state, along with the name of the  
199 state; imported into the state from another country, along with the name of the country; returned  
200 after adoption from the Releasing Agency; and returned after adoption from another Releasing  
201 Agency, along with the name of the other Releasing Agency.

202 Feral cats shall be recorded as a separate category from other cats. Species other than  
203 domestic cats and domestic dogs should be recorded as “other.”

204 (2) Disposition of all animals taken in, divided into species, in a format determined by the  
205 Commissioner by regulation. These data must include: adoptions; reclaim by owner; died in  
206 kennel; destroyed at the owner's request; transferred to another releasing agency within the state,  
207 along with the name of the receiving releasing agency; transferred out of the state into a releasing  
208 agency in another state, along with the name of the receiving state and releasing agency; and the  
209 number euthanized.

210 The listing of euthanized animals shall include all species of animals euthanized. Feral  
211 cats euthanized shall be recorded separately from other cats euthanized.

212 (3) Total euthanasia percentage based on total intake must be presented. The euthanasia  
213 percentage shall be calculated by the following formula: the total animals euthanized minus  
214 owner-requested euthanasia minus feral euthanasia, divided by, the total intakes, minus owner-  
215 requested euthanasia intakes minus feral cat intakes.

216 (4) Euthanasia totals for each species shall be further broken down into the following  
217 categories at a minimum: medical; too young to survive; too old to survive; euthanized for space;  
218 euthanized for temperament; euthanized for breed.

219 (5) Releasing organizations that routinely euthanize dogs based on size or breed alone  
220 must provide a statement of such policy. Dogs euthanized due to breed, temperament or size  
221 must still be recorded as euthanized and must be included in the calculation of total euthanasia  
222 percentage.

223 (c) Each releasing agency shall submit an annual public report to the Department of  
224 Agricultural Resources by February 15th of the following year. The Department of Agricultural  
225 Resources shall compile the data into a statewide report and submit the report to the  
226 Massachusetts House of Representatives, Massachusetts Senate, and to the Governor by April  
227 15th of each year.

228 (d) The number of animal bites for every jurisdiction served by a shelter, Animal Control  
229 Agency, or Health Department shall be reported quarterly by the entity charged with receiving  
230 reports of animal bites.

231 (1) Bite numbers shall specifically include, at a minimum, information regarding:  
232 species; breed identification; provocation, if any; owned/stray status of animal; vaccinated/non-

233 vaccinated status of the animal at the time of the bite; and severity of bite based on a  
234 quantifiable, specific bite assessment tool.

235 (2) Breed identification shall be based on clearly defined, accepted dog and cat breed  
236 assignments in accordance with the breed standards of a nationally recognized purebred dog or  
237 cat registry. Those animals which may appear to be within a family or group, but are not clearly  
238 identifiable as a particular breed shall be designated as “No Predominant Breed.”

239 (e) Any releasing agency that fails to report the information required under subsections  
240 (b), (c), or (d) of this act within 30 days of the date required shall be subject to a penalty of \$100  
241 per day for each day after the 30th day that the report is received from the 31st day through the  
242 59th day after the due date.

243 (f) Any releasing agency that fails to report the information required under subsections  
244 (b), (c), or (d) of this act within 60 days of the date required shall be subject to a penalty of \$300  
245 per day for each day after the 60th day that the report is received from the 60th day through the  
246 89th day after the due date.

247 (g) Any releasing agency that fails to report the information required under subsections  
248 (b), (c), or (d) of this act within 90 days of the date required may not adopt animals to the public  
249 or transfer animals to another releasing agency until the report is filed with the Department.

250 This act shall take effect in 180 days.

251 Section XXX: Statewide uniformity and enforcement

252 (a) A city, town, municipality, or county may enact or enforce an ordinance to enforce  
253 sections of this act against a pet store or pet dealer. Any local law, rule, regulation or ordinance

254 that imposes requirements on pet dealers that exceed the requirements of this act or penalties  
255 prescribed in this act is preempted.

256 (b) Any local law, rule, regulation or ordinance may not directly or indirectly prohibit or  
257 be applied to prohibit the sale of animals by a pet store or pet dealer, expressly or in effect, based  
258 on the source from which the animal is obtained if obtained in compliance with the provisions of  
259 this act.

260 Section XXX: Sale of small animals; instructions on care.

261 (a) Definitions, as used in this section,

262 "small animal" shall mean any small mammal, excluding dogs or cats, including but  
263 not limited to, hamsters, chinchillas, guinea pigs, gerbils, rabbits, mice, rats, ferrets and any  
264 small amphibians or reptiles, including but not limited to frogs, snakes and lizards, but shall not  
265 include any small animals that are expressly sold for the purpose of feeding other animals.

266 "retailer" shall mean any person who conducts a business of selling or offering for sale  
267 small animals at retail for profit to the public.

268 (b) Every retailer that sells small animals to the public, shall, at the time of sale, deliver  
269 or provide digital access to the purchaser of a small animal, written care recommendations for  
270 the class of small animal being purchased, which recommendations shall: include generally  
271 accepted information intended for an inexperienced pet owner on housing, equipment,  
272 sanitation, environment, feeding and watering, handling, and veterinary care; and have been  
273 created or published by a reliable source including but not limited to: a state or national

274 professional veterinary association; an association established for the preservation and care of  
275 any such small animal; or an association representing pet retailers.

276 (c) All retailers that sell small animals to the public shall maintain a copy of the written  
277 care recommendations for each class of small animal they sell, which shall be available for  
278 inspection by the department of agriculture and markets.