The Commonwealth of Massachusetts

PRESENTED BY:

Daniel M. Donahue and Kevin J. Kuros

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 relative to the importation of animals for rescue, shelter, foster, adoption or remote sale.

PETITION OF:

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<tr>
<th>NAME</th>
<th>DISTRICT/ADDRESS</th>
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<tbody>
<tr>
<td>Daniel M. Donahue</td>
<td>16th Worcester</td>
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<tr>
<td>John J. Mahoney</td>
<td>13th Worcester</td>
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By Messrs. Donahue of Worcester and Kuros of Uxbridge, a petition (accompanied by bill, House, No. 3561) of Daniel M. Donahue and John J. Mahoney relative to the importation of certain domestic animals. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

An Act relative to the importation of animals for rescue, shelter, foster, adoption or remote sale.

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

Chapter 129 of the General Laws is hereby amended by adding the following 8 sections:-

Section 49. The following words as used in sections 49 to 57, inclusive, shall have the following meanings, unless the context clearly requires otherwise:-

“Adoption”, the process transferring ownership of a domestic animal.

“Animal”, a dog or cat.

“Animal control officer”, a person appointed pursuant to section 151 of chapter 140.

“Animal identification”, clear digital photos of the animal taken in a manner that will demonstrate all unique markings and identifying features, or, microchip number, and the animal’s name, approximate age, gender, predominate color, and predominate breed.
“Animal shelter”, “shelter” or “facility”, a facility operated, owned or maintained by an animal rescue organization that exists for the purposes of receiving, maintaining, caring for, transporting or providing for the adoption of a domestic animal, and which is not a foster home.

“Applicant”, a person who has submitted an application for registration or import registration to the department.

“Carrier registration”, the registration issued biennially by the department that authorizes a registrant to transport animals into the commonwealth on behalf of a properly registered organization.

“Cat”, a mammal of the species Felis domesticus.

“Department”, the department of agricultural resources.

“Dog”, a mammal of the species Canis familiaris.

“Domestic animal”, an animal of any domesticated species as defined by general law or the department in applicable regulations, including dogs and cats.

“Foster care”, an interim or temporary housing arrangement for a domestic animal.

“Foster home”, a residential location that provides interim or temporary in-home housing for domestic animals on behalf of an organization.

“Health certificate”, a document dated and signed by a licensed veterinarian, which certifies the health status of a domestic animal.

“Hold”, the period of time that an animal is located within the commonwealth but is not available to be transferred from the organization.
“Imported animal”, a domestic animal that has been transported into the commonwealth for the purposes of rescue, shelter, foster, adoption or remote sale

“Import registration”, the registration issued biennially by the department that authorizes a registrant to operate in the commonwealth as an organization and import animals into the commonwealth for rescue, adoption, foster care, transfer or remote sale.

“Individual animal record”, the comprehensive record relating to an individual domestic animal, including where applicable, but not limited to, an official certificate of veterinary inspection, documentation of isolation upon import, a post-isolation health certificate, a history of vaccinations, a history of all medical treatment including administered medications, the source of the domestic animal, the date of acquisition of the domestic animal, name and address of the domestic animal’s intended adoptive owner or foster home, animal identification, the date of any sale or transfer of the domestic animal, and any relevant mortality record.

“Isolation facility”, a location approved by the department to serve as a receiving station for animals affected with or exposed to an infectious or contagious disease, or any area approved by the department to accept animals for isolation upon import.

“Official certificate of veterinary inspection”, an official form issued by a USDA accredited veterinarian in the state of origin and approved by a properly designated official of the state of origin, which: (i) lists and properly describes and identifies all animals covered by the certificate that have been examined by the person issuing the form, (ii) states the nature of the examination and the findings of the health of the animals, and (iii) contains the name and address of the consignor and the consignee of the animals, vaccinations the animals may have received, and the dates on which any known vaccinations occurred.
“Organization”, a person or other legal entity not required to be licensed pursuant to section 39, 39A or 45 of chapter 129, and that either on its own behalf or as facilitator for others engages in, or arranges for others to engage in, adoption or selling of animals

“Owner Surrender”, an animal that is given up by an individual or family directly to a rescue organization in order to find a home for placement

“Quarantine”, an order of the department pursuant to section 21 of chapter 129 of the General Laws or section 54 of this act.

“Registrant”, an organization that has received a carrier registration or import registration from the department.

“Registration”, the registration issued biennially by the department that authorizes a registrant to operate as an organization in the commonwealth.

“Sterilization clause”, a stipulation within an organization’s agreement with the recipient of a domestic animal that requires the domestic animal to be deprived of the ability to produce offspring by the age of 6 months.

“Transfer”, to barter, exchange, adopt out, gift, give away or otherwise transfer ownership of a domestic animal to a person other than the registrant.

“USDA accredited veterinarian”, a veterinarian accredited by the United States Department of Agriculture’s Animal and Plant Health Inspection Service and otherwise licensed or registered by the properly designated official of the state where the veterinarian is doing business.
“Veterinarian”, a veterinarian licensed and in good standing in the state where the veterinarian is doing business.

Section 50. (a) No organization shall import domestic animals into the commonwealth for rescue, adoption, foster care, transfer or remote sale unless the department has issued such organization an import registration. An application for an import registration, or renewal thereof, shall be submitted to the department on a form prescribed by the department and shall include, at a minimum, the following information: (1) the full name and address of the organization; (2) the organization’s principal place of business; (3) a complete list of the organization’s owners; (4) a complete list of the organization’s managerial personnel, if other than the owners; and (5) a complete list of locations inside of the commonwealth where domestic animals in the custody of the organization are housed, including, but not limited to, animal shelters and foster homes, and the maximum number of domestic animals that may be appropriately cared for at each location.

(b) A professional transport organization shall not transport domestic animals into the commonwealth for rescue, adoption, foster care, brokering or remote sale by an organization unless the department has issued such professional transport organization a carrier registration and has issued any organization with which the carrier is doing business an import registration. An application for a carrier registration, or renewal thereof, shall be submitted to the department on a form prescribed by the department and shall include, at a minimum, the following information: (1) the full name and address of the carrier; (2) the carrier’s principal place of business; (3) a complete list of the carrier’s owners, if applicable; (4) a complete list of the carrier’s managerial personnel, if other than the owners; and (5) the import registration number of any organization with which the carrier is doing business.
(c) An application for import registration, carrier registration, or renewal thereof, shall be issued biennially and shall authorize the registrant to engage in import or transport for a period of 24 months from the date of issuance, unless such registration is earlier suspended, modified or revoked pursuant to section 51. An application for renewal of an import or carrier registration shall be submitted to the department no later than 30 days prior to its expiration.

(d) An application for import registration, carrier registration, or renewal thereof shall be accompanied by a fee as determined by the secretary of administration and finance pursuant to section 3B of chapter 7; provided, however, that the department may waive the fee for any applicant with (i) tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, and (ii) a current registration statement with the division of public charities in the department of the attorney general pursuant to section 19 of chapter 68.

(e) The department shall confirm the receipt of an application for import registration, carrier registration, or renewal thereof, in writing, and such confirmation shall supply a date by which the applicant will receive an approval or denial of any such application.

(f) The department shall issue each approved applicant for an import registration or carrier registration a registration certificate, which shall include a unique registration number. A registrant shall include its registration number in all advertisements, promotional materials and offers of animals to the public which appear in print, online or in other media which are issued within the commonwealth.

(g) The denial of an application pursuant to subsection (a) or (b) shall inform the applicant of his or her right to request a hearing pursuant to section 10 of chapter 30A and other
applicable provisions of said chapter 30A. An applicant may appeal the denial of such application within 30 days of receiving the denial.

(h) A registrant shall promptly notify the department of any substantial change in the information contained in an application pursuant to subsection (a) or (b).

Section 51. (a) The commissioner of agricultural resources may issue a cease and desist order to a registrant, or suspend or revoke an import registration or carrier registration for a violation of sections 49 to 56, inclusive, or any applicable rules or regulations. The commissioner shall not suspend or revoke a registration prior to a hearing and shall provide at least 15-days’ notice of such hearing.

(b) A registrant shall have 30 days, from the date of receipt, to comply with the terms of a cease and desist order or appeal such order pursuant to section 10 of chapter 30A and other applicable provisions of said chapter 30A.

(c) A registrant shall have 30 days, from the date of receipt, to appeal the suspension or revocation of an import registration or carrier registration pursuant to section 10 of chapter 30A and other applicable provisions of said chapter 30A.

(d) The commissioner may assess administrative fines, not to exceed $500 per offense, for violations of sections 49 to 56, inclusive. Each animal involved in a violation may constitute a separate offense, and each day that a violation continues after receipt of written notice of such violation from the department may constitute a separate offense. (e) The department may order the transfer of any animal in the custody of any organization found in violation of any provisions of sections 49 to 56, inclusive, from such non-compliant organization to a compliant organization.
Section 52. (a) An organization seeking to acquire an import registration must: have a detailed pre-import animal processing plan that: (i) references, in detail, the housing conditions, any isolation procedures, any vaccination procedures, any health screenings, and any disease testing, treatment or preventative measures that have been taken prior to the organization’s transporting the animal into the commonwealth; and (ii) has been reviewed and approved by the department.

(b) An organization that has received an import registration shall, in order to maintain such registration, meet the following requirements: (1) have a current import registration; (2) keep complete records, as required by section 53, on forms issued by the department; (3) make records available to inspectors from the department; (4) identify a person, who resides within the commonwealth, and who shall be responsible for producing all records that the department may lawfully request. A copy of all records shall be kept by the person so designated; (5) notify the department of all expected shipments of dogs or cats being imported into the commonwealth. Such notification shall include the estimated time and location of the arrival of such shipments. Notification shall be provided to the department no less than 24 hours prior to the estimated arrival of such shipment. Notification may be in the form of an email, phone call, voice mail or letter. The department may inspect any shipment to verify compliance with sections 49 to 56, inclusive, and other applicable laws and regulations, and to verify the health of the domestic animals being imported.

(c) All dogs and cats imported by the organization are accompanied by an official certificate of veterinary inspection, which was issued within 10 days of the date on which the dog or cat was imported into the commonwealth.
(d) All animals imported by the organization are brought into the commonwealth by a

carrier licensed by or registered with the United States Department of Agriculture. Such carrier

may be classified as a carrier, contract carrier, or intermediate handler under the Animal Welfare

Act and applicable federal regulations; provided, that the carrier shall also be registered with the

department.

(e) An organization which does not intend to use a carrier licensed by or registered with

the United States Department of Agriculture pursuant to paragraph (d) shall, in order to be so

classified, submit the following: (i) a detailed transportation plan, including the make and model

of the vehicle being used for conveyance of animals; (ii) features of the vehicle being used that

will ensure adequate climate control in the animal compartment; and (iii) the sanitation

protocols for the duration of any conveyance of animals. The department shall review and

approve such plan.

(f) A domestic animal imported by an organization shall be required to undergo a

minimum 5 day hold within an approved facility or foster home before being transferred into the

commonwealth.

Section 53. (a) A holder of a carrier registration shall maintain records, which shall

include: (1) a valid official certificate of veterinary inspection for every animal in transport; all

such certificates shall have been issued no more than 10 days prior to the date of the animal’s

arrival in the commonwealth; and (2) a complete manifest, which shall include: (i) the name of

all entities supplying animals on each shipment, (ii) the name of all entities receiving animals on

each shipment, (iii) the physical address, mailing addresses, and telephone number of each entity
(b) Organizations shall maintain records, which shall include: (1) the name, mailing address, physical address, and phone number of the registered entity and all sub-registrants acting as foster homes; (2) animal identification for each animal imported by the organization; (3) the source of each animal under the control of the organization, the contact information of the source, where known, including the source’s name, physical address, mailing address and phone number; (4) any disposition of an animal by adoption, including the adopter’s name, mailing address, physical address and phone number; (5) any disposition of an animal by foster care, including the name, physical address, mailing address and phone number of the foster home; and (6) the name, address, phone number and state registration number of any carrier licensed by or registered with the United States Department of Agriculture with which they do business, if applicable.

(c) All records required by this section shall be maintained for a period of 3 years after the importation of the animal to which the records pertain, and shall be provided to the department upon request. The department shall supply forms for the records required by this subsection or the organization may use their own forms provided they collect the required information.

Section 54. (a) All registrants are subject to inspection by the department, during normal business hours, for enforcement and verification of the requirements of sections 49 to 56, inclusive.
(b) Any animal shelter or foster home required to maintain a kennel license pursuant to section 137A of chapter 140 shall be subject to inspection by the animal control officer of the municipality in which the animal shelter or foster home is located.

(c) The department may issue an order of quarantine to restrict the movement of: (1) all domestic animals; (2) a particular species of animal; (3) a particular group of animals; (4) dogs and cats imported into the commonwealth in violation of section 138A of chapter 140, this chapter or applicable rules or regulations of the department; and (5) an individual animal. Such order related to an individual animal may restrict the movement of the animal to or from any location used by an organization, upon health concerns such as: (i) excessive parasitism; (ii) poor body condition; or (iii) presence of, or exposure to, infectious or contagious disease.

Section 55. (a) All dogs and cats that are imported into the commonwealth shall be accompanied by an animal identification and an official certificate of veterinary inspection.

(b) All dogs and cats 3 months of age or older that are imported into the commonwealth shall be accompanied by proof of rabies vaccination.

(c) No organization may offer for sale, advertise, or transfer an animal unless: (1) the animal is 8 weeks of age or older; (2) the animal has, within 30 days before the date of transfer, been examined by a veterinarian; (3) the organization possesses the animal’s individual animal record; and (4) the animal appears to be healthy at the time of transfer.

(d) No organization may offer for sale or transfer an animal which tests positive for or shows signs of any of the following conditions: (1) an infectious or contagious disease, including, but not limited to, distemper, hepatitis, leptospirosis, coccidiosis giardiasis, parvo
virus, or rabies; (2) any known internal or external parasites unless proof of treatment
accompanies the animal; or (3) any significant bite history that may pose a safety risk to humans.

(e) Prior to transfer of an animal, an organization shall provide the prospective recipient
with an animal’s individual animal record.

(f) An animal in the possession of an organization, which is found to be affected by any
non-contagious medical condition, such as nutritional or metabolic disease, fracture, lameness, or
congenital abnormalities, shall be treated and stabilized by a veterinarian prior to being offered
for sale or transfer. Such condition must be disclosed to the new owner.

(g) Animals shall be spayed or neutered prior to being offered for adoption. Any animal
not of sufficient age to be a good candidate for spay or neuter surgery may be adopted; provided,
that there is a sterilization clause in the organization’s adoption agreement. Such clause shall
require the adopter either to have the animal deprived of the ability to produce offspring by the
age of 6 months or to return the animal to the care and custody of the organization from which it
was adopted. By the time the dog or cat reaches 6 months of age, the adopter shall have provided
the organization with written documentation from a veterinarian that the dog or cat has been
spayed or neutered. Such documentation shall be retained by the organization as part of the
individual animal record. An organization invoking the sterilization clause while transferring
animals shall also comply with the provisions of section 139A of chapter 140.

(h) Within 14 days of transfer, an adopter may have an animal examined by any
veterinarian. If the veterinarian determines that the animal is affected by any medical issue and
the organization’s veterinarian concurs with the diagnosis, the adopter may return the animal to
the organization for a refund of the entire adoption fee, or, if the organization and the adopter both consent, a replacement animal.

Section 56. An owner surrender from the state of Connecticut, Maine, New Hampshire, Rhode Island, Vermont or New York shall not be subject to the any holding requirements provided that: (1) the owner surrender has undergone a veterinary exam within 14 days of being surrendered and is declared healthy and free of any communicable disease; (2) the owner surrender is surrendered to a registered entity with the department or to an individual citizen of the commonwealth; (3) all available veterinary records are provided with the owner surrender to the receiving entity; and (4) a formal owner surrender form has been completed and signed by the surrendering individual, entity, or family.

Section 57. An organization that is subject to sections 49 to 57, inclusive, shall be exempt from regulations promulgated pursuant to this chapter as said regulations relate to the promotion and marketing of an animal covered by said sections 49 to 57, inclusive, if the animal is registered with the department, and in the care of the organization.