SUPPORT with RESERVATIONS

HB1773 – An Act to Protect Pets in the Commonwealth
— Rep. Mark Cusack (D)

Referred to Joint Committee on Municipalities & Regional Government

WHAT THIS BILL DOES:
This appears to be a consumer law to protect the public buying dogs and cats from the two largest sources of pets in the state, the pet stores and the shelter/rescue organizations, but it would also apply to small, licensed home kennels. It adds to existing rules about how inspections are done at town licensed dog and cat kennels including mandating annual inspections and allowing surprise inspections. For pet shops and private breeders, it standardizes consumer warranties. It also limits pet shops to three sources from which to acquire the pets they offer: shelters or rescue organizations; breeders who are licensed and inspected by USDA under the Animal Welfare Act (AWA) and who also have a history of excellent inspection records; or small hobby breeders who are exempt from the AWA. It sets additional requirements that apply equally to pet shops, shelters, and rescues, such as record-keeping and reporting rules, prohibiting selling pets under eight weeks old, mandating microchipping, and ending sales at roadsides, parking lots, and flea markets (unless people are simply meeting in such places to complete a previously arranged sale or exchange of pets).

WHY YOU SHOULD SUPPORT WITH RESERVATIONS:
There are some good things and some bad things in this bill. It would mandate licensing and inspection and consumer warranty rules suitable for pet stores and commercial breeding establishments, but unfortunately also apply them to small, private home breeders for which they are not appropriate. On the other hand, it would improve state supervision of shelters and rescues by mandating microchipping, record-keeping and reporting to the state and by forbidding the informal sales in parking lots and other public places which many rescues now use to evade state oversight.

Pet Stores and Shelters are the largest providers of dogs and cats in Massachusetts, and most of their pets are brought in from outside the state. It makes sense to concentrate enforcement on these large sources and keep them under state oversight. Consumers should be able to get healthy animals and have recourse if the animals they buy are unhealthy. Legislators are considering other bills that regulate small, local breeders while the largest source of pets – the shelters and rescues – remains exempt from most regulation. The shelters are now the number one provider of pets in our state. Far fewer people are breeding pets at home these days, and the number of pet shops in Massachusetts has declined from about 130 to only 10 in just the past ten years. Meanwhile, shelters and rescues have multiplied to over 380. Because there is no pet overpopulation in Massachusetts, shelters don’t have enough local supply, so they have been importing a reported 18,000 dogs and cats a year. The vast majority of pets they provide come from out-of-state and foreign “rescue” sources. Shelters and rescues are required to register with the state Department of Agriculture, bring in vaccinated animals with health certificates, quarantine them for 48 hours, and have a vet examine them after 48 hours. Unfortunately, this large-scale importation creates a serious public health risk. Forty-eight hours is not long enough for vaccinations to take effect or to be sure an animal is healthy and free of parasites. Vaccinations are useless if the dog is already sick, and immunity takes a minimum of two weeks. There are no vaccines for the foreign diseases and parasites these animals may carry. They have brought new strains of rabies, distemper, and parvovirus, exotic parasites, new diseases carried by ticks and other parasites, and the new “canine flu” epidemic spreading across the US.

The state needs more public health and safety in our supervision of all out-of-state imported pets, but this bill may not be the best way to do it, unless “personal kennels” are exempted from the commercial regulations.

FOR MORE INFORMATION:
Massachusetts Federation of Dog Clubs and Responsible Dog Owners
Mrs. Bonnie Chandler, bchandler1@charter.net, 978-456-3169
Christine L. Johnston, DVM; cljdvm@yahoo.com; 781-275-6406

06/02/19
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:

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<tr>
<th>NAME</th>
<th>DISTRICT/ADDRESS</th>
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<tr>
<td>Mark J. Cusack</td>
<td>5th Norfolk</td>
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<td>RoseLee Vincent</td>
<td>16th Suffolk</td>
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<td>James J. O'Day</td>
<td>14th Worcester</td>
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<td>Thomas P. Walsh</td>
<td>12th Essex</td>
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<td>Angelo J. Puppolo, Jr.</td>
<td>12th Hampden</td>
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<td>Donald H. Wong</td>
<td>9th Essex</td>
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<td>Daniel R. Cullinane</td>
<td>12th Suffolk</td>
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<td>12th Middlesex</td>
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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. Section 136A of chapter 140 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the definition of "Attack" the following definition:-

"Cattery", a pack or collection of cats on a single premises, including a commercial boarding or training cattery, a commercial breeder cattery, a domestic charitable corporation cattery, a personal cattery and a veterinary cattery.

SECTION 2. Said chapter 140 is hereby further amended by striking out section 137C, as so appearing, and inserting in place thereof the following section:-

Section 137C. (a) 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 shall inspect a kennel or cattery or cause the inspection of a kennel or cattery at least 1 time per year. 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, the refusal shall be grounds for denial, suspension or
revocation of a person's license to operate a kennel or cattery.

Twenty-five citizens of a city or town may file a petition with the mayor of a city, the
selectmen of a town or the police commissioner in the city of Boston, as the case may be, stating
that they are aggrieved or annoyed to an unreasonable extent that constitutes a nuisance by a dog
or cat 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, not
more than 7 days after the filing of the petition, give notice to all interested parties of a public
hearing. The hearing shall be held not more than 14 days after the date of the notice. The mayor,
selectmen or police commissioner shall, not more than 7 days after the public hearing,
investigate or cause to be investigated the subject matter of the petition and shall, by order: (i)
suspend the kennel or cattery license; (ii) revoke the kennel or cattery license; (iii) further
regulate the kennel or cattery; or (iv) dismiss the petition.

(b) The inspection of a kennel or cattery to enforce the rules and regulations promulgated
under section 174G may be done by the commissioner or an authorized inspector 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 operator. The operator or an authorized agent of the operator shall
be present during the inspection and the operator shall be given a reasonable notice prior to the
inspection; provided, however, that the commissioner or other authorized inspector may
determine that it is not appropriate to provide advance notice to the operator before arriving at
the facility if necessary to adequately perform the inspection. If a kennel or cattery regulated
under said section 174G 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 commissioner or an authorized inspector a kennel or cattery is not being maintained in a sanitary and humane manner or if records have not been properly kept as required by law and in compliance with said section G, the commissioner or authorized inspector shall, by order, suspend the license for the kennel or cattery depending on the severity of the offense or issue to the operator a written citation or notice which explains the noncompliant issue and requires the operator to come into compliance within a reasonable, specified timeframe. If the operator fails to come into compliance within the time period specified by the commissioner or authorized inspector, the commissioner or authorized inspector shall, by order, revoke the license for the kennel or cattery.

(c) A written notice under subsection (a) or (b) of an order revoking or suspending the license, further regulating the kennel or cattery or dismissing the petition shall be mailed immediately to the licensee and to the officer that issued the license. Not more than 10 days after the written notice of the order, the licensee 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 revoked or suspended shall be punished by a fine of not more than $250 for a first offense, by a fine of not less than $500 for a second offense and by a fine of not more than $1,500 for a third or subsequent offense.

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

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

"Dog", a member of the Canis familiaris family or a resultant hybrid.

"Kitten", a cat under 1 year of age.

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

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

"Puppy", a dog under 1 year of age.

"Rescue organization", an organization the primary mission and practice of which is the placement of abandoned, unwanted, neglected or abused animals, that does not obtain dogs or cats from a breeder or broker for payment or compensation and that is an organization exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code or any corresponding sections of the federal Internal Revenue Code, as amended from time to time.

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

"Unfit for sale", a defect that is congenital or hereditary and that has a significant adverse effect on the health of the puppy or kitten or a disease, deformity, injury, physical condition or illness that has a significant adverse effect on the health of the puppy or kitten and which was
Section 141D. (a) No person shall sell or offer for sale a puppy or kitten that is under 8 weeks of age. A violation of this subsection shall be punished by a fine of $100 for each puppy or kitten transferred.

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

(i) the name and address of the buyer or potential buyer;

(ii) the date on which the puppy or kitten was examined;

(iii) the breed, sex and age of the puppy or kitten;

(iv) an affirmation that the veterinarian examined the puppy or kitten;

(v) a diagnosis that: (A)(1) the puppy or kitten had previously had a contagious or infectious disease or severe parasitism, currently has a contagious or infectious disease or severe parasitism or has died from a contagious or infectious disease or severe parasitism; (2) that the veterinarian found the presence of symptoms of the disease or severe parasitism; and (3) that the disease or severe parasitism is likely to have been contracted prior to or at the time of the sale or delivery of the puppy or kitten to the buyer; or (B) the puppy or kitten has a congenital or hereditary condition that: (1) significantly and adversely impacts the health of the puppy or kitten; (2) requires hospitalization or a nonelective surgical procedure; or (3) caused the death of the puppy or kitten;

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

(ix) the veterinarian's name and signature and the address and telephone number of the veterinarian's primary place of veterinary practice.

(c) A puppy or kitten shall not be found unfit for sale based upon:

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

(ii) a health problem or hereditary or congenital condition if the problem or condition was separately disclosed by the seller 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 puppy or kitten'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 puppy or kitten is clinically ill or dies due to the condition.

(d)(1) If a purchased puppy or kitten has been declared unfit for sale under subsection (b), the buyer may:

(i) return the puppy or kitten to the seller for treatment by a veterinarian of the seller's choice at no cost to the buyer; provided, however, that the puppy or kitten shall be returned to the buyer when the puppy or kitten's health has been cleared by the veterinarian.

(ii) Return the puppy for a full refund of the purchase price

(iii) if a replacement dog or cat of equivalent value is available and satisfactory to the buyer, exchange the puppy or kitten for the dog or cat and provide reimbursement to the buyer for reasonable veterinary fees paid for the diagnosis and treatment of the puppy or kitten in an amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid; or

(iv) retain the purchased puppy or kitten and receive reimbursement for reasonable veterinary fees paid for the diagnosis and treatment of the purchased puppy or kitten in an amount not to exceed the original purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid on the original purchase of the puppy or kitten.

A seller of a puppy or kitten shall inform a buyer of the buyer's options under this section at the point of sale.
(2) If: (i) within 14 days after delivery of the puppy or kitten the puppy or kitten dies because of an illness that existed in the puppy or kitten prior to or at the time of the sale or delivery of the puppy or kitten; or (ii) within 1 year after the sale or delivery of a puppy or kitten the puppy or kitten dies because of a hereditary or congenital condition that has a significant adverse effect on its health, the buyer may obtain a refund up to the purchase price of the puppy or kitten, the sales tax paid and any additional point of sale fees paid; or (B) receive a replacement dog or cat that is of equivalent value and satisfactory to the buyer.

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

For the purpose of this subsection, "puppy" or "kitten" shall mean a puppy or kitten that was under 1 year of age at the time of purchase.

(e) If a seller wishes to contest a demand made by a buyer for veterinary expenses or for a refund or an exchange under this section, the seller may require the buyer to produce the puppy or kitten for examination by a second licensed veterinarian designated by the seller and at the seller's expense not more than 30 days after the demand. If the puppy or kitten is deceased, the seller may have the second veterinarian review records provided by the buyer's veterinarian, including the necropsy report.

(f) Unless the seller contests the remedy chosen by the buyer under subsection (d), the remedy shall be made to the buyer not more than 30 days after the seller receives the veterinarian's statement that the puppy or kitten was unfit for sale.

(g) Nothing in this section shall limit the rights or remedies otherwise available to a buyer under any other law.
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 (USDA) pursuant to the Animal Welfare Act, 7 U.S.C. 2131, et seq or is USDA
   exempt, 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 critical violation of the Animal Welfare Act, U.S.C.
   2131, et seq, during the 3-year period prior to the purchase;

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

   (v) has been cited on the 2 most recent United States Department of Agriculture
   inspection reports prior to the purchase of the cat or dog for no-access violations of the Animal

(c) An owner or operator of a pet shop that offers a dog or cat for sale shall maintain
records that verify compliance with this section for not less than 2 years following the date of
acquisition of the dog or cat. Those records shall include: (i) United States Department of
Agriculture inspection reports; and (ii) the source of each dog or cat the pet shop acquired,
including a description of the dog or cat and the name, address and United States Department of
Agriculture license number of the breeder if applicable. The records shall be made available
immediately upon the request of the department, the mayor of a city, the selectmen of a town, the
police commissioner of the city of Boston, a chief of police or an animal control officer.
(d) An owner or operator of a pet shop that offers a dog or cat for sale shall post a sign that shall be clear and conspicuous and shall be of such size and so placed that an individual examining the dog or cat in its cage or enclosure may readily view the sign and its contents. The sign shall state:

(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 and cat, including any tag, tattoo, collar number and microchip information; and the USDA License number of the breeder (if applicable).

(e) Nothing in this section shall prevent a pet shop owner or operator 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, a municipal animal control agency, or from a rescue organization.

(f) A pet shop owner or operator who violates this section or provides false information pursuant to the requirements of this section shall be punished by a fine of not more than $50 for a first offense, by 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 or offered for sale in violation of this section shall constitute a separate offense.

(h) A pet shop may 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 a USDA exempt hobby breeder. Said USDA exempt breeders shall be required to provide a health certificate for each dog or cat from the state of origin. The state’s department of agriculture shall
create a standard certification form with which USDA exempt breeders must attest to that they
do not qualify for USDA licensure.

Section 141F. Prohibiting road side sales

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

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

Section 141G: Mandatory micro chipping requirement

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

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

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

(3) such pet shop or animal rescue group has provided such purchaser with (i) usage
instructions for such microchip provided by the manufacturer of such microchip or the company
with which such microchip is registered and (ii) written certification of compliance with
paragraphs one and two of this subdivision, signed by such purchaser as acknowledgement of
receipt, in a form and manner set forth in rules promulgated by the department.
(b) Every pet shop and animal rescue group shall retain for a period of two years from the
date of sale of any dog or cat, a copy of the certification signed by the purchaser required by
paragraph three of subdivision a of this section.

SECTION 4. This act shall take effect on July 1, 2019.