

SENATE No. 2994

The Commonwealth of Massachusetts

—
In the One Hundred and Ninety-Second General Court
(2021-2022)
—

SENATE, July 11, 2022.

The committee on Senate Ways and Means to whom was referred the Senate Bill protecting the health and safety of puppies and kittens in cities and towns (Senate, No. 1322), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2994).

For the committee,
Michael J. Rodrigues

SENATE No. 2994

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An Act protecting the health and safety of puppies and kittens in cities and towns.

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. Section 1A of chapter 128 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting after the word “horses”, in line 6, the first time
3 it appears, the following words:- but not including dogs or cats.

4 SECTION 2. Chapter 129 of the General Laws is hereby amended by inserting after
5 section 39G the following section:-

6 Section 39H. Every person operating a kennel, as defined in section 136A of chapter 140,
7 shall obtain a license as required by said chapter 140.

8 SECTION 3. Section 136A of chapter 140 of the General Laws, as appearing in the 2020
9 Official Edition, is hereby amended by striking out, in lines 2 and 7, the figure “174F” and
10 inserting in place thereof, in each instance, the following figure:-174G.

11 SECTION 4. Said section 136A of said chapter 140, as so appearing, is hereby further
12 amended by inserting after the definition of “Attack” the following definition:-

13 “Breeder kennel”, an establishment engaged in the business of breeding animals for sale
14 or exchange to wholesalers, brokers or pet shops in return for consideration or any premises that
15 has not less than 5 sexually-intact dogs or not less than 5 sexually-intact cats kept for the
16 purposes of breeding the dogs or cats to sell the offspring as household pets.

17 SECTION 5. Said section 136A of said chapter 140, as so appearing, is hereby further
18 amended by striking out the definition of “Commercial breeder kennel”.

19 SECTION 6. Said section 136A of said chapter 140, as so appearing, is hereby further
20 amended by inserting after the word “dogs”, in line 51, the following words:- or cats.

21 SECTION 7. Said section 136A of said chapter 140, as so appearing, is hereby further
22 amended by striking out the definition of “Personal kennel” and inserting in place thereof the
23 following definition:-

24 "Personal kennel", a pack or collection of not less than 5 dogs, 6 months old or older,
25 owned or kept under single ownership.

26 SECTION 8. Subsection (c) of section 137 of said chapter 140, as so appearing, is hereby
27 amended by striking out the first, second and sixth sentences.

28 SECTION 9. Section 137A of said chapter 140 is hereby amended by striking out
29 subsection (a), as so appearing, and inserting in place thereof the following subsection:-

30 (a) A person keeping not less than 5 dogs, 6 months old or older, shall obtain a kennel
31 license. The kennel license shall be in addition to the individual licenses for dogs over the age of
32 6 months as required under section 137. A licensing authority may issue and shall revoke kennel
33 licenses as specified under this chapter or other applicable law. In the case of an applicant for

initial licensure and in the case of an applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an animal control officer. The issuing licensing authority shall determine the period of time for which a kennel license shall be valid, including the date of issuance of the license to the date on which the license expires, inclusive, and shall further determine the fee for the issuance and renewal of the license. In determining the license fee for a kennel, a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer.

SECTION 10. Said chapter 140 is hereby further amended by striking out sections 137B and 137C, as so appearing, and inserting in place thereof the following 2 sections:-

Section 137B. (a) Every holder of a kennel license, on delivering a dog to a purchaser or to any other person, shall record the name and address of such purchaser, the date of purchase, exchange or gift and a description of the dog.

(b) The licensee shall retain such records for a period of not less than 36 months.

(c) The licensee shall, not later than 30 days after the date of purchase, exchange or gift of the dog, send a copy of the record to: (i) the clerk of the municipality where the kennel license is held; and (ii) the licensing authority in the municipality where the purchaser resides.

Section 137C. (a) The mayor of a city, the board of selectmen of a town, the police commissioner of the city of Boston, a chief of police or an animal control officer shall inspect a kennel not less than annually. If an individual holding a license or applying for a license to

operate a kennel refuses to allow an inspector to enter and inspect a kennel, the refusal shall be grounds for denial, suspension or revocation of the individual's license to operate a kennel.

Not less than 25 citizens of a city or town may file a petition with the mayor of a city, the board of selectmen of a town or the police commissioner in the city of Boston, as applicable, 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. The mayor, board of selectmen or police commissioner, as applicable, 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 license; (ii) revoke the kennel license; (iii) further regulate the kennel; or (iv) dismiss the petition.

(b) The inspection of a kennel 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 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 regulated under said section 174G is located at a private residence, only the areas of the residence that are used for kennel purposes or for the maintenance of kennel records shall be required to be available for inspection. If, in the

judgment of the commissioner or authorized inspector, a kennel 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 174G, the commissioner or authorized inspector shall, by order, suspend the license for the kennel depending on the severity of the offense or issue to the operator a written citation or notice that 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.

(c) A written notice under subsection (a) of an order revoking or suspending the license, further regulating the kennel 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 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 after the license to maintain a kennel 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.

(d) An enforcement action under subsection (b) from the department may be appealed within 21 days to the division of administrative law appeals as provided in chapter 30A.

SECTION 11. Said chapter 140 is hereby further amended by inserting after section 141B the following 2 sections:-

101 Section 141C. No person shall sell or offer for sale a puppy or kitten that is under 8
102 weeks of age. A violation of this section shall be punished by a fine of \$100 for each puppy or
103 kitten sold or offered for sale.

104 Section 141D. (a) No person shall sell, exchange, trade, barter, lease or display for
105 commercial purposes any dog or cat on any roadside, public right-of-way, parkway, median,
106 park or other recreation area, flea market or other outdoor market or commercial or retail parking
107 lot.

108 (b) This section shall not apply to: (i) the transfer of a dog or cat by or to a shelter,
109 municipal animal control facility or animal rescue organization that is registered with the
110 department, if required, and regardless of payment or compensation; or (ii) the display of a dog
111 or cat as part of a state or county fair exhibition, the statewide 4-H program or similar exhibition
112 or educational program.

113 (c) A person who violates this section shall be punished by a fine of not more than: (i)
114 \$50 for a first offense; (ii) \$100 for a second offense; and (iii) \$300 for a third or subsequent
115 offense. Each dog or cat sold in violation of this section shall constitute a separate offense.

116 (d) A city or town shall enforce this section through its animal control officers or police
117 officers in a manner consistent with the disposition provisions in section 21D of chapter 40.

118 SECTION 12. Said chapter 140 is hereby further amended by inserting after section 174F
119 the following section:-

Section 174G. The department may promulgate rules and regulations for entities licensed under section 39H of chapter 129. The rules and regulations shall consider the classification of kennels as defined under section 136A.

The department shall promulgate rules and regulations for commercial boarding or training kennels for dogs and cats, including home-based kennels, including, but not limited to, staff to dog and cat ratios, group sizes and supervision, minimum housing and care requirements, indoor and outdoor physical facility requirements, dog and cat handling, insurance and penalties for violations of the rules and regulations. The department shall require commercial boarding or training kennels to report injuries to dogs or people. The department shall develop a form for such reporting and a time frame for submitting a report after an injury. The form shall be available on the department's website for the public to report injuries. The department shall make investigative reports publicly available on its website if the investigation results in the department bringing enforcement action against the kennel.

The department shall promulgate rules and regulations for the maintenance and inspection of breeder kennels to: (i) ensure that dogs and cats and their offspring have proper housing, which shall include requirements for adequate space, temperature, solid flooring and a prohibition on the stacking of cages; (ii) establish standards for nutrition, hydration, behavioral requirements, grooming, staffing, handling, health and veterinary care, waste disposal, exercise, socialization and other general standards of care; and (iii) provide for inspections of housing to ensure that the kennels are maintained in accordance with this section.

The department shall have the ability to enforce this section under its authority in chapter 129.

142 SECTION 13. The department of agricultural resources shall promulgate the regulations
143 required under section 174G of chapter 140 of the General Laws not more than 18 months after
144 the effective date of this act.