

S. 2192, An Act Further Regulating Animal Control

Laid before the Governor on July 30, 2012

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Kindness and Care for Animals®

350 S. Huntington Avenue
Boston, MA 02130
617-522-7400

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I. BACKGROUND

Animal Control in Massachusetts:

Until around the 1970s, local government placed very little emphasis on, or provided resources for, the care and control of domestic pets unless the issue concerned rabies or damage to livestock by stray dogs. Those who worked as local “dog catchers” or “dog wardens” received little or no pay, little or no training, and little or no respect from the community.

The suburbanization of the region over the last half century brought major changes in the attitudes and needs of the residents of Massachusetts regarding the care and keeping of domestic animals. With the changing nature of both the human and pet-owning population, confrontations and complications are inevitable.

Massachusetts laws relating to animal control (found within Chapter 140 of the Massachusetts General Laws) largely still reflect the pre-1970 landscape. While some statutory changes have been made, the framework has mostly stayed the same. In Massachusetts, animal control was historically organized by county, with each county having an animal control officer or officers, paying into a county fund, etc. This is now obsolete with cities and towns “opting out” of the county system (per Chapter 140, section 147A) and making their own bylaws.

This bill will create uniformity, clear up confusion about this “opting out” of the county system and certain state laws, and bring many parts of Chapter 140 into sync with the way animal control operates -- and should operate -- in the 21st century.

History of the bill:

For decades, every legislative session saw many bills filed to remedy issues associated with the animal control laws found in Chapter 140. Although everyone seemed to acknowledge that *something* needed to be done, bills sent to various committees (Counties; Municipalities and Regional Government; Environment, Natural Resources and Agriculture) were discussed and debated but progress did not occur.

Several entities worked together -- over several years -- to create this current bill. These entities include: the MSPCA, the Animal Control Officers Association of Massachusetts (ACOAM), the Massachusetts Veterinary Medical Association (MVMA), the Animal Rescue League of Boston (ARL), and the Bureau of Animal Health within the Department of Agricultural Resources (DAR). In addition, other entities, such as dog owners, city and town officials, and public health agents have been consulted. A large meeting was held prior to the bill’s original filing to obtain input from all possible stakeholders. Many issues that were raised at this meeting or in other ways were addressed prior to filing the original legislation or in subsequent versions of the bill.

Economic ramifications:

This bill will not cost the state or municipalities anything. Financial implications are positive, saving money for cities and towns and taxpayers. This is due to:

- Reducing the number of animals municipalities impound, house and care for and by standardizing (in most cases, reducing) the holding period for stray animals. For example, New Bedford estimated they would save \$8,000/year in reduced holding costs.
- Municipalities could also expect improved licensing compliance, and therefore more income, resulting from trained, professional animal control officers.
- Reducing the number of homeless animals (via the statewide spay/neuter program) saves resources used by cities and towns to capture, house and care for animals.
- Setting forth a procedure for individuals to reimburse municipalities for the cost of holding a dog while a dangerous dog order is being appealed will also save towns and cities money.

II. SUMMARY of CHANGES in Chapter 140 by SECTION

Following is a section by section summary of most of the changes made to each section relating to animals in Chapter 140 (the bill makes changes to a few other chapters as noted). Note that it was not necessarily noted each time “dog officer” was replaced with “animal control officer,” when a reference to a “town” was changed to “city” or town or county reference was removed, or when each fine was changed, unless it was key to that section or smaller updates that are clarifying, etc. A strike-out version of the statutes with the changes that this bill would make is available.

136A. Definitions (Section 4 of S. 2192)

- Changed commissioner of public health to commissioner of agricultural resources, except in Section 174D (research institutions) where commissioner of public health remains.
- Changed “dog officer” to “animal control officer.” Animal control officer is the term commonly used nationally and in Massachusetts (see, for example, www.acoam.com; www.nacanet.com). While the term changes, this does not *require* cities or towns to cover species other than dogs, though more and more are doing so.
- Removed “dog fund”, as the country system isn’t used anymore
- Removed director of the division of accounts of the department of corporations and taxation (this is no longer used).
- Added some other definitions, such as department (department of agricultural resources), “attack”, kennel types (see below), “hearing authority”, “licensing authority”.
- Removed specific dates from licensing period (most cities and towns set their own licensing period).
- Add specific categories for different types of kennels. This definition section has been changed to specify different kennel categories, instead of having only one category which covers a wide variety of types of kennels (personal, boarding, etc.). In many instances kennels are limited to industrial, light industry or business zones, even when the kennel request is for a private or personal use kennel, not a business. Changing the definition of a kennel to separate categories and requiring towns to issue licenses accordingly allows kennel licenses to be issued to “commercial” kennels and restricted to those zones while allowing licenses to be issued for personal kennels in residential zones. Kennel licenses would be issued subsequent to an inspection by the animal control officer.
- Defined “domestic animal.”
- Defined “dangerous dog” and “nuisance dog” based on particular behaviors (more about dangerous dogs in sections 157 and 157A).
- Defined euthanasia to be the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

137. Licenses; Collars (Section 4 of S. 2192)

- Simplified first several sentences to read easier.
- Specified that the city or town can determine the cost for replacement tags (they could do this now if they invoked sections 147A or 147B).
- Removed language referencing the director (of the division of accounts of the department of corporations and taxation) and removed language that stated that the licensing “shall be in a form prescribed by the director, upon a blank to be furnished.”
- Moved rabies exemption from this section to 145B.

137A. Kennel Licenses (Section 4 of S. 2192)

- Removed language referencing the director (of the division of accounts of the department of corporations and taxation) that stated that the licensing “shall be in a form prescribed by the director, upon a blank to be furnished.”
- Specified that cities and towns can set own kennel license fee (they could also do this prior by opting out of the county system pursuant to 147A, 147B).
- Removed references to county commissioners.
- Removed provision about the ability to relocate kennel within same county and pay balance of original license, due to demise of county system.
- Required inspection by the animal control officer (ACO) prior to licensing.

137B. Tag and Certificate Required with Delivery of Unlicensed Dog by Kennel Licensee (Section 5 of S. 2192)

- No significant changes.

137C. Inspection of Kennels; Suspension or Revocation of License; Procedure for Declaring Kennel a Nuisance (Section 6 of S. 2192)

- Removed specific references to Nantucket and Suffolk county, and investigation and report by county commissioners for nuisance complaint.
- Raised fine from “not more than \$50” to “not more than \$250” for violation for maintaining a kennel license after revoked.

137D. Dog Licenses Issued to Persons Convicted of Cruelty to Animals void; No New License to be Issued for Two Years from Conviction (Section 7 of S. 2192)

- Changed time during which a person convicted of cruelty to animals cannot license a dog from two to five years (and therefore the person cannot own a dog).

138. Notice Required of Person Becoming Owner or Keeper of Licensed Dog; Dog Brought into Commonwealth (Section 8 and 9 of S. 2192)

- Changed 3 to 6 months to make consistent with Section 137 (age by which dog must be licensed).

138A. Health Certificates For Importation or Sale of Dogs and Cats (Section 3 and 10 of S. 2192)

- Moved to Chapter 129 (a more appropriate place; Ch. 129 deals with disease control).
- Applied statute to importation of all dogs and cats, not just those for resale.
- Required the certificate to be issued prior to entry (removed the allowance for receiving a certificate within 14 days after entry).
- Eliminated the laundry list of specified diseases and instead added "infectious or contagious disease."
- Included a provision for requiring proof of rabies vaccination on the certificate, with an allowance to obtain the shot after the animal is imported within 30 days.
- Eliminated the sentence about isolation, as that is already covered in the pet shop regulations (321 CMR 12) and the shelter emergency order (1-AHO-05, May 05).
- Eliminated the last paragraph – an exemption for shows, fairs, field trials, etc.

139. Fees; Refunds in certain Cases Forbidden (Section 1, 2 and 11 of S. 2192)

- Any municipality can set its own fee if it opts out of the county system. The fee language was removed to be consistent with what is happening in municipalities (most don't charge the \$3/\$6).
- Specifies fee for spayed or neutered animal to be lower than intact animals (this is a current and commonly used method to reduce homeless animal populations). Most cities/towns already do this. A chart of license fees is available upon request.
- Requires that certain dog licenses be issued without a fee (for service animals defined by the Americans with Disabilities Act and people over 70).
- A Senator Tarr amendment added that any license increase “without a majority vote of the city council or the voter present at a town meeting.” (this already happens.)

139A. Neutering of Dogs or Cats at Animal Shelters; Deposit; Certification; Disposition of Unclaimed Deposits (Section 12 and 13 of S. 2192)

This is the statute that is meant to require the spaying and neutering of dogs and cats adopted from shelters or animal control facilities. Several changes have been proposed to improve its effectiveness. These changes are based on many similar provisions that other states have:

- Added provision for written agreement (to assist with enforcement);
- Changed deposit fee to a minimum of \$40 rather than the current limit of \$10 to \$30 (this hasn't been increased since 1987 when the bill passed and is not enough to encourage surgery if someone doesn't want to comply);
- Added enforcement provision/forfeiture or civil fines for non-compliance.

141. Penalty for Violating Statutes, Keeping Unlicensed Dog (Section 14 of S. 2192)

- Changed fine for keeping unlicensed dogs from “not less than twenty-five” to “not more than fifty.”
- Removed specific reference to Suffolk county.

141A. Sections 137-141 Not to Apply to Institutions Licensed Under Chapter 49A

- No changes.

141B. Sections 137-141 Not to Apply to Pet Shops Licensed Under 39A of Chapter 129

- No changes.

145. Description of Rabies Symptoms to Be Printed on Each License (Section 15 of S. 2192)

- Removed “director of accounts.”

145A. Anti-Rabic Vaccine (Section 16 of S. 2192)

- Removed specific references to county government.
- Removed the requirement that counties must contract for the vaccine for cities and towns on order of the board of health.

145B. Vaccination of Dogs and Cats Against Rabies; Certificates; Tags; Penalties (Section 17 of S. 2192)

- Added ferret, but exempted them from requirement to wear tag, along with cats.
- Increased fine from “not more than fifty” to “not more than \$100.”
- Reduced the time for unvaccinated dogs, cat and ferrets to be vaccinated from 90 to 30 days after they arrive in the Commonwealth or after they reach 6 months of age.
- Added rabies exemption that had been in section 137.

146. License Valid Throughout Commonwealth (Section 18 of S. 2192)

- Allows transfer license fee to be determined by a city or town.

147. Issuing of Licenses; Disposition of Fees. (Section 19 of S. 2192)

- Removes language about amount and timing of deposits into county treasuries and when license books and tags shall be returned to the county.

147A. Enactment of By-laws and Ordinances’ Disposition of Process from Licenses of Fines (Section 19 of S. 2192)

- Removed (this section allowed cities and towns to enact by-laws relative to the regulation of dogs). See now section 173. This ensures that the provisions in sec. 147A that were to not be changed by a city or town (as well as other provisions now) are still not changed, nor anything else be inconsistent with these sections.

147B. Establishment by County of Rules and Regulations Relative to Regulation of Dogs (Section 20 of S. 2192)

- Section deleted (dealt with how counties can change these laws in Ch. 140).

149. Accounts of City and Town Treasurers (Section 21 of S. 2192)

- Removed references to Suffolk county.
- Changed “dog” to “animals”.

150. Person Who Makes List of Residents to Make List of Dogs; Penalty (Section 21 of S. 2192)

- Removed date of April 1st and replaced with “yearly.”
- Changed “not less than \$10 dollars” to “not less than \$20 dollars.”

151. Dog Officers; Killing Unlicensed Dogs; Officers Not to Be Licensed Animal Dealers (Section 21 of S. 2192)

- Remove specific reference to Suffolk county.
- Removed references to county commissioner and county dog officers.
- Changed fine from “not less than fifty” to “not more than 1,000” (fine for turning over animals for research).
- Requires that an animal control officer check for a microchip or tattoo to try to verify the identity of a dog or cat.
- Requires the mayor or selectmen to submit the names and addresses of ACOs to the commissioner (and notify when an ACO is removed) and allows the commissioner to appoint an ACO if the municipality fails to do so.

151A. Capture and Confinement of Dogs; Complaints Against Owners; Killing or Adoption of Dogs (Section 21 of S. 2192)

- Removed specific references to Suffolk county.
- Replaced specific banned euthanasia methods to allow only barbiturates used in a manner deemed acceptable by the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia.

- Removed reference to county commissioners.
- Changed the mandatory holding period for dogs from ten to seven days (currently Suffolk is 7 days; other counties are 10). Not only would this make the laws more uniform, but research suggests that stray dogs are usually reclaimed within 3 days. A person who has lost a dog should, with any reasonable effort, be able to find the dog at an animal shelter within this period of time. Many other states have lower holding periods. This would save cities and towns money and allow dogs to be available for adoption sooner.
- Changed time an animal control officer forwards records of animals to the city or town clerk from “as soon as possible” to within 30 days.
- Allows commissioner to inspect places that hold stray dogs.

151B. Veterinarians' Fees for Emergency Treatment of Dogs and Cats Injured on Ways (Section 21 of S. 2192)

- Changed “not to exceed twenty dollars” to “not more than \$250” dollars (this is the amount a veterinarian can receive when treating a stray dog or cat injured on a public way.)

151C Animal Control Officers' training (new section) (Section 21 of S. 2192)

- Requires Animal Control Officers to complete a training course within one year of hire.

152. Returns by Dog Officers. (Section 22-24 of S. 2192)

- Added cats (to the numbers that that an animal control officer records on numbers he/she has caught, confined, killed, or made available for adoption).
- Removed specific date when warrant return shall be made.

153. Warrant to Dog Officers (Section 25-29 of S. 2192)

- Removed specific warrant for Suffolk County.
- Changed euthanasia section to allow only barbiturates used in a manner deemed acceptable by the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia.

155. Liability of Owner for Damage by Dog.

- No changes.

155A. Indemnification of Law Enforcement Officers for Damages Caused by Dogs Kept by Them.

- No changes.

156. Dog Attacking Person or Certain Animals May Be Killed. (Section 30 of S. 2192)

- No changes.
- Add language to require that a person who kills or wounds a dog to notify the animal control officer or policy offer. Currently, the notification regarding a wounded dog is evidence of regard for the suffering of the dog; however, there is no notification provision if the dog is killed.

157. Definition as to Dangerous Dog (Section 31 of S. 2192)

- Sets forth procedure for initiating a dangerous dog or nuisance dog hearing, as well as what action the city or town can take to prevent dog bites (muzzling, restraining the dog, etc.).
- Prohibits municipalities from regulating dogs in a manner specific to breed.
- Prohibits the process of banishment -- moving dogs deemed dangerous from one town to another.
- Sets forth a procedure for a city or town to petition the court to require the dog to be kept at the municipal shelter during an appeal by the owner of the dog's dangerousness.
- If the dog is euthanized for dangerousness, the owner shall reimburse the city for the cost of housing, with various ways to recoup these funds.

157A. Complaint for dangerous or nuisance dog (Section 31 of S. 2192)

- Fines for failing to comply with an order of the hearing authority (definition is in 136A) or court.
- Prohibits anyone over 17 who knows that a dog is dangerous under section 157 to allow a child under the age of 17 to possess or have custody of the dog.

158. Dog Previously Ordered Restrained Found Outside Enclosure or Dog Living in Wild State May Be Killed. (Section 31 of S. 2192)

- Updated; allows the detaining of a dog; removed reference to county commissioners.

159. Treble Damages if Dog, After Order of Restraint, Causes Injury. (Section 31 of S. 2192)

- Remove county commissioners.

160. Protecting Live Stock and Fowls from Injury by Dogs. (Section 31 of S. 2192)

- Updates; removes reference to country commissioners.

161. Certain Damages by Dogs to Be Paid by the County; Appraisal. (Section 31 of S. 2192)

- Removes specific reference to Suffolk county and county commissioners/country appraisers.
- Changes country treasury to city or town.

161A. When Reimbursement for Damages to Live Stock or Fowls Not Allowed.

- No changes.

162. Reward for Killing Dog Found Injuring Certain Live Stock or Fowls. (Section 32 of S. 2192)

- Stricken, outdated section allowing rewards for killing animals.

163. Notice to Owner to Kill Dog Damaging Live Stock or Fowls. (Section 33 of S. 2192)

- Changes from dog fund to city of town.
- Changes kill to euthanize.

164. Penalty for Not Killing or Confining Dog Damaging Live Stock or Fowls. (Section 34 of S. 2192)

- Increases fine.
- Changes kill to euthanize.

165. Appointment of Persons to Investigate Damages by Dogs. (Section 35 of S. 2192)

- Removes references to Suffolk country and county commissioners/county treasurer.

166. Owner of Live Stock or Fowls Damaged Has Choice of Remedy.

- No changes.

167. Dogs May Be Required to Be Muzzled or Restrained; Killing Unmuzzled or Unrestrained Dogs, When Authorized. (Section 36 of S. 2192)

- Changes fine.
- Changes kill to euthanize.
- Changes 10 to 7 days.

168. Service of Order; Penalty. (Section 37, 38 of S. 2192)

- Changes fine.

169. Penalty on Officer Refusing or Neglecting to Perform Duties. (Section 39 of S. 2192)

- Removes references to county government and Suffolk country.
- Changes fine from not more than \$100 to not less than \$100

170. Disposition of Fees or Penalties Relating to Dogs in Suffolk County. (Section 40 of S. 2192)

- Deletes section (removing references that single out Suffolk county).

171. Owner of Dog Liable to County for Damages Paid by It. (Section 41 of S. 2192)

- No changes.

172. Disposition of Balance of Dog Fund for Support of Public Libraries or Schools. (Section 42 of S. 2192)

- Deletes, deals with money left over in dog fund/county treasury.

173. Ordinances and By-Laws as to Dogs. (Section 43 of S. 2192)

- Allows a city or town to make additional ordinances or by-laws relative to the licensing and control of animals that aren't inconsistent with sections 136 to 174D.

173A. Noncriminal Disposition of Complaints for Violation of Municipal Dog Control Laws. (Section 44 of S. 2192)

- Increases fines.

174A. Regulating Killing of Dogs in Carbon Monoxide Chamber. (Section 45 of S. 2192)

- Only allows euthanasia with barbiturates in a manner deemed acceptable by the AVMA (removes standards for use of Carbon Monoxide and Carbon Dioxide gas).

174B. Dogs to Be Restrained in Certain Highway Rest Areas. (Section 46 of S. 2192)

- Changes fine from not more than fifty dollars to not more than \$100.

174D Research institutions; license to use dogs or cats; rules and regulations (Section 47 of S. 2192)

- Because commissioner was changed in definition section, these changes make sure that in this section only jurisdiction remains in the Department of Public Health. Adds the words "of public health" where the word commissioner appears.

Other M.G.L. chapter changes:

SECTION 1 of S. 2192 Creates a Homeless Animal Prevention and Care Fund to be used by the Department of Agricultural Resources to spay/neuter & vaccinate dog and cats and train animal control officers, funded through a voluntary check-off donation on annual income tax returns.

SECTION 2 of S. 2192 Contains the language for the Commissioner of Revenue relating to the tax form and the manner in which it appears for the Fund in SECTION 1.

SECTION 3 of S. 2192 (this is also noted above) Moves a section of the law that is now found in Ch. 140 sec. 138A to Ch. 129 section 39G, relating to animals coming into the state, governed by the Department of Agricultural Resources (MDAR). Updates language relating to health certificates.

SECTION 48 of S. 2192 Sets limitations on the tethering of dogs.

SECTION 49 of S. 2192 Prohibits a person from working with animals after a conviction for animal cruelty.

SECTION 50 of S. 2192 Allows pets to be included in abuse prevention orders.

SECTION 51 of S. 2192 Requires animal control officers to receive training once funding in the Homeless Animal Prevention and Care fund is adequate.

SECTION 52 of S. 2192 Requires the amendment of forms relevant to SECTION 50 above.

SECTION 53 of S. 2192 Establishes an advisory committee to assist the commissioner in establishing procedures for the disbursement of funds from the Homeless Animal Prevention and Care Fund.

III. S. 2192 - SECTION BY SECTION SUMMARY

SECTION 1 Creates a Homeless Animal Prevention and Care Fund to be used by the Department of Agricultural Resources to spay/neuter & vaccinate dog and cats and train animal control officers, funded through a voluntary check-off donation on annual income tax returns.

SECTION 2 Contains the language for the Commissioner of Revenue relating to the tax form and the manner in which it appears for the Fund in SECTION 1.

SECTION 3 Moves a section of the law that is now found in Ch. 140 sec. 138A to Ch. 129 section 39G, relating to animals coming into the state, governed by the Department of Agricultural Resources (MDAR). Updates language relating to health certificates.

SECTION 4 Updates the definition section relating to animal control, including changing “dog officer” to the term “animal control officer,” removing outdated terms such as “dog fund,” distinguishing between different types of kennels and adding some definitions to be used later in the euthanasia and dangerous dog sections. Section 4 also updates and makes clearer the language regarding dog licensing and kennel licensing and inspection. Removes outdated language relating to the county system. Moves rabies exemption from this section to 145B.

SECTION 5 Adds the word “or city” after the word “town.”

SECTION 6 Updates this section that relates to kennels by removing references to county commissioners. Updates penalty for operating an illegal kennel.

SECTION 7 Increases the period of time during which a person can’t license a dog after being convicted of animal cruelty from 2 to 5 years.

SECTION 8 Adds the word “or city” after the word “town.”

SECTION 9 Changes the age at which a dog must be licensed from 3 to 6 months to be consistent with Ch. 140 sec. 137.

SECTION 10 Repeals section 138A of Ch. 140 (which is now in Ch. 129 per SECTION 3 above).

SECTION 11 Specifies that cities and towns set their license fees as they do now, but an altered dog is less than an unaltered dog. No fee for a dog license for service dogs or dogs owned by people over 70.

SECTION 12 Improves the 1987 shelter spay/neuter deposit law by updating the potential deposit amount and requiring a written agreement regarding the spaying/neutering of the animal. (An adopter can currently leave a deposit of \$10-30 which he/she will get back if the dog is sterilized.)

SECTION 13 Adds enforcement provision for this shelter spay/neuter law.

SECTION 14 Updates the penalty provision for violations of Ch. 140 sections 137, 137A, 137B or 138 from “not less than \$25” to “not less than \$50.”

SECTION 15 Removes outdated reference to the “director of accounts.”

SECTION 16 Strikes outdated language relating to counties and reimbursement from county fund.

SECTION 17 Adds ferrets to vaccination requirement (to be consistent with regulations since they became legal in 1994). Reduces time for unvaccinated dogs, cats and ferrets to be vaccinated from 90 to 30 days after they arrive in the Commonwealth or reach the age of 6 months.

SECTION 18 Allows the city or town to determine the amount of a dog's transfer license if the owner moves.

SECTION 19 Removes reference to county system.

SECTION 20 Repeals this section which relates to cities and towns “opting” out of the county dog system.

SECTION 21 Updates language relating to county system. Allows the MDAR to appoint an ACO if city or town fails to do so (they must have one now, but no enforcement if they don't). Requires animal control officers to check stray dogs for a microchip or tattoo. Increases the penalty for turning over stray animals to research facilities. Requires euthanasia by the use of barbiturates in a manner consistent with the American Veterinary Medical Association Guidelines on Euthanasia. Allows Commissioner of MDAR to inspect facilities where stray animals are kept. Increases the amount that a veterinarian can recover for treating a stray dog or cat from \$20 to a max. of \$250. Stray dog holding period standardized to 7 days for all counties. Allows the Commissioner to expend monies from the Homeless Animal Prevention and Care Fund set up in SECTION 1 for animal control officer training.

SECTION 22 Changes the word “dog” to “animal control” before the word “officer.”

SECTION 23 Changes “dogs” to “dogs and cats” resulting in ACOs reporting cats caught, confined, killed or adopted.

SECTION 24 Changes the word “dogs” to “animals” in reference to this chapter.

SECTION 25 Removes the words “except Suffolk county” since the warrant will apply to all counties (since the stray dog holding time is being standardized to 7 days).

SECTION 26 In the warrant, requires humane euthanasia.

SECTION 27 In the warrant, standardizes stray dog holding time to 7 days before re-homing.

SECTION 28 In the warrant, changes “dogs” to “dogs and cats” resulting in ACOs reporting on dogs and cats caught, confined, killed or adopted.

SECTION 29 Removes old warrant language (there had been two – one for Suffolk county and one for others).

SECTION 30 Requires a person who wounds or kills a dog in self-defense (or in defense of animals) to report such wounding or killing.

SECTION 31 Revises dangerous dog law to define what actions could deem a dog dangerous. Sets up preventative measures to prevent dog bites (humane restraint, behavior training, muzzling), without breed-specific language. Keeps current appeal process through district court. Allows cities and towns to be reimbursed for the costs of holding a dog if the order of euthanasia is affirmed by the district court; set forth a mechanism for municipalities to recoup costs of holding said animal.

SECTION 32 Removes this section that allows cities or towns to set a reward for the killing of dogs found worrying, maiming or killing livestock or fowls.

SECTION 33 Removes county fund reference and requires humane euthanasia.

SECTION 34 Updates language to require humane euthanasia.

SECTION 35 Removes county references for the process of investigating damages by dogs.

SECTION 36 Updates section to require humane euthanasia.

SECTION 37 Adds “mayor” after the words “alderman or selectmen” in reference to making an order to restrain a dog.

SECTION 38 Changes “not more than \$25” to “not less than \$25” for failing to restrain a dog so ordered.

SECTION 39 Changes the penalty from “not more than \$100” to “not less than \$100” for an animal control officer who neglects to perform the duties imposed upon him by the city or town.

SECTION 40 Removes this section relating to the disposition of leftover funds in Suffolk county dog system.

SECTION 41 Removes the references to the county fund for damages done by dogs.

SECTION 42 Repeals this section that deals with the balance of the county dog fund.

SECTION 43 Allows cities and towns to make additional ordinances that aren't inconsistent with this chapter (Ch. 140 secs. 136 – 174D).

SECTION 44 Increases penalties for violation of municipal dog control laws from \$25/30/50 to \$50/60/100, though cities and towns can continue to set their own as they do now.

SECTION 45 Requires euthanasia only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association or pursuant to 151A (gunshot in case of emergency).

SECTION 46 Updates penalty for letting a dog off leash in highway rest stop from “not more than \$50” to “not more than \$100.”

SECTION 47 Adds the word “public health” to make clear that this section (174D) on research continues to fall under that Commissioner.

SECTION 48 Sets limitations on the tethering of dogs.

SECTION 49 Prohibits a person from working with animals after a conviction for animal cruelty.

SECTION 50 Allows pets to be included in abuse prevention orders.

SECTION 51 Requires animal control officers to receive training, once funding in the Homeless Animal Prevention and Care fund is adequate.

SECTION 52 Requires the amendment of forms relevant to SECTION 50 above.

SECTION 53 Establishes an advisory committee to assist the commissioner in establishing procedures for the disbursement of funds from the Homeless Animal Prevention and Care Fund.

* this is a summary; a longer version and a comparison between the current law and changes that would be made with S. 2192 is found starting on page 3 and in a strike-out version.

IV. DETAIL ON SELECTED KEY PROVISIONS

A. State Oversight of Animal Control (Sections 1, 2, 53, 12 and 21 of S. 2192)

General Oversight of Animal Control

Massachusetts has no state oversight for animal control, unlike many other states, including several in New England. For example,

- **Connecticut:** This state has an Animal Control Division in their Department of Agriculture (www.ct.gov/doag). This Department oversees several animal control areas and also operates the Animal Population Control Program.
- **Maine:** Maine's Department of Agriculture, Food and Rural Resources (www.maine.gov/agriculture/aw) runs an Animal Welfare Program that is funded by the licensing of dogs and various other facilities. It has many responsibilities, including implementing and administering the animal control officer basic training and certification program.

Oversight by the Massachusetts Department of Agricultural Resources (DAR), which they support, would include overseeing animal control officer training and compliance, enforcing 139A (the shelter/municipal animal control facility spay/neuter law), and ensuring municipalities appoint animal control officers.

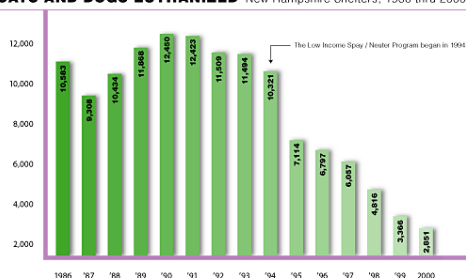
B. Creation of a Homeless Animal Prevention and Care Fund (Sections 1, 2, & 52 of S. 2192)

While a reduction of the number of homeless animals is an animal welfare issue, reducing these numbers will also save cities and towns money. Thirty-four states and the District of Columbia have state funds devoted to decreasing the number of homeless and stray animals. Based on other states' results, Massachusetts could expect to save approximately \$3 for every \$1 spent on spay/neuter. The Homeless Animal Prevention and Care Fund would be funded by a tax check off on state income tax forms; this Fund would pay for spay/neuter surgeries as described below and also for the training of Animal Control Officers (as described in Section E below).

Statewide Spay and Neuter Funds Save Lives. Using dedicated statewide funds to subsidize low-cost sterilization programs for low-income residents have been shown to be the most effective method to decrease the number of homeless and stray animals. For example,

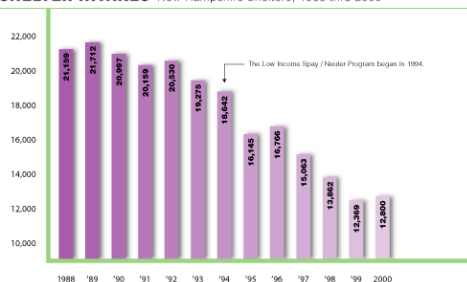
- **New Hampshire:** Since the inception of New Hampshire's "Animal Population Control Fund" shelters and animal control departments in the state have experienced a 34% decrease in intake rates and a 75% decrease in euthanasia. That means 8,000 fewer animals are euthanized every year (20 fewer dogs and cats a day).¹
- **New Jersey:** New Jersey has experienced similar success since the inception of their state spay and neuter fund. There has been a 25% reduction in the number of dog and cat intakes and a 41% reduction in euthanasia since 1984. Additionally, the adoption rate has risen by 39%.²

CATS AND DOGS EUTHANIZED New Hampshire Shelters, 1986 thru 2000



SOURCE: New Hampshire Federation of Humane Organizations, Inc.

SHELTER INTAKES New Hampshire Shelters, 1988 thru 2000



SOURCE: New Hampshire Federation of Humane Organizations, Inc.

¹ New Hampshire Department of Agriculture, Markets, and Food.

² New Jersey Department of Health and Human Services (2001).

Sterilization of animals decreases not only the number of homeless and feral animals born each year, but it also decreases unwanted behaviors in animals, including roaming and aggression, which often lead to the surrender and euthanasia of animals. Intact animals make up a majority of the animals surrendered to animal control and animal sheltering facilities. For example, approximately, 70% of cats and 57% of dogs that come into the MSPCA's shelters across the state are not spayed or neutered.

Statewide Spay and Neuter Funds Protect Public Health and Safety. An estimated 4.5 million people are bitten by dogs each year, with 800,000 people receiving dog bites that require medical attention. A majority of these bites involve children and the elderly. Neutering has been shown to reduce aggressive tendencies in dogs. In fact, 80% of dogs presented to veterinary behaviorists for dominance aggression were intact animals. A national study published in the *Journal of the American Veterinary Medical Association* found that while a minority of dogs are intact (20-23%), this population of intact dogs accounts for 70- 76% of dog bites in the United States.³ By decreasing the number of intact animals in the state, a spay and neuter fund would decrease the number of bites and animal-related injuries in Massachusetts.

Statewide Spay and Neuter Funds Save Money. Substantial cost savings comes from statewide subsidized spay and neuter programs by reducing the costs of services to deal with stray, abandoned and feral animals and their offspring. The International City/County Management Association (ICMA) found that in the six years since the New Hampshire Animal Population Control Program's inception, the state admitted 30,985 fewer dogs and cats than in the six years preceding the program. ICMA estimates that New Hampshire saved \$3.2 million in impoundment costs based on a per animal shelter cost estimate of \$105. "The cost of the program was just over \$1 million, meaning the state saved more than \$2.2 million in the program's first six years. Thus New Hampshire taxpayers saved about \$3.23 for every dollar the state spent on a subsidized sterilization program."⁴

New Jersey's statewide spay and neuter fund has also saved the state money – for every dollar spent towards spay and neuter it saved \$3 in impoundment fees due to the decrease in intake rates.⁵

Massachusetts Has Not Solved its Homeless Pet Problem:

Statewide statistics on intake and euthanasia rates are not kept in Massachusetts. However, we know that the MSPCA's animal care and adoption centers (data from when 7 shelters were operating) took in approximately 4,900 dogs and 16,500 cats each year. 37% percent of the cats brought into the MSPCA were kittens; 7% of the dogs coming in were puppies. While there is truth to the argument that puppies make up a minority of the dogs coming into animal shelters and animal control facilities, *there is no truth to the argument that the creation of a spay and neuter fund would not save the lives of thousands of animals being euthanized in Massachusetts.*

Research studies show that animals in low-income households are much less likely to be sterilized; by targeting low-income households, people who use the low-cost spay/neuter programs would otherwise have not been able to spay or neuter their pet. Low-cost spay and neuter programs lower the number of uncontrolled and accidental births each year. Targeted spay and neuter programs also lower the number of surrendered and stray animals brought into animal control and sheltering facilities. Studies published in the *Journal of the American Veterinary Medical Association* found that nearly one third of relinquishments could be *directly* attributed to the animals being sexually intact.^{6, 7} A recent study conducted by Dorr Research Corporation found that in Massachusetts 87% of owned dogs are sterilized and 94% of owned cats are sterilized. Yet, a majority of the dogs and cats coming into the MSPCA's adoption centers are intact animals. This means that while intact animals make up a minority of the population, they make up a large majority of the animals coming into animal control and sheltering facilities. Additionally, even though a majority of owned animals are sterilized, the same study also indicates that 12% of adult cats have had at least one litter of kittens (while the average is 2.4 litters with an average litter size of 4.2 kittens).

C. Improving the Shelter Mandatory Spay/Neuter Law (Section 12 of S. 2192)

³ American Veterinary Medical Association: Task Force on Canine Aggression and Human Canine Interactions. A community approach to dog bite prevention. *JAVMA* 2001; 218:1732-1749.

⁴ International City/County Management Association (2001). *Animal control management*. Washington; International City/County Management Association.

⁵ Secovich, S. (2003). Case study: Companion animal overpopulation programs in New Jersey, New Hampshire, and Maine and a new program for Maine.

⁶ Patronek, G.J., Glickman, L.T., Beck, A.M. et al. (1996a). Risk factors for relinquishment of dogs to an animal shelter. *Journal of American Veterinary Medical Association*, 209(3), 572-581.

⁷ Patronek, G.J., Glickman, L.T., and Beck, A.M. et al. (1996b). Risk factors for relinquishment of cats to an animal shelter. *Journal of American Veterinary Medical Association*, 209(3), 582-588

Currently, Section 139 of Chapter 140 requires shelters and municipal animal control facilities to collect a deposit if an animal is adopted without being spayed or neutered. The deposit is designed to help ensure the animal is spayed or neutered and that shelters and animal control facilities are not inadvertently participating in the pet overpopulation problem they seek to solve. If the owner does not get the surgery performed, the deposit is forfeited.

Amendments to Section 139 in S. 2192 would increase the deposit fee from \$10-30 to not less than \$40. The bill also allows the commissioner of agricultural resources to impose fines for violations for non-compliance. Animal control officers and shelters can also petition for the forfeiture and relinquishment of the animal from owners who do not comply with the law.

The increased spay/neuter deposit creates more of an incentive for owners to comply with the law. Updating this outdated fee will help result in higher compliance, as adopters will be more likely to get their animal spayed or neutered in order to get their deposit back.

The imparting of violations will also help raise compliance levels as the risk of being fined or losing the pet gives more weight to the agreement. Twenty other states have violations incorporated in their similar laws and have found this to be an effective tool for compliance.

D. Dangerous Dogs (Section 4, 31 of S. 2192)

After lengthy discussions with those enforcing dangerous dog laws, those engaged in the administrative process involved with dangerous dog issues, as well as those involved in defending dogs deemed dangerous, provisions have been drafted to improve these laws.

Below is a summary of the proposed measures:

Procedural (§157): This section clearly defines the steps that must be taken in order to initiate an investigation into the dangerousness of a dog. This section also spells out the authority of the local jurisdiction to hold an administrative hearing and recommendations for disposition (restrictions on care and control or euthanasia). The appeal process afforded to the owner of the dog in question is also defined. Section 157 also provides local officials with the discretion to seek a court order to impound a dog if, in their discretion, it is necessary.

Penalties for violations (§157A): Previous fines had been not been changed in many years. The low level did not serve as a deterrent nor did it represent the true severity of violating orders.

Definition of dangerous (§136A): An issue that many communities have struggled with is which behaviors or actions constitute a “dangerous” disposition. Based on studies conducted and published in periodicals such as the Journal of the American Veterinary Medical Association, as well as in consultation with certified animal behaviorists, §136A provides cities and towns with a working, objective and fair definition of “dangerous.”

Preventative measures/requirements for future confinement (§157): This section offers cities and towns recommendations to order the future confinement and other provisions for a dog deemed dangerous. A comprehensive list is provided so that a local authority can order any combination, at their discretion, of what they feel is necessary to properly and safely confine a dangerous dog in order to protect the public from future harm. Controversial breed-specific legislation is not allowed under these sections. We believe a strong dangerous dog law is more effective than laws that target certain breeds.

E. Requiring Animal Control Officer (ACO) Training (Section 21, 51 of S. 2192)

Animal control officers have important responsibilities, including dealing with dangerous dogs, responding to reports of stray animals, and enforcing leash law violations. In addition, they often care for and adopt out sheltered animals and many deal with wildlife conflicts. We believe that such training will increase the professionalism of this important position in our cities and towns. In return, this will provide for better care of Massachusetts’ animals, increase public safety, and create more uniform and stronger enforcement of the animal control laws.

At least 14 other states have laws relating to animal control officer training (Arkansas, California, Colorado, Florida, Idaho, Kentucky, Maine, Michigan, New Jersey, Ohio, Pennsylvania, Texas, Connecticut and Virginia). Seven of these states have set up basic animal control courses with minimum hours of training: California, Maine, Michigan, New

Jersey, Pennsylvania, Texas, and Virginia. Two states, Arkansas and Florida, have voluntary training programs in place (in Florida, County ACOs must undergo training). Three states, Colorado, Idaho and Kentucky have the power to establish animal control officer training.

Currently, the Animal Control Officers Association of Massachusetts (ACOAM) runs trainings, though it is not mandatory. Topics that are covered include: Equipment Handling, Animal Capture Techniques and Strategies, Livestock and Exotic Animal Handling, Wildlife Issues, Dog Bite Prevention, Animal Health Inspector Duties, Rabies Protocol, Conducting Selectmen's Hearings, Record Keeping and Report Writing, Courtroom Procedures, Crime Scene Investigations, 4th Amendment & Exceptions to the Warrant, Cruelty Statutes and Investigating Cruelty Complaints, O.C. Spray certification plus much more.

With S. 2192, this mandatory training will be funded by the tax check off and is supported by the Animal Control Officers Association of Massachusetts (ACOAM).

F. Prohibiting the use of Carbon Monoxide and Carbon Dioxide as Methods for Euthanasia of Dogs and Cats and insuring Humane Euthanasia Methods are Used (Sec. 45 of S. 2192)

Currently, Massachusetts law allows the use of carbon monoxide and carbon dioxide as a means of euthanasia with certain provisions. Many other states have restricted the use of these methods (including the other New England states of Connecticut, Maine and Rhode Island). The American Veterinary Medical Association (AVMA) recommends lethal injections of sodium pentobarbital as the most humane method of euthanasia. With S. 2192, dogs and cats euthanized under this chapter would be euthanized only by barbiturates used in a manner approved by the AVMA.

Death by inhaling carbon monoxide and dioxide takes a longer amount of time and subsequently a longer amount of suffering: "Any gas that is inhaled must reach a certain concentration in the alveoli before it can be effective; therefore, euthanasia with any of these agents [inhalants] takes some time." (Report of the AVMA Panel on Euthanasia, 2000). Both methods also depend on the capability of the equipment, which can fade with time or be faulty. Also both methods have been shown to have mixed results on the young, geriatric, sick, injured or pregnant animals.

Carbon monoxide presents serious human safety hazards. It is extremely toxic and difficult to detect – containing no odor, color or taste. Carbon Monoxide poisoning is one of the leading causes of accidental poisoning in the United States. Repeated, low level exposure can also cause impaired memory, heart irregularity, muscle weakness and brain damage.

Carbon dioxide is heavier than air and incomplete filling of a chamber allows animals to raise their heads to avoid high exposure – resulting in a more prolonged and painful death. Precise concentrations are needed in order to ensure suffering is minimized. Studies have shown it may be distressful to animals if concentrations are too high; if concentrations are too low, pulmonary and upper respiratory tract lesions can result.

G. Pets and domestic violence (Sections 50 & 52 of S. 2192)

This language would enable courts to include an order for the protection of an animal (through the application of already existing specific statutes that authorize restraining orders or orders to vacate or stay away). For example, this bill would allow judges to include pets in temporary restraining orders issued in domestic violence cases. This was added to the bill (which was at that time S. 2184 and before that S. 1033) on the Senate floor on March 22, 2012.

About the Link between Animal Abuse and Domestic Violence

Research on the link between animal abuse and domestic violence continues to grow and has shown that pets are often used by abusers to control victims. In fact, based on an MSPCA study, people who abuse animals are *five times* more likely to commit violent crimes against people.⁸ Another study found that over 85% of women entering domestic violence shelters talked about pet abuse in the family.⁹ Batterers abuse animals for a variety of reasons -- to demonstrate power and control, to retaliate for acts of independence, to keep a victim silent and to coerce a victim to return or stay in an abusive relationship.

⁸ Luke, C., Arluke, A., & Levin, J. (1998). *Cruelty to Animals and Other Crimes: A Study by the MSPCA and Northeastern University*. Boston, MA.

⁹ Ascione, F.R., Weber, C.V. & Wood, D.S. (1997). *The abuse of animals and domestic violence: A national survey of shelters for women who are battered*. *Society & Animals* 5(3), 205-218.

About this language

Many domestic abuse victims refuse to seek safety for themselves if it means leaving their pets in danger. One study found that up to 48% of people will not leave, or will return to, a violent relationship due to fear of what might happen to the animal if left behind.¹⁰ This bill would help remove this barrier to safety by ensuring the pet is protected, thereby protecting people. Seventeen states and the District of Columbia have adopted similar language in their state statutes.¹¹

Current statutes do not specifically authorize pets to be included in these orders. Numerous judges and counsel for the courts have confirmed that most judges will not currently include a pet in a temporary restraining order. Judges have also expressed a desire to have this authorizing language included in the state's statutes. This bill would make this beneficial change with no financial impact on the Commonwealth.

¹⁰ Ascione, F.R. (2007). Emerging research on animal abuse as a risk factor for intimate partner violence. In K. Kendall-Tackett & S. Giacomoni, eds.: *Intimate Partner Violence*. Kingston, NJ: Civic Research Institute.

¹¹ Arizona, California, Colorado, Connecticut, District of Columbia, Hawaii, Illinois, Louisiana, Maine, Minnesota, Nevada, New York, North Carolina, Oklahoma, Tennessee, Vermont, Washington and West Virginia.