

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

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 passage of the accompanying bill:

An Act relative to dogs.

PETITION OF:

NAME:

Vincent A. Pedone

DISTRICT/ADDRESS:

15th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1948 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ANIMALS.

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 136A of chapter 140 of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by inserting, after the definition "Adoption", the following 4 definitions:-

3 "Assistance and service dogs", any canine specifically trained to help people who have
4 disabilities or any canine trained to help a person with a disability in life. The term shall also include
5 canines trained for search and rescue and medical response dogs.

6 "Breed", any dog displaying the majority of physical traits of a specific group or any dog
7 exhibiting those distinguishing characteristics which substantially conform to the standards established
8 by the American Kennel Club or United Kennel Club when defining breed of dog.

9 "Competition dog", a pedigreed dog not used for breeding that is a breed recognized by and
10 registered with an approved dog breed registry, such as the American Kennel Club, United Kennel Club,
11 the American Dog Breeders Association, or any other dog breed registry approved by the city or town;
12 and shows or competes in a confirmation, obedience, agility, carting, herding, protection, rally, sporting,
13 working or other event sponsored by an approved dog breed registry.

14 "Currently vaccinated", vaccinated against rabies by a licensed veterinarian, with rabies vaccine
15 licensed by the U.S. Department of Agriculture; and:

16 (A) not more than 12 months have elapsed since the animal's most recent vaccination with the one-
17 year rabies vaccine or was the animal's initial vaccination; or

18 (B) not more than 36 months have elapsed since the animal's most recent vaccination date, if the
19 most recent vaccination with a three- year rabies vaccine and the dog has received at least 2
20 vaccinations.

21 SECTION 2. Said section 136A of said chapter 140, as so appearing, is hereby further amended by
22 inserting, after the definition "Commissioner", the following 3 definitions:-

23 "Dangerous dog", any dog regardless of breed, breeding, type or appearance, which when
24 unprovoked, has attacked, bitten, inflicted serious injury upon, or killed a human being or other
25 domestic animal.

26 "Farm dog", any canine that works on a farm to assist humans or other animals.

27 "Health Certificate" - a letter by a certified veterinarian stating that the dog named in the
28 application for breeding has been immunized or vaccinated for the distemper virus, hepatitis, parvo
29 virus, para influenza virus, leptospira bacteria, and rabies.

30 SECTION 3. Said section 136A of said chapter 140, as so appearing, is hereby further amended by
31 inserting, after the definition "Live stock or fowls", the following 3 definitions:-

32 "Nuisance", any animal that runs at large without being controlled by a leash, barks for
33 sustained periods of time so as to disturb the peace and quiet of a neighborhood or area, or digs,
34 scratches or defecates on any property other than its owner's.

35 "Owner", any person who owns, possesses, keeps, exercises control over, maintains,
36 harbors, transports or sells an animal.

37 SECTION 4. Said section 136A of said chapter 140, as so appearing, is hereby further amended by
38 inserting, after the definition "Shelter", the following definition:-

39 “Tether”, to fasten or restrain a dog or cause a dog to be fastened, chained, tied, or restrained
40 to a stationary object. This shall not include competition dogs, and dogs engaged in the training and
41 practice of sled racing.

42 SECTION 5. Said chapter 140 is hereby further amended by striking out section 157, and inserting in
43 place thereof the following sections:-

44 .Section 157. Any person may make a complaint to the officer in charge of the animals or to the
45 person who is responsible for handling dog complaints in a city or town that a dog, owned or harbored
46 within its jurisdiction, is a nuisance for any of the following reasons, including but not limited to:-

47 (a) allowing a dog to run at large without being controlled by a leash;

48 (b) allowing a dog to bark for sustained periods of time of more than one-half hour, or during the
49 evening or night hours so as to disturb the peace and quiet of a neighborhood or area; or

50 (c) allowing a dog to dig, scratch or defecate on any property belonging to someone other than the
51 owner.

52 If an animal is deemed a nuisance after an investigation by the person charged with handling
53 animal complaints, that person can make a recommendation for or can give a warning, order a fine,
54 confinement, neutering, banishment or the destruction of the dog as may be deemed necessary. Within
55 10 days after the issuance of said order, the owner or keeper of such dog may bring a petition in the
56 district court within the judicial district in which the dog is owned and kept, addressed to the justice of
57 the court, that the order may be reviewed by the court, or magistrate thereof, and after such notice to
58 the officer or officers involved as the magistrate deems necessary, the magistrate shall review with such
59 action, hear the witnesses and affirm such order unless it shall appear that it was made without
60 reasonable cause or in bad faith, in which case such order shall be reversed. Any party shall have the
61 right to request a de novo hearing on the petition before a justice of the court. The decision of the court
62 shall be final and conclusive upon the parties. Any person owning or harboring such a dog who fails to
63 comply with any order of the selectmen or officer in charge of the animal complaints, as the case may
64 be, shall be punished by a fine of not more than \$25 for the first offence and not more than \$100 for
65 the second or subsequent offense, or by imprisonment in a jail or house of correction for not more than
66 30 days for the first offense and not more than 60 days for second or subsequent offense or both such
67 fine and imprisonment.

68 Magistrates shall exercise their authority hereunder subject to the limitations of section 62C of
69 chapter 221.

70 157A. Dangerous Dogs.

71 A dog, regardless of breed, breeding, or type of appearance, shall be declared dangerous after
72 an unprovoked attack in which it has attacked, bitten, inflicted serious injury upon, or killed a human
73 being or other domestic animal. After a city or town has deemed a dog dangerous, the owner or keeper
74 must be notified that the dog may be an immediate threat to the public.

75 The officer in charge of animals or the person charged with the responsibility of handling dog
76 complaints shall have the authority of determining that a dog is dangerous. Once a dog is determined to
77 be an immediate threat, the officer in charge of the animal or the person charged with handling dog
78 complaints shall have the authority to remove the dog from the owner or keeper, or give a warning,
79 order a fine, confinement, neutering, banishment or the destruction of the dog. The owner of the dog
80 can appeal any decision of warning, fine, confinement, banishment, neutering or destruction.

81 The officer in charge of animals or the person charged with the responsibility of handling dog
82 complaints has the authority, if they believe that a dog is dangerous, an immediate threat or that the
83 animal is in danger to seize or impound the animal.

84 If an owner does not follow the order, a fine of \$50 per day, made payable to the municipality,
85 not to exceed \$1,000, may be assessed by the city or town for each day the owner is in violation of the
86 order. The animal control officer in each city or town shall make available such notices of judgments
87 upon request. Records of such notices shall be maintained for a period of not less than 5 years.

88 Following the order of destruction of a dog by a municipality, the officer in charge of animals
89 shall immediately take custody of the dog from the owner or keeper. If the owner or keeper appeals the
90 order of destruction, the organization or entity charged with the responsibility of handling dog
91 complaints and impoundment shall continue to supervise the dog's care until the owner or keeper
92 exhausts all appeals or discontinues the appeals process.

93 If a court affirms the order of destruction, the owner or keeper shall reimburse the city or
94 town for all costs incurred for the housing and care of the dog during its impoundment and throughout
95 the appeals process. Any unpaid costs shall be recovered by the municipality in which the
96 aforementioned owner or keeper resides by one of the following methods:

- 97 (a) a lien is placed on any property owned by the aforementioned owner or keeper;
- 98 (b) an additional itemized cost may appear on the owner's or keeper's vehicle excise tax bill; or
- 99 (c) an itemized bill for reimbursement is mailed to the owner or keeper.

100 Funds recovered by the municipality shall be transferred to the organization or entity
101 charged with the responsibility of handling dog complaints and impoundment to cover the costs
102 associated with the care of the animal. If the organization or entity falls under the management or
103 direction of the municipality, any costs recovered will be distributed at the discretion of the
104 municipality.

105 If the court overturns the order of destruction, the city or town shall pay all costs associated
106 with the care of the dog for housing and care during its impoundment and throughout the appeals
107 process.

108 No dog shall be declared dangerous if any injury or damage is sustained by a person who, at
109 the time of the injury or damage, was committing a willful trespass or other tort upon the premises
110 occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog,
111 or was committing or attempting to commit a crime. No dog may be declared dangerous if the dog was
112 protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or
113 assault. A dog cannot be declared dangerous if an injury or damage was sustained by a domestic
114 animal, which at the time of the injury or damage, was teasing, tormenting, abusing, or assaulting the
115 dog.

116 No dog may be declared dangerous if the injury or damage to a domestic animal was sustained
117 while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or
118 under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic
119 animal appropriate to the work of the dog.

120 SECTION 6. Chapter 140 is hereby amended by striking out section 174B and inserting in place
121 thereof the following:-

122 Section 174B. Whoever is the owner or keeper of a dog must restrain said dog by leash in
123 public places at all times except for assistance and service dogs, dogs engaged in legal hunting or sport,

124 farm dogs, or designated dog recreational areas. Whoever violates the provisions in this section shall be
125 punished pursuant to section 157 of chapter 140.

126 SECTION 7. Said chapter 140 is hereby further amended by inserting, after section 174D, the
127 following sections:-

128 Section 174 E. (a) the owner or keeper commits an offense if an unaltered dog is
129 without a valid intact animal permit.

130 (b) An intact permit may only be issued for a dog;

131 (1) dog must have its health certificate and current vaccinations

132 (2) is currently in compliance with the license requirement

133 (c) To obtain an intact animal permit, an owner or keeper must submit an application to
134 the city or town on a form provided by the city or town. The city or town shall promulgate rules,
135 regulations and fee associated with an intact permit.

136 Section 174F. Every person shall have their dog licensed with the city or town in which they reside,
137 6 months after the date of purchase and said license shall be renewed yearly on or before the original
138 licensing day.

139 Section 174G. No person shall tether, fasten, chain, tie or restrain a dog, or cause a dog to be
140 tethered, fastened, chained, tied, or restrained, to a doghouse, tree, fence, or any other stationary
141 object for more than 3 hours within a 24 hour period.

142 A person may:

143 (a). attach a dog to a running line, pulley, or trolley system, but not by means of a choke collar
144 or a pinch collar; or

145 (b). tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of
146 camping and recreational areas.

147 Any person who violates the provisions of sections 174E, 174F and 174G shall be punished by a
148 fine of no less than \$250 not more than \$1,000 per dog.

149 Section 174H. (a) Nothing in this chapter shall prohibit a city or town or district from banning or
150 further regulating a particular breed of dog.

151 (b) Any city or town may further regulate or ban a particular breed of dog with a majority vote
152 of the governing body.

153 (c) Upon the vote of a city or town to regulate or ban a particular breed of dog, said city or town
154 shall establish a board consisting of 3 members to identify and determine the breed of dogs in said city
155 or town, subject to the governing regulation. The 3 board members shall consist of: 2 members of the
156 public that are appointed by the city manager or mayor, one of which must be considered an expert in
157 field of animals; and the animal control officer or a designee.

158 (d) If a particular breed of dog is further regulated or banned, the regulation or ban shall not take
159 effect until 180 days after the vote by the city or town.