HOUSE DOCKET, NO. 1607 FILED ON: 2/18/2011

HOUSE . . . . . No. 4055

The Commonwealth of Massachusetts

PRESENTED BY:

***Paul K. Frost*, (BY REQUEST)**

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:

An Act relative to establishing an animal abuse registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Robert Steinmetz	*N/A*

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HOUSE . . . . . No. 4055

By Mr. Frost of Auburn (by request), an additional petition (having been deposited with the Clerk previous to five o'clock in the afternoon on Friday, January 21, 2011) (accompanied by bill, House, No. 4055) of Robert Steinmetz for legislation to require persons convicted of animal abuse to register with an animal abuse registry. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to establishing an animal abuse registry.

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. Chapter 10 of the General Laws is hereby amended by adding following section:-

Section 75. (a) (1) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Animal Protection Fund. A person who purchases pet food shall pay a charge of $0.05 per pound of pet food purchased.

(2) A store shall collect the charge from the customer at the time of sale. The store shall then remit the charge collected to the state treasurer on a quarterly schedule for deposit in the Animal Protection Fund.

(3) The amount charged pursuant to paragraph (1) shall not be subject to sales tax.

(b) Revenues and expenditures of the fund shall be reported on the Massachusetts management and accounting and reporting system and maintained by the state treasurer.

(c) The moneys in the fund, are hereby continuously appropriated without regard to fiscal year, and shall be expended for the following purposes:-

19 (1) By the criminal bureau for creating, administering, and updating the Internet Web site
20 established by section 77C of chapter 272

21

22 (2) By local governments for spay and neuter programs.

23

24 (3) No more than 3 percent of the revenue deposited in the fund may be used for
25 reimbursement of costs of administration, collection, enforcement, and auditing requirements
26 associated with this section.

27

28 (2) The state treasurer may promulgate rules and regulations to carry out this section,
29 including, but not limited to, provisions governing collections, reporting, refunds and appeals.

30

31 (e) (1) The charge shall be due and payable quarterly on or before the 15th day of the
32 month following each calendar quarter.

33

34 (2) Payments shall be accompanied by a form, as prescribed by the state treasurer,
35 including, but not limited to, electronic media.

36

37 (f) The state treasurer may require the payment of the moneys for other than quarterly
38 periods.

39

40 (g) For purposes of this section, "store" means a retail establishment that sells pet food.

41 SECTION 2. Chapter 272 of the General Laws is hereby amended by inserting after
42 section 77B the following section:-

43 Section 77C. (a) The following words, as used in this section, unless the context
44 otherwise requires, shall have the following meanings:-

45 "Animal abuse" means a continued without a finding or a conviction for a violation of
46 sections 77 or 77A.

47 “Criminal bureau”, located within the office of the attorney general.

48 (b) (1) Every person, over 18 years of age, described in paragraph (2), for the periods
49 specified therein, shall, while residing in, or if the person has no residence, while located in,
50 Massachusetts, be required to, within 10 days of coming into this state, or changing the person's
51 residence or location within any city, county, city and county, or campus wherein the person
52 temporarily resides, or if the person has no residence, is located, in this state:-

53 (A) Register with the chief of police of the city where the person is residing, or if the
54 person has no residence, where the person is located.

55 (B) Register with the sheriff of the county where the person is residing, or if the person
56 has no residence, where the person is located in an unincorporated area or city that has no police
57 department.

58

59 (C) In addition to subparagraph (A) or (B) above, register with the chief of police of a
60 campus of the University of Massachusetts, a campus of a Massachusetts state college or a
61 Massachusetts community college where the person is residing, or if the person has no residence,
62 where the person is located upon the campus or any of its facilities.

63 (2) Any person who is convicted in any court in the commonwealth of animal abuse shall
64 be required to register, in accordance with the provisions of this section, for the rest of his or her
65 life.

66 (c) Any person required to register pursuant to this section who is discharged or paroled
67 from a jail, prison, school, or other penal institution, or from the department of youth services
68 where he or she was confined because of the commission of animal abuse, shall, prior to the
69 discharge, parole, or release, be informed of his or her duty to register under this section by the
70 official in charge of the place of confinement. The official shall require the person to read and
71 sign the form as may be required by the criminal bureau, stating that the duty of the person to
72 register under this section has been explained to him or her. The official in charge of the place of
73 confinement shall obtain the address where the person expects to reside or locate upon his or her
74 discharge, parole, or release and shall report the address to the criminal bureau.

75 The official in charge of the place of confinement shall give one copy of the form to the
76 person, and shall, not later than 45 days prior to the scheduled release of the person, send one
77 copy to the appropriate law enforcement agency having local jurisdiction where the person
78 expects to reside or locate upon his or her discharge, parole, or release; one copy to the
79 prosecuting agency that prosecuted them person; and one copy to the criminal bureau. The
80 official in charge of the place of confinement shall retain one copy. All forms shall be
81 transmitted in time so as to be received by the local law enforcement agency and prosecuting
82 agency 30 days prior to the discharge, parole, or release of the person.

83

84 (d) Any person who is required to register pursuant to this section who is released on
85 probation or discharged upon payment of a fine shall, prior to the release or discharge, be
86 informed of his or her duty to register under this section by the probation department of the
87 county in which he or she has been convicted, and the probation officer shall require the person
88 to read and sign the form as may be required by the criminal bureau, stating that the duty of the
89 person to register under this section has been explained to him or her. The probation officer shall
90 obtain the address where the person expects to reside or locate upon his or her release or
91 discharge and shall report within 3 days the address to the criminal bureau. The probation officer
92 shall give one copy of the form to the person, and shall send one copy to the appropriate law
93 enforcement agency having local jurisdiction where the person expects to reside or locate upon
94 his or her discharge or release, and one copy to the criminal bureau. The probation officer shall
95 also retain one copy.

96

97 (e) (1) The registration shall consist of all of the following information:-

98 (A) A statement in writing signed by the person, giving all of the following
99 information:

100 (i) The legal name and any other names or aliases that the person is using or has used.

101 (ii) Date of birth.

102 (iii) The current address or location of the person.

103 (iv) Name and address of employer.

104 (v) Animal abuse offense for which the person was convicted.

105 (vi) The date and place of the animal abuse offense conviction of the person.

106 (vii) Any other information as may be required by the criminal bureau.

107

108 (B) The complete set of fingerprints and a photograph of the person.

109

110 (C) A description of any tattoos, scars, or other distinguishing features on the person's
111 body that would assist in identifying the person.

112 (2) Within 3 days after registration, the registering law enforcement agency shall
113 electronically forward the statement, fingerprints, and photograph to the criminal bureau.

114 (f) If any person required to register by this section changes his or her residence or
115 location address, he or she shall inform, in writing within 10 days, the law enforcement agency
116 with whom he or she last registered of his or her new address. The law enforcement agency shall,
117 within 3 days after receipt of the information, electronically forward it to the criminal bureau.
118 The criminal bureau shall forward appropriate registration data to the law enforcement agency
119 having local jurisdiction of the new place of residence or location.

120 (g) Any person required to register under this section who violates any of the provisions
121 thereof shall be punished by imprisonment in a house of correction for not more than 1 year or
122 by a fine of not more than $2,500, or by both such fine and imprisonment.

123 Any person who has been convicted of animal abuse who is required to register under
124 this section who willfully violates any of the provisions thereof shall be punished by
125 imprisonment in the house of correction for not less than 90 days nor more than one year in a
126 house of correction. In no event does the court have the power to absolve a person who willfully
127 violates this section from the obligation of spending at least 90 days of confinement in a house of
128 correction jail and of completing probation of at least one year.

129

130 (h) Whenever any person is released on parole or probation and is required to register
131 under this section but fails to do so within the time prescribed, the parole board or the court, as
132 the case may be, shall order the parole or probation of that person revoked.

133

134 (i) Certain of the information required by this section shall be open to inspection by the
135 public through the use of an Internet Web site maintained by the criminal bureau, or by
136 telephone or upon written request where practicable.

137

138 (j) In any case in which a person who would be required to register pursuant to this
139 section is to be temporarily sent outside the institution where he or she is confined on any
140 assignment within

141 a city or county, the local law enforcement agency having jurisdiction over the place or
142 places where that assignment shall occur shall be notified within a reasonable time prior to
143 removal from the institution. This subdivision shall not apply to any person temporarily released
144 under guard from the institution where he or she is confined.

145 SECTION 3. . Chapter 12 of the General Laws is hereby amended by adding following
146 section:-

147

148 Section 33. 1 (A) The following words, as used in this section, unless the context
149 otherwise requires, shall have the following meaning:-

150 “Criminal bureau”, located within the office of the attorney general.

151 "Designated law enforcement entity", the criminal bureau, every district attorney, the
152 department, the department of youth services and every state or local agency expressly
153 authorized by statute to investigate or prosecute law violators.

154 The criminal bureau shall make available information concerning persons who are
155 required to register pursuant to section 77C of chapter 272 to the public via an Internet Web site
156 as specified in this section. The department shall update the Internet Web site on an ongoing
157 basis. The name or address of the person's employer and the listed person's criminal history other
158 than the specific crimes for which the person is required to register shall not be included on the
159 Internet Web site. The Internet Web site shall be translated into languages other than English as
160 determined by the department.

161

162 (2) (A) On or before January 1, 2013, the criminal bureau shall make available to the
163 public, via an Internet Web site as specified in this section, as to any person described in
164 subdivision

165 (b), the following information:-

166

167 (i) The year of conviction of his or her most recent offense requiring registration pursuant
168 to section 77C of chapter 272.

169 (ii) The year he or she was released from incarceration for that offense.

170 (iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is
171 reported to the department. If the department has no information about a subsequent
172 incarceration for any felony, that fact shall be noted on the Internet Web site. However, no year
173 of conviction shall be made available to the public unless the department also is able to make
174 available the corresponding year of release of incarceration for that offense, and the required
175 notation regarding any subsequent felony.

176

177 (B) (i) Any state facility that releases from incarceration a person who was incarcerated
178 because of a crime for which he or she is required to register pursuant to section 77C of chapter
179 272 shall, within 30 days of release, provide the year of release for his or her most recent offense
180 requiring registration to the criminal bureau in a manner and format approved by the department.

181 (ii) Any state facility that releases a person who is required to register pursuant to 77C of
182 chapter 272 from incarceration whose incarceration was for a felony committed subsequent to
183 the offense for which he or she is required to register shall, within 30 days of release, advise the
184 Criminal bureau of that fact.

185

186 (b) On or before January 1, 2013, with respect to a person who has been convicted of the
187 commission of any of crimes contained in sections 77, 77A or 77C of chapter 272, the criminal
188 bureau shall make available to the public via the Internet Web site, the information included in
189 the person's registration, including, but not limited to, his or her name and known aliases, a
190 photograph, a physical description, including gender and race, date of birth, criminal history, the
191 address at which the person resides or is located or the city, county, or city and county in which
192 the person is registered as a transient, and any other information that the criminal bureau deems
193 relevant, but not the information excluded pursuant to subdivision (A).

194

195 (c) The Criminal bureau shall make a reasonable effort to provide notification to persons
196 who have been convicted of the commission of an offense specified in sections 77, 77A or 77C
197 of chapter 272, that on or before January 1, 2013, the department is required to make information
198 about offenders available to the public via an Internet Web site as specified in this section.

199

200 (d) (1) A designated law enforcement entity may make available information concerning
201 persons who are required to register pursuant to section 77C of chapter 272 to the public via an
202 Internet Web site as specified in paragraph (2).

203 (2) The law enforcement entity may make available by way of an Internet Web site the
204 information described in subdivision (b) if it determines that the public disclosure of the
205 information about a specific offender by way of the entity's Internet Web site is necessary to
206 ensure the public safety based upon information available to the entity concerning that specific
207 offender.

208

209 (3) The information that may be provided pursuant to this subdivision may include the
210 information specified in subdivision (b).

211

212 (e) The department shall also make the information on the Internet Web site available by
213 telephone and upon written request where practicable.

214 (f) (1) Any person who uses information disclosed pursuant to this section to commit a
215 misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not
216 less than $10,000 and not more than $50,000.

217 (2) Any person who uses information disclosed pursuant to this section to commit a
218 felony shall be punished, on and after any other punishment, by imprisonment in state prison for
219 not more than 5 years or by a fine of not more than $5,000 or by both such fine and
220 imprisonment.

221

222 (g) Any person who is required to register pursuant to section 77C of chapter 272 who
223 enters an Internet Web site established pursuant to this section shall be punished by
224 imprisonment in a house of correction for not more than 6 months or by a fine of not more than
225 $2,500, or by both such fine and imprisonment.

226 (h) (1) A person is authorized to use information disclosed pursuant to this section only to
227 protect an animal at risk.

228

229 (2) Except as authorized under paragraph (1) or any other provision of law, use of any
230 information that is disclosed pursuant to this section for purposes relating to any of the following
231 is prohibited:-

232 (A) Health insurance.

233 (B) Insurance.

234 (C) Loans.

235 (D) Credit.

236 (E) Employment.

237 (F) Education, scholarships, or fellowships.

238 (G) Housing or accommodations.

239 (H) Benefits, privileges, or services provided by any business establishment.

240

241 (3) (A) Any use of information disclosed pursuant to this section for purposes other than
242 those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the
243 actual damages, and any amount that may be determined by a jury or a court sitting without a
244 jury, not exceeding three times the amount of actual damage, and not less than $250, and
245 attorney's fees, exemplary damages, or a civil penalty not exceeding $25,000.

246

247 (B) Whenever there is reasonable cause to believe that any person or group of persons is
248 engaged in a pattern or practice of misuse of the information available via an Internet Web site
249 established pursuant to this section in violation of paragraph (2), the Attorney General, any
250 district attorney, or any person aggrieved by the misuse is authorized to bring a civil action in
251 the appropriate court requesting preventive relief, including an application for a permanent or
252 temporary injunction, restraining order, or other order against the person or group of persons
253 responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of
254 any other remedies or procedures that may be available to an aggrieved party under other
255 provisions of law.

256

257 (i) The public notification provisions of this section are applicable to every person
258 described in this section, without regard to when his or her crimes were committed or his or her
259 duty to register pursuant to section 77C of chapter 272 arose, and to every offense described in
260 this section, regardless of when it was committed.

261

262 (j) A designated law enforcement entity and its employees shall be immune from liability
263 for good faith conduct under this section.

264

265 (k) The attorney general, in collaboration with local law enforcement and others
266 knowledgeable about animal abuse offenders, shall develop strategies to assist members of the
267 public in understanding and using publicly available information about registered animal abuse
268 offenders to further public safety. These strategies may include, but are not limited to, a hotline
269 for community inquiries, neighborhood and business guidelines for how to respond to
270 information posted on this Internet Web site, and any other resource that promotes public
271 education about these offenders.