HOUSE DOCKET, NO. 201 FILED ON: 1/11/2011

HOUSE . . . . . No. 422

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Campbell

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 requiring the posting of security for the seizure and impoundment of animals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Linda Campbell	*15th Essex*
Sheila C. Harrington	*1st Middlesex*
Denise Andrews	*2nd Franklin*
Christine E. Canavan	*10th Plymouth*
Robert L. Hedlund	☐ *[District]* ☐
Brian M. Ashe	*2nd Hampden*
Jonathan Hecht	*29th Middlesex*
Jennifer E. Benson	*37th Middlesex*
Cheryl A. Coakley-Rivera	*10th Hampden*
John W. Scibak	*2nd Hampshire*
Carl M. Sciortino, Jr.	*34th Middlesex*
Cory Atkins	*14th Middlesex*
Lori A. Ehrlich	*8th Essex*
William N. Brownsberger	☐ *[District]* ☐

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HOUSE . . . . . No. 422

By Mrs. Campbell of Methuen, a petition (accompanied by bill, House, No. 422) of Linda Dean Campbell and others relative to requiring the posting of security for the seizure and impoundment of certain animals. The Judiciary.

The Commonwealth of Massachusetts

An Act requiring the posting of security for the seizure and impoundment of animals.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 272 of the General Laws is hereby replacing section 104 with the following section:-

Section 104. (a) As used in this section the word "Authority" shall mean an organization or authorized agent thereof that seizes or impounds an animal or animals pursuant to the General Laws.

(b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting resulting in the issuance of a criminal complaint or a criminal indictment, the authority or prosecuting agency, including the district attorney or attorney general, may file a petition with the court that is exercising jurisdiction over the criminal complaint or criminal indictment requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney or the attorney general, whichever is appropriate. The court may order that person to post a security.

(c) The security shall be in an amount sufficient to secure payment for all reasonable expenses incurred, and to be incurred, by the authority having custody of the seized animal from the date of seizure or impoundment and thereafter for a period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical and surgical care, quarantine costs, shelter, and board.

(d) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical and surgical care, quarantine costs,

24 shelter, and board. If the expenses already incurred by the seizing authority at the time of
25 judicial decision on the petition exceed the petitioned for security amount, the court may permit
26 the security amount to be paid in its entirety to the seizing authority through the court, or directly
27 from the respondent to the authority, as the court deems appropriate in the interest of justice.

28 (e) If the court orders the posting of security, the security shall be posted with the clerk
29 within 10 business days of the court's decision on the petition. The respondent's failure to post
30 security as determined within the appointed time shall be deemed an immediate forfeiture of the
31 seized animal to the authority, with the full force and effect of a court order. The court may
32 reduce the amount of the security for good cause shown.

33 (f) Posting of the security shall not prevent the authority from disposing of the seized or
34 impounded animal for humane reasons and in a humane manner before the expiration of the
35 period covered by the security.

36 (g) The authority may humanely dispose of the animal at the end of the period for which
37 expenses are covered by the security, if the court orders the disposition. If the disposition order is
38 denied, the court may require the owner or custodian or any other person claiming interest in the
39 animal, to provide additional security to secure payment of reasonable expenses and to extend
40 the period of time pending adjudication by the court of the charges against the person from
41 whom the animal was seized.

42 (h) The owner or custodian of an animal humanely euthanized pursuant to this section
43 shall not be entitled to recover damages or the actual value of the animal if the owner or
44 custodian failed to post security.

45 (i) The court may direct a refund to the person who posted the security in whole or part
46 for any expenses not incurred by the authority. The court shall direct a refund to the person who
47 posted security upon acquittal of the charges.