SENATE DOCKET, NO. 1095 FILED ON: 1/17/2013

SENATE . . . . . No. 401

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 protecting puppies and kittens.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	*Second Middlesex and Norfolk*
Kathi-Anne Reinstein	*16th Suffolk*
Thomas M. Stanley	*9th Middlesex*
Denise Provost	*27th Middlesex*
John P. Fresolo	*16th Worcester*
Kay Khan	*11th Middlesex*
Angelo J. Puppolo, Jr.	*12th Hampden*
William N. Brownsberger	*Second Suffolk and Middlesex*
Mark C. Montigny	*Second Bristol and Plymouth*
Brian R. Mannal	*2nd Barnstable*
Michael Barrett	*Third Middlesex*
Kenneth J. Donnelly	*Fourth Middlesex*
Katherine M. Clark	*Fifth Middlesex*
Christopher G. Fallon	*33rd Middlesex*
James B. Eldridge	*Middlesex and Worcester*
Robert L. Hedlund	*Plymouth and Norfolk*
Denise Andrews	*2nd Franklin*
Chris Walsh	*6th Middlesex*

Thomas P. Conroy	*13th Middlesex*
Jason M. Lewis	*31st Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Sean Garballey	*23rd Middlesex*
Michael R. Knapik	*Second Hampden and Hampshire*
Timothy J. Toomey, Jr.	*26th Middlesex*
John F. Keenan	*Norfolk and Plymouth*

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By Ms. Spilka, a petition (accompanied by bill, Senate, No. 401) of Karen E. Spilka, Kathi-Anne Reinstein, Thomas M. Stanley, Denise Provost and other members of the General Court for legislation to protect animals during pet sales. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

An Act relative to protecting puppies and kittens.

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. Section 39A of Chapter 129 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 14-15, the following words:- “to persons selling, exchanging or otherwise transferring the offspring of their personally owned animals”

SECTION 2. Chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after section 138A the following section:-

Section 138B.

(a) For the purposes of this section:

(1) “Hobby breeder” means as a person engaged in the incidental breeding and subsequent sale, barter or exchange of the offspring of no more than three personally owned breeding females.

(2) "Purchaser" means a person who purchases a dog or cat from a pet dealer without the intent to resell the animal.

(3) “Pet Dealer” means any pet shop, commercial breeder kennel, hobby breeder, personal kennel, firm or corporation that sells dogs or cats to the public.

(b) No pet dealer shall sell in the commonwealth a dog or cat less than 8 weeks of age. Violation of this section shall result in a $100 fine per offense.

(c) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of the dog after the sale by a pet dealer, the dog has become ill due to any illness that existed in the dog on or before delivery of the dog to the purchaser, or, if within

21 one year after the purchaser has taken physical possession of the dog after the sale, a veterinarian
22 licensed in this Commonwealth states in writing that the dog has a congenital or hereditary
23 condition that adversely affects the health of the dog, or that requires, or is likely in the future to
24 require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for
25 sale, and the pet dealer shall provide the purchaser with any of the following remedies that the
26 purchaser elects:

27 (1) Return the dog to the pet dealer for a refund of the purchase price, plus sales tax,
28 and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount
29 not to exceed the original purchase price of the dog, plus sales tax; or

30 (2) Exchange the dog for a dog of the purchaser's choice of equivalent value, providing
31 a replacement dog is available, and reimbursement for reasonable veterinary fees for diagnosis
32 and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales
33 tax; or

34 (3) Retain the dog, and reimbursement for reasonable veterinary fees for diagnosis and
35 treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog,
36 plus sales tax on the original purchase price of the dog.

37 (d) If the dog has died, regardless of the date of the death of the dog, obtain a refund for
38 the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the
39 purchaser's choice and reimbursement for reasonable veterinary fees in diagnosis and treatment
40 of the dog in an amount not to exceed the original purchase price of the dog, plus sales tax, if
41 either of the following conditions exist:

42 (1) A veterinarian, licensed in this state, states in writing that the dog has died due to an
43 illness or disease that existed within 15 days after the purchaser obtained physical possession of
44 the dog after the sale by a pet dealer.

45 (2) A veterinarian, licensed in this state, states in writing that the dog has died due to a
46 congenital or hereditary condition that was diagnosed by the veterinarian within one year after
47 the purchaser obtained physical possession of the dog after the sale by a pet dealer.

48 Sections (c) and (d) shall not apply to hobby breeders, shelters, or to a non-profit
49 organization that houses or adopts animals for the purpose of protecting animals from cruelty,
50 neglect, abuse, or homelessness.

51 SECTION 3. Said chapter 140 is hereby further amended by inserting after section 174E
52 the following section:-

53 Section 174F. The Department shall make rules and regulations for commercial breeder
54 kennels and personal kennels where the breeding of personally owned dogs and cats takes place,
55 and to persons otherwise selling, exchanging or otherwise transferring the offspring of their

56 personally owned dogs and cats. The rules and regulations shall ensure that the animals have
57 proper housing, nutrition, hydration, behavioral requirements, grooming, staffing, handling,
58 health and veterinary care, waste disposal, and other general standards of care. Rules and
59 regulations developed in accordance with this subsection shall meet or exceed corresponding
60 standards developed by the American Veterinary Medical Association Regulations to Assure
61 Appropriate Care For Dogs Intended For Use As Pets, as published on April 9, 2010.

62 This section shall not apply to hobby breeders, shelters or to a non-profit organization
63 that houses or adopts animals for the purpose of protecting animals from cruelty, neglect, abuse,
64 or homelessness.