SENATE DOCKET, NO. 228 FILED ON: 1/18/2011

SENATE . . . . . No. 655

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen M. Brewer

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 animals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen M. Brewer	*Worcester, Hampden, Hampshire, Franklin*
James M. Cantwell	*4th Plymouth*
Thomas J. Calter	*12th Plymouth*
William Smitty Pignatelli	*4th Berkshire*
Viriato Manuel deMacedo	*1st Plymouth*
Karen E. Spilka	☐ *[District]* ☐
Michael J. Rodrigues	☐ *[District]* ☐
Jennifer L. Flanagan	☐ *[District]* ☐
Todd M. Smola	*1st Hampden*
Anne M. Gobi	*5th Worcester*
Kimberly N. Ferguson	*1st Worcester*
Robert L. Hedlund	

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SENATE . . . . . No. 655

By Mr. Brewer, petition (accompanied by bill, Senate, No. 655) of Spilka, deMacedo, Pignatelli and other members of the General Court for legislation relative to animals [Joint Committee on the Judiciary].

The Commonwealth of Massachusetts

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:

SECTION 1. Said Chapter 272 is amended by inserting at the end the following new paragraphs:

(a) Notwithstanding any other provision of law, it shall be unlawful for any person to slaughter or otherwise cause or procure the death of, or have another person slaughter or otherwise cause or procure the death of a horse, where such person knows or should know that any part of such horse will be used for human consumption.

(b) Notwithstanding any other provision of law, it shall be unlawful for any person to sell, offer to sell or barter, give away, purchase, possess, transport, deliver, or receive any horse with the intent of slaughtering or otherwise causing or procuring the death of, or having another person slaughter or otherwise cause or procure the death of such horse, if such person knows or should know that any of the horseflesh is intended for human consumption.

(c) Notwithstanding any other provision of law, it shall be unlawful for any person to import into or export from this state, live horses where such person knows or should know that such horse is intended for slaughter for human consumption.

(d) The Secretary of Agriculture shall maintain a record of ownership as described in paragraph (e) and statement signed by the owner under penalty of perjury of the destination of any horse exported from the Commonwealth. Such records shall be made available upon request to the Dept. of Health or any state or local law enforcement or animal control agency.

(e) The evidence of ownership referred to in paragraph (d) may include (i) a recorded brand registered in the name of the person in possession of the animal; (ii) a brand inspection certificate; (iii) a bill of sale from the owner of the brand on the animal; (iv) in the

23 case of an unbranded animal, a bill of sale which gives a description of the breed, sex, color, and
24 natural markings, if any; or (v) other record as determined to be appropriate by the Secretary.

25 (f) It shall be unlawful for any person to possess, ship, transport, purchase, sell,
26 deliver, or receive, any horse, with the intent that it is to be exported from the Commonwealth,
27 without evidence of ownership as described in paragraph (e);

28 to acquire, possess or deliver a false statement of such ownership; or to acquire, possess
29 or deliver a false statement of the destination of a horse to be exported or which has been
30 exported from the Commonwealth as described in paragraph (d).

31 (g) The Secretary of Agriculture shall make such regulations that are necessary
32 to implement and enforce the provisions of paragraphs (d) and (e) of this section, including a
33 scheme of civil penalties.

34 (h) As used in this section, the term "horse" includes all members of the
35 equine family, including horses, ponies, donkeys, mules, asses and burros; and the term
36 "horseflesh" means the flesh of a dead horse, including the animal's viscera, skin, hair, hide,
37 hooves, and bones; the term "person" means an individual, corporation, partnership, trust,
38 association or other legal entity.

39 (i) Any person in violation of this section shall be punished by imprisonment in
40 the state prison for not more than 5 years or imprisonment in the house of correction for not more
41 than 2 1/2 years or by a fine of not more than $2,500, or by both such fine and imprisonment. A
42 court may also order any person convicted under this section to submit to a mental health
43 evaluation as determined by the court and undergo any recommended counseling or treatment. In
44 addition to any other penalty provided by law, a person convicted under this section may be
45 barred from owning or possessing any animals, or living on the same property with someone
46 who owns or possesses animals, for a period of time deemed appropriate by the court, and
47 required to take humane education classes as ordered by the court.

48 SECTION 2. Chapter 94 is amended by striking out section 151A, as appearing
49 in the 2008 official edition, an inserting in place thereof the following:-

50 (a) Notwithstanding any other provision of law, it shall be unlawful for any
51 person to sell, barter, offer to sell or barter, give away, purchase, possess, transport, deliver, or
52 receive horseflesh if such person knows or should know that any of the horseflesh will be used
53 for

54 human consumption.

55 (b) Notwithstanding any other provision of law, it shall be unlawful for any
56 person to import into or export from this state, horseflesh where such person knows or should
57 know that such horseflesh is intended for human consumption.

58 (c) It shall be unlawful to offer horseflesh for sale for human consumption.

59 (d) As used in this section, the term "horse" includes all members of the
60 equine family, including horses, ponies, donkeys, mules, asses and burros; and the term
61 "horseflesh" means the flesh of a dead horse, including the animal's viscera, skin, hair, hide,
62 hooves, and bones; the term "person" means an individual, corporation, partnership, trust,
63 association or other legal entity.

64 (e) Any person in violation of this section shall be punished by imprisonment in
65 the state prison for not more than 5 years or imprisonment in the house of correction for not more
66 than 2 1/2 years or by a fine of not more than $2,500, or by both such fine and imprisonment.

67 SECTION 3. Chapter 94 is amended by striking section 118 and inserting in
68 place thereof the following:-

69 Definitions. The following words as used in sections one hundred and eighteen to one
70 hundred and thirty-one, inclusive, unless a different meaning is required by the context or is
71 specifically prescribed, shall have the following meanings:--

72 "Broker", any person engaged in the business of buying or selling livestock products or
73 poultry products on commission, or otherwise negotiating purchases or sales of such articles
74 other than for his own account or as an employee of another person.

75 "Capable of use as human food", any livestock or poultry carcass, or part of product of
76 any such carcass, unless it is denatured or otherwise identified as required by regulations
77 prescribed by the department to deter its use as human food, or it is naturally inedible by
78 humans.

79 "Commissioner", the commissioner of public health or his duly authorized agent.

80 "Container" or "package", any box, can, tin, cloth, plastic, or other receptacle, wrapper, or
81 cover.

82 "Department", the department of public health.

83 "Inspector", an employee or official of the division of food and drugs, authorized by the
84 director to perform any inspectional function.

85 "Label", a display of written, printed, or graphic matter upon any article or container, not
86 including package liners, of any article.

87 "Labeling", all labels and other written, printed, or graphic matter: (1) upon any article or
88 any of its containers or wrappers; or, (2) accompanying such article.

89 "Livestock", any cattle, sheep, swine, or goats, , whether live or dead.

"Livestock product", any carcass, part thereof, meat, or meat food product of any livestock.

"Meat food product", any product capable of use as food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the commissioner under such conditions as he may prescribe.

"Official certificate", any certificate prescribed by regulations of the department for issuance by an inspector or other person performing official functions under this chapter.

"Official device", any device prescribed or authorized by the department for use in applying any official mark.

"Official establishment", any establishment as determined by the department at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this chapter.

"Official inspection legend", any symbol prescribed by regulations of the department showing that an article was inspected and passed in accordance with this chapter.

"Official mark", the official inspection legend or any other symbol prescribed by regulations of the department to identify the status of any article or livestock or poultry under this chapter.

"Poultry", any domesticated bird, whether live or dead.

"Poultry product", any poultry carcass or part thereof; or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the commissioner from definition as a poultry product under such conditions as he may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

"Prepared" or "processed", slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed in any way.

"Shipping container", any container used or intended for use in shipping the product packed in another container.

122 "Renderer", means any person engaged in the business of rendering livestock or poultry
123 carcasses, or parts or products of such carcasses, except rendering conducted under inspection or
124 exemption under this chapter.

125 SECTION 4. Chapter 94 is amended by striking section 127 and inserting in
126 place thereof the following:-

127 Prohibited Acts with Respect to Livestock, Poultry, or Their Products.

128 (a) No person shall, with respect to any livestock or poultry or any livestock products or
129 poultry products: (1) slaughter any such animals or prepare any such articles which are
130 capable of use as human food at any official establishment, except in compliance with the
131 requirements of this chapter and any regulations thereunder promulgated; (2) sell, transport,
132 offer for sale or transportation, or receive for transportation, in intrastate commerce, any such
133 articles which are capable of use as human food, and are adulterated or misbranded at the time of
134 such sale, transportation, offer for sale or transportation, or receipt for transportation; or any such
135 articles required to be inspected under this chapter unless they have been so inspected and
136 passed; (3) do, with respect to any such articles which are capable of use as human food, any
137 act while they are being transported in intrastate commerce or held for sale after such
138 transportation, which is intended to cause or has the effect of causing such articles to be
139 adulterated or misbranded.

140 (b) No person shall buy, sell, transport, offer for sale or transportation, or receive for
141 transportation: (1) any slaughtered poultry from which the blood, feathers, feet, head, or
142 viscera have not been removed in accordance with regulations promulgated by the department
143 except as may be authorized by such regulations; (2) any livestock products or poultry
144 products which are not intended for use as human food unless they are denatured or otherwise
145 identified as required by the regulations of the department or are naturally inedible by humans.

146 (c) No person engaged in the business of buying, selling, or transporting in intrastate
147 commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any
148 animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or
149 transportation, or receive for transportation, in such commerce, any dead, dying, disabled, or
150 diseased livestock or poultry or the products of any such animals that died otherwise than by
151 slaughter, unless such transaction or transportation, is made in accordance with such regulations
152 as the department shall prescribe to assure that such animals, or the unwholesome parts or
153 products thereof, will be prevented from being used for human food purposes.

154 (d) No person shall: (1) cast, print, lithograph, or otherwise make any device
155 containing any official mark or simulation thereof, or any label bearing any such mark or
156 simulation, or any form of official certificate or simulation thereof, except as authorized by the
157 commissioner; (2) forge any official device, mark, or certificate; (3) without authorization
158 from the commissioner use any official device, mark, or certificate, or simulation thereof, or

159 alter, detach, deface, or destroy any official device, mark, or certificate; (4) contrary to the
160 regulations prescribed by the department, fail to use, or to detach, deface, or destroy any official
161 device, mark, or certificate; (5) possess, without promptly notifying the commissioner or his
162 representative, any official device or any counterfeit, simulated, forged, or improperly altered
163 official certificate or any device or label or any carcass of any animal, including poultry, or part
164 or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official
165 mark; (6) represent that any article has been inspected and passed, or exempted, under this
166 chapter when, in fact, it has, respectively, not been so inspected and passed, or exempted; (7)
167 knowingly make any false statement in any shipper's certificate or other nonofficial or official
168 certificate provided for in the regulations prescribed by the department; (8) fail to furnish the
169 commissioner upon his request any record, report, answer, or information which may be required
170 under the provisions of or under the authority of sections one hundred and eighteen to one
171 hundred and thirty, inclusive, or knowingly make any omission or false statement in any such
172 record, report, answer, or information.

173 SECTION 5. Chapter 94 is amended by striking out section 139C, as appearing
174 in the 2008 official edition, and inserting in place thereof the following:

175 Definitions. As used in this section and sections one hundred and thirty-nine D to one
176 hundred and thirty-nine G, inclusive, the following words shall have the following meanings:--

177 "Commissioner", the commissioner of public health.

178 "Slaughterer", any person regularly engaged in the business of (1) purchasing livestock
179 for purposes of slaughter or (2) slaughtering livestock for the sale, by such person or others, of
180 meat or meat products.

181 "Livestock", cattle, calves, sheep, swine, goats and any other animal which can or may be
182 used in and for the preparation of meat or meat products, excluding poultry.

183 "Packer", any person engaged in the business of slaughtering, or of manufacturing or
184 preparing meat or meat products for sale, either by such person or others; or of manufacturing or
185 preparing livestock products for sale by such person or others.

186 "Stockyard", any place, establishment or facility conducted or operated for compensation
187 or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for
188 the handling, keeping and holding of livestock for the purpose of sale or shipment.

189 "Humane method", a method whereby the animal is rendered insensible to pain by
190 mechanical, electrical, chemical or other means that is rapid and effective, before being shackled,
191 hoisted, thrown, cast or cut; or a method of slaughtering, including handling and other
192 preparation for slaughtering, required by or used in connection with the ritual requirements of the
193 Jewish faith or of any other religious faith, whereby the animal suffers loss of consciousness by

194 anemia of the brain caused by the simultaneous and instantaneous severance of the carotid
195 arteries with a sharp instrument.

196 SECTION 6. This act shall take effect on the one hundred twentieth day after it
197 shall have become a law.