

HOUSE No. 04055

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 bill:

An Act relative to establishing an animal abuse registry.

PETITION OF:

NAME: _____

| DISTRICT/ADDRESS: _____

HOUSE No. 04055

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

In the Year Two Thousand Eleven

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:

- 1 SECTION 1. Chapter 10 of the General Laws is hereby amended by adding following section:-
- 2 Section 75. (a) (1) There shall be established and set up on the books of the commonwealth a
- 3 separate fund to be known as the Animal Protection Fund. A person who purchases pet food
- 4 shall pay a charge of \$0.05 per pound of pet food purchased.
- 5
- 6 (2) A store shall collect the charge from the customer at the time of sale. The store shall then
- 7 remit the charge collected to the state treasurer on a quarterly schedule for deposit in the Animal
- 8 Protection Fund.
- 9

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

11

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

14

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

17

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

20

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

22

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

26

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

29

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

32

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

35

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

37

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

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

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

43 "Animal abuse" means a continued without a finding or a conviction for a violation of sections
44 77 or 77A.

45 "Criminal bureau", located within the office of the attorney general.

46 (b) (1) Every person, over 18 years of age, described in paragraph (2), for the periods specified
47 therein, shall, while residing in, or if the person has no residence, while located in,

48 Massachusetts, be required to, within 10 days of coming into this state, or changing the person's
49 residence or location within any city, county, city and county, or campus wherein the person
50 temporarily resides, or if the person has no residence, is located, in this state:-

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

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

56

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

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

64 (c) Any person required to register pursuant to this section who is discharged or paroled from a
65 jail, prison, school, or other penal institution, or from the department of youth services where he
66 or she was confined because of the commission of animal abuse, shall, prior to the discharge,
67 parole, or release, be informed of his or her duty to register under this section by the official in
68 charge of the place of confinement. The official shall require the person to read and sign the form

69 as may be required by the criminal bureau, stating that the duty of the person to register under
70 this section has been explained to him or her. The official in charge of the place of confinement
71 shall obtain the address where the person expects to reside or locate upon his or her discharge,
72 parole, or release and shall report the address to the criminal bureau.

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

81

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

91 agency having local jurisdiction where the person expects to reside or locate upon his or her
92 discharge or release, and one copy to the criminal bureau. The probation officer shall also retain
93 one copy.

94

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

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

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

98 (ii) Date of birth.

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

100 (iv) Name and address of employer.

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

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

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

104

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

106

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

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

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

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

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

126

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

130

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

134

135 (j) In any case in which a person who would be required to register pursuant to this section is to
136 be temporarily sent outside the institution where he or she is confined on any assignment within
137 a city or county, the local law enforcement agency having jurisdiction over the place or places
138 where that assignment shall occur shall be notified within a reasonable time prior to removal
139 from the institution. This subdivision shall not apply to any person temporarily released under
140 guard from the institution where he or she is confined.

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

142

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

145 "Criminal bureau", located within the office of the attorney general.

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

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

156

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

159 (b), the following information:-

160

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

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

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

170

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

175 (ii) Any state facility that releases a person who is required to register pursuant to 77C of chapter
176 272 from incarceration whose incarceration was for a felony committed subsequent to the
177 offense for which he or she is required to register shall, within 30 days of release, advise the
178 Criminal bureau of that fact.

179

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

188

189 (c) The Criminal bureau shall make a reasonable effort to provide notification to persons who
190 have been convicted of the commission of an offense specified in sections 77, 77A or 77C of

191 chapter 272, that on or before January 1, 2013, the department is required to make information
192 about offenders available to the public via an Internet Web site as specified in this section.

193

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

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

202

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

205

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

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

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

214

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

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

221

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

225 (A) Health insurance.

226 (B) Insurance.

227 (C) Loans.

228 (D) Credit.

229 (E) Employment.

230 (F) Education, scholarships, or fellowships.

231 (G) Housing or accommodations.

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

233

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

239

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

249

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

254

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

257

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