

## Animal Control Officers' Association of Massachusetts (ACOAM)

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Date: September 19, 2012

To: Town Administrators, Chiefs of Police, Animal Control Officers and other municipal parties

From: Animal Control Officers Association of Massachusetts (ACOAM) in conjunction with the MSPCA, Animal Rescue League of Boston, Massachusetts Animal Coalition, Massachusetts Veterinary Medical Association

Re: Changes to state laws governing animal control (Senate Bill 2192)

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Senate Bill 2192, An Act Further Regulating Animal Control, passed into law in August 2012; it will become effective on October 31, 2012. This law will affect many aspects of the animal control function in our municipalities. ACOAM, along with many other stakeholders, worked to draft and pass this legislation. We believe that, while it may require some changes to local bylaws and procedures, it will provide long term benefits to the animals and the public in your community and to the role of your ACOs, while saving your city or town money, too.

In broad terms, the law will update many of the statutes pertaining to animals in the Mass. General Laws Ch. 140 to reflect the current state of animal control in our municipalities today. For example, the changes remove references to the outdated and unused county system. Cities and towns can make bylaws that aren't inconsistent with the provisions of MGL Ch. 140 sec. 136A through 174E.

We hope this summary will provide an introduction to these changes and we welcome the opportunity to discuss these with you and/or your municipal government. We hope you will view the law in its entirety at [www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter193](http://www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter193) and share with the officials in your town that would benefit from this information. A document showing the changes between the current and new law can be found at [www.acoam.com](http://www.acoam.com)

There are trainings being held by Commonwealth Police Service on October 4<sup>th</sup> in N. Grafton and November 12<sup>th</sup> in Taunton that your ACO and/or your municipal officials may find useful. These trainings are not hosted by or affiliated with ACOAM; for more information on the trainings visit [www.commonwealthpolice.net](http://www.commonwealthpolice.net). Training offered by ACOAM on this topic are being formed and will be announced.

Following is a summary of key changes:

## **1. Definitions**

The law updates definitions in Ch. 140 sec. 136A. For example, the term “dog officer” is replaced with the modern term “animal control officer.” The new law also breaks the definition of kennel into more specific types.

## **2. Dangerous Dog provisions**

The new law sets forth a statewide dangerous dog law, and specifically prohibits regulations based on breed alone. It also prevents “banishing” a dog to another community, recognizing that this does not address the underlying issues regarding the dog’s behavior. After lengthy discussions with professionals who enforce the dangerous dog laws and those engaged in the administrative process involved with dangerous dog issues, as well as those involved in defending dogs that have been deemed dangerous, the following provisions were drafted:

*Definition of dangerous (§136A):* An issue that many communities have struggled with is which behaviors or actions constitute a “dangerous” disposition. Based on studies published in respected periodicals such as the Journal of the American Veterinary Medical Association, as well as consultation with certified animal behaviorists, §136A provides cities and towns with a working, objective and fair definition of “dangerous.”

*Procedural (§157):* This section clearly defines the steps that must be taken in order to initiate an investigation into the dangerousness of a dog. This section also spells out the authority of the local jurisdiction to hold an administrative hearing and offers recommendations for disposition (restrictions on care and control or euthanasia). The appeal process afforded to the owner of the dog in question is defined. Section 157 also provides local officials with the discretion to seek a court order to impound a dog if necessary, and the ability to recover costs for housing the animal if the order is not successfully appealed by the dog owner.

*Preventive measures/requirements for future confinement (§157):* This section offers cities and towns recommendations to order the future confinement and other provisions for a dog deemed dangerous. A comprehensive list is provided so that a local authority can order any combination, at their discretion, of what they feel is necessary to properly and safely confine a dangerous dog in order to protect the public from future harm.

*Penalties for violations (§157A):* Previous fines had been not been updated in many years. The low level did not serve as a deterrent nor did it represent the true severity of violating these orders.

## **3. Stray hold period**

The stray hold period is now a statewide standard 7 days (only Suffolk County had previously been at 7 days). Given that almost all stray dogs who are reclaimed go back home within 3 days of impoundment, this will allow dogs to be adopted or sent to another placement organization sooner, rather than having to wait 10 days as previously required. There are organizations in Massachusetts and neighboring states that will take dogs from municipal facilities when their stray hold is up; see MAC’s PILOT program, for example,

<http://www.massanimalcoalition.com/programs/pilot-program.html>, and breed rescues (see list at <http://www.crdtc.org/ne-rescu.html>). Communication about dogs that need to be transferred to other organizations may begin during the stray hold period, so that dogs can be moved as soon as the hold period is complete. Please make sure you know, and work with, shelter and rescue organizations in your area. For questions on these groups, please contact the Mass. Animal Coalition at [info@massanimalcoalition.org](mailto:info@massanimalcoalition.org). See also #9 below.

#### **4. ACO training**

The new law sets up a statewide Homeless Animal Prevention and Care Fund that will offer a spay/neuter and vaccination program and also provide training to Animal Control Officers. Once the Fund has enough money to provide training to ACOs, this training will become mandatory. The law states: “Each animal control officer shall, within 24 months of the effective date of this act if serving as an animal control officer before the effective date of this act or within 12 months from the officer’s date of hire if such date of hire is on or after the effective date of this act, complete a training course offered under section 151C of chapter 140 of the General Laws; provided, however, that such training requirement shall be subject to the availability of funds in the Homeless Animal Prevention and Care Fund, established in section 35TT of chapter 10 of the General Laws, as determined by the commissioner of the department of agricultural resources. Priority for training animal control officers serving in such capacity before the effective date of this act shall be given to those officers having served for 12 months or less.”

#### **5. Euthanasia**

A dog or cat whose killing is authorized under this chapter shall be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia or as allowed in section 151A (for emergencies). Nothing in the law changes who can perform euthanasia; please share this information with those who perform euthanasia for your city or town.

#### **6. Differential licensing**

The law now requires a differential fee for dog licensing, providing a reduced fee incentive for owners who have their dog altered and therefore don’t potentially contribute to the homeless animal population. The law states “The license fee for a spayed or neutered dog shall be less than the license fee of an intact dog.”

#### **7. Spay/neuter deposit**

As you know, Section 139 of Chapter 140 requires shelters and municipal animal control facilities to collect a deposit if an animal is adopted without being spayed or neutered. Ideally, all animals would be altered before they leave the facility. If they are not, the deposit law (originally passed in 1987) is designed to help ensure the animal is spayed or neutered and that shelters and animal control facilities are not inadvertently participating in the a problem – too many homeless animals -- they seek to solve. Adopters must sign an agreement to have the surgery performed; if the owner does not get the surgery performed, the deposit is forfeited. Changes to this section

increase the deposit fee from \$10-30 to not less than \$40. The law allows the Commissioner of the Department of Agricultural Resources to impose fines for non-compliance. Animal control officers and shelters can also petition for the forfeiture and relinquishment of the animal from owners who do not comply with the law. The increased spay/neuter deposit raises the incentive for owners to comply with the law, as adopters will be more likely to get their animal spayed or neutered in order to get their deposit back. The imparting of violations will also help raise compliance levels as the risk of being fined or losing the pet gives more weight to the agreement.

## **8. Reporting**

In Section 151A, the reporting has become more specific and applies to both dogs and cats and also requires ACOs to forward a copy of the record to the city or town clerk within 30 days.

## **9. Microchip or tattoo scanning**

In Section 151, the law requires that, before euthanizing any animal or giving or turning over an animal to anyone else, and ACO must examine the animal for a microchip and a tattoo. To thoroughly scan for microchips, a universal scanner, such as Home Again, should be used. We are researching group purchase options for universal scanners; email [info@massanimalcoalition.org](mailto:info@massanimalcoalition.org) if you do not have one and need help obtaining one.

## **10. Tethering**

An amendment to the bill in the House of Representatives provides restrictions on how dogs are kept outdoors and limits the manner and time a dog can remain outside. This section (174E) will provide ACOs with tools to address “filthy and dirty” conditions when a dog is kept outside, such as ensuring access to clean water, appropriate shelter and addressing exposure to excessive animal waste.

## **11. Statewide oversight**

The Chapter 140 laws now fall under the Commission or the Department of Agricultural Resources and not Public Health (except for Section 174D). The Commissioner may appoint an ACO if a municipality fails to do so (having an ACO has always been required, but there has been no enforcement if a city or town failed to do this). The Commissioner can also inspect places where stray animals are detained.

As noted above, the new law creates a Homeless Animal Prevention and Care Fund; the money in this fund will come from donations via a check-off on state income tax forms. Please help spread the word to people who appreciate your efforts; the more they donate, the sooner all ACOs will be trained and funds will be available for spaying/neutering and vaccinating animals in Massachusetts.

We'd be happy to help with the implementation of this new law. If you have any questions please contact me.