

HOUSE No. 6215

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 11, 1983.

The committee on Local Affairs, to whom was referred the petition (accompanied by bill, House, No. 5741) of Lawrence R. Alexander (by vote of the town) relative to the processing of dog law violations in the town of Marblehead, reports recommending that the accompanying bill (House, No. 6215) ought to pass [Local Approval Received.]

For the committee,

ROBERT A. VIGNEAU.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT RELATIVE TO THE PROCESSING OF DOG LAW VIOLATIONS IN THE TOWN OF MARBLEHEAD.

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

1 The selectmen of the town of Marblehead shall designate or
2 appoint a canine control clerk. Said clerk shall report to the
3 selectmen and shall supervise and coordinate the processing of all
4 violations of the town of Marblehead's by-law regarding the res-
5 traint of all canines on a leash. Said clerk shall have the authority
6 subject to the approval of the selectmen to hire or designate such
7 personnel as may be necessary to contract by competitive bid for
8 such services subject to appropriation to carry out the provisions of
9 this act, provided, however, that in no case shall the amount
10 expended for administration of this section exceed eleven percent
11 of the total amount of receipts collected by said clerk.

12 It shall be the duty of every police officer who takes cognizance
13 of a violation of the towns leash law by-law, forthwith to give the
14 owner of the canine a notice to appear before the canine control
15 clerk at any time during regular office hours not later than twenty-
16 one days after the close of such violation. All notices shall be
17 prepared in triplicate and shall be prenumbered.

18 Said notice shall contain but shall not be limited to the following
19 information, the name of the owner of the dog or the person
20 charged, the date, time and place of the by-law violation, the name
21 and badge number of the officer, a schedule of fines and instruc-
22 tions for the return of the notice. Said instructions shall contain the
23 information that the notice may be returned by mail, personally or
24 by an authorized person, and that a hearing may be obtained by the
25 person charged.

26 At or before the completion of each tour of duty, the officer shall
27 give to his commanding officer those copies of each notice of such

28 violation taken cognizance of during such tour. Said commanding
29 officer shall retain and safely preserve on of such copies and shall at
30 a time no later than the beginning of the next business day after
31 receipt of such notice deliver another of such copies to the canine
32 control clerk before whom the offender has been noticed to appear,
33 the said clerk shall maintain a docket of all such notices to appear.

34 Any person notified to appear before the said clerk, as provided
35 herein, may appear before such said clerk, or his designee, and
36 confess the offense charged, either personally or through an agent
37 duly authorized in writing or by mailing to such canine clerk be
38 notice accompanied by the fine provided therein, such payment to
39 be made only by postal note, money order or check made out to the
40 said clerk. Payment of the fine established shall operate as a final
41 disposition of the case.

42 A notice given as provided in this act shall be deemed a sufficient
43 notice and a certificate of the officer giving such notice that it was
44 given to the person charged in accordance with this act shall be
45 deemed prima facie evidence thereof and shall be admissible in any
46 judicial or administrative proceedings as the facts contained
47 therein.

48 Should any person notified to appear hereunder fail to appear
49 and, if a fine is provided hereunder, to pay the same, or having
50 appeared desire not to avail himself of the benefits of the procedure
51 established by this section, the officers concerned shall forthwith
52 schedule the matter before a person hereafter referred to as a
53 hearing officer, said hearing officer to be the canine control clerk or
54 such other person or persons as the said clerk may designate.
55 Written notice of the date, time and place of said hearing shall be
56 sent by first-class mail to the registered owner. Said hearing shall
57 be informal, the rules of evidence shall not apply and the decision
58 of hearing officer shall be the final subject to judicial review as
59 provided by section fourteen of Chapter thirty A.

60 Should any person fail to appear before the hearing officer, the
61 canine control clerk may apply to the clerk of the Lynn Division of
62 the district court department of the trial court to have the matter of
63 these alleged violations shall comply with the procedure provided
64 by Section one hundred seventy-three A of Chapter one hundred
65 forty.

66 All fines received for violations of the towns leash law shall be
67 retained by the town and deposited into the town's general fund.