

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Department of Agricultural Resources,
Petitioner,

Docket No.: MS-23-0693

v.

Jarred Rafferty,
Respondent.

Appearances:

For Petitioner: Katherine A. Foote, Esq.
Jarred Rafferty, pro se

Administrative Magistrate:

Yakov Malkiel

SUMMARY OF DECISION

The petitioner imported a group of dogs into Massachusetts without official health certificates. He kept the dogs at a property in Phillipston for the purpose of selling or gifting them to other people. These actions are punishable under G.L. c. 129, §§ 37, 39A, and 39G.

DECISION

A notice of agency action issued by the Department of Agricultural Resources (department) assessed fines against respondent Jarred Rafferty. Mr. Rafferty requested a hearing. The department referred the case to the DALA. Administrative Magistrate Melinda E. Troy held a hearing in April 2024. The witnesses were Mr. Rafferty and a department inspector. When Magistrate Troy became unavailable to prepare a decision, the matter was reassigned to me. The department filed a supplemented brief in January 2026. I now admit into evidence exhibits marked 1-16.¹

¹ Mr. Rafferty maintained at the hearing that some of the department's evidence originated in an unlawful seizure of Mr. Rafferty's dogs. *See infra* p. 3, para. 4. Generally

Findings of Fact

I find the following facts.

1. Mr. Rafferty resides in Phillipston. He is employed by a retail company as a human resources worker. (Rafferty.)
2. During 2018, the department received a complaint stating that Mr. Rafferty had sold a puppy to another individual. In response, the department served Mr. Rafferty with an order instructing him to “cease and desist from operating a pet shop in the Commonwealth of Massachusetts” (2018 order). The 2018 order stated that any violations of it could result in “administrative fines.” (Exhibit 2.)
3. In early 2023, Mr. Rafferty traveled to Missouri, returning with thirteen puppies in tow. A series of posts on Mr. Rafferty’s Facebook page memorialized the expedition. On February 20, Mr. Rafferty wrote: “Need a copilot, leaving [March 16] in the night and coming back [March 19] in the afternoon . . . Puppies.” On March 4, he posted three photos of kenneled dogs, with the caption: “Back at it.” On March 18, he posted two more photos, writing: “Little pup preview.” Later that day, he wrote: “I’m heading back with 13 total. 1 golden retriever, 2 black labs, 2 shelties, 2 mini Aussies, 2 soft coated wheaten, 1 French

speaking, the constitutional “exclusionary rule” operative in the courts carries over incompletely to administrative proceedings. *Compare Board of Selectmen of Framingham v. Municipal Ct. of Bos.*, 373 Mass. 783 (1977), with *United States v. Janis*, 428 U.S. 433 (1976). *See also Boston Hous. Auth. v. Guirola*, 410 Mass. 820, 825-27 (1991). Mr. Rafferty presented no sustained evidence or argument against the legality of the seizure; regardless, the only piece of evidence apparently traceable to it, an x-ray image (exhibit 15), does not affect the outcome of this appeal.

bulldog, 1 chihuahua, 1 cocker spaniel, 1 cocker/cavalier mix . . . Text if interested.” The post then provided Mr. Rafferty’s telephone number. (Exhibit 16.)

4. On April 4, 2023, a department inspector, a Phillipston detective, and a Phillipston animal control officer visited a property on Baldwin Hill Road in Phillipston (Baldwin Hill property or property). The animal control officer suspected that Mr. Rafferty was keeping mistreated dogs on the Baldwin Hill property. Later that day, in Mr. Rafferty’s presence but without his consent, eleven dogs were seized from the property by two animal control officers. The dogs were among those that Mr. Rafferty had brought to Massachusetts from Missouri. (Exhibit 3.)

5. On the day after the seizure, Mr. Rafferty produced a compilation of records to the authorities. For ten of the eleven dogs, Mr. Rafferty produced vaccination and veterinary papers. But he had no “official health certificates” for any dogs within the meaning of G.L. c. 129, § 39G (discussed below). (Exhibits 1, 5-14.)

6. Later in April 2023, Mr. Rafferty attended an interview with a department inspector and Phillipston police officers. He stated there that he “often just gives dogs away.” Mr. Rafferty estimated that, in all, he has “placed a couple hundred dogs” with other people. He expressed a desire to retrieve his seized dogs promptly “so that he could place them before people started climbing all over him.” (Exhibit 4.)

7. In May 2023, the department served Mr. Rafferty with a notice of agency action (enforcement notice). The enforcement notice fined Mr. Rafferty for operating a pet shop (\$6,500), importing dogs without official health certificates (\$1,100), and violating the 2018 order (\$500). Mr. Rafferty requested an administrative hearing. (Exhibit 1.)

Analysis

Chapter 129 of the General Laws is titled “Livestock Disease Control” (animal control statute or statute). The Commissioner of Agriculture possesses the authority to “assess administrative fines, not to exceed \$500 per offense, for violations of [the statute].” *Id.* § 37. “Each animal involved in a violation may constitute a separate offense.” *Id.*

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“Every person engaged in the business of operating a pet shop[] shall obtain a license therefor from the director [of animal health].” G.L. c. 129, § 39A. The department alleges that Mr. Rafferty committed thirteen violations of this statute, i.e., with each of the thirteen dogs that he brought to Massachusetts from Missouri. *See id.* § 37.

Mr. Rafferty responds that he did not offer the dogs for sale. The argument resonates with the ordinary meaning of the phrase “pet shop.” But for purposes of the animal control statute, a “pet shop” means “every place or premise where birds, mammals or reptiles are kept for the purpose of sale . . . , import, export, barter, exchange *or gift*.” G.L. c. 129, § 1 (emphasis added).

In March-April 2023, Mr. Rafferty used the Baldwin Hill property as a place where dogs were “kept for the purpose of sale . . . or gift.” G.L. c. 129, § 1. This conclusion follows from Mr. Rafferty’s Facebook posts and his statements at the April 2023 interview.

Only eleven dogs were seized at the Baldwin Hill property. But there is no dispute that Mr. Rafferty also drove two additional dogs back to Massachusetts, arriving approximately two weeks before the seizure. It is more likely than not that, for some span of time, the two additional dogs were present at the property together with their fellow travelers and for the

same purposes. Mr. Rafferty does not say otherwise. There was no error in this portion of the enforcement notice.

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“A dog or cat brought or shipped into the commonwealth shall be accompanied by an official health certificate.” G.L. c. 129, § 39G(a). To count as an “official health certificate,” a document must be “issued by an accredited veterinarian and approved by the chief livestock official of the state or county of origin.” *Id.* § 39G(b). The document must “contain the name and address of the consignor and consignee.” *Id.* It must “show the age, sex, breed and description of each dog or cat.” *Id.* It must “certify that the dog or cat is free from visual evidence of infectious or contagious disease.” *Id.* Finally, the document must “show proof of rabies vaccination within the previous 12 months.” *Id.*

Not one of the eleven dogs imported by Mr. Rafferty from Missouri and seized from him in Massachusetts was accompanied by a certificate compliant with the statutory requirements. Mr. Rafferty asserts that circumstances he encountered in his travels made the requisite certificates difficult or impossible to procure: but in that case, he was obligated to leave the dogs behind in Missouri. By failing to do so, Mr. Rafferty committed the eleven violations alleged in this portion of the enforcement notice.

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The department’s final allegation is that Mr. Rafferty violated the 2018 order, which had instructed him to “cease and desist from operating a pet shop.” The department identifies the source of its power to have issued the 2018 order as G.L. c. 129, § 2. That provision entitles the director of animal health to “make and enforce reasonable orders, rules and regulations

relative to [specified topics].” The topic that the department views as implicated here is “the prevention, suppression and extirpation of contagious diseases of domestic animals.” *Id.* See also *Ralston v. Hawes*, 334 Mass. 51 (1956).

Mr. Rafferty does not contest the validity of the 2018 order. The key question presented is whether it is lawful for the department to assess fines as punishments for violations of its orders.² The department cites its authority to punish “violations of this chapter [i.e., the animal control statute].” G.L. c. 129, § 37. But the Legislature did not specify there that fines may be assessed against violators of “orders” or other instruments.

Cease and desist orders do not invariably carry the force of law, with all of the attendant implications. By way of example, in *Purity Supreme, Inc. v. Attorney General*, 380 Mass. 762, 767 (1980), the Supreme Judicial Court discussed a statutory amendment that “granted [a federal agency] new power to seek civil penalties for violation of its own . . . cease and desist orders.” When the Legislature intends for specified consequences to attach to violations, not only of statutes, but also of regulations or orders, it knows how to say so. See, e.g., G.L. c. 21, § 53 (“violations of law, orders or rules and regulations”); G.L. c. 159, § 40 (“violation of the law or of any order”); G.L. c. 175, § 4(10)(a) (“violation of any law, regulation or prior order”); G.L. c. 40, § 22A (“a violation of an ordinance, by-law, order, rule or regulation”). The department has identified no authoritative support for the view that, in the animal control context, cease and desist orders count as an extension of the statute itself. The enforcement order must be modified accordingly.

² The department presented its position on this issue in its most recent brief.

Conclusion and Order

The department's enforcement order is MODIFIED. Mr. Rafferty is required to pay the department an administrative fine totaling \$7,600.

SO ORDERED.

Dated: January 15, 2026

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

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