

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 87, L.D. 218)
2 (New Title)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1530

9 S.P. 515

In Senate, April 29, 1983

10 Reported by the Majority from the Committee on Agriculture and printed
11 under Joint Rule 2.

Original bill presented by Senator Wood of York.

12 JOY J. O'BRIEN, Secretary of the Senate

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT Relating to the Humane Treatment
20 of Animals.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 7 MRSA §1, as amended by PL 1979, c.
25 731, §§2 and 3, is further amended to read:

26 §1. Department of Agriculture, Food and Rural
27 Resources

28 The Department of Agriculture, Food and Rural
29 Resources, as ~~heretefere~~ established and ~~hereinafter~~
30 in this Title called the "department," shall be main-
31 tained for the improvement of agriculture and the
32 advancement of the interests of husbandry, and shall
33 consist of the Commissioner of Agriculture, Food and

1 Rural Resources, hereafter in this Title called the
2 "commissioner," and the following as heretofore cre-
3 ated and established: The Board of Pesticide Control,
4 the Maine Dairy and Nutrition Council Committee, the
5 Maine Dairy Promotion Board, the Maine Milk Commis-
6 sion, the Maine Potato Commission, the Seed Potato
7 Board, the Soil and Water Conservation Commission,
8 the Harness Racing Commission and, the Board of Vet-
9 erinary Medicine and the Animal Welfare Board. The
10 commissioner shall be appointed by the Governor, sub-
11 ject to review by the joint standing committee ~~on~~ of
12 the Legislature having jurisdiction over agriculture
13 and to confirmation by the Legislature, and shall
14 hold office during the pleasure of the Governor. He
15 shall receive his actual expenses incurred in the
16 performance of his official duties. He may employ
17 such clerical labor as may be required, subject to
18 the Personnel Law, and he may expend such sums for
19 postage, telephone, telegraph and other general
20 office expenses as may be necessary in the perfor-
21 mance of his duties, the same to be paid out of any
22 money appropriated by the Legislature for such pur-
23 pose.

24 Sec. 2. 7 MRSA §2, 3rd ¶, as amended by PL 1979,
25 c. 731, §6, is further amended to read:

26 The commissioner does not have authority to exer-
27 cise or interfere with the exercise of any discre-
28 tionary statutory authority granted to the following,
29 which authority shall be exclusively within the spe-
30 cific board, bureau, agency, commission, committee or
31 other governmental unit: The Maine Dairy and Nutri-
32 tion Council Committee, the Maine Dairy Promotion
33 Board, the Maine Milk Commission, the Seed Potato
34 Board, the Harness Racing Commission, the Maine
35 Potato Commission, the Soil and Water Conservation
36 Commission, the Board of Veterinary Medicine and, the
37 Board of Pesticide Control and the Animal Welfare
38 Board.

39 Sec. 3. 7 MRSA §12, as amended by PL 1977, c.
40 694, §41, is further amended to read:

41 §12. Rules and standards

1 The commissioner shall adopt, consistent with the
2 Maine Administrative Procedure Act, Title 5, chapter
3 375, rules and regulations for carrying out this
4 Title, Title 10, chapter 309, Title 17, chapter 43
5 and Title 32, chapter 61 and all other statutes delegating
6 responsibility to him or the department. He
7 may fix standards of purity, quality or strength when
8 such standards are not specified or fixed by law, and
9 shall publish them together with such other information
10 concerning articles of commercial feeding stuff,
11 commercial fertilizer, drug or food as he may deem to
12 be of public benefit.

13 Sec. 4. 7 MRSA §13, first ¶, as amended by PL
14 1973, c. 598, §4, is further amended to read:

15 The commissioner shall diligently enforce all
16 provisions of this Title, Title 17, chapter 43 and
17 Title 32, chapter 27 and all other statutes delegating
18 responsibility to him or the department and shall
19 be entitled to and shall receive the assistance of
20 the Attorney General and of the several county attorneys.
21 He may recover the penalties imposed for
22 violations of this Title and Title 32, chapter 27 in
23 a civil action brought in his own name, the venue to
24 be as in other civil actions, and if he prevails in
25 any such action, shall recover full costs, or he may
26 prosecute for violations hereof by complaint or
27 indictment, and such prosecution shall be commenced
28 in the county in which the offense was committed.

29 Sec. 5. 7 MRSA §14, as amended by PL 1977, c.
30 694, §42, is further amended to read:

31 §14. Hearings on violations

32 When the commissioner becomes cognizant of the
33 violation of any provision of this Title, Title 10,
34 chapter 309, Title 17, chapter 43, Title 22, sections
35 2151 to 2162 and Title 32, chapters 27 and 61 and all
36 other statutes delegating responsibility to him or
37 the department, he shall provide opportunity for
38 hearing in a manner consistent with the Maine Admin-
39 istrative Procedure Act, Title 5, chapter 375, and
40 shall, in any case, cause a copy of the finding or,
41 in case of a packer of food, a copy of the charge to
42 be preferred, to be given to that person concerned

1 and the person from whom the sample was obtained, and
2 the person whose name appears upon the label, if a
3 resident of the State. When the hearing relates to
4 the packing of apples, it shall be held in the county
5 where the inspection was made.

6 Sec. 6. 17 MRSA §1051, first ¶, as amended by PL
7 1979, c. 731, §19, is repealed and the following
8 enacted in its place:

9 The Animal Welfare Board, as established in
10 section 1051-A, shall enforce all provisions of this
11 chapter; Title 7, chapters 701, 703 and 711; and
12 Title 17-A, section 510.

13 Sec. 7. 17 MRSA §§1051-A, 1051-B and 1051-C are
14 enacted to read:

15 §1051-A. Animal Welfare Board

16 There is established the Animal Welfare Board, in
17 the Department of Agriculture, Food and Rural
18 Resources. It shall consist of 10 members; 4 repre-
19 senting humane societies; 4 representing agriculture;
20 the Commissioner of Agriculture, Food and Rural
21 Resources, or his designee; and a veterinarian. The
22 Commissioner of Agriculture, Food and Rural Resources
23 shall serve ex officio and shall not exercise the
24 power to vote. The remaining 9 members of the board
25 shall be appointed by the Governor, subject to review
26 by the joint standing committee of the Legislature
27 have jurisdiction over agriculture and to confirma-
28 tion by the Legislature.

29 Four members representing humane societies shall
30 be appointed by the Governor, who shall consider nom-
31 inations made by humane societies incorporated under
32 the statutes, provided no more than one such member
33 may represent a particular society. Four members
34 representing agriculture shall be appointed by the
35 Governor from nominations presented by organizations
36 representing the agricultural community. One member
37 shall be a veterinarian and be appointed by the Gov-
38 ernor, who will consider nominations made by the
39 Maine Veterinary Medical Association.

1 Each member shall serve for a term of 4 years or
2 until his successor has qualified. In the case of a
3 vacancy for any reason, the Governor shall appoint a
4 member to fill the unexpired term. One member of the
5 board shall be elected by members of the board to
6 chair the board. Initially, 3 appointed members shall
7 serve for one year; 2 members for 2 years; 2 members
8 for 3 years; and 2 members for 4 years, provided that
9 no more than one member represents the same interest
10 group in the same class.

11 The board shall hold regular monthly meetings.
12 The chairman shall call special meetings of the board
13 whenever requested in writing by 2 or more members of
14 the board.

15 Members of the board shall be entitled to per
16 diem compensation, equal to the per diem compensation
17 of Legislators, for the conduct of official business
18 and expenses necessarily incurred in the performance
19 of the board's duties.

20 §1051-B. Executive director; other employees

21 The commissioner may employ with the approval of
22 the board, subject to the Personnel Law, an executive
23 director and such other employees as are necessary to
24 assist the board in carrying out its duties and
25 responsibilities. The board shall appoint part-time
26 humane agents who shall serve as agents of the board
27 in the enforcement of this chapter and as otherwise
28 provided by law. These part-time agents shall be
29 unclassified employees whose standards of employment,
30 training, compensation and hours of employment will
31 be determined by the board. The jurisdiction of each
32 part-time humane agent shall extend throughout the
33 State. In connection with its enforcement responsi-
34 bilities, the board shall be entitled to and shall
35 receive the assistance of the Attorney General and of
36 the several district attorneys and may apply to the
37 Commissioner of Agriculture, Food and Rural Resources
38 for the assistance of state veterinarians.

39 §1051-C. Rules

40 In carrying out its duties and responsibilities,
41 the board may adopt rules pursuant to authority

1 granted in chapter 43; Title 7, chapters 701, 703 and
2 711 and Title 17-A, section 510. These rules shall be
3 made in conformity with the Maine Administrative
4 Procedure Act, Title 5, chapter 375.

5 **Sec. 8.** 17 MRSA §1055, sub-§4, as amended by PL
6 1979, c. 731, §19, is further amended to read:

7 4. Standards of treatment. Any animal, whose use
8 is permitted under this section, shall be treated in
9 accordance with a set of ethical and humane standards
10 to be promulgated, in a manner consistent with the
11 rule-making provisions of the Maine Administrative
12 Procedure Act, Title 5, chapter 375, by the Commis-
13 sioner of Agriculture, Food and Rural Resources,
14 Division of Animal Welfare Board, after the consulta-
15 tion with representative groups in the State having
16 an interest or expertise in the field of animal wel-
17 fare, biology and education.

18 **Sec. 9.** 17 MRSA §1055, sub-§5, as amended by PL
19 1979, c. 731, §19, is further amended to read:

20 5. Enforcement. Enforcement shall be the respon-
21 sibility of the Commissioner of Agriculture, Food and
22 Rural Resources Animal Welfare Board in consultation
23 with the Commissioner of Educational and Cultural
24 Services.

25 **Sec. 10.** 17 MRSA §1214, as repealed and replaced
26 by PL 1973, c. 598, §16 and c. 666, §2, is repealed.

27 **Sec. 11.** 17 MRSA §1216, as enacted by PL 1973,
28 c. 598, §17, is repealed.

29 **Sec. 12.** Revision clause. Wherever in Title 7,
30 chapter 701, 703 and 711 and Title 17, sections 1176,
31 1177, 1211, 1212, 1213 and 1230, the word "commis-
32 sioner" appears, it means and shall be cited as
33 "board."

34 **Sec. 13.** Transitional clause. As of the effec-
35 tive date of this Act, the balance of all funds
36 appropriated to the Commissioner of Agriculture, Food
37 and Rural Resources for the administration of the
38 Division of Animal Welfare, Title 17, chapter 43,
39 shall be transferred to the account of the Board of

