

MAINE STATE LEGISLATURE

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Agriculture (Animal Industry)

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Extent of State's Liability Under 7 M.R.S.A. § 3652

SYLLABUS:

The owners of exotic poultry killed and/or injured by dogs and/or wild animals within the State of Maine may recover damages from the State of Maine to the extent the birds in question are or were used as a source of food or as breeders of food producing birds.

FACTS:

It has been reported to the Animal Industry, Division of the Department of Agriculture that certain exotic birds (guinea hens, bantams, pigeons, etc.) have recently been killed and/or injured by dogs and/or wild animals within the State of Maine.

QUESTION:

Can the State of Maine accept liability and adjust the damage to these exotic birds under 7 M.R.S.A. § 3652?

ANSWER:

Yes; but to a limited extent.

REASONS:

Under 7 M.R.S.A. § 3652:

"Whenever any livestock, poultry or domestic rabbits, properly enclosed, owned by a resident of this State is killed or injured by dogs or wild animals, the owner, after locating such animal, animals or poultry or a sufficient part of each to identify the same, may make complaint thereof to the mayor of a city or to one of the municipal officers of the town or plantation where such damage was done within 24 hours after he has knowledge of same. Thereupon, the municipal officers shall investigate the complaint and if satisfied such damage was committed by dogs or wild animals within the limit of their municipality, after viewing the evidence estimate the actual

value of such animals or poultry according to the purposes for which they were kept, whether as breeders or other purposes, together with the damage to any other animals or poultry being bitten, torn or chased or exhausted, and make returns on blanks furnished by the Department of Agriculture. . . ." (Emphasis supplied)

"When the claim is approved by the Commissioner or his duly authorized agent, the State shall accept liability and adjust the damage, and the same shall be paid by the State to the person sustaining such damage"

In order to recover damages under § 3652 it must be shown that the birds in question qualify as poultry. Poultry has been defined judicially as "any domesticated birds which serve as a source of food, either eggs or meat." Seley v. Unemployment Compensation Board of Review, 185 Pa. Super. 414, 138 A. 2d (1958). In Webster's Third New International Dictionary (1961), "poultry" is defined as, "domesticated birds that serve as a source of eggs or meat."

If the other requirements of § 3652 are satisfactorily met, the owners in question may recover damages under § 3652 to the extent that their birds are or were poultry, i.e., they may recover damages for the value of their birds as food (either as eggs or meat) or as breeders (of food producing birds). They may not, however, recover damages for any value not related to food or breeding (of food producing birds).

WEW, Jr./mf

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