

# MAINE STATE LEGISLATURE

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17 M.R.S.A. § 1228

# STATE OF MAINE

Inter-Departmental Memorandum Date January 10, 1978

To Stanley Browne

Dept. Agriculture

From Sarah Redfield, Assistant

Dept. Attorney General

Subject Title 17 M.R.S.A. § 1228

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This is in response to your memorandum of October 11, 1977, in which you requested an opinion as to the meaning of the term "emergency situation" in Title 17 M.R.S.A. § 1228.

Title 17 M.R.S.A. § 1226 provides that "no cat or dog shall be destroyed by any authorized agency or licensed veterinarian by any method, agent or device except as described in this subchapter."

Title 17 M.R.S.A. § 1227 indicates the "preferred" method of euthanasia is the administration of a barbituate overdose by methods described in that section.

Title 17 M.R.S.A. § 1228 provides that certain methods "shall be used only in an emergency situation in which the safety of people or other animal life is threatened or in a situation in which the preferred method of euthanasia of cats and dogs cannot be implemented expeditiously and will cause undue suffering."

The basic principle to be followed in construing statutory provisions is that words are to be given their common meaning unless their context clearly requires otherwise, see e.g. Title 1 M.R.S.A. § 72. With this principle in mind, it would appear that the conditional methods cited in section 1228 may not, as a matter of course, be held to be "acceptable" as you suggest for this would be in direct contradiction to the statutory framework, 17 M.R.S.A. § 1227, cf. § 1228. While there is obviously some discretion to be exercised in construing § 1228, its applicability must be based on a factual finding of either an emergency situation where the life of persons or animals is threatened or a situation where the methods preferred by § 1227 cannot be expeditiously implemented and such a delay will cause undue suffering.

  
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SARAH REDFIELD  
Assistant Attorney General

SR:mfe

cc: Joseph Williams