

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1886

S. P. 705

In Senate, January 24, 1972

Committee on State Government suggested.

HARRY N. STARBRANCH, Secretary

Presented by Senator Hichens of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-TWO

AN ACT Relating to Animal Welfare.

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

Sec. 1. R. S., T. 7, § 2, amended. The first sentence of section 2 of Title 7 of the Revised Statutes is amended to read as follows :

The commissioner is the chief executive charged with the enforcement of this Title and Title 17, chapter 43 and shall be vigilant in discovering violations thereof and making complaint to the proper authorities.

Sec. 2. R. S., T. 7, § 3, repealed and replaced. Section 3 of Title 7 of the Revised Statutes, as amended by section 1 of chapter 300 of the public laws of 1967, is repealed and the following enacted in place thereof :

§ 3. Departmental divisions

The various bureaus and lines of work in the department shall be grouped into divisions, known as the Division of Administration, the Division of Markets, the Division of Promotions, the Division of Animal Industry, the Division of Plant Industry, the Division of Inspections, the Division of Animal Welfare and such other divisions as the commissioner determines are necessary to fulfill the duties of the department.

Sec. 3. R. S., T. 7, § 12, amended. The first sentence of section 12 of Title 7 of the Revised Statutes is amended to read as follows :

The commissioner shall make uniform rules and regulations for carrying out this Title, Title 10, chapter 309, Title 17, chapter 43 and Title 32, chapter 61.

Sec. 4. R. S., T. 7, § 13, amended. The first sentence of section 13 of Title 7 of the Revised Statutes is amended to read as follows :

The commissioner shall diligently enforce all provisions of this Title, **Title 17, chapter 43** and Title 32, chapter 27 and shall be entitled to and shall receive the assistance of the Attorney General and of the several county attorneys.

Sec. 5. R. S., T. 7, § 14, amended. The first sentence of section 14 of Title 7 of the Revised Statutes, as amended by section 5 of chapter 494 of the public laws of 1967, is further amended to read as follows:

When the commissioner becomes cognizant of the violation of any provision of this Title, Title 10, chapter 309, **Title 17, chapter 43**, Title 22, sections 2151 to 2162 and Title 32, chapters 27 and 61, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the State, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner.

Sec. 6. R. S., T. 7, § 15, amended. The first sentence of section 15 of Title 7 of the Revised Statutes is amended to read as follows:

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by this Title, **Title 17, chapter 43** and Title 32, chapter 27, and of prosecutions for violations hereof.

Sec. 7. R. S., T. 7, § 3403, amended. Section 3403 of Title 7 of the Revised Statutes, as amended by section 13 of chapter 513 of the public laws of 1965, is further amended to read as follows:

§ 3403. Expenditure of surplus money

After the end of the fiscal year, any money in excess of receipts received by the State under section 3452 over the actual expenditures under this chapter ~~and~~, chapters 703, 711 and 713 ~~and~~, sections 3603 to 3605 ~~and~~ **Title 17, chapter 43** shall, if the Governor and Council deem it expedient, be paid to the several municipalities in proportion to the amount each has paid into the State Treasury under said chapters and sections.

Sec. 8. R. S., T. 7, § 3451, amended. The first and 3rd sentences of the 2nd paragraph of section 3451 of Title 7 of the Revised Statutes, as amended by section 3 of chapter 193 of the public laws of 1965, are further amended to read as follows:

A fee of ~~\$+~~ \$2 shall be paid the city or town clerk for each license issued on male dogs, and a fee of ~~\$5~~ \$6 shall be paid for all female dogs capable of bearing young.

When such certificate accompanies the application, a fee of ~~\$+~~ \$2 shall then be paid on such spayed females.

Sec. 9. R. S., T. 7, § 3451, amended. The last sentence of the 5th paragraph of section 3451 of Title 7 of the Revised Statutes, as enacted by section 4 of chapter 193 of the public laws of 1965, is amended to read as follows:

Money is appropriated out of the dog license receipts for the purposes of this section and for the enforcement of Title 17, chapter 43.

Sec. 10. R. S., T. 17, § 1051, amended. Section 1051 of Title 17 of the Revised Statutes is amended to read as follows:

§ 1051. Authority; definitions

The Commissioner of Agriculture or his agent shall, as provided in Title 7, section 2, enforce all provisions of this chapter, and, wherever used in this chapter, unless otherwise specified, the word "commissioner" means the Commissioner of Agriculture or his agent.

In this chapter and in every law relating to or affecting animals, the masculine includes the feminine, the singular includes the plural, the word "animal" includes every living brute creature, the words "torment," "torture" and "cruelty" include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted and the words "owner" or "person" include corporations as well as individuals.

Sec. 11. R. S., T. 17, § 1504, amended. The last sentence of section 1054 of Title 17 of the Revised Statutes is repealed.

Sec. 12. R. S., T. 17, § 1094, amended. The first sentence of section 1094 of Title 17 of the Revised Statutes is amended to read as follows:

Whoever, for the purpose of killing wolves, foxes, dogs or other animals and not for the destruction of insects or vermin in a building, **except as provided in Title 22, section 906**, leaves or deposits in any place any arsenic, corrosive sublimate, nux vomica, strychnine, prussic acid or any other poison or poisonous substance shall be punished by a fine of not less than \$50 nor more than \$200, or by imprisonment for not less than 2 months nor more than 6 months.

Sec. 13. R. S., T. 17, § 1132, repealed. Section 1132 of Title 17 of the Revised Statutes is repealed.

Sec. 14. R. S., T. 17, § 1176, amended. Section 1176 of Title 17 of the Revised Statutes, as amended by chapter 201 of the public laws of 1969, is further amended to read as follows:

§ 1176. Officers may take possession of animals unlawfully detained; lien

~~Any~~ The commissioner or any sheriff, deputy sheriff, police officer, constable, state humane agent or other person authorized to make arrests may take possession of any animals detained in violation of this chapter and may unload the same, comfortably yard or shelter, feed, water and care for them and have a lien thereon for a reasonable sum for such care, and is not liable for any damages for detention of the same.

Sec. 15. R. S., T. 17, § 1177, amended. Section 1177 of Title 17 of the Revised Statutes is amended to read as follows:

§ 1177. Enforcement of lien

~~Persons~~ The commissioner or any persons or corporations having such lien as provided for in section 1176 may enforce it by a sale thereof, in the same

manner as in case of enforcements of liens on goods in possession and choses in action provided for in Title 10, chapter 631.

Sec. 16. R. S., T. 17, § 1211, amended. The first sentence of section 1211 of Title 17 of the Revised Statutes is amended to read as follows:

~~Any~~ ~~The commissioner or any sheriff, deputy sheriff, constable, police officer or agent for any society for the prevention of cruelty to animals, state humane agent or any person authorized to make arrests may apply to the District Court or the Superior Court for process to permit the applicant to take possession of any old, maimed, disabled, diseased or injured animal or any animal whose owner has cruelly abandoned or cruelly fails to take care of or provide for, or for process to cause the same to be destroyed or turned over to the applicant or some other suitable person.~~

Sec. 17. R. S., T. 17, § 1212, amended. Section 1212 of Title 17 of the Revised Statutes is amended to read as follows:

§ 1212. Prevention of cruelty by officers

~~Such officer or agent~~ The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in his presence, and whoever interferes with or obstructs such officer or agent in the discharge of his duty is guilty of a misdemeanor.

Sec. 18. R. S., T. 17, § 1213, repealed and replaced. Section 1213 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1213. Prosecutions; payment for services

Sheriffs, deputy sheriffs, police officers, constables and state humane agents shall investigate all cases of cruelty to animals coming to their knowledge and report the same to the commissioner, and the commissioner regularly shall inspect all stockyards actively engaged in handling animals for shipment. The commissioner shall cause offenders to be prosecuted in all cases in which the offense may appear to be of a sufficiently aggravated nature to require prosecution.

Sec. 19. R. S., T. 17, § 1214, repealed and replaced. Section 1214 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1214. Appointment of state humane agents

The commissioner shall appoint state humane agents. They shall be subject to the Personnel Law and shall serve as agents of the commissioner in the enforcement of this chapter and as otherwise provided by law, except that with the approval of the Personnel Board one or more such agents may serve as unclassified, part-time personnel, in which case standards of employment, compensation and hours of employment shall be established by the Personnel Board. The jurisdiction of each state humane agent, classified and unclassified, shall extend throughout the State.

Sec. 20. R. S., T. 17, § 1216, additional. Title 17 of the Revised Statutes is amended by adding a new section 1216 to read as follows:

§ 1216. Advisory board

There shall be an advisory board of 7 members appointed by the commissioner to advise and consult with the commissioner in carrying out the administration of this chapter.

The members of the advisory board shall be appointed for terms of 3 years each, except that of those first appointed, the commissioner shall designate 2 whose terms shall be for one year, 2 whose terms shall be for 3 years and 3 whose terms shall be for 3 years. Each member of the advisory board shall serve without compensation but shall be entitled to his expenses necessarily incurred by him in the performance of his duties.

Sec. 21. Appropriation. There is appropriated from the General Fund to the Department of Agriculture the sum of \$68,198 to carry out the purposes of this Act. The breakdown shall be as follows:

	1972-73
AGRICULTURE, DEPARTMENT OF	
Personal Services	(4) \$43,878
All Other	22,820
Capital Expenditures	1,500
	\$68,198

Sec. 22. Effective date. This Act shall become effective July 1, 1972.

STATEMENT OF FACT

The citizens of Maine have long recognized their duty to require the humane treatment of animals.

The purpose of this Act is to create a Division of Animal Welfare within the Department of Agriculture and to provide for more effective administration and enforcement of Maine's animal welfare laws by trained and qualified agents.

It is proposed in this legislation that this activity be financed through a General Fund appropriation by an increase in dog tag fees, thereby making it a self-sustaining program.