

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 537

H. P. 468

House of Representatives, February 2, 1981

Speaker laid before the House and on Motion of Representative Cox of Brewer, reconsidered reference to the Committee on Legal Affairs, and on further Motion of the same gentleman referred to the Committee on Agriculture. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Boyce of Auburn.

Cosponsors: Senator Hichens of York, Representative Michael of Auburn and Representative Callahan of Mechanic Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Provide for the Regulation and Licensure of Guard Dogs and their Trainers, Sellers and Handlers.

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

Sec. 1. 7 MRSA § 3451, as last amended by PL 1979, c. 731, § 19, is further amended by adding after the 6th paragraph a new paragraph to read:

If the applicant describes or the clerk is satisfied that the dog for which the license is sought is a guard animal as defined in section 4101, the clerk shall inscribe across the face of the license the words "guard dog" and shall notify the appropriate law enforcement agency having jurisdiction where the dog is kept.

Sec. 2. 7 MRSA c. 717 is enacted to read:

CHAPTER 717

GUARD ANIMALS

§ 4104. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. **Guard animal.** "Guard animal" means any animal other than man which is:

- A. Trained to guard, protect or patrol premises or capable of being so trained;
- B. Trained as a sentry, area, yard, protective, guard or defender animal, or capable of being so trained; or
- C. Capable of being trained to attack on command, signal or reflex or of being trained as a "schutzhund II," "schutzhund III" or any similar or analogous classification.

2. **Handler.** "Handler" means an owner or other person who has the care or custody of a guard animal purchased, rented, leased or otherwise acquired from a guard animal seller or owner.

3. **Harbor.** "Harbor" means to own or to have the care or custody of a guard animal or to provide food or shelter to any guard animal.

4. **Licensee.** "Licensee" means any person licensed as a trainer or handler under this chapter.

5. **Trainer.** "Trainer" means any person who engages in the practice of training a guard animal or animals.

6. **Seller.** "Seller" means any person engaged in the importation, sale, rental or lease of guard animals as a commercial enterprise.

§ 4102. Licensing as trainer, seller or handler

1. **Trainer.** No person may engage in the practice of training guard animals, or hold himself out as being able to do so, unless licensed as a trainer under this chapter.

2. **Seller.** No person may offer a guard animal for sale, rental or lease, unless licensed as a seller under this chapter.

3. **Handler.** No person may own or have the care or custody of a guard animal, unless already licensed as a handler under this chapter.

4. **Standards of licensing.** The commissioner shall establish such standards as he deems necessary and proper to carry out the purpose of this chapter in determining the fitness of applicants for licenses and shall promulgate, subject to the Maine Administrative Procedures Act, Title 5, chapter 375, such rules and regulations to effectuate the licensing and identification of each animal as he deems necessary. Each applicant shall satisfy the commissioner that he is qualified by good moral character and training or experience to train or handle guard animals and to provide humane care and treatment of all animals under his jurisdiction, and that he has adequate facilities for that training or handling. In formulating these standards, the commissioner shall seek the advice of persons knowledgeable in the field, including representatives of humane organizations, licensed veterinarians and representatives of the dog training industry. The

standards shall include standards of veterinary and health care to be observed by trainers, sellers and handlers.

5. **Application; terms of license; fees.** Applications for licenses shall be filed with the commissioner on forms prescribed and furnished by the commissioner. Licenses shall be valid for one year from their issuance and may be renewed upon application in the same manner as an application for a new license. The commissioner shall, subject to the following limitations, establish a schedule of fees designed to offset the cost of administering this chapter.

A. The fee for a trainer's license or renewal license may not be less than \$50 per year. Additionally, there shall be a fee of not less than \$5 to be paid by the trainer for each animal trained during the course of the licensing year.

B. The fee for a seller's license may not be less than \$25 for each year. Additionally, there shall be a fee of not less than \$5 to be paid by the seller for each animal sold during the course of the licensing year.

C. The fee for a handler's license may not be less than \$10 for each year. Additionally, there shall be a fee of not less than \$5 to be paid by the handler for each animal handled during the course of the licensing year.

A person who engages in more than one activity requiring licensure under this chapter shall pay only one fee, which shall be the higher or highest fee required by this section.

All fees collected under this chapter shall be paid over immediately to the Treasurer of State and credited to the department and shall be expended by the commissioner for the administration of this chapter. If any fees are not expended during the year in which they are collected, the unexpended balance shall not lapse, but shall be carried as a continuing account and available for the purposes specified by this chapter until expended.

§ 4103. Report of transfer, loss or theft

1. **Transfer.** Any trainer, seller or handler who sells, leases, rents, gives away or otherwise transfers ownership of any guard animal shall, within 10 days of that transfer, file a report with the commissioner, on a form prescribed by him, containing the name and address of the person to whom the animal was transferred, a description and registration or identification number of the animal and any other information the commissioner deems appropriate.

2. **Loss or theft.** Any trainer, seller or handler whose guard animal is lost, stolen, dies or is seriously injured shall, within 3 days of the loss, theft, injury or death, file a report with the commissioner, on a form prescribed by him, containing a description and registration or identification number of the animal and any other information the commissioner deems appropriate.

3. **Failure to file report.** Failure to file such a report shall be grounds for the commissioner to refuse to license a person as a trainer, seller or handler or for the Administrative Court's suspension or revocation of such a license. A trainer,

seller or handler who fails to file such a report shall also be subject to the penalty provisions of section 4111.

4. Receipt of guard animals other than by transfer of ownership. Any humane society, animal shelter, boarding kennel, pet shop, veterinarian or other person who receives an animal tattooed or otherwise identified as a guard animal, other than by a bona fide sale or other transfer, as described under subsection 1, shall immediately notify the commissioner of the receipt, giving all particulars of the receipt. Failure to notify the commissioner of such a receipt shall subject that person to the penalty provisions of section 4111.

Any animals received by any such humane society, animal shelter, boarding kennel, pet shop, veterinarian or other person under such circumstances shall be disposed of humanely or returned to the animal's owner, in accordance with regulations promulgated by the commissioner.

§ 4104. Public sign

Every trainer, seller or handler shall conspicuously display on the premises, where one or more guard animals are kept, signs located and designed in accordance with standards prescribed by the commissioner, clearly warning the public of the presence of the guard animal.

§ 4105. Collar; tattoo

1. Collar. Every trainer, seller or handler of a guard animal shall see to it that the animal wears an orange collar which is clearly visible and which conforms to standards established by the commissioner. The words "guard animal" shall be stamped or printed on the collar.

2. Tattoo. Each guard animal shall also receive an identification or registration number which shall be tattooed on the animal, according to the regulations which the commissioner shall promulgate. The commissioner shall keep a permanent file of the identification or registration numbers, which shall be kept current and shall be made available to law enforcement officials, humane societies and shelter officials, dog wardens and members of the public generally.

§ 4106. Bite surveillance

Upon any report of a bite by a guard animal, the person to which the bite has been reported shall notify the health department or agency having responsibility for the area in which the animal is licensed. Upon receipt of such a notice, the health department or agency shall immediately obtain, from the owner or handler responsible for the animal, such information as it deems necessary in order to maintain an adequate system of bite surveillance. The information shall include, but is not limited to, the animal's physical description, registration or identification number, age and history of bites. The owner or handler, upon request, shall be furnished with the name of the complainant and the complaint submitted.

§ 4107. Damage done by guard animals

When a guard animal does damage to a person or his property, the owner, keeper and handler of the animal shall be jointly and severally liable for that damage, provided that the damage was not caused through the fault of the person injured, to be recovered in a civil action.

§ 4108. Inspection of premises

1. Premises to be open for inspection. Premises used for the training or sale of guard animals and records thereof shall be open for inspection at reasonable hours by any person charged by the commissioner with the duty of making inspections, for the purposes of inspecting the premises or records, to insure compliance with the requirements of this chapter and the rules and regulations promulgated under this chapter.

2. Inspection required. Such premises and records shall be inspected not less than twice during each calendar year.

§ 4109. Use of certain words prohibited in advertising

The use of the words "kill," "killer," "death," "mayhem," "maim" or analogous words or phrases in advertisements, signs, commercials or sales literature, used by or in connection with an enterprise operated by any licensee under this chapter, is a violation of this chapter.

§ 4110. Suspension or revocation of license; refusal to issue or renew; grounds

1. Grounds. The commissioner may, after a hearing in conformance with the Maine Administrative Procedures Act, Title 5, chapter 375, refuse to issue or renew a license. The Administrative Court may suspend or revoke the license of any person licensed under this chapter. The commissioner may refuse to issue or renew a license and the Administrative Court may suspend or revoke a license on any one or more of the following grounds:

- A. Fraud or bribery employed in obtaining the license;
- B. A false statement as to a material fact in the application for a license;
- C. Violation of this chapter or any rules or regulations promulgated under this chapter, or any laws or regulations governing animal training or humane treatment of animals of this or any other jurisdiction;
- D. Lack of a proper facility for training, selling or handling guard dogs; or
- E. Lack of good moral character, training or experience to handle guard animals.

2. Seizure of animals. In the event that a trainer's, seller's or handler's license is suspended or revoked, the commissioner may authorize the seizure and impoundment of any animal under the care, custody or ownership of that person. After final determination upon any hearing, review of hearing or appeal from that

review, or upon expiration of time to obtain that hearing, review or appeal, the animal shall be disposed of humanely.

§ 4111. Violations

A violation of this chapter is a Class E crime. Each violation shall be deemed a separate offense and each day of continuing violation shall be deemed a separate violation.

§ 4112. Exception

This chapter does not apply to any guard animals held, owned or leased by the United States Army, federal law enforcement agencies or state and local law enforcement agencies.

STATEMENT OF FACT

The purpose of this bill is to require the licensing and regulation of trainers, sellers and handlers of guard animals. The bill also requires identification of these dogs and of premises at which the animals are kept.