

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 SECOND REGULAR SESSION

3  
4 ONE HUNDRED AND ELEVENTH LEGISLATURE

5  
6 Legislative Document

No. 2295

7  
8 H.P. 1741

House of Representatives, March 19, 1984

9 Submitted by the Department of Agriculture, Food and Rural Resources  
10 pursuant to Joint Rule 24.

11 Reference to the Committee on Agriculture is suggested and ordered  
printed.

EDWIN H. PERT, Clerk

Presented by Representative Lisnik of Presque Isle.

Cosponsors: Senator Teague of Somerset and Senator Wood of York.

12  
13 STATE OF MAINE

14  
15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FOUR

17  
18 AN ACT to Establish a Poultry Disease  
19 Control Fund.  
20

21 **Emergency preamble.** Whereas, Acts of the Legis-  
22 lature do not become effective until 90 days after  
23 adjournment unless enacted as emergencies; and

24 Whereas, the poultry industry of Maine makes a  
25 major contribution to the total economy of the State;  
26 and

27 Whereas, recent outbreaks of avian influenza, a  
28 highly pathogenic and deadly disease of poultry, has  
29 occurred in Maryland, New Jersey, Pennsylvania and  
30 Virginia where all flocks have been quarantined and  
31 infected flocks eradicated; and

32 Whereas, this disease is spread by persons, vehi-  
33 cles and other materials related to the poultry in-  
34 dustry and thereby threatens the commercial industry  
35 in the State; and

1           Whereas, it is essential that immediate and ef-  
2           fective action be taken by the State to prevent  
3           incidences of the disease in Maine and to eradicate  
4           flocks which may become infected in order to protect  
5           the well-being of our poultry industry; and

6           Whereas, in the judgment of the Legislature,  
7           these facts create an emergency within the meaning of  
8           the Constitution of Maine and require the following  
9           legislation as immediately necessary for the preser-  
10          vation of the public peace, health and safety; now,  
11          therefore,

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

14                **Sec. 1.** 7 MRSA §1756, first ¶, as amended by PL  
15                1977, c. 694, §121, is further amended to read:

16                Upon discovery of any contagious or infectious  
17                disease among domestic animals, the commissioner may  
18                cause the affected or exposed animals to be appraised  
19                and destroyed, and a proper disposition of the car-  
20                casses made in accordance with rules and adopted by  
21                him in a manner consistent with the Maine Administra-  
22                tive Procedure Act, Title 5, chapter 375. The commis-  
23                sioner shall appraise each domestic animal at its  
24                true market value at the time it is condemned, pro-  
25                vided that no indemnity ~~shall~~ may be paid except as  
26                established in section 1757 or in state-federal coop-  
27                erative eradication programs for domestic animals and  
28                in those amounts as set by those agreements. In no  
29                case ~~shall~~ may the combined amount received from sal-  
30                vage and state and federal indemnity exceed the  
31                amount of appraisal.

32                **Sec. 2.** 7 MRSA §1757 is enacted to read:

33                §1757. Poultry Disease Control Fund

34                The commissioner shall establish a Poultry Dis-  
35                ease Control Fund to be used to detect, prevent, con-  
36                trol or eradicate any contagious or infectious poul-  
37                try disease within the State. He may credit to the  
38                fund moneys appropriated by the Legislature for that  
39                purpose or received from other public and private

1 sources, including an assessment on commercial poul-  
2 try owners.

3 1. Authority of the commissioner. Whenever he  
4 has sufficient reason to believe that a contagious or  
5 infectious poultry disease has been or may be intro-  
6 duced into the State, the commissioner may:

7 A. Inspect, cause to be disinfected or require  
8 evidence of disinfection of:

9 (1) All incoming or outgoing vehicles being  
10 used to convey poultry, poultry products or  
11 materials related to the poultry industry;  
12 and

13 (2) All incoming vehicles which, while car-  
14 rying other domestic animals during the 80  
15 days immediately prior to their arrival in  
16 Maine, stopped within or passed through an  
17 area declared quarantined by the United  
18 States Department of Agriculture, Animal and  
19 Plant Health Inspection Service, due to the  
20 outbreak of a contagious or infectious poul-  
21 try disease.

22 Incoming vehicles may be refused entry into the  
23 State and outgoing vehicles may be detained with-  
24 in the State until any necessary inspection or  
25 disinfection has been performed or any required  
26 evidence of inspection or disinfection has been  
27 received.

28 B. Immediately eradicate poultry flocks in which  
29 disease is found to exist; and

30 C. After consultation with appropriate industry  
31 organizations, indemnify owners of poultry de-  
32 stroyed under paragraph B. The amount of the in-  
33 demnity shall be established by rule adopted in a  
34 manner consistent with the Maine Administrative  
35 Procedure Act, Title 5, chapter 375, provided  
36 that the amount of any federal indemnity for the  
37 same flock shall be considered in setting the  
38 amount of indemnity under this paragraph.

1           2. Assessment. The commissioner may, when nec-  
2 essary to carry out the purposes of this section and  
3 after consultation with appropriate industry organi-  
4 zations, levy an assessment upon owners of commercial  
5 poultry flocks located within the State. The levy  
6 shall be made and the amount of the assessment shall  
7 be established by rule, adopted in a manner consist-  
8 ent with the Maine Administrative Procedure Act, Ti-  
9 tle 5, chapter 375. In determining the amount of the  
10 assessment, the commissioner shall consider flock  
11 size, age and type of bird and the financial require-  
12 ments of the fund provided that the total assessment  
13 levied upon the industry shall not exceed \$100,000,  
14 and further provided that the assessment levied upon  
15 any single owner shall not exceed 25% of the total  
16 industry assessment or \$25,000, whichever is smaller.

17           3. Use of fund. All moneys appropriated and  
18 otherwise received under this section shall be cred-  
19 ited to the Poultry Disease Control Fund account and  
20 shall be nonlapsing. Moneys in the fund may be used  
21 for the purposes contained in subsection 1.

22           4. Reversion. When, in the judgment of the com-  
23 missioner, the immediate threat of the introduction  
24 of a contagious or infectious poultry disease into  
25 the State no longer exists and no federal poultry  
26 quarantine is in effect in the State, he may direct  
27 that moneys remaining in the Poultry Disease Control  
28 Fund revert to contributors on a pro rata basis ac-  
29 ording to the amount of contributions made since the  
30 establishment of the fund or since the most recent  
31 reversion of the fund, whichever has last occurred.

32           5. Penalties. Assessments authorized under sub-  
33 section 2 may be recovered in a civil action. Any  
34 person who violates any provision or any rules  
35 adopted under this section shall be subject to a civ-  
36 il penalty not to exceed \$1,000 to be recovered in a  
37 civil action.

38           Emergency clause. In view of the emergency cited  
39 in the preamble, this Act shall take effect when ap-  
40 proved.

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STATEMENT OF FACT

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The purpose of this bill is set out in the emergency preamble. This bill will have no significant impact on the General Fund.

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