

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 811

S.P. 285

In Senate, March 3, 1987

Reference to the Committee on Agriculture suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator CLARK of Cumberland.

Cosponsored by Representative TARDY of Palmyra, Senator
BLACK of Cumberland, Representative PINES of Limestone.

STATE OF MAINE

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

AN ACT to Recodify the Animal Welfare Laws.

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

Sec. 1. 5 MRSA §12004, sub-§8, ¶A, sub-¶(1) is amended to read:

(1) Agriculture Animal Welfare Legislative 17-MRSA-1051-A
Board Per Diem 7 MRSA §3902

Sec. 2. 7 MRSA PART 8, as amended, is repealed.

Sec. 3. 7 MRSA PART 9 is enacted to read:

PART 9

ANIMAL WELFARE

1 Except for initial appointees and the state mem-
2 ber, each member shall serve for a term of 4 years or
3 until his successor has qualified. In the case of a
4 vacancy for any reason, the Governor shall appoint a
5 member to fill the unexpired term.

6 1. Initial terms of office. Initially, 3 ap-
7 pointed members shall serve for one year; 2 members
8 for 2 years; 2 members for 3 years; and 2 members for
9 4 years, provided that no more than one member repre-
10 sents the same interest group in the same class.

11 §3904. Administration

12 The board shall elect one of its members as
13 chairman.

14 The board shall hold regular monthly meetings.
15 The chairman shall call special meetings of the board
16 whenever requested in writing by 2 or more members.

17 §3905. Powers and duties of the board

18 The Animal Welfare Board, as established by Title
19 5, section 12004, subsection 8, may enforce this Part
20 and Title 17 and has powers and duties to:

21 1. Dog licensing laws. Carry out the dog li-
22 censing laws and furnish to municipalities all li-
23 cence blanks and tags;

24 2. Payment of claims. Authorize payment of, and
25 adjust, claims for damages to livestock, poultry and
26 domestic rabbits by dogs;

27 3. Use of funds. Pay from the funds received
28 from the licensing of dogs the expense of furnishing
29 blanks and tags, travel and salaries for necessary
30 personnel, approved claims for damages done by dogs
31 and expenses incurred in the administration of this
32 Part. These funds shall be kept in a separate ac-
33 count to be established by the Treasurer of State and
34 that account shall not lapse, but shall continue from
35 year to year.

1 The board shall use funds received from the li-
2 ensing of dogs, in addition to any other funds au-
3 thorized, for expenses of the Division of Animal Wel-
4 fare;

5 4. Dog recorders. Appoint dog recorders in un-
6 organized territories and establish fees for services
7 rendered;

8 5. Copies of law. Seasonably forward to the
9 clerks of the several municipalities copies of this
10 Part;

11 6. Employees. Approve an executive director and
12 such other employees as are necessary to assist the
13 board in enforcing this Part and in carrying out its
14 duties and responsibilities as may be employed by the
15 commissioner subject to the Personnel Law. The board
16 shall appoint part-time humane agents who shall serve
17 as agents of the board in the enforcement of this
18 Part and as otherwise provided by law. These part-
19 time agents shall be unclassified employees whose
20 standards of employment, training, compensation and
21 hours of employment will be determined by the board.
22 The jurisdiction of each part-time humane agent shall
23 extend throughout the State. In connection with its
24 enforcement responsibilities, the board shall be en-
25 titled to and shall receive the assistance of the At-
26 torney General and of several district attorneys and
27 may apply to the commissioner for the assistance of
28 state veterinarians;

29 7. Rules. Pursuant to Title 5, chapter 375,
30 adopt, amend and repeal reasonable rules, including
31 emergency rules, necessary for the proper administra-
32 tion, implementation, enforcement and interpretation
33 of any provision of law that it is charged with ad-
34 ministering and necessary or useful for carrying out
35 any of its powers and duties; and

36 8. Other powers. Do any act or thing necessary
37 or useful for carrying out any of its powers or du-
38 ties.

39 §3906. Definitions

1 As used in this Part, and in every law relating
2 to or affecting animals, unless the context indicates
3 otherwise, the following terms have the following
4 meanings.

5 1. Act. "Act" means the Animal Welfare Board
6 Act.

7 2. Animal. "Animal" means every living,
8 sentient creature not a human being.

9 3. Animal control. "Animal control" means control
10 of dogs, cats, small pets or undomesticated ani-
11 mals which may be a problem in the community and
12 which are not controlled by any other law.

13 4. Animal control officer. "Animal control of-
14 ficer" means the person appointed periodically by mun-
15 icipal officers pursuant to chapter 725.

16 5. At large. "At large" means off the premises
17 of the owner and not under the control of any person
18 whose personal presence and attention would reason-
19 ably control the conduct of the dog.

20 6. Board. "Board" means the Animal Welfare
21 Board or its duly authorized agent.

22 7. Boarding kennel. "Boarding kennel" means any
23 place, building, tract of land, abode or vehicle in
24 or on which privately owned dogs or other pets, or
25 both, are kept for their owners in return for a fee.

26 8. Business day. "Business day" means any day
27 of the calendar year other than a Saturday, Sunday or
28 legal holiday.

29 9. Chelonian. "Chelonian" means belonging or
30 pertaining to the order Chelonia, comprising the
31 turtles.

32 10. Clerk; municipal clerk. "Clerk" or "municipal
33 clerk" means the clerk of a municipality, the
34 deputy clerk or assistant clerk, where directed by
35 the clerk, carrying out the duties of this Part.

1 11. Commissioner. "Commissioner" means the Com-
2 missioner of Agriculture, Food and Rural Resources or
3 his duly authorized agent.

4 12. Constable. "Constable" means a law enforce-
5 ment officer appointed by municipal officers pursuant
6 to law.

7 13. Guide dog or hearing dog kept for breeding
8 purposes. "Guide dog or hearing dog kept for breed-
9 ing purposes" means a male or female dog owned by a
10 nonprofit organization for the purpose of producing
11 puppies to be trained as guide dogs or hearing dogs
12 and living with a resident of the State.

13 14. Guide dog or hearing dog kept prior to
14 training. "Guide dog or hearing dog kept prior to
15 training" means a dog under 18 months of age, owned
16 by a nonprofit organization for the purpose of train-
17 ing as a guide dog or hearing dog and living tempo-
18 rarily with a resident of the State prior to train-
19 ing.

20 15. Humane agent. "Humane agent" means an em-
21 ployee of the board, whether full-time or part-time,
22 who assists the board in enforcing this Part.

23 16. Keeper. "Keeper" means a person in posses-
24 sion or control of a dog or other animal.

25 17. Kennel. "Kennel" means one pack or collec-
26 tion of dogs kept in a single location under one own-
27 ership for breeding, hunting, show, training, field
28 trials and exhibition purposes.

29 18. Mammal. "Mammal" means any vertebrate of
30 the class mammalia that feeds its young with milk
31 from the female mammary glands, that has the body
32 more or less covered with hair and that, with the ex-
33 ception of the monotremes, brings forth living young
34 rather than eggs.

35 19. Municipality. "Municipality" means a city,
36 town or plantation.

37 20. Mutilate. "Mutilate" includes, but is not
38 limited to, cutting the bone, muscles or tendons of

1 the tail of a horse for the purpose of docking or
2 setting up the tail and cropping or cutting off the
3 ear of a dog in whole or in part.

4 21. Owner. "Owner" means any person, firm,
5 partnership, association or corporation owning, keep-
6 ing or harboring a dog or other animal.

7 22. Person. "Person" means an individual, cor-
8 poration, partnership, association or any other legal
9 entity.

10 23. Pet shop. "Pet shop" means any place,
11 building, tract of land, abode or vehicle in or on
12 which any dogs, cats, rodents, reptiles, fish, pet
13 birds, pet animals, exotic birds or exotic animals
14 are offered for sale which are not bred by the ven-
15 dor.

16 24. Respective municipality. "Respective munic-
17 ipality" means, in the case of towns and cities, the
18 municipality where the dog is found; in the case of
19 unorganized townships, the municipality near or adja-
20 cent to the unorganized township where the dog is
21 found; or the designee of that municipality.

22 25. Torment, torture and cruelty. "Torment,
23 torture and cruelty" means every act, omission or ne-
24 glect, whether by the owner or any other person,
25 where unjustifiable physical pain, suffering or death
26 is caused or permitted.

27 26. Vertebrate. "Vertebrate" means a subphylum
28 of chordate animals comprising those having a brain
29 enclosed in a skull or cranium and a segmented spinal
30 column, including mammals, birds, reptiles, amphib-
31 ians and fish.

32 27. Well cared for. "Well cared for" means that
33 the animal is receiving necessary sustenance, neces-
34 sary medical attention, proper shelter, protection
35 from the weather and humanely clean conditions and
36 that the animal has not been nor is it being injured,
37 overworked, tormented, tortured, abandoned, poisoned,
38 beaten, mutilated or exposed to a poison with the in-
39 tent that it be taken by the animal.

1 §3907. Jurisdiction

2 The District Court shall have original and con-
3 current jurisdiction with the Superior Court of all
4 violations of this Part. All fines and forfeitures
5 imposed shall be paid into the treasury of the munic-
6 ipality where the offense or violation is committed
7 unless otherwise provided.

8 CHAPTER 719

9 UNCONTROLLED DOGS

10 §3911. Dogs not to run at large.

11 It is unlawful for any dog, licensed or unli-
12 censed, to run at large, except when used for hunt-
13 ing.

14 §3912. Disposition of dogs at large

15 Any animal control officer or person acting in
16 that capacity shall seize, impound or restrain any
17 dog found in violation of section 3911 and deliver it
18 to any shelter as provided for in section 3913, sub-
19 section 2, or shall take the dog to its owner, if
20 known. Such dogs shall be handled as stray and aban-
21 doned dogs.

22 §3913. Procedure for sick or abandoned dogs

23 1. Persons finding dogs. Any person finding a
24 sick, stray, injured or abandoned dog may take that
25 dog to any licensed veterinarian, humane society or
26 shelter within the State.

27 2. Dog shelters. Any licensed veterinarian, hu-
28 mane society or shelter to which a sick, stray, in-
29 jured or abandoned dog is taken may accept the dog,
30 provided that the shelter has been approved by the
31 board. The licensed veterinarian, humane society or
32 shelter shall keep that dog for a period of 8 days
33 and shall be entitled to receive from the State the
34 sum of \$2.50 per day for all or part of the 8-day pe-
35 riod for which food and shelter are furnished, pro-
36 vided that notice is given to the municipal clerk as
37 provided in subsection 3, paragraph A.

1 3. Claims; fees. The procedures for filing
2 claims and calculating fees are according to this
3 subsection.

4 A. On the business day next following the date
5 of acceptance of the dog, the licensed veterinar-
6 ian, humane society or shelter shall notify the
7 clerk of the respective municipality of the ac-
8 ceptance of the dog, its description and the cir-
9 cumstances of its finding.

10 B. There shall be deducted from the fee claimed
11 any proceeds obtained from the sale, adoption,
12 donation or other disposition of the dog.

13 C. In the event the owner claims the dog within
14 the 8-day period, the owner may have and receive
15 the dog upon payment of all board-approved fees
16 as provided in subsection 2.

17 4. Ownership of dog. Upon expiration of the
18 8-day period, ownership of the dog shall vest in the
19 licensed veterinarian, humane society or shelter.
20 The licensed veterinarian, humane society or shelter
21 may then:

22 A. Sell or give away the dog, provided that a
23 license is first obtained in accordance with
24 chapter 721; or

25 B. Otherwise dispose of the dog humanely in ac-
26 cordance with Title 32, section 4872.

27 The previous owner shall have the right to reacquire
28 the dog at any time prior to its sale, donation or
29 disposal upon payment of all board-approved fees for
30 each day that the dog has been sheltered.

31 5. Payment of fees. All money paid by the board
32 to keepers shall be taken from the dog license fund.

33 6. Euthanasia for sick or injured dogs. A vet-
34 erinarian may authorize in writing euthanasia of a
35 sick or injured dog received by him, by a humane
36 agent or by a shelter within the State if:

1 A. Forty-eight hours have elapsed since receipt
2 of the sick or injured dog by him, by the humane
3 agent or shelter;

4 B. The clerk of the respective municipality has
5 been notified of the dog's presence in accordance
6 with subsection 3, paragraph A, and the owner of
7 the dog, if known, has been notified;

8 C. The dog is not rabid or suspected of rabies;
9 and

10 D. The dog's recovery from its sickness or in-
11 jury, given reasonable time and reasonable care,
12 is doubtful.

13 7. Euthanasia for severely injured animal. A
14 veterinarian or a humane agent may authorize in writ-
15 ing euthanasia of a severely injured or sick animal
16 if the following conditions are met:

17 A. The clerk of the respective municipality has
18 been notified of the animal's presence and the
19 owner of the animal, if known, has been notified;

20 B. The animal is not rabid or suspected of ra-
21 bies; and

22 C. The animal's recovery from its sickness or
23 injury, given reasonable time and reasonable
24 care, is doubtful.

25 8. Immunity from civil liability. A veterinari-
26 an is not civilly liable to any party for authoriza-
27 tion made in accordance with subsections 6 and 7 nor
28 is any person performing euthanasia under that autho-
29 rization.

30 9. Violation. Any person who violates this sec-
31 tion commits a civil violation for which a forfeiture
32 of not less than \$25 nor more than \$100 may be ad-
33 judged.

34 §3914. Purchase and sale of dogs

35 Any person engaged in buying or selling dogs
36 shall keep records of the buyer and seller in each

1 transaction for a 2-year period commencing at the
2 time of purchase or sale. The records shall be open
3 to inspection by the board or law enforcement offi-
4 cers.

5 CHAPTER 721

6 DOG LICENSES

7 §3921. License necessary

8 No dog may be kept within the limits of the
9 State, unless the dog has been licensed by its owner
10 or keeper in accordance with the laws of this State.

11 Any law enforcement agency within the State,
12 counties or municipalities owning dogs for law en-
13 forcement purposes shall be required to license the
14 dogs in the municipality in which they are domiciled,
15 but shall be exempt from any license or recording
16 fee, provided that all other licensing requirements
17 are fulfilled.

18 §3922. Issuance of license

19 1. License; January 1st. Except for dogs kept
20 under a kennel license as provided in section 3931,
21 each owner or keeper of a dog at the age of 6 months
22 or more shall, on or before January 1st of each year,
23 cause the dog to be licensed:

24 A. In the clerk's office of the municipality
25 where the dog is kept; or

26 B. With the dog recorder in the unorganized ter-
27 ritory where the dog is kept or, in the absence
28 of a duly authorized recorder, in the nearest mu-
29 nicipality or unorganized territory with a re-
30 recorder.

31 2. License; after January 1st. The owner or
32 keeper shall, within 10 days of the conditions of
33 paragraph A or B being met, obtain a license, if be-
34 tween January 1st and October 15th of any year:

35 A. A dog reaches the age of 6 months or more; or

1 B. A person becomes the owner or keeper of a dog
2 aged 6 months or more.

3 3. Proof of immunization. No municipal clerk
4 may issue a license for any dog until the applicant
5 has filed with the clerk proof that the dog has been
6 immunized against rabies in accordance with rules
7 promulgated by the Commissioner of Human Services,
8 provided that the requirement of immunization may be
9 waived by the clerk under conditions set forth by the
10 Commissioner of Human Services.

11 In the case of any guide dog or hearing dog kept pri-
12 or to training or for breeding purposes, the board
13 shall accept valid proof of immunization against ra-
14 bies provided by another state.

15 4. Trained guide dogs. If any trained dog has
16 not been previously registered or licensed by the mu-
17 nicipal clerk to whom the application is being made,
18 the clerk shall not register the dog nor issue to its
19 owner or keeper a license and tag unless written evi-
20 dence is provided that the dog is trained and edu-
21 cated and intended to perform guide service for the
22 applicant.

23 5. Form of license. The license shall state the
24 breed, sex, color and markings of the dog and the
25 name and address of the owner or keeper. The license
26 shall be issued in triplicate, the original copy of
27 which shall be mailed to the board, a duplicate copy
28 given to the applicant and the remaining copy re-
29 tained by the municipal clerk.

30 §3923. License and recording fees

31 1. License and recording fees. Except as pro-
32 vided in section 3921 and subsection 2, the following
33 license and recording fees shall be paid in connec-
34 tion with the licensure of dogs:

35 A. A fee of \$5.50 shall be paid to the municipal
36 clerk for each license on all dogs 6 months of
37 age or older capable of producing young. All
38 dogs shall be considered capable of producing
39 young unless:

1 (1) A veterinarian issues a written certifi-
2 cate stating that he made the dog incapable
3 of producing young by spaying, if female, or
4 by sterilization, if male;

5 (2) A veterinarian issues a written certifi-
6 cate that, upon his examination, the dog is
7 incapable of producing young; or

8 (3) By previous registration, the owner
9 has declared that the dog is incapable of
10 producing young.

11 When such certificate or registration accompanies
12 the application, a fee of \$2 shall be paid for
13 each license and kept by the municipality in ac-
14 cordance with section 3945; and

15 B. In addition to the amount paid for a license,
16 each applicant shall pay the municipal clerk \$1
17 for recording and making a report to the board.

18 2. Exemption from fees. A license shall be is-
19 ssued by a municipal clerk, upon application and with-
20 out payment of any fee required under this section,
21 for:

22 A. Any trained guide dog owned or kept by a
23 blind person;

24 B. Any trained hearing dog kept by a deaf per-
25 son; or

26 C. Any guide dog or hearing dog kept prior to
27 training or for breeding purposes.

28 3. Dog tags. A suitable tag showing the year
29 the license is issued and bearing such other data as
30 the board prescribes shall be given by the municipal
31 clerk with each license and must be securely attached
32 to a collar of leather, metal or material of compara-
33 ble strength which shall be worn at all times by the
34 dog for which the license was issued.

35 §3924. Violation

1 scribed by the board and shall not be required to be
2 individually licensed.

3 §3932. Boarding kennels

4 1. License necessary. Any person maintaining a
5 boarding kennel shall obtain a license from the
6 board. The license shall expire December 31st annu-
7 ally or in a manner consistent with the license pro-
8 visions of the Maine Administrative Procedure Act,
9 Title 5, chapter 375, whichever is later.

10 2. License fees. The fee for a boarding kennel
11 license shall be \$25.

12 §3933. Pet shops

13 1. License necessary. Any person maintaining a
14 pet shop shall obtain a license from the board. The
15 license shall expire December 31st annually or in a
16 manner consistent with the license provisions of the
17 Maine Administrative Procedure Act, Title 5, chapter
18 375, whichever is later.

19 2. License fees. The fee for a pet shop license
20 shall be \$50.

21 §3934. Exemption from licensure

22 Shelters approved by the board under section 3913
23 are exempt from the licensing provisions of this
24 chapter, but are subject to the rules promulgated by
25 the board as to sanitation, enclosure, records,
26 health requirements and such other procedures as it
27 determines necessary.

28 §3935 License prohibited

29 Municipalities shall not issue a kennel license
30 and the board shall not issue a license to maintain a
31 boarding kennel or pet shop to any person who has,
32 within the 5 years previous to the application for
33 the license, been convicted of a criminal violation
34 or civil violation under this Part or Title 17, chap-
35 ter 42, which violation involves cruelty to animals.

36 §3936. Inspection and quarantine

1 1. Inspection and quarantine. The board, a
2 state humane agent, a veterinarian employed by the
3 State or a licensed veterinarian at the direction of
4 the board may, at any reasonable time, enter any ken-
5 nel, boarding kennel or pet shop, except any building
6 used for human habitation recognized as not subject
7 to search warrant, and make examinations and conduct
8 any recognized tests for the existence of any conta-
9 gious or infectious diseases or conditions. The
10 board may inspect kennels, boarding kennels and pet
11 shops in accordance with the sanitation and health
12 rules established by the Department of Agriculture,
13 Food and Rural Resources. A veterinarian employed by
14 the State or any licensed veterinarian may quarantine
15 the kennel, boarding kennel or pet shop, in person or
16 by registered mail, and the quarantine shall be main-
17 tained as long as the board determines necessary.
18 The decision and order for this quarantine shall not
19 be considered licensing or an adjudicatory proceeding
20 as defined by the Maine Administrative Procedure Act,
21 Title 5, chapter 375.

22 2. Suspension of license. The Administrative
23 Court, upon complaint of the board or the Attorney
24 General, may revoke or suspend a kennel, boarding
25 kennel or pet shop license, provided that any person
26 maintaining the kennel, boarding kennel or pet shop
27 violates any quarantine or maintains animals contrary
28 to the rules promulgated by the board or fails to
29 keep records required by the board.

30 Upon written complaint made to the board by any
31 person alleging violation of this chapter, or any of
32 the rules of the chapter by any licensee, the board
33 shall cause an investigation to be made upon matters
34 related in the complaint.

35 §3937. Investigation

36 Upon written complaint made to the board by any
37 person alleging violation of this chapter, or any of
38 the rules of the chapter by any licensee, the board
39 shall cause an investigation to be made upon matters
40 related in the complaint.

41 §3938. Violation

1 Any person maintaining a kennel, boarding kennel
2 or pet shop without having obtained a license, or af-
3 ter any license has been revoked or suspended, com-
4 mits a civil violation for which a forfeiture not to
5 exceed \$50 a day may be adjudged.

6

CHAPTER 725

7

MUNICIPAL DUTIES

8

§3941. Posting of law

9 Municipal clerks shall, annually, at least 20
10 days before January 1st, post copies of chapters 721
11 and 723 and this chapter in the usual places for
12 posting notices of the annual municipal elections.

13

§3942. Issuance of dog licenses

14 Municipal clerks shall issue dog licenses in ac-
15 cordance with chapter 721, receive the license fees
16 and pay to the board all fees received for dogs capa-
17 ble of producing young. The clerks shall keep a
18 record of all licenses issued by them, with the names
19 of the owners or keepers of dogs licensed and the
20 sex, registered numbers and description of all dogs
21 except those covered by a kennel license. The clerks
22 shall make a monthly report to the board on a
23 board-approved form of all dog licenses issued and
24 fees received.

25

All license fees received from owners or keepers
26 of dogs incapable of producing young shall be re-
27 tained by the municipality in accordance with section
28 3945.

29

§3943. Municipal warrants

30

1. Procedure. Between January 1st and April
31 30th annually, the municipal officers of each munici-
32 pality shall issue a warrant with the names and ad-
33 resses of all owners or keepers of unlicensed dogs
34 to one or more police officers, constables, sheriffs
35 or animal control officers, directing them to send a
36 notice of violation by certified mail to the last
37 known address of the owners or keepers or call on the

1 owners or keepers. The warrant shall further direct
2 that demand be made on the owners or keepers to ob-
3 tain a license from the municipal clerk within 7 days
4 from the date of demand and remit to the clerk the
5 license and recording fees plus a late fee of \$4.
6 Finally, the warrant shall direct the police officer,
7 constable, sheriff or animal control officer to enter
8 summons and complaint as soon as possible for all
9 owners or keepers so notified who fail to comply with
10 the order.

11 2. Returns of warrant. Each police officer,
12 constable, sheriff or animal control officer to whom
13 the warrant is issued shall return the warrant to the
14 municipal clerk on or before July 1st of each year.

15 3. Payments to officers. Payment to certain of-
16 ficers shall be as follows.

17 A. The municipal clerk shall deposit the \$4 late
18 fee collected from all dog owners and keepers in
19 the separate account pursuant to section 3945.

20 B. Officers rendering services shall receive
21 compensation as the municipal officers may deter-
22 mine.

23 §3944. Issuance of kennel licenses

24 Municipal clerks shall issue kennel licenses to
25 kennel owners or operators in accordance with section
26 3931, provided that the dogs are kept within a proper
27 enclosure as defined by the board. The clerks shall
28 receive the license fees, pay them to the board and
29 make a monthly report to the board on a
30 board-approved form of all kennel licenses issued and
31 fees received.

32 §3945. Use of license fees retained by municipali-
33 ties

34 All fees retained by municipalities shall be kept
35 in a separate account and shall be used for the sala-
36 ries and costs of animal control, enforcement of li-
37 censing laws and the support of one or more approved
38 shelters. Any money not expended for these purposes
39 in a municipality's fiscal year shall not lapse, but
40 shall be carried over to the next fiscal year.

1 §3946. Dog recorders in unorganized territories

2 Dog recorders appointed by the board in unorga-
3 nized territories shall issue dog licenses, receive
4 the license fees and pay them to the board. The re-
5 corders shall keep a list of all licenses issued by
6 them as of January 1st of each year, with the names
7 of the owners or keepers of dogs licensed and setting
8 forth the sex, registered numbers and description of
9 all dogs, except those covered by a kennel license,
10 opposite the names of their respective owners or
11 keepers.

12 A return of the list shall be made to the board
13 on a board-approved form on or before June 1st of
14 each year.

15 §3947. Animal control officers

16 Each municipality shall appoint one or more ani-
17 mal control officers whose duties shall be enforce-
18 ment of sections 3911, 3912, 3921, 3924, 3943, 3948,
19 and 3949 and such other duties to control animals as
20 the municipality may require.

21 §3948. Local regulations

22 Each municipality is empowered to adopt or retain
23 more stringent ordinances, laws or regulations deal-
24 ing with the subject matter of this chapter. Any
25 less restrictive municipal ordinances, laws or regu-
26 lations are invalid and of no force and effect.

27 §3949. Official refusal or neglect of duty

28 Any mayor, selectman, clerk, town or city manag-
29 er, administrative assistant to the mayor, town or
30 city councillor, dog recorder of unorganized territo-
31 ries, constable, police officer, sheriff or animal
32 control officer who refuses or intentionally fails to
33 perform the duties imposed by chapters 719, 723, 729
34 and this chapter commits a civil violation for which
35 a forfeiture of not less than \$10 and not more than
36 \$50, and costs, may be adjudged.

37

CHAPTER 727

1 DANGEROUS DOGS

2 §3951. Killing for assault permitted

3 Any person may lawfully kill a dog if necessary
4 for protection during the course of a sudden,
5 unprovoked assault and attack upon himself or another
6 person.

7 §3952. Complaints regarding dangerous dogs

8 1. Procedure. Any person who is assaulted by a
9 dog without provocation may, within 10 days of the
10 assault, make written complaint to the sheriff or local
11 law enforcement officer that he believes the dog
12 is dangerous or vicious.

13 If, upon hearing, the court is satisfied that the
14 complaint is true, it shall:

15 A. Order the dog muzzled, restrained or confined
16 to the premises of its owner or keeper; or

17 B. Order the dog to be euthanatized if it has
18 killed, maimed or inflicted serious bodily injury
19 upon a person or has a history of assault.

20 The owner or keeper who keeps a dog in violation of
21 this section commits a civil violation for which a
22 forfeiture not to exceed \$25, plus costs, may be ad-
23 judged.

24 2. Failure to abide by court order. If the
25 court order in subsection 1, paragraph B, is not com-
26 plied with within the time set by the court, the
27 court may, upon application by the complainant or
28 other person, issue a warrant to the county sheriff
29 or any of his deputies or to a police officer or con-
30 stable in the municipality where the dog is found,
31 commanding the officer to kill the dog immediately
32 and make a return of the warrant to the court within
33 14 days from the date of the warrant.

34 The owner or keeper shall be ordered to pay all costs
35 of supplementary proceedings.

36 §3953. Treble damages

1 If the dog of an owner or keeper who refuses or
2 neglects to comply with an order issued pursuant to
3 section 3952 wounds any person by sudden assault or
4 wounds or kills any domestic animal, the owner or
5 keeper of the dog is liable in a civil action to the
6 person injured for treble damages and costs.

7 §3954. Stealing or killing dogs

8 Except as provided in section 3951 and unless the
9 killing is justified to protect persons or property,
10 any person who steals, confines or secretes,
11 willfully or negligently injures or willfully or neg-
12 ligently kills a dog is liable to its owner in a civ-
13 il action for the full value of the dog.

14 CHAPTER 729

15 DAMAGE BY DOGS

16 §3961. Reimbursement for damage done by dogs

17 When a dog does damage to a person or his proper-
18 ty, the owner or keeper of the dog is liable in a
19 civil action to the person injured for the amount of
20 damage done, provided that the damage was not occa-
21 sioned through the fault of the person injured.

22 §3962. Complaint and recovery

23 1. Complaint. Whenever any livestock, poultry
24 or domestic rabbits, properly enclosed or restrained
25 and owned by a resident of the State, are killed or
26 injured by a dog, the owner, after locating the ani-
27 mal or animals or a sufficient part to identify it or
28 them, may make complaint on the next business day
29 following discovery of the damage:

30 A. To the municipal officers of the municipality
31 where the damage was done; or

32 B. Where the damage occurred in an unincorpor-
33 ated place, to the municipal officers of the
34 nearest municipality adjoining or otherwise to
35 the nearest municipality.

1 2. Investigation. The municipal officers shall
2 investigate the complaint upon its receipt. If, af-
3 ter viewing the evidence, the municipal officers are
4 satisfied that the damage was committed by a dog
5 within the limits of their municipality, they shall
6 estimate the actual value of the animals killed or
7 injured according to the purposes for which they were
8 kept, whether for breeding or other purposes, togeth-
9 er with the damage to any other animals bitten, torn,
10 chased or exhausted.

11 3. Reports. The municipal officers shall then
12 make reports to the board, on board-approved forms,
13 within 15 days of the date of investigation.

14 All reports shall have plainly printed on them a full
15 description of all evidence seen by the investigator
16 and information on the number of animals properly en-
17 closed, with the estimated value and number of each,
18 their ages, average live weight and any other infor-
19 mation that will assist in making a fair adjustment.

20 All reports shall be signed by a majority of the mu-
21 nicipal officers or, where appropriate, by the city
22 or town manager and by the investigator, all of whom
23 shall identify their respective offices. The signa-
24 ture of the investigator shall be construed to mean
25 that he saw the evidence legally establishing the
26 State's liability.

27 The reports shall be made in triplicate. The origi-
28 nal and duplicate copies, along with the claimant's
29 bill and proof of animal registration, where applica-
30 ble, shall be mailed to the board and the triplicate
31 copy retained by the municipal clerk.

32 4. Board action. The board shall approve the
33 bill or, in its discretion, shall investigate and ad-
34 just the claim.

35 Payment by the board for grade cattle and horses,
36 registered cattle and horses, grade sheep, goats and
37 swine and registered sheep, goats and swine shall be
38 the slaughter market value of the animal on the date
39 of injury or death.

1 2. Treatment of animals in general. Live ani-
2 imals used as class pets or for purposes not prohib-
3 ited in subsection 1 shall be housed and cared for in
4 a safe and humane manner. The animals shall not re-
5 main in school over periods when school is not in
6 session, unless adequate care is provided at all
7 times.

8 3. Standards of treatment. Any animal whose use
9 is permitted under this section shall be treated in
10 accordance with the ethical and humane standards
11 promulgated by the board pursuant to the rule-making
12 provisions of the Maine Administrative Procedure Act,
13 Title 5, chapter 375, after consultation with repre-
14 sentative groups in the State having an interest or
15 expertise in the field of animal welfare, biology and
16 education.

17 4. Enforcement. The board shall enforce this
18 section in consultation with the Commissioner of Edu-
19 cational and Cultural Services.

20 5. Penalty for violations. Any person who vio-
21 lates this section shall be punished by a fine of not
22 more than \$75.

23 §3972. Unlawful use of animals

24 1. Unlawful use of animals. It is unlawful for
25 any person to:

26 A. Sell, offer for sale, give away or display
27 within the State any live animals which have been
28 died or otherwise artificially colored;

29 B. Sell in lots of less than 6, offer for sale,
30 give away, raffle or display any live fowl,
31 turtles or rabbits; or

32 C. Use any live animal as a premium, fund-
33 raising device, prize or award or use any live
34 animal in a raffle, contest, game or promotion.

35 2. Violation. Any person who makes unlawful use
36 of animals contrary to this section commits a civil
37 violation for which a forfeiture not to exceed \$50
38 may be adjudged.

1 station shall have precedence over all other freight.

2 5. Conditions of transportation. Cars, boats,
3 vehicles or vessels shall be sufficiently covered or
4 boarded on the sides and ends to afford proper pro-
5 tection to animals in case of storms or severe cold
6 weather and shall be properly ventilated.

7 A greater number of animals shall not be loaded into
8 any car, boat, vehicle or vessel than can stand com-
9 fortably within.

10 6. Violation. Any person who violates this sec-
11 tion commits a civil violation for which a forfeiture
12 of not less than \$50 nor more than \$500 for every
13 such offense may be adjudged.

14 §3982. Liens

15 A railroad, motor truck, common carrier or its
16 receiver, trustee or lessee has a lien on all animals
17 in transit for reimbursement of penalties paid in
18 consequence of the direction or orders of the owner
19 or person in custody of the shipment of animals and
20 for all extra expenses or damages incurred in the
21 care and protection of animals according to this
22 chapter.

23 §3983. Possession of animals unlawfully detained

24 The board, a humane agent, sheriff, deputy sher-
25 iff, constable, police officer or person authorized
26 to make arrests may take possession of any animals
27 detained in violation of this chapter and may unload
28 the animals and place them in properly equipped pens
29 or other suitable enclosures for rest, water and
30 feeding. The board or any person taking possession
31 pursuant to this section has a lien on the animals
32 detained for expenses incurred for the care given.

33 §3984. Enforcement of lien

34 The board or any person having a lien in accord-
35 ance with section 3982 or 3983 may enforce the lien
36 in the same manner as enforcements of liens on per-
37 sonal property pursuant to Title 10, chapter 631.

1 §3985. Immunity from liability

2 Neither the board nor any person having a lien in
3 accordance with section 3982 or 3983 is liable for
4 the detention of animals pursuant to this chapter.

5 Sec.4. 17 MRSA c. 42 is enacted to read:

6 CHAPTER 42

7 SUBCHAPTER I

8 GENERAL PROVISIONS

9 §1011. Definitions

10 As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

14 1. Act. "Act" means the Animal Welfare Board
15 Act.

16 2. Animal. "Animal" means every living,
17 sentient creature not a human being.

18 3. Animal control. "Animal control" means control of dogs, cats, small pets or undomesticated animals which may be a problem in the community and
20 which are not controlled by any other law.

22 4. Animal control officer. "Animal control officer" means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

25 5. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

29 6. Board. "Board" means the Animal Welfare Board or its duly authorized agent.

31 7. Boarding kennel. "Boarding kennel" means any place, building, tract of land, abode or vehicle in
32 or on which privately owned dogs or other pets, or
33

1 both, are kept for their owners in return for a fee.

2 8. Business day. "Business day" means any day
3 of the calendar year other than a Saturday, Sunday or
4 legal holiday.

5 9. Chelonian. "Chelonian" means belonging or
6 pertaining to the order Chelonia, comprising the
7 turtles.

8 10. Clerk; municipal clerk. "Clerk" or "municipal
9 clerk" means the clerk of a municipality, the
10 deputy clerk or assistant clerk, where directed by
11 the clerk, carrying out the duties of this Part.

12 11. Commissioner. "Commissioner" means the Com-
13 missioner of Agriculture, Food and Rural Resources or
14 his duly authorized agent.

15 12. Constable. "Constable" means a law enforce-
16 ment officer appointed by municipal officers pursuant
17 to law.

18 13. Guide dog or hearing dog kept for breeding
19 purposes. "Guide dog or hearing dog kept for breed-
20 ing purposes" means a male or female dog owned by a
21 nonprofit organization for the purpose of producing
22 puppies to be trained as guide dogs or hearing dogs
23 and living with a resident of the State.

24 14. Guide dog or hearing dog kept prior to
25 training. "Guide dog or hearing dog kept prior to
26 training" means a dog under 18 months of age, owned
27 by a nonprofit organization for the purpose of train-
28 ing as a guide dog or hearing dog and living tempo-
29 rarily with a resident of the State prior to train-
30 ing.

31 15. Humane agent. "Humane agent" means an em-
32 ployee of the board, whether full-time or part-time,
33 who assists the board in enforcing this Part.

34 16. Keeper. "Keeper" means a person in posses-
35 sion or control of a dog or other animal.

36 17. Kennel. "Kennel" means one pack or collec-
37 tion of dogs kept in a single location under one own-

1 ership for breeding, hunting, show, training, field
2 trials and exhibition purposes.

3 18. Mammal. "Mammal" means any vertebrate of
4 the class mammalia that feeds its young with milk
5 from the female mammary glands, that has the body
6 more or less covered with hair and that, with the ex-
7 ception of the monotremes, brings forth living young
8 rather than eggs.

9 19. Municipality. "Municipality" means a city,
10 town or plantation.

11 20. Mutilate. "Mutilate" includes, but is not
12 limited to, cutting the bone, muscles or tendons of
13 the tail of a horse for the purpose of docking or
14 setting up the tail and cropping or cutting off the
15 ear of a dog in whole or in part.

16 21. Owner. "Owner" means any person, firm,
17 partnership, association or corporation owning, keep-
18 ing or harboring a dog or other animal.

19 22. Person. "Person" means an individual, cor-
20 poration, partnership, association or any other legal
21 entity.

22 23. Pet shop. "Pet shop" means any place,
23 building, tract of land, abode or vehicle in or on
24 which any dogs, cats, rodents, reptiles, fish, pet
25 birds, pet animals, exotic birds or exotic animals
26 are offered for sale which are not bred by the ven-
27 dor.

28 24. Respective municipality. "Respective munic-
29 ipality" means, in the case of towns and cities, the
30 municipality where the dog is found or in the case of
31 unorganized townships, the municipality near or adja-
32 cent to the unorganized township where the dog is
33 found or the designee of that municipality.

34 25. Torment, torture and cruelty. "Torment,
35 torture and cruelty" means every act, omission or ne-
36 glect, whether by the owner or any other person,
37 where unjustifiable physical pain, suffering or death
38 is caused or permitted.

1 26. Vertebrate. "Vertebrate" means a subphylum
2 of chordate animals comprising those having a brain
3 enclosed in a skull or cranium and a segmented spinal
4 column, including mammals, birds, reptiles, amphib-
5 ians and fish.

6 27. Well cared for. "Well cared for" means that
7 the animal is receiving necessary sustenance, neces-
8 sary medical attention, proper shelter, protection
9 from the weather and humanely clean conditions and
10 that the animal has not been nor is it being injured,
11 overworked, tormented, tortured, abandoned, poisoned,
12 beaten, mutilated or exposed to a poison with the in-
13 tent that it be taken by the animal.

14 §1012. Unlawful exhibition of bears

15 1. Unlawful exhibition of bears. A person is
16 guilty of unlawful exhibition of bears if he goes
17 about from municipality to municipality, or from
18 place to place within a municipality, transporting or
19 exhibiting a bear, except in connection with an au-
20 thorized menagerie.

21 2. Penalty. Unlawful exhibition of bears is a
22 Class E crime.

23 3. Bear declared forfeited. Upon conviction of
24 a person found guilty of unlawful exhibition of
25 bears, the bear may be declared forfeited and placed
26 under the jurisdiction of the board for placement or
27 to be sold, given away or otherwise disposed of
28 humanely.

29 §1013. Unlawful sale of diseased horses

30 1. Unlawful sale of diseased horses. A person
31 is guilty of unlawful sale of diseased horses if he
32 receives, offers for sale or sells at private sale or
33 public auction any horse which, by reason of
34 debility, disease or lameness or for other cause
35 could not be worked in the State without violating
36 the laws against cruelty to animals.

37 2. Penalty. Unlawful sale of diseased horses is
38 a Class E crime.

1 3. Violation. Any licensed auctioneer violating
2 this section may be punished by loss of license in
3 addition to other penalties provided by law.

4 4. Exception. This section shall not be con-
5 strued to prohibit the sale to or the purchase of
6 horses by humane societies.

7 §1014. Unlawful production of motion pictures

8 1. Unlawful production of motion pictures. A
9 person is guilty of unlawful production of motion
10 pictures if he knowingly or intentionally prepares,
11 manufactures, makes, exhibits or participates in the
12 preparation, manufacture, making or exhibition of any
13 motion picture film or videotape production involving
14 cruelty to animals during the course of preparation,
15 manufacture, making or exhibition of the motion pic-
16 ture film or videotape production.

17 2. Penalty. Unlawful production of motion pic-
18 tures is a Class E crime.

19 §1015. Unlawful interference with publicly-owned
20 dogs

21 1. Unlawful interference with publicly-owned
22 dogs. A person is guilty of unlawful interference
23 with publicly-owned dogs if knowingly or intentional-
24 ly:

25 A. He kills, torments, beats, kicks, strikes,
26 mutilates, injures, disables or otherwise
27 mistreats dogs owned by any law enforcement agen-
28 cy within the State or owned by counties, municipi-
29 palities or any of their political subdivisions
30 or law enforcement agencies; or

31 B. He interferes by any action with the lawful
32 performance of publicly-owned dogs.

33 2. Penalty. Unlawful interference with public-
34 ly-owned dogs is a Class D crime.

35 SUBCHAPTER II

36 POSSESSION OF ANIMALS

1 §1021. Possession of animals

2 1. Possession. The board, a humane agent, sher-
3 iff, deputy sheriff, constable, police officer, ani-
4 mal control officer, or person authorized to make ar-
5 rests may apply to the District Court or the Superior
6 Court for authorization:

7 A. To take possession of any maimed, disabled,
8 diseased, dehydrated, malnourished or injured an-
9 imal or any animal whose owner has cruelly aban-
10 doned or cruelly treated it and turn over the an-
11 imal to the applicant or other suitable person;
12 or

13 B. To cause the animal to be disposed of
14 humanely.

15 2. Notice to owner. If the owner is known, a
16 copy of the application shall be served upon him with
17 an order of court to appear at a stated time and
18 place to show cause why the animal should not be
19 taken and turned over to the applicant or other suit-
20 able person or disposed of humanely.

21 If the owner cannot be found by reasonable diligence,
22 or is out-of-state although a resident of this State,
23 a copy of the application and order of court shall be
24 left at his last and usual place of abode.

25 If the owner is not known, then the court shall order
26 a notice to be published at least once in a newspaper
27 of general circulation in the county where the animal
28 was found, stating the case and circumstances and
29 giving 48 hours' notice of the hearing.

30 3. Hearing. If it appears at the hearing that
31 the animal has been cruelly abandoned or cruelly
32 treated by its owner or the animal is maimed, dis-
33 abled, diseased, dehydrated, malnourished or injured,
34 the court shall:

35 A. Direct the applicant or other suitable person
36 to take possession of and provide for the animal,
37 order its sale, adoption, donation or return of
38 the animal to its owner; or

1 B. Order the animal to be disposed of humanely
2 if, given reasonable time and care, the animal's
3 recovery is doubtful.

4 4. Ex parte order. An ex parte order shall be
5 as follows.

6 A. The board, a humane agent, sheriff, deputy
7 sheriff, constable, police officer, animal control
8 officer or person authorized to make arrests
9 may apply to the District Court, Superior Court
10 or a complaint justice for an ex parte order for
11 authorization to take possession of any maimed,
12 disabled, diseased, dehydrated, malnourished or
13 injured animal or any animal whose owner has cru-
14 elly abandoned or cruelly treated it and turn it
15 over to the applicant or any other suitable per-
16 son.

17 An order may be entered ex parte upon findings by
18 the court or complaint justice that there is a
19 reasonable likelihood that:

20 (1) The defendant is not subject to the ju-
21 risdiction of the court for the purposes of
22 a hearing or the owner cannot be found by
23 reasonable diligence or is out-of-state al-
24 though a resident of this State, and there
25 is a danger that unless immediate action is
26 taken:

27 (a) The condition of an injured,
28 overworked, tormented, tortured, aban-
29 doned, poisoned or mutilated animal,
30 animal deprived of necessary
31 sustenance, necessary medical atten-
32 tion, proper shelter or protection from
33 the weather or humanely clean condi-
34 tions will be substantially impaired or
35 worsened;

36 (b) The animal's life will be jeopard-
37 ized; or

38 (c) A great degree of medical atten-
39 tion will be necessary to restore the
40 animal to a normal, healthy condition;

1 (2) There is a clear danger that if the
2 owner or his agent is notified in advance of
3 the issuance of the order of court, as pro-
4 vided in subsection 3, he may remove the an-
5 imal from the State, conceal it or otherwise
6 make it unavailable;

7 (3) There is immediate danger that the own-
8 er or his agent will kill or injure the ani-
9 mal; or

10 (4) An animal is being or has been injured,
11 overworked, tormented, tortured, abandoned,
12 poisoned, mutilated, deprived of necessary
13 sustenance, necessary medical attention,
14 proper shelter or protection from the weath-
15 er or humanely clean conditions and, unless
16 an ex parte order issues allowing the appli-
17 cant to take possession of the animal, the
18 animal will die, its condition will be sub-
19 stantially impaired or worsened or medical
20 attention will be necessary to restore the
21 animal to a normal, healthy condition.

22 B. This subsection does not apply to animals
23 currently being well cared for when euthanasia is
24 necessary due to old age or to a person's conduct
25 designed to control or eliminate rodents, ants or
26 other common pests.

27 C. On 2 days' notice or such shorter period as
28 the court may prescribe, the applicant who ob-
29 tained the ex parte order or the owner whose ani-
30 mal has been possessed pursuant to an ex parte
31 order may appear in the District Court or Superi-
32 or Court and move the dissolution or modification
33 of the ex parte order.

34 The court shall hear and determine the motion as
35 expeditiously as justice requires.

36 The moving party shall submit an affidavit set-
37 ting forth specific facts to substantiate such
38 findings as would serve to modify or dissolve the
39 order. The opposing party shall have the burden
40 of presenting evidence to substantiate the origi-
41 nal findings.

1 5. Attachment and enforcement of lien. Attach-
2 ment and enforcement of liens shall be as follows.

3 A. Any person taking possession of an animal as
4 provided in this subchapter shall have a lien for
5 expenses as provided in this subsection unless
6 the complaint is dismissed for lack of merit. If
7 the complaint is dismissed for lack of merit, the
8 board and the municipality where the possession
9 occurred may share in paying the lienor's ex-
10 penditures.

11 B. Expenses covered by this subsection include
12 expenses reasonably incident to taking an animal
13 into custody such as transportation, food, shel-
14 ter, veterinary care and expenses of disposing of
15 an animal taken into custody.

16 C. The lienor may enforce the lien in the same
17 manner as enforcements of liens on personal prop-
18 erty pursuant to Title 10, chapter 631. In giv-
19 ing judgment for the lien, the court shall in-
20 clude expenses as set forth in paragraph B, in-
21 curring by the lienor from the date of commence-
22 ment of proceedings to the entry of judgment or
23 final disposition of the animal as ordered by the
24 court.

25 In the event of the sale of the animal, all ex-
26 penditures incurred in transporting, taking, keeping
27 and caring for the animal shall be deducted from
28 the sale price and the balance, if any, turned
29 over to the owner.

30 D. The defendant may appeal as in a civil ac-
31 tion, but before appeal is allowed, the defendant
32 shall give sufficient security to satisfy the ap-
33 plicant or person taking custody of the animal
34 that he will pay all expenses for its care and
35 support pending appeal.

36 §1022. Prevention of cruelty

37 The board or any person authorized to make ar-
38 rests may lawfully interfere to prevent the perpetra-
39 tion of any act of cruelty upon an animal in his
40 presence.

1 §1023. Investigation and reporting of cruelty

2 1. Investigation. Sheriffs, deputy sheriffs,
3 police officers, constables, animal control officers
4 and humane agents shall investigate all cases of cru-
5 elty to animals coming to their attention and report
6 on them to the board on a board-approved form.

7 Upon completion of the investigation, the board
8 shall, if requested, report on the results of the in-
9 vestigation to the person complaining of alleged cru-
10 elty.

11 §1024. Impeding the performance of an officer

12 It is unlawful for any person to assault, resist,
13 oppose, impede, intimidate or interfere with any per-
14 son while engaged in or on account of the performance
15 of his official duties under this subchapter.

16 §1025. Handling of animals seized or held

17 1. Handling of animals. No humane agent, animal
18 control officer, animal shelter, pound, animal care
19 center, humane society or veterinarian and anyone
20 acting under their authority and having possession of
21 any animal by reason of his office may:

22 A. Provide or supply dealers, commercial kennels
23 or laboratories with the animal; or

24 B. Give, release, sell, trade, loan, transfer or
25 otherwise provide any live animal to any individ-
26 ual, firm, association, corporation, educational
27 institution, laboratory, medical facility or any-
28 one else for purposes of experimentation or
29 vivisection.

30 2. Livestock. Livestock to be sold at public
31 auction is exempt from this section.

32 §1026. Penalty for violation

33 Any person, firm or corporation found in viola-
34 tion of this subchapter is guilty of a Class E crime.

35 SUBCHAPTER III

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CRUELTY TO ANIMALS

§1031. Cruelty to animals

1. Cruelty to animals. A person is guilty of cruelty to animals if intentionally, knowingly, recklessly or wantonly:

A. He kills any animal belonging to another person without legal privilege or the consent of the owner or kills or attempts to kill an animal with the owner's consent by means which will cause undue suffering. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

B. He injures, overworks, tortures, torments, abandons, gives poison to, cruelly beats or mutilates any animal or exposes a poison with the intent that it be taken by an animal;

C. He deprives any animal which he owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;

D. He owns, possesses, keeps or trains any animal with the intent that it shall be engaged in an exhibition of fighting or if he instigates, promotes, attends or has a pecuniary interest in or acts as a judge at any exhibition of fighting animals; or

E. He keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of this State during the months of December, January, February or March without providing necessary sustenance and proper shelter.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards; or

1 B. The defendant's conduct or that of his agent
2 was designed to control or eliminate rodents,
3 ants or other common pests on his own property.

4 3. Penalty. Cruelty to animals is a Class D
5 crime.

6 §1032. Cruelty to birds

7 1. Cruelty to birds. A person is guilty of cru-
8 elty to birds if:

9 A. He keeps or uses any live pigeon, fowl or
10 other bird for a target or to be shot at, either
11 for amusement or as a test of skill in
12 marksmanship;

13 B. He shoots at any bird or is present as a par-
14 ty, umpire or judge at such shooting; or

15 C. He rents any building, shed, room, yard,
16 field or premises or knowingly suffers the use of
17 the building, shed, room, yard, field or premises
18 for these purposes.

19 2. Penalty. Cruelty to birds is a Class E
20 crime.

21 3. Exception. Nothing in this section may be
22 construed to prohibit the shooting of wild game in
23 its wild state or the shooting of birds at field tri-
24 als under the supervision of the Department of Inland
25 Fisheries and Wildlife in accordance with Title 12,
26 chapter 707, subchapter IX.

27 SUBCHAPTER IV

28 EUTHANASIA OF CATS AND DOGS

29 §1041. Euthanasia by prescribed methods

30 No cat or dog may be destroyed by any method,
31 agent or device except as described in this subchap-
32 ter.

33 §1042. Mandatory method

1 The mandatory method of euthanasia of cats and
2 dogs shall be the administration of a barbiturate
3 overdose. The mandatory method of euthanasia shall
4 be implemented according to the following methods and
5 under the following conditions.

6 1. Intravenous, intraperitoneal, intrathoracic
7 or intracardial injection. Intravenous,
8 intraperitoneal, intrathoracic or intracardial injec-
9 tion of a lethal solution may be used.

10 2. Oral ingestion. Oral ingestion by dogs of
11 powdered sodium pentobarbital in capsules mixed with
12 food may be used.

13 3. Use of undamaged hypodermic needle. If
14 euthanasia is by injection, an undamaged hypodermic
15 needle of a size suitable for the size and species of
16 animal shall be used.

17 4. T-61. If it is impossible to obtain a suffi-
18 cient supply of sodium pentobarbital or other barbi-
19 turates for injection, euthanasia solution T-61 may
20 be substituted for intravenous injection into adult
21 dogs only and according to the recommended dosages
22 and proper injection rates of the manufacturers.
23 T-61 shall only be used intravenously.

24 5. Administration by a licensed veterinarian.
25 Administration shall only be by a licensed veterinar-
26 ian or by a person trained for this purpose and sub-
27 ject to regular observation concerning continued ef-
28 iciency.

29 §1043. Emergency methods

30 The following methods shall be used only in an
31 emergency situation in which the safety of people or
32 other animal life is threatened or in a situation in
33 which the mandatory method of euthanasia of cats and
34 dogs cannot be implemented expeditiously and will
35 cause undue suffering. The following methods shall
36 not be used as a substitute for the mandatory method.

37 1. Use of carbon monoxide gas. Cats and dogs,
38 except cats and dogs under 6 weeks of age, may be de-
39 stroyed by carbon monoxide gas administered in a
40 tightly enclosed chamber equipped with:

1 A. Internal lighting and a window providing di-
2 rect visual observation of any animal within the
3 chamber at all times;

4 B. A gas generation process adequate to achieve
5 a carbon monoxide gas concentration throughout
6 the chamber of at least 5%;

7 C. A suitable gauge or gas concentration indica-
8 tor or recording device making possible easy and
9 instantaneous visual determination of the carbon
10 monoxide concentration in the chamber;

11 D. A means for cooling and removing gas if gen-
12 erated by an internal combustion engine according
13 to the following methods:

14 (1) A means of cooling the gas to a temper-
15 ature not to exceed 115> fahrenheit at the
16 point of entry into the chamber and not to
17 exceed 90> fahrenheit at any point in the
18 chamber as determined by temperature gauges
19 permanently installed at point of entry and
20 inside the chamber;

21 (2) A means of removing or filtering out
22 all noxious fumes, irritating acids and car-
23 bon particles from the gas before it enters
24 the chambers;

25 (3) A means of substantially deadening the
26 sound and vibration transmission from the
27 engine to the chamber by placing them in
28 separate rooms or soundproof compartments
29 connecting them with flexible tubing or
30 pipe, at least 24 inches in length, so that
31 the noise level within the chamber shall not
32 exceed 70 dBA; and

33 (4) A means for exhausting internal combus-
34 tion engine gas during periods of engine
35 warm-up:

36 (a) All equipment and the chamber used
37 for gas generated from an internal com-
38 bus-tion engine shall be properly main-
39 tained and routinely inspected;

- 1 E. A means for segregating animals in the cham-
2 ber, except that small compatible dogs, young
3 pups and kittens 6 weeks of age and older may be
4 placed together with their female parent in one
5 cage in the chamber; and
- 6 F. An exhaust fan connected by a gas-tight duct
7 to the outdoors, capable of completely evacuating
8 the gas from the chamber before it is opened af-
9 ter each use, except that this provision does not
10 apply to chambers located out-of-doors.
- 11 2. Use of inhalant anesthetics such as chloro-
12 form, ether, halothane or fluothane. Cats, kittens
13 and newborn dogs may be destroyed by chloroform,
14 ether, halothane or fluothane provided the following
15 requirements are met.
- 16 A. The animal to be destroyed shall be placed in
17 an individual cage, except that small compatible
18 animals of the same species or litter mates with
19 their female parent may be placed together in the
20 same cage. The cage shall be placed in an air-
21 tight chamber or in a transparent plastic bag
22 which can be tightly sealed following introduc-
23 tion of the inhalant anesthetic.
- 24 B. The inhalant anesthetic, in sufficient dosage
25 to destroy the animal, shall be placed on a paper
26 towel, piece of gauze or ball of cotton and in-
27 serted into the chamber or bag in such a position
28 that the animal is not able to come in direct
29 contact with it.
- 30 C. The chamber or box shall contain a transpar-
31 ent section of sufficient size to permit unob-
32 structed observation of the animal.
- 33 D. The animal shall remain in the chamber or bag
34 until rigor mortis has occurred.
- 35 E. The room in which the inhalant anesthetic is
36 administered shall have forced ventilation to re-
37 move all fumes after each use.
- 38 F. Veterinarians only may destroy dogs and cats
39 following terminal operations by the use of an
40 overdose of ether or other anesthetic gasses.

1 3. Shooting. The animal may be destroyed by
2 shooting, provided that:

3 A. The animal is restrained in a humane manner;

4 B. Shooting is performed by highly skilled and
5 trained personnel utilizing a weapon and ammuni-
6 tion of suitable caliber and other characteris-
7 tics to produce instantaneous death by a single
8 shot; and

9 C. Maximum precaution is taken to protect the
10 general public, employees and other animals.

11 §1044. Tranquilizing cats and dogs

12 Prior to the euthanasia of cats and dogs,
13 sedatives may be administered to these animals.
14 Curariform immobilizers shall not be used to sedate
15 cats and dogs prior to euthanasia.

16 §1045. Inspection

17 The board may inspect or investigate any facility
18 in which cats or dogs are destroyed.

19 §1046. Penalty for violation

20 Any person, firm or corporation found in viola-
21 tion of this subchapter is guilty of a Class E crime.

22 Sec. 5. 17 MRSA c. 43, as amended, is repealed.

23 Sec. 6. 17-A MRSA §510, as amended by PL 1979,
24 c. 120, is repealed.

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STATEMENT OF FACT

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This bill is a recodification of the state animal welfare laws, both civil and criminal. It is the result of an effort by the Animal Welfare Board to reorganize current law into a more useable text and to remove ambiguities, inconsistencies and duplication. This bill makes no substantive changes in current law.

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