

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 838

S.P. 291

In Senate, March 19, 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 Senator BLACK of Cumberland, Representative TARDY of Palmyra, Representative BRAGG of Sidney.

STATE OF MAINE

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

1 **AN ACT to Reform the Animal Welfare Laws.**
2

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

5 **Sec. 1. 7 MRSA §3404, 1st ¶, as enacted by PL**
6 **1981, c. 326, §1, is repealed and the following en-**
7 **acted in its place:**

8 Except as provided in section 3604 and unless the
9 killing is justified to protect persons or property,
10 any person who steals, confines or secretes any dog,
11 or willfully or negligently injures or willfully or
12 negligently kills a dog is liable in damages to its
13 owner in a civil action.

14 **Sec. 2. 7 MRSA §3406, as amended by PL 1981, c.**
15 **368, §§2 and 3, is repealed.**

1 Sec. 3. 7 MRSA §3406-A is enacted to read:

2 §3406-A. Procedures for sick or abandoned dogs

3 1. Persons finding dogs. Any person finding a
4 sick, stray, injured or abandoned dog may take that
5 dog to any shelter within the State.

6 2. Dog shelters. A shelter to which a sick,
7 stray, injured or abandoned dog is taken shall, as a
8 condition of approval by the board, accept the dog
9 for a period of 8 days, unless the shelter is in
10 quarantine or has a bona fide lack of adequate space
11 or unless the dog has or is suspected of having a
12 contagious disease. The acceptance entitles the
13 shelter to receive from the board the sum of \$2.50 a
14 day for the period for which food and shelter are
15 furnished to the dog. Shelters accepting dogs from
16 municipalities not contracting with them may seek as-
17 sistance from the board. Shelters which are not ap-
18 proved by the board to receive state funds shall not
19 be required to accept sick, stray, injured or aban-
20 doned dogs.

21 3. Claims; fees. The procedure for filing
22 claims and a calculation of fees shall be as follows.

23 A. On the business day next following the date
24 of acceptance of the dog, the shelter shall noti-
25 fy the clerk of the respective municipality of
26 the acceptance of the dog, its description and
27 the circumstances of its finding.

28 B. A shelter which accepts a dog under this sec-
29 tion shall, within 45 days of acceptance of the
30 dog, submit a claim on a board-approved form to
31 the clerk of the respective municipality for fees
32 incurred in providing food and shelter and, upon
33 verification of proper notification and holding
34 period by the clerk, the shelter shall forward
35 the claim to the board.

36 C. In the event the owner claims the dog within
37 the 8-day period, the owner may have and receive
38 the dog upon payment of all board-approved fees
39 as provided in subsection 2.

1 4. Ownership of dog. Upon expiration of the
2 8-day period, ownership of the dog shall vest in the
3 shelter. The shelter may then:

4 A. Sell or give away the dog, provided a license
5 is first obtained in accordance with section
6 3451; or

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

9 None of the proceeds obtained from the sale, do-
10 nation, adoption or other disposition of the dog
11 shall be deducted from the fee claimed.

12 Notwithstanding subsection 3, paragraph C, the
13 previous owner shall have the right to reacquire
14 the dog at any time prior to its sale, donation
15 or disposal upon payment of the municipal im-
16 poundment fee and actual fees incurred for food,
17 shelter, veterinary care and any other fees re-
18 quired by this chapter for each day that the dog
19 has been sheltered. In this case no fee may be
20 allowed by the board.

21 5. Euthanasia for sick or injured dogs. A veter-
22 inarian may authorize in writing euthanasia of a sick
23 or injured dog received by him, by a humane agent or
24 by a shelter within the State if:

25 A. Forty-eight hours have elapsed since receipt
26 of the sick or injured dog by him, by the humane
27 agent or by the shelter;

28 B. The clerk of the respective municipality has
29 been notified of the dog's presence, in accord-
30 ance with subsection 3, paragraph A, and the own-
31 er of the dog, if known, has been notified;

32 C. The dog is not rabid or suspected of rabies;

33 D. The dog's recovery from its sickness or in-
34 jury, given reasonable time and reasonable care,
35 is doubtful; and

36 E. Notwithstanding paragraphs A to D, a veteri-
37 narian may authorize immediate euthanasia if, in

1 his judgment, there is no possibility of recovery
2 for a sick or injured dog.

3 6. Euthanasia for severely injured animal. A
4 veterinarian or a humane agent may authorize in writ-
5 ing euthanasia of a severely injured or sick animal
6 if the following conditions are met.

7 A. The clerk of the municipality has been noti-
8 fied of the animal's presence and the owner of
9 the animal, if known, has been notified.

10 B. The animal is not rabid or suspected of ra-
11 bies.

12 C. The animal's recovery from its injury or ill-
13 ness, given reasonable time and reasonable care,
14 is doubtful.

15 D. Notwithstanding paragraphs A to C, a veteri-
16 narian may authorize immediate euthanasia if, in
17 his judgment, there is no possibility of recovery
18 for a severely injured or sick animal.

19 7. Immunity from civil liability. A veterinari-
20 an is not civilly liable to any party for authoriza-
21 tion made in accordance with subsections 5 and 6, nor
22 is any person performing euthanasia under that autho-
23 rization.

24 8. Violation. Any person who violates this
25 chapter commits a civil violation for which a forfei-
26 ture of not less than \$25 nor more than \$100 may be
27 adjudged.

28 Sec. 4. 7 MRS 3451, 4th ¶ is repealed and the
29 following enacted in its place:

30 A suitable tag showing the year the license is
31 issued and bearing such other data as the board may
32 prescribe shall be given by the municipal clerk with
33 each license and must be securely attached to a col-
34 lar of leather, metal or material of comparable
35 strength which shall be worn at all times by the dog
36 for which the license was issued. Any person who re-
37 moves a dog tag or rabies tag or who places either a
38 collar or rabies tag on any dog not described on it

1 or for which the license was not issued commits a
2 civil violation for which a forfeiture of not more
3 than \$100 may be adjudged.

4 The rabies tag obtained from a veterinarian for
5 immunization against rabies shall be securely at-
6 tached to a collar of leather, metal or material of
7 comparable strength which shall be worn at all times
8 by the dog for which the tag was issued.

9 Sec. 5. 7 MRSA §3451, 5th ¶, as repealed and re-
10 placed by PL 1981, c. 368, §4, is amended to read:

11 All license blanks and tags shall be furnished by
12 the board. The board shall carry out the dog licens-
13 ing laws and the adjustment of, and authorization of
14 payment of, claims for damages to livestock, poultry
15 and domestic rabbits by dogs. The expense of furnish-
16 ing the blanks and tags, and the necessary personnel
17 and travel, and approved claims for damages done by
18 dogs and payments to shelters shall be paid from the
19 funds received from the licensing of dogs. ~~The com-~~
20 ~~missioner shall use funds received from the licensing~~
21 ~~of dogs, in addition to any other funds authorized~~
22 ~~for expenses of the Division of Animal Welfare.~~

23 Sec. 6. 7 MRSA §3451, 11th ¶, as amended by PL
24 1977, c. 694, §143, is repealed and the following en-
25 acted in its place:

26 "Boarding kennel" means any place, building,
27 tract of land, abode or vehicle in or on which pri-
28 vately owned dogs or other pets, or both, are kept
29 for their owners in return for a fee. Any person
30 maintaining a boarding kennel shall obtain a license
31 from the board. The license shall expire December
32 31st annually or in a manner consistent with the li-
33 cense provisions of the Maine Administrative Proce-
34 dure Act, Title 5, chapter 375, whichever is later,
35 and the fee for such license shall be \$25. Nothing
36 in this section may be construed to exempt dogs owned
37 by boarding kennel operators from the license re-
38 quirements of this section.

39 Sec. 7. 7 MRSA §3451, 15th ¶, as enacted by PL
40 1971, c. 453, is repealed and the following enacted
41 in its place:

1 Shelters approved by the board pursuant to section
2 3406 are exempt from licensing but are subject
3 to inspection as provided in this section and subject
4 to the rules of the board as to sanitation, enclosure,
5 records, health requirements and such other
6 procedures as the board determines necessary.

7 **Sec. 8. 7 MRSA §3451, as amended by PL 1981, c.**
8 **698, §16, is further amended by adding after the 15th**
9 **paragraph 2 new paragraphs to read:**

10 The board, a state humane agent, a veterinarian
11 employed by the State or a licensed veterinarian at
12 the direction of the board may, at any reasonable
13 time, enter any board-approved shelter and make exam-
14 ination and conduct any recognized test for the exist-
15 ence of any contagious or infectious diseases or
16 conditions. The board may inspect shelters to deter-
17 mine compliance with its sanitation, health and other
18 rules.

19 A veterinarian employed by the State or any li-
20 icensed veterinarian may quarantine the shelter in
21 person or by registered mail and the quarantine shall
22 be maintained as long as the board deems necessary.
23 The decision and order for this quarantine shall not
24 be considered licensing or an adjudicatory proceeding
25 under the Maine Administrative Procedure Act, Title
26 5, chapter 375.

27 **Sec. 9. 7 MRSA §3451, 17th ¶, as repealed and**
28 **replaced by PL 1977, c. 696, §104, is repealed and**
29 **the following enacted in its place:**

30 Any person maintaining a kennel, boarding kennel
31 or pet shop without having obtained a license or, af-
32 ter any license has been revoked or suspended, com-
33 mits a civil violation for which a forfeiture of not
34 less than \$50 and not more than \$200 a day may be ad-
35 judged.

36 **Sec. 10. 7 MRSA §3452-B, as enacted by PL 1979,**
37 **c. 492, §9, is amended to read:**

38 §3452-B. Use of license fees retained by municipali-
39 ties

1 All fees retained by municipalities shall be kept
2 in a separate account and shall be used for the costs
3 and salaries ~~for~~ of animal control ~~and~~, enforcement
4 of licensing laws ~~or to~~, care of injured and abandoned
5 animals and the support of one or more approved
6 humane--society--or--shelter--or--municipal--or--regional
7 shelter animal control shelters. All fees retained
8 shall be kept in a separate account. Any money not
9 expended for the purpose these purposes shall not
10 lapse but shall be carried over to the next fiscal
11 year.

12 For the purposes of this section, animal control
13 shall mean "Animal control" means control of dogs,
14 cats, ~~small-pets~~ domesticated or undomesticated ani-
15 mals which may be a problem in the community and
16 which are not controlled by any other statute law.

17 Sec. 11. 7 MRSA §3455, 2nd ¶, as enacted by PL
18 1973, c. 45, §1, is amended to read:

19 "At large" means off the premises of the owner
20 and not under the control of any person by--means--of
21 personal-presence-and-attention-as-will whose personal
22 presence and attention would reasonably control
23 the conduct of such dog the animal.

24 Sec. 12. 7 MRSA §§3460 and 3461 are enacted to
25 read:

26 §3460. Animal control

27 1. Control. Municipalities shall control dogs
28 running at large.

29 2. Medical attention. Law enforcement officers,
30 humane agents and animal control officers shall take
31 abandoned animals to a shelter and ensure that any
32 injured animal which is at large or in a public way
33 is given proper medical attention.

34 §3461. Animal control shelter

35 Municipal clerks shall annually, on or before
36 January 1st, certify to the board the name and loca-
37 tion of the animal control shelter or have an ar-
38 range-ment for such a shelter. Animal control shel-
39 ters shall comply with board rules.

1 Sec. 13. 7 MRSa §3605, as amended by PL 1965, c.
2 165, is repealed.

3 Sec. 14. 7 MRSa §3605-A is enacted to read:

4 §3605-A. Complaints regarding dangerous dogs

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

10 If, upon hearing, the court is satisfied that the
11 complaint is true, it shall:

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

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

17 The owner or keeper who keeps a dog in violation of
18 this section commits a civil violation for which a
19 forfeiture not to exceed \$100, plus costs, may be ad-
20 judged.

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

31 The owner or keeper shall be ordered to pay all costs
32 of supplementary proceedings and all reasonable costs
33 for seizure and euthanasia of the dog.

34 3. Complaint for dogs presenting immediate
35 threat to public. If, after submission of complaint
36 to District Court or Superior Court and before hear-
37 ing, the dog poses an immediate threat to the public,

1 the dog shall be subject to muzzling, restraint or
2 confinement to its premises upon written complaint to
3 a sheriff, deputy sheriff, police officer or constable.
4 Upon failure to comply, the officer to whom
5 complaint was made may apply to District Court, Superior
6 Court or a complaint justice for an ex parte order
7 for authorization to take possession of the dog
8 who poses an immediate threat to the public and turn
9 it over to the applicant or other suitable person.

10 4. Court action; ex parte. An order may be entered
11 ex parte upon findings by the court or complaint
12 justice that there is a reasonable likelihood
13 that the dog is dangerous or vicious, its owner has
14 failed to muzzle, restrain or confine it and that
15 such failure poses an immediate threat of harm to the
16 public.

17 A. Upon 2 days' notice or such shorter period as
18 the court may prescribe, the owner whose animal
19 has been possessed pursuant to an ex parte order
20 may appear in the District Court or Superior
21 Court and move the dissolution or modification of
22 the ex parte order.

23 B. The court shall hear and determine such
24 motion as expeditiously as justice requires.

25 C. The owner shall submit an affidavit setting
26 forth specific facts to substantiate such find-
27 ings as would serve to modify or dissolve the or-
28 der. The applicant shall have the burden of pre-
29 senting evidence to substantiate the original
30 findings.

31 5. Lien. Any person taking possession of a dog
32 as provided in this section shall have a lien on that
33 dog in accordance with the provisions of Title 17,
34 section 1211, subsection 5.

35 6. Treble damages. If a dog whose owner or
36 keeper refuses or neglects to comply with the order,
37 wounds any person by a sudden assault or wounds or
38 kills any domestic animal, the owner or keeper shall
39 pay the person injured treble damages and costs to be
40 recovered by a civil action.

1 Sec. 15. 7 MRSa §3701, as repealed and replaced
2 by PL 1977, c. 696, §109, is repealed and the follow-
3 ing enacted in its place:

4 §3701. Keeping unlicensed dog

5 1. Violation of chapter. Any person who keeps a
6 dog in violation of sections 3451 and 3454 commits a
7 civil violation for which a forfeiture of not more
8 than \$100 may be adjudged.

9 Sec. 16. 7 MRSa §3704, as amended by PL 1985, c.
10 197, is further amended by adding at the end 3 new
11 paragraphs to read:

12 The board shall, at its own instance or upon
13 written complaint made to it by any person, investi-
14 gate any alleged refusal or neglect of duty by any
15 municipal officer.

16 The board shall direct proceedings, actions and
17 prosecutions to be instituted to enforce all laws re-
18 lating to animals and to the liability of municipal
19 officers and their agents for failure, neglect or re-
20 usal to comply with the laws relating to animals.

21 The Attorney General and district attorneys
22 shall, upon the board's written request, institute
23 such legal proceedings as may be necessary to carry
24 out this section.

25 Sec. 17. 7 MRSa cc. 717, 719 and 721 are enacted
26 to read:

27 CHAPTER 717

28 RESEARCH INSTITUTIONS

29 §3901. Regulation of research institutions

30 1. License necessary. No research or teaching
31 institution of higher education may employ live ani-
32 mals in scientific investigation, experiment or in-
33 struction or for the testing of drugs or medicines
34 without first having been issued a license under this
35 section by the board. A research or teaching insti-
36 tution desiring to obtain a license shall make appli-

1 cation to the board. On receipt of the application,
2 the board shall make or cause to be made such inves-
3 tigation as it may deem necessary to determine wheth-
4 er the public interest would be served by the issu-
5 ance of the license. The board may issue the license
6 provided the research or teaching institution, by
7 reason of its standards, facilities, practices or ac-
8 tivities, is a fit and proper institution to receive
9 the license and that its issuance is in the public
10 interest. Each research or teaching institution li-
11 censed under this chapter shall, before issuance of
12 the license, pay to the board a license fee of \$50.
13 Each license shall expire on June 30th next following
14 the date of issue. The board shall annually renew
15 each license upon the application of the licensee un-
16 less, after notice and hearing as provided in this
17 chapter, it finds that by reason of the standards,
18 facilities, practices or activities of the licensee
19 the renewal is not in the public interest. The board
20 may, after notice and hearing as provided in this
21 chapter, modify, fail to renew, suspend or revoke any
22 license if it finds that by reason of the standards,
23 facilities, practices or activities of the licensee,
24 the continuation of the license is not in the public
25 interest.

26 2. Noncompliance. If, in the opinion of the
27 board, there is or may be noncompliance with or a vi-
28 olation of this chapter or of any rules adopted by
29 the board that is of sufficient gravity to warrant
30 further action, the board may request an informal
31 conference with the licensee. The board shall pro-
32 vide the licensee with adequate notice of the confer-
33 ence and the issues to be discussed.

34 If the board finds that the factual basis of the al-
35 leged noncompliance with or violation of this chapter
36 is true and may warrant further action, the board may
37 also take any of the following actions it deems ap-
38 propriate:

39 A. With the consent of the licensee, enter into
40 a consent agreement which fixes the period and
41 terms of probation best adapted to protect the
42 health and welfare of animals and to rehabilitate
43 or educate the licensee;

1 B. In consideration for acceptance of a voluntary
2 surrender of the license, negotiate stipula-
3 tions, in a consent decree to be signed by the
4 board, the licensee and the Office of the Attor-
5 ney General, which ensure protection of the
6 health and welfare of animals and which serve to
7 rehabilitate or educate the licensee;

8 C. If the board concludes that modification or
9 nonrenewal of the license may be in order, the
10 board shall hold an adjudicatory hearing in ac-
11 cordance with the provisions of the Maine Admin-
12 istrative Procedure Act, Title 5, chapter 375,
13 subchapter IV; or

14 D. If the board concludes that suspension or
15 revocation of the license is in order, the board
16 shall file a complaint in the Administrative
17 Court in accordance with Title 4, chapter 25.

18 3. Grounds for discipline. The following shall
19 be grounds for an action to modify, suspend, revoke
20 or refuse to renew the license of a person licensed
21 under this chapter:

22 A. The practice of fraud or deceit in obtaining
23 a license under this chapter or in connection
24 with service rendered within the scope of the li-
25 cence issued;

26 B. Any violation of this chapter or any rule
27 adopted by the board; or

28 C. Adjudication of a civil violation or convic-
29 tion of a crime involving cruelty to animals.

30 4. Penalty. Any person who knowingly violates
31 any provisions of this chapter commits a civil viola-
32 tion for which a forfeiture not to exceed \$100 for
33 each offense may be adjudged.

34 5. Rules. The board may adopt such rules as are
35 necessary to carry out the purposes of this chapter.

36 6. Inspection. In connection with the granting,
37 continuance or renewal of a license, the board may
38 visit and inspect the research and teaching institu-

1 tions, animal research and care facilities of any li-
2 icensee or of any research or teaching institution
3 which has applied for a license.

4 CHAPTER 719

5 CALF AND PIG SCRAMBLES

6 §4001. Regulation of calf and pig scrambles

7 1. Permit required. Any person sponsoring a
8 calf or pig scramble shall obtain a permit from the
9 board for each specific event at least 10 days before
10 the event.

11 2. Application. Applications for calf or pig
12 scramble permits shall specify the name of the appli-
13 cant, the type of scramble and the date or dates of
14 the scramble.

15 3. Fee. No fee is required of any applicant.

16 4. Board rules. Each applicant obtaining a per-
17 mit under this section is subject to the rules
18 promulgated by the board on weight and size of ani-
19 mals, age of participants, length of event and such
20 other requirements as it may deem necessary.

21 CHAPTER 721

22 CRUELTY TO ANIMALS

23 §4101. Cruelty to animals

24 1. Cruelty to animals. A person is cruel to an-
25 imals if:

26 A. He kills any animal belonging to another per-
27 son without legal privilege or the consent of the
28 owner, or kills or attempts to kill an animal
29 with the owner's consent by means which will
30 cause undue suffering. The owner or occupant of
31 property is privileged to use reasonable force to
32 eject a trespassing animal;

33 B. He injures, overworks, tortures, torments,
34 abandons, gives poison to, cruelly beats or muti-

1 lates any animal or exposes a poison with the in-
2 tent that it be taken by an animal;

3 C. He deprives any animal which he owns or pos-
4 sesses of necessary sustenance, necessary medical
5 attention, proper shelter, protection from the
6 weather or humanely clean conditions; or

7 D. He keeps or leaves a domestic animal on an
8 uninhabited or barren island lying off the coast
9 of Maine during the months of December, January,
10 February or March without providing necessary
11 sustenance and proper shelter.

12 2. Affirmative defenses. It is an affirmative
13 defense to this section that:

14 A. The conduct was performed by a licensed vet-
15 erinerian or was a part of scientific research
16 governed by accepted standards; or

17 B. The conduct was designed to control or elimi-
18 nate rodents, ants or other common pests on the
19 defendant's own property.

20 §4102. Cruelty to birds

21 1. Cruelty to birds. A person is cruel to birds
22 if:

23 A. He keeps or uses any live pigeon, fowl or
24 other bird for a target or to be shot at, either
25 for amusement or as a test of skill in
26 marksmanship;

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

29 C. He rents any building, shed, room, yard,
30 field or premises or knowingly suffers the use of
31 the same for these purposes.

32 2. Construction. Nothing in this section may be
33 construed to prohibit the shooting of wild game in
34 its wild state or the shooting of birds at field tri-
35 als under the supervision of the Department of Inland
36 Fisheries and Wildlife in accordance with Title 12,
37 chapter 707, subchapter IX.

1 §4103. Violation

2 Any person who violates this chapter commits a
3 civil violation for which a forfeiture of \$1,000 for
4 each offense may be adjudged.

5 §4104. Rules

6 The board may adopt any rules necessary or useful
7 to carry out this section pursuant to the Maine Ad-
8 ministrative Procedure Act, Title 5, chapter 375.

9 Sec. 18. 17 MRSA §1051, sub-§§2-A, 4-A, 5-A and
10 9 are enacted to read:

11 2-A. Law enforcement officer. "Law enforcement
12 officer" means any person who, by virtue of his pub-
13 lic employment, is vested by law with a duty to main-
14 tain public order, enforce any law of this State es-
15 tablishing a civil violation, prosecute offenders or
16 make arrests for crimes, whether that duty extends to
17 all crimes or is limited to specific crimes.

18 4-A. Mutilate. "Mutilate" includes, but is not
19 limited to, cutting the bone, muscles or tendons of
20 the tail of a horse for the purpose of docking or
21 setting up the tail and cropping or cutting off the
22 ear of a dog in whole or in part.

23 5-A. Shelter. "Shelter" means any building or
24 physical structure or part of any building or struc-
25 ture, other than a private dwelling, housing dogs or
26 other animals and not used for agricultural purposes
27 or as a laboratory, research facility, medical facil-
28 ity or educational institution.

29 9. Warrant. "Warrant" means an order of municip-
30 al officers directing a police officer, constable,
31 sheriff or animal control officer to enter a com-
32 plaint and summons against the owners or keepers of
33 unlicensed dogs following notice of and noncompliance
34 with a violation of law.

35 Sec. 19. 17 MRSA §1051-A, 4th ¶, as enacted by
36 PL 1983, c. 308, §§7 and 14, is amended to read:

1 The board shall hold regular monthly meetings but
2 may, by majority vote, waive a succeeding monthly
3 meeting. The chairman shall call special meetings of
4 the board whenever requested in writing by 2 or more
5 members of the board.

6 Sec. 20. 17 MRSA §§1051-D, 1051-E and 1051-F are
7 enacted to read:

8 §1051-D. Purpose

9 The primary legislative purposes of this chapter
10 are to provide for the licensing of dogs and the hu-
11 mane and proper treatment of animals.

12 §1051-E. Governmental function

13 The board shall administer and exercise the au-
14 thority granted to it by this chapter. The carrying
15 out of its powers and duties is deemed the perform-
16 ance of an essential governmental function.

17 §1051-F. Enforcement

18 Whenever, in the judgment of the board, any per-
19 son has engaged in or is about to engage in any acts
20 or practices which constitute or will constitute a
21 violation of this chapter or any rule, order, li-
22 cence, permit, approval or decision of the board or
23 decree of court, as the case may be, the Attorney
24 General, at the request of the board, may institute
25 proceedings before the District Court or Superior
26 Court for an order enjoining those acts or practices,
27 for an order directing compliance or a civil or crim-
28 inal action or any appropriate combination of ac-
29 tions. Upon a showing by the board that the person
30 has engaged or is about to engage in any such act or
31 practices, the court may grant a permanent or tempo-
32 rary injunction, restraining order or other order as
33 appropriate.

34 Sec. 21. 17 MRSA §1058, as amended by PL 1981,
35 c. 121, §§1 and 2, is repealed.

36 Sec. 22. 17 MRSA §1058-A is enacted to read:

37 §1058-A. Unlawful use of animals

1 1. Prohibited conduct. It shall be unlawful for
2 any person to:

3 A. Sell, offer for sale, give away or display
4 within the State any live animals which have been
5 dyed or otherwise artificially colored;

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

9 C. Use any live animal as a premium, fund-
10 raising device, prize or award or use any live
11 animal in a raffle, contest, game or promotion;

12 D. Use any live animal as bait in any racing
13 contest or in the training of animals for racing
14 contests; or

15 E. Tie, tether or restrain any animal in a man-
16 ner that is inhumane or detrimental to its wel-
17 fare.

18 2. Violation. Any person who makes unlawful use
19 of animals contrary to this section commits a civil
20 violation for which a forfeiture of \$100 may be ad-
21 judged.

22 Sec. 23. 17 MRSA §1171 is repealed.

23 Sec. 24. 17 MRSA §1171-A is enacted to read:

24 §1171-A. Intrastate transportation of animals

25 1. Period of confinement. No railroad, motor
26 truck, common carrier or the receiver, trustee or
27 lessee thereof, which transports animals within the
28 State, or other person having the care, custody or
29 charge of animals loaded into any such form of trans-
30 portation may confine the animals in cars, boats, ve-
31 hicles or vessels of any description for a period
32 longer than 28 consecutive hours without unloading
33 the animals in a humane manner by means of a chute or
34 tailgate of sufficient size into properly equipped
35 pens or other suitable enclosures for rest, water and
36 feeding for a period of at least 5 consecutive hours
37 unless prevented by storm, accident or other unavoi-

1 able cause which cannot be anticipated or avoided by
2 the exercise of due diligence and foresight.

3 In estimating the time of confinement, the time con-
4 sumed in loading and unloading shall not be consid-
5 ered, but the time during which the animals have been
6 confined without such rest or food or water in a car,
7 boat, vehicle or vessel shall be included.

8 2. Extension of time for confinement. Upon the
9 separate written request of the owner or person in
10 custody of the shipment of animals, the time of con-
11 finement may be extended to 36 hours.

12 3. Sheep. A railroad, motor truck, common car-
13 rier or its receiver, trustee or lessee or other per-
14 son having the care, custody or charge of sheep
15 loaded into any such form of transportation is not
16 required to unload sheep in the nighttime, but when
17 the time expires in the nighttime, the sheep may con-
18 tinue in transit to a suitable place of unloading not
19 exceeding the maximum limitation of 36 hours during
20 which they may be confined.

21 4. Preference of animals as freight. A rail-
22 road, motor truck and common carrier within the State
23 shall give cars, boats, vehicles or vessels contain-
24 ing cattle, sheep, swine or other animals a contin-
25 uous passage in preference to other freight. Cars,
26 boats, vehicles or vessels loaded with animals at any
27 station shall have precedence over all other freight.

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

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

36 No person may transport any animal in or upon any
37 car, boat, vehicle or vessel in a cruel or inhumane
38 manner.

1 6. Violation. Any person who violates this section
2 commits a civil violation for which a forfeiture
3 of not less than \$50 nor more than \$500 for every
4 such offense may be adjudged.

5 Sec. 25. 17 MRSA §§1172, 1173 and 1174 are re-
6 pealed.

7 Sec. 26. 17 MRSA §1211, sub-§3-A is enacted to
8 read:

9 3. Seizure for observation and examination.
10 Seizure of animals for observation and examinations
11 shall be as follows.

12 A. Whenever the board, a humane agent or person
13 authorized to make arrests has reason to believe
14 that an animal may be disabled, diseased, dehy-
15 drated or malnourished, the board, humane agent
16 or person shall apply to the District Court or
17 Superior Court for authorization to take posses-
18 sion of the animal and turn it over to the appli-
19 cant or other suitable person for examination and
20 observation for a 30-day period. At the end of
21 30 days, the court shall receive a report from
22 the person in possession of the animal and either
23 dissolve the possession order or set the matter
24 for hearing within 30 days.

25 B. If the owner is known, he shall be advised of
26 the time and place of hearing and asked to show
27 cause why the animal should not be seized perma-
28 rently or disposed of humanely.

29 C. If the court finds at the hearing that the
30 animal is disabled, diseased, dehydrated or
31 malnourished, the court shall:

32 (1) Declare the animal forfeited and order
33 its sale, adoption or donation; or

34 (2) Order the animal to be disposed of
35 humanely if, given reasonable time and care,
36 the animal's recovery is doubtful.

37 Sec. 27. 17 MRSA §1227, sub-§§2 and 5, as en-
38 acted by PL 1977, c. 445, are repealed.

1 Sec. 28. 17 MRSA §1228, sub-§§1 and 2, as en-
2 acted by PL 1977, c. 445, are repealed.

3 Sec. 29. 17-A MRSA §510, sub-§1, ¶C, as amended
4 by PL 1977, c. 169, is further amended to read:

5 C. He deprives any animal which he owns or pos-
6 sesses of necessary sustenance, necessary medical
7 attention, proper shelter, protection from the
8 weather or humanely clean conditions; or

9 Sec. 30. 17-A MRSA §510, sub-§1, ¶D, as amended
10 by PL 1975, c. 638, §3, is repealed.

11 Sec. 31. 17-A MRSA §510, sub-§2, as enacted by
12 PL 1975, c. 499, §1, is repealed.

13 Sec. 32. 17-A MRSA §510, sub-§3, ¶C is enacted
14 to read;

15 C. Evidence of proper care of any animal shall
16 not be admissible in the defense of alleged cru-
17 elty to other animals.

18 Sec. 33. 17-A MRSA §§510-A, 510-B, 510-C, 510-D
19 and 510-E are enacted to read:

20 §510-A. Animal fighting

21 1. Violation. A person is guilty of animal
22 fighting if knowingly:

23 A. He owns, possesses, keeps or trains any ani-
24 mal with the intent that the animal engage in an
25 exhibition of fighting with another animal;

26 B. For amusement or gain, he causes any animal
27 to fight with another animal or causes any ani-
28 mals to injure each other; or

29 C. He permits any act in violation of paragraph
30 A or B to be done on any premises under his
31 charge or control.

32 Animal fighting is a Class C crime.

1 2. Penalty for viewing animal fighting. Any
2 person who is knowingly present at any place or
3 building where preparations are being made for an ex-
4 hibition of the fighting of animals or is present at
5 such exhibition is guilty of a Class D crime.

6 3. Affirmative defense. It is an affirmative
7 defense to prosecution under subsections 1 and 2 that
8 the activity charged involves the possession, train-
9 ing, exhibition or use of an animal in the otherwise
10 lawful sport of animal hunting and the training or
11 use of hunting dogs.

12 4. Exception. Activity involving the posses-
13 sion, training, exhibition or use of an animal in the
14 otherwise lawful pursuits of hunting, farming,
15 rodeos, shows and security services shall be exempt
16 from the provisions of subsections 1 and 2.

17 §510-B. Application for search warrant

18 A law enforcement officer or humane agent, having
19 probable cause to believe that a violation of section
20 510 or 510-A has taken place or is taking place,
21 shall enter the premises where the animal is kept
22 with the consent of the owner or shall make applica-
23 tion for a search warrant. If the court is satisfied
24 that probable cause exists, it shall issue a search
25 warrant directing a law enforcement officer in the
26 county to proceed immediately to the location of the
27 alleged violation and directing the law enforcement
28 officer to search the place designated in the war-
29 rant, retaining in his custody subject to the order
30 of the court such property or things as are specified
31 in the warrant, including any animal.

32 §510-C. Necessary sustenance

33 No person owning or responsible for confining or
34 impounding any animal may fail to supply the animal
35 with a sufficient supply of food and water as pre-
36 scribed in this section.

37 1. Food. The food shall be of sufficient quan-
38 tity and quality to maintain all animals in good
39 health.

1 2. Water. If potable water is not accessible to
2 the animal at all times, it shall be provided daily
3 and in sufficient quantity for the health of the ani-
4 mal.

5 §510-D. Necessary medical attention

6 No person owning or responsible for confining or
7 impounding any animal may fail to supply the animal
8 with necessary medical attention when the animal is
9 or has been suffering from illness, injury, disease,
10 excessive parasitism or malformed or overgrown hoof.

11 §510-E. Proper shelter, protection from the weather
12 and humanely clean conditions

13 No person owning or responsible for confining or
14 impounding any animal may fail to provide the animal
15 with proper shelter, protection from the weather or
16 humanely clean conditions as prescribed in this sec-
17 tion. In the case of farm animals, nothing in this
18 section may be construed as imposing shelter require-
19 ments or standards more stringent than normally ac-
20 cepted husbandry practices in the particular county
21 where the animal or shelter is located. For pur-
22 poses of this section, horses shall not be considered
23 farm animals.

24 1. Indoor standards. Minimum indoor standards
25 of shelter shall be as follows:

26 A. The ambient temperature shall be compatible
27 with the health of the animal.

28 B. Indoor housing facilities shall be adequately
29 ventilated by natural or mechanical means to pro-
30 vide for the health of the animal at all times.

31 2. Outdoor standards. Minimum outdoor standards
32 of shelter shall be as follows:

33 A. When sunlight is likely to cause heat exhaus-
34 tion of an animal tied or caged outside, suffi-
35 cient shade by natural or artificial means shall
36 be provided to protect the animal from direct
37 sunlight. As used in this paragraph, "caged"
38 does not include farm fencing used to confine
39 farm animals.

1 B. Shelter from inclement weather shall be as
2 follows:

3 (1) An artificial shelter with 3 1/2 sides
4 and a waterproof roof appropriate to the lo-
5 cal climatic conditions for the species con-
6 cerned shall be provided as necessary for
7 the health of the animal; and

8 (2) If a dog is tied or confined unattended
9 outdoors under weather conditions which ad-
10 versely affect the health of the dog, a
11 shelter of suitable size with a floor above
12 ground and waterproof roof shall be provided
13 to accommodate the dog and protect it from
14 the weather and, in particular, from severe
15 cold. Inadequate shelter may be indicated
16 by the shivering of the dog due to cold
17 weather for a continuous period of 30 min-
18 utes.

19 3. Space standards. Minimum space requirements
20 for both indoor and outdoor enclosures shall include
21 the following:

22 A. The housing facilities shall be structurally
23 sound and maintained in good repair to protect
24 the animal from injury and to contain the animal.

25 B. Enclosures shall be constructed and main-
26 tained so as to provide sufficient space to allow
27 each animal adequate freedom of movement. Inade-
28 quate space may be indicated by evidence of over-
29 crowding, debility, stress or abnormal behavior
30 patterns.

31 4. Humanely clean conditions. Minimum standards
32 of sanitation necessary to provide humanely clean
33 conditions for both indoor and outdoor enclosures
34 shall include periodic cleaning to remove excreta and
35 other waste materials, dirt and trash so as to mini-
36 mize health hazards.

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STATEMENT OF FACT

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This bill clarifies existing state animal welfare laws, eliminates provisions that are archaic or obsolete, improves enforcement and ensures compliance with federal laws which govern the humane treatment and use of animals and do not preempt state law.

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It is a companion measure to legislation which recodifies the state animal welfare laws.

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