

# MAINE STATE LEGISLATURE

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(New Draft of S.P. 291, L.D. 838)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1759

S.P. 599

In Senate, June 8, 1987

Reported by Senator Black of Cumberland for the Committee on Agriculture and printed under Joint Rule 2. Original Bill sponsored by Senator Clark of Cumberland. Cosponsored by: Senator Black of Cumberland, Representative Tardy of Palmyra, Representative Bragg of Sidney.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Reform 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-§~~  
Board Per Diem 7 MRSA §

Sec. 2. 7 MRSA Pt. 8, as amended, is repealed.

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

PART 9



1 culture, Food and Rural Resources who shall serve as  
2 an ex officio, nonvoting member.

3 3. Compensation. Members of the board shall be  
4 compensated in accordance with Title 5, chapter 379.

5 §3904. Terms of office

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

11 1. Initial terms of office. Initially, 3 ap-  
12 pointed members shall serve for one year; 2 members  
13 for 2 years; 2 members for 3 years; and 2 members for  
14 4 years, provided that no more than one member repre-  
15 sents the same interest group in the same class.

16 §3905. Administration

17 The board shall elect one of its members as  
18 chairman.

19 The board shall hold regular monthly meetings,  
20 but may waive, by majority vote, a succeeding monthly  
21 meeting. The chairman shall call special meetings of  
22 the board whenever requested in writing by 2 or more  
23 members.

24 §3906. Powers and duties of the board

25 The Animal Welfare Board, as established by Title  
26 5, section 12004, subsection 8, is authorized to ful-  
27 fill the purposes set forth in section 3902 to en-  
28 force this Part and Title 17, and has powers and du-  
29 ties to:

30 1. Dog licensing laws. Carry out the dog li-  
31 ensing laws and furnish to municipalities all li-  
32 cence blanks and tags;

33 2. Payment of claims. Authorize payment of and  
34 adjust claims for damages to livestock, poultry and  
35 domestic rabbits by dogs;

1           3. Use of funds. Pay from the funds received  
2 from the licensing of dogs the expense of furnishing  
3 blanks and tags, travel and salaries for necessary  
4 personnel, approved claims for damages done by dogs,  
5 payments to shelters and expenses incurred in the ad-  
6 ministration of this Part. These funds shall be kept  
7 in a separate account to be established by the Treas-  
8 urer of State and that account shall not lapse, but  
9 shall continue from year to year;

10           4. Dog recorders. Appoint dog recorders in un-  
11 organized territories and establish fees for services  
12 rendered;

13           5. Payment of fees. Authorize from time to time  
14 payments to providers of special services to animals  
15 when those services are determined by the board to be  
16 in the public interest;

17           6. Information. Obtain, develop or disseminate  
18 any information useful or convenient for carrying out  
19 any purpose or power of the board;

20           7. Copies of law. Seasonably forward to the  
21 clerks of the several municipalities copies of this  
22 Part;

23           8. Employees. Approve an executive director and  
24 such other employees as are necessary to assist the  
25 board in enforcing this Part and in carrying out its  
26 duties and responsibilities as may be employed by the  
27 commissioner subject to the Civil Service Law. The  
28 board shall appoint part-time humane agents who shall  
29 serve as agents of the board in the enforcement of  
30 this Part and as otherwise provided by law. These  
31 part-time agents shall be unclassified employees  
32 whose standards of employment, training, compensation  
33 and hours of employment will be determined by the  
34 board. The jurisdiction of each part-time humane  
35 agent shall extend throughout the State. In connec-  
36 tion with its enforcement responsibilities, the board  
37 shall be entitled to and shall receive the assistance  
38 of the Attorney General and of several district at-  
39 torneys and may apply to the commissioner for the as-  
40 sistance of state veterinarians;

1 9. Rules. Pursuant to Title 5, chapter 375,  
2 adopt, amend and repeal reasonable rules, including  
3 emergency rules, necessary for the proper administra-  
4 tion, implementation, enforcement and interpretation  
5 of any provision of law that it is charged with ad-  
6 ministering and necessary or useful for carrying out  
7 any of its powers and duties; and

8 10. Other powers. Do any act or thing necessary  
9 or useful for carrying out any of its powers or du-  
10 ties.

11 §3907. Definitions

12 As used in this Part, and in every law relating  
13 to or affecting animals, unless the context indicates  
14 otherwise, the following terms have the following  
15 meanings.

16 1. Act. "Act" means the Animal Welfare Board  
17 Act.

18 2. Animal. "Animal" means every living,  
19 sentient creature not a human being.

20 3. Animal control. "Animal control" means con-  
21 trol of dogs, cats, domesticated or undomesticated  
22 animals which may be a problem in the community and  
23 which are not controlled by any other law.

24 4. Animal control officer. "Animal control of-  
25 ficer" means the person appointed periodically by mu-  
26 nicipal officers pursuant to chapter 725.

27 5. Animal control shelter. "Animal control shel-  
28 ter" means the shelter designated by municipal offi-  
29 cers.

30 6. At large. "At large" means off the premises  
31 of the owner and not under the control of any person  
32 whose personal presence and attention would reason-  
33 ably control the conduct of the animal.

34 7. Board. "Board" means the Animal Welfare  
35 Board or its duly authorized agent.

1           8. Boarding kennel. "Boarding kennel" means any  
2 place, building, tract of land, abode or vehicle in  
3 or on which privately owned dogs or other pets, or  
4 both, are kept for their owners in return for a fee.

5           9. Business day. "Business day" means any day  
6 of the calendar year other than a Saturday, Sunday or  
7 legal holiday.

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-  
38 ership for breeding, hunting, show, training, field  
39 trials and exhibition purposes.

1           18. Law enforcement officer. "Law enforcement  
2 officer" means any person who, by virtue of his pub-  
3 lic employment, is vested by law with a duty to main-  
4 tain public order, enforce any law of this State es-  
5 tablishing a civil violation, prosecute offenders or  
6 make arrests for crimes, whether that duty extends to  
7 all crimes or is limited to specific crimes.

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

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

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

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

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

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

33           25. Shelter. "Shelter" means any building or  
34 physical structure or part of any building or struc-  
35 ture, other than a private dwelling, housing dogs or  
36 other animals and not used for agricultural purposes  
37 or as a laboratory, research facility, medical facil-  
38 ity or educational institution.



1           26. Torment, torture and cruelty. "Torment,  
2 torture and cruelty" means every act, omission or ne-  
3 glect, whether by the owner or any other person,  
4 where unjustifiable physical pain, suffering or death  
5 is caused or permitted.

6           27. Vertebrate. "Vertebrate" means a subphylum  
7 of chordate animals comprising those having a brain  
8 enclosed in a skull or cranium and a segmented spinal  
9 column, including mammals, birds, reptiles, amphib-  
10 ians and fish.

11           28. Warrant. "Warrant" means an order of municip-  
12 al officers directing a police officer, constable,  
13 sheriff or animal control officer to enter a com-  
14 plaint and summons against the owners or keepers of  
15 unlicensed dogs following notice of and noncompliance  
16 with a violation of law.

17           29. Well cared for. "Well cared for" means that  
18 the animal is receiving necessary sustenance, neces-  
19 sary medical attention, proper shelter, protection  
20 from the weather and humanely clean conditions and  
21 that the animal has not been nor is being injured,  
22 overworked, tormented, tortured, abandoned, poisoned,  
23 beaten, mutilated or exposed to a poison with the in-  
24 tent that it be taken by the animal.

25           §3908. Governmental function

26           The board shall administer and exercise the au-  
27 thority granted to it by this Part. The carrying out  
28 of its powers and duties is considered the perform-  
29 ance of an essential governmental function.

30           §3909. Enforcement

31           Whenever, in the judgment of the board, any per-  
32 son has engaged in or is about to engage in any acts  
33 or practices which constitute or will constitute a  
34 violation of this Act or any rule, order, license,  
35 permit, approval or decision of the board or decree  
36 of court, as the case may be, the Attorney General,  
37 at the request of the board, may institute proceed-  
38 ings before the District Court or Superior Court for  
39 an order enjoining those acts or practices, for an  
40 order directing compliance or a civil or criminal ac-

1 tion or any appropriate combination of actions. Upon  
2 a showing by the board that the person has engaged or  
3 is about to engage in any such act or practice, the  
4 court may grant a permanent or temporary injunction,  
5 restraining order or other order as appropriate.

6 §3910. Jurisdiction

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

13 CHAPTER 719

14 UNCONTROLLED DOGS

15 §3911. Dogs not to run at large

16 It is unlawful for any dog, licensed or unli-  
17 icensed, to run at large, except when used for hunt-  
18 ing.

19 §3912. Disposition of dogs at large

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

27 §3913. Procedure for sick or abandoned dogs

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

31 2. Dog shelters. A shelter to which a sick,  
32 stray, injured or abandoned dog is taken, as a condi-  
33 tion of approval by the board, shall accept the dog  
34 for a period of 8 days, unless the shelter is in  
35 quarantine or has a bona fide lack of adequate space  
36 or unless the dog has or is suspected of having a

1 contagious disease. The acceptance entitles the shel-  
2 ter to receive from the board the sum of \$2.50 a day  
3 for the period for which food and shelter are fur-  
4 nished to the dog. Shelters accepting dogs from mu-  
5 nicipalities not contracting with them may seek as-  
6 sistance from the board. Shelters which are not ap-  
7 proved by the board to receive state funds shall not  
8 be required to accept sick, stray, injured or aban-  
9 doned dogs.

10 3. Claims; fees. The procedure for filing  
11 claims and calculating fees shall be as follows.

12 A. On the business day next following the date  
13 of acceptance of the dog, the shelter shall noti-  
14 fy the clerk of the respective municipality of  
15 the acceptance of the dog, its description and  
16 the circumstances of its finding.

17 B. A shelter which accepts a dog under this sec-  
18 tion, within 45 days of acceptance of the dog,  
19 shall submit a claim on a board-approved form to  
20 the clerk of the respective municipality for fees  
21 incurred in providing food and shelter and, upon  
22 verification of proper notification and holding  
23 period by the clerk, the shelter shall forward  
24 the claim to the board.

25 C. If the owner claims the dog within the 8-day  
26 period, the owner may have and receive the dog  
27 upon payment of all board-approved fees as pro-  
28 vided in subsection 2, provided that the dog is  
29 licensed in accordance with chapter 721.

30 4. Ownership of dog. Upon expiration of the  
31 8-day period, ownership of the dog shall vest in the  
32 shelter. The shelter may then:

33 A. Sell or give away the dog, provided that a  
34 license is first obtained in accordance with sec-  
35 tion 3922; or

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

38 None of the proceeds obtained from the sale, do-  
39 nation, adoption or other disposition of the dog  
40 shall be deducted from the fee claimed.

1 Notwithstanding subsection 3, paragraph C, the  
2 previous owner may reacquire the dog at any time  
3 prior to its sale, donation or disposal upon pay-  
4 ment of the municipal impoundment fee and actual  
5 fees incurred for food, shelter, veterinary care  
6 and any other fees required by this chapter for  
7 each day that the dog has been sheltered. In this  
8 case no fee may be allowed by the board.

9 5. Euthanasia for sick or injured dogs. A vet-  
10 erinarian may authorize in writing euthanasia of a  
11 sick or injured dog received by him, by a humane  
12 agent or by a shelter within the State if:

13 A. Forty-eight hours have elapsed since receipt  
14 of the sick or injured dog by him, by the humane  
15 agent or by a shelter;

16 B. The clerk of the respective municipality has  
17 been notified of the dog's presence in accordance  
18 with subsection 3, paragraph A, and the owner of  
19 the dog, if known, has been notified;

20 C. The dog is not rabid or suspected of rabies;  
21 and

22 D. The dog's recovery from its sickness or in-  
23 jury, given reasonable time and reasonable care,  
24 is doubtful.

25 Notwithstanding paragraphs A to D, a veterinarian may  
26 authorize immediate euthanasia if, in his judgment,  
27 there is no possibility of recovery for a sick or in-  
28 jured dog.

29 6. Euthanasia for severely injured animal. A  
30 veterinarian or a humane agent may authorize in writ-  
31 ing euthanasia of a severely injured or sick animal  
32 if the following conditions are met:

33 A. The clerk of the municipality has been noti-  
34 fied of the animal's presence and the owner of  
35 the animal, if known, has been notified;

36 B. The animal is not rabid or suspected of ra-  
37 bies; and

1        C. The animal's recovery from its injury or ill-  
2        ness, given reasonable time and reasonable care,  
3        is doubtful.

4        Notwithstanding paragraphs A to C, a veterinarian may  
5        authorize immediate euthanasia if, in his judgment,  
6        there is no possibility of recovery for a severely  
7        injured or sick animal.

8        7. Immunity from civil liability. A veterinari-  
9        an is not civilly liable to any party for authoriza-  
10       tion made in accordance with subsections 5 and 6 nor  
11       is any person performing euthanasia under that autho-  
12       riziation.

13       8. Regulation and inspection. Shelters approved  
14       by the board pursuant to section 3913, subsection 2,  
15       are exempt from licensing, but are subject to inspec-  
16       tion as provided in this subsection and to the rules  
17       of the board as to sanitation, enclosure, records,  
18       health requirements and such other procedures as the  
19       board determines necessary.

20       The board, a state humane agent, a veterinarian em-  
21       ployed by the State or a licensed veterinarian at the  
22       direction of the board, at any reasonable time, may  
23       enter any board-approved shelter and make examination  
24       and conduct any recognized test for the existence of  
25       any contagious or infectious disease or condition.  
26       The board may inspect shelters to determine compli-  
27       ance with its sanitation, health and other rules.

28       A veterinarian employed by the State or any licensed  
29       veterinarian may quarantine the shelter in person or  
30       by registered mail and the quarantine shall be main-  
31       tained as long as the board determines necessary. The  
32       decision and order for this quarantine shall not be  
33       considered licensing or an adjudicatory proceeding  
34       under the Maine Administrative Procedure Act, Title  
35       5, chapter 375.

36       9. Violation. Any person who violates this  
37       chapter commits a civil violation for which a forfei-  
38       ture of not less than \$25 nor more than \$100 may be  
39       adjudged.

40       §3914. Purchase and sale of dogs

1           Shelters, kennels, boarding kennels and pet shops  
2 engaged in buying or selling dogs shall keep records  
3 of the buyer and seller in each transaction for a  
4 2-year period commencing at the time of purchase or  
5 sale. The records shall be open to inspection by the  
6 board or law enforcement officers.

7                                   CHAPTER 721

8                                   DOG LICENSES

9    §3921. License necessary

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

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

20    §3922. Issuance of license

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

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

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

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

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

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

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

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

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

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

31           §3923. License and recording fees

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

36           A. A fee of \$5.50 shall be paid to the municipal  
37           clerk for each license on all dogs 6 months of  
38           age or older capable of producing young. All  
39           dogs shall be considered capable of producing  
40           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 sued 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, except when  
35 hunting, in training or when used in exhibitions.  
36 When the dog is hunting, in training or in an exhibi-  
37 tion, its owner or keeper shall produce proof of li-  
38 censure within 24 hours upon request by a humane



1 agent, animal control officer or law enforcement of-  
2 ficer.

3 4. Rabies tag. The rabies tag obtained from a  
4 veterinarian for immunization against rabies shall be  
5 securely attached to a collar of leather, metal or  
6 material of comparable strength which shall be worn  
7 by the dog for which the tag was issued, except when  
8 hunting, in training or when used in exhibitions.  
9 When the dog is hunting, in training or in an exhibi-  
10 tion, its owner or keeper shall produce proof of li-  
11 censure within 24 hours upon request by a humane  
12 agent, animal control officer or law enforcement of-  
13 ficer.

14 §3924. Violation

15 1. Civil violation. Any person who violates any  
16 section of this chapter commits a civil violation for  
17 which a forfeiture not to exceed \$100 may be ad-  
18 judged.

19 2. Unlawful use of collar or tag. Any person  
20 who removes a dog tag or rabies tag or who places ei-  
21 ther a collar or rabies tag on any dog not described  
22 on it or for which the license was not issued commits  
23 a civil violation for which a forfeiture of not more  
24 than \$100 may be adjudged.

25 CHAPTER 723

26 LICENSES FOR KENNELS, BOARDING KENNELS AND PET SHOPS

27 §3931. Kennels

28 1. License necessary. Any person having a pack  
29 or collection of dogs for the purposes set forth in  
30 section 3907, subsection 17, shall obtain a kennel  
31 license from the clerk of the municipality where the  
32 dogs are kept. The sex, registered number and de-  
33 scription shall not be required of dogs covered by a  
34 kennel license. The license shall expire December  
35 31st annually or in a manner consistent with the li-  
36 cense provisions of the Maine Administrative Proce-  
37 dure Act, Title 5, chapter 375, whichever is later.  
38 The kennel license shall permit the licensee or au-  
39 thorized agent to transport under control and super-

1 vision the kennel dogs within or without the State.

2 2. Determination of fees. License and recording  
3 fees are determined according to the number of dogs  
4 kept.

5 A. When the number of dogs kept over 6 months of  
6 age does not exceed 10, the fee for the license  
7 shall be \$15 and, in addition, \$1 for each li-  
8 cence as a fee for recording and making the  
9 monthly report required by the board.

10 B. When the number of dogs kept over 6 months of  
11 age exceeds 10, the fee for the license shall be  
12 \$30 and, in addition, \$1 for each license as a  
13 fee for recording and making the monthly report  
14 required by the board.

15 3. Kennel tags. Dogs covered by a kennel li-  
16 cence shall be furnished suitable kennel tags as pre-  
17 scribed by the board and shall not be required to be  
18 individually licensed.

19 §3932. Boarding kennels

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

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

28 3. Dog licenses. Nothing in this section may be  
29 construed to exempt dogs owned by boarding kennel op-  
30 erators from the license requirements of chapter 721.

31 §3933. Pet shops

32 1. License necessary. Any person maintaining a  
33 pet shop shall obtain a license from the board. The  
34 license shall expire December 31st annually or in a  
35 manner consistent with the license provisions of the  
36 Maine Administrative Procedure Act, Title 5, chapter  
37 375, whichever is later.

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

3 §3934. Exemption from licensure

4           Shelters approved by the board under section 3913  
5 are exempt from the licensing provisions of this  
6 chapter, but are subject to the rules promulgated by  
7 the board as to sanitation, enclosure, records,  
8 health requirements and such other procedures as it  
9 determines necessary.

10 §3935 License prohibited

11           Municipalities shall not issue a kennel license  
12 and the board shall not issue a license to maintain a  
13 boarding kennel or pet shop to any person who, within  
14 the 5 years previous to the application for the li-  
15 cence, has been convicted of a criminal violation un-  
16 der Title 17, chapter 42, or under any criminal law  
17 involving cruelty to animals which is no longer in  
18 effect, or within 2 years previous to the application  
19 for the license, has been adjudicated of a civil vio-  
20 lation for cruelty to animals under chapter 739.

21 §3936. Inspection and quarantine

22           1. Inspection and quarantine. The board, a  
23 state humane agent, a veterinarian employed by the  
24 State or a licensed veterinarian at the direction of  
25 the board may, at any reasonable time, enter any ken-  
26 nel, boarding kennel or pet shop, except any building  
27 used for human habitation recognized as not subject  
28 to search warrant, and make examinations and conduct  
29 any recognized tests for the existence of any conta-  
30 gious or infectious diseases or conditions. The  
31 board may inspect kennels, boarding kennels and pet  
32 shops in accordance with the sanitation and health  
33 rules established by the Department of Agriculture,  
34 Food and Rural Resources. A veterinarian employed by  
35 the State or any licensed veterinarian may quarantine  
36 the kennel, boarding kennel or pet shop, in person or  
37 by registered mail, and the quarantine shall be main-  
38 tained as long as the board determines necessary.  
39 The decision and order for this quarantine shall not  
40 be considered licensing or an adjudicatory proceeding  
41 as defined by the Maine Administrative Procedure Act,  
42 Title 5, chapter 375.

1           2. Suspension of license. The Administrative  
2 Court, upon complaint of the board or the Attorney  
3 General, may revoke or suspend a kennel, boarding  
4 kennel or pet shop license, provided that any person  
5 maintaining the kennel, boarding kennel or pet shop  
6 violates any quarantine or maintains animals contrary  
7 to the rules promulgated by the board or fails to  
8 keep records required by the board.

9           §3937. Investigation

10           Upon written complaint made to the board by any  
11 person alleging violation of this chapter, or any of  
12 the rules of the chapter by any licensee, the board  
13 shall cause an investigation to be made upon matters  
14 related in the complaint.

15           §3938. Violation

16           Any person maintaining a kennel, boarding kennel  
17 or pet shop without having obtained a license, or af-  
18 ter any license has been revoked or suspended, com-  
19 mits a civil violation for which a forfeiture of not  
20 less than \$50 nor more than \$200 a day may be ad-  
21 judged.

22                           CHAPTER 725

23                           MUNICIPAL DUTIES

24           §3941. Posting of law

25           Municipal clerks, annually, at least 20 days be-  
26 fore January 1st, shall post copies of chapters 721  
27 and 723 and of this chapter in the usual places for  
28 posting notices of the annual municipal elections.

29           §3942. Issuance of dog licenses

30           Municipal clerks shall issue dog licenses in ac-  
31 cordance with chapter 721, receive the license fees  
32 and pay to the board all fees received for dogs capa-  
33 ble of producing young. The clerks shall keep a  
34 record of all licenses issued by them, with the names  
35 of the owners or keepers of dogs licensed and the  
36 sex, registered numbers and description of all dogs  
37 except those covered by a kennel license. The clerks

1 shall make a monthly report to the board on a  
2 board-approved form of all dog licenses issued and  
3 fees received.

4 All license fees received from owners or keepers  
5 of dogs incapable of producing young shall be re-  
6 tained by the municipality in accordance with section  
7 3945.

8 §3943. Municipal warrants

9 1. Procedure. Between January 1st and April  
10 30th annually, the municipal officers of each munici-  
11 pality shall issue a warrant with the names and ad-  
12 dresses of all owners or keepers of unlicensed dogs  
13 to one or more police officers, constables, sheriffs  
14 or animal control officers, directing them to send a  
15 notice of violation by certified mail, return receipt  
16 requested, to the last-known address of the owners or  
17 keepers or call on the owners or keepers. The war-  
18 rant shall further direct that demand be made on the  
19 owners or keepers to obtain a license from the munic-  
20 ipal clerk within 7 days from the date of demand and  
21 remit to the clerk the license and recording fees  
22 plus a late fee of \$4. Finally, the warrant shall  
23 direct the police officer, constable, sheriff or ani-  
24 mal control officer to enter summons and complaint as  
25 soon as possible for all owners or keepers so noti-  
26 fied who fail to comply with the order.

27 2. Returns of warrant. Each police officer,  
28 constable, sheriff or animal control officer to whom  
29 the warrant is issued shall return the warrant to the  
30 municipal clerk on or before July 1st of each year.

31 3. Payments to officers. Payment to certain of-  
32 ficers shall be as follows.

33 A. The municipal clerk shall deposit the \$4 late  
34 fee collected from all dog owners and keepers in  
35 a separate account pursuant to section 3945.

36 B. Officers rendering services shall receive  
37 compensation as the municipal officers may deter-  
38 mine.

39 §3944. Issuance of kennel licenses

1           Municipal clerks shall issue kennel licenses to  
2 kennel owners or operators in accordance with section  
3 3931, provided that the dogs are kept within a proper  
4 enclosure as defined by the board. The clerks shall  
5 receive the license fees, pay them to the board and  
6 make a monthly report to the board on a  
7 board-approved form of all kennel licenses issued and  
8 fees received.

9           §3945. Use of license fees retained by municipali-  
10 ties

11           All fees retained by municipalities shall be kept  
12 in a separate account and shall be used for the sala-  
13 ries and costs of animal control, enforcement of li-  
14 censing laws, care of injured and abandoned animals  
15 and the support of one or more approved animal con-  
16 trol shelters. Any money not expended for these pur-  
17 poses in a municipality's fiscal year shall not  
18 lapse, but shall be carried over to the next fiscal  
19 year.

20           §3946. Dog recorders in unorganized territories

21           Dog recorders appointed by the board in unorga-  
22 nized territories shall issue dog licenses, receive  
23 the license fees and pay them to the board. The re-  
24 corders shall keep a list of all licenses issued by  
25 them as of January 1st of each year, with the names  
26 of the owners or keepers of dogs licensed and setting  
27 forth the sex, registered numbers and description of  
28 all dogs, except those covered by a kennel license,  
29 opposite the names of their respective owners or  
30 keepers.

31           A return of the list shall be made to the board  
32 on a board-approved form on or before June 1st of  
33 each year.

34           §3947. Animal control officers

35           Each municipality shall appoint one or more ani-  
36 mal control officers whose duties shall be enforce-  
37 ment of sections 3911, 3912, 3921, 3924, 3943, 3948,  
38 3950 and 3950-A and such other duties to control ani-  
39 imals as the municipality may require.

1 §3948. Animal control

2 1. Control. Municipalities shall control dogs  
3 running at large.

4 2. Medical attention. Law enforcement officers,  
5 humane agents and animal control officers shall take  
6 abandoned animals to a shelter and ensure that any  
7 injured animal which is at large or in a public way  
8 is given proper medical attention.

9 §3949. Animal control shelter

10 Municipal clerks, annually, on or before January  
11 1st, shall certify to the board the name and location  
12 of the animal control shelter or have an arrangement  
13 for such a shelter. Animal control shelters shall  
14 comply with board rules.

15 §3950. Local regulations

16 Each municipality is empowered to adopt or retain  
17 more stringent ordinances, laws or regulations deal-  
18 ing with the subject matter of this chapter. Any  
19 less restrictive municipal ordinances, laws or regu-  
20 lations are invalid and of no force and effect.

21 §3950-A. Official refusal or neglect of duty

22 Any mayor, selectman, clerk, town or city manag-  
23 er, administrative assistant to the mayor, town or  
24 city councilor, dog recorder of unorganized territo-  
25 ries, constable, police officer, sheriff or animal  
26 control officer who refuses or intentionally fails to  
27 perform the duties imposed by chapters 719, 721, 723  
28 and 729 and by this chapter commits a civil violation  
29 for which a forfeiture of not less than \$10 nor more  
30 than \$50 and costs may be adjudged.

31 The board, at its own instance or upon written  
32 complaint made to it by any person, shall investigate  
33 any alleged refusal or neglect of duty by any municipi-  
34 pal officer.

35 The board shall direct proceedings, actions and  
36 prosecutions to be instituted to enforce all laws re-  
37 lating to animals and to the liability of municipal

1 officers and their agents for failure, neglect or re-  
2 usal to comply with the laws relating to animals.

3 The Attorney General and district attorneys, upon  
4 the board's written request, shall institute such le-  
5 gal proceedings as may be necessary to carry out this  
6 section.

7 CHAPTER 727

8 DANGEROUS DOGS

9 §3951. Killing for assault permitted

10 Any person may lawfully kill a dog if necessary  
11 for protection during the course of a sudden,  
12 unprovoked assault and attack upon himself or another  
13 person.

14 §3952. Complaints regarding dangerous dogs

15 1. Procedure. Any person who is assaulted by a  
16 dog without provocation, within 10 days of the as-  
17 sault, may make written complaint to the sheriff or  
18 local law enforcement officer that he believes the  
19 dog is dangerous or vicious.

20 The sheriff or local law enforcement officer may file  
21 the complaint in District Court or Superior Court.

22 If, upon hearing, the court is satisfied that the  
23 complaint is true, it shall:

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

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

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

33 2. Failure to abide by court order. If the  
34 court order in subsection 1, paragraph B, is not com-



1 plied with within the time set by the court, the  
2 court may, upon application by the complainant or  
3 other person, issue a warrant to the county sheriff  
4 or any of his deputies or to a police officer or con-  
5 stable in the municipality where the dog is found,  
6 commanding the officer to kill the dog immediately  
7 and make a return of the warrant to the court within  
8 14 days from the date of the warrant.

9 The owner or keeper shall be ordered to pay all costs  
10 of supplementary proceedings and all reasonable costs  
11 for seizure and euthanasia of the dog.

12 3. Complaint for dogs presenting immediate  
13 threat to public. After filing of complaint in Dis-  
14 trict Court or Superior Court and before hearing, if  
15 the dog poses an immediate threat to the public, the  
16 dog shall be subject to muzzling, restraint or con-  
17 finement to its premises upon order of the sheriff or  
18 local law enforcement officer who filed the com-  
19 plaint. Upon failure to comply, the officer to whom  
20 complaint was made may apply to District Court, Supe-  
21 rior Court or a complaint justice for an ex parte or-  
22 der for authorization to take possession of the dog  
23 which poses an immediate threat to the public and  
24 turn it over to the applicant or other suitable per-  
25 son.

26 4. Court action; ex parte. An order may be en-  
27 tered ex parte upon findings by the court or com-  
28 plaint justice that there is a reasonable likelihood  
29 that the dog is dangerous or vicious, its owner has  
30 failed to muzzle, restrain or confine it and that  
31 such failure poses an immediate threat of harm to the  
32 public.

33 A. Upon 2 days' notice or such shorter period as  
34 the court may prescribe, the owner whose animal  
35 has been possessed pursuant to an ex parte order  
36 may appear in the District Court or Superior  
37 Court and move the dissolution or modification of  
38 the ex parte order.

39 B. The court shall hear and determine such  
40 motion as expeditiously as justice requires.

1 C. The owner shall submit an affidavit setting  
2 forth specific facts to substantiate such find-  
3 ings as will serve to modify or dissolve the or-  
4 der. The applicant shall have the burden of pre-  
5 senting evidence to substantiate the original  
6 findings.

7 5. Lien. Any person taking possession of a dog  
8 as provided in this section shall have a lien on that  
9 dog in accordance with Title 17, section 1021, sub-  
10 section 6.

11 6. Treble damages. If a dog, whose owner or  
12 keeper refuses or neglects to comply with the order,  
13 wounds any person by a sudden assault or wounds or  
14 kills any domestic animal, the owner or keeper shall  
15 pay the person injured treble damages and costs to be  
16 recovered by a civil action.

17 §3953. Stealing or killing dogs

18 Except as provided in section 3951 and Title 12,  
19 sections 7504 and 7505, and unless the killing is  
20 justified to protect persons or property, any person  
21 who steals, confines or secretes, willfully or negli-  
22 gently injures or willfully or negligently kills a  
23 dog is liable in damages to its owner in a civil ac-  
24 tion.

25 CHAPTER 729

26 DAMAGE BY DOGS

27 §3961. Reimbursement for damage done by dogs

28 When a dog does damage to a person or his proper-  
29 ty, the owner or keeper of the dog is liable in a  
30 civil action to the person injured for the amount of  
31 damage done, provided that the damage was not occa-  
32 sioned through the fault of the person injured.

33 §3962. Complaint and recovery

34 1. Complaint. Whenever any livestock, poultry  
35 or domestic rabbits, properly enclosed or restrained  
36 and owned by a resident of the State, are killed or  
37 injured by a dog, the owner, after locating the ani-

1 mal or animals or a sufficient part to identify it or  
2 them, may make complaint on the next business day  
3 following discovery of the damage:

4 A. To the municipal officers of the municipality  
5 where the damage was done; or

6 B. Where the damage occurred in an unincorpor-  
7 ated place, to the municipal officers of the  
8 nearest municipality adjoining or otherwise to  
9 the nearest municipality.

10 2. Investigation. The municipal officers shall  
11 investigate the complaint upon its receipt. If, af-  
12 ter viewing the evidence, the municipal officers are  
13 satisfied that the damage was committed by a dog  
14 within the limits of their municipality, they shall  
15 estimate the actual value of the animals killed or  
16 injured according to the purposes for which they were  
17 kept, whether for breeding or other purposes, togeth-  
18 er with the damage to any other animals bitten, torn,  
19 chased or exhausted.

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

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

29 All reports shall be signed by a majority of the mu-  
30 nicipal officers or, where appropriate, by the city  
31 or town manager and by the investigator, all of whom  
32 shall identify their respective offices. The signa-  
33 ture of the investigator shall be construed to mean  
34 that he saw the evidence legally establishing the  
35 State's liability.

36 The reports shall be made in triplicate. The origi-  
37 nal and duplicate copies, along with the claimant's  
38 bill and proof of animal registration, where applica-  
39 ble, shall be mailed to the board and the triplicate  
40 copy retained by the municipal clerk.

1           4. Board action. The board shall approve the  
2 bill or, in its discretion, shall investigate and ad-  
3 just the claim.

4 Payment by the board for grade cattle and horses,  
5 registered cattle and horses, grade sheep, goats and  
6 swine and registered sheep, goats and swine shall be  
7 the slaughter market value of the animal on the date  
8 of injury or death.

9           5. Civil action. The State may maintain a civil  
10 action against the owner or keeper of the dog to re-  
11 cover the amount paid.

12           6. Violation. Any person who keeps a dog that  
13 kills or injures any livestock, poultry or domestic  
14 rabbits commits a civil violation for which a forfei-  
15 ture not to exceed \$100 may be adjudged in addition  
16 to costs.

17 §3963. Joint and several liability

18           If any properly enclosed livestock, poultry or  
19 domestic rabbits are killed or injured by 2 or more  
20 dogs at the same time which are kept by 2 or more  
21 owners or keepers, the owners or keepers shall be  
22 jointly and severally liable for the damage.

23 §3964. Damage by animals

24           The owner or keeper of an animal which does dam-  
25 age to a person or property is liable for damages in  
26 a civil action to the person injured.

27 CHAPTER 731

28 MISTREATMENT OF ANIMALS

29 §3971. Vivisection prohibited in public and private  
30 schools

31           1. Use of animals in schools. No live verte-  
32 brate, except eggs, may be used in kindergarten and  
33 grades one to 12 of any public or private school as  
34 part of a scientific experiment or for any other pur-  
35 pose in which the animal is experimentally medicated  
36 or drugged in a manner to cause painful reactions or

1 to induce painful or lethal pathological conditions,  
2 or in which the animal is injured through any other  
3 type of treatment, experiment or procedure, includ-  
4 ing, but not limited to, anesthetization or electric  
5 shock or where the normal health of the animal is in-  
6 terfered with or where pain or distress is caused.

7 No person may, in the presence of any student in kin-  
8 dergarten and grades one to 12, practice vivisection  
9 or exhibit a vivisected animal. Dissection of dead  
10 animals or any portions of dead animals in schools  
11 shall be confined to the classroom and to the pres-  
12 ence of students engaged in the study of dissection  
13 and shall not be for the purpose of exhibition.

14 This subsection shall also apply to any activity as-  
15 sociated with or sponsored by the school system.

16 2. Treatment of animals in general. Live ani-  
17 mals used as class pets or for purposes not prohib-  
18 ited in subsection 1 shall be housed and cared for in  
19 a safe and humane manner. The animals shall not re-  
20 main in school over periods when school is not in  
21 session, unless adequate care is provided at all  
22 times.

23 3. Standards of treatment. Any animal whose use  
24 is permitted under this section shall be treated in  
25 accordance with the ethical and humane standards  
26 promulgated by the board pursuant to the rule-making  
27 provisions of the Maine Administrative Procedure Act,  
28 Title 5, chapter 375, after consultation with repre-  
29 sentative groups in the State having an interest or  
30 expertise in the field of animal welfare, biology and  
31 education.

32 4. Enforcement. The board shall enforce this  
33 section in consultation with the Commissioner of Edu-  
34 cational and Cultural Services.

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

38 §3972. Unlawful use of animals

39 1. Unlawful use of animals. It is unlawful for  
40 any person to:

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

4 B. Sell, display, raffle, give away or offer for  
5 sale to the public any live fowl, turtles or rab-  
6 bits under 8 weeks of age in lots of less than 6;

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

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

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

16 2. Violation. Any person who makes unlawful use  
17 of animals contrary to this section commits a civil  
18 violation for which a forfeiture not to exceed \$100  
19 may be adjudged.

20 3. Construction. Nothing in this section may be  
21 construed to apply to any animal to be used or raised  
22 for agriculture, aquaculture or fishing, or to any  
23 dog to be used or raised for hunting or exhibition  
24 purposes, by persons with proper facilities otherwise  
25 authorized by law.

26 CHAPTER 733

27 TRANSPORTATION OF ANIMALS

28 §3981. Intrastate transportation of animals

29 1. Period of confinement. No railroad, motor  
30 truck, common carrier or its receiver, trustee or  
31 lessee which transports animals within the State or  
32 other person having the care, custody or charge of  
33 animals loaded into any such form of transportation  
34 may confine the animals in cars, boats, vehicles or  
35 vessels of any description for a period longer than  
36 28 consecutive hours without unloading the animals in  
37 a humane manner, by means of a chute or tailgate of

1 sufficient size, into properly equipped pens or other  
2 suitable enclosures for rest, water and feeding for a  
3 period of at least 5 consecutive hours, unless pre-  
4 vented by storm, accident or other unavoidable cause  
5 which cannot be anticipated or avoided by the exer-  
6 cise of due diligence and foresight.

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

12 2. Extension of time for confinement. Upon the  
13 separate written request of the owner or person in  
14 custody of the shipment of animals, the time of con-  
15 finement may be extended to 36 hours.

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

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

32 5. Conditions of transportation. Cars, boats,  
33 vehicles or vessels shall be sufficiently covered or  
34 boarded on the sides and ends to afford proper pro-  
35 tection to animals in case of storms or severe cold  
36 weather and shall be properly ventilated. A greater  
37 number of animals shall not be loaded into any car,  
38 boat, vehicle or vessel than can stand comfortably  
39 within.

40 No person may transport any animal in or upon any  
41 car, boat, vehicle or vessel in a cruel or inhumane  
42 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 7. Construction. Nothing in this chapter may be  
6 construed to prohibit the use of strike cages for  
7 dogs while in the lawful sport of hunting or in  
8 training.

9 §3982. Liens

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

18 §3983. Possession of animals unlawfully detained

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

28 §3984. Enforcement of lien

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

33 §3985. Immunity from liability

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

37 CHAPTER 735



1 RESEARCH INSTITUTIONS

2 §3991. Regulation of research institutions

3 1. License necessary. No research or teaching  
4 institution of higher education may employ live ani-  
5 mals in scientific investigation, experiment or in-  
6 struction or for the testing of drugs or medicines  
7 without first having been issued a license under this  
8 section by the board. A research or teaching institu-  
9 tion desiring to obtain a license shall make applica-  
10 tion to the board. On receipt of the application, the  
11 board shall make or cause to be made such investiga-  
12 tion as it considers necessary to determine whether  
13 the public interest will be served by the issuance of  
14 the license. The board may issue the license provided  
15 that the research or teaching institution, by reason  
16 of its standards, facilities, practices or activi-  
17 ties, is a fit and proper institution to receive the  
18 license and that its issuance is in the public inter-  
19 est. The standards for licensure shall be those con-  
20 tained in the United States Code, Title 7, Section  
21 2143, and any federal regulations issued pursuant to  
22 that law. Nothing in this chapter may be construed to  
23 be more restrictive than federal law. In the case of  
24 conflict between state law and federal law or a man-  
25 datory rule, regulation or order of the Federal Gov-  
26 ernment or its agencies, the federal law, rule, regu-  
27 lation or order shall govern. Each research or teach-  
28 ing institution licensed under this chapter, before  
29 issuance of the license, shall pay to the board a li-  
30 cence fee of \$50. Each license shall expire on June  
31 30th next following the date of issue. The board  
32 shall annually renew each license upon the applica-  
33 tion of the licensee, unless, after notice and hear-  
34 ing as provided in this chapter, it finds that, by  
35 reason of the standards, facilities, practices or ac-  
36 tivities of the licensee, the renewal is not in the  
37 public interest. The board, after notice and hearing  
38 as provided in this chapter, may modify, fail to re-  
39 new, suspend or revoke any license if it finds that,  
40 by reason of the standards, facilities, practices or  
41 activities of the licensee, the continuation of the  
42 license is not in the public interest.

43 2. Noncompliance. If, in the opinion of the  
44 board, there is or may be noncompliance with or a vi-

1 olation of this chapter or of any rule adopted by the  
2 board that is of sufficient gravity to warrant fur-  
3 ther action, the board may request an informal con-  
4 ference with the licensee. The board shall provide  
5 the licensee with adequate notice of the conference  
6 and the issues to be discussed.

7 If the board finds that the factual basis of the al-  
8 leged noncompliance with or violation of this chapter  
9 is true and may warrant further action, the board:

10 A. With the consent of the licensee, may enter  
11 into a consent agreement which fixes the period  
12 and terms of probation best adapted to protect  
13 the health and welfare of animals and to rehabil-  
14 itate or educate the licensee;

15 B. In consideration for acceptance of a volun-  
16 tary surrender of the license, may negotiate  
17 stipulations, in a consent decree to be signed by  
18 the board, the licensee and the office of the At-  
19 torney General, which ensure protection of the  
20 health and welfare of animals and which serve to  
21 rehabilitate or educate the licensee;

22 C. If the board concludes that modification or  
23 nonrenewal of the license may be in order, shall  
24 hold an adjudicatory hearing in accordance with  
25 the Maine Administrative Procedure Act, Title 5,  
26 chapter 375, subchapter IV; or

27 D. If the board concludes that suspension or  
28 revocation of the license is in order, shall file  
29 a complaint in the Administrative Court in ac-  
30 cordance with Title 4, chapter 25.

31 3. Grounds for discipline. The following shall  
32 be grounds for an action to modify, suspend, revoke  
33 or refuse to renew the license of a person licensed  
34 under this chapter:

35 A. The practice of fraud or deceit in obtaining  
36 a license under this chapter or in connection  
37 with service rendered within the scope of the li-  
38 cence issued;

39 B. Any violation of this chapter or any rule  
40 adopted by the board; or

1 C. Conviction of a crime involving cruelty to  
2 animals.

3 4. Penalty. Any person who knowingly violates  
4 this chapter or the rules issued pursuant to this  
5 chapter commits a civil violation for which the fol-  
6 lowing forfeiture may be adjudged:

7 A. For the first violation, a forfeiture not to  
8 exceed \$100; and

9 B. For each subsequent violation, a forfeiture  
10 not to exceed \$250.

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

13 6. Inspection. In connection with the granting,  
14 continuance or renewal of a license and in connection  
15 with an investigation of alleged cruelty or alleged  
16 violation of this chapter or the rules issued pursu-  
17 ant to this chapter, the board, at least annually,  
18 may visit and inspect the research and teaching in-  
19 stitutions, animal research and care facilities of  
20 any licensee or of any research or teaching institu-  
21 tion which has applied for a license.

22 CHAPTER 737

23 CALF AND PIG SCRAMBLES

24 §4001. Regulation of calf and pig scrambles

25 1. Permit required. Any person sponsoring a calf  
26 or pig scramble shall obtain a permit from the board  
27 for each specific event at least 10 days before the  
28 event.

29 2. Application. Applications for calf or pig  
30 scramble permits shall specify the name of the appli-  
31 cant, the type of scramble and the date or dates of  
32 the scramble.

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

34 4. Board rules. Each applicant obtaining a per-  
35 mit under this section is subject to the rules

1 promulgated by the board on the weight and size of  
2 animals, age of participants, length of event and  
3 such other requirements as it considers necessary.

4 5. Violation. Any person who violates this chap-  
5 ter or any of the rules issued pursuant to this chap-  
6 ter commits a civil violation for which a forfeiture  
7 not to exceed \$100 may be adjudged.

8 CHAPTER 739

9 CRUELTY TO ANIMALS

10 §4011. Cruelty to animals

11 1. Cruelty to animals. A person is cruel to ani-  
12 mals if he:

13 A. Kills any animal belonging to another person  
14 without legal privilege or the consent of the  
15 owner, or kills or attempts to kill any animal  
16 with the owner's consent, by means which will  
17 cause undue suffering. The owner or occupant of  
18 property is privileged to use reasonable force to  
19 eject a trespassing animal;

20 B. Injures, overworks, tortures, torments, aban-  
21 dons, gives poison to, cruelly beats or mutilates  
22 any animal or exposes a poison with the intent  
23 that it be taken by an animal;

24 C. Deprives any animal which he owns or pos-  
25 sesses of necessary sustenance, necessary medical  
26 attention, proper shelter, protection from the  
27 weather or humanely clean conditions; or

28 D. Keeps or leaves a domestic animal on an  
29 uninhabited or barren island lying off the coast  
30 of Maine during the months of December, January,  
31 February or March without providing necessary  
32 sustenance and proper shelter.

33 2. Affirmative defenses. It is an affirmative  
34 defense to this section that:

35 A. The conduct was performed by a licensed vet-  
36 erinerian or was a part of scientific research  
37 governed by accepted standards;

1 B. The conduct was designed to control or elimi-  
2 nate rodents, ants or other common pests on the  
3 defendant's own property; or

4 C. The conduct involved the use of live animals  
5 as bait or in the training of other animals in  
6 accordance with the laws of the Department of In-  
7 land Fisheries and Wildlife, Title 12, Part 10.

8 Evidence of proper care of any animal shall not be  
9 admissible in the defense of alleged cruelty to other  
10 animals.

11 §4012. Cruelty to birds

12 1. Cruelty to birds. A person is cruel to birds  
13 if he:

14 A. Keeps or uses any live pigeon, fowl or other  
15 bird for a target or to be shot at, either for  
16 amusement or as a test of skill in marksmanship;

17 B. Shoots at any bird or is present as a party,  
18 umpire or judge at a shooting; or

19 C. Rents any building, shed, room, yard, field  
20 or premises or knowingly allows the use of the  
21 same for these purposes.

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

28 3. Affirmative defense. It is an affirmative de-  
29 fense to this section that the conduct involved the  
30 use of live animals in the training of other animals  
31 in accordance with the laws of the Department of In-  
32 land Fisheries and Wildlife, Title 12, Part 10.

33 §4013. Necessary sustenance

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

1           1. Food. The food shall be of sufficient quanti-  
2 ty and quality to maintain all animals in good  
3 health.

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

8           §4014. Necessary medical attention

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

14           §4015. Proper shelter, protection from the weather  
15 and humanely clean conditions

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

27           1. Indoor standards. Minimum indoor standards of  
28 shelter shall be as follows.

29           A. The ambient temperature shall be compatible  
30 with the health of the animal.

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

34           2. Outdoor standards. Minimum outdoor standards  
35 of shelter shall be as follows.

36           A. When sunlight is likely to cause heat exhaus-  
37 tion of an animal tied or caged outside, suffi-

1 cient shade by natural or artificial means shall  
2 be provided to protect the animal from direct  
3 sunlight. As used in this paragraph, "caged"  
4 does not include farm fencing used to confine  
5 farm animals.

6 B. Shelter from inclement weather shall be as  
7 follows.

8 (1) An artificial shelter with a minimum of  
9 3 sides and a waterproof roof appropriate to  
10 the local climatic conditions for the spe-  
11 cies concerned shall be provided as neces-  
12 sary for the health of the animal.

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

23 C. No animal may be confined in a building, en-  
24 closure, car, boat, vehicle or vessel of any kind  
25 when extreme heat or extreme cold will be harmful  
26 to its health.

27 3. Space standards. Minimum space requirements  
28 for both indoor and outdoor enclosures shall include  
29 the following.

30 A. The housing facilities shall be structurally  
31 sound and maintained in good repair to protect  
32 the animal from injury and to contain the animal.

33 B. Enclosures shall be constructed and main-  
34 tained to provide sufficient space to allow each  
35 animal adequate freedom of movement. Inadequate  
36 space may be indicated by evidence of overcrowd-  
37 ing, debility, stress or abnormal behavior pat-  
38 terns.

1           4. Humanely clean conditions. Minimum standards  
2 of sanitation necessary to provide humanely clean  
3 conditions for both indoor and outdoor enclosures  
4 shall include periodic cleanings to remove excretions  
5 and other waste materials, dirt and trash to minimize  
6 health hazards.

7           §4016. Violation

8           Any person who violates this chapter commits a  
9 civil violation for which a forfeiture of \$500 for  
10 each offense may be adjudged and such other relief as  
11 may be necessary to restore the animal to good health  
12 or to ameliorate the effects of cruelty and to ensure  
13 that the animal is well cared for.

14           §4017. Rules

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

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

19                           CHAPTER 42

20                           ANIMAL WELFARE BOARD ACT

21                           SUBCHAPTER I

22                           GENERAL PROVISIONS

23           §1011. Definitions

24           As used in this chapter, and in every law relat-  
25 ing to or affecting animals, unless the context indi-  
26 cates otherwise, the following terms have the follow-  
27 ing meanings.

28           1. Act. "Act" means the Animal Welfare Board  
29 Act.

30           2. Animal. "Animal" means every living,  
31 sentient creature not a human being.

32           3. Animal control. "Animal control" means con-  
33 trol of dogs, cats, domesticated or undomesticated



1 animals which may be a problem in the community and  
2 which are not controlled by any other law.

3 4. Animal control officer. "Animal control of-  
4 ficer" means the person appointed periodically by mu-  
5 nicipal officers pursuant to Title 7, chapter 725.

6 5. Animal control shelter. "Animal control shel-  
7 ter" means the shelter designated by municipal offi-  
8 cers.

9 6. At large. "At large" means off the premises  
10 of the owner and not under the control of any person  
11 whose personal presence and attention would reason-  
12 ably control the conduct of the dog.

13 7. Board. "Board" means the Animal Welfare  
14 Board or its duly authorized agent.

15 8. Boarding kennel. "Boarding kennel" means any  
16 place, building, tract of land, abode or vehicle in  
17 or on which privately owned dogs or other pets, or  
18 both, are kept for their owners in return for a fee.

19 9. Business day. "Business day" means any day  
20 of the calendar year other than a Saturday, Sunday or  
21 legal holiday.

22 10. Clerk; municipal clerk. "Clerk" or "municipal  
23 clerk" means the clerk of a municipality, the  
24 deputy clerk or assistant clerk, where directed by  
25 the clerk, carrying out the duties of this chapter.

26 11. Commissioner. "Commissioner" means the Com-  
27 missioner of Agriculture, Food and Rural Resources or  
28 his duly authorized agent.

29 12. Constable. "Constable" means a law enforce-  
30 ment officer appointed by municipal officers pursuant  
31 to law.

32 13. Guide dog or hearing dog kept for breeding  
33 purposes. "Guide dog or hearing dog kept for breed-  
34 ing purposes" means a male or female dog owned by a  
35 nonprofit organization for the purpose of producing  
36 puppies to be trained as guide dogs or hearing dogs  
37 and living with a resident of the State.

1           14. Guide dog or hearing dog kept prior to  
2 training. "Guide dog or hearing dog kept prior to  
3 training" means a dog under 18 months of age, owned  
4 by a nonprofit organization for the purpose of train-  
5 ing as a guide dog or hearing dog and living tempo-  
6 rarily with a resident of the State prior to train-  
7 ing.

8           15. Humane agent. "Humane agent" means an em-  
9 ployee of the board, whether full-time or part-time,  
10 who assists the board in enforcing this chapter.

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

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

17           18. Law enforcement officer. "Law enforcement  
18 officer" means any person who, by virtue of his pub-  
19 lic employment, is vested by law with a duty to main-  
20 tain public order, enforce any law of this State es-  
21 tablishing a civil violation, prosecute offenders or  
22 make arrests for crimes, whether that duty extends to  
23 all crimes or is limited to specific crimes.

24           19. Municipality. "Municipality" means a city,  
25 town or plantation.

26           20. Mutilate. "Mutilate" includes, but is not  
27 limited to, cutting the bone, muscles or tendons of  
28 the tail of a horse for the purpose of docking or  
29 setting up the tail and cropping or cutting off the  
30 ear of a dog in whole or in part.

31           21. Owner. "Owner" means any person, firm,  
32 partnership, association or corporation owning, keep-  
33 ing or harboring a dog or other animal.

34           22. Person. "Person" means an individual, cor-  
35 poration, partnership, association or any other legal  
36 entity.

37           23. Pet shop. "Pet shop" means any place,  
38 building, tract of land, abode or vehicle in or on

1 which any dogs, cats, rodents, reptiles, fish, pet  
2 birds, pet animals, exotic birds or exotic animals  
3 are offered for sale which are not bred by the vendor.  
4

5 24. Respective municipality. "Respective munic-  
6 ipality" means, in the case of towns and cities, the  
7 municipality where the dog is found or in the case of  
8 unorganized townships, the municipality near or adja-  
9 cent to the unorganized township where the dog is  
10 found or the designee of that municipality.

11 25. Shelter. "Shelter" means any building or  
12 physical structure or part of any building or struc-  
13 ture, other than a private dwelling, housing dogs or  
14 other animals and not used for agricultural purposes  
15 or as a laboratory, research facility, medical facil-  
16 ity or educational institution.

17 26. Torment, torture and cruelty. "Torment,  
18 torture and cruelty" means every act, omission or ne-  
19 glect, whether by the owner or any other person,  
20 where unjustifiable physical pain, suffering or death  
21 is caused or permitted.

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

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

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

1     §1012. Unlawful sale of diseased horses

2             1. Unlawful sale of diseased horses. A person  
3 is guilty of unlawful sale of diseased horses if he  
4 receives, offers for sale or sells at private sale or  
5 public auction any horse which, by reason of  
6 debility, disease or lameness or for other cause  
7 could not be worked in the State without violating  
8 the laws against cruelty to animals.

9             2. Penalty. Unlawful sale of diseased horses is  
10 a Class E crime.

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

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

17     §1013. Unlawful production of motion pictures

18            1. Unlawful production of motion pictures. A  
19 person is guilty of unlawful production of motion  
20 pictures if he knowingly or intentionally prepares,  
21 manufactures, makes or participates in the prepara-  
22 tion, manufacture or making of any motion picture  
23 film or videotape production involving cruelty to an-  
24 imals during the course of preparation, manufacture,  
25 making or exhibition of the motion picture film or  
26 videotape production.

27            2. Penalty. Unlawful production of motion pic-  
28 tures is a Class E crime.

29     §1014. Unlawful interference with publicly owned  
30 dogs

31            1. Unlawful interference with publicly owned  
32 dogs. A person is guilty of unlawful interference  
33 with publicly owned dogs who knowingly or intention-  
34 ally:

35            A. Kills, torments, beats, kicks, strikes, muti-  
36 lates, injures, disables or otherwise mistreats  
37 dogs owned by any law enforcement agency within

1 the State or owned by counties, municipalities or  
2 any of their political subdivisions or law en-  
3 forcement agencies; or

4 B. Interferes by any action with the lawful per-  
5 formance of publicly owned dogs.

6 2. Penalty. Unlawful interference with publicly  
7 owned dogs is a Class D crime.

8 SUBCHAPTER II

9 POSSESSION OF ANIMALS

10 §1021. Possession of animals

11 1. Possession. The board, a humane agent, sher-  
12 iff, deputy sheriff, constable, police officer, ani-  
13 mal control officer, or person authorized to make ar-  
14 rests may apply to the District Court or the Superior  
15 Court for authorization:

16 A. To take possession of any maimed, disabled,  
17 diseased, dehydrated, malnourished or injured ani-  
18 mal or any animal whose owner has cruelly aban-  
19 doned or cruelly treated it and turn over the ani-  
20 mal to the applicant or other suitable person;  
21 or

22 B. To cause the animal to be disposed of  
23 humanely.

24 2. Notice to owner. If the owner is known, a  
25 copy of the application shall be served upon him with  
26 an order of court to appear at a stated time and  
27 place to show cause why the animal should not be  
28 taken and turned over to the applicant or other suit-  
29 able person or disposed of humanely.

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

34 If the owner is not known, then the court shall order  
35 a notice to be published at least once in a newspaper  
36 of general circulation in the county where the animal

1 was found, stating the case and circumstances and  
2 giving 48 hours' notice of the hearing.

3 3. Hearing. If it appears at the hearing that  
4 the animal has been cruelly abandoned or cruelly  
5 treated by its owner or the animal is maimed, dis-  
6 abled, diseased, dehydrated, malnourished or injured,  
7 the court shall:

8 A. Direct the applicant or other suitable person  
9 to take possession of and provide for the animal,  
10 order its sale, adoption, donation or return of  
11 the animal to its owner; or

12 B. Order the animal to be disposed of humanely  
13 if, given reasonable time and care, the animal's  
14 recovery is doubtful.

15 4. Ex parte order. An ex parte order shall be  
16 as follows.

17 A. The board, a humane agent, sheriff, deputy  
18 sheriff, constable, police officer, animal con-  
19 trol officer or person authorized to make arrests  
20 may apply to the District Court, Superior Court  
21 or a complaint justice for an ex parte order for  
22 authorization to take possession of any maimed,  
23 disabled, diseased, dehydrated, malnourished or  
24 injured animal or any animal whose owner has cru-  
25 elly abandoned or cruelly treated it and turn it  
26 over to the applicant or any other suitable per-  
27 son.

28 An order may be entered ex parte upon findings by  
29 the court or complaint justice that there is a  
30 reasonable likelihood that:

31 (1) The defendant is not subject to the ju-  
32 risdiction of the court for the purposes of  
33 a hearing or the owner cannot be found by  
34 reasonable diligence or is out-of-state al-  
35 though a resident of this State, and there  
36 is a danger that unless immediate action is  
37 taken:

38 (a) The condition of an injured,  
39 overworked, tormented, tortured, aban-

1 done, poisoned or mutilated animal,  
2 animal deprived of necessary  
3 sustenance, necessary medical atten-  
4 tion, proper shelter or protection from  
5 the weather or humanely clean condi-  
6 tions will be substantially impaired or  
7 worsened;

8 (b) The animal's life will be jeopar-  
9 dized; or

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

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

19 (3) There is immediate danger that the own-  
20 er or his agent will kill or injure the ani-  
21 mal; or

22 (4) An animal is being or has been injured,  
23 overworked, tormented, tortured, abandoned,  
24 poisoned, mutilated, deprived of necessary  
25 sustenance, necessary medical attention,  
26 proper shelter or protection from the weath-  
27 er or humanely clean conditions and, unless  
28 an ex parte order issues allowing the appli-  
29 cant to take possession of the animal, the  
30 animal will die, its condition will be sub-  
31 stantially impaired or worsened or medical  
32 attention will be necessary to restore the  
33 animal to a normal, healthy condition.

34 B. This subsection does not apply to animals  
35 currently being well cared for when euthanasia is  
36 necessary due to old age or to a person's conduct  
37 designed to control or eliminate rodents, ants or  
38 other common pests.

39 C. On 2 days' notice or such shorter period as  
40 the court may prescribe, the applicant who ob-

1 tained the ex parte order or the owner whose ani-  
2 mal has been possessed pursuant to an ex parte  
3 order may appear in the District Court or Superi-  
4 or Court and move the dissolution or modification  
5 of the ex parte order.

6 The court shall hear and determine the motion as  
7 expeditiously as justice requires.

8 The moving party shall submit an affidavit set-  
9 ting forth specific facts to substantiate such  
10 findings as would serve to modify or dissolve the  
11 order. The opposing party shall have the burden  
12 of presenting evidence to substantiate the origi-  
13 nal findings.

14 5. Seizure for observation and examination. Sei-  
15 zure of animals for observation and examination shall  
16 be as follows.

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

30 B. If the owner is known, he shall be advised of  
31 the time and place of hearing and asked to show  
32 cause why the animal should not be seized perma-  
33 ently or disposed of humanely.

34 C. If the court finds at the hearing that the  
35 animal is disabled, diseased, dehydrated or  
36 malnourished, the court shall:

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



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

4                   6. Attachment and enforcement of lien. Attach-  
5                   ment and enforcement of liens shall be as follows.

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

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

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

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

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

39                   §1022. Prevention of cruelty

1           The board or any person authorized to make ar-  
2 rests may lawfully interfere to prevent the perpetra-  
3 tion of any act of cruelty upon an animal in his  
4 presence.

5           §1023. Investigation and reporting of cruelty

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

11           Upon completion of the investigation, the board  
12 shall, if requested, report on the results of the in-  
13 vestigation to the person complaining of alleged cru-  
14 elty.

15           §1024. Impeding the performance of an officer

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

20           §1025. Handling of animals seized or held

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

26           A. Provide or supply dealers, commercial kennels  
27 or laboratories with the animal; or

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

34           2. Livestock. Livestock to be sold at public  
35 auction is exempt from this section.

36           §1026. Penalty for violation

1 Any person found in violation of sections 1024  
2 and 1025 is guilty of a Class E crime.

3 SUBCHAPTER III

4 CRUELTY TO ANIMALS

5 §1031. Cruelty to animals

6 1. Cruelty to animals. A person is guilty of  
7 cruelty to animals who intentionally, knowingly or  
8 recklessly:

9 A. Kills any animal belonging to another person  
10 without legal privilege or the consent of the  
11 owner or kills or attempts to kill an animal with  
12 the owner's consent by means which will cause un-  
13 due suffering. The owner or occupant of property  
14 is privileged to use reasonable force to eject a  
15 trespassing animal;

16 B. Injures, overworks, tortures, torments, aban-  
17 cons, gives poison to, cruelly beats or mutilates  
18 any animal or exposes a poison with the intent  
19 that it be taken by an animal;

20 C. Deprives any animal which he owns or pos-  
21 sesses of necessary sustenance, necessary medical  
22 attention, proper shelter, protection from the  
23 weather or humanely clean conditions; or

24 D. Keeps or leaves a domestic animal on an  
25 uninhabited or barren island lying off the coast  
26 of this State during the months of December, Jan-  
27 uary, February or March without providing neces-  
28 sary sustenance and proper shelter.

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

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

34 B. The defendant's conduct or that of his agent  
35 was designed to control or eliminate rodents,  
36 ants or other common pests on his own property;  
37 or

1 C. The defendant's conduct involved the use of  
2 live animals as bait or in the training of other  
3 animals in accordance with the laws of the De-  
4 partment of Inland Fisheries and Wildlife, Title  
5 12, Part 10.

6 Evidence of proper care of any animal shall not be  
7 admissible in the defense of alleged cruelty to other  
8 animals.

9 3. Penalty. Cruelty to animals is a Class D  
10 crime.

11 4. Criminal or civil prosecution. No person may  
12 be arrested or detained for cruelty to animals. The  
13 attorney for the State shall elect to charge a de-  
14 fendant with the crime of cruelty to animals under  
15 this section or the civil violation of cruelty to an-  
16 imals under Title 7, section 4011. In making this  
17 election, the attorney for the State shall consider  
18 the severity of the cruelty displayed, the number of  
19 animals involved, any prior convictions or adjudica-  
20 tions of animal cruelty entered against the defendant  
21 and such other factors as may be relevant to a deter-  
22 mination of whether criminal or civil sanctions will  
23 best accomplish the goals of the animal welfare laws  
24 in the particular case before him. The election and  
25 determination required by this subsection shall not  
26 be subject to judicial review. The factors involved  
27 in such election and determination are not elements  
28 of the criminal offense or civil violation of animal  
29 cruelty and are not subject to proof or disproof as  
30 prerequisites or conditions for conviction under this  
31 subsection or adjudication under Title 7, section  
32 4011.

33 §1032. Cruelty to birds

34 1. Cruelty to birds. A person is guilty of cru-  
35 elty to birds who intentionally or knowingly:

36 A. Keeps or uses any live pigeon, fowl or other  
37 bird for a target or to be shot at, either for  
38 amusement or as a test of skill in marksmanship;

39 B. Shoots at any bird or is present as a party,  
40 umpire or judge at such shooting; or

1 C. Rents any building, shed, room, yard, field  
2 or premises or knowingly suffers the use of the  
3 building, shed, room, yard, field or premises for  
4 these purposes.

5 2. Penalty. Cruelty to birds is a Class E  
6 crime.

7 3. Exception. Nothing in this section may be  
8 construed to prohibit the shooting of wild game in  
9 its wild state or the shooting of birds at field tri-  
10 als under the supervision of the Department of Inland  
11 Fisheries and Wildlife in accordance with Title 12,  
12 chapter 707, subchapter IX.

13 4. Criminal or civil prosecution. No person may  
14 be arrested or detained for cruelty to birds. The at-  
15 torney for the State shall elect to charge a defend-  
16 ant with the crime of cruelty to birds under this  
17 section or the civil violation of cruelty to birds  
18 under Title 7, section 4012. In making this election,  
19 the attorney for the State shall consider the severi-  
20 ty of the cruelty displayed, the number of birds in-  
21 volved, any prior convictions or adjudications of  
22 bird cruelty entered against the defendant and such  
23 other factors as may be relevant to a determination  
24 of whether criminal or civil sanctions will best ac-  
25 complish the goals of the animal welfare laws in the  
26 particular case before him. The election and determi-  
27 nation required by this subsection shall not be sub-  
28 ject to judicial review. The factors involved in  
29 such election and determination are not elements of  
30 the criminal offense or civil violation of bird cru-  
31 elty and are not subject to proof or disproof as pre-  
32 requisites or conditions for conviction under this  
33 subsection or adjudication under Title 7, section  
34 4012.

35 §1033. Animal fighting

36 1. Violation. A person is guilty of animal  
37 fighting who knowingly:

38 A. Owns, possesses, keeps or trains any animal  
39 with the intent that the animal engage in an ex-  
40 hibition of fighting with another animal;

1           B. For amusement or gain, causes any animal to  
2           fight with another animal or causes any animals  
3           to injure each other; or

4           C. Permits any act in violation of paragraph A  
5           or B to be done on any premises under his charge  
6           or control.

7           Animal fighting is a Class C crime.

8           2. Penalty for viewing animal fighting. Any per-  
9           son who is knowingly present at any place or building  
10          where preparations are being made for an exhibition  
11          of the fighting of animals or is present at such ex-  
12          hibition is guilty of a Class D crime.

13          3. Affirmative defense. It is an affirmative de-  
14          fense to prosecution under subsections 1 and 2, that  
15          the activity charged involves the possession, train-  
16          ing, exhibition or use of an animal in the otherwise  
17          lawful sport of animal hunting and the training or  
18          use of hunting dogs. It is also an affirmative de-  
19          fense that the defendant's conduct involved the use  
20          of live animals as bait or in the training of other  
21          animals in accordance with the laws of the Department  
22          of Inland Fisheries and Wildlife, Title 12, Part 10.

23          4. Exception. Activity involving the possession,  
24          training, exhibition or use of an animal in the oth-  
25          erwise lawful pursuits of hunting, farming and secu-  
26          rity services is exempt from subsections 1 and 2.

27          §1034. Application for search warrant

28          A law enforcement officer or humane agent, having  
29          probable cause to believe that a violation of section  
30          1031, 1032 or 1033 has taken place or is taking  
31          place, shall enter the premises where the animal is  
32          kept with the consent of the owner or shall make ap-  
33          plication for a search warrant. If the judge or com-  
34          plaint justice is satisfied that probable cause ex-  
35          ists, he shall issue a search warrant directing a law  
36          enforcement officer or humane agent in the county to  
37          proceed immediately to the location of the alleged  
38          violation and directing the law enforcement officer  
39          or humane agent to search the place designated in the  
40          warrant, retaining in his custody, subject to the or-

1 der of the court, such property or things as speci-  
2 fied in the warrant, including any animal.

3 §1035. Necessary sustenance

4 No person owning or responsible for confining or  
5 impounding any animal may fail to supply the animal  
6 with a sufficient supply of food and water as pre-  
7 scribed in this section.

8 1. Food. The food shall be of sufficient quanti-  
9 ty and quality to maintain all animals in good  
10 health.

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

15 §1036. Necessary medical attention

16 No person owning or responsible for confining or  
17 impounding any animal may fail to supply the animal  
18 with necessary medical attention when the animal is  
19 or has been suffering from illness, injury, disease,  
20 excessive parasitism or malformed or overgrown hoof.

21 §1037. Proper shelter; protection from the weather  
22 and humanely clean conditions

23 No person owning or responsible for confining or  
24 impounding any animal may fail to provide the animal  
25 with proper shelter, protection from the weather or  
26 humanely clean conditions as prescribed in this sec-  
27 tion. In the case of farm animals, nothing in this  
28 section may be construed as imposing shelter require-  
29 ments or standards more stringent than normally ac-  
30 cepted husbandry practices in the particular county  
31 where the animal or shelter is located. For purposes  
32 of this section, horses shall not be considered farm  
33 animals.

34 1. Indoor standards. Minimum indoor standards of  
35 shelter shall be as follows.

36 A. The ambient temperature shall be compatible  
37 with the health of the animal.

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

4 2. Outdoor standards. Minimum outdoor standards  
5 of shelter shall be as follows.

6 A. When sunlight is likely to cause heat exhaus-  
7 tion of an animal tied or caged outside, suffi-  
8 cient shade by natural or artificial means shall  
9 be provided to protect the animal from direct  
10 sunlight. As used in this paragraph, "caged"  
11 does not include farm fencing used to confine  
12 farm animals.

13 B. Shelter from inclement weather shall be as  
14 follows.

15 (1) An artificial shelter with a minimum of  
16 3 sides and a waterproof roof appropriate to  
17 the local climatic conditions for the spe-  
18 cies concerned shall be provided as neces-  
19 sary for the health of the animal.

20 (2) If a dog is tied or confined unattended  
21 outdoors under weather conditions which ad-  
22 versely affect the health of the dog, a  
23 shelter of suitable size with a floor above  
24 ground and waterproof roof shall be provided  
25 to accommodate the dog and protect it from  
26 the weather and, in particular, from severe  
27 cold. Inadequate shelter may be indicated by  
28 the shivering of the dog due to cold weather  
29 for a continuous period of 30 minutes.

30 C. No animal may be confined in a building, en-  
31 closure, car, boat, vehicle or vessel of any kind  
32 when extreme heat or extreme cold will be harmful  
33 to its health.

34 3. Space standards. Minimum space requirements  
35 for both indoor and outdoor enclosures shall include  
36 the following.

37 A. The housing facilities shall be structurally  
38 sound and maintained in good repair to protect  
39 the animal from injury and to contain the animal.



1 B. Enclosures shall be constructed and main-  
2 tained to provide sufficient space to allow each  
3 animal adequate freedom of movement. Inadequate  
4 space may be indicated by evidence of overcrowd-  
5 ing, debility, stress or abnormal behavior pat-  
6 terns.

7 4. Humanely clean conditions. Minimum standards  
8 of sanitation necessary to provide humanely clean  
9 conditions for both indoor and outdoor enclosures  
10 shall include periodic cleanings to remove excretions  
11 and other waste materials, dirt and trash to minimize  
12 health hazards.

13 SUBCHAPTER IV

14 EUTHANASIA OF CATS AND DOGS

15 §1041. Euthanasia by prescribed methods

16 No cat or dog may be destroyed by any method,  
17 agent or device except as described in this subchap-  
18 ter.

19 §1042. Mandatory method

20 The mandatory method of euthanasia of cats and  
21 dogs shall be the administration of a barbiturate  
22 overdose. The mandatory method of euthanasia shall  
23 be implemented according to the following methods and  
24 under the following conditions.

25 1. Intravenous, intraperitoneal, intrathoracic  
26 or intracardial injection. Intravenous,  
27 intraperitoneal, intrathoracic or intracardial injec-  
28 tion of a lethal solution may be used.

29 2. Use of undamaged hypodermic needle. If  
30 euthanasia is by injection, an undamaged hypodermic  
31 needle of a size suitable for the size and species of  
32 animal shall be used.

33 3. Administration by a licensed veterinarian.  
34 Administration shall only be by a licensed veterinar-  
35 ian or by a person trained for this purpose and sub-  
36 ject to regular observation concerning continued ef-  
37 iciency.

1     §1043. Emergency methods.

2             The following methods shall be used only in an  
3 emergency situation in which the safety of people or  
4 other animal life is threatened or in a situation in  
5 which the mandatory method of euthanasia of cats and  
6 dogs cannot be implemented expeditiously and will  
7 cause undue suffering. The following methods shall  
8 not be used as a substitute for the mandatory method.

9             1. Shooting. The animal may be destroyed by  
10 shooting, provided that:

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

12             B. Shooting is performed by highly skilled and  
13 trained personnel utilizing a weapon and ammuni-  
14 tion of suitable caliber and other characteris-  
15 tics to produce instantaneous death by a single  
16 shot; and

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

19     §1044. Tranquilizing cats and dogs

20             Prior to the euthanasia of cats and dogs,  
21 sedatives may be administered to these animals.  
22 Curariform immobilizers shall not be used on cats and  
23 dogs prior to euthanasia, except by veterinarians in  
24 extreme circumstances.

25     §1045. Inspection

26             The board may inspect or investigate any facility  
27 in which cats or dogs are destroyed.

28     §1046. Penalty for violation

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

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

32             Sec. 6. 17 MRSA §3853-B, as enacted by PL 1977,  
33 c. 671, §18-A, is repealed.

1           **Sec. 7. 17-A MRSA §510**, as amended by PL 1979,  
2           c. 120, is repealed.

3                               **STATEMENT OF FACT**

4           This new draft is a recodification of animal wel-  
5           fare laws, both civil and criminal. It represents the  
6           effort of the Animal Welfare Board to reorganize and  
7           reform current law into a more usable text and to re-  
8           move ambiguities, inconsistencies and duplication. As  
9           a result of the work done by the Animal Welfare Board  
10          to clarify animal welfare laws, archaic provisions  
11          are eliminated, greater enforcement action will be  
12          improved and compliance with federal laws governing  
13          humane treatment will be achieved.

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