

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2493

H.P. 1819 House of Representatives, March 9, 1988
Reported by Representative TARDY from the Committee on
Agriculture and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative ALLEN of
Washington. Cosponsored by Representative TARDY of Palmyra
and Senator MATTHEWS of Kennebec.

STATE OF MAINE

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

1 AN ACT to Amend the Animal Control Laws.
2

3 **Emergency preamble.** Whereas, Acts of the
4 Legislature do not become effective until 90 days
5 after adjournment unless enacted as emergencies; and

6 Whereas, some courts have expressed concern that
7 the laws regarding dog control do not make it clear
8 that the owner of the dog is responsible for its
9 control; and

1 Whereas, in at least one case a law suit has been
2 dismissed on this basis; and

3 Whereas, it is necessary to revise the laws
4 promptly so that similar dismissals will not occur; and

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

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

13 Sec. 1. 7 MRSA §§3911, 3912 and 3947, as enacted
14 by PL 1987, c. 383, §3, are amended to read:

15 §3911. Dogs not to run at large

16 It is unlawful for any dog, licensed or
17 unlicensed, to run at large, except when used for
18 hunting. The owner or keeper of any dog found running
19 at large shall be subject to the penalties provided in
20 this chapter.

21 §3912. Disposition of dogs at large

22 Any animal control officer or person acting in that
23 capacity shall seize, impound or restrain any dog
24 found in violation of section 3911 and deliver it to
25 any shelter as provided for in section 3913,
26 subsection 2, or shall take the dog to its owner, if
27 known. Such dogs shall be handled as stray and
28 abandoned dogs. If ownership cannot be established,
29 such animals may be handled as strays for the purposes
30 of acceptance by an approved shelter.

31 §3947. Animal control officers

32 Each municipality shall appoint one or more animal
33 control officers whose duties shall be enforcement of
34 sections 3911, 3912, 2921, 3924, 3943, 3948, 3950

1 and, 3950-A and 3966 to 3970 and such other duties
2 to control animals as the municipality may require.

3 Sec. 2. 7 MRSA §3948, sub-§1, as enacted by PL
4 1987, c. 383, §3, is amended to read:

5 1. Control. Municipalities shall control dogs
6 and ferrets running at large.

7 Sec. 3. 7 MRSA c. 730 is enacted to read:

8 CHAPTER 730

9 FERRETS

10 §3966. Control of ferrets; seller's obligation

11 1. Control. Except as provided in this section,
12 it is unlawful for any domesticated ferret to be off
13 the premises of the owner. If the owner of a ferret
14 cannot locate the ferret, the owner shall immediately
15 notify the municipal office serving the area in which
16 the ferret was lost.

17 Ferrets may be transported from one place to another
18 provided that they are confined at all times in a
19 carrying device in which any openings are so small as
20 to prohibit the insertion of human fingers, including
21 those of children. Ferrets may be allowed out of the
22 carrying device in connection with a show or
23 exhibition.

24 In the event that a person approaches a ferret, the
25 owner shall warn that person that ferrets have been
26 known to bite without warning or provocation. If found
27 in violation of this section, the owner or keeper of
28 any domesticated ferret shall be subject to the
29 penalties provided in this chapter.

30 2. Transfer of ownership. Any licensed kennel,
31 pet shop, shelter or veterinarian which transfers
32 ownership of a ferret shall provide notification in
33 writing as to the following.

34 A. Ferrets have been known to attack humans,

1 particularly children, for no reason and without
2 warning.

3 B. There is no proven vaccine for rabies in
4 ferrets nor is there an accepted procedure for
5 judging a rabid ferret without sacrificing the
6 ferret. A ferret which bites a person may be
7 immediately seized and put to death by the State
8 in order to obtain necessary test samples.

9 §3967. Seizing of ferrets

10 Any animal control officer or person acting in
11 that capacity shall seize, impound or restrain any
12 domesticated ferret found in violation of section
13 3966, subsection 1, and deliver it to any shelter, as
14 provided for in section 3968, or shall take it to its
15 owner if known. If ownership cannot be established,
16 such animals may be handled as stray ferrets for the
17 purposes of acceptance by an approved shelter as
18 provided in this chapter.

19 §3968. Disposition of ferrets

20 1. Shelter. A shelter to which a stray ferret is
21 taken, as a condition of approval by the board, shall
22 accept the ferret for a period of 8 days, unless the
23 shelter is in quarantine or has a bona fide lack of
24 adequate space or unless the ferret has or is
25 suspected of having a contagious disease. The
26 acceptance entitles the shelter to receive from the
27 board the sum of \$2.50 a day for the period for which
28 food and shelter are furnished to the ferret.
29 Shelters accepting ferrets from municipalities not
30 contracting with them may seek assistance from the
31 board. Shelters which are not approved by the board
32 to receive state funds shall not be required to accept
33 sick, stray, injured or abandoned ferrets.

34 2. Claims; fees. The procedure for filing claims
35 and calculating fees shall be as follows.

36 A. On the next business day following the date of
37 acceptance of the ferret, the shelter shall notify
38 the clerk of the respective municipality of the

1 acceptance of the ferret, its description and the
2 circumstances of its finding.

3 B. A shelter which accepts a ferret under this
4 section, within 45 days of acceptance of the
5 ferret, shall submit a claim on a board-approved
6 form to the clerk of the respective municipality
7 for fees incurred in providing food and shelter
8 and, upon verification of proper notification and
9 holding period by the clerk, the shelter shall
10 forward the claim to the board.

11 C. If the owner claims the ferret within the
12 8-day period, the owner may have and receive the
13 ferret upon payment of all board-approved fees,
14 plus any pickup fees that the municipality may
15 impose.

16 3. Ownership of ferret. Upon expiration of the
17 8-day period, ownership of the ferret shall vest in
18 the shelter. The shelter may then:

19 A. Sell or give away the ferret with the warning
20 notice required by section 3966; or

21 B. Otherwise dispose of the ferret humanely in
22 accordance with Title 32, section 4872.

23 None of the proceeds obtained from the sale, donation,
24 adoption or other disposition of the ferret shall be
25 deducted from the fee claimed.

26 Notwithstanding subsection 2, paragraph C, the
27 previous owner may reacquire the ferret at any time
28 prior to its sale, donation or disposal upon payment
29 of the municipal impoundment fees and actual fees
30 incurred for food, shelter, veterinary care and any
31 other fees required by this chapter for each day that
32 the ferret has been sheltered. In this case no fee
33 may be allowed by the board.

34 §3969. Bites by ferrets

35 The local health officer may order the confinement
36 of any ferret which has bitten a human being. Such

1 confinement may be either with the owner or by seizing
2 the ferret as determined by the confining officer.
3 The local health officer shall have responsibility for
4 implementing this paragraph. Animal control officers
5 may also, at their discretion, implement this
6 paragraph.

7 Until such time as the Department of Human
8 Services indicates that evidence of rabies can be
9 identified in a ferret within the time period required
10 for human counter measures, a ferret may be put to
11 death immediately for laboratory tests. The
12 Department of Human Services shall promulgate rules
13 regarding the confinement, seizure and sacrifice of
14 ferrets.

15 §3970. Violations and damage caused by ferrets

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

19 2. Damage by ferrets. Damage caused by ferrets
20 shall be subject to this chapter.

21 Emergency clause. In view of the emergency cited
22 in the preamble, all sections of this Act except
23 section 2 and that portion of section 3 which enacts
24 the Maine Revised Statutes, Title 7, section 3966,
25 subsection 1, shall take effect when approved. The
26 excepted sections shall take effect January 1, 1989.

27 STATEMENT OF FACT

28 The original bill prohibited domestic ferrets from
29 running at large, "at large" being defined as on the
30 premises or under the control of the owner. It
31 required that at-large ferrets that had bitten someone
32 be impounded by the local animal control officer. If
33 that ferret had been vaccinated for rabies it was to
34 be held for 10 days or decapitated, the determination
35 to be made by the local health officer.

36 This new draft accomplishes the following.

1 1. Restricts ferrets to the premises of the owner
2 and to a cage when being transported. Allows
3 participation in shows and exhibitions.

4 2. Adds ferrets to the present requirement that
5 municipalities control dogs running at large. In
6 order that municipalities may have time to prepare for
7 this responsibility, this provision and the provision
8 restricting ferrets are not to take effect until
9 January 1, 1989.

10 3. Requires that professionals selling ferrets
11 give written warning that they have a history of
12 biting children and that a ferret who has bitten
13 someone may be immediately put to death as this is
14 necessary to complete the only known rabies test.

15 4. Provides that the local health officer or an
16 animal control officer may require the quarantine of
17 any ferret who has bitten someone, with the officer
18 making the determination as to whether this is to be
19 by the owner or by seizure by the officer. The health
20 officer is to have the prime responsibility for the
21 confinement of such ferrets.

22 It also provides that a ferret may be immediately put
23 to death so that it may be tested for rabies. This
24 permission is only given until such time as an
25 approved vaccine or an approved test for rabies may be
26 developed. Rules regarding this issue are to be
27 adapted by the Department of Human Services.

28 5. It provides a fine of up to \$100 for
29 violations. It reaffirms that owners are responsible
30 for damages caused by ferrets as indicated in the
31 Maine Revised Statutes, Title 7, section 3964, and it
32 requires that the State reimburse the offended party
33 for damages, if necessary, and bring suit against the
34 owner for reimbursement. All these provisions are
35 similar to those in the dog control laws.

36 6. Lastly, under its broad title, the bill also
37 addresses problems that the courts have identified
38 with the current dog control laws. As written, they
39 can be interpreted as not holding the owner

1 responsible for the dog's behavior. The new draft
2 corrects this problem and puts the bill on an
3 emergency basis in order that no more cases will be
4 dismissed under the controversial section.

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