

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1390

H.P. 963

House of Representatives, April 1, 1991

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

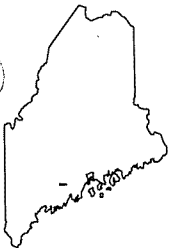
EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Allow for Criminal and Civil Prosecution for Animal Trespass
Laws.**



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

4 17 MRSA c. 42, sub-c. V is enacted to read:

6 SUBCHAPTER V

8 ANIMAL TRESPASS

10 §1047. Animal trespass

12 1. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

14 A. "Animal control officer" or "law enforcement officer"
means the animal control officer or law enforcement officer
having jurisdiction over the area in which the livestock
animal was found.

16 B. "Livestock animal" means dairy, feeding, beef or
breeding cattle; horses; sheep; goats; donkeys; or swine.

18 C. "Trespass" means that a livestock animal of an owner or
keeper has entered or been found on the property of another
person and the owner or keeper is not licensed or privileged
to allow the livestock to be on that property.

20 2. Elements of animal trespass. A person is guilty of
animal trespass if:

22 A. A livestock animal owned or kept by that person is found
trespassing and that person fails to remove the livestock
animal within 6 hours after having been notified personally
by an animal control officer or law enforcement officer that
a livestock animal owned or kept by that person was
trespassing; or

24 B. A livestock animal owned or kept by that person had been
found trespassing on a prior occasion within the 12 months
immediately preceding the present trespass and the owner or
keeper had, at that time, been notified by an animal control
officer or law enforcement officer of that trespass.

26 3. Criminal or civil prosecution. A person may not be
arrested or detained for animal trespass. The attorney for the
State shall elect to charge a defendant with the crime of
criminal trespass under this section or the civil violation of
criminal trespass under Title 7, section 4041. In making this
election, the attorney for the State shall consider the nature of
the trespass, the number of livestock animals involved, any prior
convictions or adjudications of animal trespass entered against
the defendant and such other factors as may be relevant to a

2 determination of whether criminal or civil sanctions will best
4 accomplish the goals of the animal welfare laws in the particular
6 case before that attorney. The election and determination
8 required by this subsection is not subject to judicial review.
10 The factors involved in such election and determination are not
12 elements of the criminal offense or civil violation of criminal
14 trespass and are not subject to proof or disproof as
16 prerequisites or conditions for conviction under this subsection
18 or adjudication under Title 7, section 4041.

20
22 4. Penalties. Animal trespass is a Class E crime. In
24 addition, the court, as part of any sentence imposed, may order
26 restitution pursuant to Title 17-A, chapter 54, to a person for
28 injuries sustained by that person or damage to that person's
30 property caused by the violator's livestock animal while in
violation and to a public agency for expenses incurred by that
agency in removing and controlling the livestock animal while in
violation.

STATEMENT OF FACT

24 Currently, owners or keepers of livestock animals are
26 subject only to a civil penalty under the Maine Revised Statutes,
28 Title 7, section 4041 for trespass of their animals. This bill
30 creates a crime of animal trespass so an attorney for the State
may choose between civil and criminal sanctions to best
accomplish the goals of the animal welfare laws in that
particular case.