

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1040

(Filing No. H-577)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 345,
L.D. 1040, Bill, "An Act to Provide Consistency in the Animal
Welfare Laws"

Amend the amendment by striking out everything after the
title and before the statement of fact and inserting in its place
the following:

Amend the bill by striking out all of section 2 and
inserting in its place the following:

Sec. 2. 7 MRSA §3906-B, sub-§4, as enacted by PL 1991, c.
779, §9, is amended to read:

4. Training and certification of animal control officers.
The commissioner shall develop a program to train animal control
officers. This program must include training in investigation of
complaints of cruelty to pet animals, training in response to
calls concerning animals suspected of having rabies and training
in enforcement of dog licensing laws and rabies immunization
laws. The commissioner shall certify all animal control officers
who complete the training program and all persons who have been
employed full time in the capacity of animal control officer for
a period of one year or longer prior to the effective date of
this subsection.

Sec. 3. 7 MRSA §3906-B, sub-§9, as enacted by PL 1991, c. 779,
§9, is amended to read:

9. Employees. The commissioner shall employ personnel,
subject to the Civil Service Law, as necessary to assist in
enforcing this Part and in carrying out the duties and
responsibilities of the department. The commissioner, in
consultation with the board, shall employ, subject to the Civil
Service Law, one full-time humane agent to assist the board in

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carrying out its duties and responsibilities. The commissioner may not hire as a state humane agent a person who has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739.

Sec. 4. 7 MRSA §3907, sub-§3, as enacted by PL 1987, c. 383, §3, is amended to read:

3. **Animal control.** "Animal control" means control of dogs, cats, and domesticated or undomesticated animals ~~which may be a problem in the community and which are not controlled by any other law in accordance with section 3948.~~

Further amend the bill in section 3 in subsection 18-A in the last line (page 1, line 38 in L.D.) by striking out the following: "or swine." and inserting in its place the following: ', swine or other animals if the animals are kept and used by a commercial farmer.'

Further amend the bill in section 6 in that part designated "§3913-A." in the first paragraph in the first line (page 2, line 10 in L.D.) by striking out the following: "may" and inserting in its place the following: 'shall'

Further amend the bill by inserting after section 7 the following:

Sec. 8. 7 MRSA §3917, sub-§1, as enacted by PL 1991, c. 779, §26, is amended to read:

1. **Clinic establishment.** The department shall ~~assist in~~ facilitate the establishment of low-cost antirabies clinics, ~~to be offered~~ at locations and on dates as appropriate. At least one low-cost antirabies clinic must be conducted annually in each county. In ~~assisting in~~ facilitating the establishment of antirabies clinics, the department shall cooperate with local veterinarians and local organizations. When other arrangements can not be made for a licensed veterinarian to vaccinate or to supervise vaccinations by an animal technician at a low-cost clinic, a veterinarian employed by the department shall administer the vaccinations.

Further amend the bill in section 9 in that part designated "§3923-A." by striking out all of subsection 3 (page 3, lines 29 to 38 in L.D.) and inserting in its place the following:

3. **Exemption from fees.** A municipal clerk shall issue a license upon application and without payment of a license fee required under this section for:

- 2 A. A trained guide dog owned or kept by a visually impaired
- 4 person or such a dog awaiting training;
- 6 B. A trained hearing dog owned or kept by a
- 8 hearing-impaired person or such a dog awaiting training;
- 10 C. A trained service dog owned or kept by a physically
- 12 impaired person or such a dog awaiting training; and
- 14 D. A trained search and rescue dog recognized by the
- 16 Department of Inland Fisheries and Wildlife or by the
- statewide association of search and rescue that cooperates
- with the Department of Inland Fisheries and Wildlife in
- developing standards for search and rescue or such a dog
- awaiting training.

18 Further amend the bill by striking out all of sections 12
20 and 13 and inserting in their place the following:

22 'Sec. 12. 7 MRSA §3947, as amended by PL 1991, c. 779, §39,
is further amended to read:

24 Each municipality shall appoint one or more animal control
26 officers whose duties are enforcement of sections 3911, 3912,
28 3921, 3924, 3943, 3948, 3950, 3950-A and 3966 to 3970 responding
30 to reports of animals suspected of having rabies in accordance
 with Title 22, sections 1313 and 1313-A and such other duties to
 control animals as the municipality may require.

32 A municipality may not appoint a person who has been
34 convicted of a criminal violation under Title 17, chapter 42 or
 has been adjudicated of a civil violation for cruelty to animals
 under chapter 739 to the position of animal control officer.

36 Animal control officers must be certified in accordance with
38 section 3906-B, subsection 4. Upon initial appointment, an
40 animal control officer must complete training and be certified by
 the commissioner within 6 months of appointment.

42 Sec. 13. 7 MRSA §3948, sub-§3 is enacted to read:

44 3. Domesticated and undomesticated animals. A municipality
46 shall control domesticated animals that are a problem in the
48 community. A municipality shall control undomesticated animals
 that pose a threat to public health or safety. A municipality
 may control undomesticated animals in matters on which no other
 department is charged by law to regulate.

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2 Sec. 14. 7 MRSA c. 729, first 2 lines are repealed and the following enacted in their place:

4 CHAPTER 729

6 DAMAGE BY ANIMALS

8 Sec. 15. 7 MRSA §3962, as enacted by PL 1987, c. 383, §3, is repealed.

10 Sec. 16. 7 MRSA §3962-A is enacted to read:

12 §3962-A. Penalty for damage to livestock by dogs

14 The owner or keeper of a dog that kills or injures
16 livestock, poultry or domestic rabbits commits a civil violation
18 for which a forfeiture not to exceed \$100 may be adjudged in
20 addition to costs. The person who suffers damage may also pursue
a civil action against the owner or keeper pursuant to section
3961.

22 Further amend the bill by striking out all of section 15.

24 Further amend the bill in section 16 by striking out all of
26 paragraph A (page 8, lines 37 to 52 in L.D.) and inserting in its
place the following:

28 'A. A state humane agent, sheriff, deputy sheriff,
30 constable, police officer, animal control officer, person
32 authorized to make arrests or, in a case involving a pet
34 animal, the board may apply to the District Court, Superior
36 Court or a justice of the peace for an ex parte order for
authorization to take possession of any maimed, disabled,
38 diseased, dehydrated, malnourished or injured animal or any
animal whose owner has cruelly abandoned or cruelly treated
it and turn it over to the applicant or any other suitable
40 person. In actions initiated prior to November 1, 1995, an
applicant must submit an affidavit of a veterinarian in
support of the ex parte order. The department shall pay the
fee charged by the veterinarian to obtain the affidavit.

42 An order may be entered ex parte upon findings by the court
44 or justice of the peace that there is a reasonable
likelihood that:

46 Further amend the bill in section 17 in subsection 5-A by
48 striking out all of the first line (page 9, line 5 in L.D.) and
inserting in its place the following: '5-A. Seizure by state
humane agent without court order. A state humane

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Further amend the bill by striking out all of section 18 and inserting in its place the following:

Sec. 18. 22 MRSA §§1313 and 1313-A are enacted to read:

§1313. Procedures for the transportation, quarantine, euthanasia and testing of animals suspected of having rabies

1. Establishment of procedures. The commissioner, in consultation with the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife shall adopt rules, in accordance with the Maine Administrative Procedure Act, establishing procedures for responding to a report of an animal suspected of having rabies. The procedures must include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies. The procedures may differ based on the perceived public health threat determined in part by consideration of the following factors:

A. Whether the animal is a domesticated animal for which a known effective vaccine exists and, if so, can the animal's vaccination status be verified; and

B. Whether the animal has bitten a person or exhibited other aggressive behavior.

2. Role of animal control officer; game warden. An animal control officer appointed in accordance with Title 7, section 3947, receiving a report of an animal suspected of having rabies shall ensure that the procedures established pursuant to this section and section 1313-A are carried out. If the animal is an undomesticated animal, a game warden shall assist the animal control officer.

3. Costs associated with transportation, quarantine, testing and euthanasia. The Department of Inland Fisheries and Wildlife shall pay all costs for transportation, quarantine, euthanasia and testing of an undomesticated animal suspected of having rabies. The owner of a domesticated animal suspected of having rabies shall pay all costs for transportation, quarantine, euthanasia and testing of the animal. If a domesticated animal is a stray or the owner is unknown, the municipality in which the animal was apprehended is responsible for transportation, quarantine, euthanasia and testing costs.

§1313-A. Provisions for immediate destruction of certain animals

If an undomesticated animal or a domesticated ferret, domesticated wolf or domesticated wolf hybrid suspected of having rabies bites a person, an animal control officer, a local health

1 officer or a game warden may immediately kill or order killed
2 that animal without destroying the head. The Department of
3 Inland Fisheries and Wildlife shall arrange for the
4 transportation of the head to the State Health and Environmental
5 Testing Laboratory; except that the animal control officer shall
6 make the arrangements if the animal is a domesticated ferret,
7 domesticated wolf or domesticated wolf hybrid.

8
9 The Department of Inland Fisheries and Wildlife shall pay
10 transportation and testing costs for undomesticated animals. The
11 owner of a domesticated ferret, domesticated wolf or domesticated
12 wolf hybrid shall pay transportation and testing costs for that
13 animal.

14
15 **Sec. 19. Report.** The Commissioner of Human Services shall
16 submit a report on rabies prevention and protection efforts in
17 the State to the Joint Standing Committee on Agriculture by
18 January 15, 1994. The report must include a copy of the rules
19 adopted to establish rabies response procedures. If statutory
20 changes or enactment of new provisions relating to rabies
21 prevention and protection are recommended in the report, the
22 commissioner must submit implementing legislation with the
23 report.

24
25 Further amend the bill by renumbering the sections to read
26 consecutively.

27
28 Further amend the bill by inserting at the end before the
29 statement of fact the following:

30
31
32 **FISCAL NOTE**

33
34 The additional local costs of controlling certain animals
35 and administering various responsibilities for certain animals
36 suspected of having rabies will require 90% funding by the State
37 as a state mandate pursuant to the Constitution of Maine. The
38 General Fund appropriations required to fund these costs can not
39 be estimated at this time.

40
41 The replacement of lost dog tags will result in
42 insignificant increases of dedicated revenue to the Department of
43 Agriculture, Food and Rural Resources from replacement fees for
44 lost dog tags.

45
46 The Department of Agriculture, Food and Rural Resources will
47 incur some minor additional costs to provide animal control
48 shelters with temporary license forms, to assist the Department
49 of Human Services in establishing certain procedures, to conduct
50 certain training programs pertaining to rabies and to pay certain

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2 veterinarian fees. These costs can be absorbed within the department's existing budgeted resources.

4 The Department of Agriculture, Food and Rural Resources will
6 be able to recover a portion of the costs incurred to offer
8 low-cost antirabic clinics on an annual basis across the State. The department will be able to absorb the remaining costs within existing budgeted resources.

10 The Department of Inland Fisheries and Wildlife will incur
12 some minor additional costs to administer certain
14 responsibilities relating to undomesticated animals suspected of
16 having rabies and to assist the Department of Human Services in
18 establishing certain procedures. These costs can be absorbed
20 within the department's existing budgeted resources.

22 The Department of Human Services will incur some minor
24 additional costs to establish certain procedures and to submit a
26 report to the Legislature pertaining to rabies prevention and
28 protection efforts in the State. These costs can be absorbed
30 within the department's existing budgeted resources.

32 The additional workload and administrative costs associated
34 with the minimal number of new cases filed in the court system
36 can be absorbed within the budgeted resources of the Judicial
38 Department. The collection of additional fines may increase
40 General Fund revenues by a minor amount.

30 STATEMENT OF FACT

32 This amendment incorporates the substance of Committee
34 Amendment "A" and does the following:

36 1. Requires the Department of Agriculture, Food and Rural
38 Resources to train animal control officers to respond to calls
concerning animals suspected of having rabies;

40 2. Requires the Department of Agriculture, Food and Rural
42 Resources to facilitate the establishment of a low-cost rabies
44 clinic once a year in each county. If no other arrangements can
be made, veterinarians employed by the department shall
administer rabies vaccines at the low-cost clinics;

46 3. Requires the Commissioner of Human Services, in
48 consultation with the Commissioner of Agriculture, Food and Rural
Resources and the Commissioner of Inland Fisheries and Wildlife,
to establish procedures for the transportation, quarantine,
50 euthanasia and testing of animals suspected of having rabies and
provides for a set of differing procedures to be established
based on perceived threat;

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2 4. Requires an owner of a domestic animal that is suspected
4 of having rabies to pay costs of transportation, quarantine,
5 euthanasia and testing. The Department of Inland Fisheries and
6 Wildlife pays all costs if the animal suspected of having rabies
7 is undomesticated. The municipality pays if the animal suspected
8 of having rabies is domesticated but has no known owner;

9 5. Gives animal control officers, local health officers and
10 game wardens the authority to immediately kill an undomesticated
11 animal, a domesticated ferret, wolf or wolf hybrid if that animal
12 has bitten a person and is suspected of having rabies;

13 6. Clarifies a municipality's responsibilities with respect
14 to animal control; and

15 7. Requires the Commissioner of Human Services to report
16 back to the Joint Standing Committee on Agriculture on efforts
17 regarding rabies prevention and protection and to include
18 legislation to implement recommendations in the report.
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