

MAINE STATE LEGISLATURE

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L.D. 1040

(Filing No. S-369)

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "B" 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 inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill in section 1 in subsection 1 in the last paragraph in the 5th to 7th lines (page 1, lines 23 to 25 in L.D.) by striking out the following: ", by children in the custody of the Department of Human Services and for damage to sheep done by dogs ~~or wild animals~~" and inserting in its place the following: ', or by children in the custody of the Department of Human Services ~~and for damage to sheep done by dogs or wild animals~~'

Further 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:

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

12
14 **Sec. 3. 7 MRSA §3906-B, sub-§9,** as enacted by PL 1991, c. 779,
§9, is amended to read:

16 **9. Employees.** The commissioner shall employ personnel,
subject to the Civil Service Law, as necessary to assist in
18 enforcing this Part and in carrying out the duties and
responsibilities of the department. The commissioner, in
20 consultation with the board, shall employ, subject to the Civil
Service Law, one full-time humane agent to assist the board in
22 carrying out its duties and responsibilities. The commissioner
may not hire as a state humane agent a person who has been
24 convicted of a criminal violation under Title 17, chapter 42 or
has been adjudicated of a civil violation for cruelty to animals
26 under chapter 739.

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

30
32 **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~~
34 ~~other law~~ in accordance with section 3948.'

36 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
38 following: "or swine." and inserting in its place the following:
', swine or other animals if the animals are kept and used by a
40 commercial farmer.'

42 Further amend the bill in section 6 in that part designated
"§3913-A." in the first paragraph in the first line (page 2, line
44 10 in L.D.) by striking out the following: "may" and inserting
in its place the following: 'shall'

46
48 Further amend the bill by inserting after section 7 the
following:

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

4 1. Clinic establishment. The department shall assist--in
6 facilitate the establishment of low-cost antirabies clinics,--to
8 be--offered at locations and on dates as appropriate. At least
10 one low-cost antirabies clinic must be conducted annually in each
12 county. In assisting--in facilitating the establishment of
14 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.'

16 Further amend the bill in section 9 in that part designated
18 "§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:

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

24 A. A trained guide dog owned or kept by a visually impaired
26 person or such a dog awaiting training;

28 B. A trained hearing dog owned or kept by a
hearing-impaired person or such a dog awaiting training;

30 C. A trained service dog owned or kept by a physically
32 impaired person or such a dog awaiting training; and

34 D. A trained search and rescue dog recognized by the
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.'

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

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

46 **§3947. Animal control officers**

48 Each municipality shall appoint one or more animal control
50 officers whose duties are enforcement of sections 3911, 3912,
3921, 3924, 3943, 3948, 3950, 3950-A and 3966 to 3970 responding

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.

A municipality may not appoint 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 to the position of animal control officer.

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

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

3. Domesticated and undomesticated animals. A municipality
shall control domesticated animals that are a problem in the
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.

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

CHAPTER 729

DAMAGE BY ANIMALS

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

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

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

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

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

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

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2 'A. A state humane agent, sheriff, deputy sheriff,
constable, police officer, animal control officer, person
4 authorized to make arrests or, in a case involving a pet
animal, the board may apply to the District Court, Superior
6 Court or a justice of the peace for an ex parte order for
authorization to take possession of any maimed, disabled,
8 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
10 person.

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

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

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

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

26 §1313. Procedures for the transportation, quarantine, euthanasia
and testing of animals suspected of having rabies

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

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

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

46 2. Role of animal control officer; game warden. An animal
48 control officer appointed in accordance with Title 7, section
3947, receiving a report of an animal suspected of having rabies
50 shall ensure that the procedures established pursuant to this

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2 section and section 1313-A are carried out. If the animal is an
3 undomesticated animal, a game warden shall assist the animal
4 control officer.

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

15 §1313-A. Provisions for immediate destruction of certain animals

16 If an undomesticated animal or a domesticated ferret,
17 domesticated wolf or domesticated wolf hybrid suspected of having
18 rabies bites a person, an animal control officer, a local health
19 officer or a game warden may immediately kill or order killed
20 that animal without destroying the head. The Department of
21 Inland Fisheries and Wildlife shall arrange for the
22 transportation of the head to the State Health and Environmental
23 Testing Laboratory; except that the animal control officer shall
24 make the arrangements if the animal is a domesticated ferret,
25 domesticated wolf or domesticated wolf hybrid.

26 The Department of Inland Fisheries and Wildlife shall pay
27 transportation and testing costs for undomesticated animals. The
28 owner of a domesticated ferret, domesticated wolf or domesticated
29 wolf hybrid shall pay transportation and testing costs for that
30 animal.

31 **Sec. 19. Report.** The Commissioner of Human Services shall
32 submit a report on rabies prevention and protection efforts in
33 the State to the Joint Standing Committee on Agriculture by
34 January 15, 1994. The report must include a copy of the rules
35 adopted to establish rabies response procedures. If statutory
36 changes or enactment of new provisions relating to rabies
37 prevention and protection are recommended in the report, the
38 commissioner must submit implementing legislation with the
39 report.

40 Further amend the bill by renumbering the sections to read
41 consecutively.

42 Further amend the bill by inserting at the end before the
43 statement of fact the following:

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FISCAL NOTE

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This bill requires local units of government to make additional expenditures to administer certain requirements pertaining to animals suspected of having rabies. Pursuant to the mandate preamble, the 2/3 vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local cost of these requirements.

10

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

14

The Department of Agriculture, Food and Rural Resources will incur some minor additional costs to provide animal control shelters with temporary license forms, to assist the Department of Human Services in establishing certain procedures and to conduct certain training programs pertaining to rabies. These costs can be absorbed within the department's existing budgeted resources.

22

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

28

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

36

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

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

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STATEMENT OF FACT

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This amendment replaces Committee Amendment "A." The amendment adds a mandate preamble to the bill and amends a section of the bill to conform to the amendment. It also replaces the fiscal note.

(Senator PEARSON)
SPONSORED BY: Michael Pearson

COUNTY: Penobscot

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