

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1040

S.P. 345

In Senate, March 29, 1993

An Act to Provide Consistency in the Animal Welfare Laws.

Reported by Senator PARADIS of Aroostook for the Department of Agriculture, Food and Rural Resources pursuant to Public Law 1991, chapter 779.

Reference to the Committee on Agriculture suggested and ordered printed pursuant to Joint Rule 20.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

2
3 **Sec. 1. 5 MRSA §1510-A, sub-§1**, as amended by PL 1981, c. 493,
4 §2, is further amended to read:

6 **1. Claims against state agency.** A state agency may hear and
7 decide any claim of \$2,000 or less against it, or any of its
8 agents, except a claim that may be submitted under the Maine Tort
9 Claims Act, Title 14, chapter 741, or under another specific
10 statutory provision. Any agency paying all or part of a claim
11 heard under this subsection shall make payment as soon as
12 practicable from currently available agency funds and, if no
13 funds are then available, from agency funds from the following
14 fiscal year. An agency deciding a claim under this subsection
15 shall make its final decision, and reasons for the decision, in
16 writing and shall, as soon as practicable, send a copy of that
17 decision to the claimant by certified mail.

18 These claims shall include, but shall are not be limited to,
19 claims for damage or injury caused by patients, inmates,
20 prisoners in the care or custody of the Department of Mental
21 Health and Mental Retardation or of any institution administered
22 by a department, by children in the custody of the Department of
23 Human Services and for damage to sheep done by dogs ~~ex--wild~~
24 animals.

26 **Sec. 2. 7 MRSA §3907, sub-§3**, as enacted by PL 1987, c. 383,
27 §3, is amended to read:

29 **3. Animal control.** "Animal control" means control of dogs,
30 cats, and other domesticated ex--undomesticated animals which that
31 may be a problem in the community and which are not controlled by
32 any other law.

34 **Sec. 3. 7 MRSA §3907, sub-§18-A** is enacted to read:

36 18-A. Livestock. "Livestock" means cattle, horses, sheep,
37 goats, donkeys or swine.

39 **Sec. 4. 7 MRSA §3913, sub-§4, ¶A**, as enacted by PL 1987, c.
40 383, §3, is amended to read:

42 A. Sell or give away the dog, provided that a license is
43 first obtained in accordance with section 3922 or the animal
44 control shelter issues a temporary license in accordance
45 with section 3913-A; or

47 **Sec. 5. 7 MRSA § 3913, sub-§4, ¶B**, as amended by PL 1991, c.
48 779, §22, is further amended to read:

50 B. Otherwise dispose of the dog humanely in accordance with
51 Title ~~32,--section-4872~~ 17, chapter 42, subchapter IV, if a

2 veterinarian determines that the dog is not adoptable due to
3 illness. Except as provided in this section, an animal
4 control shelter must hold a dog at least 8 days before
5 euthanasia.

6 Sec. 6. 7 MRSA §3913-A is enacted to read:

8 **§3913-A. Temporary licenses**

10 An animal control shelter may issue a temporary dog license
11 when transferring ownership vested in the shelter under section
12 3913, subsection 4 to a person buying or otherwise accepting
13 ownership. The department shall provide animal control shelters
14 with temporary license forms. The shelter shall complete all
15 information prescribed on the form, provide the owner with the
16 temporary license and submit a copy to the appropriate municipal
17 clerk. The shelter may retain a copy of the temporary license to
18 comply with section 3914. A temporary license is valid for a
19 period of 10 days beginning on the date of issuance. An animal
20 control shelter may not charge a fee for issuing a temporary
21 license.

22 Sec. 7. 7 MRSA §3916, sub-§1, as enacted by PL 1991, c. 779,
23 §26, is amended to read:

24
25 1. **Required for cats.** An owner or keeper of a cat over 3
26 months of age shall have that cat vaccinated against rabies.
27 Rabies vaccine must be administered by a licensed veterinarian or
28 under the supervision of a licensed veterinarian. ~~An owner or~~
29 ~~keeper of a cat that is vaccinated after one year of age shall~~
30 ~~get booster vaccinations for that cat every 2 years thereafter.~~
31 A cat vaccinated prior to one year of age Upon receiving an
32 initial vaccination, a cat is considered protected for one year
33 and an owner or keeper of that cat shall get a booster
34 vaccination for that cat one year after the initial vaccination
35 and every 2 years thereafter.

36
37 Sec. 8. 7 MRSA §3923, as amended by PL 1991, c. 779, §27 and
38 affected by §§52 and 60, is repealed.

39 Sec. 9. 7 MRSA §§3923-A and 3923-B are enacted to read:

40
41 **§3923-A. License and recording fees**

42
43 Except as provided in subsection 3 and section 3921, a dog
44 owner shall pay the license and recording fees established in
45 this section.

46
47 1. **Dogs capable of producing young.** A dog owner shall pay
48 a fee of \$7.50 to the municipal clerk for each dog 6 months of
49 age or older and capable of producing young. A dog is
50 considered capable of producing young if it is over 6 months of

2 considered capable of producing young unless certification
3 required under subsection 2 is provided.

4 The clerk shall retain \$1 as a recording fee and pay the
5 remaining \$6.50 to the department for deposit in the Animal
6 Welfare Fund.

8 2. Dogs incapable of producing young. A dog owner shall
9 pay a fee of \$4 to the municipal clerk for each dog 6 months of
10 age or older and incapable of producing young. A dog is
11 considered incapable of producing young when the owner provides
12 the following:

14 A. A written certificate issued by a veterinarian stating
15 that the veterinarian has neutered the dog;

16 B. A written certificate issued by a veterinarian stating
17 that the veterinarian has examined the dog and determined
18 that the dog is incapable of producing young; or

19 C. A previous license stating that the dog is incapable of
20 producing young.

21 The clerk shall retain \$1 as a recording fee, deposit \$1 in the
22 municipality's animal welfare account established in accordance
23 with section 3945 and pay the remaining \$2 to the department for
24 deposit in the Animal Welfare Fund.

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

28 A. A trained guide dog owned or kept by a blind person;

29 B. A trained hearing dog kept by a deaf person; or

30 C. A guide dog or hearing dog kept prior to training or for
31 breeding purposes.

32 4. Late fees. An owner or keeper required to license a dog
33 under section 3922, subsection 1 and applying for a license for
34 that dog after January 31st must pay to the municipal clerk or
35 dog recorder a late fee of \$3 in addition to the annual license
36 fee paid in accordance with subsection 1 or 2. The clerk or
37 recorder shall deposit all late fees collected under this
38 subsection into the municipality's animal welfare account
39 established in accordance with section 3945.

40 An owner or keeper whose name appears on a municipal warrant
41 issued in accordance with section 3943 must pay the late fee
42 required by that section and is not subject to this subsection.

§3923-B. Tags

2

4 1. Dog tags. The municipal clerk shall provide with each
6 license issued under section 3923-A a dog tag indicating the year
8 the license is issued and bearing other information prescribed by
10 the department. The owner or keeper shall make sure that the tag
12 is securely attached to a collar of leather, metal or material of
14 comparable strength and that the collar is worn at all times by
16 the dog for which the license was issued, except as provided in
18 subsection 3.

12 If a tag is lost, the owner or keeper of the dog must obtain a
14 new tag. The municipal clerk shall issue another tag upon
16 presentation of the original license and payment of \$1. The
18 clerk shall deposit 50¢ of the replacement fee into the
20 municipality's animal welfare account established in accordance
22 with section 3943 and pay the remaining 50¢ to the department for
24 deposit into the Animal Welfare Fund.

20 2. Rabies tags. An owner shall make sure that a rabies tag
22 obtained from a veterinarian for immunization against rabies is
24 securely attached to a collar of leather, metal or material of
26 comparable strength and that the collar is worn at all times by
28 the dog for which the rabies tag was issued, except as provided
30 in subsection 3.

26 3. Exceptions. A dog is not required to wear a dog tag or
28 a rabies tag when hunting, in training or in an exhibition. When
30 a dog is hunting, in training or in exhibition, its owner or
32 keeper must produce proof of licensure within 24 hours upon
34 request by a humane agent, animal control officer or law
36 enforcement officer. When a dog is brought to this State from
38 another state for hunting, training or exhibiting, its owner or
40 keeper must produce proof of rabies immunization within 24 hours
42 upon request by a humane agent, animal control officer of law
44 enforcement officer, including a game warden.

38 Sec. 10. 7 MRSA §3931-A, sub-§3, as enacted by PL 1991, c.
40 779, §29, is repealed.

42 Sec. 11. 7 MRSA §§3935 and 3938, as enacted by PL 1987, c.
44 383, §3, are amended to read:

44 **§3935. License prohibited**

46 Municipalities shall may not issue a kennel license and the
48 board--shall department may not issue a license to maintain a
50 boarding kennel, breeding kennel or pet shop to any person who,
52 within the 5 years previous to the application for the license,
has been convicted of a criminal violation under Title 17,
chapter 42, or under any criminal law involving cruelty to
animals which that is no longer in effect, or within 2 years

2 previous to the application for the license, has been adjudicated
of a civil violation for cruelty to animals under chapter 739.

4 **§3938. Violation**

6 Any person maintaining a kennel, boarding kennel, breeding
7 kennel or pet shop without having obtained a license, or after
8 any license has been revoked or suspended, commits a civil
10 violation for which a forfeiture of not less than \$50 nor more
than \$200 a day may be adjudged.

12 **Sec. 12. 7 MRSA §3947**, as amended by PL 1991, c. 779, §39, is
14 further amended by adding after the first paragraph a new
paragraph to read:

16 A municipality may not appoint a person who has been
18 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.

20 **Sec. 13. 7 MRSA 3962, sub-§§2 to 4**, as enacted by PL 1987, c.
22 383, §3, are amended to read:

24 **2. Investigation.** The municipal officers shall investigate
26 the complaint upon its receipt. If, after viewing the evidence,
the municipal officers are satisfied that the damage was
28 committed by a dog within the limits of their municipality, they
shall ~~estimate the actual value of the~~ determine the number of
30 animals killed or injured according to the purposes for which
~~they were kept, whether for breeding or other purposes, together~~
~~with the damage to any other animals bitten, torn, chased or~~
32 exhausted.

34 **3. Reports.** The municipal officers shall then make reports
36 to the board, on ~~board-approved~~ department-approved forms, within
15 days of the date of investigation.

38 All reports shall must have plainly printed on them a full
40 description of all evidence seen by the investigator and
information on the number of animals properly enclosed, ~~with the~~
~~estimated value and number of each~~ the purpose for which each
42 animal was kept, their ages, average live weight and any other
information that will assist in making a fair adjustment.

44 All reports shall must be signed by a majority of the municipal
46 officers or, where appropriate, by the city or town manager and
by the investigator, all of whom shall identify their respective
48 offices. The signature of the investigator shall ~~be construed is~~
deemed to mean that he the investigator saw the evidence legally
50 establishing the State's liability.

2 The reports shall must be made in triplicate. The original and
4 duplicate copies, along with the claimant's bill and proof of
6 animal registration, where when applicable, shall must be mailed
8 to the beard department and the triplicate copy retained by the
10 municipal clerk.

12 **4. Department action.** The beard department shall approve
14 the bill report or, in its discretion, shall investigate and
16 ~~adjust-the-claim~~ approve, amend and approve, or deny the report.

18 ~~Payment-by-the-beard-for-grade-cattle-and-horses--registered~~
20 ~~cattle-and-horses--grade-sheep--goats-and-swine-and-registered~~
22 ~~sheep--goats-and-swine-shall-be-the-slaughter-market-value-of-the~~
24 ~~animal-on-the-date-of-injury-or-death.~~

26 When a report is approved, the department shall pay slaughter
28 market value of the animal on the date of injury or death for
30 livestock, poultry or domestic rabbits kept for agricultural
32 purposes. When a report is approved and the animal injured or
34 killed was kept for nonagricultural purposes, the department
36 shall pay a sum not to exceed 3 times the slaughter market value
38 of the animal on the date of injury or death.

40 For the purposes of this section, "kept for agricultural
42 purposes" means kept for food or fiber production, pulling,
44 racing or breeding.

46 **Sec. 14. 7 MRSA §§3967 and 3968,** as enacted by PL 1987, c.
48 643, §5, are amended to read:

50 **§3967. Seizing of ferrets**

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

§3968. Disposition of ferrets

1. **Shelter.** A An animal control shelter to which a stray
ferret is taken, ~~as a condition of approval by the beard,~~ shall
accept the ferret for a period of 8 6 days, unless the shelter is
in quarantine or has a bona fide lack of adequate space or unless
the ferret has or is suspected of having a contagious disease.
The acceptance entitles the animal control shelter to receive
from the beard department the sum of \$2.50 a day for the period
for which food and shelter are furnished to the ferret. ~~Shelters~~
~~accepting-ferrets-from-municipalities-not-contracting-with-them~~

2 may seek assistance from the board. Shelters which are not
3 approved by the board to receive state funds shall not be
4 required to accept sick, stray, injured or abandoned ferrets. An
5 animal control shelter may refuse to accept ferrets from
6 municipalities not contracting with that shelter.

7 2. **Claims; fees.** The procedure for filing claims and
8 calculating fees shall be is as follows.

9 A. On the next business day following the date of
10 acceptance of the ferret, the animal control shelter shall
11 notify the clerk of the respective municipality of the
12 acceptance of the ferret, its description and the
13 circumstances of its finding.

14 B. A Animal control shelter which that accepts a ferret
15 under this section, within 45 days of acceptance of the
16 ferret, shall submit a claim on a board-approved
17 department-approved form to the clerk of the respective
18 municipality for fees incurred in providing food and shelter
19 and, upon verification of proper notification and holding
20 period by the clerk, the shelter shall forward the claim to
21 the board department.

22 C. If the owner claims the ferret within the 8-day 6-day
23 period, the owner may have and receive the ferret upon
24 payment of all board-approved department-approved fees, plus
25 any pickup fees that the municipality may impose.

26 3. **Ownership of ferret.** Upon expiration of the 8-day 6-day
27 period, ownership of the ferret shall is vested in the
28 animal control shelter. The animal control shelter may then:

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

31 B. Otherwise dispose of the ferret humanely in accordance
32 with Title 32, section 487217, chapter 42, subchapter IV if
33 a veterinarian determines that the ferret is not adoptable
34 due to illness. Except as provided in this section, an
35 animal control shelter must hold a ferret at least 8 days
36 before euthanasia.

37 An animal control shelter shall establish and collect fees for
38 reclaimed or adopted ferrets to offset costs of keeping a ferret
39 beyond 6 days.

40 None of the proceeds obtained from the sale, donation, adoption
41 or other disposition of the ferret shall may be deducted from the
42 fee claimed.

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

9 Sec. 15. 7 MRSA §3986 is enacted to read:

10 **§3986. Requirements for transporting in trucks**

11 In addition to Title 29, section 1752-A, a person
12 transporting an animal in a truck on a public way must comply
13 with this section.

14 1. Protection from weather. A person transporting an
15 animal in a truck must provide the animal with shade from direct
16 sun and protection from inclement weather.

17 2. Size of carrying space. An animal transported in a cage
18 or crate must have adequate space to stand and turn around. The
19 cage or crate must provide adequate ventilation. An animal
20 transported in the back of a truck but not in a cage or crate or
21 cross-tethered must be confined to a portion of the truck bed
22 that does not exceed twice the animal's body length as measured
23 from the nose to the rear legs.

24 3. Penalty. A person who violates this chapter commits a
25 civil violation punishable by a fine of not less than \$25 nor
26 more than \$250.

27 Sec. 16. 17 MRSA §1021, sub-§4, ¶A, as amended by PL 1991, c.
28 779, §47, is further amended by amending the first 2 paragraphs
29 to read:

30 A. A state humane agent, sheriff, deputy sheriff,
31 constable, police officer, animal control officer, person
32 authorized to make arrests or, in a case involving a pet
33 animal, the board may apply to the District Court, Superior
34 Court or a justice of the peace for an ex parte order for
35 authorization to take possession of any maimed, disabled,
36 diseased, dehydrated, malnourished or injured animal or any
37 animal whose owner has cruelly abandoned or cruelly treated
38 it and turn it over to the applicant or any other suitable
39 person. An applicant must submit an affidavit of a
40 veterinarian employed by the Department of Agriculture, Food
41 and Rural Resources in support of the ex parte order.

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

2
4 Sec. 17. 17 MRSA §1021, sub-§5-A is enacted to read:

6 5-A. Seizure by humane agent without court order. A humane
8 agent who has reasonable cause to believe that a violation of
10 section 1031 or 1032 has taken place or is taking place may take
12 possession of the cruelly treated animal. Upon taking possession
14 of an animal under this section, the humane agent shall present
16 the owner with a notice that:

18 A. States the reason for seizure;

20 B. Gives the name, address and phone number of a humane
22 agent to contact for information regarding the animal; and

24 C. Advises the owner of the ensuing court procedure.

26 If the owner can not be found, the humane agent shall send a copy
28 of the notice to the owner at the owner's last known address by
30 certified mail, return receipt requested. If the owner is not
32 known or can not be located, the humane agent shall contact the
34 animal control shelter or shelters used by the municipality in
36 which the animal was found. The humane agent shall provide the
38 shelter with a description of the animal, the date of seizure and
40 the name of a person to contact for more information.

42 Within 3 working days of possession of the animal, the humane
44 agent shall apply to the court for a possession order. The court
46 shall set a hearing date and that hearing date must be within 10
48 days of the date the animal was seized. The humane agent shall
50 arrange care for the animal including medical treatment, if
52 necessary, pending the hearing.

The humane agent shall notify the owner, if located, of the time
 and place of the hearing. If the owner has not been located, the
 court shall order a notice to be published at least once in a
 newspaper of general circulation in the county where the animal
 was found stating the case and circumstances and giving 48 hours'
 notice of the hearing.

It is the owner's responsibility at the hearing to show cause why
 the animal should not be seized permanently or disposed of
 humanely. If it appears at the hearing that the animal has been
 cruelly abandoned or cruelly treated by its owner, the court
 shall declare the animal forfeited and order its sale, adoption
 or donation or order the animal to be disposed of humanely if a
 veterinarian determines that the animal is diseased or disabled
 beyond recovery.

 Sec. 18. 29 MRSA §1752-A is enacted to read:

2 §1752. Restrictions on transporting animals in motor trucks

4 In addition to Title 7, chapter 733, the following
4 provisions apply to animals transported in motor trucks.

6 1. Restriction. An operator may not transport an animal in
8 the back of a motor truck on a public way unless the space in
8 which the animal is kept meets one of the following
10 specifications:

12 A. The space is completely enclosed;

14 B. The space has side and tail racks to a height of at
14 least 46 inches extending vertically from the floor;

16 C. The animal is confined in a cage or crate that is
18 secured to the body of the truck; or

20 D. The animal is cross-tethered to the vehicle in a manner
22 that prevents the animal from falling, jumping or being
24 thrown from the vehicle.

24 2. Penalty. An operator who violates this section commits
26 a traffic infraction.

26 Sec. 19. Revision clause. Wherever in the Maine Revised
28 Statutes, Title 7, chapters 721, 723, 725, 729, 731, 733, 735,
30 737 and 739 the word "board" appears or reference is made to
32 "board," that word is amended to read and mean "commissioner,"
34 and the Revisor of Statutes shall implement this revision when
36 updating, publishing or republishing the statutes.

36 **STATEMENT OF FACT**

38 This bill accomplishes the following.

40 This bill removes a contradiction in the Maine Revised
42 Statutes, Title 5, between section 1510-A, subsection 1 and
44 section 1510-B regarding claims against the State for damage done
46 by wild animals.

48 The bill removes undomesticated animals from the definition
50 of animal control.

52 The bill adds a definition for livestock.

The bill corrects an inappropriate cross-reference.

The bill allows animal control shelters to issue temporary
dog licenses.

2 The bill amends language requiring rabies immunization for
3 cats and clarifies that any cat regardless of age needs a booster
4 one year after initial vaccination.

6 The bill replaces old language regarding license and
7 recording fees with new language that more clearly states total
8 amount paid. The only substantive change is the provision for a
9 \$3 late fee. It also makes a technical change in the laws
10 concerning dog license tags and adds a requirement that an owner
11 obtain a new tag when a tag is lost and pay \$1 for that new tag.

12 The bill repeals a provision regarding licensing of dogs
13 owned by breeding kennels so that a breeding kennel may either
14 license dogs individually in accordance with Title 7, chapter 721
15 or obtain a kennel license and tags from its municipality in
16 accordance with Title 7, section 3931.

18 The bill also prohibits the department from issuing breeding
19 kennel licenses to persons with violations of animal cruelty laws.

22 The bill provides a penalty for violation of license laws by
23 breeding kennels.

24 The bill further prohibits a municipality from appointing a
25 person convicted or adjudicated of cruelty to animals as animal
26 control officer.

28 The bill amends provisions for the payment of claims for
29 damage done by dogs to livestock, poultry and domestic rabbits.
30 Municipalities are no longer required to estimate the value of
31 the injured or killed animals. Guidelines are established for
32 the department to use in payment of claims.

34 The bill amends the law regarding seizure and disposition of
35 ferrets to parallel the law regarding seizure and disposition of
36 dogs.

38 The bill adopts specifications for the safe transport of
39 animals in trucks.

42 The bill enacts provisions enabling a humane agent to seize
43 an abused animal without first obtaining a court order.

44 The revision clause instructs the Revisor of Statutes to
45 change references to "the board" in selected chapters to "the
46 commissioner." These changes are consistent with the new duties
47 and responsibilities of the board and the department as enacted
48 by Public Law 1991, chapter 779.