

# 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)

DATE: June 20, 1995

(Filing No. S- 298 )

**AGRICULTURE, CONSERVATION AND FORESTRY**

Reported by: Senator CASSIDY of Washington for the Committee.

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
117TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 497, L.D. 1356, Bill, "An Act to Clarify the Animal Welfare Laws and Euthanasia Procedures Performed by Certain Officials"

Amend the bill by striking out the title and substituting the following:

**'An Act to Clarify the Animal Welfare Laws'**

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 7 MRSA §3907, sub-§§4 and 8, as enacted by PL 1987, c. 383, §3, are amended to read:

**4. Animal control officer.** "Animal control officer" means the person appointed periodically by ~~municipal--officers~~ a municipality pursuant to chapter 725.

**8. Boarding kennel.** "Boarding kennel" means any place, building, tract of land, or abode ~~ex--vehicle~~ in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

**Sec. 2. 7 MRSA §3907, sub-§8-A,** as enacted by PL 1991, c. 779, §13, is amended to read:

**8-A. Breeding kennel.** "Breeding kennel" means a kennel operated for the purpose of breeding or buying, selling or in any way exchanging dogs for value that exchanges more than ~~12~~ 16 dogs in a 12-month period.

**COMMITTEE AMENDMENT**

2           **Sec. 3. 3 MRSA §3907, sub-§12-B** is enacted to read:

4           **12-B. Foster home.** "Foster home" means a facility that  
6 includes a physical structure or part of a physical structure and  
8 that contracts with an animal shelter to provide temporary  
10 shelter to stray, abandoned, abused or owner-surrendered animals.

12           **Sec. 4. 7 MRSA §3907, sub-§16**, as enacted by PL 1987, c. 383,  
14 §3, is amended to read:

16           **16. Keeper.** "Keeper" means a person in possession or  
18 control of a dog or other animal. A person becomes the keeper of  
20 a stray domesticated animal, other than a dog or livestock, if  
22 the person feeds that animal for at least 10 consecutive days.

24           **Sec. 5. 7 MRSA §3907, sub-§26-A** is enacted to read:

26           **26-A. Unorganized territory.** "Unorganized territory" means  
28 all areas located within the jurisdiction of the State, except  
30 areas located within organized cities and towns, and Indian  
32 reservations. "Unorganized territory" does not include  
34 plantations.

36           **Sec. 6. 7 MRSA §3909**, as amended by PL 1991, c. 779, §16, is  
38 further amended to read:

40           **§3909. Enforcement**

42           Whenever, in the judgment of the commissioner, any a person  
44 has engaged in or is about to engage in any acts or practices  
46 that constitute or will constitute a violation of this Act or any  
48 a rule, order, license, permit, approval or decision of the  
50 commissioner or a decree of court, as the case may be, the  
Attorney General, at the request of the commissioner, may  
institute proceedings before the District Court or Superior Court  
for an order enjoining those acts or practices, ~~for~~ an order  
directing compliance or a civil or criminal action or any  
appropriate combination of actions. Upon a showing by the  
commissioner that the person has engaged or is about to engage in  
any such an act or practice, the court may grant a permanent or  
temporary injunction, restraining order or other order as  
appropriate.

Whenever, in the judgment of the board, a person has engaged  
in or is about to engage in acts or practices that constitute or  
will constitute a violation of chapter 739 or Title 17, chapter  
42 as the provisions of those chapters apply to pet animals, the  
Attorney General or a district attorney, at the request of the  
board, may institute proceedings before the District Court or the

Superior Court for an order enjoining those acts or practices, for an order directing compliance or a civil or criminal action or any appropriate combination of actions. Upon a showing by the board that the person has engaged or is about to engage in any such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

**Sec. 7. 7 MRSA §3916, sub-§§2 and 3**, as enacted by PL 1991, c. 779, §26, are amended to read:

**2. Certificate.** A licensed veterinarian who vaccinates or supervises the vaccination of a cat shall issue to the owner or keeper a vaccination certificate of rabies vaccination from the State.

**3. Enforcement.** A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a cat to present proof of a certificate of rabies vaccination from the State. ~~-A certificate of vaccination issued in accordance with subsection 2 is proof of vaccination. Notwithstanding section 16, there is no penalty for a violation of this section.~~

**Sec. 8. 7 MRSA §3923-C, sub-§2**, as enacted by PL 1993, c. 657, §27, is repealed.

**Sec. 9. 7 MRSA §3923-C, sub-§§2-A and 5** are enacted to read:

**2-A. License fees.** A kennel owner shall pay a fee of \$21 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6 months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain \$1 as a recording fee and forward \$5 to the municipality's animal welfare account established pursuant to section 3945 and \$15 to the Animal Welfare Fund.

**5. Kennel inspection and quarantine.** An animal control officer must annually inspect a kennel prior to the municipality issuing a kennel license. The animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel in accordance with the sanitation and health rules established by the department for compliance with laws and rules. A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

2           **Sec. 10. 7 MRSA §3931-A, sub-§1**, as amended by PL 1993, c. 657, §30, is further amended to read:

4           **1. License necessary.** A person maintaining a breeding  
6 kennel, as defined in section 3907, shall ~~must~~ obtain a license  
8 from the department and is subject to rules adopted by the  
10 department. ~~The license expires December 31st annually or in a~~  
~~manner consistent with the license provisions of the Maine~~  
~~Administrative Procedure Act, whichever is later~~ 12 months after  
the date of issuance.

12           **Sec. 11. 7 MRSA §3936, sub-§1**, as amended by PL 1993, c. 89,  
14 §1, is further amended to read:

16           **1. Inspection and quarantine.** The commissioner, a state  
18 humane agent, a veterinarian employed by the State or a licensed  
20 veterinarian at the direction of the commissioner may, at any  
22 reasonable time, enter any an animal shelter, kennel, boarding  
24 kennel, breeding kennel or pet shop, ~~except any but not a~~  
26 building used for human habitation recognized as not subject to  
28 search warrant, and make examinations and conduct any recognized  
30 tests for the existence of any contagious or infectious diseases  
32 or conditions. The commissioner may inspect animal shelters,  
34 kennels, boarding kennels, breeding kennels and pet shops in  
36 accordance with the sanitation and health rules established by  
38 the department and for compliance with laws and rules, including  
licensing and permitting requirements, of the Department of  
Inland Fisheries and Wildlife pertaining to wildlife importation  
and possession. A veterinarian employed by the State or any  
licensed veterinarian may quarantine the animal shelter, kennel,  
boarding kennel, breeding kennel or pet shop, in person or by  
registered mail, and the quarantine must be maintained as long as  
the department determines necessary. The decision and order for  
this quarantine is not considered a licensing or an adjudicatory  
proceeding as defined by the Maine Administrative Procedure Act.  
The commissioner shall promptly notify the Department of Inland  
Fisheries and Wildlife of any violations.

40           **Sec. 12. 7 MRSA §3943, sub-§1**, as amended by PL 1991, c. 779,  
§35 and affected by §60, is further amended to read:

42           **1. Procedure.** ~~Between January 1st~~ February 1st and April  
44 30th 1st annually, the municipal officers of each municipality  
46 shall issue a warrant with the names and addresses of all owners  
48 or keepers of unlicensed dogs to one or more police officers,  
constables, sheriffs or animal control officers, directing them  
50 to send a notice of violation by certified mail, return receipt  
requested, to the ~~last-known~~ last known address of the owners or  
keepers or call on the owners or keepers. The warrant must  
further direct that demand be made on the owners or keepers to

1008

2 obtain a license from the municipal clerk within 7 days from the  
date of demand and remit to the clerk the license and recording  
4 fees plus a late fee of \$10 \$3 for each dog that is licensed. If  
the license and recording fees are remitted after the 7-day  
6 period, the owners or keepers must remit a late fee of \$10 for  
each dog that is licensed. Finally, the warrant must direct the  
8 police officer, constable, sheriff or animal control officer to  
enter summons and complaint as soon as possible for all owners or  
keepers so notified who fail to comply with the order.

10  
12 **Sec. 13. 7 MRSA §3943, sub-§3, ¶A,** as amended by PL 1991, c.  
779, §36 and affected by §60, is further amended to read:

14 A. The municipal clerk shall deposit the \$10 late fee fees  
collected from all dog owners and keepers in a separate  
16 account pursuant to section 3945.

18 **Sec. 14. 7 MRSA §3945,** as amended by PL 1993, c. 657, §39, is  
further amended to read:

20  
22 **§3945. Use of license fees and court fines retained by  
municipalities**

24 All fees and court fines retained by municipalities must be  
kept in a separate account and must be used for the salaries and  
26 costs of animal control, enforcement of licensing laws, care of  
injured-and-abandoned stray animals that are injured or abandoned  
28 and the support of one or more approved animal shelters. Any  
money not expended for these purposes in a municipality's fiscal  
30 year does not lapse, but must be carried over to the next fiscal  
year.

32  
34 **Sec. 15. 7 MRSA §3946,** as amended by PL 1991, c. 779, §38, is  
further amended to read:

36 **§3946. Dog recorders in unorganized territories**

38 Dog recorders appointed by the commissioner in unorganized  
territories shall issue dog licenses, receive the license fees  
40 and pay them to the department. The recorders shall keep a list  
the clerk's copy of all licenses issued by them as of January 1st  
42 ~~of each year, with the names of the owners or keepers of dogs~~  
~~licensed and setting forth the sex, registered numbers and~~  
44 ~~description of all dogs, except those covered by a kennel~~  
~~license, opposite the names of their respective owners or keepers~~  
46 and make reports to the department on a form approved by the  
department of all licenses issued and fees received. The  
48 recorders shall report following each month in which licenses are  
actually issued and fees are actually collected.

50

148

COMMITTEE AMENDMENT "A" to S.P. 497, L.D. 1356

2 ~~A--return-of-the-list-must-be-made-to-the-department-on-a~~  
~~department-approved-form-on-or-before-June-1st-of-each-year.~~

4 **Sec. 16. 7 MRSA §3947**, as amended by PL 1993, c. 468, §15, is  
6 further amended by adding at the end a new paragraph to read:

8 Upon appointment of an animal control officer, municipal  
clerks shall notify the commissioner of the name, address and  
10 telephone number of the animal control officer.

12 **Sec. 17. 7 MRSA §3948, sub-§2**, as enacted by PL 1987, c. 383,  
§3, is amended to read:

14 **2. Medical attention.** Law enforcement officers, humane  
agents and animal control officers shall take ~~abandoned animals a~~  
16 stray animal to its owner, if known, or, if the owner is unknown,  
to a shelter and ensure that any injured animal ~~which that~~ is at  
18 large or in a public way is given proper medical attention.

20 **Sec. 18. 7 MRSA §3950-A, first ¶**, as enacted by PL 1987, c.  
22 383, §3, is amended to read:

24 Any mayor, ~~selectman~~ municipal officer, clerk, town or city  
manager, administrative assistant to the mayor, town or city  
26 councilor, dog recorder of unorganized territories, constable,  
police officer, sheriff or animal control officer who refuses or  
intentionally fails to perform the duties imposed by chapters  
28 719, 720, 721, 723 and 729 and by this chapter commits a civil  
violation for which a forfeiture of not less than \$10 nor more  
30 than \$50 and costs may be adjudged.

32 **Sec. 19. 7 MRSA §3966, sub-§2**, as enacted by PL 1987, c. 643,  
§5, is amended to read:

34 **2. Transfer of ownership.** Any A licensed kennel, pet shop,  
36 shelter or veterinarian ~~which that~~ transfers ownership of a  
ferret shall provide notification in writing ~~as-to-the-following~~  
38 that ferrets have been known to attack humans, particularly  
children, for no reason and without warning.

40 ~~A.--Ferrets-have-been-known-to-attack-humans,-partieularly~~  
42 ~~children,-for-no-reason-and-without-warning.~~

44 ~~B.--There-is-no-proven-vaccine-for-rabies-in-ferrets-nor-is~~  
~~there--an--accepted--procedure--for--judging--a--rabid--ferret~~  
46 ~~without--sacrificing--the--ferret,---A--ferret--which--bites--a~~  
~~person--may--be--immediately--seized--and--put--to--death--by--the~~  
48 ~~State-in-order-to-obtain-necessary-test-samples.~~

**COMMITTEE AMENDMENT**

Sec. 20. 7 MRSA §4011, sub-§1, as enacted by PL 1987, c. 383, §3, is repealed and the following enacted in its place:

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. If that person is a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that causes undue suffering. The commissioner shall adopt rules that define "undue suffering";

D. Injures, overworks, tortures, torments, abandons or cruelly beats or mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter.

Sec. 21. 7 MRSA 4011, sub-§1-A is enacted to read:

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.



1008

COMMITTEE AMENDMENT "A" to S.P. 497, L.D. 1356

2 B. A person who owns a cat or dog, or the owner's agent,  
3 may kill that owner's cat or dog by shooting with a firearm  
4 provided the following conditions are met.

5 (1) The shooting is performed by a person 18 years of  
6 age or older using a weapon and ammunition of suitable  
7 caliber and other characteristics to produce  
8 instantaneous death by a single shot.

9 (2) Death is instantaneous.

10 (3) Maximum precaution is taken to protect the general  
11 public, employees and other animals.

12 (4) Any restraint of the cat or dog during the  
13 shooting does not cause undue suffering to the cat or  
14 dog.

15 **Sec. 22. 17 MRSA §1011, sub-§16,** as enacted by PL 1987, c.  
16 383, §4, is amended to read:

17 **16. Keeper.** "Keeper" means a person in possession or  
18 control of a dog or other animal. A person becomes the keeper of  
19 a stray domesticated animal, other than a dog or livestock, if  
20 the person feeds that animal for at least 10 consecutive days.

21 **Sec. 23. 17 MRSA §1021, sub-§5,** as amended by PL 1991, c. 779,  
22 §48, is further amended to read:

23 **5. Seizure for observation and examination.** Seizure of  
24 animals for observation and examination shall-be is as follows.

25 A. Whenever a humane agent, a state veterinarian or a  
26 person authorized to make arrests, or, in a case involving a  
27 pet animal, the board, has reason to believe that an animal  
28 may be disabled, diseased, dehydrated or malnourished, the  
29 board, humane agent, state veterinarian or person shall  
30 apply to the District Court or Superior Court for  
31 authorization to take possession of the animal and turn it  
32 over to the applicant or other suitable person for  
33 examination and observation for a 30-day period. At the end  
34 of 30 days, the court must receive a report from the person  
35 in possession of the animal and either dissolve the  
36 possession order or set the matter for hearing within 30  
37 days.

38 B. If the owner is known, he--shall the owner must be  
39 advised of the time and place of hearing and asked to show  
40 cause why the animal should not be seized permanently or  
41 disposed of humanely.

2 C. If the court finds at the hearing that the animal is  
4 disabled, diseased, dehydrated or malnourished, the court  
shall:

6 (1) Declare the animal forfeited and order its sale,  
adoption or donation; or

8 (2) Order the animal to be disposed of humanely if,  
10 given reasonable time and care, the animal's recovery  
is doubtful.

12 **Sec. 24. 17 MRSA §1021, sub-§5-A**, as amended by PL 1993, c.  
14 657, §46, is further amended to read:

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

24 A. States the reason for seizure;

26 B. Gives the name, address and phone number of ~~the~~ the  
humane agent or the state veterinarian to contact for  
28 information regarding the animal; and

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

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

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

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

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

16 **Sec. 25. 17 MRSA §1031, sub-§1**, as enacted by PL 1987, c. 383,  
18 §4, is repealed and the following enacted in its place:

20 1. Cruelty to animals. Except as provided in subsection  
22 1-A, a person, including an owner or the owner's agent, is guilty  
of cruelty to animals if that person:

24 A. Kills or attempts to kill any animal belonging to  
26 another person without the consent of the owner or without  
legal privilege;

28 B. Except for a licensed veterinarian or a person certified  
30 under section 1042, kills or attempts to kill an animal by a  
method that does not cause instantaneous death;

32 C. If that person is a licensed veterinarian or a person  
34 certified under section 1042, kills or attempts to kill an  
animal by a method that causes undue suffering. The  
commissioner shall adopt rules that define "undue suffering";

36 D. Injures, overworks, tortures, torments, abandons or  
38 cruelly beats or mutilates an animal; gives drugs to an  
animal with an intent to harm the animal; gives poison or  
40 alcohol to an animal; or exposes a poison with intent that  
42 it be taken by an animal. The owner or occupant of property  
is privileged to use reasonable force to eject a trespassing  
animal;

44 E. Deprives an animal that the person owns or possesses of  
46 necessary sustenance, necessary medical attention, proper  
shelter, protection from the weather or humanely clean  
48 conditions; or

R.N.G.

2 F. Keeps or leaves a domestic animal on an uninhabited or  
4 barren island lying off the coast of the State during the  
month of December, January, February or March without  
providing necessary sustenance and proper shelter.

6 **Sec. 26. 17 MRSA §1031, sub-§1-A** is enacted to read:

8 1-A. Animal cruelty. Except as provided in paragraphs A  
10 and B, a person is guilty of cruelty to animals if that person  
kills or attempts to kill a cat or dog.

12 A. A licensed veterinarian or a person certified under  
14 section 1042 may kill a cat or dog according to the methods  
of euthanasia under chapter 42, subchapter IV.

16 B. A person who owns a cat or dog, or the owner's agent,  
18 may kill that owner's cat or dog by shooting with a firearm  
provided the following conditions are met.

20 (1) The shooting is performed by a person 18 years of  
22 age or older using a weapon and ammunition of suitable  
24 caliber and other characteristics to produce  
instantaneous death by a single shot.

26 (2) Death is instantaneous.

28 (3) Maximum precaution is taken to protect the general  
public, employees and other animals.

30 (4) Any restraint of the cat or dog during the  
32 shooting does not cause undue suffering.

34 **Sec. 27. 17 MRSA §§1041 and 1042**, as enacted by PL 1987, c.  
383, §4, are amended to read:

36 **§1041. Euthanasia by prescribed methods**

38 No A cat or dog may not be destroyed by any method, agent or  
40 device except as described in this subchapter, subchapter III and  
Title 7, chapter 739.

42 **§1042. Euthanasia performed by licensed veterinarian or certified**  
44 **person**

46 The mandatory method of euthanasia of cats and dogs shall  
when conducted by a licensed veterinarian or a person certified  
48 under subsection 3 must be the administration of a barbiturate  
overdose. The mandatory method of euthanasia shall must be  
50 implemented according to the following methods and under the  
following conditions.



R. 018

COMMITTEE AMENDMENT "A" to S.P. 497, L.D. 1356

2 The Judicial Department may incur some minor additional  
indigent defense costs related to these cases where the class of  
4 crime is increased. These additional costs can be absorbed  
within the Judicial Department's existing budgeted resources.  
6 The collection of additional fines may also increase General Fund  
revenue by minor amounts.

8  
The changes in the kennel license fee structure will result  
10 in insignificant increases of dedicated revenue to the Department  
of Agriculture, Food and Rural Resources.

12  
The Department of Agriculture, Food and Rural Resources will  
14 incur some minor additional costs to adopt certain rules. These  
costs can be absorbed within the department's existing budgeted  
16 resources.

18 The Animal Welfare Fund within the Department of  
Agriculture, Food and Rural Resources has adequate resources to  
20 accomplish the transfer of \$10,000 to the spaying and neutering  
fund within the department. No adjustments of allocations are  
22 necessary.'

24  
**STATEMENT OF FACT**

26  
The amendment replaces the bill. It makes a variety of  
28 changes and additions to the animal welfare laws, including  
provisions concerning cruelty to animals, the permissible method  
30 of shooting cats and dogs by owners, euthanasia of cats and dogs  
by veterinarians and people certified to administer euthanasia,  
32 license fee and late fee adjustments, kennels and duties of  
municipal officials. The amendment also adds a fiscal note to  
34 the bill.

**COMMITTEE AMENDMENT**