

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1356

S.P. 497

Received by the Secretary, April 13, 1995

**An Act to Clarify the Animal Welfare Laws and Euthanasia Procedures
Performed by Certain Officials.**

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.

Referred to the Committee on Agriculture, Conservation and Forestry and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator CASSIDY of Washington.
Cosponsored by Representative KILKELLY of Wiscasset.

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

4 **Sec. 1. 7 MRSA §3907, sub-§1-A**, as amended by PL 1993, c. 657,
5 §1, is further amended to read:

6 **1-A. Abandoned animal.** "Abandoned ~~dog~~ animal" means a ~~dog~~
7 an animal that has been deserted by its owner or keeper.

8
9 **Sec. 2. 7 MRSA §3907, sub-§§4 and 8**, as enacted by PL 1987, c.
10 383, §3, are amended to read:

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

14
15 **8. Boarding kennel.** "Boarding kennel" means any place,
16 building, tract of land, or abode ~~or--vehicle~~ in or on which
17 privately owned dogs or other pets, or both, are kept for their
18 owners in return for a fee.

19
20 **Sec. 3. 7 MRSA §3907, sub-§8-A**, as enacted by PL 1991, c. 779,
21 §13, is amended to read:

22
23 **8-A. Breeding kennel.** "Breeding kennel" means a kennel
24 operated for the purpose of breeding or buying, selling or in any
25 way exchanging dogs for value that exchanges more than ~~12~~ 20 dogs
26 in a 12-month period.

27
28 **Sec. 4. 7 MRSA §3907, sub-§12-B** is enacted to read:

29
30 **12-B. Foster home.** "Foster home" means a facility that
31 includes a physical structure or part of a physical structure and
32 that contracts with an animal shelter to provide temporary
33 shelter to stray, abandoned, abused or owner-surrendered animals.

34
35 **Sec. 5. 7 MRSA §3907, sub-§16**, as enacted by PL 1987, c. 383,
36 §3, is amended to read:

37
38 **16. Keeper.** "Keeper" means a person in possession or
39 control of a dog or other animal. A person becomes the keeper of
40 a stray domesticated animal, other than a dog or livestock, if
41 the person feeds that animal for at least 10 days.

42
43 **Sec. 6. 7 MRSA §3907, sub-§26-A** is enacted to read;

44
45 **26-A. Unorganized territory.** "Unorganized territory" means
46 a plantation, township or territory with no organized government.

47
48 **Sec. 7. 7 MRSA §3909**, as amended by PL 1991, c. 779, §16, is
49 further amended to read:
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2
3 **§3909. Enforcement**

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

18 Whenever, in the judgment of the board, a person has engaged
19 in or is about to engage in acts or practices that constitute or
20 will constitute a violation of chapter 739 or Title 17, chapter
21 42 as the provisions of those chapters apply to pet animals, the
22 Attorney General or a district attorney, at the request of the
23 board, may institute proceedings before the District Court or the
24 Superior Court for an order enjoining those acts or practices,
25 ~~for~~ an order directing compliance or a civil or criminal action
26 or any appropriate combination of actions. Upon a showing by the
27 board that the person has engaged or is about to engage in ~~any~~
28 such an act or practice, the court may grant a permanent or
29 temporary injunction, restraining order or other order as
30 appropriate.

32 **Sec. 8. 7 MRSA §3913, sub-§2-A**, as amended by PL 1993, c. 657,
33 §15, is further amended to read:

34 **2-A. Animal shelter.** An animal shelter, as defined in
35 section 3907, to which a stray dog is taken, shall accept the dog
36 for a period of 6 days, unless the shelter is in quarantine or
37 has a bona fide lack of adequate space. The acceptance entitles
38 the animal shelter to receive from the department the sum of
39 \$2.50 a day for the period for which food and shelter are
40 furnished to the dog. ~~An animal shelter may refuse to accept
41 dogs from municipalities not contracting with that shelter.~~

44 **Sec. 9. 7 MRSA §3916, sub-§§2 and 3**, as enacted by PL 1991, c.
45 779, §26, are amended to read:

46 **2. Certificate.** A licensed veterinarian who vaccinates or
47 supervises the vaccination of a cat shall issue to the owner or
48 keeper a vaccination certificate of rabies vaccination from the
49 State.
50

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. 10. 7 MRSA §3918 is enacted to read:

§3918. Violation

A person who violates this chapter commits a civil violation
for which a forfeiture of not less than \$25 nor more than \$100
may be adjudged.

Sec. 11. 7 MRSA §3923-A, sub-§4, as amended by PL 1993, c.
657, §24, is repealed.

Sec. 12. 7 MRSA §3923-C, sub-§2, as enacted by PL 1993, c.
657, §27, is repealed.

Sec. 13. 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 for dogs 6 months of age
or older kept by the owner and each license may not exceed 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. The animal control officer shall
practice the minimum sanitary precautions when entering each
kennel.

Sec. 14. 7 MRSA §3923-F is enacted to read:

§3923-F. Late fees

1 1. Three-dollar late fee. An owner or keeper required to
2 license a dog under this chapter and applying for a license for
3 that dog after January 31st must pay to the municipal clerk or
4 dog recorder a late fee of \$3 in addition to the annual license
5 fee.

6
7 2. Ten-dollar late fee. An owner or keeper required to
8 license a dog under this chapter and applying for a license for
9 that dog after April 30th must pay the municipal clerk or dog
10 recorder a late fee of \$10 in addition to the annual license fee.

11 3. Use of late fees retained by municipalities. The clerk
12 or dog recorder shall deposit all late fees collected under this
13 section into the municipality's animal welfare account
14 established in accordance with section 3945.

15
16 **Sec. 15. 7 MRSA §3931-A, sub-§1,** as amended by PL 1993, c.
17 657, §30, is further amended to read:

18
19 **1. License necessary.** A person maintaining a breeding
20 kennel, as defined in section 3907, ~~shall~~ must obtain a license
21 from the department and is subject to rules adopted by the
22 department. The license expires ~~December 31st annually or in a~~
23 ~~manner consistent with the license provisions of the Maine~~
24 ~~Administrative Procedure Act, whichever is later~~ 12 months after
25 the date of issuance.

26
27 **Sec. 16. 7 MRSA §3936, sub-§1,** as amended by PL 1993, c. 89,
28 §1, is further amended to read:

29
30 **1. Inspection and quarantine.** The commissioner, a state
31 humane agent, a veterinarian employed by the State or a licensed
32 veterinarian at the direction of the commissioner may, at any
33 reasonable time, enter ~~any~~ an animal shelter, kennel, boarding
34 kennel, breeding kennel or pet shop, ~~except any~~ but not a
35 building used for human habitation recognized as not subject to
36 search warrant, and make examinations and conduct any recognized
37 tests for the existence of any contagious or infectious diseases
38 or conditions. The commissioner may inspect kennels, boarding
39 kennels, breeding kennels and pet shops in accordance with the
40 sanitation and health rules established by the department and for
41 compliance with laws and rules, including licensing and
42 permitting requirements, of the Department of Inland Fisheries
43 and Wildlife pertaining to wildlife importation and possession.
44 A veterinarian employed by the State or any licensed veterinarian
45 may quarantine the animal shelter, kennel, boarding kennel,
46 breeding kennel or pet shop, in person or by registered mail, and
47 the quarantine must be maintained as long as the department
48 determines necessary. The decision and order for this quarantine
49 is not considered a licensing or an adjudicatory proceeding as
50 defined by the Maine Administrative Procedure Act. The

2 commissioner shall promptly notify the Department of Inland
3 Fisheries and Wildlife of any violations.

4 **Sec. 17. 7 MRSA §3943, sub-§1**, as amended by PL 1991, c. 779,
5 §35 and affected by §60, is further amended to read:

6 **1. Procedure.** ~~Between January 1st and April 30th~~ By May
7 1st annually, the municipal officers of each municipality shall
8 issue a warrant with the names and addresses of all owners or
9 keepers of unlicensed dogs to one or more police officers,
10 constables, sheriffs or animal control officers, directing them
11 to send a notice of violation by certified mail, return receipt
12 requested, to the ~~last-known~~ last known address of the owners or
13 keepers or call on the owners or keepers. The warrant must
14 further direct that demand be made on the owners or keepers to
15 obtain a license from the municipal clerk within 7 10 days from
16 the date of demand and remit to the clerk the license and
17 recording fees plus a late fee of \$10. Finally, the warrant must
18 direct the police officer, constable, sheriff or animal control
19 officer to enter summons and complaint as soon as possible for
20 all owners or keepers so notified who fail to comply with the
21 order.

22 **Sec. 18. 7 MRSA §3943, sub-§3, ¶A**, as amended by PL 1991, c.
23 779, §36 and affected by §60, is repealed.

24 **Sec. 19. 7 MRSA §3944**, as amended by PL 1993, c. 657, §38, is
25 further amended to read:

26 **§3944. Issuance of kennel licenses**

27 Municipal clerks and dog recorders shall issue kennel
28 licenses to kennel owners or operators in accordance with
29 ~~sections~~ section 3923-C and-3935.

30 **Sec. 20. 7 MRSA §3945**, as amended by PL 1993, c. 657, §39, is
31 further amended to read:

32 **§3945. Use of license fees and court fines retained by**
33 **municipalities**

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

42 **Sec. 21. 7 MRSA §3946**, as amended by PL 1991, c. 779, §38, is
43 further amended to read:

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§3946. Dog recorders in unorganized territories

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees 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 of each year, with the names of the owners or keepers of dogs licensed and setting forth the sex, registered numbers and description of all dogs, except those covered by a kennel license, opposite the names of their respective owners or keepers~~ and make a monthly report to the department on a form approved by the department of all licenses issued and fees received.

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

Sec. 22. 7 MRSA §3948, sub-§2, as enacted by PL 1987, c. 383, §3, is amended to read:

2. Medical attention. Law enforcement officers, humane agents and animal control officers shall take abandoned stray animals to a an animal shelter designated pursuant to section 3949 and ensure that any injured animal ~~which~~ that is at large or in a public way is given proper medical attention.

Sec. 23. 7 MRSA §3949, as amended by PL 1993, c. 657, §40, is further amended to read:

§3949. Animal shelter and control officer designation; notification

Municipal clerks, annually, on or before January 1st, shall certify to the commissioner the name and location of the animal shelter with which the municipality has entered into a contract or has an arrangement for the shelter to accept stray animals ~~or have an arrangement for a shelter that will accept stray animals~~. Animal shelters designated by the municipality under this section ~~must~~ shall comply with the rules of the commissioner ~~rules~~.

Municipal clerks, annually, on or before January 1st, shall certify to the commissioner the name, address and telephone number of the appointed animal control officer in accordance with section 3947.

Sec. 24. 7 MRSA §3950-A, as enacted by PL 1993, c. 468, §25, is amended to read:

§3950-A. Official refusal or neglect of duty

Any mayor, ~~selectman~~ municipal officer, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable,

2 police officer, sheriff or animal control officer who refuses or
intentionally fails to perform the duties imposed by chapters
719, 720, 721, 723 and 729 and by this chapter commits a civil
4 violation for which a forfeiture of not less than ~~\$10~~ \$50 nor
more than ~~\$50~~ \$250 and costs may be adjudged.

6
8 The board department, at its own instance or upon written
complaint made to it by any person, shall investigate any an
alleged refusal or neglect of duty by any a municipal officer.

10
12 The board department shall direct proceedings, actions and
prosecutions to be instituted to enforce all laws relating to
animals and to the liability of municipal officers and their
14 agents for failure, neglect or refusal to comply with the laws
relating to animals.

16
18 The Attorney General and district attorneys, upon the
board's department's written request, shall institute such legal
proceedings as may be necessary to carry out this section.

20
22 **Sec. 25. 7 MRSA §3966, sub-§2**, as enacted by PL 1987, c. 643,
§5, is amended to read:

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

30 ~~A.--Ferrets have been known to attack humans, particularly~~
~~children, for no reason and without warning.~~

32
34 ~~B.--There is no proven vaccine for rabies in ferrets nor is~~
~~there an accepted procedure for judging a rabid ferret~~
~~without sacrificing the ferret. A ferret which bites a~~
36 ~~person may be immediately seized and put to death by the~~
~~State in order to obtain necessary test samples.~~

38
40 **Sec. 26. 17 MRSA §1021, sub-§5**, as amended by PL 1991, c. 779,
§48, is further amended to read:

42 **5. Seizure for observation and examination.** Seizure of
animals for observation and examination shall ~~be~~ is as follows.

44
46 A. Whenever a humane agent, a state veterinarian or a
person authorized to make arrests, or, in a case involving a
48 pet animal, the board, has reason to believe that an animal
may be disabled, diseased, dehydrated or malnourished, the
board, humane agent, state veterinarian or person shall
50 apply to the District Court or Superior Court for
authorization to take possession of the animal and turn it
52 over to the applicant or other suitable person for

2 examination and observation for a 30-day period. At the end
of 30 days, the court must receive a report from the person
4 in possession of the animal and either dissolve the
possession order or set the matter for hearing within 30
6 days.

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

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

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

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

22 **Sec. 27. 17 MRSA §1021, sub-§5-A**, as amended by PL 1993, c.
24 657, §46, is further amended to read:

26 **5-A. Seizure by state humane agent or state veterinarian**
without court order. A state humane agent or a state
28 veterinarian who has reasonable cause to believe that a violation
of section 1031 or 1032 has taken place or is taking place may
30 take possession of the cruelly treated animal. Upon taking
possession of an animal under this section, the humane agent or
32 the state veterinarian shall present the owner with a notice that:

34 A. States the reason for seizure;

36 B. Gives the name, address and phone number of a humane
agent or a state veterinarian to contact for information
38 regarding the animal; and

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

42 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
44 owner's last known address by certified mail, return receipt
requested. If the owner is not known or can not be located, the
46 humane agent or the state veterinarian shall contact the animal
shelter or shelters used by the municipality in which the animal
48 was found. The humane agent or the state veterinarian shall
provide the shelter with a description of the animal, the date of
50 seizure and the name of a person to contact for more information.

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

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

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

24 **Sec. 28. 17 MRSA c. 42, sub-c. IV** is amended by repealing the
26 subchapter headnote and enacting the following in its place:

28 **SUBCHAPTER IV**

30 **EUTHANASIA OF CATS OR DOGS BY ANIMAL CONTROL OFFICERS,**
32 **VETERINARIANS, PET SHOPS, ANIMAL SHELTERS, KENNELS**
AND BOARDING AND BREEDING KENNELS

34 **Sec. 29. 17 MRSA §1042**, as enacted by PL 1987, c. 383, §4,
is amended to read:

36 **§1042. Mandatory method**

38 The mandatory method of euthanasia of cats and dogs or
40 other domesticated animals when conducted by a state-certified
shelter staff, animal control officer or law enforcement officer
42 acting in the capacity of an animal control officer shall ~~shall~~ must be
the administration of a barbiturate overdose. The mandatory
44 method of euthanasia shall must be implemented according to the
following methods and under the following conditions.

46 **1. Intravenous, intraperitoneal, intrathoracic or**
48 **intracardial injection.** Intravenous, intraperitoneal,
intrathoracic or intracardial injection of a lethal solution may
50 be used.

