

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1362

H.P. 982

House of Representatives, March 4, 1997

An Act to Improve the Administration of Animal Welfare Law.

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SPEAR of Nobleboro.
Cosponsored by Senator NUTTING of Androscoggin and
Representatives: CROSS of Dover-Foxcroft, DEXTER of Kingfield, FISK of Falmouth,
PINKHAM of Lamoine.

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

2
4 **Sec. 1. 7 MRSA §3906-B, sub-§§1 and 2**, as enacted by PL 1991,
c. 779, §9, are amended to read:

6 **1. Dog licensing laws.** The commissioner shall carry out
the dog licensing laws and furnish to municipalities all license
8 blanks, stickers and tags.

10 **2. Animal Welfare Fund.** The commissioner shall deposit all
license fees received pursuant to chapters 719, 721, 723, 725
12 and 743 735 in a separate account established by the Treasurer of
State and known as the Animal Welfare Fund. This account does
14 not lapse, but continues from year to year. The commissioner
shall pay from the Animal Welfare Fund the expense of furnishing
16 blanks, stickers and tags, travel expenses and salaries for
necessary personnel, payments to animal shelters and expenses
18 incurred in the administration of this Part.

20 **Sec. 2. 7 MRSA §3906-B, sub-§4**, as amended by PL 1993, c. 468,
§2, is further amended to read:

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

34 **Sec. 3. 7 MRSA §3906-B, sub-§6**, as enacted by PL 1991, c.779,
36 §9, is amended to read:

38 **6. Inspections.** The commissioner shall inspect licensed
facilities as provided in chapters 719, 723 and 743 735.

40 **Sec. 4. 7 MRSA §3907, sub-§8**, as amended by PL 1995, c. 490,
42 §1, is further amended to read:

44 **8. Boarding kennel.** "Boarding kennel" means any place,
building, tract of land or abode in or on which 3 or more
46 privately owned dogs or other pets, or both, are kept for their
owners in return for a fee.

48 **Sec. 5. 7 MRSA §3907, sub-§8-A**, as amended by PL 1995, c. 490,
50 §2, is further amended to read:

2 **8-A. Breeding kennel.** "Breeding kennel" means a kennel
operated for the purpose of breeding or buying, selling or in any
4 way exchanging dogs or cats for value that exchanges more than 16
dogs or 16 cats in a 12-month period.

6 **Sec. 6. 7 MRSA §3907, sub-§12-C** is enacted to read:

8 **12-C. Dog.** "Dog" means a member of the genus and species
known as canis familiaris.

10 **Sec. 7. 7 MRSA §3907, sub-§18-A**, as enacted by PL 1993, c.
12 468, §5, is amended to read:

14 **18-A. Livestock.** "Livestock" means domesticated cattle,
horses, sheep, goats, donkeys, swine, deer, fowl, rabbits or
16 other domesticated animals ~~if the animals are kept and used by a~~
~~commercial farmer.~~

18 **Sec. 8. 7 MRSA §3907, sub-§20**, as enacted by PL 1987, c. 383,
20 §3, is amended to read:

22 **20. Mutilate.** "~~Mutilate~~" ~~includes, but is not limited to,~~
~~cutting the bone, muscles or tendons of the tail of a horse for~~
24 ~~the purpose of docking or setting up the tail and cropping or~~
~~cutting off the ear of a dog in whole or in part~~ means to
26 maliciously injure or disfigure by irreparably damaging body
parts.

28 **Sec. 9. 7 MRSA §3907, sub-§22-A**, as amended by PL 1993, c.
30 657, §7, is repealed.

32 **Sec. 10. 7 MRSA §3907, sub-§22-B**, as enacted by PL 1995, c.
34 351, §1, is amended to read:

36 **22-B. Pet.** "Pet" means a dog, cat or other domesticated
animal commonly kept ~~in a household~~ by an individual as a
companion, but does not include tamed animals that are ordinarily
38 considered wild animals or livestock.

40 **Sec. 11. 7 MRSA §3907, sub-§25-B**, is enacted to read:

42 **25-B. Trespass.** "Trespass" means the entrance or presence
of a livestock animal on the property of a person other than the
44 animal's owner or keeper without the permission of the property
owner.

46 **Sec. 12. 7 MRSA §3907, sub-§26-A**, as enacted by PL 1995, c.
48 490, §5, is amended to read:

50 **26-A. Unorganized territory.** "Unorganized territory" means
all areas located within the jurisdiction of the State, except
52 areas located within organized cities and towns, and Indian

2 reservations. "Unorganized territory" ~~does not include~~ includes
3 plantations.

4 **Sec. 13. 7 MRSA §3907, sub-§30**, as enacted by PL 1995, c. 409,
5 §2, is amended to read:

6 **30. Wolf hybrid.** "Wolf hybrid" means any canine,
7 regardless of generation, that has resulted from the
8 interbreeding of a dog and a wolf or a dog and any other wild
9 canine.

10
11 **Sec. 14. 7 MRSA §3908**, as enacted by PL 1987, c. 383, §3, is
12 repealed.

13 **Sec. 15. 7 MRSA §3909**, as amended by PL 1995, c. 490, §6, is
14 repealed and the following enacted in its place:

15 **§3909. Enforcement**

16 **1. Attorney General and District Attorneys.** Whenever a
17 person has engaged in or is about to engage in an act or practice
18 that constitutes a violation of this Act, a rule adopted pursuant
19 to this Act or a condition of an order, license or permit
20 approved or decision issued by the commissioner pursuant to this
21 Act, or that constitutes a violation of chapter 739 or Title 17,
22 chapter 42, the Attorney General or a District Attorney, at the
23 request of the commissioner, may institute proceedings before the
24 District Court or Superior Court for an order enjoining those
25 acts or practices, an order directing compliance or imposing a
26 civil or criminal penalty, or any combination of these actions,
27 as provided by law. Upon a showing by the commissioner that the
28 person has engaged or is about to engage in such an act or
29 practice, the court may grant a permanent or temporary
30 injunction, restraining order or other order as appropriate.

31 **2. Designated employees of the department.** For purposes of
32 prosecution under this section, the commissioner may authorize
33 humane agents and a state veterinarian to serve civil process
34 pursuant to the Maine Rules of Civil Procedure, Rule 80H and any
35 other applicable rules of court. The commissioner may authorize
36 humane agents or a state veterinarian to represent the department
37 in District Court in the prosecution of civil violations of these
38 laws. Certification of the humane agents and a state
39 veterinarian for this purpose is as provided under Title 30-A,
40 section 4221, subsection 2. Once certified, prosecution by the
41 humane agent or a state veterinarian may seek civil penalties as
42 provided by law as well as a permanent or temporary injunction,
43 restraining order or other equitable relief as the court finds
44 appropriate.

45
46 **Sec. 16. 7 MRSA §3912**, as amended by PL 1993, c. 657, §12, is
47 further amended to read:

2 **§3912. Disposition of dogs at large**

4 An animal control officer or person acting in that capacity
6 shall seize, impound or restrain a dog found in violation of
8 section 3911 and deliver it to an animal shelter as provided for
10 in section 3913, subsection 2-A, or ~~shall~~ may take the dog to its
owner, if known. If ownership can not be established, such
animals may be handled as stray animals for the purposes of
acceptance by an approved animal shelter.

12 **Sec. 17. 7 MRSA §3913**, as amended by PL 1995, c. 268, §1, is
14 further amended to read:

16 **§3913. Procedure for stray dogs**

18 ~~1. **Persons finding stray dogs.** A person finding a stray
20 dog and taking control of that dog shall take that dog to its
owner if known or, if the owner is not known, to the animal
shelter designated by the municipality in which the dog was found.~~

22 **2-A. Animal shelter.** An animal shelter, as defined in
24 section 3907, to which a stray dog is taken shall accept the dog
26 for a period of 6 days unless the shelter is in quarantine or has
a bona fide lack of adequate space. The acceptance entitles the
28 animal shelter to receive from the department the sum of \$4 a day
for the period for which food and shelter are furnished to the
30 dog. An animal shelter may refuse to accept dogs from
municipalities not contracting with that animal shelter.

32 **3. Claims; fees.** The procedure for filing claims and
calculating fees is as follows.

34 A. On the business day next following the date of
36 acceptance of the dog that is not delivered by an animal
control officer, the animal shelter shall notify the ~~clerk~~
animal control officer of the respective municipality of the
38 acceptance of the dog, its description and the circumstances
of its finding.

40 B. An animal shelter that accepts a dog under this section,
42 within 45 days of acceptance of the dog, shall submit a
claim on a department-approved form to the ~~clerk of the~~
44 respective municipality department for fees incurred in
providing food and shelter and, ~~upon verification of proper~~
46 ~~notification and holding period by the clerk~~, the animal
shelter shall forward a copy of the claim to the department
48 clerk of the respective municipality.

50 C. If the owner claims the dog within the 6-day period, the
owner may have and receive the dog upon payment of all
52 department-approved fees as provided in subsection 2-A, the

2 municipal impoundment fee and actual fees incurred for food,
shelter, veterinary care and any other fees required by this
4 chapter for each day that the dog has been sheltered,
provided that the dog is licensed in accordance with chapter
6 721.

8 **4. Ownership of dog.** Upon expiration of the 6-day period,
ownership of the dog is vested in the animal shelter. The animal
shelter may then:

10 A. Sell or give away the dog, but not to a research
12 facility, if a license is first obtained in accordance with
chapter 721; or

14 B. Otherwise dispose of the dog humanely in accordance with
16 Title 17, chapter 42, subchapter IV, ~~if a veterinarian~~
~~determines that the dog is not adoptable due to illness.~~
18 Except as provided in this section, an animal shelter must
hold a dog at least 8 days before euthanasia.

20 Notwithstanding this subsection, ownership of a dog for the
22 purposes of adoption is immediately vested in a an animal shelter
if the animal shelter makes a determination that the dog is
24 obviously abandoned. An obviously abandoned dog does not include
a dog roaming at large.

26 An animal shelter shall establish and collect fees for reclaimed
28 or adopted animals to offset costs of keeping a dog beyond 6 days.

30 None of the proceeds obtained from the sale, donation, adoption
or other disposition of the dog may be deducted from the fee
32 claimed.

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

40 ~~5. Euthanasia for sick or injured dogs. A veterinarian may~~
42 ~~authorize in writing euthanasia of a sick or injured dog received~~
~~by the veterinarian, by a humane agent or by an animal shelter~~
44 ~~within the State if:~~

46 ~~A. Forty-eight hours have elapsed since receipt of the sick~~
~~or injured dog by the veterinarian, by the humane agent or~~
48 ~~by an animal shelter;~~

50 ~~B. The clerk of the respective municipality has been~~
~~notified of the dog's presence in accordance with subsection~~

2 3, paragraph A, and the owner of the dog, if known, has been notified;

4 C. The dog is not rabid or suspected of rabies; and

6 D. The dog's recovery from its sickness or injury, given reasonable time and reasonable care, is doubtful.

8
10 Notwithstanding paragraphs A to D, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, there is no possibility of recovery for a sick or injured dog.

12
14 **6. Euthanasia for severely sick, severely injured or extremely vicious animal.** A veterinarian or a humane agent, an animal control officer or a licensed animal shelter within the State may authorize in writing euthanasia of a severely sick, severely injured or sick extremely vicious animal if the following conditions are met:

16
18
20 A. The clerk or animal control officer of the municipality where the animal was found has been notified of the animal's presence and the owner of the animal, if known, has been notified; and

22
24 B. The animal is not rabid or suspected of rabies; and

26
28 C. The A veterinarian states in writing that the animal's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful.

30
32 Notwithstanding paragraphs A to C, a veterinarian may authorize immediate euthanasia if, in his judgment, there is no possibility of recovery for a severely injured or sick animal.

34
36 **7. Immunity from civil liability.** A veterinarian is not civilly liable to any party for authorization made in accordance with subsections 5 and subsection 6 nor is any person performing euthanasia under that authorization.

38
40 **Sec. 18. 7 MRSA §3915**, as enacted by PL 1991, c. 779, §25, is amended to read:

42
44 **§3915. Violation**

46 Any person who violates this chapter commits a civil violation for which a forfeiture of not less than \$25 \$50 nor more than \$100 \$250 may be adjudged.

48
50 **Sec. 19. 7 MRSA §3916, sub-§1**, as amended by PL 1993, c. 468, §9, is further amended to read:

1 **1. Required for cats.** An Except as provided in subsection
2 4, an owner or keeper of a cat over 3 months of age shall have
3 that cat vaccinated against rabies. Rabies vaccine must be
4 administered by a licensed veterinarian or under the supervision
5 of a licensed veterinarian. Upon receiving an initial
6 vaccination, a cat is considered protected for one year and an
7 owner or keeper of that cat shall get a booster vaccination for
8 that cat one year after the initial vaccination and every 2 years
9 thereafter.

10 **Sec. 20. 7 MRSA §3916, sub-§4,** as enacted by PL 1991, c. 779,
11 §26, is amended to read:

12 **4. Exception.** Notwithstanding any provision of this
13 chapter, an animal shelter operated by a nonprofit organization
14 is not required to vaccinate an abandoned or stray cat received
15 by the shelter.

16 An owner or keeper of a cat is exempt from the requirements of
17 subsection 1 if a medical reason exists that precludes the
18 vaccination of the cat. To qualify for this exemption, an owner
19 must have a written statement signed by a licensed veterinarian
20 that includes a description of the cat and the medical reason
21 that precludes the vaccination.

22 **Sec. 21. 7 MRSA §3918** is enacted to read.

23 **§3918. Violation**

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

27 **Sec. 22. 7 MRSA §3922, sub-§3,** as amended by PL 1995, c. 409,
28 §4, is further amended to read:

29 **3. Proof of immunization.** A Except as provided in
30 subsection 3-A, a municipal clerk may not issue a license for a
31 dog until the applicant has filed with the clerk proof that the
32 dog has been immunized against rabies in accordance with rules
33 adopted by the Commissioner of Human Services, except that the
34 requirement of immunization may be waived by the clerk under
35 conditions set forth by the Commissioner of Human Services.

36 The commissioner shall adopt rules that allow the clerk and the
37 commissioner to accept valid proof of immunization against rabies
38 provided by another state.

39 **Sec. 23. 7 MRSA §3922, sub-§3-A** is enacted to read:

40 **3-A. Exception to the immunization requirement for wolf**
41 **hybrids.** If an applicant for licensure proves that the dog is a
42

2 wolf hybrid, a municipal clerk may issue a license without proof
3 that the dog has been immunized. In accordance with subsection
4 5, the license issued for that dog must state that the dog is a
5 wolf hybrid.

6 **Sec. 24. 7 MRSA §3922, sub-§4**, as amended by PL 1995, c. 409,
7 §4, is further amended to read:

8
9 **4. Service dogs exempt from fees.** If a trained service
10 dog, a retired service dog or a dog awaiting training as a
11 service dog has not been previously registered or licensed by the
12 municipal clerk to whom the application is being made, the clerk
13 shall may not register the dog nor issue to its owner or keeper a
14 license and tag unless written evidence is provided that the dog
15 is trained ~~and educated~~ or awaiting training and intended to
16 perform guide service for the applicant or is retired.

17 **Sec. 25. 7 MRSA §3923-A, sub-§3**, as enacted by PL 1993, c.
18 468, §12, is amended to read:

19
20 **3. Exemption from fees.** A municipal clerk shall issue a
21 license upon application and without payment of a license fee
22 required under this section for:

23
24 A. A trained guide dog owned or kept by a visually impaired
25 person or such a dog awaiting training or retired;

26
27 B. A trained hearing dog owned or kept by a
28 hearing-impaired person or such a dog awaiting training; or
29 retired

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

34
35 D. A trained search and rescue dog recognized by the
36 Department of Inland Fisheries and Wildlife or by the
37 statewide association of search and rescue that cooperates
38 with the Department of Inland Fisheries and Wildlife in
39 developing standards for search and rescue or such a dog
40 awaiting training or retired.

41
42 **Sec. 26. 7 MRSA §3923-B**, as amended by PL 1995, c. 409, §6,
43 is further amended to read:

44
45 **§3923-B. Tags and stickers**

46
47 **1. Tags and stickers.** The municipal clerk shall provide
48 with each new license issued under section 3923-A a tag,
49 indicating the year the license is issued and bearing other
50 information prescribed by the department, ~~and a sticker,~~
51 ~~indicating the year the license is issued, which must be attached~~

2 ~~to the back of the tag.~~ The tag remains with the dog or wolf
3 hybrid for as long as the dog or wolf hybrid is kept in the
4 licensing municipality. The sticker indicating the year must be
5 attached to the back of the tag. The owner or keeper shall make
6 sure that the tag is securely attached to a collar of leather,
7 metal or material of comparable strength and that the collar is
8 worn at all times by the dog or wolf hybrid for which the license
was issued, except as provided in subsection 3.

10 If a sticker and tag is lost or the owner has moved to a
11 different municipality, the owner or keeper of the dog or wolf
12 hybrid shall obtain a new license, tag and sticker. The
13 municipal clerk shall issue another license, tag and sticker upon
14 presentation of the original license and payment of \$1. The
15 clerk shall retain the \$1 for a recording fee.

16 ~~2. -- Rabies tags. -- An owner shall make sure that a rabies tag~~
17 ~~obtained from a veterinarian for immunization against rabies is~~
18 ~~securely attached to a collar of leather, metal or material of~~
19 ~~comparable strength and that the collar is worn at all times by~~
20 ~~the dog or wolf hybrid for which the rabies tag was issued,~~
21 ~~except as provided in subsection 3.~~

22
23 **3. Exceptions.** A dog or wolf hybrid is not required to
24 wear a tag ~~or a rabies tag~~ when on the premises of the owner or
25 off the premises of the owner while hunting, in training or in an
26 exhibition. When a dog or wolf hybrid is hunting, in training or
27 in an exhibition, its owner or keeper shall produce proof of
28 licensure and proof of rabies immunization upon request by a
29 humane agent, animal control officer or law enforcement officer,
30 including a game warden.

31
32 **Sec. 27. 7 MRSA §3923-C, sub-§4,** as amended by PL 1995, c.
33 409, §7, is further amended to read:

34
35 **4. Kennel tags and stickers.** Dogs or wolf hybrids covered
36 by a kennel license must be furnished suitable kennel tags and
37 stickers, which must be attached to the back of the tag
38 indicating the year the license is issued and bearing other
39 information as prescribed by the department and are not required
40 to be individually licensed.

41
42 **Sec. 28. 7 MRSA §3923-C, sub-§5,** as enacted by PL 1995, c.
43 490, §9, is amended to read:

44
45 **5. Kennel inspection and quarantine.** An animal control
46 officer must annually inspect a kennel prior to the municipality
47 issuing a kennel license. The animal control officer, at any
48 reasonable time, escorted by the kennel owner or the kennel
49 owner's agent, may shall inspect the kennel in accordance with
50 the sanitation and health rules established by the department for
51 compliance with laws and rules. A veterinarian employed by the
52

2 State or any licensed veterinarian may quarantine the kennel in
3 person or by registered mail and the quarantine must be
4 maintained as long as the veterinarian determines necessary. The
5 decision and order for this quarantine is not considered a
6 licensing or an adjudicatory proceeding as defined by the Maine
7 Administrative Procedure Act. An animal control officer must use
8 proper measures of biosecurity established by department
guidelines.

10 **Sec. 29. 7 MRSA §3923-D**, as amended by PL 1995, c. 409, §7,
11 is further amended to read:

12 **§3923-D. Temporary licenses**

13 An animal shelter may issue a temporary dog or wolf hybrid
14 license when transferring ownership vested in the animal shelter
15 under section 3913, subsection 4 to a person buying or otherwise
16 accepting ownership. The department shall provide animal
17 shelters with temporary license forms. The animal shelter shall
18 complete all information prescribed on the form, provide the
19 owner with the original temporary license and submit the copy for
20 the municipal clerk and the animal control officer to the
21 appropriate municipal clerk. The animal shelter may retain a
22 copy of the temporary license to comply with section 3914. A
23 temporary license is valid for a period of 10 days beginning on
24 the date of issuance. An animal shelter may not charge a fee \$1
25 for issuing a temporary license.

26 **Sec. 30. 7 MRSA §3924, sub-§2**, as amended by PL 1995, c. 409,
27 §8, is further amended to read:

28 **2. Unlawful use of collar or tag.** A person who removes a
29 tag ~~or rabies tag~~ or who places ~~either a collar or rabies~~ a tag
30 on a dog or wolf hybrid not described on it or for which the
31 license was not issued commits a civil violation for which a
32 forfeiture of not more than \$100 may be adjudged.

33 **Sec. 31. 7 MRSA §3936, sub-§1**, as amended by PL 1995, c. 490,
34 §11, is further amended to read:

35 **1. Inspection and quarantine.** The commissioner, a state
36 humane agent, a veterinarian employed by the State or a licensed
37 veterinarian at the direction of the commissioner may, at any
38 reasonable time, enter an animal shelter, kennel, boarding
39 kennel, breeding kennel or pet shop, but ~~not~~ must be escorted
40 by the animal shelter, kennel, boarding kennel, breeding kennel
41 or pet shop owner or the owner's agent when the building is used
42 for human habitation ~~recognized as not subject to search warrant~~,
43 and make examinations and conduct any recognized tests for the
44 existence of contagious or infectious diseases or conditions.
45 The commissioner may inspect animal shelters, kennels, boarding
46 kennels, breeding kennels or pet shops.

2 kennels, breeding kennels and pet shops in accordance with the
3 sanitation and health rules established by the department and for
4 compliance with laws and rules, including licensing and
5 permitting requirements, of the Department of Inland Fisheries
6 and Wildlife pertaining to wildlife importation and possession.
7 A veterinarian employed by the State or any licensed veterinarian
8 may quarantine the animal shelter, kennel, boarding kennel,
9 breeding kennel or pet shop, in person or by registered mail, and
10 the quarantine must be maintained as long as the department
11 determines necessary. The decision and order for this quarantine
12 is not considered a licensing or an adjudicatory proceeding as
13 defined by the Maine Administrative Procedure Act. The
14 commissioner shall promptly notify the Department of Inland
15 Fisheries and Wildlife of violations. The commissioner, a state
16 humane agent or a veterinarian must use proper measures of
17 biosecurity as defined in department guidelines.

18 **Sec. 32. 7 MRSA §3940** is enacted to read:

19 **§3940. Animals abandoned at a boarding kennel or animal shelter.**

20 A person operating a boarding kennel or animal shelter shall
21 dispose of animals believed to be abandoned in accordance with
22 this section. A boarding kennel may establish and collect fees
23 for an animal left at the facility beyond the arranged time
24 period to offset costs of keeping the animal and any necessary
25 medical care.

26 **1. Notification requirements; determination of**
27 **abandonment.** If a person operating a boarding kennel or animal
28 shelter has reasons to believe an animal has been abandoned in
29 the boarding kennel or animal shelter, the person operating the
30 facility must give notice to the animal's owner at the owner's
31 last known address by registered or certified mail, return
32 receipt requested and must allow a period of 6 days to lapse
33 after the receipt is return. The notice must state what the
34 person operating the facility intends to do with the animal. If
35 the owner can not be located at the last known address, the
36 person operating the boarding kennel or animal shelter shall give
37 notice by publication in a newspaper having a circulation in the
38 town in which the owner was last known to reside, and shall allow
39 a period of 10 days to lapse after such publication. The animal
40 is considered abandoned if:

41 A. The owner is not located by registered mail or notice by
42 publications and does not reply in person or by mail within
43 the time periods outline stating the owner's intent to claim
44 the animal; or

45 B. The owner is located and does not claim the animal
46 within 10 days of notification.

2 2. Disposition of abandoned animal. Upon determination
3 that an animal has been abandoned, a person operating a boarding
4 kennel or animal shelter may then:

5 A. Sell or give away the animal, but not to a research
6 facility.

7 B. Otherwise dispose of the animal humanely in accordance
8 with Title 17, chapter 42, subchapter IV.

9 **Sec. 33. 7 MRSA §3941**, as enacted by PL 1987, c. 383, §3, is
10 amended to read:

11 **§3941. Posting of law**

12 Municipal clerks, annually, at least 20 days before January
13 1st, shall post copies of chapters ~~chapter~~ 721 and 723 and of
14 this chapter in the usual places for posting notices of the
15 annual municipal elections.

16 **Sec. 34. 7 MRSA §3942**, as amended by PL 1991, c. 779, §34 and
17 affected by §52, is further amended to read:

18 **§3942. Issuance of dog licenses**

19 Municipal clerks shall issue dog licenses in accordance with
20 chapter 721, ~~receive the license fees and pay to the department~~
21 ~~all fees received for dogs capable of producing young and \$2 from~~
22 ~~each license fee received for dogs incapable of producing young.~~
23 The clerks shall keep a record of all licenses issued by them,
24 with the names of the owners or keepers of dogs licensed and the
25 sex, registered numbers and description of all dogs except those
26 covered by a kennel license. The clerks shall make a monthly
27 report to the department on a department-approved form of all dog
28 licenses issued and fees received.

29 ~~The clerks shall retain \$1 from each license fee received~~
30 ~~for dogs incapable of producing young and use these fees in~~
31 ~~accordance with section 3945.~~

32 **Sec. 35. 7 MRSA §3943, sub-§1**, as amended by PL 1995, c. 490,
33 §12, is further amended to read:

34 **1. Procedure.** Between February 1st and April 1st annually,
35 the municipal officers of each municipality shall issue a warrant
36 with the names and addresses of all owners or keepers of
37 unlicensed dogs to one or more police officers, constables,
38 sheriffs or animal control officers, directing them to send a
39 notice of violation ~~by certified mail, return receipt requested,~~
40 to the last known address of the owners or keepers or call on the
41 owners or keepers. The warrant must further direct that demand
42 be made on the owners or keepers to obtain a license from the

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

11 **Sec. 36. 7 MRSA §3944**, as amended by PL 1993, c. 657, §38, is
12 further amended to read:

13 **§3944. Issuance of kennel licenses**

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

17 **Sec. 37. 7 MRSA §3947, first ¶**, as amended by PL 1993, c. 468,
18 §15, is further amended to read:

19 Each municipality shall appoint one or more animal control
20 officers whose duties are enforcement of ~~sections 3911, 3912,~~
21 ~~3921, 3924, 3943, 3948, 3950, 3950-A and 3966 to 3970~~ chapters
22 719, 720, 721, 725, 727, 730, 733, 739 and 741, responding to
23 reports of animals suspected of having rabies in accordance with
24 Title 22, sections 1313 and 1313-A and such other duties to
25 control animals as the municipality may require. When a
26 municipal animal control officer is not available, the
27 municipality must respond.

28 **Sec. 38. 7 MRSA §3948, sub-§2**, as amended by PL 1995, c. 490,
29 §17, is further amended to read:

30 **2. Medical attention.** Law enforcement officers, ~~humane~~
31 ~~agents~~ and animal control officers shall take a stray animal to
32 its owner, if known, or, if the owner is unknown, to a an animal
33 shelter and ensure that any injured animal that is at large or in
34 a public way is given proper medical attention.

35 **Sec. 39. 7 MRSA §3948, sub-§3**, as enacted by PL 1993, c. 468,
36 §16, is amended to read:

37 **3. Domesticated and undomesticated animals.** A municipality
38 shall control domesticated animals that are a problem cause of
39 complaint in the community. A municipality shall control
40 undomesticated animals that pose a threat to public health or
41 safety. A municipality may control undomesticated animals in
42 matters on which no other department is charged by law to
43 regulate.

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

4 **§3949. Animal shelter designation**

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

14 **Sec. 41. 7 MRSA §3950-A, first ¶**, as amended by PL 1995, c.
16 557, §2, is further amended to read:

18 Any mayor, municipal officer, clerk, town or city manager,
administrative assistant to the mayor, town or city councilor,
20 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
22 719, 720, 721, 725 ~~and, 727, 730, 733, 739 and 741~~ and by this
chapter commits a civil violation for which a forfeiture of not
24 less than ~~\$10~~ \$50 nor more than ~~\$50~~ \$250 and costs may be
adjudged.

26 **Sec. 42. 7 MRSA §3951**, as enacted by PL 1987, c. 383, §3, is
28 amended to read:

30 **§3951. Killing for assault permitted**

32 Any person may lawfully kill a dog if necessary for
protection during the course of a sudden, unprovoked assault and
34 attack upon ~~himself--or~~ that person, another person or
domesticated animal.

36 **Sec. 43. 7 MRSA §3952, sub-§1**, as amended by PL 1989, c. 212,
38 is further amended to read:

40 **1. Procedure.** Any person who is assaulted by a dog without
provocation or any person witnessing an unprovoked assault
42 against a person or domesticated animal, within 10 days of the
assault, may make written complaint to the sheriff ~~or,~~ local law
44 enforcement officer or animal control officer that the dog is
dangerous or vicious.

46 The sheriff ~~or,~~ local law enforcement officer or animal control
48 officer may file the complaint in District Court or Superior
Court.

2 If, upon hearing, the court is satisfied that ~~the complaint is~~
3 true, it an assault on a person or a domesticated animal has
4 taken place, the court shall:

5 A. Order the dog muzzled, restrained or confined to the
6 premises of its owner or keeper; or

7 B. Order the dog to be euthanatized if it has killed,
8 maimed or inflicted serious bodily injury upon a person or
9 has a history of a prior assault.

10 The owner or keeper who keeps a dog in violation of this section
11 commits a civil violation for which a forfeiture not to exceed
12 \$100, plus costs, may be adjudged.

13 **Sec. 44. 7 MRSA §3952, sub-§3**, as amended by PL 1987, c. 736,
14 §6, is further amended to read:

15 **3. Complaint for dogs presenting immediate threat to**
16 **public.** After filing of complaint in District Court or Superior
17 Court and before hearing, if the dog poses an immediate threat to
18 the public, the dog ~~shall be~~ is subject to muzzling, restraint or
19 confinement to its premises upon order of the sheriff ~~or~~ local
20 law enforcement officer or animal control officer who filed the
21 complaint. Upon failure to comply, the officer to whom complaint
22 was made may apply to District Court, Superior Court or a justice
23 of the peace for an ex parte order for authorization to take
24 possession of the dog ~~which that~~ poses an immediate threat to the
25 public and turn it over to the applicant or other suitable person.

26 **Sec. 45. 7 MRSA §3953**, as enacted by PL 1987, c. 383, §3, is
27 amended by repealing and replacing the headnote to read:

28 **§3953. Stealing, injuring or killing dogs**

29 **Sec. 46. 7 MRSA §3966, sub-§2**, as amended by PL 1995, c. 490,
30 §19, is further amended to read:

31 **2. Transfer of ownership.** A ~~licensed kennel, pet shop, or~~
32 animal shelter ~~or veterinarian~~ that transfers ownership of a
33 ferret shall provide notification in writing that ferrets have
34 been known to attack humans, particularly children, for no reason
35 and without warning.

36 **Sec. 47. 7 MRSA §3967**, as amended by PL 1993, c. 657, §41, is
37 further amended to read:

38 **§3967. Seizing of ferrets**

39 An animal control officer or person acting in that capacity
40 shall seize, impound or restrain a domesticated ferret found in
41 violation of section 3966, subsection 1 and deliver it to th

owner, if known, or if unknown to an animal shelter, as provided
2 ~~for in section 3968, or shall take it to its owner, if known. If~~
ownership can not be established, such animals may be handled as
4 ~~stray ferrets for the purposes of acceptance by an animal shelter~~
as provided in this chapter.

6
8 **Sec. 48. 7 MRSA §3968**, as amended by PL 1993, c. 657, §42, is
repealed.

10 **Sec. 49. 7 MRSA §3969**, as enacted by PL 1987, c. 643, §5, is
repealed.

12 **Sec. 50. 7 MRSA §3970**, as enacted by PL 1987, c. 643, §5, is
14 repealed and the following enacted in its place:

16 **§3970. Violations**

18 Any person who violates any section of this chapter commits
20 a civil violation for which a forfeiture not to exceed \$100 may
be adjudged.

22 **Sec. 51. 7 MRSA §3971, sub-§5**, as enacted by PL 1987, c. 383,
§3, is repealed.

24 **Sec. 52. 7 MRSA §3972, sub-§1**, as amended by PL 1995, c. 144,
26 §§1 and 2, is further amended to read:

28 **1. Unlawful use of animals.** It is unlawful for any person
to:

30 A. ~~Sell, display, raffle, give away or offer for sale, give~~
32 ~~away or display~~ within the State any live animals which that
have been dyed or otherwise artificially colored;

34 B. Sell, display, raffle, give away or offer for sale to
36 the public any live fowl, turtles or rabbits under 8 weeks
of age in lots of less than 6;

38 C. Use any live animal as a premium, fund-raising device,
40 prize or award or use any live animal in a raffle, contest,
game or promotion except as authorized by statute or rule;

42 D. Use any live animal as bait in any racing contest or in
44 the training of animals for racing contests;

46 E. Tie, tether or restrain any animal in a manner that is
inhumane or detrimental to its welfare; or

48 F. Intentionally cause an equine to fall or lose its
50 balance by any means whatsoever. For the purposes of this
paragraph, the term "equine" means, but is not limited to, a
52 horse, mare, pony, ass, donkey, burro, mule or hinny. This

2 paragraph does not apply to the lawful laying down of a
3 horse for medical or identification purposes.

4 **Sec. 53. 7 MRSA §3972, sub-§2**, as amended by PL 1989, c. 342,
5 §2, is repealed.

6 **Sec. 54. 7 MRSA §3972, sub-§4**, as enacted by PL 1989, c. 154,
7 §1, is amended to read:

10 **4. Exception.** Notwithstanding subsection 1, paragraph C,
11 livestock may be raffled by charitable organizations licensed
12 under Title 17, section 332, subsection 6 for fund-raising
13 purposes. For the purposes of this section, ~~"livestock" means~~
14 ~~farm animals, including, but not limited to, cows, sheep, goats,~~
15 ~~swine and fowl and~~ "charitable organization" has the same meaning
16 as defined in Title 9, section 5003, subsection 1. Proceeds from
17 a raffle under this subsection must be used for charitable
18 purposes.

19 The animal shall must be awarded in freezer-ready form.

21 **Sec. 55. 7 MRSA §§3973 and 3974** are enacted to read:

23 **§3973. Pet animals as food prohibited**

25 **1. Possession of carcass of pet animal.** A person is guilty
26 of a misdemeanor who possesses, imports into this State, sells,
27 buys, gives away or accepts a carcass or part of a carcass of an
28 animal traditionally or commonly kept as a pet or companion with
29 the intent of using or having another person use a part of that
30 carcass for human consumption.

31 **2. Possession of pet animal with intent to kill.** A person
32 is guilty of a misdemeanor who possesses, imports into this
33 state, sells, buys, gives away or accepts any animal
34 traditionally or commonly kept as a pet or companion with the
35 intent of killing or having another person kill that animal for
36 the purpose of using or having another person use any part of the
37 animal for human consumption.

38 **3. Application.** This section may not be construed to
39 interfere with the production, marketing or disposal of any
40 livestock, poultry, fish, shell fish or any other agricultural
41 commodity produced in this State. This section may not be
42 construed to interfere with the lawful killing of wildlife or the
43 lawful killing of any other animal under the laws of this State
44 pertaining to game animals.

45 **§3974. Violation**

2 Any person who violates this chapter commits a civil
violation for which a forfeiture not to exceed \$100 may be
4 adjudged.

6 **Sec. 56. 7 MRSA §3981, sub-§7**, as enacted by PL 1987, c. 383,
§3, is amended to read:

8 **7. Construction.** Nothing in this chapter may be construed
to prohibit the use of strike cages for dogs while in the lawful
10 sport of hunting or in training or the movement of livestock or
poultry when standards of the industry are followed.

12 **Sec. 57. 7 MRSA §4001, sub-§4**, as amended by PL 1993, c. 468,
14 §25, is further amended to read:

16 **4. Rules.** Each applicant obtaining a permit under this
section is subject to the rules promulgated by the commissioner
18 on the weight and size of animals, age of participants, length of
event and such other requirements as ~~it~~ the commissioner
20 considers necessary.

22 **Sec. 58. 7 MRSA §4011, sub-§1, ¶C**, as repealed and replaced by
PL 1995, c. 490, §20, is amended to read:

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

30 **Sec. 59. 7 MRSA §4011, sub-§1, ¶¶E and F**, as enacted by PL
32 1995, c. 490, §20, are amended to read:

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

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

44 **Sec. 60. 7 MRSA §4011, sub-§1, ¶G** is enacted to read:

46 G. Uses any live animal as a prize, premium or award or in
any way hunts or sells for the purpose of hunting any animal
48 that is not covered by the provisions of Title 12, Part 10.

50 **Sec. 61. 7 MRSA §4012, sub-§1**, as enacted by PL 1987, c. 383,
52 §3, is amended to read:

2 shelter should be well drained and protect the livestock from
3 direct sun, rain, wind and other inclement weather.

4 **Sec. 65. 7 MRSA §4017**, as amended by PL 1993, c. 468, §25, is
5 further amended to read:

6 **§4017. Rules**

7
8 The commissioner may adopt any rules necessary or useful to
9 carry out this section chapter pursuant to the Maine
10 Administrative Procedure Act, Title 5, chapter 375.

11
12 **Sec. 66. 7 MRSA §4041**, as amended by PL 1995, c. 351, §5, is
13 further amended by adding a new first paragraph to read:

14
15 It is unlawful for livestock to enter or be on the property
16 of another person. The owner or keeper of any livestock found
17 trespassing is subject to the penalties provided in this chapter.

18
19 **Sec. 67. 7 MRSA §4041, sub-§1**, as enacted by PL 1989, c. 91,
20 is repealed.

21
22 **Sec. 68. 7 MRSA §4041, sub-§2, ¶A**, as enacted by PL 1989, c.
23 91, is amended to read:

24
25 A. The owner or keeper fails to remove the livestock animal
26 ~~within-6-hours~~ after having been notified by an animal
27 control officer or law enforcement officer that a livestock
28 animal owned or kept by the owner or keeper was trespassing;
29 or
30

31
32 **Sec. 69. 7 MRSA §4041, sub-§3, ¶A**, as enacted by PL 1989, c.
33 91, is amended to read:

34
35 A. That person fails to remove the livestock animal ~~within-6~~
36 ~~hours~~ after having been personally notified by an animal
37 control officer or law enforcement officer that a livestock
38 animal owned or kept by that person was trespassing; or

39
40 **Sec. 70. 7 MRSA §4151, sub-§4**, as enacted by PL 1995, c. 589,
41 §1, is amended to read:

42
43 **4. Pet dealer.** "Pet dealer" means a person, firm,
44 partnership, corporation or association, including breeders, that
45 ~~is-required-to-collect-sales-tax-for-the-sale-of~~ sells one or
46 more animals to the public. "Pet dealer" does not include humane
47 ~~societies, non-profit organizations performing the functions of~~
48 ~~humane societies or animal control agencies~~ animal shelters
49 licensed in accordance with section 3932-A.

50
51 **Sec. 71. 7 MRSA §4152, sub-§1, ¶¶A, C and D**, as enacted by PL
52 1995, c. 589, §1, are amended to read:

- 2 A. An animal history that includes:
- 4 (1) The For pet dealers licensed with the United
6 States Department of Agriculture, the name, address and
8 United States Department of Agriculture license number
 of the breeder and any broker who has had possession of
 the animal;
- 10 (2) The date of the animal's birth;
- 12 (3) The date the pet dealer received the animal;
- 14 (4) The breed, sex, color and identifying marks of the
 animal;
- 16 (5) The individual identifying tag, tattoo or collar
18 number;
- 20 (6) For pure bred animals, the name and registration
 number of the sire and dam and the litter number; and
- 22 (7) A record of inoculations, worming treatments,
24 medication or any veterinarian treatment received by
26 the animal while in the possession of the breeder or
 dealer;

28 C. A pet dealer who represents an animal as eligible for
30 registration with an animal pedigree organization shall
32 provide the retail purchaser with a notice stating that
34 pedigree registration does not assure health or quality of
 an animal. ~~Notwithstanding section 4151, breeders are not~~
 ~~bound by the provisions of this paragraph;~~ and

36 D. The pet dealer shall indicate whether or not, to the pet
38 dealer's knowledge, the animal or its sire or dam is
40 registered with, and whether the animal is certified by any
42 organization that maintains a registry pertaining to
 congenital or hereditary problems and explain the meaning of
 these terms. ~~Notwithstanding section 4151, breeders are not~~
 ~~bound by the provisions of this paragraph.~~

44 **Sec. 72. 7 MRSA §4154**, as enacted by PL 1995, c. 589, §1, is
 repealed.

46 **Sec. 73. 7 MRSA §4158, sub-§2**, as enacted by PL 1995, c. 589,
48 §1, is amended to read:

50 **2. Right to court action.** If the pet dealer does not
52 provide the remedy selected by the purchaser set forth in section
 4155, the purchaser may initiate a court action. ~~Upon request to~~
 ~~the department, by the purchaser and dealer, the commissioner or~~

2 a--veterinarian--employed--by--the--State--shall--arbitrate--the
3 dispute.--This--arbitration--must--be--on--a--nonbinding--basis--unless
4 both--purchaser--and--dealer--agree--to--binding--arbitration. The
5 prevailing party in the court action has the right to recover
6 costs and reasonable attorney's fees not to exceed \$500.

7 **Sec. 74. 7 MRSA §4161**, as enacted by PL 1995, c. 589, §1, is
8 amended to read:

10 **§4161. Limitation**

12 This chapter does not limit the rights or remedies that are
13 otherwise available to a purchaser under any other law. An
14 agreement--or--contract--by--a--purchaser--to--waive--rights--under--this
15 chapter--is--void--and--unenforceable.

16 **Sec. 75. 7 MRSA §4162**, as enacted by PL 1995, c. 589, §1, is
17 repealed and the following enacted in its place:

20 **§4162. Additional penalties**

22 1. Civil violation. Any person who violates any section of
23 this chapter commits a civil violation for which a forfeiture not
24 to exceed \$100 per violation may be adjudged.

26 2. Action against pet shops and breeding kennels. The
27 department may file an action in Administrative Court to revoke
28 or suspend the license of a pet shop or breeding kennel that
29 violates any provision of this chapter.

30 **Sec. 76. 16 MRSA §614, sub-§1**, as amended by PL 1995, c. 135,
31 §1, is further amended to read:

34 **1. Limitation on dissemination of intelligence and**
35 **investigative information.** Reports or records that contain
36 intelligence and investigative information and that are prepared
37 by, prepared at the direction of or kept in the custody of a
38 local, county or district criminal justice agency; the Bureau of
39 State Police; the Department of the Attorney General; the Maine
40 Drug Enforcement Agency; the Office of State Fire Marshal; the
41 Department of Corrections; the criminal law enforcement units of
42 the Department of Marine Resources or the Department of Inland
43 Fisheries and Wildlife; or the Department of Conservation, Forest
44 Fire Control Division when the reports or records pertain to
45 arson or the Department of Agriculture, Food and Rural Resources,
46 when the reports or records pertain to criminal or civil cruelty
47 to animals are confidential and may not be disseminated if there
48 is a reasonable possibility that public release or inspection of
49 the reports or records would:

50 A. Interfere with law enforcement proceedings;
51
52

- 2 B. Result in public dissemination of prejudicial
information concerning an accused person or concerning the
4 prosecution's evidence that will interfere with the ability
of a court to impanel an impartial jury;
- 6 C. Constitute an unwarranted invasion of personal privacy;
- 8 D. Disclose the identity of a confidential source;
- 10 E. Disclose confidential information furnished only by the
confidential source;
- 12 F. Disclose trade secrets or other confidential commercial
14 or financial information designated as such by the owner or
source of the information or by the Department of the
16 Attorney General;
- 18 G. Disclose investigative techniques and procedures or
security plans and procedures not generally known by the
20 general public;
- 22 H. Endanger the life or physical safety of any individual,
including law enforcement personnel;
- 24 I. Disclose conduct or statements made or documents
26 submitted by any person in the course of any mediation or
arbitration conducted under the auspices of the Department
28 of the Attorney General;
- 30 J. Disclose information designated confidential by some
other statute; or
- 32 K. Identify the source of complaints made to the Department
34 of the Attorney General involving violations of consumer or
antitrust laws.

36 **Sec. 77. 17 MRSA §1011, sub-§20**, as enacted by PL 1987, c.
38 383, §4, is amended to read:

40 **20. Mutilate.** "~~Mutilate~~" ~~includes, but is not limited to,~~
42 ~~cutting the bone, muscles or tendons of the tail of a horse for~~
~~the purpose of docking or setting up the tail and cropping or~~
44 ~~cutting off the ear of a dog in whole or in part~~ means to
maliciously injure or disfigure by irreparably damaging body
parts.

46 **Sec. 78. 17 MRSA §1013, sub-§1**, as enacted by PL 1987, c. 383,
48 §4, is amended to read:

50 **1. Unlawful production of motion pictures.** A person,
52 including an owner or the owner's agent, is guilty of unlawful
production of motion pictures if he that person knowingly or

intentionally prepares, manufactures, makes or participates in the preparation, manufacture or making of any motion picture film or videotape production involving cruelty to animals during the course of preparation, manufacture, making or exhibition of the motion picture film or videotape production.

Sec. 79. 17 MRSA §1021, sub-§1, as amended by PL 1991, c. 779, §46, is further amended to read:

I. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or, ~~in a case involving a pet animal~~, the board commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has cruelly abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

Sec. 80. 17 MRSA §1021, sub-§4, ¶A, as amended by PL 1993, c. 468, §21, is further amended to read:

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

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

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable ~~deligence~~ diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely

clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or his the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, he the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or his the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

Sec. 81. 17 MRSA §1022, as amended by PL 1991, c. 779, §49, is further amended to read:

§1022. Prevention of cruelty

The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence. ~~The board may lawfully interfere to prevent the perpetration of any act of cruelty upon a pet animal.~~

Sec. 82. 17 MRSA §1023, sub-§1, as amended by PL 1991, c. 779, §50, is further amended to read:

1. Investigation. Sheriffs, deputy sheriffs, police officers, constables, animal control officers and humane agents shall investigate cases of cruelty to animals coming to their attention and report them to the Department of Agriculture, Food and Rural Resources on department-approved forms. ~~The department shall refer all cases of cruelty to pet animals to the board.~~ Upon completion of an investigation, ~~the board--for--a--case~~

2 involving a pet animal and the department for any other case
shall, if requested, report the result of the investigation to
the person complaining of alleged cruelty.

4
6 **Sec. 83. 17 MRSA §1023, sub-§2**, as amended by PL 1991, c. 779,
§50, is repealed.

8 **Sec. 84. 17 MRSA §1024**, as enacted by PL 1987, c. 383, §4, is
amended to read:

10 **§1024. Impeding the performance of an officer**

12
14 It is unlawful for any person to assault, resist, oppose,
impede, intimidate or interfere with any person while engaged in
or on account of the performance of his that person's official
16 duties under this subchapter.

18 **Sec. 85. 17 MRSA §1025, sub-§1, ¶B**, as enacted by PL 1987, c.
20 383, §4, is amended to read:

22 B. Give, release, sell, trade, loan, transfer or otherwise
provide any live animal to any individual, firm,
24 association, corporation, educational institution,
laboratory, medical facility or anyone else for purposes of
killing, experimentation or vivisection.

26
28 **Sec. 86. 17 MRSA §1031, sub-§1, ¶¶C and D**, as repealed and
replaced by PL 1995, c. 490, §25, are amended to read:

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

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

44 **Sec. 87. 17 MRSA §1031, sub-§1, ¶¶E and F**, as enacted by PL
1995, c. 490, §25, are amended to read:

46
48 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
50 conditions; or

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

6 **Sec. 88. 17 MRSA §1031, sub-§1, ¶G** is enacted to read:

8 G. Uses any live animal as a prize, premium or award or in
10 any way hunts or sells for the purpose of hunting any
12 domesticated animal or animal that is not covered by the
provisions of Title 12, Part 10.

14 **Sec. 89. 17 MRSA §1031, sub-§3**, as amended by PL 1993, c. 81,
§2, is further amended to read:

16 3. **Penalty.** Cruelty to animals is a Class D crime. In
18 addition to any other penalty authorized by law, the court shall
impose a fine of not less than \$100 for each violation of this
20 section. The court may order the defendant to pay the costs of
22 the prosecution and the costs of the care, housing and veterinary
24 medical treatment for the animal victim and any reasonable costs
incurred by the State, county or municipality for the
investigation of the cruelty complaint.

The court, as part of the sentence, may prohibit the defendant
26 from owning, possessing or having on the defendant's premises an
28 animal or animals as determined by the court for a period of
30 time, up to and including permanent relinquishment, as determined
32 by the court. A person placed on probation for a violation of
34 this section with a condition that prohibits owning, possessing
36 or having an animal or animals on the probationer's premises is
38 subject to revocation of probation and removal of the animal or
40 animals at the probationer's expense if this condition is
violated. The court as part of the sentence may order, as a
condition of probation, that the defendant be evaluated to
determine the need for psychiatric or psychological counseling,
and, if it is determined appropriate by the court, to receive
psychiatric or psychological counseling at the defendant's
expense.

42 **Sec. 90. 17 MRSA §1032, sub-§2**, as enacted by PL 1987, c. 383,
§4, is amended to read:

44 2. **Penalty.** Cruelty to birds is a Class-E Class D crime.
46 In addition to any other penalty authorized by law, the court
shall impose a fine of not less than \$100 for each violation of
48 this section.

50 **Sec. 91. 17 MRSA §1033, sub-§1**, as enacted by PL 1987, c. 383,
§4, is amended to read:

1. **Violation.** A person is guilty of animal fighting who knowingly:

A. Owns, possesses, keeps or trains any animal with the intent that the animal engage in an exhibition of fighting with another animal;

B. For amusement or gain, causes any animal to fight with another animal or causes any animals to injure each other; or

C. Permits any act in violation of paragraph A or B to be done on any premises under his that person's charge or control.

Animal fighting is a Class C crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section.

Sec. 92. 17 MRSA §1037, first ¶, as enacted by PL 1987, c. 383, §4, is amended to read:

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section. ~~In the case of farm animals, nothing in this section may be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located. For purposes of this section, horses shall not be considered farm animals.~~

Sec. 93. 17 MRSA §1037, sub-§2, ¶B, as enacted by PL 1987, c. 383, §4, is amended to read:

B. Shelter from inclement weather shall must be as follows.

(1) An artificial shelter with a minimum of 3 sides and a waterproof roof appropriate to the local climatic conditions for the species concerned shall must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions which that adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof shall must be provided to accommodate the dog and protect it from the weather and, ~~in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes~~ or elements.

Sec. 94. 17 MRSA §1037, sub-§5 is enacted to read:

2 **5. Livestock.** Livestock must be provided with shelter
3 suitable for the health of the animal. Livestock must have
4 access to a constructed or natural shelter that is large enough
5 to accommodate all livestock comfortably at one time. The
6 shelter should be well drained and protect the livestock from
7 direct sun, rain, wind and other inclement weather.

8
9 **Sec. 95. 30-A MRSA §4221, sub-§2, ¶A,** as amended by PL 1991,
10 c. 688, §2, is further amended to read:

11 A. The commissioner shall also establish certification
12 standards and a program to certify familiarity with court
13 procedures for:

14 (1) Plumbing inspectors appointed under this section;

15 (2) Code enforcement officers, as set forth in section
16 4452 and in Title 38, section 441;

17 (3) Department of Environmental Protection employees,
18 as set forth in Title 38, section 342, subsection 7; and

19 (4) Maine Land Use Regulation Commission employees, as
20 set forth in Title 12, section 685-C, subsection 9, and
21 and

22 (5) State humane agents and state veterinarians, as
23 set forth in Title 7, section 3909, subsection 2.

24
25 Certification under this paragraph is effective for a period
26 of 3 years unless sooner revoked or suspended by the
27 Administrative Court upon complaint by the commissioner on
28 grounds of fraud, negligence, misconduct or incompetence in
29 the performance of duties. After being certified by the
30 commissioner under this paragraph, a plumbing inspector may
31 serve civil process on persons who violate the plumbing and
32 subsurface wastewater disposal rules of the department. The
33 municipal officers may also authorize the inspector to
34 represent the municipality in District Court under section
35 4452.

36
37 **Sec. 96. Preparation of recodification.** The Office of Policy and
38 Legal Analysis and the Office of the Revisor of Statutes shall
39 jointly prepare a bill for submission to the Joint Standing
40 Committee on Agriculture, Conservation and Forestry to the Second
41 Regular Session of the 118th Legislature that recodifies the
42 Maine Revised Statutes, Title 7, Part 9.

43
44 **Sec. 97. Scope of recodification.** In preparing the proposed
45 recodification, the Office of Policy and Legal Analysis and the
46 Office of the Revisor of Statutes shall reorganize the
47
48

2 law contained in the Maine Revised Statutes, Title 7, Part 9,
3 eliminate archaic terms and confusing language wherever possible,
4 update cross-references and make other technical changes
5 necessary to improve the readability and accessibility of that
6 Part. The recodification is not intended to contain substantive
7 changes to the animal welfare laws.

8 **Sec. 98. Report.** The Office of Policy and Legal Analysis and
9 the Office of the Revisor of Statutes shall submit the proposed
10 recodification to the Joint Standing Committee on Agriculture,
11 Conservation and Forestry no later than December 1, 1997.
12

13
14 **SUMMARY**

15 This bill rewrites certain animal welfare laws to remove
16 inconsistencies, clarify language, streamline enforcement and
17 make changes to reflect input from the Animal Welfare Advisory
18 Committee.