

MAINE STATE LEGISLATURE

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M
R.S.

L.D. 742

DATE: 5-4-99

(Filing No. H-444)

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 535, L.D. 742, Bill, "An Act to Amend the Animal Welfare Laws"

Amend the bill by striking out all of section 2.

Further amend the bill in section 3 in subsection 3 in the last 2 lines (page 1, lines 25 and 26 in L.D.) by striking out the following: "receive a minimum of 12 hours of related education annually" and inserting in its place the following: 'receive related education periodically as determined by the department'

Further amend the bill by striking out all of sections 5, 6 and 7 and inserting in their place the following:

'Sec. 5. 7 MRSA §3912, sub-§2, as enacted by PL 1997, c. 690, §10, is repealed and the following enacted in its place:

2. Ownership of dog known. An animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and, if the owner is known, shall:

A. Take the dog to its owner; or

B. Deliver it to an animal shelter as provided in section 3913. An animal shelter receiving a dog in accordance with this paragraph shall follow the procedure for stray dogs provided in section 3913.

COMMITTEE AMENDMENT

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Sec. 6. 7 MRSA §3923-B, sub-§2-A is enacted to read:

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

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Sec. 7. 7 MRSA §3923-B, sub-§3, as amended by PL 1997, c. 690, §16, is further amended to read:

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3. Exceptions. A dog is not required to wear a tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.'

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Further amend the bill by striking out all of sections 9 to 12.

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Further amend the bill in section 13 in that part designated "§3961." in the first paragraph in the 2nd line (page 4, line 39 in L.D.) by inserting after the following: "property" the following: 'due to negligence of the animal's owner or keeper'

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Further amend the bill in section 14 in that part designated "§3962-A." in subsection 1 in the 2nd line (page 4, line 50 in L.D.) by inserting after the following: "that" the following: 'due to negligence of the animal's owner or keeper' and by striking out all of the last underlined sentence (page 5, lines 3 to 5 in L.D.)

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Further amend the bill in section 18 in paragraph H in the next-to-the-last line (page 5, line 46 in L.D.) by striking out the following: "or unlawful"

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Further amend the bill in section 19 in the indented paragraph in the first 2 lines (page 6, lines 2 and 3 in L.D.) by striking out the following: "sentence, may prohibit the defendant" and inserting in its place the following: 'penalty, may prohibit a person adjudicated as having violated the laws against cruelty to animals'

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Further amend the bill in section 20 in that part designated "§4041." in subsection 3 in paragraph A in the 2nd line (page 7, line 13 in L.D.) by striking out the following: "within--12"

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COMMITTEE AMENDMENT "A" to H.P. 535, L.D. 742

2 hours" and inserting in its place the following: 'within 12 hours'

4 Further amend the bill in section 20 in that part designated "§4041." in subsection 4 in the first line (page 7, line 25 in L.D.) by striking out the following: "\$200" and inserting in its place the following: '\$50'

8 Further amend the bill in section 26 in paragraph H in the next-to-the-last line (page 8, line 26 in L.D.) by striking out the following: "or unlawful"

12 Further amend the bill by striking out all of sections 27 and 28 and inserting in their place the following:

14 'Sec. 27. 17 MRSA §1035, sub-§2, as enacted by PL 1987, c. 383, §4, is amended to read:

18 2. Water. If potable water is not accessible to the animal at all times, it shall must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

22 Sec. 28. 17 MRSA §1035, sub-§3 is enacted to read:

24 3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

26 Sec. 29. 17 MRSA §1036, as enacted by PL 1987, c. 383, §4, is amended to read:

28 **§1036. Necessary medical attention**

30 No A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

34 Sec. 30. 17 MRSA §1037, sub-§6 is enacted to read:

36 6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

38 Sec. 31. 29-A MRSA §2085 is enacted to read:

40 **§2085. Transporting dogs in open vehicle regulated**

42 Transporting dogs in an open vehicle is governed by this section.

COMMITTEE AMENDMENT

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1. Definition. For the purposes of this section, "open vehicle" means a motor vehicle with a portion of the vehicle not enclosed by a top and windows or sides. "Open vehicle" includes, but is not limited to, pickup trucks and convertibles.

2. Restrictions. A person driving an open vehicle may not transport a dog in the open portion of that vehicle on a public way unless the dog is protected in a manner that prevents the dog from falling or jumping or being thrown from the vehicle.

3. Exceptions. Notwithstanding subsection 2, this section does not apply to:

A. A dog being transported by a farmer or a farm employee who is engaged in agricultural activities requiring the services of a dog; or

B. A hunting dog at a hunting site or being transported between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for that activity.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

Establishing an application fee for a calf or pig scramble will result in insignificant increases of General Fund revenue collected by the Department of Agriculture, Food and Rural Resources.

This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$82.48 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

In addition to the new criminal cases, this bill may also increase the number of civil violations and traffic infractions filed in the court system. The additional workload,

administrative costs and indigent defense costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

SUMMARY

This amendment does the following.

1. It removes sections of the bill relating to dangerous dogs.

2. It specifies that humane agents receive periodic training rather than a minimum of 12 hours annually.

3. It specifies that the owner or keeper of an animal that damages property is liable for damages if the damage was due to that owner's or keeper's negligence.

4. It removes the provision allowing a court to order a person adjudicated of a civil violation of cruelty to animals to have psychological counseling.

5. It reinstates the 12-hour time period for a person to remove an animal that is trespassing and changes the minimum proposed fine for animal trespass to \$50.

6. It removes proposed changes in the penalties for criminal cruelty to animals.

7. It clarifies that criminal violations of failure to provide sustenance, necessary medical care and shelter are Class D crimes.

8. It imposes restrictions on the owners of dogs transported in open vehicles. A violation would be a traffic infraction as provided in the Maine Revised Statutes, Title 29-A.

9. It makes several technical changes to the bill.

10. It also adds a fiscal note to the bill.