

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

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No. 742

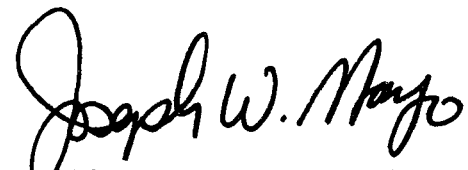
H.P. 535

House of Representatives, January 26, 1999

An Act to Amend the Animal Welfare Laws.

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.


JOSEPH W. MAYO, Clerk

Presented by Representative BUMPS of China.

Cosponsored by Representatives: CAMERON of Rumford, KNEELAND of Easton.

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

4 **Sec. 1. 7 MRSA c. 717, is amended by repealing the chapter headnote and enacting the following in its place:**

6 **CHAPTER 717**

8 **ANIMAL WELFARE ACT**

10 **Sec. 2. 7 MRSA §3907, sub-§12-D is enacted to read:**

12 **12-D. Dangerous dog. "Dangerous dog" means a dog that**
14 **bites an individual who is not trespassing on the dog owner's**
16 **premises at the time of the incident or a dog that causes a**
18 **reasonable person who is acting in a neutral manner outside of**
the dog owner's premises to fear imminent bodily harm by attacking or threatening to attack that individual or that individual's domestic animal.

20 **Sec. 3. 7 MRSA §3909, sub-§3 is enacted to read:**

22 **3. Education requirement; management. A humane agent hired**
24 **after January 1, 1999 shall attend a nationally recognized animal**
26 **law enforcement training program of at least 40 hours' duration.**
A humane agent, regardless of date of employment, must receive a
minimum of 12 hours of related education annually.

28 **Sec. 4. 7 MRSA §3911, as amended by PL 1987, c. 643, §1, is**
30 **further amended to read:**

32 **§3911. Dogs at large**

34 **It is unlawful for any dog, licensed or unlicensed, to ~~run~~**
36 **be at large, except when used for hunting. The owner or keeper**
of any dog found ~~running~~ at large shall--be is subject to the
penalties provided in this chapter.

38 **Sec. 5. 7 MRSA §3912, as repealed and replaced by PL 1997, c.**
40 **690, §10, is repealed and the following enacted in its place:**

42 **§3912. Disposition of dogs at large**

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

2 **Sec. 6. 7 MRSA §3915**, as amended by PL 1997, c. 690, §12, is
further amended to read:

4 **§3915. Violation**

6 Any person who violates this chapter commits a civil
7 violation for which a forfeiture of not less than \$50 nor more
8 than \$250 may be adjudged. An individual who fails to appear for
9 a 3rd time on a civil violation may be arrested pursuant to a
10 bench warrant.

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

14 **§3923-B. Tags and stickers**

16 1. **Tags and stickers.** The municipal clerk shall provide
18 with each new license issued under section 3923-A a tag
19 indicating the year the license is issued and bearing other
20 information prescribed by the department. The tag remains with
21 the dog for as long as the dog is kept in the licensing
22 municipality. At each license renewal, the municipal clerk shall
23 provide a sticker indicating the year for which the license is
24 valid. The sticker must be attached to the back of the tag. The
25 owner or keeper shall make sure that the tag is securely attached
26 to a collar of leather, metal or material of comparable strength
27 and that the collar is worn at all times by the dog for which the
28 license was issued, except as provided in subsection 3 2-A.

30 If a sticker and tag are lost or the owner has moved to a
31 different municipality, the owner or keeper of the dog shall
32 obtain a new license, tag and sticker. The municipal clerk shall
33 issue another license, tag and sticker upon presentation of the
34 original license and payment of \$1. The clerk shall retain the
\$1 for a recording fee.

36 2-A. Rabies tags. Rabies tags obtained from a veterinarian
37 for immunization against rabies must be securely attached to a
38 collar of leather, metal or material of comparable strength that
39 must be worn by the dog for which the tag was issued except when
40 hunting, in training or in an exhibition. When the dog is
41 hunting, in training or in an exhibition, its owner or keeper
42 shall produce proof of licensure within 24 hours upon request by
43 a humane agent, animal control officer or law enforcement
44 officer, including a game warden.

46 ~~3.--Exceptions.--A dog is not required to wear a tag when on~~
47 ~~the premises of the owner or off the premises of the owner while~~
48 ~~hunting, in training or in an exhibition.--When a dog is hunting,~~
49 ~~in training or in an exhibition, its owner or keeper shall~~
50

2 produce proof of licensure and proof of rabies immunization upon
request by a humane agent, animal control officer or law
4 enforcement officer, including a game warden.

6 Sec. 8. 7 MRSA §3942, first ¶, as amended by PL 1991, c. 779,
§34, is further amended to read:

8 Municipal clerks shall issue dog licenses in accordance with
chapter 721, receive the license fees and pay to the department
10 all fees received \$6.50 for dogs capable of producing young and
\$2 \$1 from each license fee received for dogs incapable of
12 producing young. The clerks shall keep a record of all licenses
issued by them, with the names of the owners or keepers of dogs
14 licensed and the sex, registered numbers and description of all
dogs except those covered by a kennel license. The clerks shall
16 make a monthly report to the department on a department-approved
form of all dog licenses issued and fees received.

18 Sec. 9. 7 MRSA c. 727, is amended by repealing the chapter
20 headnote and enacting the following in its place:

22 CHAPTER 727

24 DANGEROUS ANIMALS

26 Sec. 10. 7 MRSA §3952, as amended by PL 1997, c. 690, §§35
and 36, is further amended by amending the headnote to read:

28 §3952. Harboring dangerous dogs

30 Sec. 11. 7 MRSA §3952, sub-§1, as amended by PL 1997, c. 690,
32 §35, is further amended to read:

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

40 The sheriff, local law enforcement officer or animal control
42 officer may ~~file the complaint in District Court or Superior~~
Court issue a civil violation summons to the owner or keeper of
44 the dog for harboring a dangerous animal.

46 If, upon hearing, the court is satisfied that an assault on a
person or a domesticated animal has taken place, the court shall:

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

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

6 C. Order the owner or keeper to pay restitution to the
8 victim, including but not limited to all medical costs and
lost wages.

10 The owner or keeper who keeps a dog in violation of this section
12 commits a civil violation for which a forfeiture ~~of not to exceed~~
less than \$100, plus costs, nor more than \$500 may be adjudged.
14 An individual who fails to appear for a 3rd time on a civil
violation may be arrested pursuant to a bench warrant.

16 **Sec. 12. 7 MRSA §3952, sub-§3**, as amended by PL 1997, c. 690,
18 §36, is further amended to read:

20 **3. Complaint for dogs presenting immediate threat to**
~~public. After filing of complaint in District Court or Superior~~
22 ~~Court and before~~ **Before hearing and upon written notice to the**
24 **owner or keeper**, if the dog poses an immediate threat to the
public, the dog is may be subject to muzzling, restraint or
26 confinement to its premises upon order of the sheriff, local law
enforcement officer or animal control officer who filed the
complaint. Upon failure to comply, the officer to whom complaint
28 was made may apply to District Court, Superior Court or a justice
of the peace for an ex parte order for authorization to take
30 possession of the dog that poses an immediate threat to the
public and turn the dog over to the applicant or other suitable
person.

32 **Sec. 13. 7 MRSA §3961**, as enacted by PL 1987, c. 383, §3, is
34 amended to read:

36 **§3961. Reimbursement for damage done by animals**

38 ~~When a dog does damage to a person or his property an animal~~
40 ~~damages a person or that person's property~~, the owner or keeper
of ~~the dog that animal~~ is liable in a civil action to the person
42 injured for the amount of damage done, ~~provided that~~ if the
damage was not occasioned through the fault of the person injured.

44 **Sec. 14. 7 MRSA §3962-A**, as repealed and replaced by PL 1995,
46 c. 351, §2, is amended to read:

48 **§3962-A. Penalty for damage to livestock or pets by animals**

50 **1. Violation.** Except as provided in subsection 3, the
owner or keeper of a ~~dog~~ an animal that kills or injures

livestock, poultry, domestic rabbits or pets commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged in addition to costs. An individual who fails to appear for a 3rd time on a civil violation may be arrested pursuant to a bench warrant.

2. **Additional remedy.** A person who suffers damage as a result of a violation of subsection 1 may also pursue a civil action against the owner or keeper of the ~~dog~~ animal pursuant to section 3961.

3. **Exception.** If the owner or keeper of a ~~dog~~ an animal that kills or injures another ~~dog~~ animal establishes that the ~~dog~~ animal that was killed or injured provoked the killing or injury or that the ~~dog~~ animal that committed the killing or injury was leashed or controlled on the owner's or keeper's property at the time of the killing or injury, then the owner or keeper is not liable under this section or section 3961.

Sec. 15. 7 MRSA §4001, sub-§3, as enacted by PL 1987, c. 383, §3, is amended to read:

3. **Fee.** ~~No A fee is required of any applicant of \$10 must be submitted with any application for a calf or pig scramble.~~

Sec. 16. 7 MRSA §4011, sub-§1, ¶F, as amended by PL 1997, c. 456, §5, is further amended to read:

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

Sec. 17. 7 MRSA §4011, sub-§1, ¶G, as enacted by PL 1997, c. 456, §6, is amended to read:

G. Hunts or sells for the purpose of hunting any animal that is not covered by the provisions of Title 12, Part 10-1 or

Sec. 18. 7 MRSA §4011, sub-§1, ¶H is enacted to read:

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive or unlawful levels of sodium bicarbonate in equines used for competition.

Sec. 19. 7 MRSA §4016, as amended by PL 1997, c. 170, §1, is further amended by adding at the end a new paragraph to read:

2 The court, as part of the sentence, may prohibit the
4 defendant from owning, possessing or having on the defendant's
6 premises an animal for a period of time, up to and including
8 permanent relinquishment. The court as part of the sentence may
10 order that the defendant be evaluated to determine the need for
 psychiatric or psychological counseling and, if it is determined
 appropriate, the court may order that the defendant receive
 psychiatric or psychological counseling at the defendant's
 expense.

12 Sec. 20. 7 MRSA §4041, as amended by PL 1997, c. 690, §§47 to
14 49, is further amended to read:

16 **§4041. Animal trespass**

18 ~~1. Definitions. As used in this chapter, unless the context~~
 ~~otherwise indicates, the following terms have the following~~
20 ~~meanings.~~

22 ~~A. "Animal control officer" or "law enforcement officer"~~
 ~~means the animal control officer or law enforcement officer~~
24 ~~having jurisdiction over the area in which the livestock~~
 ~~animal or domestic water fowl was found.~~

26 ~~A-1. "Domestic water fowl" means domestic ducks, domestic~~
 ~~geese and other domestic water fowl.~~

28 ~~B. "Livestock animal" means dairy, feeding, beef or breeding~~
30 ~~cattle, horses, sheep, goats, donkeys, or swine~~

32 ~~C. "Trespass" means that a livestock animal or domestic~~
34 ~~water fowl of an owner or keeper has entered or been found~~
 ~~on the property of another person.~~

36 1-A. Trespass. An owner of an animal may not allow that
38 animal to enter onto the property of another after the owner has
40 been warned by a law enforcement officer or animal control
 officer that that animal was found on the property of another.

42 2. Removal. The owner or keeper of a livestock an animal or
44 ~~domestic water fowl~~ is responsible, at the owner's or keeper's
46 expense, for removing any livestock animal or ~~domestic water fowl~~
 found trespassing. An animal control officer or law enforcement
48 officer may, at the owner's or keeper's expense, remove and
50 control a ~~livestock~~ an animal or ~~domestic water fowl~~ found
 trespassing if:

 A. The owner or keeper fails to remove the livestock animal
 or ~~domestic water fowl~~ within 12 hours after having been

2 notified by an animal control officer or law enforcement
officer that a-livestock the animal ~~or domestic water fowl~~
4 ~~owned or kept by the owner or keeper~~ was trespassing; or

6 B. The livestock animal ~~or domestic water fowl~~ is an
immediate danger to itself, persons or another's property.

8 **3. Civil violation.** A person commits a civil violation if a
10 livestock an animal ~~or domestic water fowl~~ owned or kept by that
person is found trespassing and:

12 A. That person fails to remove the livestock animal ~~or~~
14 ~~domestic water fowl~~ ~~within 12 hours~~ after having been
personally notified by an animal control officer or law
16 enforcement officer that a-livestock the animal ~~or domestic~~
~~water fowl owned or kept by that person~~ was trespassing; ~~or,~~

18 ~~B. A livestock animal or domestic water fowl of that person~~
20 ~~had been found trespassing on a prior occasion within the 12~~
22 ~~months immediately preceding the present trespass and the~~
~~owner or keeper had, at that time, been notified by an~~
~~animal control officer or law enforcement officer of that~~
~~trespass.~~

24 **4. Forfeiture.** A forfeiture of not less than \$200 nor more
26 than \$500 must be adjudged for a civil violation under subsection
3. In addition, the court may as part of the sentencing include
28 an order of restitution for costs incurred in removing and
controlling the livestock animal ~~or domestic water fowl~~. When
30 appropriate, the court may order restitution to the property
owner based on damage done and financial loss. Any restitution
32 ordered and paid must be deducted from the amount of any judgment
awarded in a civil action brought by the owner against the
34 offender based on the same facts.

36 **5. Exemption.** A person is not liable under this section if,
at the time of the alleged trespass, that person was licensed or
38 privileged to allow the livestock ~~or domestic water fowl~~ animal
to be on the property.

40 **Sec. 21. 17 MRSA c. 42,** is amended by repealing the chapter
42 headnote and enacting the following in its place:

44 **CHAPTER 42**

46 **ANIMAL WELFARE**

48 **Sec. 22. 17 MRSA §1011, sub-§1,** as enacted by PL 1987, c. 383,
50 §4, is amended to read:

1. Act. "Act" means the Animal Welfare Board Act.

2
3 Sec. 23. 17 MRSA §1011, sub-§7, as enacted by PL 1987, c. 383,
4 §4, is repealed.

5 Sec. 24. 17 MRSA §1031, sub-§1, ¶F, as amended by PL 1997, c.
6 456, §14, is further amended to read:

7
8 F. Keeps or leaves a domestic animal on an uninhabited or
9 barren island lying off the coast of the State during the
10 month of December, January, February or March without
11 providing necessary sustenance and proper shelter; ~~or~~

12
13 Sec. 25. 17 MRSA §1031, sub-§1, ¶G, as enacted by PL 1997, c.
14 456, §15, is amended to read:

15 G. Hunts or sells for the purpose of hunting any animal
16 that is not covered by the provisions of Title 12, Part 10+1
17 or

18
19 Sec. 26. 17 MRSA §1031, sub-§1, ¶H is enacted to read:

20
21 H. Injects, inserts or causes ingestion of any substance
22 used solely to enhance the performance of an animal by
23 altering the animal's metabolism to that animal's detriment,
24 including but not limited to excessive or unlawful levels of
25 sodium bicarbonate in equines used for competition.

26
27 Sec. 27. 17 MRSA §1031, sub-§3, as amended by PL 1997, c. 690,
28 §70, is further amended to read:

29
30 3. Penalty. Cruelty to animals is a Class D crime. In
31 addition to any other penalty authorized by law, the court shall
32 impose a fine of not less than \$250 for each violation of this
33 section. The court may order the defendant to pay the costs of
34 the care, housing and veterinary medical treatment for the
35 animal. The court may increase the penalty to a Class C crime if
36 the defendant has previously been convicted of a criminal
37 violation under this Title or if, in the opinion of the court,
38 the act of cruelty was egregious enough to warrant a penalty of a
39 Class C crime.

40
41 The court, as part of the sentence, may prohibit the defendant
42 from owning, possessing or having on the defendant's premises an
43 animal ~~or animals as determined by the court~~ for a period of
44 time, up to and including permanent relinquishment, ~~as determined~~
45 ~~by the court~~. A person placed on probation for a violation of
46 this section with a condition that prohibits owning, possessing
47 or having an animal ~~or animals~~ on the probationer's premises is
48 subject to revocation of probation and removal of the animal ~~or~~
49
50

2 animals at the probationer's expense if this condition is
3 violated. The court as part of the sentence may order, as a
4 condition of probation, that the defendant be evaluated to
5 determine the need for psychiatric or psychological counseling,
6 and, if it is determined appropriate by the court, ~~to~~ may order
7 that the defendant receive psychiatric or psychological
8 counseling at the defendant's expense.

9
10 **Sec. 28. 17 MRSA §1032, sub-§2**, as amended by PL 1997, c. 690,
11 §71, is further amended to read:

12 **2. Penalty.** Cruelty to birds is a Class D crime. In
13 addition to any other penalty authorized by law, the court shall
14 impose a fine of not less than \$100 for each violation of this
15 section. The court may increase the penalty to a Class C crime
16 if the person has previously been convicted of a criminal
17 violation under this Title or if, in the opinion of the court,
18 the act of cruelty was egregious enough to warrant a penalty of a
19 Class C crime.

20 21 SUMMARY

22
23 This bill seeks to strengthen enforcement capabilities of
24 humane agents within the Department of Agriculture, Food and
25 Rural Resources. It provides clearer assistance to municipal
26 officials and individuals concerned with dangerous dogs and
27 modifies administrative language. Specifically, the bill
28 accomplishes the following.

29
30 1. It defines "dangerous dog," and amends the procedures
31 for harboring dangerous dogs and subsequent violations of the
32 laws regarding dangerous dogs.

33
34 2. It establishes an education requirement for humane
35 agents.

36
37 3. It requires that rabies tags verifying immunization be
38 worn by dogs.

39
40 4. It expands the provision concerning damage by animals to
41 include all animals defined in the Maine Revised Statutes, Title
42 7, section 3907, and increases the violation for failure to
43 appear in court for a 3rd time on a civil violation.

44
45 5. It establishes a fee for submitting calf and pig
46 scramble applications.

47
48 6. It provides that injecting, inserting or causing the
49 ingestion of any substance used solely to enhance the performance
50

2 of an animal by altering that animal's metabolism to the animal's
detriment as cruelty to animals in both the civil and criminal
sections of the law.

4
6 7. It grants the court the ability to prohibit a defendant
from owning, possessing or having on the defendant's premises an
animal, for a period of time up to and including permanent
8 relinquishment for committing the civil violation of cruelty to
animals. This inclusion reflects current law in the Maine
10 Revised Statutes, Title 17, concerning criminal violation.

12 8. It replaces the word "board" with "commissioner," since
the Animal Welfare Board is no longer in existence.

14
16 9. It grants the court the ability to increase an animal
abuse violation from a Class C crime to a Class D crime if, in
the opinion of the court, the act of cruelty is so egregious as
18 to warrant the greater penalty.