

MAINE STATE LEGISLATURE

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M.A.S.

L.D. 1170

DATE: *May 29, 2001*

(Filing No. S-286)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "*A*" to S.P. 356, L.D. 1170, Bill, "An Act to Amend the Animal Welfare Laws"

Amend the bill by striking out everything after title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislative revisions are needed to enhance enforcement of the State's animal welfare laws; and

Whereas, increased and stable funding is needed to improve the administration, implementation and enforcement of the animal welfare laws; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §714, sub-§1, as amended by PL 1997, c. 454, §1, is further amended to read:

1. Application for registration. A person may not distribute in this State a commercial feed, except a customer-formula feed, that has not been registered pursuant to this section. The application for registration must be submitted

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in the manner prescribed by the commissioner on forms furnished by the commissioner, and accompanied by an annual fee of \$40 \$80 per brand for pet food and \$30 \$80 per brand for all other commercial feed. Upon approval by the commissioner the registration must be issued to the applicant. All registrations expire on the 31st day of December. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

Sec. 2. 7 MRSA §714, sub-§2, as repealed and replaced by PL 1977, c. 672, Pt. A, §19, is repealed and the following enacted in its place:

2. Fees. The commissioner shall deposit 1/2 of the fees collected pursuant to subsection 1 in the General Fund and 1/2 of the fees collected in the Animal Welfare Fund established under section 3906-B.

Sec. 3. 7 MRSA §3906-B, sub-§2, as amended by PL 1997, c. 690, §1, is further amended to read:

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 1/2 of feed registration fees collected under section 714 in the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.

Sec. 4. 7 MRSA §3907, sub-§15, as repealed and replaced by PL 1991, c. 779, §14, is amended to read:

15. Humane agent. "Humane agent" means an employee of the department ~~or an intermittent employee of the board~~ who assists in enforcing this Part.

Sec. 5. 7 MRSA §3909, sub-§4, is enacted to read:

4. Subpoenas. The commissioner or the commissioner's designee after consultation with the appropriate attorney for the State or the legal counsel for the department may:

2 A. Serve subpoenas requiring persons to disclose or provide
4 to the department information or records in their possession
that are necessary and relevant to an investigation under
the animal welfare laws.

6 (1) The department may apply to the District Court to
8 enforce a subpoena.

10 (2) A person who complies with a subpoena is immune
12 from civil or criminal liability that might otherwise
result from the act of turning over or providing
information or records to the department.

14 **Sec. 6. 7 MRSA §3922, sub-§1, ¶¶A and B**, as amended by PL 1997,
16 c. 690, §14, are further amended to read:

18 A. From the clerk of the municipality where the dog is
kept; ~~or~~

20 B. From the dog recorder in the unorganized territory where
22 the dog is kept or, in the absence of a duly authorized dog
24 recorder, from a dog recorder in the nearest municipality or
unorganized territory in the same county where the dog is
kept; or

26 **Sec. 7. 7 MRSA §3922, sub-§1, ¶C** is enacted to read:

28 C. From a veterinary licensing agent in accordance with
30 section 3923-F.

32 **Sec. 8. 7 MRSA §3923-A, sub-§§1 and 2**, as amended by PL 1997,
c. 690, §15, are further amended to read:

34 **1. Dogs capable of producing young.** A dog owner or keeper
36 shall pay a fee of \$7.50 to the municipal clerk or to a
veterinary licensing agent for each dog 6 months of age or older
38 and capable of producing young. A dog is considered capable of
producing young unless certification under subsection 2 is
40 provided.

42 The clerk shall retain \$1 as a recording fee and pay the
44 remaining \$6.50 to the department for deposit in the Animal
Welfare Fund.

46 **2. Dogs incapable of producing young.** A dog owner shall
48 pay a fee of \$4 to the municipal clerk or to a veterinary
licensing agent for each dog 6 months of age or older and
incapable of producing young. A dog is considered incapable of
producing young when the owner provides the following:

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- A. A written certificate issued by a veterinarian stating that the veterinarian has neutered the dog;
- B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog and determined that the dog is incapable of producing young; or
- C. A previous license stating that the dog is incapable of producing young.

The clerk shall retain \$1 as a recording fee, deposit \$2 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining \$1 to the department for deposit in the Animal Welfare Fund.

Sec. 9. 7 MRSA §3923-A, sub-§3, as enacted by PL 1993, c. 468, §12, is amended to read:

3. Exemption from fees. A municipal clerk or a veterinary licensing agent shall issue a license upon application and without payment of a license fee required under this section for:

- A. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- B. A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- C. A trained service dog owned or kept by a physically impaired person or such a dog awaiting training; ~~and~~
- D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training; and
- E. A dog certified by the State and used for law enforcement purposes.

Sec. 10. 7 MRSA §3923-F is enacted to read:

§3923-F. Veterinarian serving as dog licensing agent

The commissioner may authorize a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375.

2 subchapter II-A. The rules must provide a process for
4 identifying veterinarians who are willing to serve as dog
6 licensing agents, for distributing license blanks, tags and
8 stickers, and for the collection, distribution and deposit of
10 license fees into the appropriate municipal and state accounts.

12 **Sec. 11. 7 MRSA §4018** is enacted to read:

14 **§4018. Report of suspected cruelty**

16 **1. Report by veterinarian.** A veterinarian licensed in
18 accordance with Title 32, chapter 71-A who, while acting in a
20 professional capacity, has reasonable cause to suspect that an
22 animal is the subject of cruelty or neglect in violation of this
24 chapter or Title 17, chapter 42, may report the suspected
26 violation to the commissioner, the commissioner's designee, an
28 animal control officer, attorney for the State or law enforcement
30 officer. A veterinarian making a report under this section may
32 appear and testify in a judicial or administrative proceeding
34 concerning the condition or care of the animal.

36 **2. Immunity.** A veterinarian reporting or testifying under
38 this section is immune from criminal or civil liability or
40 professional disciplinary action that might otherwise result from
42 these actions. The immunity from liability for releasing
44 confidential information applies only to the release of
46 information to the court or to the department, an animal control
48 officer, attorney for the State or law enforcement agency
50 involved in the investigation.

Sec. 12. 17 MRSA §1011, sub-§15, as repealed and replaced by
PL 1991, c. 779, §44, is amended to read:

15. Humane agent. "Humane agent" means an employee of the
Department of Agriculture, Food and Rural Resources ~~or--an~~
~~intermittent-employee-of-the-board~~ who assists in enforcing this
chapter.

Sec. 13. 17 MRSA §1023, as amended by PL 1997, c. 690, §§66
and 67, is repealed and the following enacted in its place:

§1023. Investigation and reporting of cruelty

1. Investigations; reports. Law enforcement officers,
animal control officers and humane agents shall investigate
alleged violations of Title 7, chapter 739 and this chapter. The
commissioner shall maintain a record of each alleged case of
cruelty to animals investigated by a humane agent. The
commissioner shall report annually on the disposition of cases as
required under Title 7, section 3906-B.

A law enforcement officer or animal control officer who investigates a case of alleged cruelty to animals and pursues a civil or criminal action based on that investigation shall report to the commissioner on the final disposition of the case.

3. Cooperation between agencies. For the purposes of this section, law enforcement officers, the commissioner or the commissioner's designee, humane agents, a state veterinarian and certified animal control officers may exchange information and reports pertaining to an investigation of cruelty to animals pursuant to the Title 16, chapter 3, subchapter VIII.

Sec. 14. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Division of Animal Health and Industry		
Positions - Legislative Count	(2,000)	(2,000)
Personal Services	\$126,427	\$128,821
All Other	101,516	89,522
TOTAL	\$227,943	\$218,343
Allocates funds for one additional Animal Welfare Program Manager position and one additional Clerk IV position as part of the recommendations in the program reorganization report issued by the Animal Welfare Working Group.		
Division of Animal Health and Industry		
Positions - Legislative Count		(-0.500)
Personal Services		(\$41,064)
All Other		(1,280)
TOTAL		(\$42,344)

2 Deallocates funds to reflect
4 the elimination of one
6 1/2-time State Veterinarian
8 position as part of the
10 recommendations in the
12 program reorganization report
14 issued by the Animal Welfare
16 Working Group.

12	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
14	TOTAL	<u>\$227,943</u>	<u>\$175,999</u>

16 **Emergency clause.** In view of the emergency cited in the
18 preamble, this Act takes effect when approved.'

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

22 **FISCAL NOTE**

24		2001-02	2002-03
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26 **APPROPRIATIONS/ALLOCATIONS**

28	Other Funds	\$227,943	\$175,999
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30 **REVENUES**

32	General Fund	\$110,000	\$110,000
34	Other Funds	274,000	274,000

36 Increasing the registration fee for commercial feeds and pet
38 food will increase annual General Fund revenue by an estimated
40 \$110,000 beginning in fiscal year 2001-02. These fee increases
will also increase annual dedicated revenue collected by the
Department of Agriculture, Food and Rural Resources by an
estimated \$274,000 beginning in fiscal year 2001-02.

42 This bill includes Other Special Revenue funds net
44 allocations of \$227,943 and \$175,999 in fiscal years 2001-02 and
46 2002-03, respectively, to the Division of Animal Health and
48 Industry within the Department of Agriculture, Food and Rural
Resources for one additional Animal Welfare Program Manager and
one additional Clerk IV position as part of the recommendations
in the program reorganization report issued by the Animal Welfare
Working Group. The allocation for fiscal year 2002-03 also

reflects the group's recommended elimination of a half-time State Veterinarian position.

The Department of Agriculture, Food and Rural Resources will incur some minor additional costs to submit an annual report to the Legislature regarding the disposition of animal cruelty cases. These costs can be absorbed within the department's existing budgeted resources.

This bill may increase prosecutions for Class D and Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.36 per day per prisoner. 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.

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 and municipal revenue by minor amounts.

This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

SUMMARY

This amendment replaces the bill. It increases the registration fee for commercial feeds and pet food. It allows the Commissioner of Agriculture, Food and Rural Resources to authorize veterinarians to serve as dog licensing agents and to adopt rules to implement this option for issuing licenses and collecting license fees.

It grants subpoena authority to the Department of Agriculture, Food and Rural Resources to strengthen the enforcement capabilities of the department. It allows law enforcement officers, the commissioner or the commissioner's designee, humane agents, animal control officers and the state veterinarian to exchange information relating to cases of alleged animal cruelty.

It provides immunity from civil and criminal liability for a veterinarian reporting a case of alleged animal cruelty.

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2 It adds an allocation section and a fiscal note to the bill.

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