

MAINE STATE LEGISLATURE

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L.D. 1679

DATE: 5-11-01

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1232, L.D. 1679, Bill, "An Act to Increase the Penalties for Animal Cruelty"

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

Sec. 1. 7 MRSA §4011, sub-§1, ¶G, as amended by PL 1999, c. 765, §9, is further amended to read:

G. Hunts or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 10; or

Sec. 2. 7 MRSA §4011, sub-§1, ¶H, as enacted by PL 1999, c. 254, §13, is amended 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 levels of sodium bicarbonate in equines used for competition; or

Sec. 3. 7 MRSA §4011, sub-§1, ¶I is enacted to read:

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal.

Sec. 4. 7 MRSA §4016, as amended by PL 1999, c. 597, §2, is repealed and the following enacted in its place:

§4016. Violation

2 1. Penalty. A person who violates this chapter commits a
4 civil violation.

6 A. The court shall adjudge a civil fine of not less than
8 \$500 nor more than \$2,500 for the first violation, none of
10 which may be suspended, and a civil fine of not less than
12 \$1,000 nor more than \$5,000 for a 2nd or subsequent
14 violation of section 4011, none of which may be suspended.

16 B. The court may order a person adjudicated as having
18 violated the laws against cruelty to animals to pay the
20 costs of the care, housing and veterinary medical treatment
22 for the animal.

24 C. The court, as part of the judgment, may prohibit a
26 person adjudicated as having violated the laws against
28 cruelty to animals from owning, possessing or having on the
30 defendant's premises an animal for a period of time up to
32 and including permanent relinquishment.

34 D. The court, as part of the judgment, may order that the
36 defendant submit to and complete a psychological evaluation
38 for in camera review by the court.

40 2. Criminal or civil prosecution. A person may be arrested
42 or detained for the crime of cruelty to animals under Title 17,
44 chapter 42, subchapter III in accordance with the rules of
46 criminal procedure. A person may not be arrested or detained for
48 the civil violation of cruelty to animals. The attorney for the
50 State may elect to charge a defendant with either the crime of
cruelty to animals under Title 17, chapter 42, subchapter III or
the civil violation of cruelty to animals under this chapter. In
making this election, the attorney for the State shall consider
the severity of the cruelty displayed, the number of animals
involved, any prior convictions or adjudications of animal
cruelty entered against the defendant and such other factors as
may be relevant to a determination of whether criminal or civil
sanctions will best accomplish the goals of the animal welfare
laws in the particular case before the attorney for the State.
The election and determination required by this subsection are
not subject to judicial review. The factors involved in the
election and determination are not elements of the criminal
offense or civil violation of animal cruelty and are not subject
to proof or disproof as prerequisites or conditions for
conviction under Title 17, chapter 42, subchapter III or
adjudication under this chapter.

Sec. 5. 17 MRSA §1031, sub-§1, ¶G, as amended by PL 1999, c.
 765, §11, is further amended to read:

2 G. Hunts or sells for the purpose of hunting any animal,
4 except as permitted pursuant to Title 7, chapter 202-A and
Title 12, Part 10; e#

6 **Sec. 6. 17 MRSA §1031, sub-§1, ¶H,** as enacted by PL 1999, c.
8 254, §21, is amended to read:

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

16 **Sec. 7. 17 MRSA §1031, sub-§1, ¶I** is enacted to read:

18 I. Kills or tortures an animal to frighten or intimidate a
person or forces a person to injure or kill an animal.

20 **Sec. 8. 17 MRSA §1031, sub-§1-B** is enacted to read:

22 1-B. Aggravated cruelty to animals. A person is guilty of
24 aggravated cruelty to animals if that person, in a manner
manifesting a depraved indifference to animal life or suffering,
intentionally, knowingly or recklessly:

26 A. Causes extreme physical pain to an animal;

28 B. Kills an animal; or

30 C. Physically tortures an animal.

32 **Sec. 9. 17 MRSA §1031, sub-§3,** as amended by PL 1999, c. 481,
34 §1, is repealed and the following enacted in its place:

36 3. Penalty for cruelty to animals. Except as provided in
38 paragraph A, cruelty to animals under subsection 1 or 1-A is a
Class D crime.

40 A. Cruelty to animals under subsection 1 or 1-A is a Class
42 C crime if the State pleads and proves that, at the time a
violation of this section was committed, the defendant had
44 been convicted of:

46 (1) One or more violations of subsection 1 or 1-A;

48 (2) One or more violations of aggravated cruelty to
animals under subsection 1-B;

2 (3) One or more violations of cruelty to birds under
 section 1032;

4 (4) Two or more violations under Title 7, chapter 739;
 or

6 (5) Two or more essentially similar crimes in other
8 jurisdictions.

10 B. Notwithstanding Title 17-A, section 1301, the court
12 shall impose a fine of not less than \$500 nor more than
14 \$2,500 for the first violation of this section, none of
16 which may be suspended, and a fine of not less than \$1,000
 nor more than \$5,000 for a 2nd or subsequent violation of
 this chapter, none of which may be suspended;

18 C. The court may order the defendant to pay the costs of
 the care, housing and veterinary medical treatment for the
20 animal.

22 D. If the defendant is convicted of the Class D crime under
24 this section, the court, as part of the sentence, may
 prohibit the defendant from owning, possessing or having on
 the defendant's premises an animal or animals for a period
26 of time up to and including permanent relinquishment, as
 determined by the court.

28 E. If the defendant is convicted of the Class C crime under
30 this section, the court, as part of the sentence, shall
 prohibit the defendant from owning, possessing or having on
32 the defendant's premises permanently an animal or animals.

34 F. A person placed on probation for a violation of this
36 section with a condition that prohibits owning, possessing
 or having an animal or animals on the probationer's
 premises, in addition to revocation of probation pursuant to
38 Title 17-A, chapter 49, is subject to the removal of the
 animal or animals at the probationer's expense if this
40 condition is violated.

42 G. The court as part of the sentence may order, as a
44 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
46 court, to receive psychiatric or psychological counseling at
 the defendant's expense. If the defendant is a juvenile,
48 the court shall order that the juvenile receive psychiatric
 or psychological counseling. The parents or guardian of the
50 juvenile, if they are able, shall pay for the counseling.

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Sec. 10. 17 MRSA §1031, sub-§3-A is enacted to read:

3-A. Penalty for aggravated cruelty to animals. Aggravated cruelty to animals under subsection 1-B is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 nor more than \$10,000 for a first or subsequent violation of subsection 1-B. The sentencing provisions in subsection 3, paragraphs C, E, F and G also apply to a person convicted of aggravated cruelty to animals.

Sec. 11. 17 MRSA §1031, sub-§5, is enacted to read:

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.'

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

FISCAL NOTE

This bill increases the penalty for certain crimes from Class D to Class C crimes, resulting in a shift of costs from the counties to the State. Sentences of more than 9 months for Class C crimes must be served in state correctional institutions at the cost of \$71,306 per sentence based on an average length of stay of 2 years and 5 months. Sentences of 9 months or less for a Class C crime and all sentences for a Class D crime must be served in county jails.

The Judicial Department may require additional General Fund appropriations to cover indigent defense costs related to these new cases. The amounts can not be estimated at this time. The additional workload and administrative 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 local revenue by minor amounts.'

SUMMARY

This amendment replaces the original bill. It provides for higher fines for civil and criminal violations of the cruelty to animals laws. It creates a new category of aggravated cruelty to animals and makes it a Class C crime. It enacts additional conditions under which a person convicted of criminal cruelty to animals may be sentenced for a Class C crime.