

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1695

H.P. 1260

House of Representatives, March 20, 2001

**An Act to Clarify, Enhance and Strengthen the Animal Welfare Laws of
Maine.**

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative WATSON of Farmingdale.
Cosponsored by Senator NUTTING of Androscoggin and
Representatives: BLANCHETTE of Bangor, COWGER of Hallowell, GERZOFKY of
Brunswick, LAVERRIERE-BOUCHER of Biddeford, McKEE of Wayne, MENDROS of
Lewiston, MICHAUD of Fort Kent, MUSE of South Portland.

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

2
4 **Sec. 1. 7 MRSA §3906-B, sub-§4,** as amended by PL 1997, c. 690,
§2, is further amended to read:

6 **4. Training and certification of animal control officers.**
The commissioner shall develop a program to train animal control
8 officers. This program must include training in investigation of
complaints of cruelty to animals, training in handling and
10 evaluating equines and other large animals, training in response
to calls concerning animals suspected of having rabies and
12 training in enforcement of dog licensing laws and rabies
immunization laws. The commissioner shall certify all animal
14 control officers who complete the training program.

16 **Sec. 2. 7 MRSA §3906-B, sub-§9,** as amended by PL 1995, c. 502,
Pt. C, §11, is further amended to read:

18 **9. Employees.** The commissioner shall employ personnel,
20 subject to the Civil Service Law, as necessary to assist in
enforcing this Part and in carrying out the duties and
22 responsibilities of the department. The commissioner, in
consultation with the Animal Welfare Advisory Committee, shall
24 employ, subject to the Civil Service Law, ~~one~~ 3 full-time humane
~~agent~~ agents to assist the commissioner in carrying out the
26 commissioner's duties and responsibilities. The commissioner may
not hire as a state humane agent a person who has been convicted
28 of a criminal violation under Title 17, chapter 42 or has been
adjudicated of a civil violation for cruelty to animals under
30 chapter 739.

32 **Sec. 3. 7 MRSA §3906-B, sub-§12,** as enacted by PL 1995, c.
502, Pt. C, §12, is amended to read:

34 **12. Intermittent agents.** The commissioner shall appoint
36 one intermittent humane ~~agents--as--necessary~~ agent per county to
assist the commissioner in carrying out the commissioner's duties
38 and responsibilities. The commissioner shall train and
coordinate efforts of intermittent agents. These intermittent
40 agents are unclassified employees whose training, compensation
and hours of employment are determined by the commissioner.

42 **Sec. 4. 7 MRSA §3906-B, sub-§15,** as enacted by PL 1995, c.
44 502, Pt. C, §12, is amended to read:

46 **15. Annual report.** The commissioner shall report the
activities of the commissioner annually by March 1st to the joint
48 standing committee of the Legislature having jurisdiction over
agricultural matters. This report must include a summary of
50 cases of cruelty to animals investigated by the commissioner, a

2 summary of final disposition of those cases and an account of
deposits into and payments from the spaying and neutering fund.

4 **Sec. 5. 7 MRSA §3906-C, sub-§1**, as amended by PL 1995, c. 502,
Pt. C, §13, is repealed and the following enacted in its place:

6 **1. Membership.** The committee consists of 11 voting members:

8
A. Two members of the joint standing committee of the
10 Legislature having jurisdiction over animal welfare matters,
one appointed by the President of the Senate and one
12 appointed by the Speaker of the House; and

14 B. Nine members appointed by the Governor as follows and
subject to review by the joint standing committee of the
16 Legislature having jurisdiction over animal welfare matters
and to confirmation by the Senate:

18 (1) One member representing licensed animal shelters;

20 (2) One member with expertise in the care and health
22 of equines;

24 (3) One member with expertise in the care and health
26 of livestock;

28 (4) One member with expertise in the care and health
of animals kept as household pets;

30 (5) One member representing humane societies;

32 (6) One member who is or has been a veterinarian
34 licensed to practice in the State and who is not an
employee of the State;

36 (7) One animal control officer;

38 (8) One member representing municipal interests; and

40 (9) One member who represents the interests of the
42 public in animal welfare, generally.

44 A person who owns or operates a boarding kennel, breeding kennel
or pet shop may not serve as a committee member.

46 **Sec. 6. 7 MRSA §3906-C, sub-§4**, as enacted by PL 1991, c. 779,
48 §10, is amended to read:

50 **4. Terms of office.** Except for ~~initial-appointees and the~~
~~state-member~~ the legislative members, each member serves for a

2 term of 3 years or until the member's successor has qualified. A
3 person may not serve more than 2 consecutive terms. In the case
4 of a vacancy for any reason, the Governor shall appoint a member
5 to fill the unexpired term. The terms of legislative members
6 expire on the first Wednesday in December of even-numbered years.

7 **Sec. 7. 7 MRSA §3906-C, sub-§5,** as enacted by PL 1991, c. 779,
8 §10, is repealed.

9 **Sec. 8. 7 MRSA §3906-C, sub-§6,** as enacted by PL 1991, c. 779,
10 §10, is amended to read:

11 **6. Administration; meetings.** The committee shall elect one
12 of its members as chair. The chair serves for a 2-year period
13 and may not serve as chair for consecutive 2-year periods.

14 The committee shall hold regular monthly meetings but may waive
15 by majority vote a succeeding monthly meeting. The chair shall
16 call special meetings of the committee whenever requested in
17 writing by 2 or more members. All meetings of the committee are
18 public meetings and notice must be provided. The committee shall
19 keep minutes of all proceedings, which are a public record,
20 available and on file with the Director of the Division of Animal
21 Health and Industry.

22 **Sec. 9. 7 MRSA §3906-C, sub-§§7 and 8** are enacted to read:

23 **7. Geographic regions.** The committee shall work with the
24 commissioner to designate 5 or more geographic regions in the
25 state to facilitate the training of intermittent agents, to
26 coordinate services and investigations and to enhance the
27 enforcement of the animal welfare laws. The boundaries of the
28 regions must conform to county lines or judicial divisions.

29 **8. Animal welfare ombudsmen.** The committee, in
30 consultation with the commissioner, the state humane agents and
31 intermittent humane agents shall develop a roster of people with
32 expertise in animal health who are willing to assist in the
33 investigation of complaints of alleged violations of chapters
34 731, 733, 735, 737 and 739 and Title 17, chapter 42. The
35 committee shall strive to find ombudsmen to serve in each of the
36 geographic regions designated in accordance with subsection 7
37 with expertise in each of the following areas:

38 A. Canine health;

39 B. Feline and small mammal health;

40 C. Equine health;

2 D. Livestock and poultry; and

4 E. Exotic birds and animals.

6 The commissioner shall provide the names of and contact
8 information for the regional animal ombudsmen to humane agents,
10 intermittent humane agents, animal control officers and law
12 enforcement officers. Animal welfare ombudsmen are entitled to
14 receive expenses for travel associated with investigations. An
 animal welfare ombudsman is immune from any liability that might
 result from participation in investigations of alleged animal
 cruelty violations.

16 **Sec. 10. 7 MRSA §3907, sub-§8-A,** as amended by PL 1997, c.
 690, §4, is further amended to read:

18 **8-A. Breeding kennel.** "Breeding kennel" means a facility
20 operated for the purpose of breeding or buying, selling or in any
 way exchanging dogs or cats for value that exchanges more than 16
 6 dogs or 16 6 cats in a 12-month period.

22 **Sec. 11. 7 MRSA c. 720,** is amended by repealing the chapter
24 headnote and enacting the following in its place:

26 CHAPTER 720

28 RABIES PREVENTION

30 **Sec. 12. 7 MRSA §3919** is enacted to read:

32 §3919. Rabies vaccination information

34 Upon request, a veterinarian or employee of a veterinary
36 clinic shall provide information regarding the status of an
 animal's vaccination against rabies. If the veterinarian or
38 veterinary clinic is in possession of medical records for an
 animal, the veterinarian or veterinary clinic shall make
40 available all information pertaining to the animal's vaccination
 against rabies, including dates of vaccination, and the name,
 address and phone number of the animal's owner.

42 **Sec. 13. 7 MRSA §3972, sub-§2,** as amended by PL 1989, c. 342,
44 §2, is further amended to read:

46 **2. Violation.** Any person who makes unlawful use of animals
48 contrary to this section commits a civil violation for which a
 forfeiture ~~not to exceed \$100~~ not less than \$100 or more than
50 \$1,000 may be adjudged. For the purposes of this section,
 "animal" does not include lobsters or shellfish.

2 **Sec. 14. 7 MRSA §3981, sub-§1.** as enacted by PL 1987, c. 383,
§3, is amended to read:

4 **1. Period of confinement.** No A railroad, motor truck,
6 common carrier or its receiver, trustee or lessee ~~which that~~
7 transports animals within the State or other person having the
8 care, custody or charge of animals loaded into any such form of
9 transportation may not confine the animals in cars, boats,
10 vehicles or vessels of any description for a period longer than
28 12 consecutive hours without unloading the animals in a humane
11 manner, by means of a chute or tailgate of sufficient size, into
12 properly equipped pens or other suitable enclosures for rest,
13 water and feeding for a period of at least 5 consecutive hours,
14 unless prevented by storm, accident or other unavoidable cause
15 ~~which that~~ cannot be anticipated or avoided by the exercise of
16 due diligence and foresight.

18 In estimating the time of confinement, the time consumed in
19 loading and unloading ~~shall may~~ not be considered, but the time
20 during which the animals have been confined without such rest,
21 food or water in a car, boat, vehicle or vessel ~~shall must~~ be
22 included.

24 **Sec. 15. 7 MRSA §3981, sub-§2,** as enacted by PL 1987, c. 383,
§3, is repealed.

26 **Sec. 16. 7 MRSA §3981, sub-§§5 and 6,** as enacted by PL 1987, c.
28 383, §3, are amended to read:

30 **5. Conditions of transportation.** Cars, boats, vehicles or
31 vessels ~~shall must~~ be sufficiently covered or boarded on the
32 sides and ends to afford proper protection to animals in case of
33 storms or severe cold weather and ~~shall must~~ be properly
34 ventilated. A greater number of animals ~~shall may~~ not be loaded
35 into any car, boat, vehicle or vessel than can stand comfortably
36 within. A person may not transport equines in a trailer designed
37 for transporting animals in 2 tiers, commonly referred to as a
38 "double-decker" trailer.

40 No A person may not transport any animal in or upon any car,
41 boat, vehicle or vessel in a cruel or inhumane manner.

42 **6. Violation.** Any person who violates this section commits
43 a civil violation for which a forfeiture of not less than \$50
44 \$500 nor more than \$500 \$1,000 for every such offense may be
45 adjudged.

48 **Sec. 17. 7 MRSA §4001, sub-§4-A** is enacted to read:

50 4-A. Care of animals. A person sponsoring a calf or pig

2 scramble shall provide the animals food, shelter and water in
3 accordance with sections 4013 and 4015.

4 **Sec. 18. 7 MRSA §4011, sub-§1, ¶E,** as amended by PL 1997, c.
5 456, §5, is further amended to read:

6
7 E. Deprives an animal that the person owns ~~or~~, possesses or
8 has under that person's care and control of necessary
9 sustenance, necessary medical attention, proper shelter,
10 protection from the weather or humanely clean conditions;

11 **Sec. 19. 7 MRSA §4011, sub-§1, ¶G,** as amended by PL 1999, c.
12 765, §9, is further amended to read:

13
14 G. Hunts or sells for the purpose of hunting any animal,
15 except as permitted pursuant to Title 7, chapter 202-A and
16 Title 12, Part 10; ~~or~~

17 **Sec. 20. 7 MRSA §4011, sub-§1, ¶H,** as enacted by PL 1999, c.
18 254, §13, is amended to read:

19
20 H. Injects, inserts or causes ingestion of any substance
21 used solely to enhance the performance of an animal by
22 altering the animal's metabolism to that animal's detriment,
23 including but not limited to excessive levels of sodium
24 bicarbonate in equines used for competition; ~~;~~

25 **Sec. 21. 7 MRSA §4011, sub-§1, ¶¶I and J** are enacted to read:

26
27 I. Inserts, applies or fastens to any part of the body any
28 substance, device, product or object used to curtail a
29 bodily function or to cause pain or irritation to the animal
30 or agitation to the animal to cause a fight or flight
31 response, including, but not limited to, spikes attached to
32 the legs of an equine or electric prods used on the genitals
33 of pulling animals in training or show; or

34
35 J. Except for livestock traditionally pastured, keeps or
36 leaves an animal at a location that is not occupied by a
37 person responsible for the animal's care and sustenance.

38 **Sec. 22. 7 MRSA §4013, sub-§§1 and 2,** as enacted by PL 1987, c.
39 383, §3, are amended to read:

40
41 1. **Food.** The food shall ~~must~~ be of sufficient quantity and
42 quality to maintain all animals in good health. For an equine,
43 hay must be sweet smelling, not moldy or wet or mulch hay. Grain
44 must be dry and fresh, not wormy, damp or moldy or with rodent
45 infestation.

2 2. ~~Water. If--potable~~ Potable water ~~is--not~~ must be
accessible to the animal at all times, ~~it shall be provided daily~~
4 ~~and in sufficient quantity for the health of the animal.~~

6 **Sec. 23. 7 MRSA §4015, sub-§2**, as amended by PL 1997, c. 456,
§8, is further amended to read:

8 2. **Outdoor standards.** Minimum outdoor standards of shelter
10 ~~shall be~~ are as follows.

12 A. ~~When sunlight is likely to cause heat exhaustion of~~ an
animal is tied ~~or~~ caged or confined outside, sufficient
14 shade by natural or artificial means ~~shall~~ must be provided
to protect the animal from direct sunlight. As used in this
16 paragraph, "~~eaged~~" "confined" does not include farm fencing
used to confine farm animals, except that "confined" does
18 include fencing used to confine equines.

20 B. Except as provided in ~~subsectien~~ subsections 5, 6 and 7,
shelter from inclement weather must be as follows.

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

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

38 C. ~~No~~ An animal may not be confined in a building,
enclosure, car, boat, vehicle or vessel of any kind when
40 ~~extreme~~ heat or ~~extreme~~ cold will be harmful to its health.

42 **Sec. 24. 7 MRSA §4015, sub-§3, ¶B**, as enacted by PL 1987, c.
383, §3, is amended to read:

44 B. Enclosures ~~shall~~ must be constructed and maintained to
46 provide sufficient space to allow each animal adequate
freedom of movement. Inadequate space may be indicated by
48 evidence of overcrowding, debility, stress or abnormal
behavior patterns or feces and urine on the animal's fur,
50 feathers, coat or hide.

2 **Sec. 25. 7 MRSA §4015, sub-§5,** as amended by PL 1999, c. 765,
3 §10, is further amended to read:

4
5 **5. Livestock.** Livestock must be provided with shelter
6 suitable for the health of the animal. Livestock must have
7 access to a constructed or natural shelter that is large enough
8 to accommodate all livestock comfortably at one time. The
9 shelter should be well drained and protect the livestock from
10 direct sun, rain, wind and other inclement weather.
11 Notwithstanding this subsection, shelter for equines must be
12 provided in accordance with subsection ~~2, -- paragraph -- B,~~
13 ~~subparagraph (1)~~ **6.** For purposes of this subsection, "livestock"
14 includes large game as defined in section 1341, subsection 5 kept
15 at a licensed commercial large game shooting area as defined in
16 section 1341, subsection 1.

17 **Sec. 26. 7 MRSA §4015, sub-§§6 and 7** are enacted to read:

18
19 **6. Equines.** An equine must be provided with a shelter
20 constructed of wood, metal or other solid material with a minimum
21 of 3 sides and a waterproof roof. For purposes of this
22 subsection, a tarp is not acceptable as a waterproof roof.
23 Shelter must be available at all times and be sufficient in size
24 to accommodate all equines on the site. The shelter must be
25 located on a well-drained site. The floor must be dry or enough
26 bedding must be provided to ensure dry conditions suitable for
27 the animal to lie down.

28
29 **7. Dogs; shelter and tethering.** A person owning or keeping
30 a dog who shelters the dog out of doors shall provide the dog
31 with a shelter consisting of a 4-sided structure and roof made of
32 waterproof and windproof material with an insulation resistance
33 factor of at least .9. The shelter must have a portal of entry
34 of sufficient size to allow the dog unimpeded passage. The
35 portal must include a baffle, or the passage of entrance must be
36 constructed in a manner to provide a sheltered entrance. The
37 entrance must face south or the direction away from which most
38 wind-driven precipitation comes. The shelter must have a solid
39 floor at least 3 inches above the ground level, with clean
40 bedding material sufficient to retain the animal's normal body
41 heat.

42
43 When an animal is confined by a chain or similar device, the
44 chain must be attached to both the animal and the anchor by a
45 swivel or similar device to prevent the chain from becoming
46 entangled or twisted. The chain or similar device must be
47 attached to a well-fitting collar or harness that in no way cuts
48 into the animal's flesh or impinges on the animal's circulation
49 or ability to ingest food or water or to vocalize. The gauge of
50

2 the chain must be appropriate for the size of the animal
4 involved, and the chain must be at least 5 times the length of
6 the animal from the tip of its nose to the base of its tail,
8 except in the case of a dog that is bred and trained as a sled
10 dog or a dog that is tethered at a pivot point permitting a
12 360-degree area of movement.

14 For a dog that is bred and trained as a sled dog, the length of
16 the chain must be at least 1 1/2 times the length of the dog from
18 the tip of its nose to the base of its tail if the dog is tied on
20 a pivot and 3 times the length of the dog from the tip of its
22 nose to the base of its tail if the dog is tied to a stationary
24 point. For a dog that is tethered at a pivot point permitting a
26 360-degree area of movement, the chain must be at least 2 1/2
28 times the length of the dog from the tip of its nose to the base
30 of its tail.

32 **Sec. 27. 7 MRSA §4017**, as amended by PL 1997, c. 690, §46, is
34 repealed and the following enacted in its place:

36 **§4017. Rules**

38 **1. Rules.** The commissioner shall adopt rules to implement
40 this chapter. Rules adopted pursuant to this section are major
42 substantive rules as defined in Title 5, chapter 375, subchapter
44 II-A.

46 **2. Provisional rules.** The commissioner, in consultation
48 with the Animal Welfare Advisory Committee, shall provisionally
50 adopt rules in accordance with Title 5, chapter 375 to implement
52 this chapter. Rules adopted pursuant to this section are major
54 substantive rules as defined in Title 5, chapter 375, subchapter
II-A and must be submitted to the Legislature no later than
January 1, 2002 for review. This subsection is repealed January
1, 2002.

Sec. 28. 7 MRSA §4018 is enacted to read:

§4018. Report of suspected cruelty

1. Duty to report. When, while acting in a professional
capacity, a veterinarian knows or has reasonable cause to suspect
that an animal is the subject of cruelty or neglect in violation
of this chapter or Title 17, chapter 42, the veterinarian shall
immediately report such knowledge or suspicion to a humane agent,
animal control officer or law enforcement officer.

2. Immunity. A veterinarian reporting under this section
is immune from any liability that might otherwise result from
these actions.

3. Violation. A person who violates this section commits a
civil violation for which a forfeiture not to exceed \$100 may be
adjudged.

2 **Sec. 29. 17 MRSA §1011, sub-§8-A**, as amended by PL 1997, c.
690, §56, is further amended to read:

4 **8-A. Breeding kennel.** "Breeding kennel" means a facility
6 operated for the purpose of breeding or buying, selling or in any
way exchanging dogs or cats for value that exchanges more than ~~16~~
8 6 dogs or ~~16~~ 6 cats in a 12-month period.

10 **Sec. 30. 17 MRSA §1023, sub-§1**, as amended by PL 1997, c. 690,
§66, is further amended to read:

12 **1. Investigation; report.** Sheriffs, deputy sheriffs,
14 police officers, constables, animal control officers and humane
agents shall investigate cases of cruelty to animals coming to
16 their attention and report them to the Department of Agriculture,
Food and Rural Resources on department-approved forms. The forms
18 must include space for a written description of the animal's
condition. A copy of the completed form must be given to the
20 owner or keeper of the animal. The person investigating the case
must retain a copy of the form for office records. Upon
22 completion of an investigation, the department shall, if
requested, report the result of the investigation to the person
24 complaining of alleged cruelty.

26 **Sec. 31. 17 MRSA §1023, sub-§§3 to 7** are enacted to read:

28 **3. Equipment.** To assist in the investigation of complaints
of animal cruelty, the commissioner shall provide each animal
30 control officer and humane agent with a camera and a measuring
tape known as "an equine tape" and used to evaluate an equine's
32 condition.

34 **4. Initial visit by humane agent or state veterinarian.**
When a report is received by the department pursuant to
36 subsection 1, a humane agent or state veterinarian shall visit
the site of the alleged cruelty. If the humane agent or
38 veterinarian determines the animal is not receiving proper care,
the humane agent or veterinarian shall provide instructions for
40 appropriate care and prescribe any specific actions needed to be
taken to be in compliance with the animal welfare laws. The
42 instructions must be written on a dated form. The form must
provide notice of a subsequent visit by a humane agent or
44 veterinarian. The owner or keeper shall sign the form as
acknowledgement of the visit. The humane agent or veterinarian
46 shall retain the original signed form and leave a copy with the
owner or keeper.

48 The owner or keeper of the animal that is the subject of
50 investigation may not slaughter, euthanize, give away, sell or
otherwise dispose of the animal until the investigation is
52 complete or unless authorized by the humane agent or state
veterinarian.

2 **5. Second and subsequent visits.** When the humane agent or
state veterinarian determines on an initial visit pursuant to
4 subsection 4 that an animal is not receiving proper care, a
humane agent or veterinarian shall visit the site again within 10
6 days of the initial visit. If at the time of the 2nd visit a
humane agent or veterinarian determines that the owner or keeper
8 has not followed instructions for appropriate care and is not in
compliance with the provisions of this chapter, the humane agent
10 or veterinarian shall advise the owner of a 3rd visit to be made
within 10 days.

12 **6. Seizure of an animal.** When a humane agent or state
14 veterinarian makes a 3rd visit in accordance with this section
and determines that an animal is not receiving the care
16 prescribed in previous visits by the humane agent or
veterinarian, the veterinarian or humane agent shall seize the
18 animal as provided in section 1021, subsection 5-A.
Notwithstanding this section, a state veterinarian, humane agent,
20 animal control officer or law enforcement officer may seize an
animal in accordance with section 1021 at any time.

22 **7. Records kept.** The commissioner shall develop a system
24 for recording and compiling information received pursuant to
subsections 1, 4 and 5. The records must be kept in a manner
26 that facilitates entering information on the process used to
resolve the case and the final disposition of the case.

28 **Sec. 32. 17 MRSA §1031, sub-§1, ¶E,** as amended by PL 1997, c.
30 456, §14, is further amended to read:

32 E. Deprives an animal that the person owns or possesses or
has under that person's care and control of necessary
34 sustenance, necessary medical attention, proper shelter,
protection from the weather or humanely clean conditions;

36 **Sec. 33. 17 MRSA §1031, sub-§1, ¶G,** as amended by PL 1999, c.
38 765, §11, is further amended to read:

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

44 **Sec. 34. 17 MRSA §1031, sub-§1, ¶H,** as enacted by PL 1999, c.
254, §21, is amended to read:

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

2 **Sec. 35. 17 MRSA §1031, sub-§1, ¶¶I and J** are enacted to read:

4 I. Inserts, applies or fastens to any part of the body any
6 substance, device, product or object used to curtail a
8 bodily function or to cause pain or irritation to the animal
10 or agitation to the animal to cause a fight or flight
 response, including, but not limited to, spikes attached to
 the legs of an equine or electric prods used on the genitals
 of pulling animals in training or show; or

12 J. Except for livestock traditionally pastured, keeps or
14 leaves an animal at a location that is not occupied by a
 person responsible for the animal's care and sustenance.

16 **Sec. 36. 17 MRSA §1031, sub-§3**, as amended by PL 1999, c. 481,
18 §1, is further amended to read:

20 **3. Penalty.** Cruelty to animals is a Class D crime. If the
22 State pleads and proves that, at the time a violation of this
24 section was committed, the defendant had been convicted of 2 or
26 more violations of this section, section 1032 or essentially
28 similar crimes in other jurisdictions, the sentencing class for
30 the crime is one class higher than it would otherwise be. For
32 purposes of this subsection, the dates of the prior convictions
34 must precede the commission of the offense being enhanced by no
36 more than 10 years, although both prior convictions may have
38 occurred on the same date. ~~The enhancement of the crime for~~
40 ~~sentencing purposes required by this subsection does not apply if~~
 ~~the 2 prior offenses were committed within a 3 day period.~~ The
 date of a conviction is deemed to be the date that sentence is
 imposed, even though an appeal was taken. The date an offense
 was committed is presumed to be the date stated in the complaint,
 information, indictment or other formal charging instrument,
 notwithstanding the use of the words "on or about" or the
 equivalent. In addition to any other penalty authorized by law,
 the court shall impose a fine of not less than \$250 for each
 violation of this section. The court may order the defendant to
 pay the costs of the care, housing and veterinary medical
 treatment for the animal.

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

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 receive
7 psychiatric or psychological counseling at the defendant's
8 expense.

9
10 **Sec. 37. 17 MRSA §1035, sub-§1**, as enacted by PL 1987, c. 383,
§4, is amended to read:

11
12 **1. Food.** The food shall must be of sufficient quantity and
13 quality to maintain all animals in good health. For an equine,
14 hay must be sweet smelling, not moldy or wet or mulch hay. Grain
15 must be dry and fresh, not wormy, damp or moldy or with rodent
16 infestation.

17
18 **Sec. 38. 17 MRSA §1035, sub-§2**, as amended by PL 1999, c. 254,
19 §22, is further amended to read:

20
21 **2. Water.** ~~If--potable~~ Potable water ~~is--not~~ must be
22 accessible to the animal at all times, ~~--it must be provided daily~~
23 ~~and in sufficient quantity for the health of the animal.~~ Snow or
24 ice is not an adequate water source.

25
26 **Sec. 39. 17 MRSA §1037, sub-§2**, as amended by PL 1987, c. 456,
27 §18, is further amended to read:

28
29 **2. Outdoor standards.** Minimum outdoor standards of shelter
30 ~~shall-be~~ are as follows.

31
32 A. When ~~sunlight is likely to cause heat exhaustion of~~ an
33 animal is tied ~~or,~~ caged or confined outside, sufficient
34 shade by natural or artificial means ~~shall~~ must be provided
35 to protect the animal from direct sunlight. As used in this
36 paragraph, "~~eaged~~" "confined" does not include farm fencing
37 used to confine farm animals, except that "confined" does
38 include fencing used to confine equines.

39
40 B. Except as provided in ~~subsection~~ subsections 5, 6 and 7,
41 shelter from inclement weather must be as follows.

42
43 (1) An artificial shelter, with a minimum of 3 sides
44 and a waterproof roof, appropriate to the local
45 climatic conditions for the species concerned must be
46 provided as necessary for the health of the animal.

47
48 (2) ~~--If a dog is tied or confined unattended outdoors~~
49 ~~under weather conditions that adversely affect the~~
50 ~~health of the dog, a shelter of suitable size with a~~

2 floor-above-ground-and-waterproof-roof-must-be-provided
3 to-accommodate-the-dog-and-protect-it-from-the-weather
4 and,--in-particular,--from--severe--cold.--Inadequate
5 shelter-may-be-indicated-by-the-shivering-of-the-dog
6 due-to-cold-weather-for-a-continuous-period-of-30
minutes.

8 C. No An animal not may be confined in a building,
9 enclosure, car, boat, vehicle or vessel of any kind when
10 extreme heat or extreme cold will be harmful to its health.

12 **Sec. 40. 17 MRSA §1037, sub-§3, ¶B,** as enacted by PL 1987, c.
13 383, §4, is amended to read:

14 B. Enclosures shall must be constructed and maintained to
15 provide sufficient space to allow each animal adequate
16 freedom of movement. Inadequate space may be indicated by
17 evidence of overcrowding, debility, stress or abnormal
18 behavior patterns or feces and urine on the animal's fur,
19 feathers, coat or hide.

22 **Sec. 41. 17 MRSA §1037, sub-§§5-A and 5-B** are enacted to read:

24 **5-A. Equines.** A equine must be provided with a shelter
25 constructed of wood, metal or other solid material with a minimum
26 of 3 sides and a waterproof roof. For purposes of this
27 subsection, a tarp is not acceptable as a waterproof roof.
28 Shelter must be available at all times and be sufficient in size
29 to accommodate all equines on the site. The shelter must be
30 located on a well-drained site. The floor must be dry or enough
31 bedding must be provided to ensure dry conditions suitable for
32 the animal to lie down.

34 **5-B. Dogs; shelter and tethering.** A person owning or
35 keeping a dog who shelters the dog out of doors shall provide the
36 dog with a shelter consisting of a 4-sided structure and roof
37 made of waterproof and windproof material with an insulation
38 resistance factor of at least .9. The shelter must have a portal
39 of entry of sufficient size to allow the dog unimpeded passage.
40 The portal must include a baffle, or the passage of entrance must
41 be constructed in a manner to provide a sheltered entrance. The
42 entrance must face south or the direction away from which most
43 wind-driven precipitation comes. The shelter must have a solid
44 floor at least 3 inches above the ground level, with clean
45 bedding material sufficient to retain the animal's normal body
46 heat.

48 When an animal is confined by a chain or similar device, the
chain must be attached to both the animal and the anchor by a

1 swivel or similar device to prevent the chain from becoming
2 entangled or twisted. The chain or similar device must be
4 attached to a well-fitting collar or harness that in no way cuts
6 into the animal's flesh or impinges on the animal's circulation
8 or ability to ingest food or water or to vocalize. The gauge of
10 the chain must be appropriate for the size of the animal
12 involved, and the chain must be at least 5 times the length of
14 the animal from the tip of its nose to the base of its tail,
16 except in the case of a dog that is bred and trained as a sled
18 dog or a dog that is tethered at a pivot point permitting a
20 360-degree area of movement.

22 For a dog that is bred and trained as a sled dog, the length of
24 the chain must be at least 1 1/2 times the length of the dog
26 from the tip of its nose to the base of its tail if the dog is
28 tied on a pivot and 3 times the length of the dog from the tip of
30 its nose to the base of its tail if the dog is tied to a
32 stationary point. For a dog that is tethered at a pivot point
34 permitting a 360-degree area of movement, the chain must be at
36 least 2 1/2 times the length of the dog from the tip of its nose
38 to the base of its tail.

40 **Sec. 42. Application.** That section of this Act that repeals
42 and replaces Title 7, section 3906-C, subsection 1, changing the
44 composition of the Animal Welfare Advisory Committee, must be
46 fully implemented no later than December 31, 2001.

48 **Sec. 43. Commissioner of Agriculture, Food and Rural Resources to
work to strengthen rules and interagency cooperation regarding animal
welfare and to develop plan for adequate funding of animal welfare
program.**

1. The Commissioner of Agriculture, Food and Rural
Resources shall work with the Animal Welfare Advisory Committee
in developing rules authorized under the Maine Revised Statutes,
Title 7, section 4017-A. These rules may not be less stringent
than Chapter 701: Rules Governing Animal Welfare adopted pursuant
to the Maine Revised Statutes, Title 7, section 3906-B,
subsection 10 and effective on March 18, 1999 and must address
with adequate specificity for enforcement purposes:

A. The materials and type of shelter required for
maintaining health and comfort of animals by species of
animal; and

B. The amount and quality of food required for adequate
nourishment of different species of animals.

2. The Commissioner of Agriculture, Food and Rural

2 Resources, in consultation with the Commissioner of Human
3 Services and the Commissioner of Public Safety, shall develop a
4 strategy for sharing information among the departments and with
5 other states regarding persons convicted of criminal cruelty to
6 animals. The commissioner shall invite the participation of the
7 Attorney General in developing the strategy.

8 3. The Commissioner of Agriculture, Food and Rural
9 Resources, in consultation with the Animal Welfare Advisory
10 Committee, shall review the provisions of the Maine Revised
11 Statutes, Title 7, section 4011, subsection 1-A and Title 17,
12 section 1031, subsection 1-A. The commissioner and committee
13 shall assess methods used by shelters, law enforcement officers
14 and others to dispose of animals and develop guidelines for the
15 humane disposal of animals.

16 4. The Commissioner of Agriculture, Food and Rural
17 Resources shall convene a working group to study options for
18 increased funding for animal welfare programs, including the
19 deposit of tax revenue for the sale of pet products into the
20 Animal Welfare Fund and other methods for augmenting revenue from
21 sources other than dog license fees.

22 5. The commissioner shall make recommendations regarding
23 revisions to the animal welfare laws and funding of the animal
24 welfare program to the Joint Standing Committee on Agriculture,
25 Conservation and Forestry no later than January 15, 2002. The
26 Joint Standing Committee on Agriculture, Conservation and
27 Forestry shall report out legislation to the Second Regular
28 Session of the 120th Legislature regarding funding of animal
29 welfare programs.

30 **Sec. 44. Initial terms.** Notwithstanding the Maine Revised
31 Statutes, Title 7, section 3906-C, subsection 1, of the 9 members
32 initially appointed to the Animal Welfare Committee after the
33 effective date of this Act, pursuant to Title 7, section 3906-C,
34 subsection 1, 3 members serve for one year, 3 members serve for 2
35 years and 3 members serve for 3 years.

40 SUMMARY

41 This bill changes the composition of the Animal Welfare
42 Advisory Committee. It requires nonlegislative appointments to
43 be reviewed by the joint standing committee of the Legislature
44 having jurisdiction over animal welfare and to be confirmed by
45 the Senate. It requires the Commissioner of Agriculture, Food
46 and Rural Resources to provisionally adopt rules to implement the
47 cruelty to animals laws and requires the rules to be reviewed by
48 the Legislature as major substantive rules prior to final
49 adoption. It requires the Commissioner of Agriculture, Food and
50

2 Rural Resources to develop a mechanism to share information on
persons convicted of animal cruelty with the Department of Human
Services and the Department of Public Safety. It requires the
4 Commissioner of Agriculture, Food and Rural Resources to study
and make recommendations for increasing funding for animal
6 welfare programs and authorizes the Joint Standing Committee on
Agriculture, Conservation and Forestry to report out legislation
8 to the Second Regular Session of the 120th Legislature.