

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1965

DATE: March 15, 2002 (Filing No. S-470)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 724, L.D. 1965, Bill, "An Act to Amend the Animal Health and Disease Control Laws"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 7 MRSA §1302, sub-§1-A is enacted to read:

1-A. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources or the commissioner's duly authorized agent.

Sec. 3. 7 MRSA §1302, sub-§2, as amended by PL 1967, c. 227, §1, is repealed and the following enacted in its place:

2. Dealer. "Dealer" means any person or entity engaged in the business of buying livestock or poultry primarily for resale, whether the purchase or sale is completed by cash, delayed payment, transfer, exchange, barter or shipment on commission. A person who receives livestock and poultry exclusively for slaughter on the person's own premises is not a dealer.'

Further amend the bill in section 2 by striking out all of subsection 3 (page 1, lines 21 to 24 in L.D.) and inserting in its place the following:

'3. Livestock and poultry. "Livestock and poultry" shall include ~~includes~~ all cattle, dairy, ~~feeding, beef or breeding~~ animals, sheep, goats, swine, horses ~~and~~ equines, poultry, domesticated cervidae and other animals raised for food or fiber.'

COMMITTEE AMENDMENT

Further amend the bill by striking out all of section 4 and inserting in its place the following:

'Sec. 4. 7 MRSA §1305, as amended by PL 1967, c. 227, §2, is repealed and the following enacted in its place:

§1305. Application for license

Application for a license as a dealer or as an agent must be made upon a form prescribed by the commissioner. The commissioner, if satisfied with the applicant's qualifications, shall issue a license entitling the applicant to act as a dealer or as an agent. An initial license may be issued for a period of less than one year or more than one year but not more than 2 years. All licenses expire on July 1st. All license renewals are for a period of one year. The annual license fee for a dealer is \$25 and for each agent, \$10. The fee for an initial license is prorated based on the number of months for which the license is valid. The commissioner shall issue a certificate of licensure to each licensed dealer and agent. The certificate must be carried in the motor vehicle used by the licensed dealer or agent when acting as a dealer or agent. The commissioner shall issue dealer plates to be attached to each motor vehicle or trailer used by a dealer for transporting livestock or poultry. Upon renewal of a license, the commissioner shall issue stickers bearing the year of licensure to be attached to the dealer plates.'

Further amend the bill in section 5 in that part designated "**§1306.**" in the indented paragraph in the 2nd line (page 2, line 17 in L.D.) by inserting after the following: "Court" the following: 'by the commissioner'

Further amend the bill in section 6 in that part designated "**§1307.**" by striking out all of the indented paragraph (page 2, lines 25 to 31 in L.D.) and inserting in its place the following:

'The commissioner may require licensed livestock and poultry dealers to keep certain records of transactions in any or all classes of livestock and poultry. The department may establish by rule the length of time that records kept by persons engaging in dealing livestock and poultry must be retained.'

Further amend the bill by striking out all of section 7 and inserting in its place the following:

'Sec. 7. 7 MRSA §1308, as amended by PL 1979, c. 541, Pt. A, §68, is repealed and the following enacted in its place:

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§1308. Violations

2

Any person or entity who violates any of the provisions of this chapter or any rule adopted under section 1303 commits a civil violation for which a forfeiture not to exceed \$100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$25,000.'

8

10 Further amend the bill in section 8 in subsection 4 in the last 3 lines (page 3, lines 10 to 12 in L.D.) by striking out the following: "fine in the amount of \$100 per day for each violation may be adjudged. The total fine may not exceed \$25,000" and inserting in its place the following: 'forfeiture not to exceed \$100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$25,000'

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18 Further amend the bill by striking out all of section 11 and inserting in its place the following:

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'Sec. 11. 7 MRSA §1451 is repealed.'

22

24 Further amend the bill in section 12 in that part designated "§1452." by striking out all of the indented paragraph (page 4, lines 2 to 6 in L.D.) and inserting in its place the following:

26

28 'As used in this chapter, unless the context otherwise indicates, "auction" means the offering of cattle, sheep, swine, goats, equines, domesticated cervidae, poultry and other animals raised for food or fiber for sale by means of exchanges between an auctioneer and bidders.'

32

34 Further amend the bill in section 14 in that part designated "§1454." by striking out all of the indented paragraph (page 4, lines 24 to 27 in L.D.) and inserting in its place the following:

36

38 'A person, partnership, association or corporation may not hold or conduct an auction without obtaining a permit from the commissioner a minimum of 2 weeks prior to the scheduled date of the auction. A person intending to hold auctions on a regular basis may apply for and be issued a permit valid for multiple dates at the location specified in the permit.'

42

44 Further amend the bill in section 15 in that part designated "§1455." by striking out all of the indented paragraph (page 4, lines 33 to 41 in L.D.) and inserting in its place the following:

46

48 'The operator shall keep complete records of all sales transactions, which shall must be available for inspection by the

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1 commissioner or--his--agent. The department may establish, by
2 rule, the length of time that a person who conducts an auction
3 must retain these records. These records must indicate the
4 origins of the animals sold, the name and address of the person
5 purchasing the animals and the destination of those animals.
6 Rules adopted pursuant to this section are routine technical
7 rules as defined in Title 5, chapter 375, subchapter II-A.'

8
9 Further amend the bill in section 17 in that part designated
10 "**§1457.**" by striking out all of the indented paragraph (page 5,
11 lines 6 to 8 in L.D.) and inserting in its place the following:

12
13 'Any person who violates the provisions of this chapter or
14 rules adopted pursuant to this chapter commits a civil violation
15 for which a forfeiture not to exceed \$100 per day for each
16 violation may be adjudged, except that the total of the
17 forfeitures may not exceed \$25,000.'

18
19 Further amend the bill by striking out all of section 19 and
20 inserting in its place the following:

21 'Sec. 19. 7 MRSA §1706, as repealed and replace by PL 1977,
22 c. 696, §89, is repealed and the following enacted in its place:

23 **§1706. Penalties**

24
25 Except as provided in section 1707, whoever violates any
26 provisions of this chapter or chapters 207, 303 and 305 or any
27 rule adopted under those chapters, unless a specific penalty or
28 forfeiture is provided for, commits a civil violation for which a
29 forfeiture not to exceed \$500 per day for each violation may be
30 adjudged, except that the total of the forfeitures may not exceed
31 \$50,000.'

32
33 Further amend the bill by striking out all of section 20 and
34 inserting in its place the following:

35 'Sec. 20. 7 MRSA §1707 is enacted to read:

36 **§1707. Intentional, knowing or reckless introduction of a**
37 **disease or pathogen**

38
39 A person who intentionally, knowingly or recklessly
40 introduces or takes a substantial step or action that could
41 introduce a disease or pathogen to livestock or poultry commits a
42 Class D crime.'

43
44 Amend the bill in section 24 in that part designated
45 "**§1753.**" by striking out all of the first paragraph (page 6,
46 lines 37 to 42 in L.D.) and inserting in its place the following:

2 'The commissioner shall, so far as possible, prevent the
introduction and spread of contagious, infectious and parasitic
4 diseases, and exposure thereto, among domestic animals in the
State, especially those diseases transmitted to man, either
6 directly or indirectly, and those of greatest economic
importance.'

8
10 Further amend the bill in section 26 in that part designated
"~~§1756.~~" by striking out all of the first line (page 8, line 4 in
L.D.) and inserting in its place the following:

12 '~~§1756. Appraisal, destruction and indemnity~~'

14
16 Further amend the bill in section 29 in that part designated
"~~§1759.~~" by striking out all of the first indented paragraph
(page 9, lines 33 to 40 in L.D.) and inserting in its place the
18 following:

20 'If the commissioner has sufficient reason to believe that a
contagious or infectious animal disease that is classified as
reportable under section 1801 or a pathogen that is classified as
reportable under section 1801 has been or may be introduced into
the State, the commissioner may stop and inspect vehicles
transporting domestic animals or poultry to ensure that
biosecurity procedures, including cleaning and disinfection,
outlined by the United States Department of Agriculture have been
adhered to and that importation certification documents are in
order.'

30
32 Further amend the bill in section 30 in that part designated
"~~§1801.~~" by striking out all of the 2nd paragraph (page 10, lines
16 to 24 in L.D.) and inserting in its place the following:

34
36 'It is a violation of this chapter for any person to cause a
domestic animal to be driven, trucked or otherwise moved
intrastate or interstate when that person has knowledge that the
animal is infected with or has been exposed to a reportable
disease or pathogen. It is a violation of this chapter for any
person to cause a domestic animal to be driven, trucked or
otherwise moved intrastate or interstate when that person has
knowledge that the animal has been treated with a vaccine or
other substance that might make that animal capable of spreading
a reportable disease or pathogen among susceptible domestic
animals. A domestic animal infected with or exposed to a
reportable disease or pathogen may be moved only under the
direction of the commissioner.'

48
50 Further amend the bill by striking out all of section 31 and
inserting in its place the following:

2 'Sec. 31. 7 MRSA §1803 is repealed and the following enacted
in its place:

4 **§1803. Transportation of diseased animals**

6 It is a violation of this chapter for a person to cause a
8 domestic animal to be driven, trucked or otherwise moved into the
10 State when that person has knowledge that the animal is infected
12 with or has been exposed to any contagious disease or to a
pathogen that is classified as a reportable pathogen under
section 1801.

14 Sec. 32. 7 MRSA §§1805 and 1806 are amended to read:

16 **§1805. Securing animals for treatment**

18 ~~It shall be unlawful~~ is a violation of this chapter for an
owner of domestic animals or his that owner's agent to refuse or
20 neglect to secure and restrain domestic animals to be tested,
vaccinated, branded or tattooed to indicate vaccination or
22 infection status, or otherwise treated, ~~as to make it possible~~
~~for the commissioner, or his agent in charge of livestock~~
24 ~~sanitary work, or his representative to apply in an expeditious~~
~~manner the test or other treatment that is deemed necessary~~ the
26 commissioner may direct.

28 The commissioner ~~or his duly authorized agent~~ may require
proper disinfecting by the owner of stables and premises ~~by the~~
30 ~~owner~~, where condemned diseased domestic animals are found, and
may withhold indemnity until he ~~is~~ satisfied that proper cleaning
32 and disinfecting of premises have been completed.

34 **§1806. Disease control notifications**

36 ~~It shall be unlawful~~ is a violation of this chapter to
tamper with, remove or alter eartags, labels, placards or notices
38 affixed or posted by the commissioner ~~or his agent~~ to notify of
and assist in the control of disease.

40 ~~No milk or dairy products shall be sold or offered for sale~~
42 ~~in the State from any herd retaining known brucellosis reactors.'~~

44 Further amend the bill in section 32 by striking out all of
that part designated "**§1806-A.**" (page 11, lines 13 to 20 in L.D.)
46 and inserting in its place the following:

48 **'§1806-A. Restrictions of sales**

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2 The commissioner may restrict the sale of milk or milk
3 products in the State from any herd of any species having any
4 reportable disease or exposed to a reportable pathogen that may
5 be transmitted in milk or milk products. A livestock product or
6 byproduct may not be sold or offered for sale from any herd
7 having a reportable disease or exposed to a reportable pathogen
8 that may be transmitted in those products.'

9 Further amend the bill in section 33 by striking out all of
10 that part designated "§1807." (page 11, lines 25 to 37 in L.D.)
11 and inserting in its place the following:

12 '§1807. Illegal vaccinations

13 1. Brucellosis vaccine. A person other than a licensed
14 veterinarian may not vaccinate cattle with brucellosis vaccine.
15 A licensed veterinarian may not vaccinate cattle with brucellosis
16 vaccine unless:

17 A. The vaccine used has been approved by the commissioner;
18 and

19 B. The vaccine is administered to the animal at the age
20 recommended by the manufacturer of the vaccine or determined
21 by the commissioner.

22 2. Prohibition on certain vaccines. The commissioner may
23 prohibit a vaccination because the use of the vaccine being
24 administered might cause the presumption that an actual disease
25 or pathogen is present in the State,

26 3. Commissioner's discretion to vaccinate. Notwithstanding
27 subsection 2, the commissioner may authorize any vaccination
28 necessary to control an outbreak of a disease or to diminish the
29 threat of an outbreak of a disease.'

30 Further amend the bill in section 34 by striking out all of
31 the first 3 lines (page 11, lines 39 to 42 in L.D.) and inserting
32 in their place the following:

33 'Sec. 34. 7 MRSA §1808, as amended by PL 1999, c. 547, Pt. B,
34 §78 and affected by §80, is further amended to read:

35 §1808. Sale, distribution and use of certain biologics'

36 Further amend the bill in section 35 by striking out all of
37 that part designated "§1809." (page 12, lines 33 to 48 and page
38 13, lines 1 to 5 in L.D.) and inserting in its place:

39 '§1809. Permits for state entry

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2 1. Permit required. The commissioner may require a person
 4 who imports animals into the State to obtain a permit before the
 6 time of entry. When a permit is required, the permit or permit
 8 number must accompany the shipment. The commissioner may refuse
 10 to grant a permit or may issue one subject to quarantine at
 12 destination if the animals do not meet importation requirements
 14 or do not comply with the inland fisheries and wildlife laws and
 16 rules adopted by the Commissioner of Inland Fisheries and
 18 Wildlife under Title 12, chapter 707, subchapter 7. The
 20 commissioner may require the owner to have those animals tested
 or examined by a veterinarian at the owner's expense. The
 commissioner may release those animals from quarantine only after
 the commissioner is satisfied that they are not a disease threat
 to other animals or humans.

When an animal is brought into the State without a required
 18 permit, the commissioner or the Commissioner of Inland Fisheries
 20 and Wildlife may condemn the animal and order it euthanized
 without indemnity.

22 2. Rules. The commissioner shall adopt rules to establish
 24 importation requirements necessary to maintain the health of
 26 domestic animals. The commissioner, in consultation with the
 28 Commissioner of Inland Fisheries and Wildlife, shall maintain a
 list of animals for which a permit is required prior to entering
 the State. Rules adopted pursuant to this section are routine
 technical rules as defined in Title 5, chapter 375, subchapter
 II-A.'

30 Further amend the bill in section 36 in that part designated
 32 "**§1810.**" by striking out all of the first 2 lines (page 13, lines
 34 9 and 10 in L.D.) and inserting in their place the following:

36 '**§1810. Agreements'**

38 Further amend the bill in section 36 in that part designated
 40 "**§1810.**" in the indented paragraph in the 3rd line (page 13, line
 42 14 in L.D.) by striking out the following: "Agriculture and other
 states" and inserting in its place the following: 'Agriculture
 and, other states, the Canadian Food Inspection Agency and
 Canadian provinces'

44 Further amend the bill in section 38 in the indented
 46 paragraph in the 2nd line (page 13, line 43 in L.D.) by inserting
 after the following: "tag" the following: 'provided by the
 department'

48 Further amend the bill by striking out all of section 42 and
 50 inserting in its place the following:

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2 'Sec. 42. 7 MRSA §1814, as amended by PL 1979, c. 541, Pt. A,
§70, is repealed.

4 Sec. 43. 7 MRSA §1814-A is enacted to read:

6 §1814-A. License to feed garbage

8 1. License required. A person may not feed garbage to swine
10 without first procuring a license from the commissioner. A
license may be procured annually for a fee of \$25 and must be
12 renewed on the first day of June of each succeeding year. This
section does not apply to any person who feeds that person's own
14 household garbage only to swine that are raised for that person's
own use.

16 2. Processing of garbage. Regardless of previous
18 processing, garbage must be thoroughly heated to at least 212
degrees Fahrenheit for at least 30 minutes before being fed to
20 swine unless treated in some other manner that must be approved
in writing by the commissioner.

22 3. Moratorium authorized. When a disease condition exists
24 that may be spread by the feeding of garbage, the commissioner
may immediately suspend all garbage feeding licenses and place a
26 moratorium on all garbage feeding in the State.

28 4. Enforcement. The commissioner may enter at reasonable
times any private or public property to investigate conditions
30 relating to the treating or feeding of garbage.

32 5. Penalties. Feeding garbage to swine without a license is
a civil violation for which a forfeiture of not less than \$250
34 nor more than \$500 for an initial violation and not less than
\$500 nor more than \$1,000 for a subsequent violation may be
36 adjudged.

38 Feeding garbage to swine during a moratorium imposed by the
commissioner is a civil violation for which a penalty of not more
40 than \$5,000 may be adjudged.'

42 Further amend the bill by striking out all of section 44 and
inserting in its place the following:

44 'Sec. 44. 7 MRSA §1820, as amended by PL 1981, c. 21, §§1 and
46 2, is repealed.

48 Sec. 45. 7 MRSA §1820-A is enacted to read:

50 §1820-A. Equine infectious anemia

2 1. Definitions. As used in this section, unless the
3 context otherwise indicates, the following terms have the
4 following meanings.

6 A. "Official test" means any test approved by the
7 commissioner for the detection of equine infectious anemia.
8 "Official test" includes, but is not limited to, the
9 enzyme-linked immunosorbent assay, or ELISA test, and the
10 agar gel immunodiffusion, AGID, or Coggins test.

12 B. "Quarantine" means to confine an equine to a stable or
13 pasture in a manner that will prevent the spread of equine
14 infectious anemia.

16 2. Duties of commissioner. The commissioner shall:

18 A. Require a negative Coggins test, taken within 36 months,
19 on all equines raced on, exhibited at or stabled at
20 racetracks or fairgrounds. The commissioner shall require a
21 negative test from all equines entering this State within 6
22 months before the date of entry and may require any equines
23 to be tested prior to entering the State. Any equine not
24 tested or required by the commissioner to be tested prior to
25 entering this State must be quarantined until tested at the
26 owner's expense;

28 B. Require that any equine having a positive
29 immediately quarantined and isolated from other equines
30 pending a 2nd test done by a state veterinarian; and

32 C. Require that all other equines on the premises where an
33 equine has tested positive remain on the premises pending an
34 investigation and testing as the commissioner determines
35 necessary.

36 3. Disposition of reactors. Any equine that has a positive
37 2nd test pursuant to subsection 2 must be considered a reactor.
38 A reactor must be:

40 A. Humanely euthanized within 7 days of the 2nd test.
41 Euthanasia must be performed by a licensed veterinarian or
42 as the commissioner directs. A veterinarian euthanizing a
43 reactor shall report the euthanasia to the commissioner
44 within 2 working days;

46 B. Freeze branded with a brand with an "11 EIA" no less
47 than 4 inches in height on the left side of the neck and
48 shipped directly to a United States Department of
49 Agriculture slaughter facility under a federal order; or
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C. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and permanently quarantined and isolated from all other equines. The reactor must be kept a minimum of 1/4 miles from the nearest paddock, pasture or barn having an equine species or may be kept within 1/4 miles if the reactor is immediately placed and kept at all times in a screened-in enclosure acceptable to the commissioner.'

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

2002-03

REVENUES

General Fund	\$1,839
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Increasing several fees pertaining to animal health and disease will increase annual General Fund revenue collected by the Department of Agriculture, Food and Rural Resources by \$1,839 beginning in fiscal year 2002-03.

The Department of Agriculture, Food and Rural Resources will incur some minor additional costs to adopt certain rules pertaining to animal health and disease and to administer certain changes in the permitting process for livestock auctions. These costs can be absorbed within the department's existing budgeted 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 \$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.

This bill may also reduce prosecutions for Class E crimes. If the number of jail sentences is reduced, the savings to the counties are estimated to be \$83.36 per day per prisoner. The amount of any reduction of jail time and the resulting savings to the county jail system are expected to be insignificant.

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

8 **SUMMARY**

10 This amendment makes several technical changes and
clarifications. It amends penalty sections to allow courts to
12 impose forfeitures up to a statutory maximum rather than
establishing the amount of the forfeiture in statute. It enacts a
14 provision for a Class D crime when a disease or pathogen is
intentionally, knowingly or recklessly introduced to livestock or
16 poultry. It removes the section in the bill that makes the
Department of Agriculture, Food and Rural Resources' records on
18 health investigations confidential. It allows the Commissioner
of Agriculture, Food and Rural Resources to require any equine
20 entering the State to be tested for equine immune anemia. This
provision is in current law but was not in the original bill. It
22 removes the definition and inclusion of boarding stables from the
provisions that apply to racetracks and fairgrounds with respect
24 to testing for equine infectious anemia.

26 The amendment also adds a fiscal note to the bill.