

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1142

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H.P. 845

House of Representatives, March 4, 2003

### **An Act To Restructure the Power and Duties within the Animal Welfare Act**

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

Presented by Representative LAVERRIERE-BOUCHER of Biddeford.  
Cosponsored by Representatives: SULLIVAN of Biddeford, TWOMEY of Biddeford.

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

**Sec. 1. 7 MRSA §3902**, as amended by PL 2001, c. 617, §4, is further amended to read:

**§3902. Purposes; comprehensive program**

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals. To ensure the humane and proper treatment of animals, the ~~commissioner~~ chief humane agent shall develop, implement and administer a comprehensive program that upholds the animal welfare laws of the State through communication, education and enforcement.

**Sec. 2. 7 MRSA §3906-B**, as amended by PL 2001, c. 399, §2 and c. 422, §3, is further amended to read:

**§3906-B. Powers and duties of chief humane agent**

The ~~commissioner~~ chief humane agent has the powers and duties set forth in this section.

**1. Dog licensing laws.** The ~~commissioner~~ chief humane agent shall carry out the dog licensing laws and furnish to municipalities all license blanks, stickers and tags.

**2. Animal Welfare Fund.** The ~~commissioner~~ chief humane agent 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.

**3. Dog recorders.** The ~~commissioner~~ chief humane agent shall appoint dog recorders in unorganized territories and establish fees for services rendered.

**4. Training and certification of animal control officers.** The ~~commissioner~~ chief humane agent shall develop a program to train animal control officers. This program must include training in investigation of complaints of cruelty to animals, training in response to calls concerning animals suspected of having rabies and training in enforcement of dog licensing laws

2 and rabies immunization laws. The ~~commissioner~~ chief humane  
3 agent shall certify all animal control officers who complete the  
4 training program.

6 **6. Inspections.** The ~~commissioner~~ chief humane agent shall  
7 inspect licensed facilities as provided in chapters 723 and 735.

8 **7. Payment of fees.** The ~~commissioner~~ chief humane agent  
9 may authorize payments to providers of special services to  
10 animals when the ~~commissioner~~ chief humane agent determines those  
11 services are in the public interest.

12 **8. Copies of law.** The ~~commissioner~~ chief humane agent  
13 shall seasonably forward to the ~~clerk~~ animal control officers of  
14 municipalities copies of this Part.

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

28 **10. Rules.** Pursuant to Title 5, chapter 375, the  
29 ~~commissioner~~ chief humane agent shall adopt, amend and repeal  
30 rules, including emergency rules, necessary for the proper  
31 administration, implementation, enforcement and interpretation of  
32 any provision of law that the ~~commissioner~~ chief humane agent is  
33 charged with administering.

34 **11. Cruelty to animals.** The ~~commissioner~~ chief humane  
35 agent, in cooperation with animal control officers, shall  
36 investigate complaints of cruelty to animals and enforce  
37 cruelty-to-animal laws in accordance with chapter 739 and Title  
38 17, chapter 42. The Attorney General and the district attorneys  
39 shall assist the ~~commissioner~~ chief humane agent with the  
40 ~~commissioner's~~ chief humane agent's enforcement responsibilities.

41 ~~12. Intermittent agents. The commissioner shall appoint~~  
42 ~~intermittent humane agents as necessary to assist the~~  
43 ~~commissioner in carry out the commissioner's duties and~~  
44 ~~responsibilities. The commissioner shall train and coordinate~~  
45 ~~efforts of intermittent agents. These intermittent agents are~~  
46

unclassified-employees-whose-training,-compensation-and-hours-of  
2 employment-are-determined-by-the-commissioner.

4 **13. Spaying and neutering fund.** The ~~commissioner~~ chief  
6 humane agent may accept funds from any private or public source  
for the purpose of subsidizing spaying and neutering. The  
8 ~~commissioner~~ chief humane agent shall deposit all funds accepted  
for this purpose into a separate, nonlapsing spaying and  
10 neutering account. The ~~commissioner~~ chief humane agent shall  
establish guidelines for payments and make payments from the  
12 fund. All payments from the fund must be used to subsidize  
spaying and neutering of dogs and cats.

14 **14. Information.** The ~~commissioner~~ chief humane agent may  
obtain, develop or disseminate any information useful or  
16 convenient for carrying out any purpose or power of the  
~~commissioner~~ chief humane agent.

18 **15. Annual report.** The ~~commissioner~~ chief humane agent  
20 shall report the activities of the ~~commissioner~~ chief humane  
agent annually by March 1st to the joint standing committee of  
22 the Legislature having jurisdiction over agricultural matters.  
This report must include a summary of cases of cruelty to animals  
24 investigated by the ~~commissioner~~ chief humane agent, a summary of  
final dispositions of those cases and an account of deposits into  
26 and payments from the spaying and neutering fund.

28 **Sec. 3. 7 MRSA §3906-C, first ¶,** as repealed and replaced by PL  
2001, c. 399, §3, is amended to read:

30  
32 The Animal Welfare Advisory Council, as established by Title  
5, section 12004-I, subsection 2-C and referred to in this  
section as the "council," shall advise the ~~commissioner~~ chief  
34 humane agent on matters pertaining to animal welfare.

36 **Sec. 4. 7 MRSA §3906-C, sub-§§2, 4 and 6,** as repealed and  
replaced by PL 2001, c. 399, §3, are amended to read:

38  
40 **2. State member; staff.** The ~~commissioner~~ chief humane agent  
or the ~~commissioner's~~ chief humane agent's designee serves as an  
ex officio nonvoting member. The department shall provide  
42 necessary staffing services to the council.

44 **4. Terms of office.** Except for initial appointees and the  
~~commissioner~~ chief humane agent or the ~~commissioner's~~ chief  
46 humane agent's designee, each member serves for a term of 3 years  
or until the member's successor has qualified. Except for the  
48 ~~commissioner~~ chief humane agent or the ~~commissioner's~~ chief  
humane agent's designee, a member may not serve more than 2  
50 consecutive terms. In the case of a vacancy for any reason, the

2 Governor shall appoint a member representing the same interest to  
fill the unexpired term.

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

8 The council shall hold regular public meetings every ~~other~~ month  
but may waive by majority vote a succeeding meeting. The chair  
10 shall call special meetings of the council whenever requested in  
writing by 2 or more members. The council shall send notice and  
12 minutes of the meetings to the joint standing committee of the  
Legislature having jurisdiction over animal welfare matters.

14 **Sec. 5. 7 MRSA §3906-C, sub-§7**, as enacted by PL 2001, c. 399,  
16 §3, is amended to read:

18 **7. Duties.** The council shall perform the following duties:

20 A. Review and advise the ~~commissioner~~ chief humane agent on  
proposed revisions to the animal welfare laws and rules;

22 B. Assist the ~~commissioner~~ chief humane agent in the  
24 continuing implementation and evaluation of the animal  
welfare laws and rules;

26 C. Review training programs for humane agents and animal  
28 control officers and make recommendations for training  
appropriate to the duties of the humane agents and animal  
30 control officers;

32 D. Research options for increasing revenue to the Animal  
Welfare Fund to ensure funding for the implementation and  
34 enforcement of the animal welfare laws and rules,  
periodically evaluate the adequacy of funding for those laws  
36 and rules and make recommendations to the ~~commissioner~~ chief  
humane agent; and

38 E. Advise the ~~commissioner~~ chief humane agent on other  
40 matters related to the animal welfare laws and rules.

42 **Sec. 6. 7 MRSA §3907, sub-§9-B** is enacted to read:

44 **9-B. Chief humane agent.** "Chief humane agent" means the  
46 individual who is head of the Division of Animal Health and  
Industry within the department or the chief humane agent's duly  
authorized agent. The chief humane agent shall answer directly  
48 to the Animal Welfare Advisory Council and the joint standing  
committee of the Legislature having jurisdiction over  
50 agricultural matters. The chief humane agent may work with the

2 Commissioner of Agricultural, Food and Rural Resources and may  
3 keep the commissioner updated on the activities of the agency.

4 **Sec. 7. 7 MRSA §3907, sub-§11**, as enacted by PL 1987, c. 383,  
5 §3, is repealed.

6 **Sec. 8. 7 MRSA §3909**, as amended by PL 2001, c. 422, §5, is  
7 further amended to read:

10 **§3909. Enforcement**

12 **1. Attorney General and district attorneys.** Whenever a  
13 person has engaged in or is about to engage in an act or practice  
14 that constitutes a violation of this Act, a rule adopted pursuant  
15 to this Act or a condition of an order, license or permit  
16 approved or decision issued by the ~~commissioner~~ chief humane  
17 agent pursuant to this Act, or that constitutes a violation of  
18 chapter 739 or Title 17, chapter 42, the Attorney General or a  
19 ~~District--Attorney~~ district attorney, at the request of the  
20 ~~commissioner~~ chief humane agent, may institute proceedings before  
21 the District Court or Superior Court for an order enjoining those  
22 acts or practices, an order directing compliance or imposing a  
23 civil or criminal penalty, or any combination of these actions,  
24 as provided by law. Upon a showing by the ~~commissioner~~ chief  
25 humane agent that the person has engaged or is about to engage in  
26 such an act or practice, the court may grant a permanent or  
27 temporary injunction, restraining order or other order as  
28 appropriate.

30 **2. Designated employees of department.** For purposes of  
31 prosecution under this section, the ~~commissioner~~ chief humane  
32 agent may authorize humane agents and a state veterinarian to  
33 serve civil and criminal process pursuant to the Maine Rules of  
34 Civil Procedure, Rule 80H and any other applicable rules of  
35 court. The ~~commissioner~~ chief humane agent may authorize humane  
36 agents or a state veterinarian to represent the department in  
37 District Court in the prosecution of civil violations of these  
38 laws. Certification of the humane agents and a state  
39 veterinarian for this purpose is as provided under Title 30-A,  
40 section 4453, subsection 5. Once certified, prosecution by the  
41 humane agent or a state veterinarian may seek civil penalties as  
42 provided by law as well as a permanent or temporary injunction,  
43 restraining order or other equitable relief as the court finds  
44 appropriate.

46 **3. Education requirement; management.** A humane agent hired  
47 ~~after January 1, 1999 shall attend a nationally recognized animal~~  
48 ~~law enforcement training program of at least 40 hours' duration,~~  
49 regardless of the date of employment, must attend and  
50 successfully complete the Maine Criminal Justice Academy

2 preservice law enforcement training requirements in Title 25,  
3 section 2804-B and the in-service law enforcement training in  
4 Title 25, section 2804-E in order to have the power to make  
5 arrests or carry a firearm. Humane agents are exempt from Title  
6 25, section 2804-C. A humane agent, regardless of date of  
7 employment, must receive 40 hours related education periodically  
8 annually as determined by the department Animal Welfare Advisory  
9 Council and the chief humane agent.

10 ~~4. Subpoenas and summons. The commissioner or the~~  
11 ~~commissioner's designee after consultation with the appropriate~~  
12 ~~attorney for the State or the legal counsel for the department~~  
13 ~~may:~~

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

18 ~~(1) The department may apply to the District Court to~~  
19 ~~enforce a subpoena.~~

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

24 5. Serve civil and criminal process. Upon completion of  
25 and meeting the requirements stated in subsection 3, the chief  
26 humane agent and humane agents have the authority to serve civil  
27 and criminal process.

28 **Sec. 9. 7 MRSA §3921-A**, as enacted by PL 2001, c. 129, §2, is  
29 amended to read:

30 **§3921-A. Permanent identification of wolf hybrids**

31 The ~~commissioner~~ chief humane agent shall adopt rules to  
32 establish methods of identifying wolf hybrids through tattooing,  
33 the placement of a microchip under the animal's skin or any other  
34 method determined by the ~~commissioner~~ chief humane agent as  
35 adequately providing a permanent means of identification on the  
36 body of the animal. Rules adopted pursuant to this section are  
37 routine technical rules as defined in Title 5, chapter 375,  
38 subchapter II-A 2-A. A person may not own or keep a wolf hybrid  
39 unless the animal has identification in compliance with the rules  
40 adopted under this section.

41 **Sec. 10. 7 MRSA §3922, sub-§3**, as amended by PL 1997, c. 704,  
42 §7, is further amended to read:



2           **3. Proof of immunization.** Except as provided in subsection  
3-A, a municipal clerk may not issue a license for a dog until  
4 the applicant has filed with the clerk proof that the dog has  
5 been immunized against rabies in accordance with rules adopted by  
6 the Commissioner of Human Services, except that the requirement  
7 of immunization may be waived by the clerk under conditions set  
8 forth by the Commissioner of Human Services.

10 The ~~commissioner~~ Commissioner of Human Services shall adopt rules  
11 that allow the clerk and the ~~commissioner~~ Commissioner of Human  
12 Services to accept valid proof of immunization against rabies  
13 provided by another state.

14           **Sec. 11. 7 MRSA §3923-F**, as enacted by PL 2001, c. 422, §10,  
15 is amended to read:

16           **§3923-F. Veterinarian serving as dog licensing agent**

17           The ~~commissioner~~ chief humane agent may authorize a  
18 veterinarian licensed in accordance with Title 32, chapter 71-A  
19 to issue dog licenses under section 3923-A. The ~~commissioner~~  
20 chief humane agent shall adopt rules to implement this section.  
21 Rules adopted pursuant to this section are routine technical  
22 rules as defined in Title 5, chapter 375, subchapter ~~II-A~~ 2-A.  
23 The rules must provide a process for identifying veterinarians  
24 who are willing to serve as dog licensing agents, for  
25 distributing license blanks, tags and stickers, and for the  
26 collection, distribution and deposit of license fees into the  
27 appropriate municipal and state accounts.

28           **Sec. 12. 7 MRSA §3936**, as amended by PL 1997, c. 690, §24 and  
29 PL 1999, c. 547, Pt. B, §78 and affected by §80, is further  
30 amended to read:

31           **§3936. Inspection and quarantine**

32           **1. Inspection and quarantine.** The ~~commissioner~~ chief  
33 humane agent, a state humane agent, a veterinarian employed by  
34 the State or a licensed veterinarian at the direction of the  
35 ~~commissioner~~ chief humane agent may, at any reasonable time,  
36 enter an animal shelter, kennel, boarding kennel, breeding kennel  
37 or pet shop and make examinations and conduct any recognized  
38 tests for the existence of contagious or infectious diseases or  
39 conditions. If the animal shelter, kennel, boarding kennel,  
40 breeding kennel or pet shop is also used for human habitation,  
41 the person authorized to make examinations and conduct tests must  
42 be escorted by the owner, or the owner's agent, of the animal  
43 shelter, kennel, boarding kennel, breeding kennel or pet shop and  
44 the examinations and tests may be made only in those portions of

2 the premises used as an animal shelter, kennel, boarding kennel,  
3 breeding kennel or pet shop. The ~~commissioner~~ chief humane agent  
4 may inspect animal shelters, kennels, boarding kennels, breeding  
5 kennels and pet shops in accordance with the sanitation and  
6 health rules established by the department and for compliance  
7 with laws and rules, including licensing and permitting  
8 requirements, of the Department of Inland Fisheries and Wildlife  
9 pertaining to wildlife importation and possession. In conducting  
10 inspections, measures established by the department through  
11 rulemaking must be used to prevent the spread of infectious and  
12 contagious diseases. Rules adopted pursuant to this subsection  
13 are routine technical rules as defined in Title 5, chapter 375,  
14 subchapter II-A 2-A. A veterinarian employed by the State or any  
15 licensed veterinarian may quarantine the animal shelter, kennel,  
16 boarding kennel, breeding kennel or pet shop, in person or by  
17 registered mail, and the quarantine must be maintained as long as  
18 the department determines necessary. The decision and order for  
19 this quarantine is not considered a licensing or an adjudicatory  
20 proceeding as defined by the Maine Administrative Procedure Act.  
21 The ~~commissioner~~ chief humane agent shall promptly notify the  
22 Department of Inland Fisheries and Wildlife of violations.

23  
24 **2. Suspension of license.** The District Court, upon  
25 complaint of the ~~commissioner~~ chief humane agent, the Attorney  
26 General or the Commissioner of Inland Fisheries and Wildlife, may  
27 revoke or suspend a kennel, boarding kennel, breeding kennel or  
28 pet shop license if a person maintaining the kennel, boarding  
29 kennel, breeding kennel or pet shop violates any quarantine or  
30 maintains animals contrary to the rules adopted by the  
31 department, fails to keep records required by the department or  
32 violates any provision of the laws or rules of the Department of  
33 Inland Fisheries and Wildlife pertaining to wildlife importation  
34 and possession.

35 **Sec. 13. 7 MRSA §3937**, as amended by PL 1993, c. 468, §25, is  
36 further amended to read:

37 **§3937. Investigation**

38  
39 Upon written complaint made to the ~~commissioner~~ Animal  
40 Welfare Division by any person alleging violation of this  
41 chapter, or any of the rules of the chapter by any licensee, the  
42 ~~commissioner~~ chief humane agent shall cause an investigation to  
43 be made upon matters related in the complaint.  
44

45 **Sec. 14. 7 MRSA §3943, sub-§1**, as amended by PL 1999, c. 136,  
46 §1, is further amended to read:

47  
48 **1. Procedure.** Between February 1st and April 1st annually,  
49 the municipal officers of each municipality shall may issue a  
50

2 warrant with the names and addresses of all owners or keepers of  
3 unlicensed dogs to one or more police officers, constables,  
4 sheriffs or animal control officers, directing them to send a  
5 notice of violation to the last known address of the owners or  
6 keepers or call on the owners or keepers. The warrant must  
7 further direct that demand be made on the owners or keepers to  
8 obtain a license from the municipal clerk within 7 days from the  
9 date of demand and remit to the clerk the license and recording  
10 fees plus a late fee of \$10 for each dog that is licensed.  
11 Finally, the warrant must direct the police officer, constable,  
12 sheriff or animal control officer to enter summons and complaint  
13 as soon as possible for all owners or keepers so notified who  
14 fail to comply with the order.

15 **Sec. 15. 7 MRSA §3946**, as amended by PL 1995, c. 490, §15, is  
16 further amended to read:

17 **§3946. Dog recorders in unorganized territories**

18 Dog recorders appointed by the ~~commissioner~~ chief humane  
19 agent in unorganized territories shall issue dog licenses,  
20 receive the license fees and pay them to the department. The  
21 recorders shall keep the clerk's copy of all licenses issued by  
22 them and make reports to the department on a form approved by the  
23 department of all licenses issued and fees received. The  
24 recorders shall report following each month in which licenses are  
25 actually issued and fees are actually collected.  
26

27 **Sec. 16. 7 MRSA §3947, 3rd ¶**, as enacted by PL 1991, c. 779,  
28 §39, is amended to read:

29 Animal control officers must be certified in accordance with  
30 section 3906-B, subsection 4. Upon initial appointment, an  
31 animal control officer must complete training and be certified by  
32 the ~~commissioner~~ chief humane agent within 6 months of  
33 appointment.  
34

35 **Sec. 17. 7 MRSA §3947, last ¶**, as enacted by PL 1995, c. 490,  
36 §16, is amended to read:

37 Upon appointment of an animal control officer, municipal  
38 clerks shall notify the ~~commissioner~~ chief humane agent of the  
39 name, address and telephone number of the animal control  
40 officer.  
41

42 **Sec. 18. 7 MRSA §3949**, as amended by PL 1997, c. 690, §32, is  
43 further amended to read:

44 **§3949. Animal shelter designation**

2 Municipal clerks, annually, on or before April 1st, shall  
3 certify to the ~~commissioner~~ chief humane agent the name and  
4 location of the animal shelter with which the municipality has  
5 entered into a contract to accept stray animals or have an  
6 arrangement for an animal shelter that will accept stray  
7 animals. Animal shelters designated by the municipality under  
8 this section must comply with ~~commissioner~~ chief humane agent  
rules.

10 **Sec. 19. 7 MRSA §3950-A, 2nd, 3rd and 4th ¶¶**, as enacted by PL  
11 1983, c. 383, §3 and amended by PL 1993, c. 468, §25, are further  
12 amended to read:

14 The ~~commissioner~~ chief humane agent, at ~~its~~ the agent's own  
15 instance or upon written complaint made to ~~it~~ the agent by any  
16 person, shall investigate any alleged refusal or neglect of duty  
17 by any municipal officer.

18 The ~~commissioner~~ chief humane agent shall direct  
19 proceedings, actions and prosecutions to be instituted to enforce  
20 all laws relating to animals and to the liability of municipal  
21 officers and their agents for failure, neglect or refusal to  
22 comply with the laws relating to animals.

24 The Attorney General and district attorneys, upon the  
25 ~~commissioner's~~ chief humane agent's written request, shall  
26 institute such legal proceedings as may be necessary to carry out  
27 this section.

30 **Sec. 21. 7 MRSA §3971, sub-§§3 and 4**, as amended by PL 1993, c.  
31 468, §25, are further amended to read:

32 **3. Standards of treatment.** Any animal whose use is  
33 permitted under this section shall must be treated in accordance  
34 with the ethical and humane standards ~~promulgated~~ adopted by the  
35 ~~commissioner~~ chief humane agent pursuant to the rule-making  
36 provisions of the Maine Administrative Procedure Act, Title 5,  
37 chapter 375, after consultation with representative groups in the  
38 State having an interest or expertise in the field of animal  
39 welfare, biology and education.

42 **4. Enforcement.** The ~~commissioner~~ chief humane agent shall  
43 enforce this section in consultation with the Commissioner of  
44 Education.

46 **Sec. 22. 7 MRSA §§3983, 3984 and 3985**, as enacted by PL 1983,  
47 c. 383, §3 and amended by PL 1993, c. 468, §25, are further  
48 amended to read:

50 **§3983. Possession of animals unlawfully detained**

2           The ~~commissioner~~, chief humane agent or a humane agent,  
3           sheriff, deputy sheriff, constable, police officer or person  
4           authorized to make arrests may take possession of any animals  
5           detained in violation of this chapter and may unload the animals  
6           and place them in properly equipped pens or other suitable  
7           enclosures for rest, water and feeding. The ~~commissioner~~ chief  
8           humane agent or any person taking possession pursuant to this  
9           section has a lien on the animals detained for expenses incurred  
10          for the care given.

12       **§3984. Enforcement of lien**

14           The ~~commissioner~~ chief humane agent or any person having a  
15          lien in accordance with section 3982 or 3983 may enforce the lien  
16          in the same manner as enforcements of liens on personal property  
17          pursuant to Title 10, chapter 631.

18       **§3985. Immunity from liability**

20           Neither the ~~commissioner~~ chief humane agent nor any person  
21          having a lien in accordance with section 3982 or 3983 is liable  
22          for the detention of animals pursuant to this chapter.

24           **Sec. 23. 7 MRSA §3991**, as amended by PL 1999, c. 547, Pt. B,  
25          §24 and affected by §80, is further amended to read:

28       **§3991. Regulation of research institutions**

30           **1. License necessary.** No A research or teaching institution  
31          of higher education may not employ live animals in scientific  
32          investigation, experiment or instruction or for the testing of  
33          drugs or medicines without first having been issued a license  
34          under this section by the ~~commissioner~~ chief humane agent. A  
35          research or teaching institution desiring to obtain a license  
36          shall make application to the ~~commissioner~~ chief humane agent. On  
37          receipt of the application, the ~~commissioner~~ chief humane agent  
38          shall make or cause to be made such investigation as ~~it~~ the chief  
39          humane agent considers necessary to determine whether the public  
40          interest will be served by the issuance of the license. The  
41          ~~commissioner~~ chief humane agent may issue the license ~~provided~~  
42          that as long as the research or teaching institution, by reason  
43          of its standards, facilities, practices or activities, is a fit  
44          and proper institution to receive the license and ~~that~~ its  
45          issuance is in the public interest. The standards for licensure  
46          ~~shall be~~ are those contained in the United States Code, Title 7,  
47          Section 2143, and any federal regulations issued pursuant to that  
48          law. Nothing in this chapter may be construed to be more  
49          restrictive than federal law. In the case of conflict between  
50          state law and federal law or a mandatory rule, regulation or

2 order of the Federal Government or its agencies, the federal law,  
rule, regulation or order ~~shall-govern~~ governs. Each research or  
4 teaching institution licensed under this chapter, before issuance  
of the license, shall pay to the ~~commissioner~~ chief humane agent  
6 a license fee of \$50. Each license ~~shall-expire~~ expires on June  
30th next following the date of issue. The ~~commissioner~~ chief  
8 humane agent shall annually renew each license upon the  
application of the licensee, unless, after notice and hearing as  
10 provided in this chapter, ~~it~~ the chief humane agent finds that,  
by reason of the standards, facilities, practices or activities  
12 of the licensee, the renewal is not in the public interest. The  
~~commissioner~~ chief humane agent, after notice and hearing as  
14 provided in this chapter, may modify, fail to renew, suspend or  
revoke any license if ~~it~~ the chief humane agent finds that, by  
16 reason of the standards, facilities, practices or activities of  
the licensee, the continuation of the license is not in the  
public interest.

18  
2. **Noncompliance.** If, in the opinion of the ~~commissioner~~  
20 chief humane agent, there is or may be noncompliance with or a  
violation of this chapter or of any rule adopted by the  
22 ~~commissioner~~ chief humane agent that is of sufficient gravity to  
warrant further action, the ~~commissioner~~ chief humane agent may  
24 request an informal conference with the licensee. The  
~~commissioner~~ chief humane agent shall provide the licensee with  
26 adequate notice of the conference and the issues to be discussed.

28 If the ~~commissioner~~ chief humane agent finds that the factual  
basis of the alleged noncompliance with or violation of this  
30 chapter is true and may warrant further action, the ~~commissioner~~  
chief humane agent:

32  
A. With the consent of the licensee, may enter into a  
34 consent agreement ~~which~~ that fixes the period and terms of  
probation best adapted to protect the health and welfare of  
36 animals and to rehabilitate or educate the licensee;

38  
B. In consideration for acceptance of a voluntary surrender  
of the license, may negotiate stipulations, in a consent  
40 decree to be signed by the ~~commissioner~~ chief humane agent,  
the licensee and the office of the Attorney General, ~~which~~  
42 that ensure protection of the health and welfare of animals  
and ~~which~~ that serve to rehabilitate or educate the  
44 licensee;

46  
C. If the ~~commissioner~~ chief humane agent concludes that  
modification or nonrenewal of the license may be in order,  
48 shall hold an adjudicatory hearing in accordance with the  
Maine Administrative Procedure Act, Title 5, chapter 375,  
50 subchapter IV 4; or

2 D. If the ~~commissioner~~ chief humane agent concludes that  
4 suspension or revocation of the license is in order, shall  
6 file a complaint in the District Court in accordance with  
Title 4, chapter 5.

8 **3. Grounds for discipline.** The following ~~shall--be~~ are  
10 grounds for an action to modify, suspend, revoke or refuse to  
renew the license of a person licensed under this chapter:

12 A. The practice of fraud or deceit in obtaining a license  
14 under this chapter or in connection with service rendered  
within the scope of the license issued;

16 B. Any violation of this chapter or any rule adopted by the  
~~commissioner~~ chief humane agent; or

18 C. Conviction of a crime involving cruelty to animals.

20 **4. Penalty.** Any person who knowingly violates this chapter  
22 or the rules issued pursuant to this chapter commits a civil  
violation for which the following forfeiture may be adjudged:

24 A. For the first violation, a forfeiture not to exceed  
26 \$100; and

28 B. For each subsequent violation, a forfeiture not to  
exceed \$250.

30 **5. Rules.** The ~~commissioner~~ chief humane agent may adopt  
32 such rules as are necessary to carry out the purposes of this  
chapter.

34 **6. Inspection.** In connection with the granting, continuance  
36 or renewal of a license and in connection with an investigation  
of alleged cruelty or alleged violation of this chapter or the  
38 rules issued pursuant to this chapter, the ~~commissioner~~ chief  
humane agent, at least annually, may visit and inspect the  
40 research and teaching institutions, animal research and care  
facilities of any licensee or of any research or teaching  
42 institution ~~which that~~ has applied for a license.

44 **Sec. 24. 7 MRSA §4001, sub-§1,** as enacted by PL 1987, c. 383,  
§3 and amended by PL 1993, c. 468, §25, is further amended to  
46 read:

48 **1. Permit required.** Any person sponsoring a calf or pig  
scramble shall obtain a permit from the ~~commissioner~~ chief humane  
agent for each specific event at least 10 days before the event.  
50

2           **Sec. 25. 7 MRSA §4001, sub-§4**, as amended by PL 1997, c. 690,  
§43, is further amended to read:

4           **4. Rules.** Each applicant obtaining a permit under this  
section is subject to the rules adopted by the ~~commissioner~~ chief  
6 humane agent on the weight and size of animals, age of  
participants, length of event and such other requirements as the  
8 ~~commissioner~~ chief humane agent considers necessary.

10           **Sec. 26. 7 MRSA §4017**, as amended by PL 1997, c. 690, §46, is  
further amended to read:

12           **§4017. Rules**

14           The ~~commissioner~~ chief humane agent may adopt any rules  
16 necessary or useful to carry out this chapter pursuant to the  
Maine-Administrative-Procedure-Act, Title 5, chapter 375.

18           **Sec. 27. 7 MRSA §4018, sub-§1**, as enacted by PL 2001, c. 422,  
20 §11, is amended to read:

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

34           **Sec. 28. 17 MRSA §1011, sub-§9-A** is enacted to read:

36           **9-A. Chief humane agent.** "Chief humane agent" means the  
chief humane agent within the Department of Agriculture, Food and  
38 Rural Resources.

40           **Sec. 29. 17 MRSA §1011, sub-§11**, as enacted by PL 1987, c.  
383, §4, is repealed.

42           **Sec. 30. 17 MRSA §1021, sub-§1**, as amended by PL 1997, c. 690,  
44 §62, is further amended to read:

46           **1. Possession.** A state veterinarian, humane agent,  
sheriff, deputy sheriff, constable, police officer, animal  
48 control officer, person authorized to make arrests or the  
~~commissioner~~ chief humane agent may apply to the District Court  
50 or the Superior Court for authorization:



- 2 A. To take possession of any maimed, disabled, diseased,  
4 dehydrated, malnourished or injured animal or any animal  
whose owner has cruelly abandoned or cruelly treated it and  
6 turn over the animal to the applicant or other suitable  
person; or
- 8 B. To cause the animal to be disposed of humanely.

10 **Sec. 31. 17 MRSA §1021, sub-§4, ¶A**, as enacted by PL 1997, c.  
690, §63, is amended by amending the first paragraph to read:

12 A. A state veterinarian, humane agent, sheriff, deputy  
14 sheriff, constable, police officer, animal control officer,  
person authorized to make arrests or the ~~commissioner~~ chief  
16 humane agent may apply to the District Court, Superior Court  
or a justice of the peace for an ex parte order for  
18 authorization to take possession of any maimed, disabled,  
diseased, dehydrated, malnourished or injured animal or any  
20 animal whose owner has cruelly abandoned or cruelly treated  
it and turn it over to the applicant or any other suitable  
22 person.

24 **Sec. 32. 17 MRSA §1022**, as amended by PL 1997, c. 690, §65,  
is further amended to read:

26 **§1022. Prevention of cruelty**

28 The ~~commissioner~~ chief humane agent or any person authorized  
30 to make arrests may lawfully interfere to prevent the  
perpetration of any act of cruelty upon an animal in that  
32 person's presence.

34 **Sec. 33. 17 MRSA §1023**, as repealed and replaced by PL 2001,  
c. 422, §13, is amended to read:

36 **§1023. Investigation and reporting of cruelty**

38 **1. Investigations; reports.** Law enforcement officers,  
40 animal control officers and humane agents shall investigate  
alleged violations of Title 7, chapter 739 and this chapter. The  
42 ~~commissioner~~ chief humane agent shall maintain a record of each  
alleged case of cruelty to animals investigated by a humane  
44 agent. The ~~commissioner~~ chief humane agent shall report annually  
on the disposition of cases as required under Title 7, section  
46 3906-B.

48 A law enforcement officer or animal control officer who  
investigates a case of alleged cruelty to animals and pursues a  
50 civil or criminal action based on that investigation shall report

2 to the ~~commissioner~~ chief humane agent on the final disposition  
of the case.

4 **3. Cooperation between agencies.** For the purposes of this  
section, law enforcement officers, the ~~commissioner~~ chief humane  
6 agent or the ~~commissioner's~~ chief humane agent's designee, humane  
agents, a state veterinarian and certified animal control  
8 officers may exchange information and reports pertaining to an  
investigation of cruelty to animals pursuant to Title 16, chapter  
10 3, subchapter VIII §.

12 **Sec. 34. 17 MRSA §1042, sub-§3,** as amended by PL 1995, c. 490,  
§27, is further amended to read:

14 **3. Administration by licensed veterinarian.** Administration  
16 may only be by a licensed veterinarian or by a person trained for  
this purpose who is certified by the ~~commissioner~~ chief humane  
18 agent and subject to regular observation concerning continued  
efficiency. A person certified under this subsection may only  
20 euthanize animals that are vested to an animal shelter. A person  
certified to perform euthanasia may not euthanize an animal if,  
22 by performing that euthanasia, the person is in violation of  
Title 32, chapter 71-A.

24

26

## SUMMARY

28

This bill transfers the authority for enforcing the Animal  
Welfare Act from the Commissioner of Agriculture, Food and Rural  
30 Resources to the newly created chief humane agent within the  
Department of Agriculture, Food and Rural Resources. The chief  
32 humane agent shall report to the joint standing committee of the  
Legislature having jurisdiction over agricultural matters and to  
34 the Animal Welfare Advisory Council.