

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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**Legislative Document**

**No. 1473**

H.P. 1036

House of Representatives, March 24, 2005

### **An Act To Strengthen the Animal Welfare Laws**

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Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PIOTTI of Unity.

Cosponsored by Representatives: GERZOFSKY of Brunswick, JODREY of Bethel, PINEAU of Jay.

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

4 **Sec. 1. 7 MRSA §3907, sub-§8-A**, as amended by PL 1997, c. 690, §4, is further amended to read:

6 **8-A. Breeding kennel.** "Breeding kennel" means a facility operated for the purpose of breeding or buying, selling or in any way exchanging dogs or cats for value that exchanges more than 16 dogs ~~or 16 cats~~ 2 litters of dogs or cats in a 12-month period.

10 **Sec. 2. 7 MRSA §3909, sub-§1**, as enacted by PL 1997, c. 456, §3, is amended to read:

14 **1. Attorney General and District Attorneys.** Whenever a person has engaged in or is about to engage in an act or practice that constitutes a violation of ~~this Act~~ an animal welfare law, a rule adopted pursuant to ~~this Act~~ an animal welfare law or a condition of an order, license or permit approved or decision issued by the commissioner pursuant to ~~this Act~~ an animal welfare law, or that constitutes a violation of ~~chapter 739 or Title 17, chapter 42~~ an animal cruelty law that the commissioner has the authority to enforce, the Attorney General or a District Attorney, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices; an order directing compliance or imposing a civil or criminal penalty, or any combination of these actions, as provided by law. Upon a showing by the commissioner that the person has engaged or is about to engage in such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

32 **Sec. 3. 7 MRSA §3922, sub-§§7 and 8** are enacted to read:

34 **7. Rabies vaccination required.** A person owning, harboring or keeping a dog shall, within 30 days after the dog obtains the age of 6 months, cause the dog to be immunized against rabies in accordance with rules adopted by the Commissioner of Health and Human Services, except the requirement of immunization may be waived by the clerk under subsection 3. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

44 **8. Enforcement.** Failure to display valid proof of immunization against rabies to a law enforcement officer, state humane agent or animal control officer is prima facie evidence of a lack of vaccination.

48 **Sec. 4. 7 MRSA §3923-C, sub-§6** is enacted to read:

50

2 6. Late fees. A late fee of \$25 in addition to the annual  
3 fee must be paid by a person that fails to obtain a municipal  
4 kennel license by January 31st of each year as required in this  
5 section. The late fee must be deposited in the municipality's  
6 animal welfare account established pursuant to section 3945.

7 **Sec. 5. 7 MRSA §3935**, as amended by PL 1993, c. 657, §35, is  
8 further amended to read:

9 **§3935. License prohibited**

10 The department may not issue a license to maintain a  
11 boarding kennel, breeding kennel or pet shop to a person who,  
12 within the 5 10 years previous to the application for the  
13 license, has been convicted of ~~a-criminal-violation-under-Title~~  
14 ~~17,-chapter-42~~ a violation of an animal cruelty law or rule, or  
15 ~~under of~~ a criminal law involving cruelty to animals that is no  
16 longer in effect, or within 2 5 years previous to the application  
17 for the license, has been adjudicated of a civil violation for  
18 ~~eruelty-to-animals-under-chapter-739~~ any animal cruelty law or  
19 rule.

20 **Sec. 6. 7 MRSA §3940** is enacted to read:

21 **§3940. Late fees**

22 A late fee of 50% of the annual fee, in addition to the  
23 annual fee, must be paid by a person that fails to obtain the  
24 proper facility license by January 31st of each year or the  
25 expiration date of the facility licensed as prescribed by law.  
26 This late fee applies to all facilities as described in section  
27 3931-A, 3931-B, 3932, 3932-A or 3933. The late fee must be  
28 deposited in the Animal Welfare Fund established in section  
29 3906-B.

30 **Sec. 7. 7 MRSA §4152, sub-§1, ¶¶C and D**, as amended by PL 1997,  
31 c. 690, §51, are further amended to read:

32 C. A pet dealer who represents an animal as eligible for  
33 registration with an animal pedigree organization shall  
34 provide the retail purchaser with a notice stating that  
35 pedigree registration does not assure health or quality of  
36 an animal; and

37 D. The pet dealer shall indicate whether or not, to the pet  
38 dealer's knowledge, the animal or its sire or dam is  
39 registered with, and whether the animal is certified by, any  
40 organization that maintains a registry pertaining to  
41 congenital or hereditary problems and explain the meaning of  
42 these terms; and

2           **Sec. 8. 7 MRSA §4152, sub-§1, ¶E** is enacted to read:

4           E. The pet dealer shall provide the purchaser a list of  
6           congenital or hereditary problems as listed by an  
8           organization or registry that are known to affect the breed  
          being purchased. The pet dealer shall provide the purchaser  
          a list of any health problems for which the dealer does not  
          warranty the animal.

10           **Sec. 9. 7 MRSA §4152, sub-§2**, as enacted by PL 1995, c. 589,  
12           §1, is repealed.

14           **Sec. 10. 17 MRSA §1011, sub-§1-A** is enacted to read:

16           **1-A. Abandonment.** "Abandonment" or "abandon" means:

18           A. The relinquishment entirely of all right, claim or  
20           possession of an animal by the owner or the owner's agent  
          with the intention of not reclaiming the animal or resuming  
22           ownership of, responsibility for or possession of the  
          animal; or

24           B. The leaving of an animal in an animal care facility,  
26           licensed kennel, licensed shelter, boarding facility,  
          veterinarian's office, animal grooming facility or licensed  
28           animal day-care center by a person unknown or by an owner or  
          keeper who, when leaving the animal, gives a false name or  
          false address.

30           Before any animal may be considered abandoned by virtue of this  
32           subsection, a facility shall send written notice, by registered  
          or certified mail, return receipt requested, to the owner or  
34           keeper at the owner's or keeper's last known address. Proof of  
          attempted delivery constitutes sufficient notice.

36           **Sec. 11. 17 MRSA §1011, sub-§8-A**, as amended by PL 1997, c.  
38           690, §56, is further amended to read:

40           **8-A. Breeding kennel.** "Breeding kennel" means a facility  
          operated for the purpose of breeding or buying, selling or in any  
42           way exchanging dogs or cats for value that exchanges more than ~~16~~  
          dogs-~~or-16~~-cats 2 litters of dogs or cats in a 12-month period.

44           **Sec. 12. 17 MRSA §1027** is enacted to read:

46           **§1027. Impersonating humane agent**

48           **1. Impersonating humane agent.** A person is guilty of  
50           impersonating a humane agent or an employee of an animal welfare

2 program developed by the Commissioner of Agriculture, Food and  
4 Rural Resources pursuant to Title 7, section 3902 if that person  
6 falsely pretends to be a humane agent or employee of the animal  
8 welfare program and engages in any conduct in that capacity with  
10 the intent to deceive anyone.

12 2. Office nonexistent. It is not a defense to prosecution  
14 under this section that the office the person pretended to hold  
16 did not in fact exist.

18 3. Violation. A violation of this section is a Class D  
20 crime.

22 **Sec. 13. 17 MRSA §1031, sub-§3-B, ¶D** is enacted to read:

24 D. If the State pleads and proves that an animal died as a  
26 result of abandonment, the defendant is guilty of a Class C  
28 crime.

30 **Sec. 14. 17 MRSA §§1038 and 1039** are enacted to read:

32 **§1038. Abandoned animals**

34 1. Animal cruelty. A person who has possession or control  
36 of an animal and who abandons that animal on a street, road or  
38 highway, in a parking lot or in a public place or on private  
40 property, in an abandoned motor vehicle or in a dwelling or any  
42 other building or structure without providing for the care and  
44 necessities of life of that animal is guilty of the offense of  
46 cruelty to animals as provided in section 1031.

48 2. Abandoned animal. An animal is considered abandoned if  
50 the animal is placed in the custody of a licensed veterinarian  
52 for treatment, boarding or other care or in a licensed kennel,  
54 licensed boarding facility, licensed animal shelter, animal  
56 grooming facility or licensed animal day-care center and is  
58 unclaimed by the animal's owner or the owner's agent for a period  
60 of more than 10 days after written notice is sent by the facility  
62 by registered or certified mail, return receipt requested, to the  
64 owner or the owner's agent at the owner's last known address.  
66 Proof of attempted delivery constitutes sufficient notice.

68 3. Disposal. The disposal of an abandoned animal under  
70 this section does not relieve the owner, keeper or agent of the  
72 animal of any financial obligation, including, but not limited  
74 to, costs incurred for treatment, boarding or care.

76 4. Violation. A violation of this section is a Class D  
78 crime. In addition to the penalties provided in Title 17-A,

2 section 1152, the penalties in section 1031, subsection 3-B also  
3 apply.

4 **§1039. Owner of abandoned animals**

6 After the 10-day notice provided in section 1038 has  
7 expired, the facility or individual who has custody and control  
8 of the animal is considered the owner of the animal and shall  
9 arrange for its care, including, but not limited to, its  
10 adoption, sale or placement with a licensed animal shelter.

12

13 **SUMMARY**

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15 This bill amends the animal welfare laws by adding  
16 provisions dealing with abandoned animals and impersonating a  
17 state humane agent. The bill provides a definition for  
18 "abandonment" and "abandon" and provides penalties if convicted  
19 of abandoning animals and impersonating a state humane agent.

20

21 The bill clarifies several definitions and adds late fees  
22 for facility licenses.