

# MAINE STATE LEGISLATURE

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Date: 4/8/8

(Filing No. H-965)

**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171, Bill. "An Act To Amend the Animal Welfare Laws"

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

**Sec. 1. 7 MRSA §714, sub-§1**, as amended by PL 2007, c. 459, §2, is further amended to read:

**1. Application for registration.** A person may not distribute in this State a commercial feed, except a customer-formula feed, that has not been registered pursuant to this section. The application for registration must be submitted in the manner prescribed by the commissioner on forms furnished by the commissioner. The annual fee is \$80 per product name for pet food ~~except that~~ and the total annual fee for a home-based manufacturer of pet food is ~~\$100~~ \$80. The annual fee is \$80 per product name for all other commercial feed. Upon approval by the commissioner the registration must be issued to the applicant. All registrations expire on the 31st day of December. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

**Sec. 2. 7 MRSA §3907, sub-§8-A**, as amended by PL 2005, c. 510, §3, is further amended to read:

**8-A. Breeding kennel.** "Breeding kennel" means a location where 5 or more adult dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, mushing, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1       **Sec. 3. 7 MRSA §3907, sub-§12-D**, as amended by PL 2001, c. 399, §4, is  
2 further amended to read:

3       **12-D. Dangerous dog.** "Dangerous dog" means a dog that bites an individual or a  
4 domesticated animal who is not trespassing on the dog owner's or keeper's premises at the  
5 time of the bite or a dog that causes a reasonable and prudent person who is not on the  
6 dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner  
7 to fear imminent bodily injury by assaulting or threatening to assault that individual or  
8 individual's domestic animal. "Dangerous dog" does not include a dog certified by the  
9 State and used for law enforcement use. "Dangerous dog" does not include a dog that  
10 bites or threatens to assault an individual who is on the dog owner's or keeper's premises  
11 if the dog has no prior history of assault and was provoked by the individual immediately  
12 prior to the bite or threatened assault.

13 For the purposes of this definition, "dog owner's or keeper's premises" means the  
14 residence or residences, including buildings and land and motor vehicles, belonging to the  
15 owner or keeper of the dog.

16       **Sec. 4. 7 MRSA §3907, sub-§15-B** is enacted to read:

17       **15-B. Humanely clean conditions.** "Humanely clean conditions" means that both  
18 indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions  
19 and other waste materials, dirt and trash with sufficient frequency to minimize health  
20 hazards and to provide adequately clean living conditions for the species of animal.

21       **Sec. 5. 7 MRSA §3907, sub-§17**, as amended by PL 2003, c. 536, §2, is further  
22 amended to read:

23       **17. Kennel.** "Kennel" means 5 or more dogs or wolf hybrids kept in a single  
24 location under one ownership for breeding, hunting, show, training, field trials ~~and~~,  
25 mushing or exhibition purposes. The sale or exchange of one litter of puppies within a  
26 12-month period alone does not constitute the operation of a kennel.

27       **Sec. 6. 7 MRSA §3919-D** is enacted to read:

28 **§3919-D. Temporary animal shelter**

29       The department may temporarily impound animals within an enclosure other than a  
30 licensed animal shelter, and such an enclosure constitutes a temporary animal shelter.  
31 When animals are held at a temporary animal shelter for more than 21 days, the shelter  
32 must comply with the standards established by the department for licensed animal  
33 shelters.

34       **Sec. 7. 7 MRSA §3931-A, sub-§5** is enacted to read:

35       **5. License number requirements.** A breeding kennel shall prominently display in  
36 written advertising the state-issued kennel license number.

37 The breeding kennel shall provide its license number to a person purchasing or receiving  
38 an animal from the breeding kennel.

39       **Sec. 8. 7 MRSA §3952, sub-§1**, as amended by PL 2007, c. 170, §1, is further  
40 amended to read:

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1       **1. Procedure.** Any person who is assaulted or threatened with imminent bodily  
2 injury by a dog or any person witnessing an assault or threatened assault against a person  
3 or domesticated animal or a person with knowledge of an assault or threatened assault  
4 against a minor, within 30 days of the assault or threatened assault, may make written  
5 complaint to the sheriff, local law enforcement officer or animal control officer that the  
6 dog is a dangerous dog. For the purposes of this chapter, "domesticated animal" includes,  
7 but is not limited to, livestock as defined in section 3907, subsection 18-A.

8 Upon investigation of the complaint, the sheriff, local law enforcement officer or animal  
9 control officer may issue a civil violation summons for keeping a dangerous dog.

10 If, upon hearing, the court finds that the dog is a dangerous dog as defined in section  
11 3907, subsection 12-D, the court ~~may~~ shall impose a fine and shall:

12       A. Order the dog confined in a secure enclosure except as provided in subsection 8.  
13 For the purposes of this paragraph, "secure enclosure" means a fence or structure of  
14 at least 6 feet in height forming or making an enclosure suitable to prevent the entry  
15 of young children and suitable to confine a dangerous dog in conjunction with other  
16 measures that may be taken by the owner or keeper, such as tethering the dangerous  
17 dog. The secure enclosure must be locked, be designed with secure top, bottom and  
18 sides and be designed to prevent the animal from escaping from the enclosure; or

19       B. Order the dog to be euthanatized if it has killed, maimed or inflicted serious  
20 bodily injury upon a person or has a history of a prior assault.

21 The court may order restitution in accordance with Title 17-A, chapter 54 for any  
22 damages inflicted upon a person or a person's property.

23       **Sec. 9. 7 MRSA §4011, sub-§1, ¶H,** as amended by PL 2001, c. 425, §2, is  
24 further amended to read:

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

29       **Sec. 10. 7 MRSA §4011, sub-§1, ¶I,** as enacted by PL 2001, c. 425, §3, is  
30 amended to read:

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

33       **Sec. 11. 7 MRSA §4011, sub-§1, ¶J** is enacted to read:

34       J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any  
35 kind when extreme heat or extreme cold will be harmful to its health.

36       **Sec. 12. 7 MRSA §4011, sub-§2, ¶B,** as enacted by PL 1987, c. 383, §3, is  
37 amended to read:

38       B. The conduct was designed to control or eliminate rodents, ants or other common  
39 pests on the defendant's own property; or

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COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1       **Sec. 13. 7 MRSA §4011, sub-§2, ¶C**, as amended by PL 2003, c. 414, Pt. B, §15  
2 and affected by c. 614, §9, is further amended to read:

3       C. The conduct involved the use of live animals as bait or in the training of other  
4 animals in accordance with the laws of the Department of Inland Fisheries and  
5 Wildlife, Title 12, Part 13; or

6       **Sec. 14. 7 MRSA §4011, sub-§2, ¶D** is enacted to read:

7       D. The animal is kept as part of an agricultural operation and in compliance with best  
8 management practices for animal husbandry as determined by the department.

9       **Sec. 15. 7 MRSA §4015, sub-§2, ¶C**, as amended by PL 2007, c. 439, §27, is  
10 repealed.

11       **Sec. 16. 7 MRSA §4016, sub-§3** is enacted to read:

12       **3. Affirmative defenses.** It is an affirmative defense to alleged violations of this  
13 chapter that the animal was kept as part of an agricultural operation and in compliance  
14 with best management practices for animal husbandry as determined by the department.

15       **Sec. 17. 7 MRSA §4018, sub-§1**, as enacted by PL 2001, c. 422, §11, is amended  
16 to read:

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

25       **Sec. 18. 7 MRSA §4018, sub-§1-A** is enacted to read:

26       **1-A. Report by veterinarian required.** A veterinarian licensed in accordance with  
27 Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause  
28 to suspect that an animal is the subject of aggravated cruelty under Title 17, section 1031,  
29 subsection 1-B shall report the suspected violation to the commissioner or the  
30 commissioner's designee. A veterinarian making a report under this section may appear  
31 and testify in a judicial or administrative proceeding concerning the condition or care of  
32 the animal.

33       **Sec. 19. 7 MRSA §4019** is enacted to read:

34       **§4019. Removal from unattended motor vehicle**

35       **1. Removal authorized.** A law enforcement officer, humane agent or animal  
36 control officer may take all steps that are reasonably necessary to remove an animal from  
37 a motor vehicle if the animal's safety, health or well-being appears to be in immediate  
38 danger from heat, cold or lack of adequate ventilation and the conditions could  
39 reasonably be expected to cause extreme suffering or death.

**COMMITTEE AMENDMENT**

1        **2. Notice required.** A law enforcement officer, humane agent or animal control  
2 officer who removes an animal in accordance with subsection 1 shall, in a secure and  
3 conspicuous location on or within the motor vehicle, leave written notice bearing the  
4 officer's or agent's name and office and the address of the location where the animal may  
5 be claimed. The owner may claim the animal only after payment of all charges that have  
6 accrued for the maintenance, care, medical treatment and impoundment of the animal.

7        **3. Immunity.** A law enforcement officer, humane agent or animal control officer  
8 who removes an animal from a motor vehicle pursuant to subsection 1 is immune from  
9 criminal or civil liability that might otherwise result from the removal.

10        **Sec. 20.** 7 MRSA §4151, sub-§4, as amended by PL 2007, c. 439, §31, is  
11 repealed.

12        **Sec. 21.** 7 MRSA §4151, sub-§4-A is enacted to read:

13        **4-A. Seller.** "Seller" means the owner or operator of a breeding kennel as defined in  
14 section 3907, subsection 8-A or the owner or operator of a pet shop as defined in section  
15 3907, subsection 23. "Seller" includes animal dealers required to be licensed by the  
16 United States Department of Agriculture. "Seller" does not include humane societies,  
17 nonprofit organizations performing the functions of humane societies or animal shelters  
18 licensed in accordance with section 3932-A.

19        **Sec. 22.** 7 MRSA §4152, as amended by PL 1997, c. 690, §51, is further amended  
20 to read:

21 **§4152. Disclosure**

22        **1. Required disclosure.** A ~~pet dealer~~ seller shall deliver to a purchaser of an animal  
23 a written disclosure containing the following:

24        A. An animal history that includes:

25            (1) For ~~pet dealers~~ sellers licensed with the United States Department of  
26            Agriculture, the name, address and United States Department of Agriculture  
27            license number of the breeder and any broker who has had possession of the  
28            animal;

29            (2) The date of the animal's birth;

30            (3) The date the ~~pet dealer~~ seller received the animal;

31            (4) The breed, sex, color and identifying marks of the animal;

32            (5) The individual identifying tag, tattoo or collar number;

33            (6) For pure bred animals, the name and registration number of the sire and dam  
34            and the litter number; and

35            (7) A record of inoculations, worming treatments, medication or any  
36            veterinarian treatment received by the animal while in the possession of the  
37            breeder or dealer;

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COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1 B. A statement signed by the ~~pet dealer~~ seller that the animal at time of delivery has  
2 no known health problem or a statement disclosing any known health problem.

3 The statement must include the date at which the ~~dealer~~ seller is aware that the animal  
4 was last seen by a veterinarian;

5 C. A ~~pet dealer~~ seller who represents an animal as eligible for registration with an  
6 animal pedigree organization shall provide the retail purchaser with a notice stating  
7 that pedigree registration does not assure health or quality of an animal; and

8 D. The ~~pet dealer~~ seller shall indicate whether or not, to the ~~pet dealer's~~ seller's  
9 knowledge, the animal or its sire or dam is registered with, and whether the animal is  
10 certified by any organization that maintains a registry pertaining to congenital or  
11 hereditary problems and explain the meaning of these terms.

12 **2. Optional disclosure.** The ~~pet dealer~~ seller may provide the purchaser with a list  
13 of congenital or hereditary problems that are known to affect the breed being purchased  
14 and a list of any health problems for which the ~~dealer~~ seller does not warranty the animal.

15 **3. Disclosure procedures.** The following disclosure procedures must be followed.

16 A. The disclosure required by subsection 1 must be made part of the statement of  
17 consumer rights set forth in section 4160.

18 B. The written disclosure made pursuant to this section must be signed by both the  
19 ~~pet dealer~~ seller certifying the accuracy of the statement and by the purchaser of the  
20 animal acknowledging receipt of the statement.

21 C. The ~~dealer~~ seller shall make a prospective purchaser aware that the purchaser  
22 may see this information prior to purchase.

23 **Sec. 23. 7 MRSA §4153**, as enacted by PL 1995, c. 589, §1, is amended to read:

24 **§4153. Sale prohibited**

25 Notwithstanding section 4152, a ~~pet dealer~~ seller may not sell an animal that has any  
26 obvious clinical sign of infectious, contagious, parasitic or communicable disease or  
27 abnormality or has any disease, illness or condition that requires hospitalization or  
28 nonelective surgical procedures.

29 **Sec. 24. 7 MRSA §4155, sub-§2**, as enacted by PL 1995, c. 589, §1, is amended  
30 to read:

31 **2. Death; remedies.** When an animal dies due to a health problem that would have  
32 rendered the animal unfit for sale pursuant to subsection 1, and that health problem  
33 existed in the animal at the time of delivery to the purchaser but was not disclosed under  
34 the provisions of section 4152, the ~~pet dealer~~ seller shall provide the purchaser with one  
35 of the following remedies selected by the purchaser:

36 A. An animal of equal value, if available; or

37 B. A refund of the full purchase price of the animal.

38 **Sec. 25. 7 MRSA §4155, sub-§3**, as enacted by PL 1995, c. 589, §1, is amended  
39 to read:

**COMMITTEE AMENDMENT**

1       **3. Health problem; remedies.** When an animal has a health problem that renders  
2 the animal unfit for sale pursuant to subsection 1, and that health problem existed in the  
3 animal at the time of delivery to the purchaser but was not disclosed under the provisions  
4 of section 4152, the ~~pet dealer~~ seller shall provide the purchaser with one of the following  
5 remedies selected by the purchaser:

6           A. Return of the animal to the ~~pet dealer~~ seller for a refund of the full purchase  
7 price of the animal;

8           B. Exchange of the animal for an animal of the purchaser's choice of equivalent  
9 value, providing a replacement is available; or

10          C. Retainment of the animal and reimbursement for 1/2 of the reasonable veterinary  
11 fees not to exceed 1/2 of the original purchase price of the animal.

12       **Sec. 26. 7 MRSA §4155, sub-§5**, as enacted by PL 2007, c. 439, §32, is amended  
13 to read:

14       **5. Sellers not exempt.** ~~Pet dealers~~ Sellers may not, contractually or otherwise,  
15 exempt themselves from the remedies provided by this section for deaths or health  
16 problems caused by infectious, contagious, parasitic or communicable disease.

17       **Sec. 27. 7 MRSA §4156, sub-§1**, as enacted by PL 1995, c. 589, §1, is amended  
18 to read:

19       **1. Veterinary diagnosis.** The purchaser must notify the ~~pet dealer~~ seller, within 2  
20 business days, of the diagnosis by a veterinarian of a health problem and provide the ~~pet~~  
21 ~~dealer~~ seller with the name and telephone number of the veterinarian and a copy of the  
22 veterinarian report on the animal.

23       **Sec. 28. 7 MRSA §4156, sub-§2**, as enacted by PL 1995, c. 589, §1, is amended  
24 to read:

25       **2. Refund.** If the purchaser wishes to receive a full refund for the animal, the  
26 purchaser must return the animal no later than 2 business days after receipt of a written  
27 statement from a veterinarian indicating that the animal is unfit due to a health problem.  
28 With respect to a dead animal, the purchaser must provide the ~~pet dealer~~ seller with a  
29 written statement from a veterinarian indicating that the animal died from a health  
30 problem that existed on or before the receipt of the animal by the purchaser.

31       **Sec. 29. 7 MRSA §4157**, as amended by PL 2007, c. 439, §33, is further amended  
32 to read:

33       **§4157. Rights of seller**

34       **1. Refusal to sell.** A ~~pet dealer~~ seller may refuse to sell an animal to a potential  
35 purchaser who appears not to accept or understand the provisions of this chapter.

36       **2. Exemption from purchaser remedies.** A refund, replacement or reimbursement  
37 of veterinary fees is not required if any one or more of the following conditions are met.

38           A. The health problem or death of the animal resulted from maltreatment, neglect  
39 or a disease contracted while in the possession of the purchaser or from an injury  
40 sustained subsequent to receipt of the animal by the purchaser.



H. 666

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1 B. A disclosure statement was provided to the purchaser pursuant to section 4152  
2 that disclosed the health problem for which the purchaser seeks to return the animal.

3 C. The health problem is a hereditary or congenital one covered by section 4152.

4 **Sec. 30. 7 MRSA §4158, sub-§1**, as enacted by PL 1995, c. 589, §1, is amended  
5 to read:

6 **1. Demand for remedy; contest.** When a ~~pet-dealer~~ seller wishes to contest a  
7 demand for the remedy specified in section 4155, the ~~pet-dealer~~ seller may require the  
8 purchaser to produce all the veterinarian's records and the animal for examination or  
9 autopsy by a veterinarian designated by the ~~pet-dealer~~ seller. The veterinarian designated  
10 by the seller must be practicing at a veterinary clinic within 100 miles of the purchaser's  
11 residence. The ~~pet-dealer~~ seller shall pay the cost of this examination or autopsy. The ~~pet~~  
12 ~~dealer~~ seller has a right of recovery against the purchaser if the ~~pet-dealer~~ seller is not  
13 obligated to provide a remedy under section 4155.

14 **Sec. 31. 7 MRSA §4158, sub-§2**, as amended by PL 1997, c. 690, §53, is further  
15 amended to read:

16 **2. Right to court action.** If the ~~pet-dealer~~ seller does not provide the remedy  
17 selected by the purchaser set forth in section 4155, the purchaser may initiate a court  
18 action. The prevailing party in the court action has the right to recover costs and  
19 reasonable attorney's fees.

20 **Sec. 32. 7 MRSA §4159**, as enacted by PL 1995, c. 589, §1, is amended to read:

21 **§4159. Posted notice**

22 A ~~pet-dealer~~ seller whose facility has public access shall post, in a prominent location  
23 in the area to which a prospective purchaser would have access, a notice printed in a  
24 minimum of 48-point, bold-faced type and containing the following language:

25 "YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND  
26 DISCLOSURE OF YOUR ANIMAL'S HEALTH HISTORY AND THE  
27 WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS  
28 PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE  
29 TIME OF PURCHASE."

30 **Sec. 33. 7 MRSA §4160, sub-§1**, as enacted by PL 1995, c. 589, §1, is amended  
31 to read:

32 **1. Written notice.** A ~~pet-dealer~~ seller shall provide the purchaser a written notice of  
33 rights, signed by the ~~pet-dealer~~ seller, certifying the accuracy of the information contained  
34 in the notice. The notice must be signed by the purchaser, acknowledging that the  
35 purchaser has reviewed and understood the written notice. A signed copy must be  
36 retained by the ~~pet-dealer~~ seller and one copy given to the purchaser. The notice must be  
37 in a minimum of 16-point, bold-faced type and must state the following:

38 "A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND  
39 CATS:

40 The sale of dogs and cats is subject to consumer protection regulations. Maine law  
41 also provides safeguards to protect ~~pet-dealers~~ sellers and animal purchasers.

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1 Attached is a copy of the Maine Revised Statutes, Title 7, chapter 745. Contained in  
2 this law is a statement of your consumer rights and remedies. Also attached is your  
3 pet's health history and specific warranty information."

4 **Sec. 34. 7 MRSA §4160, sub-§2**, as enacted by PL 1995, c. 589, §1, is amended  
5 to read:

6 **2. Oral notice.** In addition, all medical information required to be disclosed  
7 pursuant to this section must be orally disclosed to the purchaser by the ~~dealer~~ seller prior  
8 to purchase.

9 **Sec. 35. 7 MRSA §4163, first ¶**, as enacted by PL 2007, c. 439, §34, is amended  
10 to read:

11 A person may not advertise for sale, sell or exchange for value more than one cat or  
12 dog under the age of 6 months in a 12-month period unless that person has a valid animal  
13 shelter, kennel, breeding kennel or pet shop license or a valid vendor's license issued  
14 under this section.

15 **Sec. 36. 7 MRSA §4163, sub-§1**, as enacted by PL 2007, c. 439, §34, is amended  
16 to read:

17 **1. Vendor's license; fee.** A person may apply for a vendor's license by completing  
18 and submitting to the department an application form provided by the department ~~along~~  
19 ~~with a \$25 vendor's license fee.~~ Upon receipt of a completed application ~~and the fee,~~ the  
20 department shall issue a vendor's license and an identifying license number that is valid  
21 for a period of ~~60~~ 90 days from the date of issuance. A person is entitled to one vendor's  
22 license in a 12-month period at no charge. A fee of \$25 must be submitted with each  
23 additional application for a vendor's license within a 12-month period.

24 **Sec. 37. 17 MRSA §1011, sub-§8-A**, as amended by PL 2005, c. 510, §9, is  
25 further amended to read:

26 **8-A. Breeding kennel.** "Breeding kennel" means a location where 5 or more adult  
27 dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring  
28 are offered for sale, sold or exchanged for value or a location where more than 16 dogs or  
29 cats raised on the premises are sold to the public in a 12-month period. "Breeding  
30 kennel" does not include a kennel licensed by a municipality under Title 7, section 3923-  
31 C when the dogs are kept primarily for hunting, show, training, mushing, field trials or  
32 exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for  
33 value within a 12-month period.

34 **Sec. 38. 17 MRSA §1011, sub-§15-B** is enacted to read:

35 **15-B. Humanely clean conditions.** "Humanely clean conditions" means that both  
36 indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions  
37 and other waste materials, dirt and trash with sufficient frequency to minimize health  
38 hazards and to provide adequately clean living conditions for the species of animal.

39 **Sec. 39. 17 MRSA §1011, sub-§17**, as enacted by PL 1987, c. 383, §4, is  
40 amended to read:

H. 98

COMMITTEE AMENDMENT **A** to H.P. 1545, L.D. 2171

1       **17. Kennel.** "Kennel" means one pack or collection of dogs kept in a single location  
2 under one ownership for breeding, hunting, show, training, field trials ~~and~~ , mushing or  
3 exhibition purposes.

4       **Sec. 40. 17 MRSA §1021, sub-§1, ¶A,** as enacted by PL 1987, c. 383, §4, is  
5 amended to read:

6       A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished  
7 or injured animal or any animal whose owner has ~~cruelly~~ abandoned or cruelly  
8 treated it and turn over the animal to the applicant or other suitable person; or

9       **Sec. 41. 17 MRSA §1021, sub-§3,** as enacted by PL 1987, c. 383, §4, is amended  
10 to read:

11       **3. Hearing.** If it appears at the hearing that the animal has been cruelly abandoned  
12 or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated,  
13 malnourished or injured, the court shall:

14       A. Direct the applicant or other suitable person to take possession of and provide  
15 for the animal, order its sale, adoption, ~~donation or return of the animal to its owner~~  
16 or placement; ~~or~~

17       B. Order the animal to be disposed of humanely if, given reasonable time and care,  
18 the animal's recovery is doubtful; or

19       C. If appropriate, allow the animal to be returned to its owner.

20       **Sec. 42. 17 MRSA §1021, sub-§4, ¶A,** as amended by PL 1997, c. 690, §63, is  
21 further amended to read:

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

29       An order may be entered ex parte upon findings by the court or justice of the peace  
30 that there is a reasonable likelihood that:

31       (1) The defendant is not subject to the jurisdiction of the court for the purposes  
32 of a hearing or the owner cannot be found by reasonable diligence or is out-of-  
33 state although a resident of this State, and there is a danger that unless immediate  
34 action is taken:

35       (a) The condition of an injured, overworked, tormented, tortured,  
36 abandoned, poisoned or mutilated animal, or animal deprived of necessary  
37 sustenance, necessary medical attention, proper shelter or protection from the  
38 weather or humanely clean conditions will be substantially impaired or  
39 worsened;

40       (b) The animal's life will be jeopardized; or

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT *A* to H.P. 1545, L.D. 2171

1 (c) A great degree of medical attention will be necessary to restore the  
2 animal to a normal, healthy condition;

3 (2) There is a clear danger that if the owner or the owner's agent is notified in  
4 advance of the issuance of the order of court, as provided in subsection 3, the  
5 owner or the owner's agent may remove the animal from the State, conceal it or  
6 otherwise make it unavailable;

7 (3) There is immediate danger that the owner or the owner's agent will kill or  
8 injure the animal; or

9 (4) An animal is being or has been injured, overworked, tormented, tortured,  
10 abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary  
11 medical attention, proper shelter or protection from the weather or humanely  
12 clean conditions and, unless an ex parte order issues allowing the applicant to  
13 take possession of the animal, the animal will die, its condition will be  
14 substantially impaired or worsened or medical attention will be necessary to  
15 restore the animal to a normal, healthy condition.

16 **Sec. 43. 17 MRSA §1021, sub-§5-A**, as amended by PL 1995, c. 490, §24, is  
17 further amended to read:

18 **5-A. Seizure by state humane agent or state veterinarian without court order.**  
19 A state humane agent or a state veterinarian who has reasonable cause to believe that a  
20 violation of section 1031 or 1032 has taken place or is taking place may take possession  
21 of and retain the cruelly treated animal. Upon taking possession of an animal under this  
22 section, the humane agent or the state veterinarian shall present the owner with a notice  
23 that:

- 24 A. States the reason for seizure;
- 25 B. Gives the name, address and phone number of the humane agent or the state  
26 veterinarian to contact for information regarding the animal; and
- 27 C. Advises the owner of the ensuing court procedure.

28 If the owner can not be found, the humane agent or the state veterinarian shall send a  
29 copy of the notice to the owner at the owner's last known address by certified mail, return  
30 receipt requested. If the owner is not known or can not be located, the humane agent or  
31 the state veterinarian shall contact the animal shelter or shelters used by the municipality  
32 in which the animal was found. The humane agent or the state veterinarian shall provide  
33 the shelter with a description of the animal, the date of seizure and the name of a person  
34 to contact for more information.

35 Within 3 working days of possession of the animal, the humane agent or the state  
36 veterinarian shall apply to the court for a possession order. The court shall set a hearing  
37 date and that hearing date must be within ~~40~~ 21 days of the date the animal was seized.  
38 The humane agent or the state veterinarian shall arrange care for the animal, including  
39 medical treatment, if necessary, pending the hearing.

40 The humane agent or the state veterinarian shall notify the owner, if located, of the time  
41 and place of the hearing. If the owner has not been located, the court shall order a notice  
42 to be published at least once in a newspaper of general circulation in the county where the

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COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1 animal was found stating the case and circumstances and giving 48 hours notice of the  
2 hearing.

3 It is the owner's responsibility at the hearing to show cause why the animal should not be  
4 seized permanently or disposed of humanely. If it appears at the hearing that the animal  
5 has been ~~cruelly~~ abandoned or cruelly treated by its owner, the court shall declare the  
6 animal forfeited and order its sale, adoption or donation or order the animal to be  
7 disposed of humanely if a veterinarian determines that the animal is diseased or disabled  
8 beyond recovery.

9 **Sec. 44. 17 MRSA §1031, sub-§1, ¶J**, as amended by PL 2003, c. 452, Pt. 1, §13  
10 and affected by Pt. X, §2, is further amended to read:

11 J. Kills or tortures an animal to frighten or intimidate a person or forces a person to  
12 injure or kill an animal. Violation of this paragraph is a Class D crime; ~~or~~

13 **Sec. 45. 17 MRSA §1031, sub-§1, ¶J-1**, as enacted by PL 2003, c. 452, Pt. 1,  
14 §13 and affected by Pt. X, §2, is amended to read:

15 J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior  
16 convictions for violations of this section, section 1032 or essentially similar crimes in  
17 other jurisdictions. Violation of this paragraph is a Class C crime; ~~or~~

18 **Sec. 46. 17 MRSA §1031, sub-§1, ¶K** is enacted to read:

19 K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any  
20 kind when extreme heat or extreme cold will be harmful to its health. Violation of  
21 this paragraph is a Class D crime.

22 **Sec. 47. 17 MRSA §1031, sub-§1-B**, as amended by PL 2005, c. 281, §8 and c.  
23 397, Pt. F, §1, is further amended to read:

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

- 27 A. Causes extreme physical pain to an animal;
- 28 B. Causes the death of an animal; or
- 29 C. Physically tortures an animal.

30 Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section  
31 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for  
32 a first or subsequent violation of this subsection. The sentencing provisions in subsection  
33 3-B also apply to a person convicted of aggravated cruelty to animals.

34 **Sec. 48. 17 MRSA §1031, sub-§2**, as amended by PL 2003, c. 414, Pt. B, §31  
35 and c. 452, Pt. 1, §17 and affected by Pt. X, §2 and c. 614, §9, is further amended to read:

36 **2. Affirmative defense.** It is an affirmative defense to prosecution under this section  
37 that:

- 38 A. The defendant's conduct conformed to accepted veterinary practice or was a part  
39 of scientific research governed by accepted standards;

# COMMITTEE AMENDMENT

COMMITTEE AMENDMENT <sup>A</sup> to H.P. 1545, L.D. 2171

1 B. The defendant's conduct or that of the defendant's agent was designed to control  
2 or eliminate rodents, ants or other common pests on the defendant's own property; or

3 C. The defendant's conduct involved the use of live animals as bait or in the training  
4 of other animals in accordance with the laws of the Department of Inland Fisheries  
5 and Wildlife, Title 12, Part 13-; or

6 D. The animal is kept as part of an agricultural operation and in compliance with best  
7 management practices for animal husbandry as determined by the Department of  
8 Agriculture, Food and Rural Resources.

9 Evidence of proper care of any animal is not admissible in the defense of alleged cruelty  
10 to other animals.

11 **Sec. 49. 17 MRSA §1037, sub-§2, ¶B,** as amended by PL 2005, c. 340, §3, is  
12 further amended to read:

13 B. Except as provided in subsections 5 and 7, shelter from inclement weather must  
14 be as follows provided according to this paragraph.

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

18 (2) If a dog is tied or confined unattended outdoors under weather conditions that  
19 adversely affect the health of the dog, a shelter of suitable size with a floor above  
20 ground and waterproof roof must be provided in accordance with subsection 7,  
21 paragraph A to accommodate the dog and protect it from the weather and, in  
22 particular, from severe cold. Inadequate shelter may be indicated by the shivering  
23 of the dog due to cold weather for a continuous period of 30 10 minutes or by  
24 symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for  
25 a dog.

26 **Sec. 50. 17 MRSA §1037, sub-§2, ¶C,** as enacted by PL 1987, c. 383, §4, is  
27 repealed.

28 **Sec. 51. 17 MRSA §1037-A** is enacted to read:

29 **§1037-A. Affirmative defense**

30 It is an affirmative defense to alleged violations of sections 1035, 1036 and 1037 that  
31 the animal is kept as part of an agricultural operation and in compliance with best  
32 management practices for animal husbandry as determined by the Department of  
33 Agriculture, Food and Rural Resources.

34 **Sec. 52. Appropriations and allocations.** The following appropriations and  
35 allocations are made.

36 **CORRECTIONS, DEPARTMENT OF**

37 **Correctional Impact Reserve N033**

38 Initiative: Provides funds for costs associated with one projected incarceration in a state  
39 correctional facility.

H. 86

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

1	<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
2	All Other	\$0	\$38,478
3			
4	<b>GENERAL FUND TOTAL</b>	<hr/> \$0	<hr/> \$38,478

5  
6

**SUMMARY**

7 This amendment removes several sections of the bill and adds several others. As  
8 amended, the bill does the following.

9 1. It facilitates the collection of registration fees for home-based manufacturers of  
10 pet food.

11 2. It amends and enacts definitions in the Maine Revised Statutes, Title 7 and Title  
12 17.

13 3. It authorizes the Department of Agriculture, Food and Rural Resources to  
14 establish temporary shelters to impound animals.

15 4. It requires breeding kennels to post their license numbers.

16 5. It provides an affirmative defense for various violations of the animal welfare laws  
17 for agricultural animals kept in compliance with best management practices as  
18 determined by the department.

19 6. It requires a veterinarian to report suspected violations of aggravated cruelty.

20 7. It authorizes a law enforcement officer, humane agent or animal control officer to  
21 remove an animal confined unattended in a motor vehicle when the animal is in  
22 immediate danger due to extreme temperature. It requires notification to the owner of the  
23 animal's removal and provides immunity for an officer removing an animal under the  
24 described circumstances.

25 8. It replaces the definition of "pet dealer" with a definition of "seller" for use in the  
26 statutory chapter on the sale of cats and dogs.

27 9. It amends the provisions for a vendor's license to apply to dogs and cats under 6  
28 months of age and removes the fee for one vendor's license in a 12-month period, but  
29 requires the \$25 fee for additional licenses in a 12-month period, and extends the period  
30 for which a vendor's license is valid from 60 days to 90 days.

31 10. It amends shelter provisions in Title 17 to conform to changes made to Title 7 in  
32 the First Regular Session of the 123rd Legislature.

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT "A" to H.P. 1545, L.D. 2171

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2

11. It adds an appropriations and allocations section to the bill.

3

**FISCAL NOTE REQUIRED**

4

**(See attached)**





# 123rd MAINE LEGISLATURE

LD 2171

LR 3086(02)

## An Act To Amend the Animal Welfare Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"  
 Committee: Agriculture, Conservation and Forestry  
 Fiscal Note Required: Yes

### Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$38,478	\$71,340	\$72,548
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$38,478	\$71,340	\$72,548

### Correctional and Judicial Impact Statements

Expands the Class D crime of aggravated cruelty to animals to include "with criminal negligence." With the addition of this phrase, a person could be charged with a Class C crime instead of a Class D crime. See cost detail below.

### Fiscal Detail and Notes

Correctional Cost Detail	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Class C crime	\$38,478	\$71,340	\$72,548	\$73,756	\$74,782
<b>Total Cost - All Convictions</b>	<b>\$38,478</b>	<b>\$71,340</b>	<b>\$72,548</b>	<b>\$73,756</b>	<b>\$74,782</b>

This estimate assumes one offender occurrence per year beginning in fiscal year 2008-09. This cost estimate is based on all time served as a Class C crime. The current average cost to the state for a Class C crime is \$70,308 based on an average length of stay of 1 year, 10 months. The Judicial Department expects 0-1 cases every year. The collection of additional fines may also increase General Fund revenue by minor amounts.

Based on this estimate, the Department of Corrections will require a General Fund appropriation of \$38,478 in fiscal year 2008-09 to provide funds for costs associated with one projected incarceration per year and additional probationary costs. The probation costs are approximately \$3,624.45 per incident.

The additional cost to the Department of Agriculture, Food and Rural Resources can be absorbed by the department utilizing existing budgeted resources.