

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2171

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H.P. 1545

House of Representatives, January 24, 2008

### An Act To Amend 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 PIEH of Bremen.  
Cosponsored by Senator NUTTING of Androscoggin and  
Representatives: CARTER of Bethel, CRAY of Palmyra, MAREAN of Hollis.

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

2 **Sec. 1. 7 MRSA §3907, sub-§1-A**, as amended by PL 1993, c. 657, §1, is further  
3 amended to read:

4 **1-A. Abandoned dog.** "Abandoned dog" means a dog that has been deserted by its  
5 owner or keeper and has not been or is not being provided adequate care or continued  
6 care by the owner or keeper.

7 **Sec. 2. 7 MRSA §3907, sub-§1-B** is enacted to read:

8 **1-B. Adequate care.** "Adequate care" means the ordinary and prudent care that  
9 meets the needs of an animal, including adequately nutritious food, clean water, proper  
10 shelter and protection from the elements and medical care to maintain good health and  
11 meet the basic needs of that species of animal.

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

14 **8-A. Breeding kennel.** "Breeding kennel" means a location where 5 or more adult  
15 dogs, wolf hybrids or cats capable of breeding are kept ~~and some or all of the offspring~~  
16 ~~are offered for sale, sold or exchanged for value~~ or a location where more than 16 animals  
17 are sold to the public in a 12-month period regardless of the number of adult dogs, wolf  
18 hybrids or cats capable of breeding kept at that location.

19 **Sec. 4. 7 MRSA §3907, sub-§12-F** is enacted to read:

20 **12-F. Cruelly.** "Cruelly" means to act or fail to act in a way that causes or allows  
21 unnecessary pain or suffering of an animal.

22 **Sec. 5. 7 MRSA §3907, sub-§15-B** is enacted to read:

23 **15-B. Humanely clean conditions.** "Humanely clean conditions" means that both  
24 indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions  
25 and other waste materials, dirt and trash with sufficient frequency to minimize health  
26 hazards and to provide adequately clean living conditions for the species of animal.

27 **Sec. 6. 7 MRSA §3907, sub-§20-A** is enacted to read:

28 **20-A. Neglect.** "Neglect" means failure to provide an animal with humanely clean  
29 conditions and adequate care and other care generally considered to be ordinary and  
30 necessary for the health and well-being of that species, breed or type of animal.

31 **Sec. 7. 7 MRSA §3916, sub-§1-A**, as amended by PL 2007, c. 439, §8, is further  
32 amended to read:

33 **1-A. Required for dogs.** A person owning or keeping a dog shall, within 30 days  
34 after the dog attains the age of 6 3 months, cause the dog to be vaccinated against rabies  
35 and shall have booster vaccinations administered periodically in accordance with rules

1 adopted by the Commissioner of Health and Human Services under section 3922,  
2 subsection 3. A wolf hybrid is required to be vaccinated in accordance with this  
3 subsection. The procedure prescribed under Title 22, chapter 251, subchapter 5 for a wolf  
4 hybrid suspected of having rabies does not change based on proof that the wolf hybrid  
5 has received a rabies vaccination.

6 **Sec. 8. 7 MRSA §3919-D** is enacted to read:

7 **§3919-D. Temporary animal shelter**

8 The department is authorized to temporarily impound animals within an enclosure  
9 other than at a licensed animal shelter, and such an enclosure constitutes a temporary  
10 animal shelter. Notice that an enclosure is an animal shelter must be given by placing a  
11 sign to that effect on the gate or other entrance to the enclosure.

12 **Sec. 9. 7 MRSA §3931-A, sub-§5** is enacted to read:

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

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

17 **Sec. 10. 7 MRSA §3952, sub-§1**, as amended by PL 2007, c. 170, §1, is further  
18 amended to read:

19 **1. Procedure.** Any person who is assaulted or threatened with imminent bodily  
20 injury by a dog when the assault or threat is unprovoked and occurs off the property of  
21 the owner or caretaker of the dog or any person witnessing an unprovoked assault or  
22 unprovoked threatened assault against a person or domesticated animal or a person with  
23 knowledge of an unprovoked assault or unprovoked threatened assault against a minor,  
24 within 30 days of the unprovoked assault or unprovoked threatened assault, may make  
25 written complaint to the sheriff, local law enforcement officer or animal control officer  
26 that the dog is a dangerous dog. For the purposes of this chapter, "domesticated animal"  
27 includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

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

30 If, upon hearing, the court finds that the dog is a dangerous dog as defined in section  
31 3907, subsection 12-D, the court may impose a fine and shall:

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

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

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

5 **Sec. 11. 7 MRSA §4011, sub-§1, ¶D**, as amended by PL 1997, c. 456, §4, is  
6 further amended to read:

7 D. Injures, overworks, tortures, torments, abandons, neglects or cruelly beats or  
8 intentionally mutilates an animal; gives drugs to an animal with an intent to harm the  
9 animal; gives poison or alcohol to an animal; or exposes a poison with intent that it  
10 be taken by an animal. The owner or occupant of property is privileged to use  
11 reasonable force to eject a trespassing animal;

12 **Sec. 12. 7 MRSA §4015**, as amended by PL 2007, c. 439, §§27 and §28, is further  
13 amended to read:

14 **§4015. Proper shelter and protection from the weather**

15 ~~No~~ A person owning, keeping or responsible for confining or impounding any animal  
16 ~~may fail to~~ shall provide the animal with proper shelter, and protection from the weather  
17 ~~and humanely clean conditions as prescribed in this section.~~

18 **1. Indoor standards.** Minimum indoor standards of shelter ~~shall be~~ are as follows  
19 set out in this subsection.

20 A. The ambient temperature ~~shall~~ must be compatible with the health of the animal.

21 B. Indoor housing facilities ~~shall~~ must be adequately ventilated by natural or  
22 mechanical means to provide for the health of the animal at all times.

23 C. An animal contained in an indoor enclosure must be removed from the indoor  
24 enclosure daily and provided with a safe environment to allow the exercise needs of  
25 the animal to be met in a manner appropriate for the age, size and breed of the  
26 animal.

27 **2. Outdoor standards.** Minimum outdoor standards of shelter are as follows set out  
28 in this subsection.

29 ~~A. When sunlight is likely to cause heat exhaustion of an animal tied or caged~~  
30 ~~outside, sufficient~~ Sufficient shade by natural or artificial means must be provided to  
31 protect ~~the~~ an animal from direct sunlight. ~~As used in this paragraph, "caged" does~~  
32 ~~not include farm fencing used to confine livestock~~ This paragraph does not apply to  
33 livestock confined by farm fencing.

34 B. Except as provided in subsections 5 and 6, shelter from inclement weather must  
35 be as follows set out in this paragraph.

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

1 (2) If a dog is tied or confined unattended outdoors ~~under weather conditions that~~  
2 ~~adversely affect the health of the dog~~, a shelter of suitable size with an  
3 aboveground floor and waterproof roof must be provided in accordance with  
4 subsection 6, paragraph A to accommodate the dog and protect it from the  
5 weather and, in particular, from severe cold and direct sunlight. Inadequate  
6 shelter from cold may be indicated by the shivering of the dog due to cold  
7 weather for a continuous period of 10 minutes or by symptoms of frostbite or  
8 hypothermia. A metal barrel is not adequate shelter for a dog.

9 For purposes of this subparagraph, "suitable size" means that the dog can enter  
10 the shelter unimpeded and turn around, stand in a normal posture and lay down in  
11 a normal position.

12 C. An animal may not be confined in a building, enclosure of any kind, car, boat,  
13 vehicle, trailer, camper or vessel of any kind when extreme heat or extreme cold will  
14 be harmful to its health.

15 **3. Space standards.** Minimum space requirements for both indoor and outdoor  
16 enclosures ~~shall~~ include the following.

17 A. The housing facilities ~~shall~~ must be structurally sound and maintained in good  
18 repair to protect the animal from injury and to contain the animal.

19 B. Enclosures ~~shall~~ must be constructed and maintained to provide sufficient space  
20 to allow each animal adequate freedom of movement. Inadequate space may be  
21 indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

22 ~~4. **Humanely clean conditions.** Minimum standards of sanitation necessary to~~  
23 ~~provide humanely clean conditions for both indoor and outdoor enclosures shall include~~  
24 ~~periodic cleanings to remove excretions and other waste materials, dirt and trash to~~  
25 ~~minimize health hazards.~~

26 **5. Livestock.** Livestock must be provided with shelter suitable for the health of the  
27 animal. Livestock must have access to a constructed or natural shelter that is large  
28 enough to accommodate all livestock comfortably at one time. The shelter should be well  
29 drained and protect the livestock from direct sun, rain, wind and other inclement weather.  
30 Notwithstanding this subsection, shelter for equines must be provided in accordance with  
31 subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock"  
32 includes large game as defined in section 1341, subsection 5 kept at a licensed  
33 commercial large game shooting area as defined in section 1341, subsection 1.

34 **6. Dogs confined by tethering for long time periods.** In addition to the  
35 requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the  
36 primary means of confinement for a dog, the standards for shelter and tethering are as  
37 follows:

38 A. A shelter must be provided that is fully enclosed except for a portal. The portal  
39 must be of a sufficient size to allow the dog unimpeded passage into and out of the  
40 structure. For dogs other than arctic breeds, the portal must be constructed with a  
41 baffle or other means of keeping wind and precipitation out of the interior. The  
42 shelter must be constructed of materials with a thermal resistance factor of 0.9 or

1 greater ~~and~~, must contain clean bedding material sufficient to retain the dog's normal  
2 body heat and must be accessible to the dog at all times; and

3 B. The chain or tether must be attached to both the dog and the anchor using  
4 swivels or similar devices that prevent the chain or tether from becoming entangled  
5 or twisted. The chain or tether must be attached to a well-fitted collar or harness on  
6 the dog. For dogs other than arctic breeds, the chain or tether must be at least 5 times  
7 the length of the dog measured from the tip of its nose to the base of its tail. For  
8 arctic breeds, the chain or tether must be:

9 (1) At least 2.5 times the length of the dog measured from the tip of its nose to  
10 the base of its tail if the anchor is stationary; or

11 (2) At least 1.5 times the length of the dog measured from the tip of its nose to  
12 the base of its tail if the anchor is a pivot point allowing a 360° area of  
13 movement.

14 For the purposes of this subsection, "primary means of confinement" means the method  
15 used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For  
16 the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies,  
17 Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an  
18 arctic climate.

19 **Sec. 13. 7 MRSA §4158, sub-§1**, as enacted by PL 1995, c. 589, §1, is amended  
20 to read:

21 **1. Demand for remedy; contest.** When a pet dealer wishes to contest a demand for  
22 the remedy specified in section 4155, the pet dealer may require the purchaser to produce  
23 all the veterinarian's records and the animal for examination or autopsy by a veterinarian  
24 designated by the pet dealer. The veterinarian designated by the dealer must be  
25 practicing at a veterinary clinic within 100 miles of the purchaser's residence. The pet  
26 dealer shall pay the cost of this examination or autopsy. The pet dealer has a right of  
27 recovery against the purchaser if the pet dealer is not obligated to provide a remedy under  
28 section 4155.

29 **Sec. 14. 7 MRSA §4163, first ¶**, as enacted by PL 2007, c. 439, §34, is amended  
30 to read:

31 A person may not advertise for sale, sell or exchange for value more than one ~~cat or~~  
32 ~~dog~~ litter of cats or dogs in a 12-month period unless that person has a valid animal  
33 shelter, kennel, breeding kennel or pet shop license or a valid vendor's license issued  
34 under this section.

35 **Sec. 15. 17 MRSA §1011, sub-§1-A** is enacted to read:

36 **1-A. Abandoned.** "Abandoned," as it pertains to an animal, means an animal has  
37 been deserted by its owner or keeper and has not been or is not being provided adequate  
38 care or continued care by the owner or keeper.

39 **Sec. 16. 17 MRSA §1011, sub-§1-B** is enacted to read:

1       **1-B. Adequate care.** "Adequate care" means the ordinary and prudent care that  
2 meets the needs of an animal, including adequately nutritious food, clean water, proper  
3 shelter and protection from the elements and medical care to maintain good health and  
4 meet the basic needs of that species of animal.

5       **Sec. 17. 17 MRSA §1011, sub-§12-C** is enacted to read:

6       **12-C. Cruelly.** "Cruelly" means to act or fail to act in a way that causes or allows  
7 unnecessary pain or suffering of an animal.

8       **Sec. 18. 17 MRSA §1011, sub-§12-D** is enacted to read:

9       **12-D. Domestic violence.** "Domestic violence" means beating, torturing, mutilating  
10 or killing an animal without justification with the intent to threaten, intimidate, coerce,  
11 harass or terrorize a family or household member.

12       **Sec. 19. 17 MRSA §1011, sub-§15-B** is enacted to read:

13       **15-B. Humanely clean conditions.** "Humanely clean conditions" means that both  
14 indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions  
15 and other waste materials, dirt and trash with sufficient frequency to minimize health  
16 hazards and to provide adequately clean living conditions for the species of animal.

17       **Sec. 20. 17 MRSA §1011, sub-§20-A** is enacted to read:

18       **20-A. Neglect.** "Neglect" means failure to provide an animal with humanely clean  
19 conditions and adequate care and other care generally considered to be ordinary and  
20 necessary for the health and well-being of that species, breed or type of animal.

21       **Sec. 21. 17 MRSA §1021, sub-§1, ¶A,** as enacted by PL 1987, c. 383, §4, is  
22 amended to read:

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

26       **Sec. 22. 17 MRSA §1021, sub-§3,** as enacted by PL 1987, c. 383, §4, is amended  
27 to read:

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

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

34       B. Order the animal to be disposed of humanely if, given reasonable time and care,  
35 the animal's recovery is doubtful.



1       **Sec. 23. 17 MRSA §1021, sub-§4, ¶A**, as amended by PL 1997, c. 690, §63, is  
2 further amended to read:

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

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

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

16               (a) The condition of an injured, overworked, tormented, tortured,  
17 abandoned, poisoned or mutilated animal, or animal deprived of necessary  
18 sustenance, necessary medical attention, proper shelter or protection from the  
19 weather or humanely clean conditions will be substantially impaired or  
20 worsened;

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

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

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

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

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

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

39       **5-A. Seizure by state humane agent or state veterinarian without court order.**  
40 A state humane agent or a state veterinarian who has reasonable cause to believe that a  
41 violation of section 1031 or 1032 has taken place or is taking place may take possession  
42 of and retain the cruelly treated animal. Upon taking possession of or retaining an animal

1 under this section, the humane agent or the state veterinarian shall present the owner with  
2 a notice that:

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

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

14 Within 3 working days of possession of the animal, the humane agent or the state  
15 veterinarian shall apply to the court for a possession order. The court shall set a hearing  
16 date and that hearing date must be within ~~10~~ 21 days of the date the animal was seized.  
17 The humane agent or the state veterinarian shall arrange care for the animal, including  
18 medical treatment, if necessary, pending the hearing.

19 The humane agent or the state veterinarian shall notify the owner, if located, of the time  
20 and place of the hearing. If the owner has not been located, the court shall order a notice  
21 to be published at least once in a newspaper of general circulation in the county where the  
22 animal was found stating the case and circumstances and giving 48 hours notice of the  
23 hearing.

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

30 **Sec. 25. 17 MRSA §1024**, as amended by PL 1997, c. 690, §68, is repealed and  
31 the following enacted in its place:

32 **§1024. Impeding the performance of an officer; temporary animal shelter violations**

33 **1. Impeding performance of officer.** A person may not assault, resist, oppose,  
34 impede, intimidate or interfere with a person engaged in or on account of the performance  
35 of that person's official duties under this subchapter.

36 **2. Temporary animal shelter violations.** A person may not break open, trespass on  
37 or remove animals from a temporary animal shelter authorized in Title 7, section 3919-D.

38 **Sec. 26. 17 MRSA §1028** is enacted to read:

1 **§1028. Prosecution by district attorney**

2 The several district attorneys shall represent the Department of Agriculture, Food and  
3 Rural Resources in any civil or administrative procedure and prosecute all violations of  
4 this chapter that are brought to their notice by any person making a complaint under oath.  
5 The District Court and the Superior Court have concurrent jurisdiction in all prosecutions  
6 under this chapter.

7 **Sec. 27. 17 MRSA §1031, sub-§1, ¶D**, as amended by PL 2003, c. 452, Pt. I,  
8 §13 and affected by Pt. X, §2, is further amended to read:

9 D. Injures, overworks, tortures, torments, abandons, neglects or cruelly beats or  
10 intentionally mutilates an animal; gives drugs to an animal with an intent to harm the  
11 animal; gives poison or alcohol to an animal; or exposes a poison with intent that it  
12 be taken by an animal. The owner or occupant of property is privileged to use  
13 reasonable force to eject a trespassing animal. Violation of this paragraph is a Class  
14 D crime;

15 **Sec. 28. 17 MRSA §1031, sub-§1-F** is enacted to read:

16 **1-F. Failure to provide minimum care for an animal.** A person is guilty of failure  
17 to provide minimum care for an animal if that person, in a manner manifesting a depraved  
18 indifference to animal life or suffering, intentionally, knowingly, recklessly or with  
19 criminal negligence fails to provide minimum care for an animal in the person's care,  
20 custody or control or owned by the person, and the failure results in the death of the  
21 animal.

22 Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301,  
23 the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first  
24 or subsequent violation of this subsection. The sentencing provisions in subsection 3-B  
25 also apply to a person convicted of failure to provide minimum care for an animal.

26 **Sec. 29. 17 MRSA §1037, sub-§2, ¶B**, as amended by PL 2005, c. 340, §3, is  
27 further amended to read:

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

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

33 (2) If a dog is tied or confined unattended outdoors ~~under weather conditions that~~  
34 ~~adversely affect the health of the dog~~, a shelter of suitable size with a an  
35 aboveground floor above ground and waterproof roof must be provided in  
36 accordance with subsection 7, paragraph A to accommodate the dog and protect  
37 it from the weather and, in particular, from severe cold and direct sunlight.  
38 Inadequate shelter from cold may be indicated by the shivering of the dog due to  
39 cold weather for a continuous period of 30 10 minutes or by symptoms of  
40 frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

1           For purposes of this subparagraph, "suitable size" means that the dog can enter  
2           the shelter unimpeded and turn around, stand in a normal posture and lay down in  
3           a normal position.

4           **Sec. 30. 17 MRSA §1038**, as enacted by PL 2005, c. 422, §11, is amended to  
5 read:

6           **§1038. Animals abandoned at animal care facilities**

7           Abandoning an animal at a veterinarian's office, boarding kennel, animal grooming  
8 facility ~~or~~, animal day-care facility or equine boarding stable is a Class D crime.

9           **1. Determination of abandonment.** ~~There is a rebuttable presumption of~~  
10 ~~abandonment~~ An animal is considered abandoned if an owner:

11           A. Places an animal in the custody of a licensed veterinarian for treatment, boarding  
12 or other care, or in a boarding kennel, animal grooming facility ~~or~~, animal day-care  
13 facility or equine boarding stable for services offered by that facility; and

14           B. Fails to claim the animal within 10 days after written notice is sent in accordance  
15 with subsection 2.

16           **2. Notice requirement.** Before any animal may be considered abandoned under this  
17 section, a veterinarian's office, boarding kennel, animal grooming facility ~~or~~, animal day-  
18 care facility or equine boarding stable shall send written notice, by registered or certified  
19 mail, return receipt requested, to the owner or keeper at the owner's or keeper's last  
20 known address. Proof of attempted delivery constitutes sufficient notice.

21           **3. Ownership of abandoned animal.** When an owner or keeper fails to claim an  
22 animal within 10 days of a notice being sent under subsection 2, the veterinarian, kennel,  
23 facility, stable or individual who has custody and control of the animal is considered the  
24 owner of the animal and shall arrange for its care, including, but not limited to, its  
25 adoption, sale or placement with a licensed animal shelter.

26           **4. Financial obligation.** The disposal of an abandoned animal under this section  
27 does not relieve the owner or keeper of the animal of any financial obligation, including,  
28 but not limited to, costs incurred for veterinary treatment, boarding, grooming or other  
29 care.

30           **5. Penalty.** In addition to the penalties provided in Title 17-A for a Class D crime,  
31 the penalties in section 1031, subsection 3-B also apply.

32           **Sec. 31. 17 MRSA §1039** is enacted to read:

33           **§1039. Unattended motor vehicle**

34           **1. Prohibition.** A person may not leave or confine an animal in an unattended motor  
35 vehicle, trailer, boat, camper or vessel of any kind under conditions that endanger the  
36 health or well-being of the animal due to heat, cold, lack of adequate ventilation or lack  
37 of food or water or other circumstance that could reasonably be expected to cause pain,  
38 suffering, injury, disability or death of an animal.

1           **2. Officer may remove animal from motor vehicle.** A law enforcement officer,  
2 humane agent or animal control officer may remove an animal from a motor vehicle,  
3 trailer, boat, camper or vessel of any kind if the animal's safety, health or well-being  
4 appears to be in immediate danger from heat, cold, lack of adequate ventilation or lack of  
5 food or water or other circumstance that could reasonably be expected to cause pain,  
6 suffering, injury, disability or death to the animal. A law enforcement officer, humane  
7 agent or animal control officer is authorized to take all steps that are reasonably necessary  
8 for the removal of an animal from a motor vehicle, trailer, boat, camper or vessel of any  
9 kind, including, but not limited to, breaking into the motor vehicle, trailer, boat, camper  
10 or vessel of any kind.

11           **3. Officer must leave written notice.** A law enforcement officer, humane agent or  
12 animal control officer who removes an animal from a motor vehicle, trailer, boat, camper  
13 or vessel of any kind shall, in a secure and conspicuous location on or within the motor  
14 vehicle, trailer, boat, camper or vessel of any kind, leave written notice bearing the  
15 officer's or agent's name and office and the address of the location where the animal may  
16 be claimed. The owner may claim the animal only after payment of all charges that have  
17 accrued for the maintenance, care, medical treatment and impoundment of the animal.

18           **4. Immunity.** A law enforcement officer, humane agent or animal control officer  
19 who removes an animal from a motor vehicle, trailer, boat, camper or vessel of any kind  
20 pursuant to this section is immune from criminal or civil liability that might otherwise  
21 result from the removal.

22           Nothing in this section limits the transportation of horses, cattle, pigs, sheep, poultry  
23 or other agricultural animals in motor vehicles designed to transport such animals for  
24 agricultural purposes in accordance with the rules for transportation of such animals  
25 adopted by the Department of Agriculture, Food and Rural Resources and the United  
26 States Department of Agriculture.

27           **5. Class D crime.** Violation of subsection 1 is a Class D crime.

28           **Sec. 32. 17 MRSA §1040** is enacted to read:

29           **§1040. Domestic violence assault against a companion animal**

30           **1. Domestic violence assault against a companion animal.** A person is guilty of  
31 domestic violence assault against a companion animal if:

32           A. The person violates Title 17-A, section 207-A and the person also intentionally,  
33 knowingly or recklessly causes bodily injury or offensive physical contact to a  
34 companion animal as defined in Title 7, section 3907, subsection 11-A. Violation of  
35 this paragraph is a Class D crime; or

36           B. The person violates paragraph A and at the time of the offense:

37           (1) The person has one or more prior convictions for violating paragraph A or for  
38 violating Title 17-A, section 209-A, 210-B, 210-C or 211-A or has one or more  
39 prior convictions for engaging in conduct substantially similar to that contained

1           in paragraph A or in Title 17-A, section 209-A, 210-B, 210-C or 211-A in  
2           another jurisdiction;

3           (2) The person has one or more prior convictions for violating Title 19-A, section  
4           4011, subsection 1 or one or more prior convictions for engaging in conduct  
5           substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
6           another jurisdiction; or

7           (3) The person has one or more prior convictions for violating Title 15, section  
8           1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the  
9           alleged victim in the case for which the defendant was on bail was a family or  
10           household member as defined in Title 19-A, section 4002, subsection 4.

11           Violation of this paragraph is a Class C crime.

12           **Sec. 33. 17 MRSA §1040-A** is enacted to read:

13           **§1040-A. Domestic violence criminal threatening against a companion animal**

14           **1. Domestic violence criminal threatening against a companion animal.** A  
15           person is guilty of domestic violence criminal threatening against a companion animal if:

16           A. The person violates Title 17-A, section 209-A and also causes the other person to  
17           fear that imminent bodily injury may come to a companion animal as defined in Title  
18           7, section 3907, subsection 11-A in the care, custody or control of or owned,  
19           possessed, leased, kept or held by either person or a minor residing in the household.  
20           Violation of this paragraph is a Class D crime; or

21           B. The person violates paragraph A and at the time of the offense:

22           (1) The person has one or more prior convictions for violating paragraph A or for  
23           violating Title 17-A, section 207-A, 210-B, 210-C or 211-A or has one or more  
24           prior convictions for engaging in conduct substantially similar to that contained  
25           in paragraph A or in Title 17-A, section 207-A, 210-B, 210-C or 211-A in  
26           another jurisdiction;

27           (2) The person has one or more prior convictions for violating Title 19-A, section  
28           4011, subsection 1 or one or more prior convictions for engaging in conduct  
29           substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
30           another jurisdiction; or

31           (3) The person has one or more prior convictions for violating Title 15, section  
32           1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the  
33           alleged victim in the case for which the defendant was on bail was a family or  
34           household member as defined in Title 19-A, section 4002, subsection 4.

35           Violation of this paragraph is a Class C crime.

36           **Sec. 34. 17 MRSA §1040-B** is enacted to read:

37           **§1040-B. Domestic violence terrorizing of a companion animal**

38           **1. Domestic violence terrorizing of a companion animal.** A person is guilty of  
39           domestic violence terrorizing of a companion animal if:

1 A. The person violates Title 17-A, section 210-B and the person communicates to  
2 the other person a threat to commit or to cause to be committed a crime of violence  
3 against a companion animal as defined in Title 7, section 3907, subsection 11-A in  
4 the care, custody or control of or owned, possessed, leased, kept or held by either  
5 party or a minor residing in the household. Violation of this paragraph is a Class D  
6 crime; or

7 B. The person violates paragraph A and at the time of the offense:

8 (1) The person has one or more prior convictions for violating paragraph A or for  
9 violating Title 17-A, section 207-A, 209-A, 210-C or 211-A or has one or more  
10 prior convictions for engaging in conduct substantially similar to that contained  
11 in paragraph A or in Title 17-A, section 207-A, 209-A, 210-C or 211-A in  
12 another jurisdiction;

13 (2) The person has one or more prior convictions for violating Title 19-A, section  
14 4011, subsection 1 or one or more prior convictions for engaging in conduct  
15 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
16 another jurisdiction; or

17 (3) The person has one or more prior convictions for violating Title 15, section  
18 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the  
19 alleged victim in the case for which the defendant was on bail was a family or  
20 household member as defined in Title 19-A, section 4002, subsection 4.

21 Violation of this paragraph is a Class C crime.

22 **Sec. 35. 17 MRSA §1040-C** is enacted to read:

23 **§1040-C. Domestic violence reckless conduct against a companion animal**

24 **1. Domestic violence reckless conduct against a companion animal.** A person is  
25 guilty of domestic violence reckless conduct against a companion animal if:

26 A. The person violates Title 17-A, section 211-A and the person recklessly creates a  
27 substantial risk of serious bodily injury to a companion animal as defined in Title 7,  
28 section 3907, subsection 11-A in the care, custody or control of or owned, possessed,  
29 leased, kept or held by either party or a minor residing in the household. Violation of  
30 this paragraph is a Class D crime; or

31 B. The person violates paragraph A and at the time of the offense:

32 (1) The person has one or more prior convictions for violating paragraph A or for  
33 violating Title 17-A, section 207-A, 209-A, 210-B or 210-C or has one or more  
34 prior convictions for engaging in conduct substantially similar to that contained  
35 in paragraph A or in Title 17-A, section 207-A, 209-A, 210-B or 210-C in  
36 another jurisdiction;

37 (2) The person has one or more prior convictions for violating Title 19-A, section  
38 4011, subsection 1 or one or more prior convictions for engaging in conduct  
39 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
40 another jurisdiction; or

