

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1021

S.P. 385

In Senate, March 17, 2009

An Act To Prohibit Cruel Confinement of Calves Raised for Veal and Sows during Gestation

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.
Cosponsored by Senator: DAVIS of Cumberland, Representatives: CRAY of Palmyra, PIEH of Bremen.

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

2 Sec. 1. 7 MRSA §4020 is enacted to read:

3 §4020. Cruel confinement of calves raised for veal and sows during gestation

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

6 A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of
7 producing the food product referred to as veal.

8 B. "Covered animal" means a sow during gestation or calf raised for veal that is kept
9 on a farm.

10 C. "Enclosure" means a cage, crate or other structure used to confine a covered
11 animal, including, but not limited to, what is commonly described as a "gestation
12 crate" for sows or a "veal crate" for calves.

13 D. "Farm" has the same meaning as in section 152.

14 E. "Fully extending the animal's limbs" means fully extending all limbs without
15 touching the side of an enclosure.

16 F. "Sow during gestation" means a pregnant pig of the porcine species kept for the
17 primary purpose of breeding.

18 G. "Turning around freely" means turning in a complete circle without any
19 impediment, including a tether, and without touching the side of an enclosure.

20 2. Prohibition. A person may not tether or confine a covered animal for all or the
21 majority of a day in a manner that prevents the animal from:

22 A. Lying down, standing up and fully extending the animal's limbs; and

23 B. Turning around freely.

24 3. Exceptions. Subsection 2 does not apply:

25 A. To an animal while it is the subject of scientific or agricultural research;

26 B. During examination, testing, individual treatment of or operation on an animal for
27 veterinary purposes;

28 C. To an animal being transported;

29 D. To an animal at a rodeo exhibition or state or county fair exhibition;

30 E. To an animal at a 4-H event or similar exhibition;

31 F. To the slaughter of an animal in accordance with Title 22, chapter 562-A,
32 subchapter 4 and rules pertaining to the slaughter of animals; and

33 G. To a sow during the 7-day period prior to the sow's expected date of giving birth.

34 4. Relation to other laws. The provisions of this section are in addition to, and not
35 in lieu of, any other laws protecting animal welfare. This section may not be construed to

1 limit any state law or rules protecting the welfare of animals or to prevent a local
2 governing body from adopting and enforcing its own animal welfare laws and
3 regulations.

4 The affirmative defense provisions in section 4016, subsection 3 do not apply to this
5 section. It is not an affirmative defense to alleged violations of this section that the calf
6 or sow was kept as part of an agricultural operation and in compliance with best
7 management practices for animal husbandry.

8 **Sec. 2. 17 MRSA §1039** is enacted to read:

9 **§1039. Cruel confinement of calves raised for veal and sows during gestation**

10 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
11 following terms have the following meanings.

12 A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of
13 producing the food product referred to as veal.

14 B. "Covered animal" means a sow during gestation or calf raised for veal that is kept
15 on a farm.

16 C. "Enclosure" means a cage, crate or other structure used to confine a covered
17 animal, including, but not limited to, what is commonly described as a "gestation
18 crate" for sows or a "veal crate" for calves.

19 D. "Farm" has the same meaning as in section 152.

20 E. "Fully extending the animal's limbs" means fully extending all limbs without
21 touching the side of an enclosure.

22 F. "Sow during gestation" means a pregnant pig of the porcine species kept for the
23 primary purpose of breeding.

24 G. "Turning around freely" means turning in a complete circle without any
25 impediment, including a tether, and without touching the side of an enclosure.

26 **2. Prohibition.** A person may not tether or confine a covered animal for all or the
27 majority of a day in a manner that prevents the animal from:

28 A. Lying down, standing up and fully extending the animal's limbs; and

29 B. Turning around freely.

30 **3. Exceptions.** Subsection 2 does not apply:

31 A. To an animal while it is the subject of scientific or agricultural research;

32 B. During examination, testing, individual treatment of or operation on an animal for
33 veterinary purposes;

34 C. To an animal being transported;

35 D. To an animal at a rodeo exhibition or state or county fair exhibition;

36 E. To an animal at a 4-H event or similar exhibition;

1 F. To the slaughter of an animal in accordance with Title 22, chapter 562-A,
2 subchapter 4 and rules pertaining to the slaughter of animals; and

3 G. To a sow during the 7-day period prior to the sow's expected date of giving birth.

4 **4. Relation to other laws.** The provisions of this section are in addition to, and not
5 in lieu of, any other laws protecting animal welfare. This section may not be construed to
6 limit any state law or rules protecting the welfare of animals or to prevent a local
7 governing body from adopting and enforcing its own animal welfare laws and
8 regulations.

9 **5. Penalty.** A violation of subsection 2 is a Class D crime.

10 **6. Criminal or civil prosecution.** A person may be arrested or detained for a
11 violation of subsection 2 in accordance with the rules of criminal procedure. A person
12 may not be arrested or detained for the civil violation of cruel confinement under Title 7,
13 section 1039. The attorney for the State may elect to charge a defendant with a criminal
14 violation under this section or a civil violation under Title 7, section 4020. In making this
15 election, the attorney for the State shall consider the severity of the cruelty displayed, the
16 number of animals involved, any prior convictions or adjudications of animal cruelty
17 entered against the defendant and such other factors as may be relevant to a determination
18 of whether criminal or civil sanctions will best accomplish the goals of the animal welfare
19 laws in the particular case before the attorney for the State. The election and
20 determination required by this subsection are not subject to judicial review. The factors
21 involved in the election and determination are not elements of the criminal offense or
22 civil violation of cruel confinement and are not subject to proof or disproof as
23 prerequisites or conditions for conviction under this section or adjudication under Title 7,
24 section 4020.

25 It is not an affirmative defense to prosecution under this section that the sow or calf is
26 kept as part of an agricultural operation and in compliance with best management
27 practices for animal husbandry.

28 **Sec. 3. Effective date.** This Act takes effect January 1, 2011.

29 **SUMMARY**

30 This bill prohibits the cruel confinement of calves raised for veal and sows during
31 gestation.