

MAINE STATE LEGISLATURE

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Date: 3/15/11

(Filing No. H-17)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 75, L.D. 89, Bill, "An Act Regarding Repeated Animal Trespass"

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

'Sec. 1. 7 MRSA §4041, as amended by PL 2009, c. 548, §§4 and 5, is further amended to read:

§4041. Animal trespass

1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

2. Removal. The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

B. The animal is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

COMMITTEE AMENDMENT

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1 C. That person owns an animal or animals that have been found trespassing on 5 or
2 more days within a 30-day period or 3 or more days within a 7-day period.

3 4. **Fine.** A fine of not less than \$50 nor more than \$500 must be adjudged for a civil
4 violation under subsection 3. In addition, the court may as part of the sentencing include
5 an order of restitution for costs incurred in removing and controlling the animal. When
6 appropriate, the court may order restitution to the property owner based on damage done
7 and financial loss. Any restitution ordered and paid must be deducted from the amount of
8 any judgment awarded in a civil action brought by the owner against the offender based
9 on the same facts. When an owner or keeper violates this section 3 or more times within
10 a 90-day period, the court shall order restitution of all costs incurred by the department in
11 responding to a violation of this section or assisting an animal control officer or law
12 enforcement officer responding to a violation of this section.

13 5. **Exemption.** A person is not liable under this section if, at the time of the alleged
14 trespass, that person was licensed or privileged to allow the animal to be on the property.

15 6. **Definitions.** For purposes of As used in this section, the term "animal" does not
16 include cats unless the context otherwise indicates, the following terms have the
17 following meanings.

18 A. "Animal" does not include cats.

19 B. "Authorized employee of the department" means a humane agent or any other
20 employee of the department designated by the commissioner to assist with
21 compliance and enforcement of this section.'

22 **SUMMARY**

23 This amendment authorizes designated employees of the Department of Agriculture,
24 Food and Rural Resources to respond to complaints of animal trespass. It requires an
25 animal to be removed immediately if private or public property is threatened. Under
26 current law, immediate removal is required only if public safety is threatened. It revises
27 the number of trespasses in a given period that constitutes a violation. The bill proposes a
28 threshold of 3 or more consecutive days in a 12-month period. The amendment proposes
29 a threshold of 5 or more days within a 30-day period.

30 **FISCAL NOTE REQUIRED**

31
32 (See attached)

33



Approved: 03/07/11 *MAC*

125th MAINE LEGISLATURE

LD 89

LR 156(02)

An Act Regarding Repeated Animal Trespass

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

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Department of Agriculture, Food and Rural Resources can be absorbed with existing staff and within existing budgeted resources.