

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1283

S.P. 445

In Senate, April 2, 2013

### An Act To Amend the Laws Governing Animal Trespass

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin. (BY REQUEST)  
Cosponsored by Senators: BOYLE of Cumberland, FLOOD of Kennebec, GRATWICK of Penobscot.

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

2 **Sec. 1. 7 MRSA §4041, sub-§3-A** is enacted to read:

3 **3-A. Criminal violation.** A 3rd or subsequent violation of subsection 3 is a Class E  
4 crime.

5 **Sec. 2. 7 MRSA §4041, sub-§4,** as amended by PL 2011, c. 18, §1, is further  
6 amended to read:

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

18 A. A fine of not less than \$50 nor more than \$500 must be adjudged for a first  
19 violation under subsection 3.

20 B. For a 2nd violation of subsection 3, a fine of \$1,000 must be adjudged.

21 C. For a 3rd or subsequent violation of subsection 3, a fine of \$2,500 must be  
22 adjudged.

23 Upon application of the department, municipality or law enforcement agency enforcing  
24 this section, the owner or keeper of the animal must pay reasonable court costs and  
25 attorney's fees of the department, municipality or law enforcement agency if the  
26 department, municipality or law enforcement agency is the prevailing party in any court  
27 proceeding.

28 **Sec. 3. 7 MRSA §4041, sub-§4-A** is enacted to read:

29 **4-A. Forfeiture.** If the department, a municipality or a law enforcement agency  
30 determines that a repeated violation of this section by an owner or keeper of an animal  
31 jeopardizes the public health, welfare or safety of the community, the department,  
32 municipality or law enforcement agency may bring a forfeiture action in the county in  
33 which the violations occurred under Title 14, section 506. In an action brought under this  
34 subsection, the burden of proof is on the department, municipality or law enforcement  
35 agency. If a court determines that a repeated violation of this section jeopardizes the  
36 public health, welfare or safety of the community, the court may order any animal that is  
37 the subject of the violation sold in a commercially reasonable manner and apply the  
38 proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this  
39 section with any remaining balance returned to the owner or keeper of the animal.

**SUMMARY**

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This bill amends the animal trespass law in the following ways:

1. It makes a 3rd or subsequent violation a Class E crime;
2. It makes the fine for a 2nd violation \$1,000;
3. It makes the fine for a 3rd or subsequent violation \$2,500;
4. It requires a repeat violator to pay the reasonable court costs and attorney's fees for the Department of Agriculture, Conservation and Forestry, municipality or law enforcement agency; and
5. It authorizes forfeiture of an animal of a repeat violator if the court finds that the repeat violation jeopardizes the public health, safety or welfare.