

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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Sec. 1. 9-A MRSA §1-110, as enacted by PL 1981, c. 218, is amended by adding at the end a new paragraph to read:

The Legislature declares that the preemption provided by the United States Garn-St. Germain Depository Institutions Act of 1982, Public Law 97-320, Section 804, shall not apply. The Legislature further declares that the applicable provisions of the Maine Consumer Credit Code relating to alternative mortgage instruments shall apply, including, but not limited to, sections 3-308 and 3-310.

Sec. 2. 9-B MRSA §241, sub-§3 is enacted to read:

3. Alternative mortgage instruments. The Legislature declares that the preemption provided by the United States Garn-St. Germain Depository Institutions Act of 1982, Public Law 97-320, Section 804, shall not apply. The Legislature further declares that the superintendent shall have the power to promulgate regulations in accordance with section 251, which define, limit or otherwise authorize the use of alternative mortgage instruments by financial institutions. The Legislature further finds and declares that regulations promulgated prior to the preemption of the United States Garn-St. Germain Depository Institutions Act of 1982 shall continue to have full force and effect.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 18, 1983.

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## CHAPTER 308

S.P. 515 - L.D. 1530

### AN ACT Relating to the Humane Treatment of Animals.

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

Sec. 1. 7 MRSA §1, as amended by PL 1979, c. 731, §§2 and 3, is further amended to read:

§1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural

Resources, as heretofore established and hereinafter in this Title called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry, and shall consist of the Commissioner of Agriculture, Food and Rural Resources, hereafter in this Title called the "commissioner," and the following as heretofore created and established: The Board of Pesticide Control, the Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Maine Potato Commission, the Seed Potato Board, the Soil and Water Conservation Commission, the Harness Racing Commission and the Board of Veterinary Medicine and the Animal Welfare Board. The commissioner shall be appointed by the Governor, subject to review by the joint standing committee on of the Legislature having jurisdiction over agriculture and to confirmation by the Legislature, and shall hold office during the pleasure of the Governor. He shall receive his actual expenses incurred in the performance of his official duties. He may employ such clerical labor as may be required, subject to the Personnel Law, and he may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of his duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. 2. 7 MRSA §2, 3rd ¶, as amended by PL 1979, c. 731, §6, is further amended to read:

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific board, bureau, agency, commission, committee or other governmental unit: The Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, the Maine Potato Commission, the Soil and Water Conservation Commission, the Board of Veterinary Medicine and the Board of Pesticide Control and the Animal Welfare Board.

Sec. 3. 7 MRSA §12, as amended by PL 1977, c. 694, §41, is further amended to read:

§12. Rules and standards

The commissioner shall adopt, consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, rules and regulations for carrying out this Title, Title 10, chapter 309, Title 17, chapter 43 and Title 32, chapter 61 and all other statutes delegating responsibility to him or the department. He

may fix standards of purity, quality or strength when such standards are not specified or fixed by law, and shall publish them together with such other information concerning articles of commercial feeding stuff, commercial fertilizer, drug or food as he may deem to be of public benefit.

Sec. 4. 7 MRSA §13, first ¶, as amended by PL 1973, c. 598, §4, is further amended to read:

The commissioner shall diligently enforce all provisions of this Title, ~~Title 17, chapter 43 and Title 32, chapter 27~~ and all other statutes delegating responsibility to him or the department and shall be entitled to and shall receive the assistance of the Attorney General and of the several county attorneys. He may recover the penalties imposed for violations of this Title and Title 32, chapter 27 in a civil action brought in his own name, the venue to be as in other civil actions, and if he prevails in any such action, shall recover full costs, or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed.

Sec. 5. 7 MRSA §14, as amended by PL 1977, c. 694, §42, is further amended to read:

§14. Hearings on violations

When the commissioner becomes cognizant of the violation of any provision of this Title, ~~Title 10, chapter 309, Title 17, chapter 43, Title 22, sections 2151 to 2162 and Title 32, chapters 27 and 61~~ and all other statutes delegating responsibility to him or the department, he shall provide opportunity for hearing in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, and shall, in any case, cause a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to that person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the State. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.

Sec. 6. 17 MRSA §1051, first ¶, as amended by PL 1979, c. 731, §19, is repealed and the following enacted in its place:

The Animal Welfare Board, as established in section 1051-A, shall enforce all provisions of this chapter; Title 7, chapters 701, 703 and 711; and Title 17-A, section 510.

Sec. 7. 17 MRSA §§1051-A, 1051-B and 1051-C are

enacted to read:

§1051-A. Animal Welfare Board

There is established the Animal Welfare Board, in the Department of Agriculture, Food and Rural Resources. It shall consist of 10 members; 4 representing humane societies; 4 representing agriculture; the Commissioner of Agriculture, Food and Rural Resources, or his designee; and a veterinarian. The Commissioner of Agriculture, Food and Rural Resources shall serve ex officio and shall not exercise the power to vote. The remaining 9 members of the board shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture and to confirmation by the Legislature.

Four members representing humane societies shall be appointed by the Governor, who shall consider nominations made by humane societies incorporated under the statutes, provided no more than one such member may represent a particular society. Four members representing agriculture shall be appointed by the Governor from nominations presented by organizations representing the agricultural community. One member shall be a veterinarian and be appointed by the Governor, who will consider nominations made by the Maine Veterinary Medical Association.

Each member shall serve for a term of 4 years or until his successor has qualified. In the case of a vacancy for any reason, the Governor shall appoint a member to fill the unexpired term. One member of the board shall be elected by members of the board to chair the board. Initially, 3 appointed members shall serve for one year; 2 members for 2 years; 2 members for 3 years; and 2 members for 4 years, provided that no more than one member represents the same interest group in the same class.

The board shall hold regular monthly meetings. The chairman shall call special meetings of the board whenever requested in writing by 2 or more members of the board.

Members of the board shall be entitled to per diem compensation, equal to the per diem compensation of Legislators, for the conduct of official business and expenses necessarily incurred in the performance of the board's duties.

§1051-B. Executive director; other employees

The commissioner may employ with the approval of the board, subject to the Personnel Law, an executive

director and such other employees as are necessary to assist the board in carrying out its duties and responsibilities. The board shall appoint part-time humane agents who shall serve as agents of the board in the enforcement of this chapter and as otherwise provided by law. These part-time agents shall be unclassified employees whose standards of employment, training, compensation and hours of employment will be determined by the board. The jurisdiction of each part-time humane agent shall extend throughout the State. In connection with its enforcement responsibilities, the board shall be entitled to and shall receive the assistance of the Attorney General and of the several district attorneys and may apply to the Commissioner of Agriculture, Food and Rural Resources for the assistance of state veterinarians.

§1051-C. Rules

In carrying out its duties and responsibilities, the board may adopt rules pursuant to authority granted in chapter 43; Title 7, chapters 701, 703 and 711 and Title 17-A, section 510. These rules shall be made in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 8. 17 MRSA §1055, sub-§4, as amended by PL 1979, c. 731, §19, is further amended to read:

4. Standards of treatment. Any animal, whose use is permitted under this section, shall be treated in accordance with a set of ethical and humane standards to be promulgated, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, by the Commissioner of Agriculture, Food and Rural Resources, Division of Animal Welfare Board, after the consultation with representative groups in the State having an interest or expertise in the field of animal welfare, biology and education.

Sec. 9. 17 MRSA §1055, sub-§5, as amended by PL 1979, c. 731, §19, is further amended to read:

5. Enforcement. Enforcement shall be the responsibility of the Commissioner of Agriculture, Food and Rural Resources Animal Welfare Board in consultation with the Commissioner of Educational and Cultural Services.

Sec. 10. 17 MRSA §1214, as repealed and replaced by PL 1973, c. 598, §16 and c. 666, §2, is repealed.

Sec. 11. 17 MRSA §1216, as enacted by PL 1973, c. 598, §17, is repealed.

Sec. 12. Revision clause. Wherever in Title 7,



chapter 701, 703 and 711 and Title 17, sections 1176, 1177, 1211, 1212, 1213 and 1230, the word "commissioner" appears, it means and shall be cited as "board."

Sec. 13. Transitional clause. As of the effective date of this Act, the balance of all funds appropriated to the Commissioner of Agriculture, Food and Rural Resources for the administration of the Division of Animal Welfare, Title 17, chapter 43, shall be transferred to the account of the Board of Animal Welfare. All legal processes initiated by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 17, chapter 43 and pending as of the effective date of this Act shall become the responsibility of the Board of Animal Welfare. The current director of the Division of Animal Welfare shall be the executive director of the board. All part-time humane agents serving immediately prior to the effective date of this Act shall be deemed appointees of the Animal Welfare Board upon the effective date of this Act.

Sec. 14. Effective date. This Act shall take effect March 1, 1984.

Effective March 1, 1984.

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## CHAPTER 309

H.P. 709 - L.D. 900

AN ACT to Amend the Composition of the  
Board of Pesticides Control.

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

22 MRSA §1471-B, sub-§1, as amended by PL 1981, c. 470, Pt. A, §66, is further amended to read:

1. Board established. There is established within the Department of Agriculture, Food and Rural Resources a Board of Pesticides Control. The board shall be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over the subject of agriculture and confirmation by the Legislature. To provide the knowledge and experience necessary for carrying out the duties of the board, one person shall be appointed who has practical experience and knowledge in chemical use in the field of agriculture, one who has practical experience and