

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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PUBLIC LAWS

OF THE

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er of the House. Members shall serve for 3-year terms, except that initially 5 shall be appointed for 3 years, 5 for 2 years and 4 for one year. Members shall include individuals with training and experience in the following fields: Medicine, M.D. or D.O.; oncology; medical and biological sciences; hospital administration; nursing; medical records administration; hospital tumor registry operations; health promotion and education; epidemiology; and biometry. The 5 members initially appointed for terms of 3 years and 2 of the members appointed for one year shall be appointed by the Governor. The 5 members initially appointed for a term of 2 years and 2 of the members appointed for one year shall be appointed jointly by the President of the Senate and the Speaker of the House. Members shall be compensated according to Title 5, chapter 379. The committee shall meet at least once annually in Augusta.

Effective September 29, 1987.

CHAPTER 381

H.P. 1285 — L.D. 1761

AN ACT to Protect the State's Freshwater Great Ponds and Rivers.

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

30 MRSA §3223-B is enacted to read:

§3223-B. Transfers of shoreland property

Any person transferring property on which a subsurface waste water disposal system is located within a shoreland area, as defined in Title 38, section 435, shall provide the transferee with a sworn statement at the time of transfer certifying with any necessary written documentation that:

1. Inspection. The disposal system has been inspected within the preceding 180 days by a person licensed pursuant to Title 22, section 42, and not found to be malfunctioning; and

2. Showings. At least one of the following conditions has been met:

A. The disposal system has received a permit and certificate of approval from an individual licensed pursuant to section 3222;

B. The subsurface waste water disposal system has been replaced by a connection to an approved sanitary sewer; or

C. The transferor provides documentation of an application and any necessary departmental approval as specified in the Maine State Plumbing Code, that, in the event of a future malfunction of the existing sys-

tem, a replacement subsurface waste water disposal system can be installed to serve the existing level of use.

Effective September 29, 1987.

CHAPTER 382

H.P. 1046 — L.D. 1409

AN ACT to Increase Penalties for Violation of Laws Relating to Vital Statistics.

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

22 MRSA §2708, sub-§2 is amended to read:

2. General. Any person who knowingly transports or accepts for transportation, interment or other disposition a dead body without an accompanying permit issued in accordance with this Title; any person who refuses to provide information required by this Title; or any person who violates any of the provisions of this Title having to do with the registration of vital statistics or neglects or refuses to perform any of the duties imposed upon him by this Title, having to do with the registration of vital statistics, ~~shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$25 nor more than \$100 on first offense commits a Class E crime and on 2nd and subsequent offenses commits a Class D crime.~~

Effective September 29, 1987.

CHAPTER 383

S.P. 599 — L.D. 1759

AN ACT to Reform the Animal Welfare Laws.

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

Sec. 1. 5 MRSA §12004, Sub-§8, ¶A, sub-¶(1) is amended to read:

(1) Agriculture	Animal Welfare	Legislative	17 MRSA §1051-A
	Board	Per Diem	7 MRSA §3903

Sec. 2. 7 MRSA Pt. 8, as amended, is repealed.

Sec. 3. 7 MRSA Pt. 9 is enacted to read:

PART 9

ANIMAL WELFARE

CHAPTER 717

ANIMAL WELFARE BOARD ACT

§3901. Animal Welfare Board Act

This chapter shall be known and may be cited as the "Animal Welfare Board Act."

§3902. Purposes

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals.

§3903. Membership

The Animal Welfare Board shall be in the Department of Agriculture, Food and Rural Resources.

The board shall consist of 10 members as follows.

1. Designated members. Nine members, appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture and subject to confirmation by the Legislature, shall consist of:

A. Four members representing humane societies to be selected by the Governor, who shall consider nominations made by humane societies incorporated under the laws, provided that no more than one member may represent a particular society;

B. Four members representing the agricultural community to be selected by the Governor from nominations presented by organizations representing the agricultural community; and

C. One member to be a veterinarian and selected by the Governor who shall consider nominations made by the Maine Veterinary Medical Association.

2. State member. One member of the board representing the State shall be the Commissioner of Agriculture, Food and Rural Resources who shall serve as an ex officio, nonvoting member.

3. Compensation. Members of the board shall be compensated in accordance with Title 5, chapter 379.

§3904. Terms of office

Except for initial appointees and the state member, 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.

1. Initial terms of office. 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.

§3905. Administration

The board shall elect one of its members as chairman.

The board shall hold regular monthly meetings, but may waive, by majority vote, a succeeding monthly meeting. The chairman shall call special meetings of the board whenever requested in writing by 2 or more members.

§3906. Powers and duties of the board

The Animal Welfare Board, as established by Title 5, section 12004, subsection 8, is authorized to fulfill the purposes set forth in section 3902 to enforce this Part and Title 17, and has powers and duties to:

1. Dog licensing laws. Carry out the dog licensing laws and furnish to municipalities all license blanks and tags;

2. Payment of claims. Authorize payment of and adjust claims for damages to livestock, poultry and domestic rabbits by dogs;

3. Use of funds. Pay from the funds received from the licensing of dogs the expense of furnishing blanks and tags, travel and salaries for necessary personnel, approved claims for damages done by dogs, payments to shelters and expenses incurred in the administration of this Part. These funds shall be kept in a separate account to be established by the Treasurer of State and that account shall not lapse, but shall continue from year to year;

4. Dog recorders. Appoint dog recorders in unorganized territories and establish fees for services rendered;

5. Payment of fees. Authorize from time to time payments to providers of special services to animals when those services are determined by the board to be in the public interest;

6. Information. Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the board;

7. Copies of law. Seasonably forward to the clerks of the several municipalities copies of this Part;

8. Employees. Approve an executive director and such other employees as are necessary to assist the board in enforcing this Part and in carrying out its duties and responsibilities as may be employed by the commissioner subject to the Civil Service Law. The board shall appoint part-time humane agents who shall serve as agents of the board in the enforcement of this Part 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 several dis-

strict attorneys and may apply to the commissioner for the assistance of state veterinarians;

9. Rules. Pursuant to Title 5, chapter 375, adopt, amend and repeal reasonable rules, including emergency rules, necessary for the proper administration, implementation, enforcement and interpretation of any provision of law that it is charged with administering and necessary or useful for carrying out any of its powers and duties; and

10. Other powers. Do any act or thing necessary or useful for carrying out any of its powers or duties.

§3907. Definitions

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. "Act" means the Animal Welfare Board Act.

2. Animal. "Animal" means every living, sentient creature not a human being.

3. Animal control. "Animal control" means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. Animal control officer. "Animal control officer" means the person appointed periodically by municipal officers pursuant to chapter 725.

5. Animal control shelter. "Animal control shelter" means the shelter designated by municipal officers.

6. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

7. Board. "Board" means the Animal Welfare Board or its duly authorized agent.

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

13. Guide dog or hearing dog kept for breeding purposes. "Guide dog or hearing dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as guide dogs or hearing dogs and living with a resident of the State.

14. Guide dog or hearing dog kept prior to training. "Guide dog or hearing dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a guide dog or hearing dog and living temporarily with a resident of the State prior to training.

15. Humane agent. "Humane agent" means an employee of the board, whether full-time or part-time, who assists the board in enforcing this Part.

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal.

17. Kennel. "Kennel" means one pack or collection of dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes.

18. Law enforcement officer. "Law enforcement officer" means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

19. Municipality. "Municipality" means a city, town or plantation.

20. Mutilate. "Mutilate" includes, but is not limited to, cutting the bone, muscles or tendons of the tail of a horse for the purpose of docking or setting up the tail and cropping or cutting off the ear of a dog in whole or in part.

21. Owner. "Owner" means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.

22. Person. "Person" means an individual, corporation, partnership, association or any other legal entity.

23. Pet shop. "Pet shop" means any place, building, tract of land, abode or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, pet animals, exotic birds or exotic animals are offered for sale which are not bred by the vendor.

24. Respective municipality. "Respective municipality" means, in the case of towns and cities, the municipi-

pality where the dog is found; in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found; or the designee of that municipality.

25. Shelter. "Shelter" means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.

26. Torment, torture and cruelty. "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

27. Vertebrate. "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. "Warrant" means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

§3908. Governmental function

The board shall administer and exercise the authority granted to it by this Part. The carrying out of its powers and duties is considered the performance of an essential governmental function.

§3909. Enforcement

Whenever, in the judgment of the board, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of this Act or any rule, order, license, permit, approval or decision of the board or decree of court, as the case may be, the Attorney General, at the request of the board, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, for an order directing compliance or a civil or criminal action or any appropriate combination of actions. Upon a showing by the board that the person has engaged or is about to engage in any such act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

§3910. Jurisdiction

The District Court shall have original and concurrent jurisdiction with the Superior Court of all violations of this Part. All fines and forfeitures imposed shall be paid into the treasury of the municipality where the offense or violation is committed unless otherwise provided.

CHAPTER 719

UNCONTROLLED DOGS

§3911. Dogs not to run at large

It is unlawful for any dog, licensed or unlicensed, to run at large, except when used for hunting.

§3912. Disposition of dogs at large

Any animal control officer or person acting in that capacity shall seize, impound or restrain any dog found in violation of section 3911 and deliver it to any shelter as provided for in section 3913, subsection 2, or shall take the dog to its owner, if known. Such dogs shall be handled as stray and abandoned dogs.

§3913. Procedure for sick or abandoned dogs

1. Persons finding dogs. Any person finding a sick, stray, injured or abandoned dog may take that dog to any shelter within the State.

2. Dog shelters. A shelter to which a sick, stray, injured or abandoned dog is taken, as a condition of approval by the board, shall accept the dog for a period of 8 days, unless the shelter is in quarantine or has a bona fide lack of adequate space or unless the dog has or is suspected of having a contagious disease. The acceptance entitles the shelter to receive from the board the sum of \$2.50 a day for the period for which food and shelter are furnished to the dog. Shelters accepting dogs from municipalities not contracting with them may seek assistance from the board. Shelters which are not approved by the board to receive state funds shall not be required to accept sick, stray, injured or abandoned dogs.

3. Claims; fees. The procedure for filing claims and calculating fees shall be as follows.

A. On the business day next following the date of acceptance of the dog, the shelter shall notify the clerk of the respective municipality of the acceptance of the dog, its description and the circumstances of its finding.

B. A shelter which accepts a dog under this section, within 45 days of acceptance of the dog, shall submit a claim on a board-approved form to the clerk of the respective municipality for fees incurred in providing food and shelter and, upon verification of proper notification and holding period by the clerk, the shelter shall forward the claim to the board.

C. If the owner claims the dog within the 8-day period, the owner may have and receive the dog upon payment of all board-approved fees as provided in subsection 2, provided that the dog is licensed in accordance with chapter 721.

4. Ownership of dog. Upon expiration of the 8-day period, ownership of the dog shall vest in the shelter. The shelter may then:

A. Sell or give away the dog, provided that a license is first obtained in accordance with section 3922; or

B. Otherwise dispose of the dog humanely in accordance with Title 32, section 4872.

None of the proceeds obtained from the sale, donation, adoption or other disposition of the dog shall be deducted from the fee claimed.

Notwithstanding subsection 3, paragraph C, the previous owner may reacquire the dog at any time prior to its sale, donation or disposal upon payment of the municipal impoundment fee and actual fees incurred for food, shelter, veterinary care and any other fees required by this chapter for each day that the dog has been sheltered. In this case no fee may be allowed by the board.

5. Euthanasia for sick or injured dogs. A veterinarian may authorize in writing euthanasia of a sick or injured dog received by him, by a humane agent or by a shelter within the State if:

A. Forty-eight hours have elapsed since receipt of the sick or injured dog by him, by the humane agent or by a shelter;

B. The clerk of the respective municipality has been notified of the dog's presence in accordance with subsection 3, paragraph A, and the owner of the dog, if known, has been notified;

C. The dog is not rabid or suspected of rabies; and

D. The dog's recovery from its sickness or injury, given reasonable time and reasonable care, is doubtful.

Notwithstanding paragraphs A to D, a veterinarian may authorize immediate euthanasia if, in his judgment, there is no possibility of recovery for a sick or injured dog.

6. Euthanasia for severely injured animal. A veterinarian or a humane agent may authorize in writing euthanasia of a severely injured or sick animal if the following conditions are met:

A. The clerk of the municipality has been notified of the animal's presence and the owner of the animal, if known, has been notified;

B. The animal is not rabid or suspected of rabies; and

C. The animal's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful.

Notwithstanding paragraphs A to C, a veterinarian may authorize immediate euthanasia if, in his judgment, there is no possibility of recovery for a severely injured or sick animal.

7. Immunity from civil liability. A veterinarian is not civilly liable to any party for authorization made in accordance with subsections 5 and 6 nor is any person performing euthanasia under that authorization.

8. Regulation and inspection. Shelters approved by the board pursuant to section 3913, subsection 2, are exempt from licensing, but are subject to inspection as provided in this subsection and to the rules of the board as to sanitation, enclosure, records, health requirements and such other procedures as the board determines necessary.

The board, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the board, at any reasonable time, may enter any board-approved shelter and make examination and conduct any recognized test for the existence of any contagious or infectious disease or condition. The board may inspect shelters to determine compliance with its sanitation, health and other rules.

A veterinarian employed by the State or any licensed veterinarian may quarantine the shelter in person or by registered mail and the quarantine shall be maintained as long as the board determines necessary. The decision and order for this quarantine shall not be considered licensing or an adjudicatory proceeding under the Maine Administrative Procedure Act, Title 5, chapter 375.

9. Violation. Any person who violates this chapter commits a civil violation for which a forfeiture of not less than \$25 nor more than \$100 may be adjudged.

§3914. Purchase and sale of dogs

Shelters, kennels, boarding kennels and pet shops engaged in buying or selling dogs shall keep records of the buyer and seller in each transaction for a 2-year period commencing at the time of purchase or sale. The records shall be open to inspection by the board or law enforcement officers.

CHAPTER 721

DOG LICENSES

§3921. License necessary

No dog may be kept within the limits of the State, unless the dog has been licensed by its owner or keeper in accordance with the laws of this State.

Any law enforcement agency within the State, coun-

ties or municipalities owning dogs for law enforcement purposes shall be required to license the dogs in the municipality in which they are domiciled, but shall be exempt from any license or recording fee, provided that all other licensing requirements are fulfilled.

§3922. Issuance of license

1. License; January 1st. Except for dogs kept under a kennel license as provided in section 3931, each owner or keeper of a dog at the age of 6 months or more shall, on or before January 1st of each year, cause the dog to be licensed:

A. In the clerk's office of the municipality where the dog is kept; or

B. With the dog recorder in the unorganized territory where the dog is kept or, in the absence of a duly authorized recorder, in the nearest municipality or unorganized territory with a recorder.

2. License; after January 1st. The owner or keeper, within 10 days of the conditions of paragraph A or B being met, shall obtain a license, if between January 1st and October 15th of any year:

A. A dog reaches the age of 6 months or more; or

B. A person becomes the owner or keeper of a dog aged 6 months or more.

3. Proof of immunization. No municipal clerk may issue a license for any dog until the applicant has filed with the clerk proof that the dog has been immunized against rabies in accordance with rules promulgated by the Commissioner of Human Services, provided that the requirement of immunization may be waived by the clerk under conditions set forth by the Commissioner of Human Services.

In the case of any guide dog or hearing dog kept prior to training or for breeding purposes, the board shall accept valid proof of immunization against rabies provided by another state.

4. Trained guide dogs. If any trained dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk shall not register the dog nor issue to its owner or keeper a license and tag unless written evidence is provided that the dog is trained and educated and intended to perform guide service for the applicant.

5. Form of license. The license shall state the breed, sex, color and markings of the dog and the name and address of the owner or keeper. The license shall be issued in triplicate, the original copy of which shall be mailed to the board, a duplicate copy given to the applicant and the remaining copy retained by the municipal clerk.

§3923. License and recording fees

1. License and recording fees. Except as provided in subsection 2 and section 3921, the following license and recording fees shall be paid in connection with the licensure of dogs:

A. A fee of \$5.50 shall be paid to the municipal clerk for each license on all dogs 6 months of age or older capable of producing young. All dogs shall be considered capable of producing young, unless:

(1) A veterinarian issues a written certificate stating that he made the dog incapable of producing young by spaying, if female, or by sterilization, if male;

(2) A veterinarian issues a written certificate that, upon his examination, the dog is incapable of producing young; or

(3) By previous registration, the owner has declared that the dog is incapable of producing young.

When such certificate or registration accompanies the application, a fee of \$2 shall be paid for each license and kept by the municipality in accordance with section 3945; and

B. In addition to the amount paid for a license, each applicant shall pay the municipal clerk \$1 for recording and making a report to the board.

2. Exemption from fees. A license shall be issued by a municipal clerk, upon application and without payment of any fee required under this section, for:

A. Any trained guide dog owned or kept by a blind person;

B. Any trained hearing dog kept by a deaf person; or

C. Any guide dog or hearing dog kept prior to training or for breeding purposes.

3. Dog tags. A suitable tag showing the year the license is issued and bearing such other data as the board prescribes shall be given by the municipal clerk with each license and must be securely attached to a collar of leather, metal or material of comparable strength which shall be worn at all times by the dog for which the license was issued, except when hunting, in training or when used in exhibitions. When the dog is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure within 24 hours upon request by a humane agent, animal control officer or law enforcement officer.

4. Rabies tag. The rabies tag obtained from a veterinarian for immunization against rabies shall be securely attached to a collar of leather, metal or material of comparable strength which shall be worn by the dog

for which the tag was issued, except when hunting, in training or when used in exhibitions. When the dog is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure within 24 hours upon request by a humane agent, animal control officer or law enforcement officer.

§3924. Violation

1. Civil violation. Any person who violates any section of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

2. Unlawful use of collar or tag. Any person who removes a dog tag or rabies tag or who places either a collar or rabies tag on any dog not described on it or for which the license was not issued commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

CHAPTER 723

LICENSES FOR KENNELS, BOARDING KENNELS AND PET SHOPS

§3931. Kennels

1. License necessary. Any person having a pack or collection of dogs for the purposes set forth in section 3907, subsection 17, shall obtain a kennel license from the clerk of the municipality where the dogs are kept. The sex, registered number and description shall not be required of dogs covered by a kennel license. The license shall expire December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later. The kennel license shall permit the licensee or authorized agent to transport under control and supervision the kennel dogs within or without the State.

2. Determination of fees. License and recording fees are determined according to the number of dogs kept.

A. When the number of dogs kept over 6 months of age does not exceed 10, the fee for the license shall be \$15 and, in addition, \$1 for each license as a fee for recording and making the monthly report required by the board.

B. When the number of dogs kept over 6 months of age exceeds 10, the fee for the license shall be \$30 and, in addition, \$1 for each license as a fee for recording and making the monthly report required by the board.

3. Kennel tags. Dogs covered by a kennel license shall be furnished suitable kennel tags as prescribed by the board and shall not be required to be individually licensed.

§3932. Boarding kennels

1. License necessary. Any person maintaining a boarding kennel shall obtain a license from the board. The license shall expire December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later.

2. License fees. The fee for a boarding kennel license shall be \$25.

3. Dog licenses. Nothing in this section may be construed to exempt dogs owned by boarding kennel operators from the license requirements of chapter 721.

§3933. Pet shops

1. License necessary. Any person maintaining a pet shop shall obtain a license from the board. The license shall expire December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later.

2. License fees. The fee for a pet shop license shall be \$50.

§3934. Exemption from licensure

Shelters approved by the board under section 3913 are exempt from the licensing provisions of this chapter, but are subject to the rules promulgated by the board as to sanitation, enclosure, records, health requirements and such other procedures as it determines necessary.

§3935. License prohibited

Municipalities shall not issue a kennel license and the board shall not issue a license to maintain a boarding kennel or pet shop to any person who, within the 5 years previous to the application for the license, has been convicted of a criminal violation under Title 17, chapter 42, or under any criminal law involving cruelty to animals which is no longer in effect, or within 2 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739.

§3936. Inspection and quarantine

1. Inspection and quarantine. The board, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the board may, at any reasonable time, enter any kennel, boarding kennel or pet shop, except any building used for human habitation recognized as not subject to search warrant, and make examinations and conduct any recognized tests for the existence of any contagious or infectious diseases or conditions. The board may inspect kennels, boarding kennels and pet shops in accordance with the sanitation and health rules established by the Department of Agriculture, Food and Rural Resources. A veterinarian employed by the State or any licensed veterinarian

may quarantine the kennel, boarding kennel or pet shop, in person or by registered mail, and the quarantine shall be maintained as long as the board determines necessary. The decision and order for this quarantine shall not be considered licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act, Title 5, chapter 375.

2. Suspension of license. The Administrative Court, upon complaint of the board or the Attorney General, may revoke or suspend a kennel, boarding kennel or pet shop license, provided that any person maintaining the kennel, boarding kennel or pet shop violates any quarantine or maintains animals contrary to the rules promulgated by the board or fails to keep records required by the board.

§3937. Investigation

Upon written complaint made to the board by any person alleging violation of this chapter, or any of the rules of the chapter by any licensee, the board shall cause an investigation to be made upon matters related in the complaint.

§3938. Violation

Any person maintaining a kennel, boarding kennel or pet shop without having obtained a license, or after any license has been revoked or suspended, commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 a day may be adjudged.

CHAPTER 725

MUNICIPAL DUTIES

§3941. Posting of law

Municipal clerks, annually, at least 20 days before January 1st, shall post copies of chapters 721 and 723 and of this chapter in the usual places for posting notices of the annual municipal elections.

§3942. Issuance of dog licenses

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the board all fees received for dogs capable of producing young. The clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all dogs except those covered by a kennel license. The clerks shall make a monthly report to the board on a board-approved form of all dog licenses issued and fees received.

All license fees received from owners or keepers of dogs incapable of producing young shall be retained by the municipality in accordance with section 3945.

§3943. Municipal warrants

1. Procedure. Between January 1st and April 30th annually, the municipal officers of each municipality shall issue a warrant with the names and addresses of all owners or keepers of unlicensed dogs to one or more police officers, constables, sheriffs or animal control officers, directing them to send a notice of violation by certified mail, return receipt requested, to the last-known address of the owners or keepers or call on the owners or keepers. The warrant shall further direct that demand be made on the owners or keepers to obtain a license from the municipal clerk within 7 days from the date of demand and remit to the clerk the license and recording fees plus a late fee of \$4. Finally, the warrant shall direct the police officer, constable, sheriff or animal control officer to enter summons and complaint as soon as possible for all owners or keepers so notified who fail to comply with the order.

2. Returns of warrant. Each police officer, constable, sheriff or animal control officer to whom the warrant is issued shall return the warrant to the municipal clerk on or before July 1st of each year.

3. Payments to officers. Payment to certain officers shall be as follows.

A. The municipal clerk shall deposit the \$4 late fee collected from all dog owners and keepers in a separate account pursuant to section 3945.

B. Officers rendering services shall receive compensation as the municipal officers may determine.

§3944. Issuance of kennel licenses

Municipal clerks shall issue kennel licenses to kennel owners or operators in accordance with section 3931, provided that the dogs are kept within a proper enclosure as defined by the board. The clerks shall receive the license fees, pay them to the board and make a monthly report to the board on a board-approved form of all kennel licenses issued and fees received.

§3945. Use of license fees retained by municipalities

All fees retained by municipalities shall be kept in a separate account and shall be used for the salaries and costs of animal control, enforcement of licensing laws, care of injured and abandoned animals and the support of one or more approved animal control shelters. Any money not expended for these purposes in a municipality's fiscal year shall not lapse, but shall be carried over to the next fiscal year.

§3946. Dog recorders in unorganized territories

Dog recorders appointed by the board in unorganized territories shall issue dog licenses, receive the license fees and pay them to the board. The recorders shall keep a list of all licenses issued by them as of January 1st of each year, with the names of the owners or keepers of dogs licensed and setting forth the sex, registered

numbers and description of all dogs, except those covered by a kennel license, opposite the names of their respective owners or keepers.

A return of the list shall be made to the board on a board-approved form on or before June 1st of each year.

§3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties shall be enforcement of sections 3911, 3912, 3921, 3924, 3943, 3948, 3950 and 3950-A and such other duties to control animals as the municipality may require.

§3948. Animal control

1. Control. Municipalities shall control dogs running at large.

2. Medical attention. Law enforcement officers, humane agents and animal control officers shall take abandoned animals to a shelter and ensure that any injured animal which is at large or in a public way is given proper medical attention.

§3949. Animal control shelter

Municipal clerks, annually, on or before January 1st, shall certify to the board the name and location of the animal control shelter or have an arrangement for such a shelter. Animal control shelters shall comply with board rules.

§3950. Local regulations

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect.

§3950-A. Official refusal or neglect of duty

Any mayor, selectman, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable, police officer, sheriff or animal control officer who refuses or intentionally fails to perform the duties imposed by chapters 719, 721, 723 and 729 and by this chapter commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 and costs may be adjudged.

The board, at its own instance or upon written complaint made to it by any person, shall investigate any alleged refusal or neglect of duty by any municipal officer.

The board shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to animals and to the liability of municipal officers and their agents for failure, neglect or refusal to comply with the laws relating to animals.

The Attorney General and district attorneys, upon the board's written request, shall institute such legal proceedings as may be necessary to carry out this section.

CHAPTER 727

DANGEROUS DOGS

§3951. Killing for assault permitted

Any person may lawfully kill a dog if necessary for protection during the course of a sudden, unprovoked assault and attack upon himself or another person.

§3952. Complaints regarding dangerous dogs

1. Procedure. Any person who is assaulted by a dog without provocation, within 10 days of the assault, may make written complaint to the sheriff or local law enforcement officer that he believes the dog is dangerous or vicious.

The sheriff or local law enforcement officer may file the complaint in District Court or Superior Court.

If, upon hearing, the court is satisfied that the complaint is true, it shall:

A. Order the dog muzzled, restrained or confined to the premises of its owner or keeper; or

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

The owner or keeper who keeps a dog in violation of this section commits a civil violation for which a forfeiture not to exceed \$100, plus costs, may be adjudged.

2. Failure to abide by court order. If the court order in subsection 1, paragraph B, is not complied with within the time set by the court, the court may, upon application by the complainant or other person, issue a warrant to the county sheriff or any of his deputies or to a police officer or constable in the municipality where the dog is found, commanding the officer to kill the dog immediately and make a return of the warrant to the court within 14 days from the date of the warrant.

The owner or keeper shall be ordered to pay all costs of supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog.

3. Complaint for dogs presenting immediate threat to public. After filing of complaint in District Court or Superior Court and before hearing, if the dog poses an immediate threat to the public, the dog shall be subject to muzzling, restraint or confinement to its premises upon order of the sheriff or local law enforcement officer who filed the complaint. Upon failure to comply, the officer to whom complaint was made may apply to Dis-

trict Court, Superior Court or a complaint justice for an ex parte order for authorization to take possession of the dog which poses an immediate threat to the public and turn it over to the applicant or other suitable person.

4. Court action; ex parte. An order may be entered ex parte upon findings by the court or complaint justice that there is a reasonable likelihood that the dog is dangerous or vicious, its owner has failed to muzzle, restrain or confine it and that such failure poses an immediate threat of harm to the public.

A. Upon 2 days' notice or such shorter period as the court may prescribe, the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

B. The court shall hear and determine such motion as expeditiously as justice requires.

C. The owner shall submit an affidavit setting forth specific facts to substantiate such findings as will serve to modify or dissolve the order. The applicant shall have the burden of presenting evidence to substantiate the original findings.

5. Lien. Any person taking possession of a dog as provided in this section shall have a lien on that dog in accordance with Title 17, section 1021, subsection 6.

6. Treble damages. If a dog, whose owner or keeper refuses or neglects to comply with the order, wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

§3953. Stealing or killing dogs

Except as provided in section 3951 and Title 12, sections 7504 and 7505, and unless the killing is justified to protect persons or property, any person who steals, confines or secretes, willfully or negligently injures or willfully or negligently kills a dog is liable in damages to its owner in a civil action.

CHAPTER 729

DAMAGE BY DOGS

§3961. Reimbursement for damage done by dogs

When a dog does damage to a person or his property, the owner or keeper of the dog is liable in a civil action to the person injured for the amount of damage done, provided that the damage was not occasioned through the fault of the person injured.

§3962. Complaint and recovery

1. Complaint. Whenever any livestock, poultry or

domestic rabbits, properly enclosed or restrained and owned by a resident of the State, are killed or injured by a dog, the owner, after locating the animal or animals or a sufficient part to identify it or them, may make complaint on the next business day following discovery of the damage:

A. To the municipal officers of the municipality where the damage was done; or

B. Where the damage occurred in an unincorporated place, to the municipal officers of the nearest municipality adjoining or otherwise to the nearest municipality.

2. Investigation. The municipal officers shall investigate the complaint upon its receipt. If, after viewing the evidence, the municipal officers are satisfied that the damage was committed by a dog within the limits of their municipality, they shall estimate the actual value of the animals killed or injured according to the purposes for which they were kept, whether for breeding or other purposes, together with the damage to any other animals bitten, torn, chased or exhausted.

3. Reports. The municipal officers shall then make reports to the board, on board-approved forms, within 15 days of the date of investigation.

All reports shall have plainly printed on them a full description of all evidence seen by the investigator and information on the number of animals properly enclosed, with the estimated value and number of each, their ages, average live weight and any other information that will assist in making a fair adjustment.

All reports shall be signed by a majority of the municipal officers or, where appropriate, by the city or town manager and by the investigator, all of whom shall identify their respective offices. The signature of the investigator shall be construed to mean that he saw the evidence legally establishing the State's liability.

The reports shall be made in triplicate. The original and duplicate copies, along with the claimant's bill and proof of animal registration, where applicable, shall be mailed to the board and the triplicate copy retained by the municipal clerk.

4. Board action. The board shall approve the bill or, in its discretion, shall investigate and adjust the claim.

Payment by the board for grade cattle and horses, registered cattle and horses, grade sheep, goats and swine and registered sheep, goats and swine shall be the slaughter market value of the animal on the date of injury or death.

5. Civil action. The State may maintain a civil action against the owner or keeper of the dog to recover the amount paid.

6. Violation. Any person who keeps a dog that kills or injures any livestock, poultry or domestic rabbits commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged in addition to costs.

§3963. Joint and several liability

If any properly enclosed livestock, poultry or domestic rabbits are killed or injured by 2 or more dogs at the same time which are kept by 2 or more owners or keepers, the owners or keepers shall be jointly and severally liable for the damage.

§3964. Damage by animals

The owner or keeper of an animal which does damage to a person or property is liable for damages in a civil action to the person injured.

CHAPTER 731

MISTREATMENT OF ANIMALS

§3971. Vivisection prohibited in public and private schools

1. Use of animals in schools. No live vertebrate, except eggs, may be used in kindergarten and grades one to 12 of any public or private school as part of a scientific experiment or for any other purpose in which the animal is experimentally medicated or drugged in a manner to cause painful reactions or to induce painful or lethal pathological conditions, or in which the animal is injured through any other type of treatment, experiment or procedure, including, but not limited to, anesthetization or electric shock or where the normal health of the animal is interfered with or where pain or distress is caused.

No person may, in the presence of any student in kindergarten and grades one to 12, practice vivisection or exhibit a vivisected animal. Dissection of dead animals or any portions of dead animals in schools shall be confined to the classroom and to the presence of students engaged in the study of dissection and shall not be for the purpose of exhibition.

This subsection shall also apply to any activity associated with or sponsored by the school system.

2. Treatment of animals in general. Live animals used as class pets or for purposes not prohibited in subsection 1 shall be housed and cared for in a safe and humane manner. The animals shall not remain in school over periods when school is not in session, unless adequate care is provided at all times.

3. Standards of treatment. Any animal whose use is permitted under this section shall be treated in accordance with the ethical and humane standards promulgated by the board pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chap-

ter 375, after consultation with representative groups in the State having an interest or expertise in the field of animal welfare, biology and education.

4. Enforcement. The board shall enforce this section in consultation with the Commissioner of Educational and Cultural Services.

5. Penalty for violations. Any person who violates this section shall be punished by a fine of not more than \$75.

§3972. Unlawful use of animals

1. Unlawful use of animals. It is unlawful for any person to:

A. Sell, offer for sale, give away or display within the State any live animals which have been dyed or otherwise artificially colored;

B. Sell, display, raffle, give away or offer for sale to the public any live fowl, turtles or rabbits under 8 weeks of age in lots of less than 6;

C. Use any live animal as a premium, fund-raising device, prize or award or use any live animal in a raffle, contest, game or promotion;

D. Use any live animal as bait in any racing contest or in the training of animals for racing contests; or

E. Tie, tether or restrain any animal in a manner that is inhumane or detrimental to its welfare.

2. Violation. Any person who makes unlawful use of animals contrary to this section commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

3. Construction. Nothing in this section may be construed to apply to any animal to be used or raised for agriculture, aquaculture or fishing, or to any dog to be used or raised for hunting or exhibition purposes, by persons with proper facilities otherwise authorized by law.

CHAPTER 733

TRANSPORTATION OF ANIMALS

§3981. Intrastate transportation of animals

1. Period of confinement. No railroad, motor truck, common carrier or its receiver, trustee or lessee which transports animals within the State or other person having the care, custody or charge of animals loaded into any such form of transportation may confine the animals in cars, boats, vehicles or vessels of any description for a period longer than 28 consecutive hours without unloading the animals in a humane manner, by means of a chute or tailgate of sufficient size, into properly equipped pens or other suitable enclosures for rest, water

and feeding for a period of at least 5 consecutive hours, unless prevented by storm, accident or other unavoidable cause which cannot be anticipated or avoided by the exercise of due diligence and foresight.

In estimating the time of confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest, food or water in a car, boat, vehicle or vessel shall be included.

2. Extension of time for confinement. Upon the separate written request of the owner or person in custody of the shipment of animals, the time of confinement may be extended to 36 hours.

3. Sheep. A railroad, motor truck, common carrier or its receiver, trustee or lessee, or other person having the care, custody or charge of sheep loaded into any such form of transportation, is not required to unload sheep in the nighttime, but, when the time expires in the nighttime, the sheep may continue in transit to a suitable place of unloading not exceeding the maximum limitation of 36 hours during which they may be confined.

4. Preference of animals as freight. A railroad, motor truck and common carrier within the State shall give cars, boats, vehicles or vessels containing cattle, sheep, swine or other animals a continuous passage in preference to other freight. Cars, boats, vehicles or vessels loaded with animals at any station shall have precedence over all other freight.

5. Conditions of transportation. Cars, boats, vehicles or vessels shall be sufficiently covered or boarded on the sides and ends to afford proper protection to animals in case of storms or severe cold weather and shall be properly ventilated. A greater number of animals shall not be loaded into any car, boat, vehicle or vessel than can stand comfortably within.

No person may transport any animal in or upon any car, boat, vehicle or vessel in a cruel or inhumane manner.

6. Violation. Any person who violates this section commits a civil violation for which a forfeiture of not less than \$50 nor more than \$500 for every such offense may be adjudged.

7. Construction. Nothing in this chapter may be construed to prohibit the use of strike cages for dogs while in the lawful sport of hunting or in training.

§3982. Liens

A railroad, motor truck, common carrier or its receiver, trustee or lessee has a lien on all animals in transit for reimbursement of penalties paid in consequence of the direction or orders of the owner or person in custody of the shipment of animals and for all extra expenses or damages incurred in the care and protection of animals according to this chapter.

§3983. Possession of animals unlawfully detained

The board, a humane agent, sheriff, deputy sheriff, constable, police officer or person authorized to make arrests may take possession of any animals detained in violation of this chapter and may unload the animals and place them in properly equipped pens or other suitable enclosures for rest, water and feeding. The board or any person taking possession pursuant to this section has a lien on the animals detained for expenses incurred for the care given.

§3984. Enforcement of lien

The board or any person having a lien in accordance with section 3982 or 3983 may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631.

§3985. Immunity from liability

Neither the board nor any person having a lien in accordance with section 3982 or 3983 is liable for the detention of animals pursuant to this chapter.

CHAPTER 735

RESEARCH INSTITUTIONS

§3991. Regulation of research institutions

1. License necessary. No research or teaching institution of higher education may employ live animals in scientific investigation, experiment or instruction or for the testing of drugs or medicines without first having been issued a license under this section by the board. A research or teaching institution desiring to obtain a license shall make application to the board. On receipt of the application, the board shall make or cause to be made such investigation as it considers necessary to determine whether the public interest will be served by the issuance of the license. The board may issue the license provided that the research or teaching institution, by reason of its standards, facilities, practices or activities, is a fit and proper institution to receive the license and that its issuance is in the public interest. The standards for licensure shall be those contained in the United States Code, Title 7, Section 2143, and any federal regulations issued pursuant to that law. Nothing in this chapter may be construed to be more restrictive than federal law. In the case of conflict between state law and federal law or a mandatory rule, regulation or order of the Federal Government or its agencies, the federal law, rule, regulation or order shall govern. Each research or teaching institution licensed under this chapter, before issuance of the license, shall pay to the board a license fee of \$50. Each license shall expire on June 30th next following the date of issue. The board shall annually renew each license upon the application of the licensee, unless, after notice and hearing as provided in this chapter, it finds that, by reason of the standards, facilities, practices or activities of the licensee, the renewal is not

in the public interest. The board, after notice and hearing as provided in this chapter, may modify, fail to renew, suspend or revoke any license if it finds that, by reason of the standards, facilities, practices or activities of the licensee, the continuation of the license is not in the public interest.

2. Noncompliance. If, in the opinion of the board, there is or may be noncompliance with or a violation of this chapter or of any rule adopted by the board that is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and the issues to be discussed.

If the board finds that the factual basis of the alleged noncompliance with or violation of this chapter is true and may warrant further action, the board:

A. With the consent of the licensee, may enter into a consent agreement which fixes the period and terms of probation best adapted to protect the health and welfare of animals and to rehabilitate or educate the licensee;

B. In consideration for acceptance of a voluntary surrender of the license, may negotiate stipulations, in a consent decree to be signed by the board, the licensee and the office of the Attorney General, which ensure protection of the health and welfare of animals and which serve to rehabilitate or educate the licensee;

C. If the board concludes that modification or non-renewal of the license may be in order, shall hold an adjudicatory hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

3. Grounds for discipline. The following shall be grounds for an action to modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. Any violation of this chapter or any rule adopted by the board; or

C. Conviction of a crime involving cruelty to animals.

4. Penalty. Any person who knowingly violates this chapter or the rules issued pursuant to this chapter commits a civil violation for which the following forfeiture may be adjudged:

A. For the first violation, a forfeiture not to exceed \$100; and

B. For each subsequent violation, a forfeiture not to exceed \$250.

5. Rules. The board may adopt such rules as are necessary to carry out the purposes of this chapter.

6. Inspection. In connection with the granting, continuance or renewal of a license and in connection with an investigation of alleged cruelty or alleged violation of this chapter or the rules issued pursuant to this chapter, the board, at least annually, may visit and inspect the research and teaching institutions, animal research and care facilities of any licensee or of any research or teaching institution which has applied for a license.

CHAPTER 737

CALF AND PIG SCRAMBLES

§4001. Regulation of calf and pig scrambles

1. Permit required. Any person sponsoring a calf or pig scramble shall obtain a permit from the board for each specific event at least 10 days before the event.

2. Application. Applications for calf or pig scramble permits shall specify the name of the applicant, the type of scramble and the date or dates of the scramble.

3. Fee. No fee is required of any applicant.

4. Board rules. Each applicant obtaining a permit under this section is subject to the rules promulgated by the board on the weight and size of animals, age of participants, length of event and such other requirements as it considers necessary.

5. Violation. Any person who violates this chapter or any of the rules issued pursuant to this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

CHAPTER 739

CRUELTY TO ANIMALS

§4011. Cruelty to animals

1. Cruelty to animals. A person is cruel to animals if he:

A. Kills any animal belonging to another person without legal privilege or the consent of the owner, or kills or attempts to kill any animal with the owner's consent, by means which will cause undue suffering. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

B. Injures, overworks, tortures, torments, abandons,

gives poison to, cruelly beats or mutilates any animal or exposes a poison with the intent that it be taken by an animal;

C. Deprives any animal which he owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

D. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of Maine during the months of December, January, February or March without providing necessary sustenance and proper shelter.

2. Affirmative defenses. It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards;

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property; or

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 10.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

§4012. Cruelty to birds

1. Cruelty to birds. A person is cruel to birds if he:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;

B. Shoots at any bird or is present as a party, umpire or judge at a shooting; or

C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for these purposes.

2. Construction. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 707, subchapter IX.

3. Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 10.

§4013. Necessary sustenance

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

§4014. Necessary medical attention

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

§4015. Proper shelter, protection from the weather and humanely clean conditions

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section. In the case of farm animals, nothing in this section may be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practice in the particular county where the animal or shelter is located. For purposes of this section, horses shall not be considered farm animals.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

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

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

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

B. Shelter from inclement weather shall be as follows.

(1) An artificial shelter with a minimum of 3 sides and a waterproof roof appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof shall be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.

C. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

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

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

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

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

§4016. Violation

Any person who violates this chapter commits a civil violation for which a forfeiture of \$500 for each offense may be adjudged and such other relief as may be necessary to restore the animal to good health or to ameliorate the effects of cruelty and to ensure that the animal is well cared for.

§4017. Rules

The board may adopt any rules necessary or useful to carry out this section pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 4. 17 MRSA c. 42 is enacted to read:

CHAPTER 42

ANIMAL WELFARE BOARD ACT

SUBCHAPTER I

GENERAL PROVISIONS

§1011. Definitions

As used in this chapter, and in every law relating to

or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. "Act" means the Animal Welfare Board Act.

2. Animal. "Animal" means every living, sentient creature not a human being.

3. Animal control. "Animal control" means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. Animal control officer. "Animal control officer" means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

5. Animal control shelter. "Animal control shelter" means the shelter designated by municipal officers.

6. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. Board. "Board" means the Animal Welfare Board or its duly authorized agent.

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this chapter.

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

13. Guide dog or hearing dog kept for breeding purposes. "Guide dog or hearing dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as guide dogs or hearing dogs and living with a resident of the State.

14. Guide dog or hearing dog kept prior to training. "Guide dog or hearing dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a guide dog or hearing dog and living temporarily with a resi-

dent of the State prior to training.

15. Humane agent. "Humane agent" means an employee of the board, whether full-time or part-time, who assists the board in enforcing this chapter.

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal.

17. Kennel. "Kennel" means one pack or collection of dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes.

18. Law enforcement officer. "Law enforcement officer" means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

19. Municipality. "Municipality" means a city, town or plantation.

20. Mutilate. "Mutilate" includes, but is not limited to, cutting the bone, muscles or tendons of the tail of a horse for the purpose of docking or setting up the tail and cropping or cutting off the ear of a dog in whole or in part.

21. Owner. "Owner" means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.

22. Person. "Person" means an individual, corporation, partnership, association or any other legal entity.

23. Pet shop. "Pet shop" means any place, building, tract of land, abode or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, pet animals, exotic birds or exotic animals are offered for sale which are not bred by the vendor.

24. Respective municipality. "Respective municipality" means, in the case of towns and cities, the municipality where the dog is found or in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found or the designee of that municipality.

25. Shelter. "Shelter" means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.

26. Torment, torture and cruelty. "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

27. Vertebrate. "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. "Warrant" means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

§1012. Unlawful sale of diseased horses

1. Unlawful sale of diseased horses. A person is guilty of unlawful sale of diseased horses if he receives, offers for sale or sells at private sale or public auction any horse which, by reason of debility, disease or lameness or for other cause could not be worked in the State without violating the laws against cruelty to animals.

2. Penalty. Unlawful sale of diseased horses is a Class E crime.

3. Violation. Any licensed auctioneer violating this section may be punished by loss of license in addition to other penalties provided by law.

4. Exception. This section shall not be construed to prohibit the sale to or the purchase of horses by humane societies.

§1013. Unlawful production of motion pictures

1. Unlawful production of motion pictures. A person is guilty of unlawful production of motion pictures if he knowingly or intentionally prepares, manufactures, makes or participates in the preparation, manufacture or making of any motion picture film or videotape production involving cruelty to animals during the course of preparation, manufacture, making or exhibition of the motion picture film or videotape production.

2. Penalty. Unlawful production of motion pictures is a Class E crime.

§1014. Unlawful interference with publicly owned dogs

1. Unlawful interference with publicly owned dogs. A person is guilty of unlawful interference with publicly owned dogs who knowingly or intentionally:

A. Kills, torments, beats, kicks, strikes, mutilates, in-

juries, disables or otherwise mistreats dogs owned by any law enforcement agency within the State or owned by counties, municipalities or any of their political subdivisions or law enforcement agencies; or

B. Interferes by any action with the lawful performance of publicly owned dogs.

2. Penalty. Unlawful interference with publicly owned dogs is a Class D crime.

SUBCHAPTER II

POSSESSION OF ANIMALS

§1021. Possession of animals

1. Possession. The board, a humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, or person authorized to make arrests may apply to the District Court or the Superior Court for authorization:

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

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application shall be served upon him with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner cannot be found by reasonable diligence, or is out-of-state although a resident of this State, a copy of the application and order of court shall be left at his last and usual place of abode.

If the owner is not known, then the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found, stating the case and circumstances and giving 48 hours' notice of the hearing.

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

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

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

4. Ex parte order. An ex parte order shall be as follows.

A. The board, a humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer or person authorized to make arrests may apply to the District Court, Superior Court or a complaint justice for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has cruelly abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

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

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

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

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

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

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

(3) There is immediate danger that the owner or his agent will kill or injure the animal; or

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

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion as expeditiously as justice requires.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination shall be as follows.

A. Whenever the board, a humane agent or person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, the board, humane agent or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court shall receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, he shall be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

- (1) Declare the animal forfeited and order its sale, adoption or donation; or
- (2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

6. Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into cus-

tody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

§1022. Prevention of cruelty

The board or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in his presence.

§1023. Investigation and reporting of cruelty

1. Investigation. Sheriffs, deputy sheriffs, police officers, constables, animal control officers and humane agents shall investigate all cases of cruelty to animals coming to their attention and report on them to the board on a board-approved form.

Upon completion of the investigation, the board shall, if requested, report on the results of the investigation to the person complaining of alleged cruelty.

§1024. Impeding the performance of an officer

It is unlawful for any person to assault, resist, oppose, impede, intimidate or interfere with any person while engaged in or on account of the performance of his official duties under this subchapter.

§1025. Handling of animals seized or held

1. Handling of animals. No humane agent, animal control officer, animal shelter, pound, animal care center, humane society or veterinarian and anyone acting under their authority and having possession of any animal by reason of his office may:

- A. Provide or supply dealers, commercial kennels or laboratories with the animal; or
- B. Give, release, sell, trade, loan, transfer or otherwise provide any live animal to any individual, firm,

association, corporation, educational institution, laboratory, medical facility or anyone else for purposes of experimentation or vivisection.

2. Livestock. Livestock to be sold at public auction is exempt from this section.

§1026. Penalty for violation

Any person found in violation of sections 1024 and 1025 is guilty of a Class E crime.

SUBCHAPTER III

CRUELTY TO ANIMALS

§1031. Cruelty to animals

1. Cruelty to animals. A person is guilty of cruelty to animals who intentionally, knowingly or recklessly:

A. Kills any animal belonging to another person without legal privilege or the consent of the owner or kills or attempts to kill an animal with the owner's consent by means which will cause undue suffering. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

B. Injures, overworks, tortures, torments, abandons, gives poison to, cruelly beats or mutilates any animal or exposes a poison with the intent that it be taken by an animal;

C. Deprives any animal which he owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

D. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of this State during the months of December, January, February or March without providing necessary sustenance and proper shelter.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of his agent was designed to control or eliminate rodents, ants or other common pests on his own property; or

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 10.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

3. Penalty. Cruelty to animals is a Class D crime.

4. Criminal or civil prosecution. No person may be arrested or detained for cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before him. The election and determination required by this subsection shall not be subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

§1032. Cruelty to birds

1. Cruelty to birds. A person is guilty of cruelty to birds who intentionally or knowingly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting; or

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for these purposes.

2. Penalty. Cruelty to birds is a Class E crime.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 707, subchapter IX.

4. Criminal or civil prosecution. No person may be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before him. The election and determination required by this subsection shall not be subject to

judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

§1033. Animal fighting

1. Violation. A person is guilty of animal fighting who knowingly:

A. Owns, possesses, keeps or trains any animal with the intent that the animal engage in an exhibition of fighting with another animal;

B. For amusement or gain, causes any animal to fight with another animal or causes any animals to injure each other; or

C. Permits any act in violation of paragraph A or B to be done on any premises under his charge or control.

Animal fighting is a Class C crime.

2. Penalty for viewing animal fighting. Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals or is present at such exhibition is guilty of a Class D crime.

3. Affirmative defense. It is an affirmative defense to prosecution under subsections 1 and 2, that the activity charged involves the possession, training, exhibition or use of an animal in the otherwise lawful sport of animal hunting and the training or use of hunting dogs. It is also an affirmative defense that the defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 10.

4. Exception. Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, farming and security services is exempt from subsections 1 and 2.

§1034. Application for search warrant

A law enforcement officer or humane agent, having probable cause to believe that a violation of section 1031, 1032 or 1033 has taken place or is taking place, shall enter the premises where the animal is kept with the consent of the owner or shall make application for a search warrant. If the judge or complaint justice is satisfied that probable cause exists, he shall issue a search warrant directing a law enforcement officer or humane agent in the county to proceed immediately to the location of the alleged violation and directing the law enforcement officer or humane agent to search the place designated in the warrant, retaining in his custody, subject to the order of the court, such property or things as specified in the warrant, including any animal.

§1035. Necessary sustenance

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

§1036. Necessary medical attention

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

§1037. Proper shelter; protection from the weather and humanely clean conditions

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section. In the case of farm animals, nothing in this section may be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located. For purposes of this section, horses shall not be considered farm animals.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

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

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

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

B. Shelter from inclement weather shall be as follows.

(1) An artificial shelter with a minimum of 3 sides and a waterproof roof appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof shall be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.

C. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

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

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

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

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

SUBCHAPTER IV

EUTHANASIA OF CATS AND DOGS

§1041. Euthanasia by prescribed methods

No cat or dog may be destroyed by any method, agent or device except as described in this subchapter.

§1042. Mandatory method

The mandatory method of euthanasia of cats and dogs shall be the administration of a barbiturate overdose. The mandatory method of euthanasia shall be implemented according to the following methods and under the following conditions.

1. Intravenous, intraperitoneal, intrathoracic or intracardial injection. Intravenous, intraperitoneal, intrathoracic or intracardial injection of a lethal solution may be used.

2. Use of undamaged hypodermic needle. If euthanasia is by injection, an undamaged hypodermic needle of a size suitable for the size and species of animal shall be used.

3. Administration by a licensed veterinarian. Ad-

ministration shall only be by a licensed veterinarian or by a person trained for this purpose and subject to regular observation concerning continued efficiency.

§1043. Emergency methods

The following methods shall be used only in an emergency situation in which the safety of people or other animal life is threatened or in a situation in which the mandatory method of euthanasia of cats and dogs cannot be implemented expeditiously and will cause undue suffering. The following methods shall not be used as a substitute for the mandatory method.

1. Shooting. The animal may be destroyed by shooting, provided that:

A. The animal is restrained in a humane manner;

B. Shooting is performed by highly skilled and trained personnel utilizing a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot; and

C. Maximum precaution is taken to protect the general public, employees and other animals.

§1044. Tranquilizing cats and dogs

Prior to the euthanasia of cats and dogs, sedatives may be administered to these animals. Curariform immobilizers shall not be used on cats and dogs prior to euthanasia, except by veterinarians in extreme circumstances.

§1045. Inspection

The board may inspect or investigate any facility in which cats or dogs are destroyed.

§1046. Penalty for violation

Any person, firm or corporation found in violation of this subchapter is guilty of a Class E crime.

Sec. 5. 17 MRSA c. 43, as amended, is repealed.

Sec. 6. 17 MRSA §3853-B, as enacted by PL 1977, c. 671, §18-A, is repealed.

Sec. 7. 17-A MRSA §510, as amended by PL 1979, c. 120, is repealed.

Effective September 29, 1987.

CHAPTER 384

H.P. 1280 — L.D. 1753

AN ACT Relating to the Payment of Dues to Grower Organizations by Handlers and Processors of Farm Products.