

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
1995

CHAPTER 490

S.P. 497 - L.D. 1356

An Act to Clarify the Animal Welfare Laws

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

Sec. 1. 7 MRSA §3907, sub-§§4 and 8, as enacted by PL 1987, c. 383, §3, are amended to read:

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

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land, ~~or 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.

Sec. 2. 7 MRSA §3907, sub-§8-A, as enacted by PL 1991, c. 779, §13, is amended to read:

8-A. Breeding kennel. "Breeding kennel" means a kennel operated for the purpose of breeding or buying, selling or in any way exchanging dogs for value that exchanges more than ~~42~~ 16 dogs in a 12-month period.

Sec. 3. 7 MRSA §3907, sub-§12-B is enacted to read:

12-B. Foster home. "Foster home" means a facility that includes a physical structure or part of a physical structure and that contracts with an animal shelter to provide temporary shelter to stray, abandoned, abused or owner-surrendered animals.

Sec. 4. 7 MRSA §3907, sub-§16, as enacted by PL 1987, c. 383, §3, is amended to read:

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

Sec. 5. 7 MRSA §3907, sub-§26-A is enacted to read:

26-A. Unorganized territory. "Unorganized territory" means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. "Unorganized territory" does not include plantations.

Sec. 6. 7 MRSA §3909, as amended by PL 1991, c. 779, §16, is further amended to read:

§3909. Enforcement

Whenever, in the judgment of the commissioner, ~~any~~ a person has engaged in or is about to engage in ~~any~~ acts or practices that constitute or will constitute a violation of this Act or ~~any~~ a rule, order, license, permit, approval or decision of the commissioner or a decree of court, as the case may be, the Attorney General, at the request of the commissioner, 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 commissioner that the person has engaged or is about to engage in ~~any~~ such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

Whenever, in the judgment of the board, a person has engaged in or is about to engage in acts or practices that constitute or will constitute a violation of chapter 739 or Title 17, chapter 42 as the provisions of those chapters apply to pet animals, the Attorney General or a district attorney, at the request of the board, may institute proceedings before the District Court or the 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 an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

Sec. 7. 7 MRSA §3916, sub-§§2 and 3, as enacted by PL 1991, c. 779, §26, are amended to read:

2. Certificate. A licensed veterinarian who vaccinates or supervises the vaccination of a cat shall issue to the owner or keeper a ~~vaccination~~ certificate of rabies vaccination from the State.

3. Enforcement. A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a cat to present proof of a certificate of rabies vaccination from the State. ~~—A certificate of vaccination issued in accordance with subsection 2 is proof of vaccination. Notwithstanding section 16, there is no penalty for a violation of this section.~~

Sec. 8. 7 MRSA §3923-C, sub-§2, as enacted by PL 1993, c. 657, §27, is repealed.

Sec. 9. 7 MRSA §3923-C, sub-§§2-A and 5 are enacted to read:

2-A. License fees. A kennel owner shall pay a fee of \$21 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6

months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain \$1 as a recording fee and forward \$5 to the municipality's animal welfare account established pursuant to section 3945 and \$15 to the Animal Welfare Fund.

5. Kennel inspection and quarantine. An animal control officer must annually inspect a kennel prior to the municipality issuing a kennel license. The animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel in accordance with the sanitation and health rules established by the department for compliance with laws and rules. A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. 10. 7 MRSA §3931-A, sub-§1, as amended by PL 1993, c. 657, §30, is further amended to read:

1. License necessary. A person maintaining a breeding kennel, as defined in section 3907, shall must obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later 12 months after the date of issuance.

Sec. 11. 7 MRSA §3936, sub-§1, as amended by PL 1993, c. 89, §1, is further amended to read:

1. Inspection and quarantine. The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter any an animal shelter, kennel, boarding kennel, breeding kennel or pet shop, except any but not a 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 commissioner may inspect animal shelters, kennels, boarding kennels, breeding kennels and pet shops in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding kennel or pet shop, in person or by registered mail, and the

quarantine must be maintained as long as the department determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of any violations.

Sec. 12. 7 MRSA §3943, sub-§1, as amended by PL 1991, c. 779, §35 and affected by §60, is further amended to read:

1. Procedure. Between January 1st February 1st and April 30th 1st 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 last known address of the owners or keepers or call on the owners or keepers. The warrant must 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 \$10 \$3 for each dog that is licensed. If the license and recording fees are remitted after the 7-day period, the owners or keepers must remit a late fee of \$10 for each dog that is licensed. Finally, the warrant must 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.

Sec. 13. 7 MRSA §3943, sub-§3, ¶A, as amended by PL 1991, c. 779, §36 and affected by §60, is further amended to read:

A. The municipal clerk shall deposit the \$40 late fee fees collected from all dog owners and keepers in a separate account pursuant to section 3945.

Sec. 14. 7 MRSA §3945, as amended by PL 1993, c. 657, §39, is further amended to read:

§3945. Use of license fees and court fines retained by municipalities

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

Sec. 15. 7 MRSA §3946, as amended by PL 1991, c. 779, §38, is further amended to read:

§3946. Dog recorders in unorganized territories

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees and pay them to the department. The recorders shall keep ~~a list the clerk's copy~~ 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 and make reports to the department on a form approved by the department of all licenses issued and fees received. The recorders shall report following each month in which licenses are actually issued and fees are actually collected.~~

~~A return of the list must be made to the department on a department approved form on or before June 1st of each year.~~

Sec. 16. 7 MRSA §3947, as amended by PL 1993, c. 468, §15, is further amended by adding at the end a new paragraph to read:

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer.

Sec. 17. 7 MRSA §3948, sub-§2, as enacted by PL 1987, c. 383, §3, is amended to read:

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

Sec. 18. 7 MRSA §3950-A, first ¶, as enacted by PL 1987, c. 383, §3, is amended to read:

Any mayor, ~~selectman~~ municipal officer, 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, 720, 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.

Sec. 19. 7 MRSA §3966, sub-§2, as enacted by PL 1987, c. 643, §5, is amended to read:

2. Transfer of ownership. Any A licensed kennel, pet shop, shelter or veterinarian ~~which that~~ transfers ownership of a ferret shall provide notification in writing ~~as to the following that ferrets have been known to attack humans, particularly children, for no reason and without warning.~~

~~A. Ferrets have been known to attack humans, particularly children, for no reason and without warning.~~

~~B. There is no proven vaccine for rabies in ferrets nor is there an accepted procedure for judging a rabid ferret without sacrificing the ferret. A ferret which bites a person may be immediately seized and put to death by the State in order to obtain necessary test samples.~~

Sec. 20. 7 MRSA §4011, sub-§1, as enacted by PL 1987, c. 383, §3, is repealed and the following enacted in its place:

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. If that person is a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that causes undue suffering. The commissioner shall adopt rules that define "undue suffering";

D. Injures, overworks, tortures, torments, abandons or cruelly beats or mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

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

Sec. 21. 7 MRSA §4011, sub-§1-A is enacted to read:

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

Sec. 22. 17 MRSA §1011, sub-§16, as enacted by PL 1987, c. 383, §4, is amended to read:

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

Sec. 23. 17 MRSA §1021, sub-§5, as amended by PL 1991, c. 779, §48, is further amended to read:

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

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests, or, in a case involving a pet animal, the board, has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, the board, humane agent, state veterinarian 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

must 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~~ the owner must 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.

Sec. 24. 17 MRSA §1021, sub-§5-A, as amended by PL 1993, c. 657, §46, is further amended to read:

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of ~~a~~ the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. The court shall set a hearing date and that hearing date must be within 10

days of the date the animal was seized. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, 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.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery.

Sec. 25. 17 MRSA §1031, sub-§1, as enacted by PL 1987, c. 383, §4, is repealed and the following enacted in its place:

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that causes undue suffering. The commissioner shall adopt rules that define "undue suffering";

D. Injures, overworks, tortures, torments, abandons or cruelly beats or mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

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

Sec. 26. 17 MRSA §1031, sub-§1-A is enacted to read:

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering.

Sec. 27. 17 MRSA §§1041 and 1042, as enacted by PL 1987, c. 383, §4, are amended to read:

§1041. Euthanasia by prescribed methods

~~No~~ A cat or dog may not be destroyed by any method, agent or device except as described in this subchapter, subchapter III and Title 7, chapter 739.

§1042. Euthanasia performed by licensed veterinarian or certified person

The mandatory method of euthanasia of cats and dogs ~~shall~~ when conducted by a licensed veterinarian or a person certified under subsection 3 must be the administration of a barbiturate overdose. The mandatory method of euthanasia ~~shall~~ must be implemented according to the following methods and under the following conditions.

1. Intravenous, intraperitoneal, intrathoracic or intracardial injection. Intravenous, intraperito-

neal, intrathoracic or intracardial injection of a lethal solution may be used.

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

3. Administration by a licensed veterinarian. ~~Administration shall may~~ only be by a licensed veterinarian or by a person trained for this purpose who is certified by the commissioner and subject to regular observation concerning continued efficiency. A person certified under this subsection may only euthanize animals that are vested to an animal shelter. A person certified to perform euthanasia may not euthanize an animal if, by performing that euthanasia, the person is in violation of Title 32, chapter 71-A.

4. Euthanasia solution. A licensed animal shelter having both a consulting veterinarian and a certified euthanasia technician may purchase, store and administer euthanasia solution for the euthanasia of cats, dogs and ferrets that are vested to the shelter, provided the purchase, storage and administration is in accordance with federal requirements. The director of the licensed animal shelter, as a veterinarian, a certified euthanasia technician or an agent of the certified euthanasia technician, is the only person with the authority to purchase euthanasia solution.

Sec. 28. Transfer of funds. The Department of Agriculture, Food and Rural Resources shall transfer \$10,000 from the Animal Welfare Fund to the spaying and neutering fund established in the Maine Revised Statutes, Title 7, section 3906-A, subsection 3.

See title page for effective date.

CHAPTER 491

S.P. 429 - L.D. 1197

An Act Concerning the Sale of Double Gauge Lobster Measures

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

Sec. 1. 12 MRSA §6431, sub-§3, as amended by PL 1985, c. 677, §§3, 6 and 7, is repealed and the following enacted in its place:

3. Double gauge measure. The department shall use a double gauge lobster measure that is certified for accuracy by the Department of Agriculture, Food and Rural Resources, Office of Sealer of Weights and Measures. The measure must have one gauge that conforms to the minimum legal lobster size

in effect and another gauge 5 inches in length. Any measurement used to substantiate a violation of this section must be made with a certified double gauge lobster measure.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

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| | 1995-96 | 1996-97 |
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MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Patrol

| | | |
|-----------|-----------|-----------|
| All Other | (\$3,000) | (\$4,000) |
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Deappropriates funds to reflect the repeal of the requirement that the Department of Marine Resources must offer double gauge lobster measures for sale at cost.

See title page for effective date.

CHAPTER 492

H.P. 1032 - L.D. 1451

An Act to Change the Licensing Year for Certain Marine Resource Licenses and to Establish an Eel Fishing License

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

Sec. 1. 12 MRSA §6301, sub-§2, ¶C, as amended by PL 1993, c. 497, §1, is further amended to read:

C. A marine worm digger's license issued under section 6751 expires on April 30th of each year; ~~and~~

Sec. 2. 12 MRSA §6301, sub-§2, ¶D, as enacted by PL 1993, c. 497, §2, is amended to read:

D. A shellfish sanitation certificate issued under section 6856 expires on April 30th of each year;

Sec. 3. 12 MRSA §6301, sub-§2, ¶¶E to Q are enacted to read: