

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. The prescribed fee shall must accompany the application for license. Licenses may be renewed upon application therefor and payment of the annual fee fees, subject to the commissioner's rules and regulations. Licenses erroneously issued by the commissioner shall be are considered void and shall must be returned to the commissioner on demand.

Sec. 12. 32 MRSA §1901, first ¶, as repealed and replaced by PL 1991, c. 785, §4 and affected by §5, is amended to read:

A person, firm or corporation may not engage in or continue in the business of selling or dealing in nursery stock, as defined in Title 7, section 2211, without first obtaining a license to conduct such business in this State. The State Horticulturist shall prescribe the form of the license. Upon proper application, a license must be issued in the name of the nursery owner or dealer and that license may not be transferred. Each agent and each store acting under a general agent or store must have a license as provided in this section. A license expires annually on December 31st may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

Sec. 13. Report on multi-year licensing.

No later than February 15, 2000, the Commissioner of Agriculture, Food and Rural Resources shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters on the issuance of multi-year licenses and registrations. The report must provide information specific to each license or registration authorized for multi-year issuance in this Act, including the number of licenses and registrations issued for one-year, 2-year and 3-year periods. The report must also offer an assessment of efficiencies realized or difficulties encountered in implementing the multi-year licenses and registrations.

See title page for effective date.

CHAPTER 455

S.P. 351 - L.D. 1170

**An Act to Amend Department of
Defense and Veterans' Affairs Laws**

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

Sec. 1. 2 MRSA §6, sub-§6, as amended by PL 1991, c. 626, §1, is further amended to read:

6. Range 85. The salaries of the following state officials and employees are within salary range 85:

Director of ~~Civil Emergency Preparedness~~ the Maine Emergency Management Agency;

Members, Maine Unemployment Insurance Commission; ~~and~~

Director of the Military Bureau; ~~and~~

Director of the Bureau of Maine Veterans' Services.

Sec. 2. 5 MRSA §285, sub-§1, ¶F-3, as enacted by PL 1993, c. 410, Pt. L, §10, is amended to read:

F-3. Any employee of the Maine State Retirement System; ~~and~~

Sec. 3. 5 MRSA §285, sub-§1, ¶F-4 is enacted to read:

F-4. Any member of the Maine National Guard performing state active service pursuant to Title 37-B, section 181-A, subsection 4 or 5; and

Sec. 4. 5 MRSA §952, sub-§1, ¶¶A and B, as amended by PL 1991, c. 626, §2, are further amended to read:

A. Director of the Military Bureau; ~~and~~

B. Director, Maine Emergency Management Agency; ~~and~~

Sec. 5. 5 MRSA §952, sub-§1, ¶D is enacted to read:

D. Director of the Bureau of Maine Veterans' Services.

Sec. 6. 10 MRSA §1026-C, sub-§3, ¶¶A and B, as amended by PL 1991, c. 626, §3, are further amended to read:

A. One or more individuals who are residents of the State and who have received from the ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services or any successor agency certifications that they are veterans; or

B. A business organization in which at least 51% of the controlling ownership is held by one or more individuals who are residents of the State and who have received from the ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services or any successor agency certifications that they are veterans.

Sec. 7. 18-A MRSA §5-104, as amended by PL 1979, c. 690, §17, is repealed and the following enacted in its place:

§5-104. Delegation of powers by parent or guardian

(a) A parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any of that parent's or guardian's powers regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward. A delegation by a court appointed guardian becomes effective only when the power of attorney is filed with the court.

(b) Notwithstanding subsection (a), unless otherwise stated in the power of attorney, if the parent or guardian is a member of the United States Armed Forces Reserve under an order to active duty for a period of more than 30 days, a power of attorney that would otherwise expire is automatically extended until 30 days after the parent or guardian is no longer under those active duty orders or until an order of the court so provides.

This subsection applies only if the parent or guardian's service is in support of:

- (1) An operational mission for which members of the reserve components have been ordered to active duty without their consent; or
- (2) Forces activated during a period of war declared by Congress or a period of national emergency declared by the President or Congress.

Sec. 8. 22 MRSA §4314, sub-§2, as amended by PL 1995, c. 86, §2, is further amended to read:

2. Financial institutions. A treasurer of any bank, federally or state-chartered credit union, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by the overseer of any municipality or its agents, or by the Commissioner of Human Services or the commissioner's agents or by the Commissioner of Defense and Veterans' Services or the commissioner's agents, inform that overseer or the Department of Human Services or the ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services of the amount deposited in the corporation or association to the credit of the person named in the request, who is a charge upon the municipality or the State, or who has applied for support to the municipality or the State.

Sec. 9. 37-B MRSA first 2 lines are repealed and the following enacted in their place:

TITLE 37-B

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT

Sec. 10. 37-B MRSA §2, first ¶, as amended by PL 1987, c. 370, §10, is further amended to read:

The department ~~shall consist~~ consists of the following ~~bureaus and agency~~:

Sec. 11. 37-B MRSA §2, sub-§3, as amended by PL 1991, c. 626, §5, is further amended to read:

3. Bureau of Maine Veterans' Services. ~~The Division of Veterans' Services~~ Bureau of Maine Veterans' Services.

Sec. 12. 37-B MRSA §4, as amended by PL 1993, c. 694, §1, is further amended to read:

§4. Directors of bureaus

~~The Division of Veterans' Services and each~~ Each bureau of the department must have a director. ~~The Director of the Military Bureau, the Director of Operations of the Division of the Bureau of Maine Veterans' Services and the Director of the Maine Emergency Management Agency are each appointed by the Adjutant General commissioner and shall serve at the pleasure of the Adjutant General commissioner. These directors may not hold any other state office for compensation. If the Adjutant General is unable to act, the Director of the Military Bureau has the civilian administrative powers and duties of the Adjutant General in the Adjutant General's capacity as Commissioner of Defense and Veterans' Services. The Director of the Military Bureau may also perform other civilian duties of the Adjutant General as assigned by the Adjutant General or the Governor. The commissioner may designate one of the bureau or agency directors to have the same civilian administrative powers and duties of the commissioner if the commissioner is unavailable or unable to act. The directors will perform other civilian duties as assigned by the commissioner or Governor.~~

Sec. 13. 37-B MRSA §143, as amended by PL 1983, c. 594, §4, is repealed and the following enacted in its place:

§143. Pay and allowances

1. Pay and allowances. Members of the Maine National Guard ordered to active state service under this Title, except under section 150, are entitled to receive at least the same pay and allowance as would be payable to those persons from the United States

Armed Forces. The member's pay, except for that pay of those members serving under section 150, must include a minimum pay based upon at least 12 hours a day at the state minimum wage.

Sec. 14. 37-B MRSA §151, as enacted by PL 1983, c. 594, §6, is amended to read:

§151. Military Lodging Fund

The Military Bureau may operate and maintain lodging facilities for military personnel and ~~charge collect a quarters fee of not more than \$5 each night to authorized National Guard or active or reserve United States military personnel on behalf of both the federal government and the Military Bureau.~~ The fees ~~shall be used to provide funds to cover the cost of maintenance, cleaning and laundry services for will fund~~ these lodging facilities. That portion of the fees due the Federal Government will be transferred to the United States Property and Fiscal Officer on a quarterly basis or as requested. Any balances remaining at the end of the fiscal year ~~shall do not~~ lapse but ~~shall~~ must be carried forward to be used for the purposes stated in this section.

Sec. 15. 37-B MRSA §155 is enacted to read:

§155. Reimbursement fund

The Maine National Guard may provide services in accordance with section 181-A, subsections 4 and 5 and section 183 for federal, state, county, regional and municipal governments and agencies and nongovernmental entities and may charge for those services. The fees collected must be allocated for funding the cost of providing those services.

Sec. 16. 37-B MRSA c. 7, first 2 lines are repealed and the following enacted in their place:

CHAPTER 7

BUREAU OF MAINE VETERANS' SERVICES

Sec. 17. 37-B MRSA §501, as amended by PL 1991, c. 626, §8, is further amended to read:

§501. Purpose

The ~~Division of Veterans' Services~~ Bureau of Maine Veterans' Services, referred to in this chapter as the "~~division bureau~~," is established and shall provide informational services, program assistance, memorial facilities and financial aid to veterans in the State and their dependents in order to ~~insure ensure~~ that they receive all entitlements due under the law, are relieved to the extent possible of financial hardship, receive every opportunity for self-improvement through higher education and are afforded proper recognition for their service and sacrifice to the Nation.

Sec. 18. 37-B MRSA §502, as amended by PL 1993, c. 694, §2, is further amended to read:

§502. Director of Bureau of Maine Veterans' Services

The Director of ~~Operations of the Division of the~~ Bureau of Maine Veterans' Services, referred to in this chapter as the "director," shall direct the operation of the ~~division bureau~~.

Sec. 19. 37-B MRSA §503, as amended by PL 1993, c. 694, §3, is further amended to read:

§503. Powers and duties

The ~~Director of Operations~~ director has the following powers and duties.

1. Employment of personnel. The ~~Director of Operations~~ director may employ, subject to approval of the appointing authority and the Civil Service Law, the personnel necessary to administer this chapter. All full-time permanent employees, except clerical employees, must be persons who served on active duty in the United States Armed Forces during any federally recognized period of conflict, as defined in section 504, subsection 4, paragraph A-1, subparagraph (3).

2. Expenditures. The ~~Director of Operations~~ director may make expenditures approved by the ~~Adjutant General commissioner~~ necessary to carry out this chapter.

3. Agent. The ~~Director of Operations~~ director shall act, upon request, as the agent of any Maine resident who has a claim against the United States for any compensation, pension, insurance, loan or other benefit accruing as a result of any federal military service and, in cooperation with all public and private agencies, shall prosecute the claim without charge.

4. Record. The ~~Director of Operations~~ director shall maintain a permanent record of all Maine residents who served in the armed services after December 7, 1941.

6. Other duties. The ~~Director of Operations~~ director shall perform other duties required by this chapter.

Sec. 20. 37-B MRSA §504, sub-§1, as amended by PL 1993, c. 694, §4, is further amended to read:

1. Land acquisition. The ~~Director of Operations~~ director may acquire by eminent domain in accordance with Title 35-A, chapter 65 and with approval of the Governor, or by purchase, gift or otherwise, real estate in fee simple, or any interest therein, for use as a Veterans' Memorial Cemetery.

The land may not exceed 200 acres in area and must be located near the center of population of the State.

Sec. 21. 37-B MRSA §504, sub-§2, as amended by PL 1993, c. 694, §5, is further amended to read:

2. Superintendent. The ~~Director of Operations~~ director, with approval of the appointing authority, shall appoint a competent and trustworthy cemetery superintendent and shall arrange for personnel, material and equipment necessary for adequate maintenance of the cemetery. The superintendent must be an honorably discharged war veteran or a war veteran currently a member of the armed services in nonactive or reserve status.

Sec. 22. 37-B MRSA §504, sub-§3, as amended by PL 1993, c. 694, §5, is further amended to read:

3. Monuments, buildings and markers. The ~~Director of Operations~~ director shall ~~cause to be erected~~ erect a suitable monument in the center of the cemetery.

A. The monument must be suited to the topography of the land and display, on suitable flag poles, the national emblem and the state flag in accordance with the Flag Code.

B. The immediate area surrounding the monument must be prepared and reserved as a suitable place for commemorating Memorial Day and other appropriate observances. The remaining grounds must be laid out in a wheel-like pattern around the monument, expanding from the center as required. Suitable buildings may be erected for purposes the ~~Director of Operations~~ director determines necessary.

C. All grave markers must be flat-type granite, as furnished by the United States Department of the Army, Memorial Division, or flat-type granite facsimiles of a marker. All boxes used for burial must be protected with permanent vaults or grave liners. Stones and vaults may not be provided at state expense.

Sec. 23. 37-B MRSA §504, sub-§4, ¶B, as amended by PL 1993, c. 694, §6, is further amended to read:

B. The ~~Director of Operations~~ shall director must allow the earth burial in the cemetery of any eligible veteran who requests burial in the cemetery. The ~~Director of Operations~~ shall director must allow the veteran the option of crypt burial if crypt space exists. All burials must be without charge.

Sec. 24. 37-B MRSA §504, sub-§4, ¶C, as amended by PL 1993, c. 694, §7, is further amended to read:

C. At the dependent's request, the ~~Director of Operations~~ shall director must allow an eligible dependent of a veteran to be buried in the cemetery if, at the date of the dependent's death, the veteran would be eligible for burial. Dependents may be buried in the earth or placed in a crypt adjacent to the veteran without charge, provided that:

(1) If the veteran dies first, the dependents specify in writing their intention to be so buried;

(2) If the dependent dies first, the veteran specifies in writing the intention to be buried in the cemetery; or

(3) Eligible family members of members of the armed services or veterans who are permanently buried overseas, buried at sea, missing in action and declared dead, or whose bodies are inaccessible for other reasons, may be buried in this cemetery, provided that the deceased member of the armed services or veteran was eligible for the burial at the time of death.

Sec. 25. 37-B MRSA §505, sub-§1, ¶¶B to H, as amended by PL 1991, c. 626, §16, are further amended to read:

B. Application for financial assistance under this subsection must be made to the ~~division~~ bureau on forms provided by the ~~division~~ bureau. Application may be made by the veteran or that veteran's dependent or a person recognized by the ~~division~~ bureau as entitled to act on behalf of that person.

C. Eligibility for aid is determined as follows.

(1) Financial assistance must be granted under this subsection to a veteran who is:

- (a) Single;
- (b) A resident of the State; and
- (c) In dire need.

(2) Financial assistance must be granted under this subsection to a spouse, a child, a parent or the parents of a veteran if that person is a resident and in need.

(3) Financial assistance under this subsection is not forfeited because of temporary absence from the State.

(4) The ~~division shall~~ bureau must give preference to applications when the death or disability of the veteran is due to military service or when the death or disability may be presumed to be due to military service.

D. The ~~division shall~~ bureau must require proof of the veteran's disability and its effect on the veteran's ability to provide for the veteran and the veteran's dependents.

E. The ~~division shall determine~~ bureau determines the amount of financial assistance allowed under this subsection. In making that determination, the ~~division shall~~ bureau must give consideration to the following:

- (1) The resources of the veteran and the veteran's dependents, including all other income and resources available to provide the dependents with a reasonable subsistence compatible with health and decency;
- (2) Budgetary standards compiled by the ~~division~~ bureau that reasonably reflect current costs of average standards of living; and
- (3) Other necessary expenditures and conditions applicable in each case.

F. Financial assistance approved by the ~~division~~ bureau and audited by the State Controller must be paid by the Treasurer of State and may, in the discretion of the ~~division~~ bureau, be paid to any person whom it may designate for the benefit of eligible dependents.

G. The ~~division~~ bureau shall administer funds appropriated for the purpose of carrying out this subsection and shall, in accordance with ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter II, adopt rules necessary to administer these funds.

H. Any person who is denied financial assistance under this subsection or who is not satisfied with the amount allotted to that person by the ~~division~~ bureau may appeal to the ~~Commissioner of Defense and Veterans' Services~~ commissioner. Each applicant for financial assistance must be advised, at the time a decision on the application is made, of the applicant's right of appeal and of the method and time for making the appeal. The appellant must be provided with reasonable notice and a fair hearing. At the hearing, the commissioner or a member of the ~~division~~ bureau authorized by the commissioner shall hear all evidence pertinent to the matter at issue and render a decision in the name of the commissioner, within a reasonable time

after the hearing. On request of the appellant, the commissioner shall arrange for the hearing to be recorded in writing or on tape. A copy of the record must be provided to the appellant at the appellant's request and expense. An appeal to the Superior Court may be taken in accordance with ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter VII.

Sec. 26. 37-B MRSA §505, sub-§2, ¶¶B and D, as amended by PL 1993, c. 694, §8, are further amended to read:

B. The ~~division~~ bureau shall pay to a spouse or child of a veteran a maximum of \$300 per year toward the cost of higher education during a period not exceeding 8 semesters of attendance or 6 consecutive academic years from the date of first entrance. The ~~Director of Operations~~ director may waive the limitation of 6 consecutive academic years when the recipient's education has been interrupted by severe medical disability or illness making continued attendance impossible. These educational benefits must be used for the purpose of providing tuition, matriculation fees, board, room rent, books and supplies. Assistance under this subsection may not be paid to any eligible person receiving benefits under paragraph C.

D. Appropriations for the administration of this subsection must be determined from the recommendation of the ~~Director of Operations~~ director, who shall furnish estimates of the costs of carrying out this subsection in the same manner as for other appropriations allocated to the ~~division~~ bureau. Appropriations made for these purposes will be to a specific account.

Sec. 27. 37-B MRSA §505, sub-§4, ¶B, as amended by PL 1993, c. 273, §2, is further amended to read:

B. The ~~division~~ bureau:

- (1) Must have a specific expertise on radiation and toxic chemicals, particularly dioxin;
- (2) Must be knowledgeable of the specific reasons for the Federal Government's policy regarding assistance to veterans relative to their exposure to radiation and toxic chemicals;
- (3) ~~Shall develop and present a response to federal agencies concerning veterans and their exposure to radiation and toxic chemicals and, in this regard, must be knowledgeable of any actions being taken by other states, coordinate this State's response~~

~~with any multi state effort and, if there appears to be a lack of leadership, take a leadership role in such an effort;~~

(4) Shall actively seek out veterans who may have been exposed to radiation and toxic chemicals and attempt to involve them in available programs and act as an ombudsman for them;

~~(5) May develop and disseminate written materials on atomic radiation and Agent Orange. A booklet must include information on the following: the effect of exposure on veterans and their children; services available from the Veterans' Administration; how to file claims and class action suits; and the names and addresses of state, local and private agencies to which veterans may go for assistance. In developing the booklet, the division shall follow the recommendations of any commission or committee that has studied Agent Orange and atomic radiation problems;~~

(6) May attend conferences that are necessary to carry out the responsibilities in this paragraph; ~~and~~

(7) Shall maintain the 2 registries of veterans residing in the State, one for Vietnam veterans who report they were exposed to toxic chemicals while serving in the armed services and one for atomic veterans who report they were exposed to radiation while serving in the armed services, that were initially developed in consultation with the former Commission on Vietnam and Atomic Veterans. ~~To maintain the registries, the division shall collect the names from existing registries and may contact other organizations, hold public hearings or use other methods to collect the names of veterans; and~~

~~(8) Shall assign at least one employee to work on a full time basis to carry out the special veterans services required by this subsection.~~

(9) Must ensure that all veterans' counselors have a working expertise of special veterans services required by this subsection.

Sec. 28. 37-B MRSA §506, sub-§1, as amended by PL 1993, c. 694, §9, is further amended to read:

1. Claimant or representative. To the claimant personally, as to matters concerning the claimant alone, when, in the ~~Director of Operation's~~ director's

judgment, the disclosure would not be injurious to the claimant's physical or mental health, or to the claimant's duly appointed guardian or duly authorized representative holding a power or appointment approved by the supervisor;

Sec. 29. 37-B MRSA §507, first ¶, as amended by PL 1991, c. 626, §20, is further amended to read:

The ~~division~~ bureau may accept federal funds under any federal law now in effect or hereafter enacted that makes these funds available to the states for:

Sec. 30. 37-B MRSA §603, as amended by PL 1991, c. 626, §24, is further amended to read:

§603. Board of trustees

The administration of the homes is vested in the Board of Trustees of the Maine Veterans' Homes, as authorized by Title 5, section 12004-G, subsection 34. The board consists of 10 members, one of whom must be the ~~Supervisor of the Division of Veterans' Services~~ Director of the Bureau of Maine Veterans' Services, ex officio, who shall serve without term. The Governor shall appoint the remaining trustees, who must be honorably discharged war veterans. One member must be appointed from and represent each of the largest veterans' organizations, not exceeding 5, that are nationally chartered and have a department in Maine. The remaining members must be appointed at large and shall serve staggered 3-year terms. The membership must be distributed across the State so that 3 reside in the southern part of the State, 3 in the central part and 3 in the northern part. In the event of a vacancy, a successor must be appointed to complete the unexpired term. Each trustee ~~shall continue~~ continues to hold office until a successor is appointed and qualified.

Sec. 31. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Department of Defense and Veterans' Services" appear or reference is made to those words, they are amended to read and mean "Department of Defense, Veterans and Emergency Management," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 32. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Commissioner of Defense and Veterans' Services" appear or reference is made to those words, they are amended to read and mean "Commissioner of Defense, Veterans and Emergency Management," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 33. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF		
Veterans Services		
Personal Services	\$11,033	\$11,164
Provides funds for the reclassification of the Director of Operations of the Division of Veterans' Services, Pay Range 28, to the Director of the Bureau of Maine Veterans' Services, Pay Range 85.		

See title page for effective date.

CHAPTER 456

H.P. 982 - L.D. 1362

An Act to Improve the Administration of Animal Welfare Law

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

Sec. 1. 7 MRSA §3907, sub-§18-A, as enacted by PL 1993, c. 468, §5, is amended to read:

18-A. Livestock. "Livestock" means cattle, horses, equines, sheep, goats, ~~donkeys,~~ swine or other animals if the animals are kept and used by a commercial farmer and domesticated deer, fowl and rabbits.

Sec. 2. 7 MRSA §3907, sub-§20, as enacted by PL 1987, c. 383, §3, is amended to read:

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~~ means to injure or disfigure by irreparably damaging body parts. "Mutilate" does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

Sec. 3. 7 MRSA §3909, as amended by PL 1995, c. 490, §6, is repealed and the following enacted in its place:

§3909. Enforcement

1. Attorney General and District Attorneys.

Whenever a person has engaged in or is about to engage in an act or practice that constitutes a violation of this Act, a rule adopted pursuant to this Act or a condition of an order, license or permit approved or decision issued by the commissioner pursuant to this Act, or that constitutes a violation of chapter 739 or Title 17, chapter 42, the Attorney General or a District Attorney, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, an order directing compliance or imposing a civil or criminal penalty, or any combination of these actions, as provided by law. Upon a showing by the commissioner that the person has engaged or is about to engage in such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

2. Designated employees of the department.

For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian to serve civil process pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court. The commissioner may authorize humane agents or a state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. Certification of the humane agents and a state veterinarian for this purpose is as provided under Title 30-A, section 4221, subsection 2. Once certified, prosecution by the humane agent or a state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

Sec. 4. 7 MRSA §4011, sub-§1, ¶D, as repealed and replaced by PL 1995, c. 490, §20, is amended to read:

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally 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;

Sec. 5. 7 MRSA §4011, sub-§1, ¶¶E and F, as enacted by PL 1995, c. 490, §20, are amended to read:

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~~