

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

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Sec. 3. 7 MRSA §3909, as amended by PL 1995, c. 490, §6, is repealed and the following enacted in its place: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

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; or

Sec. 6. 7 MRSA §4011, sub-§1, ¶G is enacted to read:

G. Hunts or sells for the purpose of hunting any animal that is not covered by the provisions of Title 12, Part 10.

Sec. 7. 7 MRSA §4015, first ¶, as enacted by PL 1987, c. 383, §3, is amended to read:

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~~ and 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.~~

Sec. 8. 7 MRSA §4015, sub-§2, ¶B, as enacted by PL 1987, c. 383, §3, is amended to read:

B. ~~Shelter~~ Except as provided in subsection 5, shelter from inclement weather ~~shall~~ must 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~~ must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions ~~which~~ that adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof ~~shall~~ must 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.

Sec. 9. 7 MRSA §4015, sub-§5 is enacted to read:

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well

drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1).

Sec. 10. 16 MRSA §614, sub-§1-A is enacted to read:

1-A. Limitation on release of identifying information; cruelty to animals. The names of and other identifying information on persons providing information pertaining to criminal or civil cruelty to animals to the Department of Agriculture, Food and Rural Resources is confidential information and may not be disseminated.

Sec. 11. 17 MRSA §1011, sub-§18-A is enacted to read:

18-A. Livestock. "Livestock" means cattle, equines, sheep, goats, swine and domesticated deer, fowl and rabbits.

Sec. 12. 17 MRSA §1011, sub-§20, as enacted by PL 1987, c. 383, §4, 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. 13. 17 MRSA §1031, sub-§1, ¶D, as repealed and replaced by PL 1995, c. 490, §25, 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. 14. 17 MRSA §1031, sub-§1, ¶¶E and F, as enacted by PL 1995, c. 490, §25, 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~~

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, Janu-

ary, February or March without providing necessary sustenance and proper shelter; or

Sec. 15. 17 MRSA §1031, sub-§1, ¶G is enacted to read:

G. Hunts or sells for the purpose of hunting any animal that is not covered by the provisions of Title 12, Part 10.

Sec. 16. 17 MRSA §1031, sub-§3, as amended by PL 1993, c. 81, §2, is further amended to read:

3. Penalty. Cruelty to animals is a Class D crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal.

The court, as part of the sentence, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling, and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

Sec. 17. 17 MRSA §1037, first ¶, as enacted by PL 1987, c. 383, §4, is amended to read:

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.~~

Sec. 18. 17 MRSA §1037, sub-§2, ¶B, as enacted by PL 1987, c. 383, §4, is amended to read:

B. Shelter Except as provided in subsection 5, shelter from inclement weather shall must 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~~ must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions ~~which~~ that adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof ~~shall~~ must 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.

Sec. 19. 17 MRSA §1037, sub-§5 is enacted to read:

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1).

Sec. 20. 30-A MRSA §4221, sub-§2, ¶A, as amended by PL 1991, c. 688, §2, is further amended to read:

A. The commissioner shall also establish certification standards and a program to certify familiarity with court procedures for:

- (1) Plumbing inspectors appointed under this section;
- (2) Code enforcement officers, as set forth in section 4452 and in Title 38, section 441;
- (3) Department of Environmental Protection employees, as set forth in Title 38, section 342, subsection 7; ~~and~~
- (4) Maine Land Use Regulation Commission employees, as set forth in Title 12, section 685-C, subsection 9; ~~and~~
- (5) State humane agents and state veterinarians, as set forth in Title 7, section 3909, subsection 2.

Certification under this paragraph is effective for a period of 3 years unless sooner revoked or suspended by the Administrative Court upon complaint by the commissioner on grounds of fraud,

negligence, misconduct or incompetence in the performance of duties. After being certified by the commissioner under this paragraph, a plumbing inspector may serve civil process on persons who violate the plumbing and subsurface wastewater disposal rules of the department. The municipal officers may also authorize the inspector to represent the municipality in District Court under section 4452.

Sec. 21. Authority to report out bill. The Joint Standing Committee on Agriculture, Conservation and Forestry is authorized to report out a bill making revisions to the animal welfare laws during the Second Regular Session of the 118th Legislature. In developing the bill, the committee shall consider each of the provisions proposed in Legislative Document 1362 as originally printed in the First Regular Session of the 118th Legislature.

See title page for effective date.

CHAPTER 457

S.P. 535 - L.D. 1640

An Act to Streamline Licensing and Reporting Requirements and Reduce Regulatory Burdens for Licensed Insurance Professionals and Insurers

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, insurers and the Bureau of Insurance will avoid considerable expense and delay by enacting immediately certain provisions contemplated by this legislation; and

Whereas, current provisions of the law result in significant inefficiencies within the Bureau of Insurance that may otherwise be streamlined with this legislation; and

Whereas, to implement certain provisions immediately requires that this legislation be enacted as emergency legislation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §12004-I, sub-§70-A, as enacted by PL 1989, c. 31, §1, is amended to read:

70-A.	Continuing	Expenses	24-A
Occupations:	Education	Only	MRSA
Insurance	Advisory		@1876
	Committee		§1481

Sec. 2. 5 MRSA §12004-I, sub-§71, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 3. 9-B MRSA §443, sub-§11, as enacted by PL 1993, c. 322, §1, is amended to read:

11. Annuities. A financial institution, credit union or financial institution holding company, or a subsidiary or employee of such an entity, authorized to do business in the State may sell, or arrange for the sale of, through a licensed 3rd-party, annuities purchased from a licensed insurance company and may share commissions in connection with the sale of annuities pursuant to the provisions of Title 24-A. A financial institution, a credit union or a financial institution holding company or an employee or subsidiary of such an entity must be licensed in accordance with Title 24-A, section ~~1531, subsection 1, paragraph F 1416~~ before engaging in any of the activities concerning the sale of annuities authorized by this subsection. ~~If annuities are sold pursuant to the authorization under this subsection through an arrangement with a licensed 3rd party agent, that 3rd party agent may not be licensed to sell general lines insurance or life and health insurance. As used in this subsection, the words "sell annuities" and "arrange for the sale of annuities" do not include the underwriting of those products.~~

A financial institution, credit union or financial institution holding company that sells or arranges for the sale of annuities on the premises of that entity:

A. Shall post conspicuously a notice that is clearly visible to all customers that may purchase annuities. The notice must state in clearly understandable language that the annuities are not insured by the Federal Deposit Insurance Corporation;

B. Shall orally inform a prospective purchaser of annuities that the annuities are not insured by the Federal Deposit Insurance Corporation; and

C. Before a sale of annuities is completed, ~~must~~ shall obtain a written statement signed by the purchaser of the annuities stating that the purchaser received the oral notice required by paragraph B.

Sec. 4. 24 MRSA §2312, as amended by PL 1973, c. 585, §12, is repealed.