

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

Health Planning and Resources Development Act of 1974, as amended and its accompanying regulations; ~~and~~

3. Home health care services. Home health care services offered by a home health care provider ~~prior to 90 days after adjournment of the Second Regular Session of the 110th Legislature; and~~

5. Hospice. Hospice services and programs.

6. Assisted living. Assisted living programs and services regulated under chapter 1665;

7. Existing capacity. The use by an ambulatory surgical facility licensed on January 1, 1998 of capacity in existence on January 1, 1998;

Sec. B-34. 22 MRSA §317-A, sub-§2, as enacted by PL 1981, c. 705, Pt. V, §38, is amended to read:

2. Maximum expenditure. In issuing a certificate of need, the department shall specify the maximum capital expenditures ~~which that~~ may be obligated under this certificate. The department shall, by ~~regulations promulgated rules adopted~~ pursuant to section 312, prescribe the method to be used to determine capital expenditure maximums, establish procedures to monitor capital expenditures obligated under certificates and establish procedures to review projects for which the capital expenditure maximum is exceeded or expected to be exceeded.

Sec. B-35. 22 MRSA §317-A, sub-§3, as amended by PL 1985, c. 418, §17, is further amended to read:

3. Periodic review. After the issuance of a certificate of need, the department shall periodically review the progress of the holder of the certificate in meeting the timetable for making the service or equipment available or for completing the project specified in the approved application. A certificate of need ~~shall expire~~ expires if the project for which the certificate has been issued is not commenced within 12 months following the issuance of the certificate. The department may grant an extension of a certificate for an additional specified time not to exceed 12 months if good cause is shown why the project has not commenced. The department may require evidence of the continuing feasibility and availability of financing for a project as a condition for extending the life of certificate. In addition if on the basis of its periodic review of progress under the certificate, the department determines that the holder of a certificate is not otherwise meeting the timetable and is not making a good faith effort to meet it, the department may, after a hearing, withdraw the certificate of need. The department shall in accordance with section 312

~~promulgate the necessary procedures~~ adopt rules for withdrawal of certificates of need.

Sec. B-36. 22 MRSA §323, as enacted by PL 1981, c. 705, Pt. V, §39, is repealed.

Sec. B-37. 22 MRSA §324, as repealed and replaced by PL 1995, c. 696, Pt. A, §31, is amended to read:

§324. Review

The department shall convene meetings of the public, providers and consumers of health care, state agencies, insurers and managed care entities, the Certificate of Need Advisory Committee and interested parties to examine the operation of the certificate of need laws, rules, standards, criteria and procedures and shall report to the legislative joint standing committee of the Legislature having jurisdiction over health and ~~institutional human services matters~~ not later than January 31, ~~1999~~ 2001 on the continuing feasibility of this chapter.

PART C

Sec. C-1. Adoption of rules, standards, criteria and procedures. Beginning November 1, 1998, the Department of Human Services shall adopt new rules, standards, criteria and procedures for the certificate of need process, consistent with the Maine Revised Statutes, Title 22, chapter 103, as amended, in accordance with the requirements of Title 5, chapter 375, subchapter II.

Sec. C-2. Effective date. This Act takes effect October 1, 1998.

Effective October 1, 1998.

CHAPTER 690

H.P. 1640 - L.D. 2273

An Act to Amend the Animal Welfare Laws

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

Sec. 1. 7 MRSA §3906-B, sub-§§1 and 2, as enacted by PL 1991, c. 779, §9, are amended to read:

1. Dog licensing laws. The commissioner shall carry out the dog licensing laws and furnish to municipalities all license blanks, stickers and tags.

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to

chapters ~~749~~, 721, 723, 725 and ~~743~~ 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.

Sec. 2. 7 MRSA §3906-B, sub-§4, as amended by PL 1993, c. 468, §2, is further amended to read:

4. Training and certification of animal control officers. The commissioner shall develop a program to train animal control officers. This program must include training in investigation of complaints of cruelty to ~~pet~~ animals, training in response to calls concerning animals suspected of having rabies and training in enforcement of dog licensing laws and rabies immunization laws. The commissioner shall certify all animal control officers who complete the training program ~~and all persons who have been employed full time in the capacity of animal control officer for a period of one year or longer prior to the effective date of this subsection.~~

Sec. 3. 7 MRSA §3906-B, sub-§6, as enacted by PL 1991, c. 779, §9, is amended to read:

6. Inspections. The commissioner shall inspect licensed facilities as provided in chapters ~~749~~, 723 and ~~743~~ 735.

Sec. 4. 7 MRSA §3907, sub-§8-A, as amended by PL 1995, c. 490, §2, is further amended to read:

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

Sec. 5. 7 MRSA §3907, sub-§12-C is enacted to read:

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as defined in subsection 30.

Sec. 6. 7 MRSA §3907, sub-§22-A, as amended by PL 1993, c. 657, §7, is repealed.

Sec. 7. 7 MRSA §3907, sub-§22-B, as enacted by PL 1995, c. 351, §1, is amended to read:

22-B. Pet. "Pet" means a dog, cat or other domesticated animal commonly kept ~~in a household~~ as a

companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

Sec. 8. 7 MRSA §3907, sub-§30, as enacted by PL 1995, c. 409, §2, is repealed and the following enacted in its place:

30. Wolf hybrid. "Wolf hybrid" means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

Sec. 9. 7 MRSA §3908, as enacted by PL 1987, c. 383, §3, is repealed.

Sec. 10. 7 MRSA §3912, as amended by PL 1993, c. 657, §12, is repealed and the following enacted in its place:

§3912. Disposition of dogs at large

1. Ownership of dog unknown. Except as provided in subsection 2, an animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and deliver it to an animal shelter as provided for in section 3913, subsection 2-A. If ownership can not be established, such a dog may be handled as a stray dog for the purpose of acceptance by an animal shelter.

2. Ownership of dog known. An animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and if the owner is known, except as provided in this subsection, shall deliver the dog to its owner. When a dog of known ownership is found in violation of section 3911 3 or more times in a 6-month period, an animal control officer or person acting in that capacity may take the dog to an animal shelter as provided in section 3913, subsection 2-A. An animal control officer or person acting in that capacity who takes a dog to an animal shelter in accordance with this subsection shall provide the owner with written notice within 24 hours of delivering the dog to the animal shelter. The notice must include the name, location and phone number of the animal shelter where the dog is being kept and the procedure for claiming the dog. An animal shelter receiving a dog in accordance with this subsection shall follow the procedure for stray dogs provided in section 3913.

Sec. 11. 7 MRSA §3913, as amended by PL 1995, c. 268, §1, is further amended to read:

§3913. Procedure for stray dogs

1. Persons finding stray dogs. A person finding a stray dog and taking control of that dog shall

take that dog to its owner if known or, if the owner is not known, to the animal shelter designated by the municipality in which the dog was found.

2-A. Animal shelter. An animal shelter, as defined in section 3907, to which a stray dog is taken shall accept the dog for a period of 6 days unless the shelter is in quarantine or has a bona fide lack of adequate space. The acceptance entitles the animal shelter to receive from the department the sum of \$4 a day for the period for which food and shelter are furnished to the dog. An animal shelter may refuse to accept dogs from municipalities not contracting with that animal shelter.

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

A. On the business day next following the date of acceptance of ~~the~~ a dog that is not delivered by an animal control officer or person acting in that capacity, the animal shelter shall notify the ~~clerk~~ animal control officer or person acting in that capacity of the respective municipality of the acceptance of the dog, its description and the circumstances of its finding.

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

C. If the owner claims the dog within the 6-day period, the owner may have and receive the dog upon payment of all department-approved fees as provided in subsection 2-A, 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, provided that the dog is licensed in accordance with chapter 721.

4. Ownership of dog. Upon expiration of the 6-day period, ownership of the dog is vested in the animal shelter. The animal shelter may then:

A. Sell or give away the dog, but not to a research facility, if a license is first obtained in accordance with chapter 721; or

B. Otherwise dispose of the dog humanely in accordance with Title 17, chapter 42, subchapter IV, ~~if a veterinarian determines that the dog is not adoptable due to illness.~~ Except as provided

in this section, an animal shelter must hold a dog at least 8 days before euthanasia.

Notwithstanding this subsection, ownership of a dog for the purposes of adoption is immediately vested in ~~a~~ an animal shelter if the animal shelter makes a determination that the dog is obviously abandoned. An obviously abandoned dog does not include a dog roaming at large.

An animal shelter shall establish and collect fees for reclaimed or adopted animals to offset costs of keeping a dog beyond 6 days.

None of the proceeds obtained from the sale, donation, adoption or other disposition of the dog may 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 department.

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

~~A. Forty eight hours have elapsed since receipt of the sick or injured dog by the veterinarian, by the humane agent or by an animal 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 the veterinarian's judgment, there is no possibility of recovery for a sick or injured dog.~~

6. Euthanasia for severely sick, severely injured or extremely vicious dog. ~~A veterinarian or a humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or sick animal if extremely vicious dog upon determining that~~ the following conditions are met:

A. The clerk or animal control officer of the municipality where the dog was found has been notified of the animal's dog's presence and the owner of the animal dog, if known, has been notified; and

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

C. ~~The animal's~~ A veterinarian states in writing that the dog's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the dog presents a danger to the public.

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

7. Immunity from civil liability. A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with ~~subsections 5 and subsection 6~~ nor is any person performing euthanasia under that authorization.

Sec. 12. 7 MRSA §3915, as enacted by PL 1991, c. 779, §25, is amended to read:

§3915. Violation

Any person who violates this chapter commits a civil violation for which a forfeiture of not less than ~~\$25 \$50~~ nor more than ~~\$100 \$250~~ may be adjudged.

Sec. 13. 7 MRSA §3921, first ¶, as amended by PL 1995, c. 409, §3, is further amended to read:

A dog or wolf hybrid may not be kept within the limits of the State, unless the dog or wolf hybrid has been licensed by its owner or keeper in accordance with the laws of this State.

Sec. 14. 7 MRSA §3922, sub-§§1 and 2, as amended by PL 1995, c. 409, §4, are further amended to read:

1. License; January 1st. Each owner or keeper of a dog or wolf hybrid at the age of 6 months or more, on or before January 1st of each year, shall obtain a license:

A. From the clerk of the municipality where the dog or wolf hybrid is kept; or

B. From the dog recorder in the unorganized territory where the dog or wolf hybrid is kept or, in the absence of a duly authorized dog recorder, from a dog recorder in the nearest municipality or unorganized territory in the same county where the dog or wolf hybrid is kept.

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 or wolf hybrid reaches the age of 6 months or more; or

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

Sec. 15. 7 MRSA §3923-A, as amended by PL 1995, c. 557, §1, is further amended to read:

§3923-A. License and recording fees

Except as provided in subsection 3 and section 3923-C, a dog or wolf hybrid owner or keeper shall pay the license and recording fees established in this section.

1. Dogs capable of producing young. A dog or wolf hybrid owner or keeper shall pay a fee of \$7.50 to the municipal clerk for each dog or wolf hybrid 6 months of age or older and capable of producing young. A dog or wolf hybrid is considered capable of producing young unless certification under subsection 2 is provided.

The clerk shall retain \$1 as a recording fee and pay the remaining \$6.50 to the department for deposit in the Animal Welfare Fund.

2. Dogs incapable of producing young. A dog or wolf hybrid owner shall pay a fee of \$4 to the municipal clerk for each dog or wolf hybrid 6 months of age or older and incapable of producing young. A dog or wolf hybrid is considered incapable of producing young when the owner provides the following:

A. A written certificate issued by a veterinarian stating that the veterinarian has neutered the dog or wolf hybrid;

B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog or wolf hybrid and determined that the dog or wolf hybrid is incapable of producing young; or

C. A previous license stating that the dog or wolf hybrid is incapable of producing young.

The clerk shall retain \$1 as a recording fee, deposit \$2 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining \$1 to the department for deposit in the Animal Welfare Fund.

3. Exemption from fees. A municipal clerk shall issue a license upon application and without

payment of a license fee required under this section for:

- A. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- B. A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- C. A trained service dog owned or kept by a physically impaired person or such a dog awaiting training; and
- D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training.

4. Late fees. An owner or keeper required to license a dog ~~or wolf hybrid~~ under section 3922, subsection 1 ~~and or~~ section 3923-C, subsection 1 and applying for a license for that dog ~~or wolf hybrid~~ after January 31st shall pay to the municipal clerk or dog recorder a late fee of \$3 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

An owner or keeper whose name appears on a municipal warrant issued in accordance with section 3943 must pay the late fee required by that section and is not subject to this subsection.

Sec. 16. 7 MRSA §3923-B, as amended by PL 1995, c. 409, §6, is further amended to read:

§3923-B. Tags and stickers

1. Tags and stickers. The municipal clerk shall provide with each new license issued under section 3923-A a tag, indicating the year the license is issued and bearing other information prescribed by the department, ~~and a sticker, indicating the year the license is issued, which must be attached to the back of the tag.~~ The tag remains with the dog ~~or wolf hybrid~~ for as long as the dog ~~or wolf hybrid~~ is kept in the licensing municipality. At each license renewal, the municipal clerk shall provide a sticker indicating the year for which the license is valid. The sticker must be attached to the back of the tag. The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the

dog ~~or wolf hybrid~~ for which the license was issued, except as provided in subsection 3.

If a sticker and tag ~~is are~~ lost or the owner has moved to a different municipality, the owner or keeper of the dog ~~or wolf hybrid~~ shall obtain a new license, tag and sticker. The municipal clerk shall issue another license, tag and sticker upon presentation of the original license and payment of \$1. The clerk shall retain the \$1 for a recording fee.

~~**2. Rabies tags.** An owner shall make sure that a rabies tag obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog or wolf hybrid for which the rabies tag was issued, except as provided in subsection 3.~~

3. Exceptions. A dog ~~or wolf hybrid~~ is not required to wear a tag ~~or a rabies tag~~ when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog ~~or wolf hybrid~~ is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

Sec. 17. 7 MRSA §3923-C, sub-§1, as amended by PL 1995, c. 409, §7, is further amended to read:

1. License necessary. A person having a pack or collection of dogs ~~or wolf hybrids~~ for the purposes set forth in section 3907, subsection 17 shall obtain a kennel license from the clerk of the municipality where the dogs ~~or wolf hybrids~~ are kept and that person is subject to rules adopted by the department. The sex, registered number and description are not required of dogs ~~or wolf hybrids~~ covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs ~~or wolf hybrids~~ in or outside the State.

Sec. 18. 7 MRSA §3923-C, sub-§2-A, as amended by PL 1995, c. 625, Pt. B, §2, is further amended 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 ~~or wolf hybrids~~. A license is needed only for dogs ~~or wolf hybrids~~ 6 months of age or older. A kennel owner may not keep more than 10 dogs ~~or wolf hybrids~~ 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.

Sec. 19. 7 MRSA §3923-C, sub-§3, as amended by PL 1995, c. 409, §7, is further amended to read:

3. Form of license. The license must be issued in triplicate, the original copy of which is given to the applicant and the remaining 2 copies retained by the municipal clerk. A license covers a maximum of 10 dogs ~~or wolf hybrids~~.

Sec. 20. 7 MRSA §3923-C, sub-§4, as amended by PL 1995, c. 409, §7, is further amended to read:

4. Kennel tags. Dogs ~~or wolf hybrids~~ covered by a kennel license must be furnished suitable kennel tags and stickers that must be attached to the back of the tag indicating the year the license is issued and bearing other information as prescribed by the department and are not required to be individually licensed.

Sec. 21. 7 MRSA §3923-C, sub-§5, as enacted by PL 1995, c. 490, §9, is repealed and the following enacted in its place:

5. Kennel inspection and quarantine. Except for a kennel inspected by the department in accordance with chapter 723, an animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. In addition to the annual inspection required under this subsection, an animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel. Inspections must be conducted in accordance with the sanitation and health rules established by the department for compliance with laws and rules. In conducting inspections, an animal control officer must use measures established by the department through rulemaking to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

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. 22. 7 MRSA §3923-D, as amended by PL 1995, c. 409, §7, is further amended to read:

§3923-D. Temporary licenses

An animal shelter may issue a temporary dog ~~or wolf hybrid~~ license when transferring ownership

vested in the animal shelter under section 3913, subsection 4 to a person buying or otherwise accepting ownership. The department shall provide animal shelters with temporary license forms. The animal shelter shall complete all information prescribed on the form, provide the owner with the original temporary license and submit the copy for the municipal clerk and the animal control officer to the appropriate municipal clerk. The animal shelter may retain a copy of the temporary license to comply with section 3914. A temporary license is valid for a period of 10 days beginning on the date of issuance. An animal shelter may ~~not~~ charge a fee \$1 for issuing a temporary license.

Sec. 23. 7 MRSA §3924, sub-§2, as amended by PL 1995, c. 409, §8, is further amended to read:

2. Unlawful use of collar or tag. A person who removes a tag ~~or rabies tag~~ or who places ~~either a collar or rabies~~ a tag on a dog ~~or wolf hybrid 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.

Sec. 24. 7 MRSA §3936, sub-§1, as amended by PL 1995, c. 490, §11, 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 an animal shelter, kennel, boarding kennel, breeding kennel or pet shop, ~~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 contagious or infectious diseases or conditions. If the animal shelter, kennel, boarding kennel, breeding kennel or pet shop is also used for human habitation, the person authorized to make examinations and conduct tests must be escorted by the owner, or the owner's agent, of the animal shelter, kennel, boarding kennel, breeding kennel or pet shop and the examinations and tests may be made only in those portions of the premises used as an animal shelter, kennel, boarding kennel, breeding kennel or pet shop. 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. In conducting inspections, measures established by the department through rulemaking must be used to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this

subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. 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 violations.

Sec. 25. 7 MRSA §3941, as enacted by PL 1987, c. 383, §3, is amended to read:

§3941. Posting of law

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

Sec. 26. 7 MRSA §3943, sub-§1, as amended by PL 1995, c. 490, §12, is further amended to read:

1. Procedure. Between February 1st and April 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 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 \$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. 27. 7 MRSA §3944, as amended by PL 1993, c. 657, §38, is further amended to read:

§3944. Issuance of kennel licenses

Municipal clerks and dog recorders shall issue kennel licenses to kennel owners or operators in accordance with ~~sections~~ section 3923-C ~~and 3935~~.

Sec. 28. 7 MRSA §3947, first ¶, as amended by PL 1993, c. 468, §15, is further amended to read:

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3943, 3948, 3950, 3950-A, 3952 and ~~3966 to 3970~~ 4041 and Title 17, section 1023 responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and such other duties to control animals as the municipality may require.

Sec. 29. 7 MRSA §3948, sub-§1, as amended by PL 1987, c. 643, §4, is further amended to read:

1. Control. Municipalities shall control dogs ~~and ferrets~~ running at large.

Sec. 30. 7 MRSA §3948, sub-§2, as amended by PL 1995, c. 490, §17, is further amended to read:

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

Sec. 31. 7 MRSA §3948, sub-§3, as enacted by PL 1993, c. 468, §16, is amended to read:

3. Domesticated and undomesticated animals. A municipality shall control domesticated animals that are a ~~problem~~ cause of complaint in the community. A municipality shall control ~~undomesticated~~ animals that pose a threat to public health or safety. A municipality may control undomesticated animals in matters on which no other department is charged by law to regulate.

Sec. 32. 7 MRSA §3949, as amended by PL 1993, c. 468, §25 and c. 657, §40, is further amended to read:

§3949. Animal shelter designation

Municipal clerks, annually, on or before ~~January~~ April 1st, shall certify to the commissioner the name and location of the animal shelter with which the municipality has entered into a contract to accept stray animals or have an arrangement for ~~a~~ an animal shelter that will accept stray animals. Animal shelters designated by the municipality under this section must comply with commissioner rules.

Sec. 33. 7 MRSA §3950-A, first ¶, as amended by PL 1995, c. 557, §2, is further amended to read:

Any mayor, 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, 725 and ~~730~~ 727 and by this chapter commits a civil violation for which a forfeiture of not less than ~~\$10~~ \$50 nor more than ~~\$50~~ \$250 and costs may be adjudged.

Sec. 34. 7 MRSA §3951, as enacted by PL 1987, c. 383, §3, is amended to read:

§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 to protect that person, another person or a domesticated animal during the course of a sudden, unprovoked assault.~~

Sec. 35. 7 MRSA §3952, sub-§1, as amended by PL 1989, c. 212, is further amended to read:

1. Procedure. Any person who is assaulted by a dog without provocation or any person witnessing an unprovoked assault against a person or domesticated animal, within 10 days of the assault, may make written complaint to the sheriff ~~or~~ local law enforcement officer or animal control officer that the dog is dangerous or vicious.

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

If, upon hearing, the court is satisfied that ~~the complaint is true, it~~ an assault on a person or a domesticated animal has taken place, the court 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 a prior 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.

Sec. 36. 7 MRSA §3952, sub-§3, as amended by PL 1987, c. 736, §6, is further amended to read:

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~~ is subject to muzzling, restraint or confinement to its premises upon order of the sheriff ~~or~~ local law enforcement officer or animal control officer who filed the complaint. Upon failure to comply, the

officer to whom complaint was made may apply to District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog ~~which~~ that poses an immediate threat to the public and turn ~~it~~ the dog over to the applicant or other suitable person.

Sec. 37. 7 MRSA §3953, as enacted by PL 1987, c. 383, §3, is amended by repealing and replacing the headnote to read:

§3953. Stealing, injuring or killing dogs

Sec. 38. 7 MRSA c. 730, as amended, is repealed.

Sec. 39. 7 MRSA §3972, sub-§1, ¶¶A and C, as enacted by PL 1987, c. 383, §3, are amended to read:

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

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 except as authorized by law or rule;

Sec. 40. 7 MRSA §3972, sub-§1, ¶F, as enacted by PL 1995, c. 144, §2, is amended to read:

F. Intentionally cause an equine to fall or lose its balance by any means whatsoever. For the purposes of this paragraph, the term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny. This paragraph does not apply to the lawful laying down of an equine for medical or identification purposes.

Sec. 41. 7 MRSA §3972, sub-§4, as enacted by PL 1989, c. 154, §1, is amended to read:

4. Exception. Notwithstanding subsection 1, paragraph C, livestock may be raffled by charitable organizations licensed under Title 17, section 332, subsection 6 for fund-raising purposes. For the purposes of this section, ~~"livestock" means farm animals, including, but not limited to, cows, sheep, goats, swine and fowl and~~ "charitable organization" has the same meaning as defined in Title 9, section 5003, subsection 1. Proceeds from a raffle under this subsection must be used for charitable purposes.

The animal ~~shall~~ must be awarded in freezer-ready form.

Sec. 42. 7 MRSA §3981, sub-§7, as enacted by PL 1987, c. 383, §3, is amended to read:

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 or the movement of livestock or poultry when standards of the industry are followed.

Sec. 43. 7 MRSA §4001, sub-§4, as amended by PL 1993, c. 468, §25, is further amended to read:

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

Sec. 44. 7 MRSA §4011, sub-§1, ¶C, as repealed and replaced by PL 1995, c. 490, §20, is amended to read:

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"~~ does not conform to standards adopted by a national association of licensed veterinarians;

Sec. 45. 7 MRSA §4012, sub-§1, as enacted by PL 1987, c. 383, §3, is amended to read:

1. Cruelty to birds. A person is ~~cruel~~ guilty of cruelty to birds if ~~he~~ that person:

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~~ the purposes of paragraphs A and B.

Sec. 46. 7 MRSA §4017, as amended by PL 1993, c. 468, §25, is further amended to read:

§4017. Rules

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

Sec. 47. 7 MRSA §4041, sub-§2, ¶A, as amended by PL 1997, c. 104, §1, is further amended to read:

A. The owner or keeper fails to remove the livestock animal or domestic water fowl within ~~6~~ 12 hours after having been notified by an animal control officer or law enforcement officer that a livestock animal or domestic water fowl owned or kept by the owner or keeper was trespassing; or

Sec. 48. 7 MRSA §4041, sub-§3, ¶A, as amended by PL 1997, c. 104, §1, is further amended to read:

A. That person fails to remove the livestock animal or domestic water fowl within 12 hours after having been personally notified by an animal control officer or law enforcement officer that a livestock animal or domestic water fowl owned or kept by that person was trespassing; or

Sec. 49. 7 MRSA §4041, sub-§4, as amended by PL 1997, c. 104, §1, is further amended to read:

4. Forfeiture. A forfeiture of not more than \$500 must be adjudged for a civil violation under subsection 3. In addition, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the livestock animal or domestic water fowl. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts.

Sec. 50. 7 MRSA §4151, sub-§4, as enacted by PL 1995, c. 589, §1, is amended to read:

4. Pet dealer. "Pet dealer" means a person, firm, partnership, corporation or association, including breeders, that ~~is required to collect sales tax for the sale of~~ sells more than 16 animals to the public in a 12-month period. "Pet dealer" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal ~~control agencies~~ shelters licensed in accordance with section 3932-A.

Sec. 51. 7 MRSA §4152, sub-§1, ¶¶A, C and D, as enacted by PL 1995, c. 589, §1, are amended to read:

A. An animal history that includes:

(1) ~~The~~ For pet dealers licensed with the United States Department of Agriculture, the name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal;

- (2) The date of the animal's birth;
- (3) The date the pet dealer received the animal;
- (4) The breed, sex, color and identifying marks of the animal;
- (5) The individual identifying tag, tattoo or collar number;
- (6) For pure bred animals, the name and registration number of the sire and dam and the litter number; and
- (7) A record of inoculations, worming treatments, medication or any veterinarian treatment received by the animal while in the possession of the breeder or dealer;

C. A pet dealer who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal. ~~Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph;~~ and

D. The pet dealer shall indicate whether or not, to the pet dealer's knowledge, the animal or its sire or dam is registered with, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms. ~~Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph.~~

Sec. 52. 7 MRSA §4154, as enacted by PL 1995, c. 589, §1, is repealed.

Sec. 53. 7 MRSA §4158, sub-§2, as enacted by PL 1995, c. 589, §1, is amended to read:

2. Right to court action. If the pet dealer does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. ~~Upon request to the department, by the purchaser and dealer, the commissioner or a veterinarian employed by the State shall arbitrate the dispute. This arbitration must be on a nonbinding basis unless both purchaser and dealer agree to binding arbitration. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees not to exceed \$500.~~

Sec. 54. 7 MRSA §4161, as enacted by PL 1995, c. 589, §1, is amended to read:

§4161. Limitation

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law. ~~An agreement or contract by a purchaser to waive rights under this chapter is void and unenforceable.~~

Sec. 55. 7 MRSA §4162, as enacted by PL 1995, c. 589, §1, is repealed and the following enacted in its place:

§4162. Additional penalties

1. Civil violation. A person who fails to meet a requirement of this chapter commits a civil violation for which a forfeiture not to exceed \$100 per violation may be adjudged.

2. Action against pet shops and breeding kennels. The department may file an action in Administrative Court to revoke or suspend the license of a pet shop or breeding kennel that violates any provision of this chapter.

Sec. 56. 17 MRSA §1011, sub-§8-A, as enacted by PL 1991, c. 779, §43, is amended to read:

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

Sec. 57. 17 MRSA §1011, sub-§12-B is enacted to read:

12-B. Dog. "Dog" means a member of the genus and species known as canis familiaris or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid as defined in subsection 30.

Sec. 58. 17 MRSA §1011, sub-§22-A, as enacted by PL 1991, c. 779, §45, is repealed.

Sec. 59. 17 MRSA §1011, sub-§23, as enacted by PL 1987, c. 383, §4, is repealed and the following enacted in its place:

23. Pet shop. "Pet shop" means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

Sec. 60. 17 MRSA §1011, sub-§30 is enacted to read:

30. Wolf hybrid. "Wolf hybrid" means a mammal that is the offspring of the reproduction between any species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented

by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

Sec. 61. 17 MRSA §1013, sub-§1, as enacted by PL 1987, c. 383, §4, is amended to read:

1. Unlawful production of motion pictures. A person, including an owner or the owner's agent, is guilty of unlawful production of motion pictures if ~~he~~ that person 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.

Sec. 62. 17 MRSA §1021, sub-§1, as amended by PL 1991, c. 779, §46, is further amended to read:

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or, ~~in a case involving a pet animal~~, the board commissioner 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.

Sec. 63. 17 MRSA §1021, sub-§4, ¶A, as amended by PL 1993, c. 468, §21, is further amended to read:

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or, ~~in a case involving a pet animal~~, the board commissioner may apply to the District Court, Superior Court or a justice of the peace 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 justice of the peace 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 ~~deligence~~ 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, or 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~~ the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, ~~he~~ the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

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

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or 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.

Sec. 64. 17 MRSA §1021, sub-§5, ¶A, as amended by PL 1995, c. 490, §23, is further amended to read:

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.

Sec. 65. 17 MRSA §1022, as amended by PL 1991, c. 779, §49, is further amended to read:

§1022. Prevention of cruelty

The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence. ~~The board may lawfully interfere to prevent the perpetration of any act of cruelty upon a pet animal.~~

Sec. 66. 17 MRSA §1023, sub-§1, as amended by PL 1991, c. 779, §50, is further amended to read:

1. Investigation. Sheriffs, deputy sheriffs, police officers, constables, animal control officers and humane agents shall investigate cases of cruelty to animals coming to their attention and report them to the Department of Agriculture, Food and Rural Resources on department-approved forms. ~~The department shall refer all cases of cruelty to pet animals to the board.~~ Upon completion of an investigation, ~~the board for a case involving a pet animal and the department for any other case~~ shall, if requested, report the result of the investigation to the person complaining of alleged cruelty.

Sec. 67. 17 MRSA §1023, sub-§2, as amended by PL 1991, c. 779, §50, is repealed.

Sec. 68. 17 MRSA §1024, as enacted by PL 1987, c. 383, §4, is amended to read:

§1024. Impeding the performance of an officer

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

Sec. 69. 17 MRSA §1031, sub-§1, ¶C, as repealed and replaced by PL 1995, c. 490, §25, is amended to read:

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" does not conform to standards adopted by a national association of licensed veterinarians;

Sec. 70. 17 MRSA §1031, sub-§3, as amended by PL 1997, c. 456, §16, 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~~ \$250 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. 71. 17 MRSA §1032, sub-§2, as enacted by PL 1987, c. 383, §4, is amended to read:

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

Sec. 72. 17 MRSA §1033, sub-§1, as enacted by PL 1987, c. 383, §4, is amended to read:

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~~ that person's charge or control.

Animal fighting is a Class C crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section.

See title page for effective date.

CHAPTER 691

H.P. 1655 - L.D. 2285

An Act Relating to Electric Industry Restructuring

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

Whereas, certain changes to the laws governing electric industry restructuring are immediately necessary in order to ensure a smooth and orderly transition to a competitive electric marketplace; 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. 32 MRSA §2401-A, sub-§4-A is enacted to read:

4-A. Employees displaced by utility divestiture. A person installing or servicing oil or solid fuel burner equipment in an electric generation facility that an electric utility divested pursuant to Title 35-A, section 3204 if that person was employed by an electric utility on March 1, 1998 and installed or serviced oil or solid fuel burner equipment in an electric generation facility owned by that electric utility;

This subsection is repealed March 1, 2000.

Sec. 2. 32 MRSA §15109, sub-§2, ¶A is enacted to read:

A. A person operating or supervising the operation of boilers or undertaking any other activity for which a license would otherwise be required under this section is exempt from the licensing requirements of this section if that person undertakes those activities in an electric generation facility that an electric utility divested pursuant to Title 35-A, section 3204 and that person was employed by an electric utility on March 1, 1998

and undertook those activities in an electric generation facility owned by that electric utility.

This paragraph is repealed on March 1, 2000.

Sec. 3. 35-A MRSA §1305, sub-§5 is enacted to read:

5. Use of advisory staff. This subsection applies to the participation of advisory staff and consultants in commission proceedings.

A. If an advisory staff member or consultant relies upon facts not otherwise in the record or presents to the commission any independent financial or technical analysis not otherwise in the record, the staff member or consultant:

(1) Shall place any such information into the record;

(2) Is subject to discovery; and

(3) Must be available to answer questions regarding those facts or analysis, in the same manner as witnesses in the proceeding, at a time sufficient to permit parties to respond.

This paragraph does not apply to reviews, evaluations or examinations of information, data, studies, analyses or computer modeling placed into the record by other parties or other aid or advice provided by advisory staff members or consultants. Compliance with this paragraph does not render the advisory staff member or consultant an advocate under the Maine Administrative Procedure Act.

B. On request of any party in a proceeding, the commission shall assign one or more staff members who are not advisors in the proceeding to rule on any objection to discovery requests made by or directed to advisors.

C. The commission may assign one or more staff members who are not advisors in a proceeding to facilitate negotiated settlements in the proceeding.

Sec. 4. 35-A MRSA §1310, sub-§1, ¶A, as enacted by PL 1989, c. 281, is amended to read:

A. In any commission proceeding in which standards under the United States Public Utilities Regulatory Policies Act of 1978, United States Code, Title 16, Section 2601, et seq., are implemented, the commission may order the utility to compensate the intervenor for reasonable attorney's fees, expert witness fees and other reasonable costs incurred in preparation and advocacy