

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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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
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~~livestock or domestic water fowl~~ animal to be on the property.

Sec. 16. 17 MRSA c. 42 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 42

ANIMAL WELFARE

Sec. 17. 17 MRSA §1011, sub-§1, as enacted by PL 1987, c. 383, §4, is amended to read:

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

Sec. 18. 17 MRSA §1011, sub-§7, as enacted by PL 1987, c. 383, §4, is repealed.

Sec. 19. 17 MRSA §1031, sub-§1, ¶F, as amended by PL 1997, c. 456, §14, is further amended to read:

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. 20. 17 MRSA §1031, sub-§1, ¶G, as enacted by PL 1997, c. 456, §15, is amended 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; ~~or~~

Sec. 21. 17 MRSA §1031, sub-§1, ¶H is enacted to read:

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition.

Sec. 22. 17 MRSA §1035, sub-§2, as enacted by PL 1987, c. 383, §4, is amended to read:

2. Water. If potable water is not accessible to the animal at all times, it ~~shall~~ must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

Sec. 23. 17 MRSA §1035, sub-§3 is enacted to read:

3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

Sec. 24. 17 MRSA §1036, as enacted by PL 1987, c. 383, §4, is amended to read:

§1036. Necessary medical attention

~~No~~ A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

Sec. 25. 17 MRSA §1037, sub-§6 is enacted to read:

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

Sec. 26. 29-A MRSA §2085 is enacted to read:

§2085. Transporting dogs in open vehicle regulated

Transporting dogs in an open vehicle is governed by this section.

1. Definition. For the purposes of this section, "open vehicle" means a motor vehicle with a portion of the vehicle not enclosed by a top and windows or sides. "Open vehicle" includes, but is not limited to, pickup trucks and convertibles.

2. Restrictions. A person driving an open vehicle may not transport a dog in the open portion of that vehicle on a public way unless the dog is protected in a manner that prevents the dog from falling or jumping or being thrown from the vehicle.

3. Exceptions. Notwithstanding subsection 2, this section does not apply to:

A. A dog being transported by a farmer or a farm employee who is engaged in agricultural activities requiring the services of a dog; or

B. A hunting dog at a hunting site or being transported between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for that activity.

See title page for effective date.

CHAPTER 255

S.P. 262 - L.D. 757

An Act Concerning Recreational Clam Harvesting Licenses

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 12 MRSA §6671, sub-§3, as repealed and replaced by PL 1989, c. 257, §3, is amended to read:

3. Shellfish conservation ordinance. Within any area of the municipality, a shellfish conservation ordinance may regulate or prohibit the possession of shellfish; may fix the amount of shellfish that may be taken; may provide for enforcement, protection and evaluation of a green crab fencing program; and may authorize the municipal ~~officers~~ officials to open and close flats under specified conditions. An ordinance ~~shall~~ must limit the size of soft-shell clams in accordance with article 5. Except as provided in section 6621, subsection 3, paragraph C, a program or ordinance may not allow surveying, sampling or harvesting of shellfish in areas closed by regulation of the commissioner.

Sec. 2. 12 MRSA §6671, sub-§3-A, ¶G is enacted to read:

G. A municipality that issues recreational licenses to residents shall also make available to nonresidents recreational licenses in a number that is not less than 10% of the number of recreational licenses issued to residents. When 2 or more municipalities have entered into a regional shellfish management agreement and those municipalities issue recreational licenses to residents pursuant to the agreement, the combined total number of recreational licenses made available to nonresidents must be a number not less than 10% of the combined total number of recreational licenses issued to residents.

For the purposes of this paragraph, the term "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use.

Sec. 3. 12 MRSA §6671, sub-§4, ¶A, as repealed and replaced by PL 1991, c. 390, §5, is amended to read:

A. Prior to adopting an ordinance, a municipality or unorganized township shall raise or appro-

priate money for a shellfish conservation program ~~within the 2 previous years.~~

Sec. 4. 12 MRSA §6671, sub-§4, ¶B, as amended by PL 1997, c. 247, §2, is further amended to read:

B. ~~Any~~ An ordinance proposed by a municipality or unorganized territory under this section must be approved in writing by the commissioner prior to its adoption, except that the commissioner may not withhold approval based on the amount of license fees specified in an ordinance.

Sec. 5. 12 MRSA §6671, sub-§4-B, as enacted by PL 1985, c. 52, §2, is amended to read:

4-B. Management program approval. The commissioner may ~~promulgate regulations~~ adopt rules that set the criteria ~~which~~ that must be met by municipal shellfish conservation programs and ordinances in order to obtain approval by the commissioner.

Sec. 6. 12 MRSA §6671, sub-§8, ¶C, as amended by PL 1991, c. 242, §3, is further amended to read:

C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipality employing the warden and, if the warden is authorized by the municipality and meets the training requirements of Title 25, chapter 341, may arrest all violators. The warden may serve all process pertaining to the ordinance. The warden also has, within that warden's jurisdiction, the powers of a marine patrol officer provided in section 6025, subsection 4. All of the powers conferred in this subsection are limited to the enforcement of a municipal shellfish conservation ordinance.

At the commissioner's request, a certified municipal shellfish conservation warden may collect samples and otherwise assist the department in the detection of pollutants and contaminants. The commissioner is not required to conduct tests on samples not requested by the commissioner.

Sec. 7. 12 MRSA §6671, sub-§11 is enacted to read:

11. Certificate as evidence. A certificate of the clerk of the municipality or any other custodian of the records of a municipal shellfish conservation ordinance adopted under this section stating what the records of the municipality show is admissible as evidence in all courts as proof of the municipal records. A certificate stating that the records do not

show that a person held a license is prima facie evidence that the person did not hold the license on the date specified in the certificate. A certificate stating that the records show that a shellfish conservation ordinance or portions of an ordinance were in effect on a particular date is prima facie evidence that the ordinance was in effect on the date specified in the certificate. The certified copy is admissible in evidence on the testimony of a municipal shellfish conservation warden that the warden received the certificate after requesting it from the municipality. Further foundation is not necessary for the admission of the certificate.

Sec. 8. Retroactivity. This Act is retroactive to January 1, 1999.

See title page for effective date.

CHAPTER 256

S.P. 765 - L.D. 2157

**An Act to Amend the Laws
Concerning Life and Health
Insurance**

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

PART A

Sec. A-1. 24-A MRSA §4301, sub-§1, as amended by PL 1997, c. 604, Pt. A, §1, is further amended to read:

1. Carrier. "Carrier" means an insurance company licensed in accordance with this Title, a health maintenance organization licensed pursuant to chapter 56, a preferred provider organization licensed pursuant to chapter 32, a fraternal benefit society, as defined by section 4101, or a nonprofit hospital or medical service organization or health plan licensed pursuant to Title 24 or a multiple-employer welfare arrangement licensed pursuant to chapter 81. An employer exempted from the applicability of this chapter under the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) is not considered a carrier.

PART B

Sec. B-1. 24-A MRSA §2834-B, sub-§3, as enacted by PL 1997, c. 445, §19 and affected by §32, is amended to read:

3. Requirement. If a policy makes coverage available with respect to dependents of certificate holders, the policy must provide for a dependent

special enrollment period when a person becomes a dependent of an eligible individual through marriage, birth or adoption or placement for adoption or if a court order is issued changing custody of a child. During this period, the ~~new~~ dependent may be enrolled under the plan as a dependent of the eligible individual and, in the case of the birth or adoption of a child, the spouse of the eligible individual may be enrolled as a dependent if otherwise eligible for coverage. If the eligible individual is not already enrolled, the individual may enroll during this period.

Sec. B-2. 24-A MRSA §2834-B, sub-§4, ¶B, as enacted by PL 1997, c. 445, §19 and affected by §32, is amended to read:

B. The date of the marriage, birth or adoption or placement for adoption or the date of the court order.

Sec. B-3. 24-A MRSA §2834-B, sub-§5, ¶¶B and C, as enacted by PL 1997, c. 445, §19 and affected by §32, are amended to read:

B. In the case of a dependent's birth, as of the date of the birth; ~~or~~

C. In the case of a dependent's adoption or placement for adoption, as of the date of the adoption or placement for adoption; ~~or~~

Sec. B-4. 24-A MRSA §2834-B, sub-§5, ¶D is enacted to read:

D. In the case of a court order changing custody of a child, as of the date of the order.

PART C

Sec. C-1. 24-A MRSA §2736-C, sub-§1, ¶C-1, as enacted by PL 1997, c. 445, §8 and affected by §32, is amended to read:

C-1. "Legally domiciled" means a ~~resident of~~ person who lives in this State and who satisfies 3 of the following 4 criteria: has a motor vehicle operator's license from this State, is registered to vote in this State, has a permanent dwelling place in this State or files an income tax return for this State that declares the person is a Maine resident. A person may establish that that person is "legally domiciled" in this State by providing evidence of other relevant criteria associated with residency. A child is legally domiciled in this State if at least one of the child's parents or the child's legal guardian is legally domiciled in this State. A person with a developmental or other disability that prevents that person from obtaining a motor vehicle operator's license, registering to vote or filing an income tax return