

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

~~the District Court or whether criminal proceedings have been or may be instituted.~~

Sec. B-104. 32 MRSA §14006, as enacted by PL 1999, c. 185, §5 and amended by c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§14006. Violation; injunction

A person who violates any provision of this chapter for which a penalty has not been prescribed commits a Class E crime civil violation for which a forfeiture of not more than \$1,000 may be adjudged. The State may bring action in Superior Court to enjoin a person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.

Sec. B-105. 32 MRSA §14309, as enacted by PL 1991, c. 403, §1 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§14309. Penalty; injunction

~~Any~~ A person who violates any provision of this chapter for which a penalty has not been prescribed commits a Class E crime civil violation for which a forfeiture of not more than \$1,000 may be adjudged. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.

PART C

Sec. C-1. Effective date. This Act takes effect January 1, 2002.

Effective January 1, 2002.

CHAPTER 422

S.P. 356 - L.D. 1170

An Act to Amend the Animal Welfare Laws

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

Whereas, legislative revisions are needed to enhance enforcement of the State's animal welfare laws; and

Whereas, increased and stable funding is needed to improve the administration, implementation and enforcement of the animal welfare laws; 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. 7 MRSA §714, sub-§1, as amended by PL 1997, c. 454, §1, is further amended to read:

1. Application for registration. A person may not distribute in this State a commercial feed, except a customer-formula feed, that has not been registered pursuant to this section. The application for registration must be submitted in the manner prescribed by the commissioner on forms furnished by the commissioner, and accompanied by an annual fee of ~~\$40~~ \$80 per brand for pet food and ~~\$30~~ \$80 per brand for all other commercial feed. Upon approval by the commissioner the registration must be issued to the applicant. All registrations expire on the 31st day of December. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations 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 registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.

Sec. 2. 7 MRSA §714, sub-§2, as repealed and replaced by PL 1977, c. 672, Pt. A, §19, is repealed and the following enacted in its place:

2. Fees. The commissioner shall deposit 1/2 of the fees collected pursuant to subsection 1 in the General Fund and 1/2 of the fees collected in the Animal Welfare Fund established under section 3906-B.

Sec. 3. 7 MRSA §3906-B, sub-§2, as amended by PL 1997, c. 690, §1, is further amended to read:

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 1/2 of feed registration fees collected under section 714 in 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. 4. 7 MRSA §3907, sub-§15, as repealed and replaced by PL 1991, c. 779, §14, is amended to read:

15. Humane agent. "Humane agent" means an employee of the department ~~or an intermittent employee of the board~~ who assists in enforcing this Part.

Sec. 5. 7 MRSA §3909, sub-§4 is enacted to read:

4. Subpoenas. The commissioner or the commissioner's designee after consultation with the appropriate attorney for the State or the legal counsel for the department may:

A. Serve subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation under the animal welfare laws.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department.

Sec. 6. 7 MRSA §3922, sub-§1, ¶¶A and B, as amended by PL 1997, c. 690, §14, are further amended to read:

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

B. From the dog recorder in the unorganized territory where the dog 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 is kept; ~~or~~

Sec. 7. 7 MRSA §3922, sub-§1, ¶C is enacted to read:

C. From a veterinary licensing agent in accordance with section 3923-F.

Sec. 8. 7 MRSA §3923-A, sub-§§1 and 2, as amended by PL 1997, c. 690, §15, are further amended to read:

1. Dogs capable of producing young. A dog owner or keeper shall pay a fee of \$7.50 to the municipal clerk or to a veterinary licensing agent for

each dog 6 months of age or older and capable of producing young. A dog 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 owner shall pay a fee of \$4 to the municipal clerk or to a veterinary licensing agent for each dog 6 months of age or older and incapable of producing young. A dog 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;

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

C. A previous license stating that the dog 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.

Sec. 9. 7 MRSA §3923-A, sub-§3, as enacted by PL 1993, c. 468, §12, is amended to read:

3. Exemption from fees. A municipal clerk or a veterinary licensing agent 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; ~~and~~

E. A dog certified by the State and used for law enforcement purposes.

Sec. 10. 7 MRSA §3923-F is enacted to read:

§3923-F. Veterinarian serving as dog licensing agent

The commissioner may authorize a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The rules must provide a process for identifying veterinarians who are willing to serve as dog licensing agents, for distributing license blanks, tags and stickers, and for the collection, distribution and deposit of license fees into the appropriate municipal and state accounts.

Sec. 11. 7 MRSA §4018 is enacted to read:

§4018. Report of suspected cruelty

1. Report by veterinarian. A veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of cruelty or neglect in violation of this chapter or Title 17, chapter 42, may report the suspected violation to the commissioner, the commissioner's designee, an animal control officer, attorney for the State or law enforcement officer. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

2. Immunity. A veterinarian reporting or testifying under this section is immune from criminal or civil liability or professional disciplinary action that might otherwise result from these actions. The immunity from liability for releasing confidential information applies only to the release of information to the court or to the department, an animal control officer, attorney for the State or law enforcement agency involved in the investigation.

Sec. 12. 17 MRSA §1011, sub-§15, as repealed and replaced by PL 1991, c. 779, §44, is amended to read:

15. Humane agent. "Humane agent" means an employee of the Department of Agriculture, Food and Rural Resources ~~or an intermittent employee of the board~~ who assists in enforcing this chapter.

Sec. 13. 17 MRSA §1023, as amended by PL 1997, c. 690, §§66 and 67, is repealed and the following enacted in its place:

§1023. Investigation and reporting of cruelty

1. Investigations; reports. Law enforcement officers, animal control officers and humane agents shall investigate alleged violations of Title 7, chapter 739 and this chapter. The commissioner shall maintain a record of each alleged case of cruelty to animals investigated by a humane agent. The commissioner shall report annually on the disposition of cases as required under Title 7, section 3906-B.

A law enforcement officer or animal control officer who investigates a case of alleged cruelty to animals and pursues a civil or criminal action based on that investigation shall report to the commissioner on the final disposition of the case.

3. Cooperation between agencies. For the purposes of this section, law enforcement officers, the commissioner or the commissioner's designee, humane agents, a state veterinarian and certified animal control officers may exchange information and reports pertaining to an investigation of cruelty to animals pursuant to Title 16, chapter 3, subchapter VIII.

Sec. 14. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	2001-02	2002-03
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Division of Animal Health and Industry		
Positions - Legislative Count	(2,000)	(2,000)
Personal Services	\$126,427	\$128,821
All Other	101,516	89,522
TOTAL	\$227,943	\$218,343
Allocates funds for one additional Animal Welfare Program Manager position and one additional Clerk IV position as part of the recommendations in the program reorganization report issued by the Animal Welfare Working Group.		
Division of Animal Health and Industry		
Positions - Legislative Count		(-0.500)
Personal Services		(\$41,064)
All Other		(1,280)
TOTAL		(\$42,344)

Deallocates funds to reflect the elimination of one 1/2-time State Veterinarian position as part of the recommendations in the program reorganization report issued by the Animal Welfare Working Group.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
TOTAL

\$227,943	\$175,999
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 18, 2001.

CHAPTER 423

S.P. 127 - L.D. 403

An Act to Provide Health Insurance Coverage for General Anesthesia and Associated Facility Charges for Dental Procedures for Certain Vulnerable Persons

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

Sec. 1. 24 MRSA §2332-M is enacted to read:

§2332-M. Coverage for general anesthesia for dentistry

1. Enrollee defined. For the purposes of this section, unless the context otherwise indicates, "enrollee" means a person who is covered under an individual or group health insurance contract provided by a nonprofit hospital and medical service organization.

2. General anesthesia and associated facility charges. All individual and group nonprofit hospital and medical service organization contracts must provide coverage for general anesthesia and associated facility charges for dental procedures rendered in a hospital when the clinical status or underlying medical condition of an enrollee requires dental procedures that ordinarily would not require general anesthesia to be rendered in a hospital. The nonprofit hospital and medical service organization may require prior authorization of general anesthesia and associated charges required for dental care procedures in the

same manner that prior authorization is required for other covered diseases or conditions.

3. Limitations on coverage. This section applies only to general anesthesia and associated facility charges for only the following enrollees if the enrollees meet the criteria in subsection 2:

A. Enrollees, including infants, exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, can not be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce a superior result;

B. Enrollees demonstrating dental treatment needs for which local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

C. Extremely uncooperative, fearful, anxious or uncommunicative children or adolescents with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity; and

D. Enrollees who have sustained extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised.

4. Dental procedures and dentist's fee not covered. This section does not require a nonprofit hospital and medical service organization to cover any charges for the dental procedure itself, including, but not limited to, the professional fee of the dentist. Coverage for anesthesia and associated facility charges pursuant to this section is subject to all other terms and conditions of the individual or group contract that apply generally to other benefits.

5. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is also eligible for coverage for general anesthesia and associated facility charges under a dental insurance policy or contract, the nonprofit health care service organization or insurer providing dental insurance is the primary payer responsible for those charges and the nonprofit hospital and medical service organization is the secondary payer.

Sec. 2. 24-A MRSA §2759 is enacted to read: