

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

TOTAL ALLOCATIONS	\$306,315	\$306,315
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See title page for effective date.

CHAPTER 425

H.P. 1232 - L.D. 1679

An Act to Increase the Penalties for Animal Cruelty

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

Sec. 1. 7 MRSA §4011, sub-§1, ¶G, as amended by PL 1999, c. 765, §9, is further amended to read:

G. Hunts or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 10; or

Sec. 2. 7 MRSA §4011, sub-§1, ¶H, as enacted by PL 1999, c. 254, §13, is amended 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; or

Sec. 3. 7 MRSA §4011, sub-§1, ¶I is enacted to read:

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal.

Sec. 4. 7 MRSA §4016, as amended by PL 1999, c. 597, §2, is repealed and the following enacted in its place:

§4016. Violation

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

Sec. 5. 17 MRSA §1031, sub-§1, ¶G, as amended by PL 1999, c. 765, §11, is further amended to read:

G. Hunts or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 10; or

Sec. 6. 17 MRSA §1031, sub-§1, ¶H, as enacted by PL 1999, c. 254, §21, is amended 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; or

Sec. 7. 17 MRSA §1031, sub-§1, ¶I is enacted to read:

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal.

Sec. 8. 17 MRSA §1031, sub-§1-B is enacted to read:

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Kills an animal; or

C. Physically tortures an animal.

Sec. 9. 17 MRSA §1031, sub-§3, as amended by PL 1999, c. 481, §1, is repealed and the following enacted in its place:

3. Penalty for cruelty to animals. Except as provided in paragraph A, cruelty to animals under subsection 1 or 1-A is a Class D crime.

A. Cruelty to animals under subsection 1 or 1-A is a Class C crime if the State pleads and proves that, at the time a violation of this section was committed, the defendant had been convicted of:

(1) One or more violations of subsection 1 or 1-A;

(2) One or more violations of aggravated cruelty to animals under subsection 1-B;

(3) One or more violations of cruelty to birds under section 1032;

(4) Two or more violations under Title 7, chapter 739; or

(5) Two or more essentially similar crimes in other jurisdictions.

B. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$500 nor more than \$2,500 for the first violation of this section, none of which may be suspended, and a fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of this chapter, none of which may be suspended.

C. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal.

D. If the defendant is convicted of the Class D crime under this section, the court, as part of the sentence, may prohibit the defendant from own-

ing, possessing or having on the defendant's premises an animal or animals for a period of time up to and including permanent relinquishment, as determined by the court.

E. If the defendant is convicted of the Class C crime under this section, the court, as part of the sentence, shall prohibit the defendant from owning, possessing or having on the defendant's premises permanently an animal or animals.

F. 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, in addition to revocation of probation pursuant to Title 17-A, chapter 49, is subject to the removal of the animal or animals at the probationer's expense if this condition is violated.

G. 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. If the defendant is a juvenile, the court shall order that the juvenile receive psychiatric or psychological counseling. The parents or guardian of the juvenile, if they are able, shall pay for the counseling.

Sec. 10. 17 MRSA §1031, sub-§3-A is enacted to read:

3-A. Penalty for aggravated cruelty to animals. Aggravated cruelty to animals under subsection 1-B is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 nor more than \$10,000 for a first or subsequent violation of subsection 1-B. The sentencing provisions in subsection 3, paragraphs C, E, F and G also apply to a person convicted of aggravated cruelty to animals.

Sec. 11. 17 MRSA §1031, sub-§5 is enacted to read:

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

See title page for effective date.
