

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

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J.S. McCarthy Company
Augusta, Maine
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income does not exceed the income standards established by the municipality. Notwithstanding this prospective calculation, if any applicant or recipient receives a lump sum payment prior or subsequent to applying for assistance, that payment must be prorated over future months. The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the ~~aggregate maximum level of assistance designated under section 4305~~ greater of the verified actual monthly amounts for all of the household's basic necessities or by 150% of the applicable federal poverty guidelines. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

Sec. 2. 22 MRSA §4301, sub-§8-A, as enacted by PL 1989, c. 840, §3, is amended to read:

8-A. Lump sum payment. "Lump sum payment" means a one-time or typically nonrecurring sum of money issued to an applicant or recipient ~~after an initial application~~. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses.

Sec. 3. 22 MRSA §4308, sub-§3 is enacted to read:

3. Initial applicant. Notwithstanding section 4301, subsection 7, the household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. Upon subsequent applications, that household's eligibility is subject to all the standards established by this chapter.

Sec. 4. Investigation of adequacy of maximum levels of assistance. The Department of Human Services shall convene a group of interested parties, including a fair representation of municipalities and representatives of low-income persons, to investigate the adequacy of maximum levels of assistance and report its findings to the joint standing committee of the Legislature having jurisdiction over health and human services matters by February 1, 2003.

See title page for effective date.

CHAPTER 572

S.P. 724 - L.D. 1965

An Act to Amend the Animal Health and Disease Control Laws

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

Sec. 1. 7 MRSA §1301, as amended by PL 1967, c. 227, §1, is further amended to read:

§1301. Purpose

The purposes of this chapter are to maintain fair and equitable practices in the buying and selling of livestock and poultry within this State, and to ~~suppress encourage practices in such transactions which tend against the elimination of diseased and unfit that~~ promote the sale of healthy livestock and poultry. In respect to dealers in livestock and poultry this chapter supplements and does not supersede other provisions of the laws relating to the control of livestock and poultry diseases under this Title.

Sec. 2. 7 MRSA §1302, sub-§1-A is enacted to read:

1-A. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources or the commissioner's duly authorized agent.

Sec. 3. 7 MRSA §1302, sub-§2, as amended by PL 1967, c. 227, §1, is repealed and the following enacted in its place:

2. Dealer. "Dealer" means any person or entity engaged in the business of buying livestock or poultry primarily for resale, whether the purchase or sale is completed by cash, delayed payment, transfer, exchange, barter or shipment on commission. A person who receives livestock and poultry exclusively for slaughter on the person's own premises is not a dealer.

Sec. 4. 7 MRSA §1302, sub-§3, as amended by PL 1967, c. 227, §1, is further amended to read:

3. Livestock and poultry. "Livestock and poultry" ~~shall include~~ includes all cattle, ~~dairy, feeding, beef or breeding animals,~~ sheep, goats, swine, ~~horses and equines,~~ poultry, domesticated cervidae and other animals raised for food or fiber.

Sec. 5. 7 MRSA §1304, as amended by PL 1967, c. 227, §1, is further amended to read:

§1304. License; agents

~~No~~ A person, firm, partnership or corporation shall may not act as a dealer of livestock and poultry unless ~~duly~~ licensed by the department. ~~No~~ An agent shall may not act for any dealer unless ~~he~~ that agent and the dealer are ~~duly~~ licensed by the department and the dealer has designated such agent to act in ~~his~~ the dealer's behalf. A dealer shall be is accountable and responsible for acts of ~~his~~ the dealer's agents.

Sec. 6. 7 MRSA §1305, as amended by PL 1967, c. 227, §2, is repealed and the following enacted in its place:

§1305. Application for license

Application for a license as a dealer or as an agent must be made upon a form prescribed by the commissioner. The commissioner, if satisfied with the applicant's qualifications, shall issue a license entitling the applicant to act as a dealer or as an agent. An initial license may be issued for a period of less than one year or more than one year but not more than 2 years. All licenses expire on July 1st. All license renewals are for a period of one year. The annual license fee for a dealer is \$25 and for each agent, \$10. The fee for an initial license is prorated based on the number of months for which the license is valid. The commissioner shall issue a certificate of licensure to each licensed dealer and agent. The certificate must be carried in the motor vehicle used by the licensed dealer or agent when acting as a dealer or agent. The commissioner shall issue dealer plates to be attached to each motor vehicle or trailer used by a dealer for transporting livestock or poultry. Upon renewal of a

license, the commissioner shall issue stickers bearing the year of licensure to be attached to the dealer plates.

Sec. 7. 7 MRSA §1306, as amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§1306. Revocation and suspension of licenses

Any license issued under this chapter may be suspended or revoked ~~by the District Court~~ by the commissioner in a manner consistent with the Maine Administrative Procedure Act.

Sec. 8. 7 MRSA §1307, as amended by PL 1967, c. 227, §3, is further amended to read:

§1307. Records

The commissioner may require licensed livestock and poultry dealers to keep certain records of transactions in any or all classes of livestock and poultry. The department may establish by rule the length of time that records kept by persons engaging in dealing livestock and poultry must be retained.

Sec. 9. 7 MRSA §1308, as amended by PL 1979, c. 541, Pt. A, §68, is repealed and the following enacted in its place:

§1308. Violations

Any person or entity who violates any of the provisions of this chapter or any rule adopted under section 1303 commits a civil violation for which a forfeiture not to exceed \$100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$25,000.

Sec. 10. 7 MRSA §1331, sub-§4, as amended by PL 1989, c. 502, Pt. B, §7, is further amended to read:

4. Penalties. Any person engaged in the business of propagating, possessing, buying or selling domesticated deer without a license as provided for in subsection 2 ~~is guilty of a Class E crime~~ commits a civil violation for which a forfeiture not to exceed \$100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$25,000.

Sec. 11. 7 MRSA §1331, sub-§5, as enacted by PL 1987, c. 685, §1, is amended to read:

5. Revocation. ~~A license issued to any person for the propagation, possession, purchase or sale of domesticated deer, or for the sale of meat from domesticated deer, may be revoked at any time~~ Any license issued under this chapter may be suspended or revoked in a manner consistent with the Maine Administrative Procedure Act for violation of this

chapter. Upon revocation, no similar license may be reissued for a minimum of 5 years. ~~Any person who violates or refuses to comply with this chapter commits a civil violation for which a forfeiture not to exceed \$200 may be adjudged at the discretion of the commissioner.~~

Sec. 12. 7 MRSA c. 207 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 207

AUCTIONS

Sec. 13. 7 MRSA §1451 is repealed.

Sec. 14. 7 MRSA §1452 is repealed and the following enacted in its place:

§1452. Definitions

As used in this chapter, unless the context otherwise indicates, "auction" means the offering of cattle, sheep, swine, goats, equines, domesticated cervidae, poultry and other animals raised for food or fiber for sale by means of exchanges between an auctioneer and bidders.

Sec. 15. 7 MRSA §1453, as amended by PL 1977, c. 694, §117, is further amended to read:

§1453. Rules

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make rules ~~and regulations~~ necessary to protect the health and welfare of animals going through ~~such sales rings~~ an auction, which ~~shall~~ have the power of law as outlined under section 1752.

Sec. 16. 7 MRSA §1454 is repealed and the following enacted in its place:

§1454. Permit

A person, partnership, association or corporation may not hold or conduct an auction without obtaining a permit from the commissioner a minimum of 2 weeks prior to the scheduled date of the auction. A person intending to hold auctions on a regular basis may apply for and be issued a permit valid for multiple dates at the location specified in the permit.

Sec. 17. 7 MRSA §1455 is amended to read:

§1455. Records

The operator shall keep complete records of all sales transactions, which ~~shall~~ must be available for inspection by the commissioner ~~or his agent~~. The department may establish, by rule, the length of time

that a person who conducts an auction must retain these records. These records must indicate the origins of the animals sold, the name and address of the person purchasing the animals and the destination of those animals. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 18. 7 MRSA §1456, as amended by PL 1999, c. 547, Pt. B, §20 and affected by §80, is repealed and the following enacted in its place:

§1456. Cancellation of permit

The permit to operate an auction may be suspended in a manner consistent with the Maine Administrative Procedure Act.

Sec. 19. 7 MRSA §1457 is enacted to read:

§1457. Violations

Any person who violates the provisions of this chapter or rules adopted pursuant to this chapter commits a civil violation for which a forfeiture not to exceed \$100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$25,000.

Sec. 20. 7 MRSA §1704, as amended by PL 1985, c. 785, Pt. B, §46, is further amended to read:

§1704. Agents

The commissioner may employ ~~skilled~~ veterinarians licensed in this State and ~~such~~ other agents and employees as ~~he may deem~~ be necessary to carry into effect ~~enforce~~ chapters 201, 207, 301, 303 and 305, subject to the Civil Service Law.

Sec. 21. 7 MRSA §1706, as repealed and replaced by PL 1977, c. 696, §89, is repealed and the following enacted in its place:

§1706. Penalties

Except as provided in section 1707, whoever violates any provisions of this chapter or chapters 207, 303 and 305 or any rule adopted under those chapters, unless a specific penalty or forfeiture is provided for, commits a civil violation for which a forfeiture not to exceed \$500 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$50,000.

Sec. 22. 7 MRSA §1707 is enacted to read:

§1707. Intentional, knowing or reckless introduction of a disease or pathogen

A person who intentionally, knowingly or recklessly introduces or takes a substantial step or action

that could introduce a disease or pathogen to livestock or poultry commits a Class D crime.

Sec. 23. 7 MRSA §1751, sub-§2, as amended by PL 1999, c. 765, §4, is further amended to read:

2. Domestic animals. "Domestic animals" means cattle, ~~horses, mules, asses, equines,~~ goats, sheep, swine, cats, dogs, domesticated cervidae or other domesticated animals; large game as defined in section 1341, subsection 5; and poultry.

Sec. 24. 7 MRSA §1751, sub-§3, as amended by PL 1979, c. 731, §19, is further amended to read:

3. Authorized agent. "~~Duly authorized~~ Authorized agent" means employees of the ~~State Department of Agriculture, Food and Rural Resources~~ department, veterinarians licensed by the State to practice veterinary medicine while performing official duties for the department, employees of the ~~Agricultural Research~~ Animal and Plant Health Inspection Service of the United States Department of Agriculture, or other persons designated by the commissioner.

Sec. 25. 7 MRSA §1752, as repealed and replaced by PL 1977, c. 694, §119, is amended to read:

§1752. Rules

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, ~~make all needful rules and regulations which may in his judgment be deemed requisite to the full and due execution of~~ adopt rules that, in the commissioner's judgment, are necessary for the enforcement of chapters 201, 207, 301, 303 and 305. These rules ~~and regulations shall~~ have the force and effect of law, so far as the same are not inconsistent with the laws of this State or of the United States.

Sec. 26. 7 MRSA §1753, as amended by PL 1999, c. 765, §5, is further amended to read:

§1753. Duties of commissioner

The commissioner shall, so far as possible, prevent the introduction and spread of contagious, infectious and parasitic diseases, and exposure thereto, among domestic animals in the State, especially those diseases transmitted to man, either directly or indirectly, and those of greatest economic importance.

The commissioner shall cause investigation and diagnosis to be made by approved methods as to the existence of contagious, infectious and parasitic diseases among domestic animals in the State, and ~~he or his duly authorized agent~~ the commissioner may enter any premises, buildings or places, including

stockyards, cars, trucks, planes and vessels within any county or part of the State in or at which ~~he~~ the commissioner has reason to believe there exists any such disease, and make such investigation, diagnosis or diagnostic tests as to the existence of disease that ~~he~~ the commissioner may consider necessary.

~~The commissioner shall, so far as possible, control and eradicate the diseases of domestic animals. The commissioner shall formulate and apply programs for the control and or eradication of tuberculosis, brucellosis, forms of transmissible spongiform encephalopathy known as chronic wasting disease and such other any diseases as or pathogens as required by the United States Department of Agriculture and any other diseases or pathogens the commissioner considers necessary or practicable to control or eradicate so far as funds are available.~~

Sec. 27. 7 MRSA §1755, as amended by PL 1977, c. 694, §120, is further amended to read:

§1755. Quarantine

The commissioner may, upon discovery or upon suspicion of the existence of any disease or pathogen among domestic animals or poultry in the State, take whatever action ~~he deems~~ the commissioner considers necessary to prevent possible spread and to control or eradicate such the disease or pathogen. Such action may include quarantine of domestic animals, birds, wild animals in captivity and products derived from them, ~~also including the~~ quarantine of articles, materials and premises, equipment or areas, for ~~such~~ a time and under ~~such~~ conditions as ~~he may deem~~ the commissioner considers necessary to eradicate or control the disease or pathogen. This quarantine ~~shall~~ may not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act.

Any positive diagnosis of a disease made by recognized procedures by recognized diagnostic laboratories, or by recognized qualified persons, ~~shall~~ must be considered as official diagnosis until proved otherwise.

Quarantine may be made by registered mail or in person by an authorized agent of the commissioner, or by any other person authorized to do so.

The commissioner may use placards or any other methods ~~he may deem~~ considered necessary to give notice or warning of ~~such~~ the quarantine.

It ~~shall be~~ is illegal to violate any quarantine by any person, and such violation ~~shall be~~ is punishable by penalties as outlined in section 1706.

Sec. 28. 7 MRSA §1756, as amended by PL 1983, c. 747, §1, is further amended to read:

§1756. Appraisal, destruction and indemnity

Upon discovery of any contagious or infectious disease or pathogen among domestic animals, the commissioner may cause the affected or exposed animals to be appraised and destroyed, and a proper disposition of the carcasses made in accordance with rules and adopted by ~~him~~ the commissioner in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall appraise each domestic animal at its true market value at the time it is condemned, provided that no indemnity may be paid except as established in section 1757 or in state-federal cooperative eradication programs for domestic animals and in those amounts as set by those agreements. In no case may the combined amount received from salvage and state and federal indemnity exceed the amount of appraisal.

~~No indemnity shall~~ Indemnity may not be paid on any domestic animals imported into the State; ~~if the importation of which was not in compliance with in violation of~~ the laws of the State or rules ~~and regulations~~ in effect at the time of importation.

Sec. 29. 7 MRSA §1757, first ¶, as enacted by PL 1983, c. 747, §2, is amended to read:

The commissioner shall establish a Poultry Disease Control Fund to be used to detect, prevent, control or eradicate any contagious or infectious poultry disease or pathogen within the State. ~~He may credit to the fund moneys appropriated by the Legislature for that purpose, which may be funded through a legislative appropriation or through money~~ received from other public and private sources, including an assessment on commercial poultry owners.

Sec. 30. 7 MRSA §1757, sub-§1, as enacted by PL 1983, c. 747, §2, is amended to read:

1. Authority of the commissioner. Whenever ~~he~~ the commissioner has sufficient reason to believe that a contagious or infectious poultry disease or pathogen has been or may be introduced into the State, the commissioner may:

A. Inspect, cause to be disinfected or require evidence of disinfection of:

(1) All incoming or outgoing vehicles being used to convey poultry, poultry products or materials related to the poultry industry; and

(2) All incoming vehicles ~~which that~~, while carrying other domestic animals during the ~~80~~ 30 days immediately prior to their arrival in Maine, stopped within or passed through an area declared quarantined by the

United States Department of Agriculture, Animal and Plant Health Inspection Service, due to the outbreak of a contagious or infectious poultry disease or pathogen.

Incoming vehicles may be refused entry into the State and outgoing vehicles may be detained within the State until any necessary inspection or disinfection has been performed or any required evidence of inspection or disinfection has been received.

B. Immediately eradicate poultry flocks in which disease or pathogen is found to exist; and

C. After consultation with appropriate industry organizations, indemnify owners of poultry destroyed under paragraph B. The amount of the indemnity ~~shall~~ must be established by rule adopted in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, provided that the amount of any federal indemnity for the same flock ~~shall be~~ is considered in setting the amount of indemnity under this paragraph.

Sec. 31. 7 MRSA §1759 is enacted to read:

§1759. Vehicle detainment and inspection

If the commissioner has sufficient reason to believe that a contagious or infectious animal disease that is classified as reportable under section 1801 or a pathogen that is classified as reportable under section 1801 has been or may be introduced into the State, the commissioner may stop and inspect vehicles transporting domestic animals or poultry to ensure that biosecurity procedures, including cleaning and disinfection, outlined by the United States Department of Agriculture have been adhered to and that importation certification documents are in order.

An incoming vehicle may be refused entry into the State and an outgoing vehicle may be detained within the State until any necessary inspection or disinfection has been performed or any required evidence of inspection or disinfection has been received by the commissioner.

Sec. 32. 7 MRSA §1801, as amended by PL 1999, c. 765, §6, is repealed and the following enacted in its place:

§1801. Reportable diseases

The commissioner shall, by rule adopted in a manner consistent with the Maine Administrative Procedure Act, determine which diseases or pathogens must be classified as "reportable." The form of transmissible spongiform encephalopathy known as chronic wasting disease is reportable. It is a violation

of this chapter for any owner, agent of any owner, veterinarian or other person having knowledge of the existence of such disease or pathogen or the exposure of domestic animals to such disease or pathogen not to properly report the existence of such disease or pathogen or exposure of domestic animals to the department immediately after knowledge of such disease or pathogen or exposure of domestic animals to such disease or pathogen.

It is a violation of this chapter for any person to cause a domestic animal to be driven, trucked or otherwise moved intrastate or interstate when that person has knowledge that the animal is infected with or has been exposed to a reportable disease or pathogen. It is a violation of this chapter for any person to cause a domestic animal to be driven, trucked or otherwise moved intrastate or interstate when that person has knowledge that the animal has been treated with a vaccine or other substance that might make that animal capable of spreading a reportable disease or pathogen among susceptible domestic animals. A domestic animal infected with or exposed to a reportable disease or pathogen may be moved only under the direction of the commissioner.

Sec. 33. 7 MRSA §1803 is repealed and the following enacted in its place:

§1803. Transportation of diseased animals

It is a violation of this chapter for a person to cause a domestic animal to be driven, trucked or otherwise moved into the State when that person has knowledge that the animal is infected with or has been exposed to any contagious disease or to a pathogen that is classified as a reportable pathogen under section 1801.

Sec. 34. 7 MRSA §§1805 and 1806 are amended to read:

§1805. Securing animals for treatment

It shall be unlawful is a violation of this chapter for an owner of domestic animals or his that owner's agent to refuse or neglect to secure and restrain domestic animals to be tested, vaccinated, branded or tattooed to indicate vaccination or infection status, or otherwise treated; as to make it possible for the commissioner, or his agent in charge of livestock sanitary work, or his representative to apply in an expeditious manner the test or other treatment that is deemed necessary the commissioner may direct.

The commissioner or his duly authorized agent may require proper disinfecting by the owner of stables and premises by the owner, where condemned diseased domestic animals are found; and may withhold indemnity until he is satisfied that proper

cleaning and disinfecting of premises have been completed.

§1806. Disease control notifications

It shall be unlawful is a violation of this chapter to tamper with, remove or alter eartags, labels, placards or notices affixed or posted by the commissioner or his agent to notify of and assist in the control of disease.

No milk or dairy products shall be sold or offered for sale in the State from any herd retaining known brucellosis reactors.

Sec. 35. 7 MRSA §1806-A is enacted to read:

§1806-A. Restrictions of sales

The commissioner may restrict the sale of milk or milk products in the State from any herd of any species having any reportable disease or exposed to a reportable pathogen that may be transmitted in milk or milk products. A livestock product or byproduct may not be sold or offered for sale from any herd having a reportable disease or exposed to a reportable pathogen that may be transmitted in those products.

Sec. 36. 7 MRSA §1807, as amended by PL 1981, c. 197, §1, is repealed and the following enacted in its place:

§1807. Illegal vaccinations

1. Brucellosis vaccine. A person other than a licensed veterinarian may not vaccinate cattle with brucellosis vaccine. A licensed veterinarian may not vaccinate cattle with brucellosis vaccine unless:

A. The vaccine used has been approved by the commissioner; and

B. The vaccine is administered to the animal at the age recommended by the manufacturer of the vaccine or determined by the commissioner.

2. Prohibition on certain vaccines. The commissioner may prohibit a vaccination because the use of the vaccine being administered might cause the presumption that an actual disease or pathogen is present in the State.

3. Commissioner's discretion to vaccinate. Notwithstanding subsection 2, the commissioner may authorize any vaccination necessary to control an outbreak of a disease or to diminish the threat of an outbreak of a disease.

Sec. 37. 7 MRSA §1808, as amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§1808. Sale, distribution and use of certain biologics

A biological product capable of eliciting an immunological response offered for use in the treatment or prevention of diseases of domestic animals may not be produced, sold, distributed, imported or used within the State, or imported into the State for sale, distribution or use unless approval and written permission has first been obtained from the commissioner, ~~or the commissioner's agent in charge of livestock sanitary work, for the distribution and use of that product.~~ The commissioner ~~or the commissioner's agent~~ has the right to refuse permission for distribution, sale, importation or use of any such product within the State, and may require reporting of sale, distribution, importation or use of any such product within the State, if permission is granted.

~~No~~ An antigen used for diagnostic purposes in domestic animals ~~shall~~ may not be produced in or shipped into the State without the approval of the commissioner ~~or his agent.~~

~~No~~ A person, ~~firm or corporation,~~ except a licensed ~~veterinarians,~~ veterinarian ~~shall~~ may not offer for sale or distribution, within the State, any biological product containing living organisms or viruses offered for use in the treatment or prevention of diseases of domestic animals, without first obtaining a permit to act as ~~salesman~~ a salesperson or distributor from the department.

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, ~~promulgate~~ adopt rules and ~~regulations~~ as to refrigeration, handling, shipping, disposing of outdated material; and sale of such products.

Failure to comply with this section or section 1807, or the regulations adopted pursuant thereto, ~~shall~~ be ~~is~~ grounds for revocation ~~by the District Court~~ of any permit granted pursuant to these sections.

Sec. 38. 7 MRSA §1809, as amended by PL 1999, c. 765, §7, is repealed and the following enacted in its place:

§1809. Permits for state entry

1. Permit required. The commissioner may require a person who imports animals into the State to obtain a permit before the time of entry. When a permit is required, the permit or permit number must accompany the shipment. The commissioner may refuse to grant a permit or may issue one subject to quarantine at destination if the animals do not meet importation requirements or do not comply with the inland fisheries and wildlife laws and rules adopted by the Commissioner of Inland Fisheries and Wildlife under Title 12, chapter 707, subchapter 7. The

commissioner may require the owner to have those animals tested or examined by a veterinarian at the owner's expense. The commissioner may release those animals from quarantine only after the commissioner is satisfied that they are not a disease threat to other animals or humans.

When an animal is brought into the State without a required permit, the commissioner or the Commissioner of Inland Fisheries and Wildlife may condemn the animal and order it euthanized without indemnity.

2. Rules. The commissioner shall adopt rules to establish importation requirements necessary to maintain the health of domestic animals. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall maintain a list of animals for which a permit is required prior to entering the State. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 39. 7 MRSA §§1810 and 1811 are amended to read:

§1810. Agreements

The commissioner ~~or his agent~~ is authorized to enter into agreements of cooperation in the name of the State with the United States Department of Agriculture ~~and~~ other states, the Canadian Food Inspection Agency and Canadian provinces for the prevention, control and eradication of diseases among domestic animals.

§1811. Health requirements for exhibit animals

All domestic animals that are to be shown or exhibited in any agricultural show within the State ~~shall~~ must meet the health requirements of the rules ~~and regulations~~ of the commissioner.

Sec. 40. 7 MRSA §1812, 3rd ¶, as amended by PL 1985, c. 545, is further amended to read:

For the prevention and control of brucellosis, the commissioner ~~or his agent in charge of livestock sanitary work~~ shall continue to conduct recognized tests on all the herds in the State as required to maintain United States Department of Agriculture certification that the State is free of brucellosis. Such tests ~~shall~~ must be conducted by regularly employed federal or state veterinarians or technicians or authorized veterinarians and tested by the state laboratory. All animals showing a positive reaction to the test ~~shall~~ must be identified by a "reactor" ear tag and brand and ~~shall~~ must be slaughtered, except vaccinated animals under 14 months of age.

Sec. 41. 7 MRSA §1812, 4th ¶, as amended by PL 1981, c. 197, §2, is further amended to read:

Officially vaccinated calves, if purebred, shall must be properly identified by an official ear tag provided by the department or registration papers or tattoo number. Grade animals shall must be tagged with an official ear tag. All officially vaccinated calves must be tattooed with the official state tattoo mark. Evidence of vaccination shall must be the official state tattoo mark and either a vaccination ear tag or a tattoo number.

Sec. 42. 7 MRSA §1812, 5th ¶, as amended by PL 1985, c. 545, is further amended to read:

~~Vaccine for cattle of this State shall be provided through the commissioner as long as the vaccine is supplied by the Federal Government. If the Federal Government does not supply the vaccine, the~~ The commissioner shall establish rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, establishing fees to cover costs of obtaining, storing and distributing vaccine to accredited veterinarians and defining approved sources and procedures to regulate the use of this vaccine. The fees ~~will~~ accrue to a nonlapsing dedicated account to be used for obtaining, storing and distributing vaccine.

Sec. 43. 7 MRSA §1812-A, as amended by PL 1977, c. 694, §128, is repealed and the following enacted in its place:

§1812-A. Brucellosis in swine

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, formulate and implement rules for the prevention, control and eradication of brucellosis in swine. Where infection has been found, all swine must be quarantined to the premises until all swine in the infected herd are in compliance with rules or may be slaughtered as the commissioner may direct.

Sec. 44. 7 MRSA §1813, sub-§1 is repealed and the following enacted in its place:

1. Garbage. "Garbage" means all waste material derived in whole or in part from the meat of any animal, including fish and poultry, or other animal material and other refuse of any character whatsoever that has been associated with any such material resulting from the handling, preparation, cooking or consumption of food, except that "garbage" does not include waste from ordinary household operations that is fed directly to swine on the same premises where such a household is located.

Sec. 45. 7 MRSA §1814, as amended by PL 1979, c. 541, Pt. A, §70, is repealed.

Sec. 46. 7 MRSA §1814-A is enacted to read:

§1814-A. License to feed garbage

1. License required. A person may not feed garbage to swine without first procuring a license from the commissioner. A license may be procured annually for a fee of \$25 and must be renewed on the first day of June of each succeeding year. This section does not apply to any person who feeds that person's own household garbage only to swine that are raised for that person's own use.

2. Processing of garbage. Regardless of previous processing, garbage must be thoroughly heated to at least 212 degrees Fahrenheit for at least 30 minutes before being fed to swine unless treated in some other manner that must be approved in writing by the commissioner.

3. Moratorium authorized. When a disease condition exists that may be spread by the feeding of garbage, the commissioner may immediately suspend all garbage feeding licenses and place a moratorium on all garbage feeding in the State.

4. Enforcement. The commissioner may enter at reasonable times any private or public property to investigate conditions relating to the treating or feeding of garbage.

5. Penalties. Feeding garbage to swine without a license is a civil violation for which a forfeiture of not less than \$250 nor more than \$500 for an initial violation and not less than \$500 nor more than \$1,000 for a subsequent violation may be adjudged.

Feeding garbage to swine during a moratorium imposed by the commissioner is a civil violation for which a penalty of not more than \$5,000 may be adjudged.

Sec. 47. 7 MRSA §1817 is repealed.

Sec. 48. 7 MRSA §1820, as amended by PL 1981, c. 21, §§1 and 2, is repealed.

Sec. 49. 7 MRSA §1820-A is enacted to read:

§1820-A. Equine infectious anemia

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Official test" means any test approved by the commissioner for the detection of equine infectious anemia. "Official test" includes, but is not limited to, the enzyme-linked immunosorbent assay, or ELISA test, and the agar gel immunodiffusion, AGID, or Coggins test.

B. "Quarantine" means to confine an equine to a stable or pasture in a manner that will prevent the spread of equine infectious anemia.

2. Duties of commissioner. The commissioner shall:

A. Require a negative Coggins test, taken within 36 months, on all equines raced on, exhibited at or stabled at racetracks or fairgrounds. The commissioner shall require a negative test from all equines entering this State within 6 months before the date of entry and may require any equines to be tested prior to entering the State. Any equine not tested or required by the commissioner to be tested prior to entering this State must be quarantined until tested at the owner's expense;

B. Require that any equine having a positive test be immediately quarantined and isolated from other equines pending a 2nd test done by a state veterinarian; and

C. Require that all other equines on the premises where an equine has tested positive remain on the premises pending an investigation and testing as the commissioner determines necessary.

3. Disposition of reactors. Any equine that has a positive 2nd test pursuant to subsection 2 must be considered a reactor. A reactor must be:

A. Humanely euthanized within 7 days of the 2nd test. Euthanasia must be performed by a licensed veterinarian or as the commissioner directs. A veterinarian euthanizing a reactor shall report the euthanasia to the commissioner within 2 working days;

B. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and shipped directly to a United States Department of Agriculture slaughter facility under a federal order; or

C. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and permanently quarantined and isolated from all other equines. The reactor must be kept a minimum of 1/4 mile from the nearest paddock, pasture or barn having an equine species or may be kept within 1/4 mile if the reactor is immediately placed and kept at all times in a screened-in enclosure acceptable to the commissioner.

See title page for effective date.

CHAPTER 573

H.P. 1553 - L.D. 2056

An Act to Strengthen the Laws Governing Inspections of Boilers, Pressure Vessels, Elevators and Tramways

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

PART A

Sec. A-1. 32 MRSA §15104-A, sub-§1, as enacted by PL 1999, c. 386, Pt. W, §7, is amended to read:

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including rules for the safe and proper construction, installation, repair, use and operation of boilers and pressure vessels in this State. The rules must conform as nearly as practicable to the code. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

The board shall publish and distribute among boiler manufacturers and others requesting them copies of the rules adopted by the board at a cost sufficient only to cover the printing and mailing expenses of distribution.

Sec. A-2. 32 MRSA §15104-B is enacted to read:

§15104-B. Appeals; variances

A person aggrieved by an order or act of the chief inspector or a deputy inspector under this chapter may, within 15 days after notice of the order or act, appeal from the order or act to the board, which shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. After the hearing, the board shall issue an appropriate order either approving or disapproving the order or act.

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of boilers and pressure vessels may file a petition for a variance, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance must be set by the Director of the Office of Licensing and Registration under section 15109, subsection 9. The chief inspector may grant a variance if, owing to conditions especially affecting the particular boiler or pressure vessel involved, the enforcement of any law, code or rule relating to boilers or pressure vessels would do