

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

---

---

**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

~~from the major hydroelectric power generators is 5 years. Members from private commerce and industry serve a term as determined by the respective entities that they represent.~~

**Sec. 15. National Guard Armory.** The Department of Defense, Veterans and Emergency Management shall name the National Guard Armory located in Caribou the Nelson J. Solman Armory.

**Sec. 16. Rescind rules.** The rules adopted by the Maine Veterans' Services entitled "Chapter 1: Veterans Financial Assistance" may be rescinded without public comment or further approval of the Legislature.

See title page for effective date.

---



---

## CHAPTER 405

S.P. 520 - L.D. 1545

### 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-§9,** as amended by PL 1995, c. 502, Pt. C, §11, is further amended to read:

**9. Employees.** ~~The commissioner shall employ personnel, subject to the Civil Service Law, as necessary to assist in enforcing this Part and in carrying out the duties and responsibilities of the department. The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, one full-time humane agent necessary employees to assist the commissioner in enforcing this Part and in carrying out the commissioner's duties and responsibilities. The commissioner shall conduct a background check of a potential employee.~~ The commissioner may not hire as a state humane agent a person who has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739.

**Sec. 2. 7 MRSA §3906-B, sub-§9-A** is enacted to read:

**9-A. Humane agents.** The commissioner shall assign a humane agent to each of the following areas of specialization:

- A. Blood sports;
- B. Exotic animals;
- C. Large animals;

D. Mental health and domestic violence;

E. Small animals; and

F. Training for humane agents.

**Sec. 3. 7 MRSA §3906-B, sub-§16** is enacted to read:

**16. Animal welfare auxiliary fund.** The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants and matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

**Sec. 4. 7 MRSA §3906-C, sub-§1,** as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

**1. Membership.** The council consists of ~~11~~ 12 members appointed by the Governor as follows:

- A. One member representing municipal interests;
- B. One animal control officer;
- C. One member representing licensed animal shelters;
- D. One member representing licensed boarding or breeding kennels;
- E. One member representing licensed pet shops;
- G. One member who is or has been a veterinarian licensed to practice in the State;
- H. One member who represents the interests of the public in animal welfare, generally;
- I. One attorney with experience in animal welfare law;
- J. One cooperative extension agent or specialist;
- K. One member with expertise in equine care; ~~and~~
- L. One member with expertise in livestock representing a statewide farming organization; and

M. One member representing a State-based animal advocacy group.

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association.

**Sec. 5. 7 MRSA §3909, sub-§3**, as enacted by PL 1999, c. 254, §2, is repealed.

**Sec. 6. 7 MRSA §3909, sub-§3-A** is enacted to read:

**3-A. Humane agents; training requirements.**  
Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part.

A humane agent shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

**Sec. 7. 7 MRSA c. 720** is amended by repealing the chapter headnote and enacting the following in its place:

**CHAPTER 720**

**RABIES PREVENTION FOR CATS AND SHELTER PROVISIONS**

**Sec. 8. 7 MRSA §3919-A**, as enacted by PL 2001, c. 363, §3, is amended to read:

**§3919-A. Procedure for acceptance and disposition of cats by animal shelter**

An animal shelter to which a cat is taken may accept the cat unless the shelter is in quarantine. An animal shelter accepting a cat shall comply with the provisions of this section.

**1. Cats with identification.** An animal shelter that accepts a cat with cat identification shall make a reasonable attempt to notify the owner by telephone or by sending a written notice within 24 hours of accepting the cat. Except as provided in subsections 4 and 5, the animal shelter shall hold the cat for a period of 6 days beginning on and including the day of acceptance. If the owner claims the cat within the 6-day period, the animal shelter shall release the cat to the owner upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care. Upon expiration of the 6-day period,

ownership of the cat is vested with the animal shelter and the animal shelter may then handle the cat as a homeless cat for disposition in accordance with subsection 2.

**2. Homeless cats.** When an animal shelter accepts a cat under section 3919 and that cat does not have cat identification, the animal shelter shall hold the cat for not less than 24 hours. After the 24-hour period, the animal shelter may treat the cat as a homeless cat and may:

A. Offer the cat for adoption, sell or give away the cat; or

B. Otherwise dispose of the cat humanely in accordance with Title 17, chapter 42, subchapter ~~IV~~ 4.

An animal shelter may not sell or give a cat to a research facility.

**3. Owner's claim after 6-day period.** An owner may reacquire a cat at any time prior to its disposition under subsection 2 upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care and any other reasonable fee imposed by the animal shelter.

**4. Euthanasia for severely sick, severely injured or extremely vicious cat.** A humane agent, an animal control officer or an animal shelter may authorize in writing the immediate euthanasia of a severely sick, severely injured or extremely vicious cat upon determining that the ~~animal control officer of the municipality where the cat was found has been notified or, if the cat has cat identification, the owner of the cat has been notified.~~ following conditions are met:

A. The animal control officer of the municipality where the cat was found has been notified or, if the cat has cat identification, the owner of the cat has been notified; and

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

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

**5. Immunity.** A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner of a cat for the loss of that cat resulting from actions taken in compliance with this section.

Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transference of a cat to a research facility in violation of subsection 2.

**Sec. 9. 7 MRSA §§3919-B and 3919-C** are enacted to read:

**§3919-B. Disposition of pet when owner is institutionalized**

Notwithstanding sections 3913 and 3919-A and except as provided in Title 17, section 1021, when a person brings a pet to an animal shelter because the owner of that pet is incarcerated or hospitalized, that person shall provide the animal shelter with the name and address of the pet's owner and the name and address of the facility where the person is incarcerated or hospitalized. The person bringing the pet to the shelter shall also provide the shelter with that person's name and address and that person's relationship to the owner or the official capacity in which that person is acting to enforce the animal welfare laws. The animal shelter may accept the pet unless the shelter is in quarantine. An animal shelter accepting a pet under this section shall comply with the provisions of this section.

**1. Notice.** An animal shelter that accepts a pet under this section shall within 24 hours of receiving the pet send a notice by mail, return receipt requested, to the owner of the pet. The notice must inform the owner of the provisions of this section.

**2. Release of pet.** Upon payment of costs incurred for food, shelter and veterinary care, an animal shelter shall release a pet accepted under this section to its owner or to a person who is designated in a letter signed by the owner as acting on the owner's behalf.

**3. Transfer of ownership; disposition of pet.** If an owner fails to arrange for release of a pet in accordance with subsection 2 within 10 days of the pet's acceptance by the shelter, ownership of the pet is vested with the animal shelter upon expiration of the 10-day period and the animal shelter may:

A. Offer the pet for adoption or sell or give away the pet; or

B. Dispose of the pet humanely in accordance with Title 17, chapter 42, subchapter 4.

An animal shelter may not sell or give a pet to a research facility.

**4. Claims.** When an owner does not arrange for the release of a pet under subsection 2, the animal shelter is entitled to receive from the department \$4 a day for food and shelter for the pet for a maximum of 10 days.

**5. Immunity.** A person who brings a pet to an animal shelter in accordance with this section is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3. A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3.

Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transfer of a pet to a research facility in violation of subsection 3.

**§3919-C. Animal held pending court decision**

When an animal shelter holds an animal at the request or with the approval of the department pending an investigation or disposition by the court of an alleged violation of chapter 739 or Title 17, chapter 42, the shelter is entitled to receive from the department \$4 a day for the period for which food and shelter are furnished to the animal.

**Sec. 10. 7 MRSA §3922, sub-§1, ¶B,** as amended by PL 2001, c. 422, §6, is further amended to read:

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. 11. 7 MRSA §3922, sub-§1, ¶C,** as enacted by PL 2001, c. 422, §7, is amended to read:

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

**Sec. 12. 7 MRSA §3922, sub-§1, ¶D** is enacted to read:

D. From the department using the Internet in accordance with section 3923-G.

**Sec. 13. 7 MRSA §3923-A,** as amended by PL 2001, c. 422, §§8 and 9, is further amended to read:

**§3923-A. License and recording fees**

Except as provided in subsection 3 and section 3923-C, a dog owner or keeper obtaining a license from a municipal clerk or dog recorder shall pay the license and recording fees established in this section.

**1. Dogs capable of producing young.** A dog owner or keeper shall pay a fee of ~~\$7.50~~ \$10 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 municipal clerk shall retain a \$1 as a recording fee and pay the remaining ~~\$6.50~~ \$9 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~~ \$6 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 municipal clerk shall retain a \$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~~ \$3 to the department for deposit in the Animal Welfare Fund.

**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;
- 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.

**4. Late fees.** An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk or dog recorder a late fee of ~~\$5~~ \$15 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 of ~~\$40~~ \$25 required by that section and is not subject to this subsection.

**Sec. 14. 7 MRSA §3923-C, sub-§2-A,** as amended by PL 1997, c. 690, §18, is further amended to read:

**2-A. License fees.** A kennel owner shall pay a fee of ~~\$24~~ \$42 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6 months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain ~~\$1~~ \$2 as a recording fee and forward ~~\$5~~ \$10 to the municipality's animal welfare account established pursuant to section 3945 and ~~\$15~~ \$30 to the Animal Welfare Fund.

**Sec. 15. 7 MRSA §3923-G** is enacted to read:

**§3923-G. Internet licensing project**

**1. Procedure developed; municipality participation.** The commissioner may develop and implement a procedure by which a dog owner can electronically apply for and be issued a dog license using a publicly accessible site on the Internet. A municipality may choose to participate in the electronic dog licensing project by contacting and working with the commissioner. Electronic licensing is available only to residents of a municipality that requests and is accepted by the commissioner to participate in the electronic licensing project. The commissioner may limit the number of municipalities that participate in the project.

**2. Forms; verification of rabies immunization.** The commissioner shall develop a form to be used for electronic licensing under this section. The commissioner shall consult with the Commissioner of Human Services to establish the information needed to verify rabies immunization.

**3. Payment of licensing fee.** The commissioner shall establish a mechanism for accepting payment of license fees by credit card. An owner or keeper who applies for a dog license using the publicly accessible site on the Internet developed pursuant to subsection 1 shall pay the fee required under section 3923-A and an additional service fee of \$1 for each license to cover administrative costs and pay the Internet service provider.

**4. Distribution of licensing fee.** The commissioner shall deposit all fees received under this section into the Animal Welfare Fund. The commissioner shall establish procedures for participating municipalities to periodically receive the appropriate credit or payment for license fees collected by the department under this section. A municipality is entitled to a payment or credit of \$3 for each dog licensed under this section. All payments or credits received by a municipality must be deposited or credited to the municipality's animal welfare account established in accordance with section 3945.

**5. Sticker requirement.** Notwithstanding section 3923-B, for a dog licensed under this section, the commissioner may waive the requirement that a sticker indicating the year for which a license is valid be affixed to the tag. An owner of a dog that does not have a valid sticker affixed to its tag shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

**Sec. 16. 7 MRSA §3931-A, sub-§2,** as enacted by PL 1991, c. 779, §29, is amended to read:

**2. License fees.** The fee for a breeding kennel license is ~~\$50~~ \$75.

**Sec. 17. 7 MRSA §3932, sub-§2,** as amended by PL 1991, c. 779, §30, is further amended to read:

**2. License fees.** The fee for a boarding kennel license is ~~\$50~~ \$75.

**Sec. 18. 7 MRSA §3932-A, sub-§2,** as enacted by PL 1993, c. 657, §33, is amended to read:

**2. License fee.** The license fee for an animal shelter is ~~\$20~~ \$100.

**Sec. 19. 7 MRSA §3933, sub-§2,** as amended by PL 1991, c. 779, §31, is further amended to read:

**2. License fees.** The fee for a pet shop license is ~~\$400~~ \$150.

**Sec. 20. 7 MRSA §3942,** as amended by PL 2001, c. 617, §7, is further amended to read:

**§3942. Issuance of dog licenses**

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the department ~~\$6.50~~ \$9 for dogs capable of producing young and ~~\$1~~ \$3 from each license fee received for dogs incapable of producing young. The clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all dogs except those covered by a kennel license. The clerks shall make a monthly report to the department on a department-approved form of all dog licenses issued and fees received.

The ~~clerks clerk~~ shall retain \$1 from each license fee as a recording fee. The clerk shall deposit \$2 from each license for a dog incapable of producing young in the municipality's animal welfare account established in accordance with section 3945.

**Sec. 21. 7 MRSA §3943, sub-§1,** as amended by PL 1999, c. 136, §1, 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 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 ~~\$10~~ \$25 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. 22. 7 MRSA §3991, sub-§1,** as enacted by PL 1987, c. 383, §3 and amended by PL 1993, c. 468, §25, is further amended to read:

**1. License necessary.** No research or teaching institution of higher education may employ live animals in scientific investigation, experiment or instruction or for the testing of drugs or medicines without first having been issued a license under this section by the commissioner. A research or teaching institution desiring to obtain a license shall make application to the commissioner. On receipt of the application, the commissioner shall make or cause to be made such investigation as ~~the commissioner~~

considers necessary to determine whether the public interest will be served by the issuance of the license. The commissioner may issue the license provided that the research or teaching institution, by reason of its standards, facilities, practices or activities, is a fit and proper institution to receive the license and that its issuance is in the public interest. The standards for licensure ~~shall be~~ are those contained in the United States Code, Title 7, Section 2143, and any federal regulations issued pursuant to that law. Nothing in this chapter may be construed to be more restrictive than federal law. In the case of conflict between state law and federal law or a mandatory rule, regulation or order of the Federal Government or its agencies, the federal law, rule, regulation or order ~~shall govern~~ governs. Each research or teaching institution licensed under this chapter, before issuance of the license, shall pay to the commissioner a license fee of ~~\$50~~ \$200. Each license ~~shall expire~~ expires on June 30th next following the date of issue. The commissioner shall annually renew each license upon the application of the licensee, unless, after notice and hearing as provided in this chapter, ~~if the commissioner finds~~ that, by reason of the standards, facilities, practices or activities of the licensee, the renewal is not in the public interest. The commissioner, after notice and hearing as provided in this chapter, may modify, fail to renew, suspend or revoke any license if ~~if the commissioner finds~~ that, by reason of the standards, facilities, practices or activities of the licensee, the continuation of the license is not in the public interest.

**Sec. 23. 7 MRSA §4013, sub-§2,** as enacted by PL 1987, c. 383, §3, 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. 24. 17 MRSA §1031, sub-§1-B,** as enacted by PL 2001, c. 425, §8, is amended 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~~ Causes the death of an animal; or
- C. Physically tortures an animal.

**Sec. 25. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Animal Welfare Fund 0946**

Initiative: Allocates funds for 2 additional District Humane Agent positions, increased operating costs and the costs of establishing a spay/neuter pet program to benefit low-income families.

<b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
Positions - Legislative Count	(2,000)	(2,000)
Personal Services	\$88,500	\$120,000
All Other	147,032	194,042
	<hr/>	<hr/>
Other Special Revenue		
Funds Total	\$235,532	\$314,042

**Animal Welfare Fund 0946**

Initiative: Allocates funds for the newly established Animal Welfare Auxiliary Fund.

<b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
All Other	\$500	\$500
	<hr/>	<hr/>
Other Special Revenue		
Funds Total	\$500	\$500

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2003-04</b>	<b>2004-05</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$236,032</b>	<b>\$314,542</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$236,032</b>	<b>\$314,542</b>

See title page for effective date.

**CHAPTER 406**

**S.P. 524 - L.D. 1561**

**An Act To Clarify the InforME Public Information Access Act**

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

**Sec. 1. 1 MRSA §532, sub-§2-A** is enacted to read:

**2-A. Electronic services.** "Electronic services" means services provided by InforME through electronic means. "Electronic services" may include, but is not limited to, providing access to information, processing credential renewals, completing forms and filing documents.

**Sec. 2. 1 MRSA §532, sub-§6,** as enacted by PL 1997, c. 713, §1, is amended to read:

**6. Subscriber.** "Subscriber" means a person who, in exchange for a fee established under section 534, subsection 5, paragraph G, receives premium