

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

CHAPTER 439
H.P. 1137 - L.D. 1615

**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-§4, as amended by PL 1997, c. 690, §2, is further amended to read:

4. Training and certification of animal control officers. The commissioner shall develop both a basic and advanced program to train animal control officers. ~~This~~ The basic program must include training in investigation of complaints of cruelty to animals, training in response to calls concerning animals suspected of having rabies and training in enforcement of dog licensing laws and rabies immunization laws. ~~The commissioner shall certify all animal control officers who complete the training program.~~

The advanced training must include, but is not limited to, training in animal cruelty with respect to hoarders of animals, animal cruelty with respect to domestic violence, new laws, case reviews and report writing.

The commissioner shall certify all animal control officers who complete the training programs.

Sec. 2. 7 MRSA §3906-B, sub-§9, as amended by PL 2003, c. 405, §1, is further amended to read:

9. Employees. The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, necessary employees to assist 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 murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13, a violation of Title 19-A, section 4011 or a criminal violation under Title 17, chapter 42 or a person who has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this subsection.

Sec. 3. 7 MRSA §3907, sub-§12-E is enacted to read:

12-E. Feral cat. "Feral cat" means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.

Sec. 4. 7 MRSA §3907, sub-§18-A, as repealed and replaced by PL 2003, c. 334, §2, is amended to read:

18-A. Livestock. "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

Sec. 5. 7 MRSA §3907, sub-§23-A is enacted to read:

23-A. Rescue group. "Rescue group" means an organization or individual that receives animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes. "Rescue group" does not include a facility licensed under chapter 723.

Sec. 6. 7 MRSA §3913, sub-§4, ¶A, as amended by PL 1993, c. 657, §17, is further amended to read:

A. ~~Sell~~ Except as provided in section 3938-A, sell or give away the dog, but not to a research facility, if a license is first obtained in accordance with chapter 721; or

Sec. 7. 7 MRSA §3914, as amended by PL 1993, c. 657, §19, is further amended to read:

§3914. Purchase and sale of animals

Animal shelters, kennels, breeding kennels, boarding kennels and pet shops engaged in buying or selling animals shall keep records of the buyer and seller in each transaction for a 2-year period commencing at the time of purchase or sale. The records must be open to inspection by the department or law enforcement officers. A person not in possession of a valid license for an animal shelter, kennel, breeding kennel, boarding kennel or pet shop shall obtain a vendor's license under section 4163 prior to selling, offering for sale or exchanging for value a cat or dog.

Sec. 8. 7 MRSA §3916, sub-§1-A, as enacted by PL 2005, c. 422, §3, is amended to read:

1-A. Required for dogs. A person owning or keeping a dog, ~~except for a wolf hybrid~~, shall, within 30 days after the dog attains the age of 6 months, cause the dog to be ~~immunized~~ vaccinated against rabies and shall have booster vaccinations administered periodically in accordance with rules adopted by the Commissioner of Health and Human Services under section 3922, subsection 3. A wolf hybrid is required to be vaccinated in accordance with this subsection. The procedure prescribed under Title 22, chapter 251, subchapter 5 for a wolf hybrid suspected of having rabies does not change based on proof that the wolf hybrid has received a rabies vaccination.

Sec. 9. 7 MRSA §3919-A, sub-§2, as amended by PL 2003, c. 405, §8, is further amended to read:

2. Homeless cats. When an animal shelter accepts a cat under section 3919 and that cat does not

have cat identification or is determined to be a feral cat, the animal shelter shall hold the cat for not less than 24 48 hours. After the ~~24 hour~~ 48-hour period, the animal shelter may treat the cat as a homeless cat and may:

A. ~~Offer~~ Except as provided in section 3938-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 4.

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

Sec. 10. 7 MRSA §3919-A, sub-§4, as amended by PL 2003, c. 405, §8, is further amended to read:

4. Euthanasia for severely sick or severely injured cat. A humane agent, an animal control officer or an animal shelter may authorize in writing the immediate euthanasia of a severely sick, or severely injured ~~or extremely vicious~~ cat upon determining that the 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.

Sec. 11. 7 MRSA §3919-C, as enacted by PL 2003, c. 405, §9, is amended to read:

§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~~ monetary compensation in accordance with this section for the period for which food and shelter are furnished to the animal.

1. Compensation for dogs and cats. Compensation for a dog or cat is \$5 a day. Compensation for a female cat or dog with a litter that has not been weaned is \$8 a day.

2. Equines. Compensation for an equine is \$10 a day.

3. Livestock. Except for equines, fowl and rabbits, compensation for a livestock animal is between

\$5 and \$8 a day as determined by the department based on the size of the animal.

4. Other animals. Compensation for a rabbit is \$2 a day. Compensation for a bird, including poultry, is \$1 a day. Compensation for other animals is as determined by the department.

Sec. 12. 7 MRSA §3922, sub-§3, as amended by PL 1997, c. 704, §7 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

3. Proof of immunization. ~~Except as provided in subsection 3-A,~~ a municipal clerk may not issue a license for a dog until the applicant has filed with the clerk proof that the dog has been immunized against rabies in accordance with rules adopted by the Commissioner of Health and Human Services, except that the requirement of immunization may be waived by the clerk under conditions set forth by the Commissioner of Health and Human Services.

The commissioner shall adopt rules that allow the clerk and the commissioner to accept valid proof of immunization against rabies provided by another state.

Sec. 13. 7 MRSA §3922, sub-§3-A, as enacted by PL 1997, c. 704, §8, is repealed.

Sec. 14. 7 MRSA §3922, sub-§6, as enacted by PL 1997, c. 704, §10, is amended to read:

6. Designation of wolf hybrid. An owner or keeper of a dog declared as a wolf hybrid may not change the license designation. A dog that has been declared a wolf hybrid must be treated as a wolf hybrid in accordance with Title 22, chapter 251, subchapter ~~5~~ 5. The procedure prescribed under Title 22, chapter 251, subchapter 5 for a wolf hybrid suspected of having rabies does not change based on proof that the wolf hybrid has received a rabies vaccination.

Sec. 15. 7 MRSA §3923-A, sub-§1, as amended by PL 2003, c. 405, §13, is further amended to read:

1. Dogs capable of producing young. A dog owner or keeper shall pay a fee of ~~\$10~~ \$11 to the municipal clerk 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 recording fee and pay the remaining ~~\$9~~ \$10 to the department for deposit in the Animal Welfare Fund.

Sec. 16. 7 MRSA §3923-B, as amended by PL 1999, c. 254, §§5 and 6, is further amended to read:

§3923-B. Tags

1. Tags. The municipal clerk shall provide with each new license issued under section 3923-A a tag indicating the year the license is issued and bearing other information prescribed by the department. ~~The~~

~~tag remains with the dog for as long as the dog is kept in the licensing municipality. At each license renewal, the municipal clerk shall provide a sticker indicating the year for which the license is valid. The sticker must be attached to the back of the tag.~~ The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued, except as provided in subsection 3.

If ~~a sticker and the tag are~~ is lost or the owner has moved to a different municipality, the owner or keeper of the dog shall obtain a new license, ~~and tag and sticker.~~ The municipal clerk shall issue another license, ~~and tag and sticker~~ upon presentation of the original license and payment of \$1. The clerk shall retain the \$1 for a recording fee.

2-A. Rabies tags. An owner shall ensure that a rabies tag obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the rabies tag was issued, except as provided in subsection 3.

3. Exceptions. A dog is not required to wear a tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog is hunting, in training or in an exhibition, its owner or keeper 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. 17. 7 MRSA §3923-G, sub-§5, as enacted by PL 2003, c. 405, §15, is repealed.

Sec. 18. 7 MRSA §3932, sub-§4 is enacted to read:

4. Advertising. A boarding kennel shall prominently display the state-issued kennel license number in any form of print advertising.

The license number must be provided to a person boarding an animal at a boarding kennel.

Sec. 19. 7 MRSA §3932-A, sub-§3 is enacted to read:

3. Temporary placement. Facilities where animals are temporarily placed by the department are exempt from licensing requirements.

Sec. 20. 7 MRSA §3933, sub-§5 is enacted to read:

5. Advertising. A pet shop license holder advertising to the public the availability of a dog or cat for sale or in any way exchanging a dog or cat for value shall prominently display the state-issued pet shop license number in any publication in which the pet

shop license holder advertises. The pet shop license number must be provided to a person adopting or purchasing an animal from the pet shop.

Sec. 21. 7 MRSA §3935, as amended by PL 2005, c. 422, §8, is further amended to read:

§3935. License prohibited

The department may not issue a license to maintain a boarding kennel, breeding kennel or pet shop to a person who, within the ~~5~~ 10 years previous to the application for the license, has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13 or a criminal violation under Title 17, chapter 42, or under a criminal law involving cruelty to animals that is no longer in effect, or within 2 10 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739 or has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section.

Sec. 22. 7 MRSA §3938-A is enacted to read:

§3938-A. Minimum age of transfer for cats and dogs

A person or an animal shelter, boarding kennel, breeding kennel or pet shop that sells, gives away or otherwise transfers ownership of a dog or cat before it has reached its 56th day of life commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged.

Sec. 23. 7 MRSA §3939-A is enacted to read:

§3939-A. Spay; neuter of dogs and cats

1. Spay; neuter. Except as otherwise provided in subsections 2 and 3, an animal shelter or rescue group may not place with a new owner a dog or cat that has not been spayed or neutered unless an appointment has been made with a licensed veterinarian to spay or neuter the animal within 30 days of accepting ownership. A person who accepts ownership of a dog or cat that is unaltered shall, in addition to any other charges or other fees, make a deposit equal to 100% of the cost of the scheduled surgery with the animal shelter or rescue group and shall sign a spay-neuter agreement. The animal shelter or rescue group must refund the deposit upon receiving proof of sterilization.

For purposes of this section, "place" means to sell, give away or otherwise transfer possession of a cat or dog.

2. Detrimental to health. If a licensed veterinarian or veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter or

rescue group shall collect a deposit of not less than \$50 and not more than \$150 at the time of sale or placement. The animal shelter or rescue group shall determine the amount of the deposit based on the cost of spaying or neutering within the geographic area served by the animal shelter or rescue group. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

Upon receipt of proof of sterilization, the animal shelter or rescue group shall immediately and fully refund the deposit.

3. Extension. Notwithstanding subsection 1, an animal shelter or rescue group may extend the date by which spaying or neutering is to be completed at its discretion for good cause. An extension must be in writing.

4. Reimbursement of deposit. If a dog or cat dies prior to spaying or neutering and within the agreement period, the owner is entitled to reimbursement of the deposit paid under subsection 1. If a dog or cat dies prior to spaying or neutering and within 120 days of signing an agreement under subsection 2, the owner is entitled to reimbursement of the deposit paid under subsection 2. To receive reimbursement under this subsection, the owner must provide the animal shelter or rescue group with a letter signed by a licensed veterinarian stating that the cat or dog has died and providing a description of the animal.

5. Unclaimed deposits. Except as provided in subsections 2, 3 and 4, deposits received under subsection 1 or 2 that are unclaimed within 120 days of the date the spay-neuter agreement was signed must be:

A. Used to subsidize spaying or neutering of dogs and cats offered for placement by the animal shelter or rescue group receiving the deposits; or

B. Remitted to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B.

When extensions are granted under subsection 3 and the deposits are unclaimed 120 days after the extended date for spaying or neutering, those deposits must be disposed of under paragraphs A and B.

Sec. 24. 7 MRSA §3939-B is enacted to read:

§3939-B. Violations

1. Noncompliance by new owner. If a person receiving a dog or cat from an animal shelter or rescue group fails to comply with section 3939-A, that person forfeits the sterilization deposit and commits a civil violation for which a fine of not less than \$50 nor more than \$200 per animal may be adjudged.

2. Noncompliance by animal shelter or rescue group. If an animal shelter or rescue group fails to

require a spay-neuter agreement or fails to collect a deposit as required under section 3939-A, that animal shelter or rescue group commits a civil violation for which a fine of not less than \$50 nor more than \$200 per animal may be adjudged.

Sec. 25. 7 MRSA §3941, as amended by PL 1997, c. 690, §25, is further amended to read:

§3941. Posting of law

Municipal clerks, annually, at least 20 days before January 1st, shall post copies of chapter 721 and this chapter in the usual places for posting notices of the annual municipal elections offices.

Sec. 26. 7 MRSA §3947, as amended by PL 1997, c. 690, §28, is further amended to read:

§3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3943, 3948, 3950, 3950-A, 3952 and 4041 and Title 17, section 1023 responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and such any other duties to control animals as the municipality may require.

A municipality may not appoint a person to the position of animal control officer who has been convicted of murder, a Class A or Class B offense or a violation of Title 17-A, chapter 9, 11, 12 or 13 or 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 to the position of animal control officer or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section.

Animal control officers must be certified in accordance with section 3906-B, subsection 4. Upon initial appointment, an animal control officer must complete basic training and be certified by the commissioner within 6 months of appointment.

An animal control officer must attend advanced training programs as described under section 3906-B, subsection 4 to maintain certification. An animal control officer must have a minimum of 8 hours of training each year.

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer.

Sec. 27. 7 MRSA §4015, sub-§2, as amended by PL 2005, c. 340, §1, is further amended to read:

2. Outdoor standards. Minimum outdoor standards of shelter shall be are as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means ~~shall~~ must be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine ~~farm animals~~ livestock.

B. Except as provided in subsections 5 and 6, shelter from inclement weather must be as follows.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species concerned and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter ~~of suitable size with a floor above ground and waterproof roof~~ must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of ~~30~~ 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

C. ~~No~~ An animal may not be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

Sec. 28. 7 MRSA §4015, sub-§6, as enacted by PL 2005, c. 340, §2, is amended to read:

6. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure. For dogs other than arctic breeds, the portal must be constructed ~~in a manner that keeps~~ with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must ~~have~~ be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog's normal body heat; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from be-

coming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than arctic breeds, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For arctic breeds, the chain or tether must be ~~at least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail;~~

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate.

Sec. 29. 7 MRSA §4041, sub-§1-A, as enacted by PL 1999, c. 254, §15, is amended to read:

1-A. Trespass. An owner of an animal may not allow that animal to enter onto the property of another after the owner has been ~~warned~~ informed by a law enforcement officer or animal control officer that that animal was found on the property of another.

Sec. 30. 7 MRSA §4041, sub-§3, ¶A, as amended by PL 1999, c. 254, §15, is further amended to read:

A. That person fails to remove the animal within 12 hours, or immediately if public safety is threatened, after having been personally notified by an animal control officer or law enforcement officer that the animal was trespassing.

Sec. 31. 7 MRSA §4151, sub-§4, as amended by PL 1997, c. 690, §50, is further amended to read:

4. Pet dealer. "Pet dealer" means a person, firm, partnership, corporation or association, including breeders, that sells more than 16 animals to the public in a 12-month period. "Pet dealer" includes the owner or operator of a breeding kennel. "Pet dealer" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal shelters licensed in accordance with section 3932-A.

Sec. 32. 7 MRSA §4155, sub-§5 is enacted to read:

5. Pet dealers not exempt. Pet dealers may not, contractually or otherwise, exempt themselves from the remedies provided by this section for deaths or

health problems caused by infectious, contagious, parasitic or communicable disease.

Sec. 33. 7 MRSA §4157, sub-§2, ¶D, as enacted by PL 1995, c. 589, §1, is repealed.

Sec. 34. 7 MRSA §4163 is enacted to read:

§4163. Dog or cat vendor's license

A person may not advertise for sale, sell or exchange for value more than one cat or dog in a 12-month period unless that person has a valid animal shelter, kennel, breeding kennel or pet shop license or a valid vendor's license issued under this section.

1. Vendor's license; fee. A person may apply for a vendor's license by completing and submitting to the department an application form provided by the department along with a \$25 vendor's license fee. Upon receipt of a completed application and the fee, the department shall issue a vendor's license and an identifying license number that is valid for a period of 60 days from the date of issuance.

2. Advertising. A person possessing a vendor's license issued under this section must include that vendor's license number in any form of advertising, brochure or sign that announces the availability of a dog or cat for sale or exchange. The vendor's name and license number must be provided to a person purchasing or otherwise receiving a dog or cat from the vendor.

3. Violation. A person who fails to comply with this section commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged, none of which may be suspended.

Sec. 35. 17 MRSA §1011, sub-§18-A, as repealed and replaced by PL 2003, c. 334, §3, is amended to read:

18-A. Livestock. "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids; fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

Sec. 36. 17 MRSA §1027 is enacted to read:

§1027. Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting

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

A. "Authority" means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer or animal control officer that seizes or impounds an animal pursuant to section 1021.

2. Show cause hearing. When an animal is lawfully seized or impounded pursuant to section 1021 or

1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing within 10 days of receipt of the petition. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

3. Post security. If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized or, if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order the person from whom an animal is seized or a person claiming an interest in the seized animal to post a security.

4. Payment of expenses. The security must be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a period of at least 30 days. The court upon the recommendation of the authority shall determine the amount of the security. Reasonable expenses include, but are not limited to, estimated medical care, shelter and board.

5. Draw actual reasonable costs. When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, board and record keeping.

6. Post with clerk. If the court orders the posting of security, the security must be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

7. Disposition of animal. Posting of the security does not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

8. Order denied. The authority may humanely dispose of the animal at the end of the period for

which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

9. Recover damages. The owner or custodian of an animal humanely killed pursuant to this section is not entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

10. Refund. The court may direct a refund to the person who posted the security in whole or in part for expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

Sec. 37. 17 MRSA §1031, sub-§3-B, ¶A, as enacted by PL 2003, c. 452, Pt. I, §20 and affected by Pt. X, §2, is amended to read:

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than ~~\$250~~ \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal.

Sec. 38. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Animal Welfare Fund 0946

Initiative: Allocates additional funds for the Animal Welfare Fund.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$26,000	\$26,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$26,000	\$26,000

See title page for effective date.

CHAPTER 440 H.P. 1229 - L.D. 1763

An Act To Amend the Maine Certificate of Need Act of 2002

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Certificate of Need Act of 2002 is an important tool in the planning and development of affordable health care services in the State; and

Whereas, the changes proposed in this legislation are necessary immediately for the enhancement of strength and clarity of the Maine Certificate of Need Act of 2002; 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. 22 MRSA §328, sub-§18-A is enacted to read:

18-A. Nursing facility MaineCare funding pool. "Nursing facility MaineCare funding pool" means that limit established in accordance with section 333-A for nursing facility projects.

Sec. 2. 22 MRSA §329, sub-§2, as amended by PL 2003, c. 469, Pt. C, §7, is repealed.

Sec. 3. 22 MRSA §329, sub-§2-A is enacted to read:

2-A. Acquisitions of major medical equipment. Acquisitions of major medical equipment. The following provisions apply to acquisitions of major medical equipment.

A. The cost of all major medical equipment must be declared at fair market value.

(1) If an entity purchases major medical equipment from an unrelated entity, the purchase price is assumed to reflect the fair market value.

(2) If an entity purchases major medical equipment from a related entity and the department finds that the fair market value is greater than the purchase price, the department may revise the cost of the major medical equipment to reflect the correct fair market value.

B. The following acquisitions of major medical equipment do not require a certificate of need:

(1) Major medical equipment being replaced by the owner; and

(2) The use of major medical equipment on a temporary basis in the case of a natural dis-