

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

DEPARTMENT TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	\$225,007	\$206,036
DEPARTMENT TOTAL - ALL FUNDS	\$225,007	\$206,036
SECTION TOTALS	2009-10	2010-11
OTHER SPECIAL REVENUE FUNDS	\$974,108	\$950,688
SECTION TOTAL - ALL FUNDS	\$974,108	\$950,688

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 15, 2009.

CHAPTER 403

H.P. 666 - L.D. 964

An Act Pertaining to the Breeding and Selling of Dogs and Cats and Equitable Funding of Animal Welfare

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

Sec. 1. 7 MRSA §3907, sub-§8-A, as amended by PL 2007, c. 702, §3, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~ sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

Sec. 2. 7 MRSA §3923-C, sub-§5, as repealed and replaced by PL 1997, c. 690, §21, is amended to read:

5. Kennel inspection and quarantine. Except for a kennel inspected by the department in accordance

with chapter 723, an animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. In addition to the annual inspection required under this subsection, an animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel. Inspections must be conducted in accordance with the sanitation and health rules established by the department for compliance with laws and rules. In conducting inspections, an animal control officer must use measures established by the department through rulemaking to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. 3. 7 MRSA §3931-A, sub-§1, as amended by PL 1995, c. 490, §10, is further amended to read:

1. License necessary. A person maintaining a breeding kennel, as defined in section 3907, must obtain a license from the department and is subject to rules adopted by the department. The license expires 12 months after the date of issuance. An applicant for a breeding kennel license shall state in the application the number of female dogs or cats capable of breeding that are maintained at the breeding kennel. The department shall issue a license or a conditional license under subsection 6 in one of the 3 categories described in paragraphs A, B and C and collect a fee in accordance with subsection 2.

A. A breeding kennel that maintains at least 5 but no more than 10 female dogs or cats capable of breeding is a Category 1 breeding kennel.

B. A breeding kennel that maintains at least 11 but no more than 20 female dogs or cats capable of breeding is a Category 2 breeding kennel.

C. A breeding kennel that maintains 21 or more female dogs or cats capable of breeding is a Category 3 breeding kennel.

Sec. 4. 7 MRSA §3931-A, sub-§2, as amended by PL 2003, c. 405, §16, is repealed and the following enacted in its place:

2. License fees. The license fee is \$75 for a Category 1 breeding kennel, \$100 for a Category 2 breeding kennel and \$150 for a Category 3 breeding kennel.

Sec. 5. 7 MRSA §3931-A, sub-§5, as enacted by PL 2007, c. 702, §8, is amended to read:

5. License number requirements. A breeding kennel shall prominently display in ~~written~~ any advertising the state-issued kennel license number.

The breeding kennel shall provide its license number to a person purchasing or receiving an animal from the breeding kennel.

Sec. 6. 7 MRSA §3931-A, sub-§6 is enacted to read:

6. Conditional breeding kennel license. Upon receiving an application for a breeding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional breeding kennel license. The conditional license remains in effect until the breeding kennel passes an inspection under section 3936. If a breeding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional breeding kennel license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

Sec. 7. 7 MRSA §3936, sub-§1, as amended by PL 1997, c. 690, §24, is further amended to read:

1. Inspection and quarantine. The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter an animal shelter, kennel, boarding kennel, breeding kennel or pet shop and make examinations and conduct any recognized tests for the existence of contagious or infectious diseases or conditions. If the animal shelter, kennel, boarding kennel, breeding kennel or pet shop is also used for human habitation, the person authorized to make examinations and conduct tests must be escorted by the owner, or the owner's agent, of the animal shelter, kennel, boarding kennel, breeding kennel or pet shop and the examinations and tests may be made only in those portions of the premises used as an animal shelter, kennel, boarding kennel, breeding kennel or pet shop. The commissioner may inspect animal shelters, kennels, boarding kennels, breeding kennels and pet shops in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. In conducting inspections, measures established by the department through rulemaking must be used to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A 2-A~~. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding ken-

nel or pet shop, in person or by registered mail, and the quarantine must be maintained as long as the department determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of violations.

Sec. 8. 7 MRSA §3936-A is enacted to read:

§3936-A. Noncompliance; subsequent inspection required

If, upon inspection under section 3936, the commissioner or the commissioner's designee finds a facility licensed under this chapter to be in violation of this chapter or rules adopted under this chapter, the commissioner or the commissioner's designee shall issue a written notice describing the violation, the required corrective action to be taken and the date by which the correction must be made. No fee is charged for the first follow-up inspection. If the corrective action has not been taken within the specified period and 2 or more follow-up inspections are needed in any calendar year, the department shall charge the licensee a fee equal to 50% of the original license fee for each follow-up inspection. The original notice of a violation must inform the licensee of the fee charged for follow-up inspections.

If the person operating the facility fails to complete corrective actions by the date noted in the original notice or a subsequent date specified by the department, the department may revoke, suspend or refuse to renew a license issued under this chapter pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

Sec. 9. 7 MRSA §4152, sub-§1, ¶A, as amended by PL 2007, c. 702, §23, is further amended to read:

A. An animal history that includes:

- (1) For sellers licensed with the United States Department of Agriculture, the name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal. For sellers licensed with the State, the name, address of the seller and the license number issued under section 3931-A, 3933 or 4163;
- (2) The date of the animal's birth;
- (3) The date the seller received the animal if the animal was not born on the seller's premises;
- (4) The breed, sex, color and identifying marks of the animal. If the breed is unknown or mixed, that fact must be stated;

- (5) The individual identifying tag, tattoo, microchip identification number or collar number;
- (6) For pure bred animals that are advertised as eligible for registration, the name and registration number of the sire and dam and, if available, the litter number; and
- (7) A record of inoculations, worming internal or external parasite treatments, medication or any veterinarian examination or treatment received by the animal while in the possession of the breeder or dealer seller;

Sec. 10. 7 MRSA §4152-A is enacted to read:

§4152-A. Documents necessary for breed registration

1. Requirement to provide. A seller who states, promises or represents that an animal is registered or capable of registration with an animal pedigree organization shall provide the purchaser with the documents necessary for registration at the time of sale or within 90 days of the sale unless specified otherwise in a contractual agreement signed by the purchaser.

2. Process to acquire documentation. If the purchaser does not receive the necessary documents within the time period specified in subsection 1, the purchaser may send a written request for the documents to the seller via certified mail. Within 60 days of receiving the request, the seller must deliver the documents directly or send them by certified mail to the purchaser.

3. Failure to provide documentation; resolution. If the seller fails to provide the necessary documents in accordance with subsection 2, the purchaser is entitled to a partial refund of 50% of the purchase price. Upon payment of the refund, a seller is absolved of the requirement to provide the documents necessary for breed registration. Acceptance of the registration papers by the purchaser outside of the required time period waives the purchaser's right to a partial refund.

Sec. 11. 17 MRSA §1011, sub-§8-A, as amended by PL 2007, c. 702, §38, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under Title 7, section 3923-C when the dogs are kept primarily for hunting, show, training, ~~mushing~~ sledding, competition, field trials or exhibition purposes and not more than 16

dogs are offered for sale, sold or exchanged for value within a 12-month period.

Sec. 12. Commissioner of Agriculture, Food and Rural Resources and Attorney General to review provisions and processes pertaining to the State taking possession of animals that have been abused. The Commissioner of Agriculture, Food and Rural Resources and the Attorney General shall convene a working group to review the provisions in the Maine Revised Statutes, Title 17, chapter 42, subchapter 2. The commissioner and the Attorney General shall invite representatives of the judicial branch and the district attorneys to join in a discussion of the processes for seizing animals and requirements for the care of those animals prior to a transfer of ownership. The working group shall review costs of care for animals seized or held by the State pending adjudication or prosecution and make recommendations for reducing costs while humanely caring for the animals and providing due process for the owners. The commissioner and other participants in the working group shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than December 9, 2009 with a summary of the discussions and recommendations of the working group to expedite court actions in cases involving cruelty to animals.

Sec. 13. Authorization to submit legislation. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation pertaining to animal welfare and the funding of the animal welfare program within the Department of Agriculture, Food and Rural Resources to the Second Regular Session of the 124th Legislature.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Animal Welfare Fund 0946

Initiative: Provides one-time funding for database changes to accommodate 3 levels of fee structures for licensing breeding kennels.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$6,000	\$0
	\$6,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$6,000	\$0

See title page for effective date.