

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST SPECIAL SESSION
October 23, 2017 to November 6, 2017

SECOND REGULAR SESSION
January 3, 2018 to May 2, 2018

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 5, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2018

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

Augusta, Maine
2018

required ballots on which the clerk shall reduce the subject matter of this Part to the following question:

"Shall Cary Plantation be deorganized?"

The voters shall indicate their opinion on this question by a cross or check mark placed against the word "Yes" or "No." Before becoming effective, the question posed to voters must be approved by at least 2/3 of the legal voters casting ballots during the state-wide election, and the total number of votes that are cast for and against the deorganization in the election must equal or exceed 50% of the total number of votes cast in the plantation for Governor at the last gubernatorial election.

The municipal officers of Cary Plantation shall declare the result of the vote. The clerk of Cary Plantation shall file a certificate of the election result with the Secretary of State within 10 days from the date of the election.

Sec. B-9. Effective date. Sections 1 to 7 of this Part take effect July 1, 2019 if the legal voters of Cary Plantation approve the referendum under section 8 of this Part.

PART C

Sec. C-1. Register and transmit copy of approved deorganization procedure. Before the effective date of the deorganization of Cary Plantation pursuant to Part B, the fiscal administrator of the unorganized territory within the Office of the State Auditor shall transmit a copy of the approved deorganization procedure developed in accordance with the Maine Revised Statutes, Title 30-A, section 7205 to the Aroostook County administrator, and shall register the approved deorganization procedure with the Aroostook County Registry of Deeds.

Sec. C-2. Effective date. This Part takes effect upon approval of the referendum under Part B, section 8.

Effective pending referendum.

CHAPTER 404

H.P. 607 - L.D. 858

An Act To Strengthen the Law Regarding Dangerous Dogs and Nuisance Dogs

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 7 MRSA §3907, sub-§8-B is enacted to read:

8-B. Bodily injury. "Bodily injury" has the same meaning as in Title 17-A, section 2, subsection 5.

Sec. 2. 7 MRSA §3907, sub-§12-D, as amended by PL 2011, c. 100, §3, is repealed and the following enacted in its place:

12-D. Dangerous dog. "Dangerous dog" means a dog or wolf hybrid that causes the death of or inflicts serious bodily injury on an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury or death; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent serious bodily injury by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog or wolf hybrid that inflicts bodily injury on an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury and has previously been determined by a court of competent jurisdiction to be a nuisance dog.

"Dangerous dog" does not include:

A. A dog certified by the State and used for law enforcement use;

B. A dog or wolf hybrid that injures or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the injury or threatened assault; or

C. A dog or wolf hybrid that inflicts serious bodily injury on or causes the death of an individual who is committing a crime against an individual or property owned by the dog or wolf hybrid owner or keeper.

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

Sec. 3. 7 MRSA §3907, sub-§20-A is enacted to read:

20-A. Nuisance dog. "Nuisance dog" means a dog or wolf hybrid that causes bodily injury, other than serious bodily injury, to an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf

hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear bodily injury, other than serious bodily injury, by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog or wolf hybrid that causes damage to property or crops not owned by the dog or wolf hybrid owner or keeper while the dog or wolf hybrid is not on the owner's or keeper's premises.

"Nuisance dog" does not include:

A. A dog certified by the State and used for law enforcement use;

B. A dog or wolf hybrid that injures or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the injury or threatened assault; or

C. A dog or wolf hybrid that inflicts bodily injury on an individual who is committing a crime against an individual or property owned by the dog or wolf hybrid owner or keeper.

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

Sec. 4. 7 MRSA §3907, sub-§24-B is enacted to read:

24-B. Serious bodily injury. "Serious bodily injury" has the same meaning as in Title 17-A, section 2, subsection 23.

Sec. 5. 7 MRSA §3922, sub-§5, as amended by PL 1997, c. 704, §9, is further amended to read:

5. Form of license. The license must state the breed, sex, color and markings of the dog, whether the animal is a dog or wolf hybrid, whether the dog has been determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog and the name and address of the owner or keeper. If the person applying for a license declares that the dog is a wolf hybrid, the license must state that the dog is a wolf hybrid. The license must be issued in triplicate and the original must be given to the applicant and the remaining 2 copies must be retained by the municipal clerk or dog recorder.

Sec. 6. 7 MRSA §3923-A, sub-§5 is enacted to read:

5. Dogs determined to be dangerous dogs or nuisance dogs by the court. The owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog shall pay a fee of \$100 to the municipal clerk or a dog licensing agent. The municipal clerk or dog licensing agent shall retain a \$1 recording fee, deposit \$98 in the municipality's animal welfare

account established in accordance with section 3945 and pay the remaining \$1 to the department for deposit in the Animal Welfare Fund.

The owner or keeper of a dog determined by a court of competent jurisdiction to be a nuisance dog shall pay a fee of \$30 to the municipal clerk or a dog licensing agent. The municipal clerk or dog licensing agent shall retain a \$1 recording fee, deposit \$28 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining \$1 to the department for deposit in the Animal Welfare Fund.

A dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog does not qualify for the exemptions from fees under subsection 3.

An owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of \$150 in addition to the annual license fee paid in accordance with this subsection.

An owner or keeper of a dog determined by a court of competent jurisdiction to be a nuisance dog applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of \$70 in addition to the annual license fee paid in accordance with this subsection.

The clerk, dog licensing agent 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.

Sec. 7. 7 MRSA §3925 is enacted to read:

§3925. Dog licensing database

The department shall develop and implement a dog licensing database in coordination with any electronic dog licensing project implemented pursuant to section 3923-G. The database must track all dog licensing throughout the State and allow municipalities and animal control officers to reunite lost dogs with owners and track dogs that have been determined by a court of competent jurisdiction to be dangerous dogs and nuisance dogs pursuant to chapter 727. The department shall provide all municipalities and dog licensing agents with access to the database at no cost.

Sec. 8. 7 MRSA §3942, first ¶, as amended by PL 2015, c. 223, §11, is further amended to read:

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the department \$10 for dogs capable of producing young and \$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 and whether

the dogs have been determined by a court of competent jurisdiction to be dangerous dogs or nuisance dogs. The clerks shall make a monthly report to the department on a department-approved form of all dog licenses issued and fees received.

Sec. 9. 7 MRSA §3947, first ¶, as amended by PL 2009, c. 343, §20, is further amended to read:

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3948, 3950, 3950-A, ~~3952~~ 3952-A 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 any other duties to control animals as the municipality may require. A municipality may appoint an employee of an animal shelter as an animal control officer as long as the person meets the qualifications and training requirements of this section.

Sec. 10. 7 MRSA §3948, sub-§4 is enacted to read:

4. Reporting. By January 31st of each year, a municipality shall report to the animal welfare program of the department all complaints related to animal control incidents for the prior calendar year. The report must include the number and type of animal complaints received and responded to by municipal animal control officers, law enforcement officers or municipal officials and the outcomes of each investigation. The reports must be on forms provided by the department.

Sec. 11. 7 MRSA §3952, as amended by PL 2011, c. 559, Pt. A, §4, is repealed.

Sec. 12. 7 MRSA §3952-A is enacted to read:
§3952-A. Keeping a dangerous dog or a nuisance dog

A person who owns or keeps a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog commits a civil violation for which the court shall adjudge a fine of not less than \$250 and not more than \$5,000, plus costs, none of which may be suspended. All fines, other than costs, must be paid to the municipality where the dog resides pursuant to section 3910-A and be placed in the municipality's animal welfare account established in accordance with section 3945.

1. Procedure. A person who is assaulted or threatened with bodily injury by a dog or a person witnessing such an assault or threatened assault against a person or domesticated animal or a person with knowledge of such an assault or threatened assault against a minor, or a person whose property or crops have been damaged by a dog, within 30 days of the incident, may make written complaint to the sheriff, local law enforcement officer or animal control

officer that the dog is a dangerous dog or a nuisance dog. For the purposes of this chapter, "domesticated animal" includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

A representative of the sheriff's department, a local law enforcement officer or an animal control officer appointed by the municipality shall investigate and document the complaint. Upon completion of the investigation of the complaint, the investigator may issue a civil violation summons for keeping a dangerous dog or a nuisance dog.

All records of the outcome of the investigation must be kept by the municipality for the life of the dog, plus 2 years.

2. Dangerous dog finding. If, upon hearing, the court finds that a dog is a dangerous dog, the court shall impose a fine and may order any one or more of the following that the court determines is appropriate:

A. Order the dog to be euthanized if the court finds that the dog:

- (1) Has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault or a prior finding by the court of being a dangerous dog; and
- (2) Presents a clear threat to public safety;

B. Order that the owner or keeper of the dog, if that person has previously been adjudicated of having violated this section, may not own, possess or have on that person's premises any dogs for a period of time, which may be permanent;

C. Order the owner or keeper of the dog, if the owner or keeper is allowed to keep the dog, or any other person keeping the dog, to post dangerous dog signs, visible from all directions and provided by the department, around the entrance of the premises where the dog resides and to notify in writing any service provider that has a reasonable expectation to be on the property that the dog has been determined to be a dangerous dog. The owner or keeper is responsible for the cost of the signs;

D. Order the dog confined in a secure enclosure. For the purposes of this paragraph, "secure enclosure" means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper. The secure enclosure must be locked, be designed with secure sides and be designed to prevent the animal from escaping from the enclosure. The enclosure may also be designed with a secure top and bottom if determined necessary by the court. The court shall specify the length of the

period of confinement and may order permanent confinement;

E. Order that the owner or keeper of a dog confined to a secure enclosure pursuant to paragraph D may not allow the dog outside of the secure enclosure unless;

(1) It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and

(2) The dog is securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper;

F. Order the dog to be securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper whenever the dog is off the owner's or keeper's premises;

G. Order the dog to be spayed or neutered;

H. Order the dog to be microchipped within 60 days of the court order;

I. Order the owner or keeper of the dog to obtain a minimum of \$100,000 in liability insurance for the life of the dog;

J. Order the owner or keeper of the dog to have the dog evaluated by a certified canine behaviorist or certified dog trainer and to attend dog training classes; and

K. Order the owner or keeper of the dog to immediately notify the sheriff, a local law enforcement officer or an animal control officer if the dog escapes.

The court may order restitution in accordance with Title 17-A, chapter 54 for any damages inflicted upon a person or a person's property by a dog determined to be a dangerous dog under this subsection.

3. Nuisance dog finding. If, upon hearing, the court finds that a dog is a nuisance dog, the court shall impose a fine and may impose any of the penalties set forth in subsection 2, paragraphs F to K. A dog may be determined by a court to be a nuisance dog only once. After 2 years from the date of the court order finding that the dog is a nuisance dog, the owner or keeper may petition the court to amend or reduce any of the restrictions placed on the dog. The court may amend or reduce the restrictions placed on the dog if the owner or keeper demonstrates to the satisfaction of the court that the owner or keeper has complied with the court order and the dog no longer poses a risk as a nuisance dog.

4. Identification and confinement of other dogs. In addition to orders imposed pursuant to subsections 2 and 3, the court may order that the owner or keeper of a dangerous dog or a nuisance dog:

A. Provide the animal control officer in the municipality where the dangerous dog or nuisance dog is kept with photographs and descriptions of other dogs kept by that owner or keeper including the sex, breed, age, identifying markings and microchip numbers of each dog; and

B. Confine any other dogs kept on the owner's or keeper's premises as provided in subsection 2, paragraphs D and E.

5. Failure to abide by court order. If the owner or keeper of a dog willfully fails to comply with any provision of a court order imposed pursuant to subsection 2, 3 or 4, the court shall find the owner or keeper in contempt.

If the court order imposed pursuant to subsection 2, paragraph A is not complied with within the time set by the court, the court may, upon application by the complainant under subsection 1 or other person, issue a warrant to the sheriff or any of the sheriff's deputies or to a local law enforcement officer or constable in the municipality where the dog is found, commanding the officer to have the dog humanely euthanized and make a return of the warrant to the court within 14 days from the date of the warrant.

The owner or keeper must be ordered to pay all costs of supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog.

6. Dogs presenting immediate or continuing threat to public. After issuing a summons pursuant to subsection 1 and before hearing, if the dog poses an immediate or continuing threat to the public, a sheriff, local law enforcement officer or animal control officer shall give a written order requiring the owner or keeper of the dog to muzzle with a basket-style muzzle, restrain or confine the dog to the owner's or keeper's premises or to have the dog confined at the owner's or keeper's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If an owner or keeper of a dog fails to comply with the written order, the sheriff, local law enforcement officer or animal control officer may apply to the District Court, the Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

A dog owner or keeper who fails to abide by the written order commits a civil violation for which a fine of not less than \$50 and not more than \$200 may be adjudged for each day of noncompliance.

7. Ex parte. An order may be entered ex parte upon findings by the court or justice of the peace when:

- A. The dog has inflicted serious bodily injury; or
- B. There is a reasonable likelihood that the dog is dangerous or vicious and:
 - (1) Its owner has failed to muzzle, restrain or confine the dog; and
 - (2) That failure poses an immediate threat of harm to the public.

8. Modify order. An order under subsection 7 may be modified by the court.

- A. Upon 2 days' notice or a shorter period the court may prescribe, the owner or keeper whose dog has been possessed pursuant to an ex parte order may appear in the District Court or the Superior Court and move for the dissolution or modification of the ex parte order.
- B. The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.
- C. The owner or keeper shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings.

9. Lien. Any person taking possession of a dog as provided in this section has a lien on that dog in accordance with Title 17, section 1021, subsection 6.

10. Treble damages. If a dog whose owner or keeper refuses or neglects to comply with an order under this section wounds any person by a sudden assault or wounds or kills any domesticated animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

11. Class D crime. If the owner or keeper of a dog refuses or neglects to comply with an order issued under subsection 2, 3, 4 or 7, the owner or keeper commits a Class D crime. The court, as part of the judgment, may prohibit a person convicted under this subsection from owning or possessing a dog or having a dog on that person's premises for a period of time. The prohibition may be permanent.

12. Duty of owner or keeper to notify. The owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog shall notify the municipality in which the dog resides in writing and within 30 days if ownership of the dog is transferred, the residence of the dog is changed or the dog is deceased.

Sec. 13. 7 MRSA §3954 is enacted to read:

§3954. Prohibitions on dangerous dogs and nuisance dogs

1. Prohibitions. A person may not:

- A. Train or encourage a dog that is not directly involved with a protection dog training program recognized by the Department of Public Safety, Bureau of State Police to be aggressive toward or attack another person or domesticated animal;
- B. Transfer ownership of a dog determined by a court of competent jurisdiction to be a dangerous dog without the permission of the court, unless the transfer is to an animal control officer or an animal shelter that has a contract with a municipality to euthanize the dog for the municipality; or
- C. Tether a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog.

2. Penalty. A person who violates subsection 1 commits a civil violation for which a fine not to exceed \$100 may be adjudged in addition to court costs.

Sec. 14. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 7, chapter 727, in the chapter headnote, the words "dangerous dogs" are amended to read "dangerous dogs and nuisance dogs" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 15. Implementation of dog licensing database. The Department of Agriculture, Conservation and Forestry shall develop and implement the dog licensing database pursuant to the Maine Revised Statutes, Title 7, section 3925 within one year of the effective date of this Act.

See title page for effective date.

CHAPTER 405
S.P. 733 - L.D. 1903

An Act To Improve the Effectiveness of the Major Business Headquarters Expansion Tax Credit

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

Sec. 1. 36 MRSA §5219-QQ, as corrected by RR 2017, c. 1, §33, is amended to read:

§5219-QQ. Credit for major business headquarters expansions

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