

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION

August 26, 2019

SECOND REGULAR SESSION

January 8, 2020 to March 17, 2020

**THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 25, 2019**

**THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 16, 2020**

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

**Augusta, Maine
2020**

Sec. 1. 17-A MRSA §555, sub-§1, ¶¶A and B, as amended by PL 2015, c. 306, §1, are further amended to read:

A. The person recklessly endangers the health, safety or mental welfare of a dependent person. Violation of this paragraph is a Class D crime; ~~or~~

B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person. Violation of this paragraph is a Class C crime;

Sec. 2. 17-A MRSA §555, sub-§1, ¶¶C and D are enacted to read:

C. The person recklessly infringes on a dependent person's rights of association, including but not limited to the right to receive visitors, mail or telephone or electronic communication, for the purpose of establishing or maintaining undue influence over that person. Violation of this paragraph is a Class D crime; or

D. The person intentionally or knowingly infringes on a dependent person's rights of association, including but not limited to the right to receive visitors, mail or telephone or electronic communication, for the purpose of establishing or maintaining undue influence over that person. Violation of this paragraph is a Class C crime.

Sec. 3. 17-A MRSA §555, sub-§2, ¶C is enacted to read:

C. "Undue influence" has the same meaning as in section 109, subsection 4.

See title page for effective date.

CHAPTER 544

S.P. 407 - L.D. 1311

An Act Regarding the Sale of Dogs and Cats at Pet Shops

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

Sec. 1. 7 MRSA §3914, first ¶, as amended by PL 2007, c. 439, §7, is further amended to read:

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 grandfathered 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. For purposes

of this section, "grandfathered pet shop" has the same meaning as in section 3933.

Sec. 2. 7 MRSA §3933, as amended by PL 2009, c. 343, §16, is further amended to read:

§3933. Pet shops

1. License necessary. A person maintaining a pet shop, as defined in section 3907, shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later. A license issued under this section does not authorize a person to keep for sale or offer for sale dogs or cats unless the pet shop meets the requirements of section 4153, subsection 3, paragraph B. For purposes of this section, a licensed pet shop that meets the requirements of section 4153, subsection 3, paragraph B is a grandfathered pet shop.

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

3. Records. A person maintaining a pet shop, as defined in section 3907, shall keep a record of each animal received by the pet shop, except for mice and fish. The record must include the name and address of the person or company from whom the animal was received and the name and address of the person buying or otherwise acquiring the animal from the pet shop. The record must be kept on file for a period of 2 years following the sale or other disposition of the animal by the pet shop and must be made available to the department within 24 hours of the request of the department.

4. Surcharge on sale of dogs and cats by grandfathered pet shops. A person maintaining a grandfathered pet shop shall collect a surcharge of \$25 on each cat or dog sold that has not been neutered and forward the entire surcharge to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B.

5. Advertising. A grandfathered 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. 3. 7 MRSA §3938-A, as enacted by PL 2007, c. 439, §22, is amended to read:

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

A person or an animal shelter, boarding kennel, breeding kennel or grandfathered 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. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933.

Sec. 4. 7 MRSA §4151, sub-§1-A is enacted to read:

1-A. Animal rescue entity. "Animal rescue entity" means a nonprofit organization having tax-exempt status under the United States Internal Revenue Code, Section 501(c)(3) whose mission and practice is, in whole or in significant part, the rescue and placement into permanent homes of animals and that does not breed animals.

Sec. 5. 7 MRSA §4151, sub-§3-A is enacted to read:

3-A. Offer for sale. "Offer for sale" means to sell, offer to transfer, offer for adoption, advertise for sale, barter, auction, give away or otherwise dispose of an animal.

Sec. 6. 7 MRSA §4151, sub-§4-A, as enacted by PL 2007, c. 702, §22, is amended to read:

4-A. Seller. "Seller" means the owner or operator of a breeding kennel as defined in section 3907, subsection 8-A or the owner or operator of a grandfathered pet shop as defined in section 3907, subsection 23. "Seller" includes animal dealers required to be licensed by the United States Department of Agriculture. "Seller" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal shelters licensed in accordance with section 3932-A. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933.

Sec. 7. 7 MRSA §4153, as amended by PL 2011, c. 100, §15, is repealed and the following enacted in its place:

§4153. Sale prohibited

1. Animal with disease, illness or condition. Notwithstanding section 4152, a seller may not sell an animal that has any obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality or has any disease, illness or condition that requires hospitalization or nonelective surgical procedures.

2. Wolf hybrid. A seller may not sell a wolf hybrid.

3. Pet shop. Except as provided in this subsection, a pet shop as defined in section 3907, subsection 23 may not offer an animal for sale.

A. A pet shop may provide space to an animal rescue entity to offer to the public animals for adoption for an adoption fee, as long as the pet shop does not have any ownership interest in the animals offered for adoption and does not receive any fee

for providing space or for the adoption of any of the animals.

B. A pet shop that lawfully offered animals for sale on the effective date of this paragraph may continue to offer animals for sale as long as the pet shop:

(1) Maintains a valid license under section 3933;

(2) Remains in the same ownership as existed on May 1, 2019; and

(3) Keeps for sale or offers for sale in any calendar year no greater a number of animals than were kept for sale or offered for sale by the pet shop in calendar year 2018.

In order to qualify for the exception allowed under this paragraph, a pet shop must provide to the department, in a form and manner prescribed by the department, documentation of the ownership of the pet shop on May 1, 2019 as well as the number of animals offered for sale in 2018 and annually thereafter. For purposes of this paragraph, "remains in the same ownership" means a static state of ownership in which no ownership interest changes after May 1, 2019, except, in the case of a pet shop that on May 1, 2019 was owned by a family, a transfer of an ownership interest to the spouse, domestic partner or one or more children of the oldest member of the family holding an ownership interest on May 1, 2019. For purposes of this paragraph, "family" means one person or a group of people whose relationship to the oldest person in the group is either spouse, domestic partner or child. In order to maintain a valid license, the pet shop must provide to the department, in a form and manner prescribed by the department, documentation of any transfer of ownership under this paragraph. If there is ambiguity as to whether a pet shop remains in the same ownership, the pet shop does not satisfy the requirements of subparagraph (2).

4. Penalties. A person who violates subsection 3 commits a civil violation for which a fine of \$500 may be adjudged and is subject to the suspension or revocation of the person's pet shop license pursuant to section 4162, subsection 2. Each offer for sale of an animal in violation of subsection 3 constitutes a separate violation.

Sec. 8. 7 MRSA §4163, first ¶, as amended by PL 2007, c. 702, §36, is further amended to read:

A person may not advertise for sale, sell or exchange for value more than one cat or dog under the age of 6 months in a 12-month period unless that person has a valid animal shelter, kennel, or breeding kennel or pet shop license or a valid vendor's license issued under this section.

Sec. 9. Effective date. This Act takes effect 180 days after adjournment of the First Regular Session of the 129th Legislature.

See title page for effective date.

CHAPTER 545

S.P. 430 - L.D. 1386

An Act Regarding the Determination of the Prevailing Wage Rate for Public Works Projects

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

Sec. 1. 26 MRSA §1308, sub-§1, as amended by PL 1997, c. 757, §7, is repealed and the following enacted in its place:

1. Determination of wage and benefits rates. The Bureau of Labor Standards shall investigate and determine the prevailing hourly wage and benefits rate paid in the construction industry in this State. To determine the prevailing hourly wage and benefits rate, the bureau shall:

A. Collect a set of data by conducting a survey of wages and benefits during the 2nd and 3rd week of July of each year; and

B. Collect a 2nd set of data through certified payroll submissions on state construction of public works during the 2nd and 3rd week of July of each year from any state agency that contracts for the construction of public works.

Survey data collected pursuant to paragraph A and certified payroll data collected pursuant to paragraph B must be submitted to the bureau by the 2nd week of October.

The bureau shall use the higher wage and benefits information of the 2 data sets collected pursuant to paragraphs A and B to determine the prevailing hourly wage and benefits rate. The bureau may also use wage and benefits information received from construction trade associations in its determination of prevailing rates. In determining the prevailing rate, the bureau may ascertain and consider the applicable wage and benefits rates established by collective bargaining agreements, if any, and those rates that are paid generally in the locality where the construction of the public works is to be performed.

For purposes of this subsection, "benefits" means health and welfare contributions, pension or individual retirement account contributions and vacation and annuity contributions, per diem in lieu of wages and any other form of payment, except for wages, made to or on behalf of the employee. If a defined contribution amount

is not established, the most accurate estimated value of contributions must be included.

Sec. 2. 26 MRSA §1308, sub-§1-A, as enacted by PL 1999, c. 181, §2, is amended to read:

1-A. Surveys. The director may require any person to provide information on the wages and benefits provided to that person's employees and such other information as is needed to determine the prevailing wage and benefits. The director may assess a ~~forfeiture fine~~ fine of up to ~~\$50~~ \$250 for the first offense, \$500 for a 2nd offense and \$1,000 for any subsequent offense against any person who fails to provide the information as requested.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Safety Education and Training Programs 0161

Initiative: Allocates funds for the cost of one Statistician II position and related All Other costs for data collection and analysis necessary to determine the prevailing hourly wage and benefits rate paid in the construction industry in the State.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$43,932	\$73,150
All Other	\$8,485	\$10,167
OTHER SPECIAL REVENUE FUNDS TOTAL	\$52,417	\$83,317

See title page for effective date.

CHAPTER 546

H.P. 1014 - L.D. 1399

An Act To Improve Oral Health and Access to Dental Care for Maine Children

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

Sec. 1. Report on preventive oral health services. The Department of Health and Human Services shall report on the status of the preventive oral health services provided in schools through the Department of Health and Human Services, Maine Center for Disease Control and Prevention, rural health and primary care division's oral health program, including the number of schools and children served and the results of those services, which populations and geographic areas are not being covered by the services provided by the program and whether additional funding is needed. The department shall submit a report, including recom-