

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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. Animal control officers must complete 8 hours of advanced training yearly to retain certification.

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 a felony offense, a domestic violence-related offense or of 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.

Sec. 3. 7 MRSA §3907, sub-§12-C, as enacted by PL 1997, c. 690, §5, is amended to read:

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris* ~~or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as defined in subsection 30.~~

Sec. 4. 7 MRSA §3907, sub-§12-D, as amended by PL 2001, c. 399, §4, is further amended to read:

12-D. Dangerous dog or wolf hybrid. "Dangerous dog" or "wolf hybrid" means a dog or wolf hybrid that bites an individual, a domestic animal or livestock who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the bite or 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 bodily injury by assaulting or threatening to assault that individual or individual's domestic animal or livestock. "Dangerous dog" or "wolf hybrid" does not include a dog certified by the State and used for law enforcement use.

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. 5. 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 whose usual and consistent temperament is extreme fear and is resistant to contact with people.

Sec. 6. 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 genus lama; bison; and ratites; and camelids.

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

23-A. Rescue group. "Rescue group" means a for-profit or nonprofit group or organization or an individual with at least one of its purposes being the sale, adoption or placement of animals that have been abandoned, surrendered or removed from an animal facility or are feral.

Sec. 8. 7 MRSA §3909, sub-§2, as amended by PL 1997, c. 683, Pt. B, §1, is further amended to read:

2. Designated employees of the department. For purposes of prosecution under this section, the commissioner may authorize ~~humane agents and an~~ employee of the department's animal welfare program or a state veterinarian to serve civil process pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court. The commissioner may authorize ~~humane agents and an~~ employee of the department's animal welfare program or a state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. ~~Certification of the humane agents and a state veterinarian for this purpose is as provided under Title 30-A, section 4453, subsection 5. Once certified, prosecution by the humane agent~~An employee of the department's animal welfare program or a state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

Sec. 9. 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.

Sec. 10. 7 MRSA §3914-A is enacted to read:

§ 3914-A. Unlawful act

It is unlawful for a person to sell, adopt or give away a dog or cat until it has reached its 56th day of life.

Sec. 11. 7 MRSA §3916, sub-§1-A, as enacted by PL 2005, c. 422, §3, is repealed.

Sec. 12. 7 MRSA §3916, sub-§2, as amended by PL 2005, c. 422, §4, is further amended to read:

2. Certificate. A licensed veterinarian who vaccinates or supervises the vaccination of a cat or dog shall issue to the owner or keeper a certificate of rabies vaccination approved by the State and shall indicate on the certificate the date by which a booster vaccination is required pursuant to subsection 1 or 1-A.

Sec. 13. 7 MRSA §3916, sub-§3, as amended by PL 2005, c. 422, §5, is further amended to read:

3. Enforcement. A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a cat or dog to present proof of a certificate of rabies vaccination from the State.

Sec. 14. 7 MRSA §3916, sub-§4, as amended by PL 2005, c. 422, §6, is further amended to read:

4. Exception. Notwithstanding any provision of this chapter, an animal shelter operated by a nonprofit organization is not required to vaccinate an abandoned or stray cat or dog received by the shelter.

An owner or keeper of a cat is exempt from the requirements of subsection 1 if a medical reason exists that precludes the vaccination of the cat. To qualify for this exemption, the owner or keeper must have a written statement signed by a licensed veterinarian that includes a description of the cat and the medical reason that precludes the vaccination.

Sec. 15. 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, the animal shelter shall hold the cat for not less than ~~24~~48 hours. After the ~~24-~~48-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 4.

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

Sec. 16. 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. 17. 7 MRSA §3919-A, sub-§6 is enacted to read:

6. Feral cats. When an animal shelter accepts a cat under section 3919 and that shelter determines that cat is a feral cat, the animal shelter shall hold the cat for not less than 24 hours excluding days the shelter is closed to the public and holidays. After the 24-hour period, the animal shelter may treat the cat as a homeless cat under subsection 2.

Sec. 18. 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 for the period for which food and shelter are furnished to the animal.

1. Compensation. Compensation for seized animals is as follows:

- A. Dogs and cats, \$5 a day;
- B. Female dogs or cats with unweaned litters, \$8 a day;
- C. Equines, \$10 a day;
- D. Livestock:

(1) Large, \$8 a day; and

(2) Small, \$5 a day;

E. Rabbits, \$2 a day;

F. Birds, including poultry, \$1 a day; and

G. Exotics or other animals, as determined by the department.

Sec. 19. 7 MRSA §3921-B is enacted to read:

§ 3921-B. Rabies vaccinations

1. Dogs; required. 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 against rabies and have booster vaccinations administered periodically in accordance with rules adopted by the Commissioner of Health and Human Services.

2. Certificate. A licensed veterinarian who vaccinates or supervises the vaccination of a dog shall issue to the owner or keeper a certificate of rabies vaccination approved by the State and shall indicate on the certificate the date by which a booster vaccination is required pursuant to subsection 1.

3. Enforcement. A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a dog to present proof of a valid certificate of rabies vaccination.

4. Exception. Notwithstanding any provision of this chapter, an animal shelter operated by a nonprofit organization is not required to vaccinate an abandoned dog received by the shelter.

Sec. 20. 7 MRSA §3923-A, sub-§1, as amended by PL 2003, c. 405, §13, is further amended to read:

1. Dogs or wolf hybrids capable of producing young. A dog or wolf hybrid owner or keeper shall pay a fee of \$10\$11 to the municipal clerk for each dog or wolf hybrid 6 months of age or older and capable of producing young. A dog or wolf hybrid 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. 21. 7 MRSA §3923-A, sub-§2, as amended by PL 2003, c. 405, §13, is further amended to read:

2. Dogs or wolf hybrids incapable of producing young. A dog or wolf hybrid owner shall pay a fee of \$6\$7 to the municipal clerk or to a veterinary licensing agent for each dog or wolf hybrid 6 months of age or older and incapable of producing young. A dog or wolf hybrid 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 or wolf hybrid;
- B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog or wolf hybrid and determined that the dog or wolf hybrid is incapable of producing young; or
- C. A previous license stating that the dog or wolf hybrid is incapable of producing young.

The municipal clerk shall retain a \$1 recording fee, deposit \$2 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining ~~\$3~~\$4 to the department for deposit in the Animal Welfare Fund.

Sec. 22. 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~~ 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. 23. 7 MRSA §3923-G, sub-§5, as enacted by PL 2003, c. 405, §15, is repealed.

Sec. 24. 7 MRSA §3932, sub-§4 is enacted to read:

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

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

Sec. 25. 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. 26. 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. 27. 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, Class B or Class C crime in this jurisdiction or has been convicted of a similar crime by any other state, provincial or federal court, or of 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 210 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739.

Sec. 28. 7 MRSA §3938, as amended by PL 1993, c. 657, §36, is further amended by adding at the end a new paragraph to read:

A person or an animal shelter, boarding kennel or breeding kennel that sells, adopts or gives away 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 a day may be adjudged.

Sec. 29. 7 MRSA §3939-A is enacted to read:

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

1. Spay; neuter. Except as otherwise provided in subsection 2, an animal shelter, humane society shelter, sanctuary or rescue group may not sell or give away to a new owner a dog or cat that has not been spayed or neutered unless formal arrangements with a licensed veterinarian hospital are made to spay or neuter the animal within 30 days of adoption. A person who adopts a dog or cat that is unaltered at the time of adoption shall, in addition to adoption fees, place a deposit equal to 100% of the cost of the scheduled surgery. This deposit is to be refunded to the adopter upon providing proof of sterilization to the animal shelter, humane society shelter, sanctuary or rescue group.

2. Detrimental to health. If a veterinarian licensed to practice veterinary medicine in this State certifies that a dog or cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered, the adopter or purchaser shall pay the animal shelter, humane society shelter, sanctuary or rescue group a deposit of not less than \$50 and not more than \$150.

The deposit is temporary, until proof of sterilization is provided and may only be retained until the dog or cat is healthy enough to be spayed or neutered, as certified by a veterinarian licensed to practice veterinary medicine in this State.

The dog or cat must be spayed or neutered within 14 business days after certification by a licensed veterinarian that the dog or cat is healthy enough to be spayed or neutered.

Upon the provision of written proof to the entity from which a dog or cat was obtained that the dog or cat was spayed or neutered, the entity shall immediately and fully refund the deposit.

3. Encourage spaying; neutering. The entity shall establish the amount of the deposit at the level it determines is necessary to encourage the spaying or neutering of dogs and cats.

4. Unclaimed deposits. One hundred and twenty days after certification, funds from unclaimed deposits made pursuant to this section may be expended only for programs to spay or neuter dogs and cats.

Sec. 30. 7 MRSA §3939-B is enacted to read:

§ 3939-B. Puppies or kittens in litters

For purposes of this chapter, each member of a litter of puppies or kittens, weaned or unweaned, is treated as an individual animal.

Sec. 31. 7 MRSA §3939-C is enacted to read:

§ 3939-C. Violation

1. Noncompliance. If a recipient fails to comply with the spaying or neutering agreement under section 3939-A within 30 business days after the shelter spay or neuter agreement is signed, the recipient forfeits the sterilization deposit and commits a civil violation for which a fine of not less than \$50 nor more than \$200 a day may be adjudged.

2. Extension. Nothing in this section prohibits an animal shelter, a humane society shelter, sanctuary or rescue group from extending the date by which spaying or neutering is to be completed at its discretion for good cause. An extension must be in writing.

3. Reimbursement of deposit. If a dog or cat dies within the spaying or neutering period provided for in the written agreement pursuant to this section, the agreement does not apply to that dog or cat. The recipient or adopter may receive a reimbursement of the sterilization deposit by submitting to the animal shelter, humane society shelter, sanctuary or rescue group during the sterilization period a signed letter from a veterinarian licensed to practice medicine in this State stating that the animal has died. The letter must include a description of the dog or cat.

4. Failure to spay or neuter. An animal shelter that adopts or gives away a dog or cat and fails to spay or neuter that animal prior to adoption or fails to complete a spay or neuter agreement for the animal commits a civil violation for which a fine of not less than \$50 nor more than \$200 a day may be adjudged.

Sec. 32. 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 electionsoffices.

Sec. 33. 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, 3921-B, 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 other duties to control animals as the municipality may require.

A municipality may not appoint a person who has been convicted of murder, a Class A, Class B or Class C crime in this jurisdiction or has been convicted of a similar crime by any other state, provincial or federal court, a criminal violation under Title 17, chapter 42 or who has been adjudicated of a civil violation for cruelty to animals under chapter 739 to the position of animal control officer.

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.

Animal control officers must attend the advanced training program as described under section 3906-B, subsection 4 to maintain certification; an animal control officer must have a minimum of at least 8 hours of training once a 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. 34. 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 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~~4 sides and a waterproof roof, appropriate to the local climatic conditions for the species concerned must be provided as necessary for the health of the animal. A premanufactured circular doghouse meets these standards.

(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 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 minutes.

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.

D. Metal or plastic barrels are prohibited for use as shelter.

Sec. 35. 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. 36. 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. 37. 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 or 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. "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. 38. 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. 39. 7 MRSA §4157, sub-§2, ¶D, as enacted by PL 1995, c. 589, §1, is repealed.

Sec. 40. 17 MRSA §1011, sub-§12-B, as enacted by PL 1997, c. 690, §57, is amended to read:

12-B. Dog. "Dog" means a member of the genus and species known as *canis familiaris* ~~or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as defined in subsection 30.~~

Sec. 41. 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 genus *lama*; bison; ~~and~~ ratites; and camelids.

Sec. 42. 17 MRSA §1021, sub-§5-A, as amended by PL 1995, c. 490, §24, is further amended to read:

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

- A. States the reason for seizure;
- B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and
- C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. The court shall set a hearing date and that hearing date must be within 10 days of the date the animal was seized. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

An animal welfare employee or the state veterinarian who is duly designated by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 3906-B may represent the Department of Agriculture, Food and Rural Resources in the possession hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery.

Sec. 43. 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 a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer or animal control officer that seizes or impounds an animal pursuant to section 1031 or the Commissioner of Agriculture, Food and Rural Resources.

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. 44. 17 MRSA §1031, sub-§1-B, as amended by PL 2005, c. 281, §8 and c. 397, Pt. F, §1, is further 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. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than ~~\$1,000~~\$2,500 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

Sec. 45. 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. 46. 17 MRSA §1031, sub-§3-B, ¶D is enacted to read:

D. Violation of any sentencing provision imposed by the court pursuant to this section is a Class D crime.

Sec. 47. 30-A MRSA §4453, sub-§3, as amended by PL 1997, c. 683, Pt. B, §16, is further amended to read:

3. Department of Environmental Protection. Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and

Sec. 48. 30-A MRSA §4453, sub-§4, as amended by PL 1997, c. 683, Pt. B, §16, is further amended to read:

4. Maine Land Use Regulation Commission. Maine Land Use Regulation Commission employees as set forth in Title 12, section 685-C, subsection 9; and.

Sec. 49. 30-A MRSA §4453, sub-§5, as enacted by PL 1997, c. 683, Pt. B, §17, is repealed.

Sec. 50. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 7, chapter 720, in the chapter headnote, the words "rabies prevention and shelter provisions" are amended to read "rabies prevention and shelter provisions for cats" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

This bill amends the animal welfare laws.

1. It creates mandatory advanced training for animal control officers and prohibits the appointment of a person who has been convicted of murder, a Class A, Class B or Class C crime in this jurisdiction or has been convicted of a similar crime by any other state, provincial or federal court.

2. It amends the hiring requirements for humane agents.

3. It amends the definition sections in the animal welfare laws to enact or amend definitions for "dog," "dangerous dog or wolf hybrid," "feral cat," "livestock" and "rescue group."
4. It allows an employee of the animal welfare program to represent the Department of Agriculture, Food and Rural Resources for civil process or possession hearings.
5. It provides extended time periods for the holding of stray cats.
6. It clarifies the law for rabies vaccinations for dogs.
7. It increases payment to shelters holding animals seized by the animal welfare program pending court hearings.
8. It increases the dog license fee by \$1.00 for both altered and unaltered dogs and wolf hybrids.
9. It removes stickers from the dog license requirement.
10. It requires boarding kennels and pet stores to insert their state license number in any advertising they use.
11. It prohibits a boarding kennel, breeding kennel or pet shop license from being issued to anyone convicted of a felony within the previous 10 years.
12. It amends the minimum age that a dog or cat may be sold, adopted or given away.
13. It requires that animal shelters, sanctuaries and rescue groups spay or neuter any dog or cat prior to adoption or to make formal arrangements for the altering of the animal within 30 days of adoption.
14. It allows municipal clerks to post dog license information at municipal offices.
15. It amends the dog sheltering requirements.
16. It prohibits a pet dealer to contractually or otherwise exempt itself from the remedies provided for deaths or health problems caused by disease.
17. It amends the animal trespass laws to protect public safety.
18. It requires a security to be placed by the owner for seizure and impoundment of animals relating to cruelty to animals or animal fighting.
19. It provides for a violation of any court sentencing provision for the Maine Revised Statutes, Title 17, section 1031 conviction to be a Class D crime.
20. It repeals a provision for the certification of animal control officers provided in Title 30-A, section 4453, subsection 5.