

STATE OF MAINE

ANIMAL WELFARE LAWS

And

Regulations



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ANIMAL WELFARE PROGRAM**

**Maine Department of Agriculture
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Editors Notes:

Please note in the index of this issue that changes to the statutes are in **bold** in the index and they are also **underlined** in the body of the law book.

Missing section numbers are sections that have been repealed and can be found at maine.gov website under the Revisor of Statutes website.

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Chapter 717: ANIMAL WELFARE ACT

7§3901. Animal Welfare Act

This chapter is known and may be cited as the "Animal Welfare Act."

7§3902. Purposes; comprehensive program

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals. To ensure the humane and proper treatment of animals, the commissioner shall develop, implement and administer a comprehensive program that upholds the animal welfare laws of the State through communication, education and enforcement.

7§3906-B. Powers and duties of commissioner

The commissioner has the powers and duties set forth in this section.

1. Dog licensing laws. The commissioner shall carry out the dog licensing laws and furnish to municipalities all license blanks, stickers and tags.

2. Animal Welfare Fund. The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 1/2 of feed registration fees collected under section 714, subsection 1 and revenue in excess of \$100,000 from the surcharge collected under section 714, subsection 4 in the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing license blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.

3. Dog recorders. The commissioner shall appoint dog recorders in unorganized territories and establish fees for services rendered.

4. Training and certification of animal control officers. The commissioner shall develop both a basic and advanced program to train animal control officers. 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 advanced training must include, but is not limited to, training in animal cruelty with respect to hoarders of animals, animal cruelty with respect to domestic violence, new laws, case reviews and report writing. The commissioner shall certify all animal control officers who complete the training programs

6. Inspections. The commissioner shall inspect licensed facilities as provided in chapters 723 and 735.

7. Payment of fees. The commissioner may authorize payments to providers of special services to animals when the commissioner determines those services are in the public interest.

8. Copies of law. The commissioner shall seasonably forward to the clerks of municipalities copies of this Part.

9. Employees. The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, necessary employees to assist in enforcing this Part and in carrying out the commissioner's duties and responsibilities. The commissioner shall conduct a background check of a potential employee. The commissioner may not hire as a state humane agent a person who has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13, a violation of Title 19-A, section 4011 or a criminal violation under Title 17, chapter 42 or a person who has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this subsection.

9-A. Humane agents. The commissioner shall assign a humane agent to each of the following areas of specialization:

- A. Blood sports;
- B. Exotic animals;
- C. Large animals;
- D. Mental health and domestic violence;
- E. Small animals; and
- F. Training.

10. Rules. Pursuant to Title 5, chapter 375, the commissioner shall adopt, amend and repeal rules, including emergency rules, necessary for the proper administration, implementation, enforcement and interpretation of any provision of law that the commissioner is charged with administering.

11. Cruelty to animals. The commissioner, in cooperation with animal control officers, shall investigate complaints of cruelty to animals and enforce cruelty-to-animal laws in accordance with chapter 739 and Title 17, chapter 42. The Attorney General and the district attorneys shall assist the commissioner with the commissioner's enforcement responsibilities.

12. Intermittent agents. The commissioner shall appoint intermittent humane agents as necessary to assist the commissioner in carrying out the commissioner's duties and responsibilities. The commissioner shall train and coordinate efforts of intermittent agents. These intermittent agents are unclassified employees whose training, compensation and hours of employment are determined by the commissioner.

14. Information. The commissioner may obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the commissioner.

15. Annual report. The commissioner shall report the activities of the commissioner annually by March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over taxation matters. This report must include a summary of cases of cruelty to animals investigated by the commissioner, a summary of final dispositions of those cases and, with respect to companion animals, a report of the number of animal shelter intakes, the number of sterilizations and the number of euthanizations and an account of deposits into and payments from the Companion Animal Sterilization Fund established in section 3910-B.

16. Animal welfare auxiliary fund. The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes and all proceeds from sales authorized under subsection 17 into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants, proceeds and matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

All money deposited in the animal welfare auxiliary fund in accordance with section 1820-A, subsection 4 must be used for investigating alleged cases of mistreatment or abuse of equines and enhancing enforcement of this Part and Title 17, chapter 42 as these laws pertain to equines.

17. Fund-raising. The commissioner may engage in the marketing and selling of general merchandise products to generate supplemental funds, which must be deposited in the animal welfare auxiliary fund established under subsection 16.

7§3906-C. Animal Welfare Advisory Council

The Animal Welfare Advisory Council, as established by Title 5, section 12004-I, subsection 2-C and referred to in this section as the "council," shall advise the commissioner on matters pertaining to animal welfare.

1. Membership. The council consists of 14 members appointed by the Governor as follows:

- A. One member representing municipal interests;
- B. One animal control officer;
- C. One member representing licensed animal shelters;

- D. One member representing licensed boarding kennels;
- E. One member representing licensed pet shops;
- G. One member who is or has been a veterinarian licensed to practice in the State;
- H. One member who owns a pet and represents the interests of the public in animal welfare, generally;
- I. One attorney with experience in animal welfare law;
- J. One cooperative extension agent or specialist;
- K. One member with expertise in equine care;
- L. One member with expertise in livestock representing a statewide farming organization;
- M. One member representing a state-based animal advocacy group;
- N. One member who holds a kennel license issued under section 3923-C; and
- O. One member representing licensed breeding kennels.

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association. In making the appointment of the person holding a kennel license issued under section 3923-C, the Governor shall consider nominations made by state-based dog clubs.

2. Staff. The department shall provide necessary staffing services to the council.

3. Compensation. Members of the council are entitled to travel and meal expenses only.

4. Terms of office. Except for initial appointees, each member serves for a term of 3 years or until the member's successor has been appointed. A member may not serve more than 2 consecutive terms. In the case of a vacancy for any reason, the Governor shall appoint a member representing the same interest to fill the unexpired term.

5. Initial terms of office. Initially, 4 appointed members serve for one year, 4 members serve for 2 years and 3 members serve for 3 years.

6. Administration; meetings. The council shall elect one of its members as chair. The chair serves for a 2-year period and may not serve as chair for consecutive 2-year periods.

The council shall hold regular public meetings every other month but may waive by majority vote a succeeding meeting. The chair shall call special meetings of the council whenever requested in writing by 2 or more members. The council shall send notice and minutes of the meetings to the joint standing committee of the Legislature having jurisdiction over animal welfare matters.

7. Duties. The council shall perform the following duties:

- A. Review and advise the commissioner on proposed revisions to the animal welfare laws and rules;
- B. Assist the commissioner in the continuing implementation and evaluation of the animal welfare laws and rules;

- C. Review training programs for humane agents and animal control officers and make recommendations for training appropriate to the duties of the humane agents and animal control officers;
- D. Research options for increasing revenue to the Animal Welfare Fund to ensure funding for the implementation and enforcement of the animal welfare laws and rules, periodically evaluate the adequacy of funding for those laws and rules and make recommendations to the commissioner; and
- E. Advise the commissioner on other matters related to the animal welfare laws and rules.

7 § 3907. Definitions

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. "Act" means the Animal Welfare Act.

1-B. Abandoned animal. "Abandoned animal" means an animal that has been deserted by its owner or keeper, excluding animals that are part of a population control effort.

2. Animal. "Animal" means every living, sentient creature not a human being.

3. Animal control. "Animal control" means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.

4. Animal control officer. "Animal control officer" means the person appointed periodically by a municipality pursuant to chapter 725.

5-A. Animal shelter. "Animal shelter" means a:

A. Facility that houses domesticated animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes; or

B. Rescue group.

6. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs 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, 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.

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

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

9-A. Cat identification. "Cat identification" means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear;

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or

C. A collar and tag providing the name and address of the animal shelter that issued the tag.

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or his duly authorized agent.

11-A. Companion animal. "Companion animal" means a cat or dog.

11-B. Council. "Council" means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris*, except that in chapters 720, 721, 725, 727, 729 and 739 "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.

~~**12-D. Dangerous dog.** "Dangerous dog" means a dog or wolf hybrid that bites 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 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. "Dangerous dog" does not include a dog~~

~~certified by the State and used for law enforcement use. "Dangerous dog" does not include a dog or wolf hybrid that bites 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 bite or threatened assault.~~

~~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.~~

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.

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

12-F. Dog licensing agent. "Dog licensing agent" means a veterinarian office or animal shelter that licenses dogs for a municipality.

13. Service dog kept for breeding purposes. "Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the

purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. "Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. "Humane agent" means an employee of the department who assists in enforcing this Part.

15-B. Humanely clean conditions. "Humanely clean conditions" means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

15-C. Humanely trap. "Humanely trap" means to trap an animal using traps and trapping methods that are designed to avoid injury to animals to the greatest extent practicable for animal control or animal rescue purposes.

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. "Law enforcement officer" means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

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

19. Municipality. "Municipality" means an organized city, town or plantation.

20. Mutilate. "Mutilate" means to injure or disfigure by irreparably damaging body parts. "Mutilate" does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

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.

21. Owner. "Owner" means a person owning, keeping or harboring a dog or other animal.

22. Person. "Person" means an individual, corporation, partnership, association or any other legal entity.

22-B. Pet. "Pet" means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

23. Pet shop. "Pet shop" means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

23-A. Rescue group. "Rescue group" means an organization or individual that receives domesticated animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes.

23-B. Population control effort. "Population control effort" means the activities, programs and projects aimed at reducing the number of cats and dogs without

homes, including, but not limited to, the trapping, neutering and vaccinating of feral cats, the trapping of cats for impoundment at an animal shelter and spaying or neutering services for abandoned animals and stray dogs and cats.

24. Respective municipality. "Respective municipality" means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

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

25-A. Stray. "Stray" means off the owner's premises and not under the control of a person.

25-B. Small animal. "Small animal" means a bird, reptile or amphibian or a small mammal, other than a cat or dog, commonly kept as a household pet and that is an unrestricted species designated by the Commissioner of Inland Fisheries and Wildlife in rules adopted pursuant to Title 12, chapter 915.

26. Torment, torture and cruelty. "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

26-A. Unorganized territory. "Unorganized territory" means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. "Unorganized territory" does not include plantations.

27. Vertebrate. "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. "Wolf hybrid" means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

7§3909. Enforcement

1. Attorney General and District Attorneys. Whenever a person has engaged in or is about to engage in an act or practice that constitutes a violation of this Part, a rule adopted pursuant to this Part or a condition of an order, license or permit approved or decision issued by the commissioner pursuant to this Part, or that constitutes a violation of Title 17, chapter 42, the Attorney General or a District Attorney, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, an order directing compliance or imposing a civil or criminal penalty, or any combination of these actions, as provided by law. Upon a showing by the commissioner that the person has engaged or is about to engage in such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

2. Designated employees of the department. For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian who have been certified in accordance with subsection 3-A to issue and serve civil violation processes against offenders pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court for violations of this Part. The commissioner may authorize certified humane agents or a certified state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. A certified humane agent or a certified 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.

2-A. Animal welfare citation form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the department.

A. The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued to the department. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to humane agents and a state veterinarian certified under subsection 3-A and for the proper disposition of those books.

B. It is unlawful and official misconduct for any humane agent or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in an applicable official policy or procedure of the department.

C. A Uniform Summons and Complaint may be filed in a court having jurisdiction and constitutes a lawful complaint to commence any criminal prosecution or civil violation proceeding if the Uniform Summons and Complaint is duly sworn to as required by law and is otherwise legally sufficient.

D. A Uniform Summons and Complaint, when served upon a person by a humane agent, functions as a summons to appear in court. A person who

fails to appear in court after having been served with a summons commits a Class E crime. Upon that person's failure to appear, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this paragraph that the failure to appear resulted from just cause.

3-A. Humane agents; training requirements. Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part. To issue and serve civil violation processes or represent the department in District Court under subsection 2, a humane agent or a state veterinarian must have completed a program at the Maine Criminal Justice Academy that certifies familiarity with court procedures.

A humane agent, regardless of appointment date, shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

4. Subpoenas. The commissioner or the commissioner's designee after consultation with the appropriate attorney for the State or the legal counsel for the department may:

A. Serve subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation under the animal welfare laws.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department.

5. Enforcement provision; animal control officers. The certification of an animal control officer under section 3906-B may be suspended or revoked by the commissioner in accordance with Title 5, chapter 375 MAINE ADMINISTRATIVE PROCEDURE ACT.

6. Confidential information. The names of and other identifying information about persons providing information pertaining to criminal or civil cruelty to animals to the department are confidential information and may not be released.

7§3910-A. Forfeitures and surcharge

1. Forfeitures. Unless otherwise provided, any court in this State shall collect fines or forfeitures imposed for violations of this Part and pay the fine or forfeiture into the treasury of the municipality where the offense or violation was committed. The municipal clerk shall deposit and expend fines and forfeitures received in accordance with section 3945.

2. Surcharge imposed. A surcharge of \$10 must be added to every fine, forfeiture or penalty imposed by any court in this State for a violation of this Part. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under section 3906-B, subsection 2.

7§3910-B. Companion Animal Sterilization Fund

1. Establishment. There is established the Companion Animal Sterilization Fund, an interest-bearing account, referred to in this section as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5284-A, revenues generated in accordance with this section, all revenue from the surcharges collected under section 3933, subsection 4, revenue received from surcharges in accordance with section 714, subsection 4 and any money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used for the spaying or neutering of companion animals owned by persons meeting income limit standards and for the necessary direct administrative and personnel costs associated with the management of the fund and may not be deposited in the General Fund or any other fund except as specifically provided by law. The fund may not be charged for indirect costs under a departmental indirect cost allocation plan.

1-A. Option to contract for administration of the fund. The commissioner may contract the administration of the fund to a suitable organization or individual selected through a competitive process. The contracting organization or individual shall administer the fund in accordance with procedures and eligibility standards established under subsection 2. The contracting organization or individual may not expend more than 15% of the fund annually for administrative costs.

2. Subsidies; development of standards. The commissioner shall develop procedures and eligibility standards for the awarding of subsidies to low-income persons for the spaying or neutering of those persons' companion animals. Procedures and eligibility standards must be developed in consultation with veterinarians and representatives of humane societies and animal shelters.

3. Fund-raising. The commissioner or the commissioner's authorized agent may provide for the creation, reproduction, sale, licensing and distribution and other disposal of any art or other products for the purpose of generating revenues for the fund. All money generated from the sale of these items must be deposited into the fund.

4. Oversight. The Animal Welfare Advisory Council established in section 3906-C or a subcommittee of the council shall review the objectives of the fund and make recommendations for maximizing use of available resources to meet the objectives of the fund. The council or subcommittee shall review the administration of the fund and make recommendations, which may include the development of a competitive process to contract for the administration of the fund.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 719: UNCONTROLLED DOGS

7§3911 Dogs at large

It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner or keeper of any dog found at large is subject to the penalties provided in this chapter.

7§3911-A. Abandonment of wolf hybrid

A person who abandons a wolf hybrid licensed under section 3922 commits a civil violation for which a fine not to exceed \$1,000 may be adjudged. A person who abandons a wolf hybrid not licensed under section 3922 commits a civil violation for which a fine of \$1,000 must be adjudged. For the purposes of this section "abandon" means to desert. For enforcement purposes a wolf hybrid is abandoned if the animal is found a distance of more than 5 miles from the premises of the owner and is not under the control of any person.

7§3911-B. Disposition of wolf hybrid at large

The owner or keeper of a wolf hybrid found at large commits a civil violation. An animal control officer or person acting in that capacity shall seize, impound or restrain a wolf hybrid found at large and proceed under this section.

1. Owner of wolf hybrid located. If a wolf hybrid at large is licensed under section 3922, subsection 3-B or its owner can otherwise be identified and located, an animal control officer or person acting in that capacity shall take the wolf hybrid to its owner and issue citations for violations of this Part.

2. Unable to locate owner. If an animal at large is permanently identified as a wolf hybrid in accordance with section 3921-A but the owner of record cannot be located, an animal control officer or person acting in that capacity shall take the wolf hybrid to the animal shelter designated by the respective municipality in which the wolf hybrid was found.

An animal shelter that accepts a wolf hybrid under this subsection is entitled to receive from the department the sum of \$4 a day for the period for which food and shelter are furnished, not to exceed 6 days. The animal shelter's responsibilities and the procedure for filing claims and calculating fees established under section 3913, subsection 3 apply to wolf hybrids accepted under this subsection. Upon expiration of the 6-day period, ownership of the wolf hybrid is vested in the animal shelter. The animal shelter shall:

A. Transfer ownership of the wolf hybrid to a person holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2;

- B. Transfer ownership of the wolf hybrid to a person who operates an animal refuge in another state and is licensed to accept wolf hybrids; or
- C. After keeping the wolf hybrid for 8 days, euthanize the wolf hybrid humanely in accordance with Title 17, chapter 42, subchapter 4.

3. Owner unknown. If an animal suspected of being a wolf hybrid is found at large and that animal is not licensed under section 3922 and does not bear any identification of the owner, an animal control officer or person acting in that capacity shall notify the Department of Inland Fisheries and Wildlife and request assistance in the capture and disposition of the animal under Title 12, section 12160.

4. Euthanasia for severely sick, severely injured or extremely vicious wolf hybrid. Notwithstanding subsections 1, 2 and 3, a humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or extremely vicious wolf hybrid upon determining that the following conditions are met:

A. The clerk, dog recorder or animal control officer of the respective municipality where the wolf hybrid was found has been notified of the animal's presence and the owner of the wolf hybrid, if known, has been notified; and

B. A veterinarian states in writing that the wolf hybrid's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the wolf hybrid presents a danger to the public. Notwithstanding paragraphs A and B, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, the wolf hybrid is severely injured or sick and has no possibility of recovery.

5. Immunity from civil liability. A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with subsection 4 nor is any person performing euthanasia under that authorization.

§3912. Disposition of dogs at large

1. Ownership of dog unknown. Except as provided in subsection 2, an animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and deliver it to an animal shelter as provided for in section 3913, subsection 2-A. If ownership can not be established, such a dog may be handled as a stray dog for the purpose of acceptance by an animal shelter.

2. Ownership of dog known. An animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and, if the owner is known, shall:

A. Take the dog to its owner; or

B. Deliver it to an animal shelter as provided in section 3913. An animal shelter receiving a dog in accordance with this paragraph shall follow the procedure for stray dogs provided in section 3913.

§3913. Procedure for stray dogs

1. Persons finding stray dogs. A person finding a stray dog and taking control of that dog shall take that dog to its owner if known or, if the owner is not known, to the animal shelter designated by the municipality in which the dog was found.

2-A. Animal shelter. An animal shelter, as defined in section 3907, to which a stray dog is taken shall accept the dog for a period of 6 days unless the shelter is in quarantine or has a bona fide lack of adequate space. Except as provided in subsection 2-B, the acceptance entitles the animal shelter to receive from the department the sum of \$4 a day for the period for which food and shelter are furnished to the dog. An animal shelter may refuse to accept dogs from municipalities not contracting with that animal shelter.

2-B. Adoption policy. Beginning January 1, 2010, to be eligible for reimbursement under subsection 2-A, an animal shelter must have an adoption policy. An adoption policy must provide for a dog to be available for adoption for a minimum of 24 hours except as provided in subsection 6.

3. Claims; fees. The procedure for filing claims and calculating fees is as follows.

A. On the business day next following the date of acceptance of a dog that is not delivered by an animal control officer or person acting in that capacity, the animal shelter shall notify the animal control officer or person acting in that capacity of the respective municipality of the acceptance of the dog, its description and the circumstances of its finding.

B. An animal shelter that accepts a dog under this section, within 45 days of acceptance of the dog, shall submit a claim on a department-approved form to the department for fees incurred in providing food and shelter and the animal shelter shall forward a copy of the claim to the clerk of the respective municipality.

C. If the owner claims the dog within the 6-day period, the owner may have and receive the dog upon payment of all department-approved fees as provided in subsection 2-A, the municipal impoundment fee and actual fees incurred for food, shelter, veterinary care and any other fees required by this chapter for each day that the dog has been sheltered, provided that the dog is licensed in accordance with chapter 721.

4. Ownership of dog. Upon expiration of the 6-day period, ownership of the dog is vested in the animal shelter. The animal shelter may then:

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

B. Otherwise dispose of the dog humanely in accordance with Title 17, chapter 42, subchapter IV. Except as provided in this section, an animal shelter must hold a dog at least 8 days before euthanasia.

Notwithstanding this subsection, ownership of a dog for the purposes of adoption is immediately vested in an animal shelter if the animal shelter makes a determination that the dog is obviously abandoned. An obviously abandoned dog does not include a dog roaming at large.

An animal shelter shall establish and collect fees for reclaimed or adopted animals to offset costs of keeping a dog beyond 6 days.

None of the proceeds obtained from the sale, donation, adoption or other disposition of the dog may be deducted from the fee claimed.

Notwithstanding subsection 3, paragraph C, the previous owner may reacquire the dog at any time prior to its sale, donation or disposal upon payment of the municipal impoundment fee and actual fees incurred for food, shelter, veterinary care and any other fees required by this chapter for each day that the dog has been sheltered. In this case, no fee may be allowed by the department.

6. Euthanasia for severely sick, severely injured or extremely vicious dog.

A humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or extremely vicious dog upon determining that the following conditions are met:

A. The clerk or animal control officer of the municipality where the dog was found has been notified of the dog's presence and the owner of the dog, if known, has been notified; and

C. A veterinarian states in writing that the dog's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the dog presents a danger to the public.

Notwithstanding paragraphs A to C, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, there is no possibility of recovery for a severely injured or sick animal.

7. Immunity from civil liability. A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with subsection 6 nor is any person performing euthanasia under that authorization.

7§3914. Purchase and sale of animals

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

A wolf hybrid may not be sold or exchanged for value. Ownership of a wolf hybrid may be transferred only in accordance with section 3911-B or section 3921-B, subsection 3.

7§3915. Violation

Any person who violates this chapter commits a civil violation for which a forfeiture of not less than \$50 nor more than \$250 may be adjudged for a first violation and not less than \$100 nor more than \$500 for 2 or more violations.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 720: RABIES PREVENTION AND SHELTER PROVISIONS

7§3916. Rabies vaccinations

1. Required for cats. Except as provided in subsection 4, an owner or keeper of a cat over 3 months of age must have that cat vaccinated against rabies. Rabies vaccine must be administered by a licensed veterinarian or under the supervision of a licensed veterinarian. Upon receiving an initial vaccination, a cat is considered protected for one year and an owner or keeper of that cat must get a booster vaccination for that cat one year after the initial vaccination and subsequent booster vaccinations at intervals that do not exceed the intervals recommended by a national association of state public health veterinarians for the type of vaccine administered.

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

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.

2-A. Notice to department. A veterinarian who issues a certificate of rabies vaccination for a dog pursuant to subsection 2 shall, within 30 days of issuing the certificate, forward by mail, e-mail or fax a copy of that certificate to the department. The department shall send a copy of the certificate by mail, e-mail or fax to the clerk of the municipality in which the owner resides. If the owner resides in the unorganized territory, the department shall send a copy of the certificate to the dog recorder in that unorganized territory or, in the absence of a duly authorized dog recorder, to the dog recorder in the nearest municipality or unorganized territory in the same county in which the owner resides. The department may retain a copy or electronic record of the rabies certificate. The department may accumulate certificates received and distribute them periodically to the appropriate municipalities and dog recorders. Distributions must be made no fewer than 4 times a year.

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.

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.

7§3917. Antirabies clinics

The following provisions apply to low-cost antirabies clinics.

1. Clinic establishment. The department shall facilitate the establishment of low-cost antirabies clinics at locations and on dates as appropriate. At least one low-cost antirabies clinic must be conducted annually in each county. In facilitating the establishment of antirabies clinics, the department shall cooperate with local veterinarians and local organizations. When other arrangements can not be made for a licensed veterinarian to vaccinate or to supervise vaccinations by an animal technician at a low-cost clinic, a veterinarian employed by the department shall administer the vaccinations.

2. Veterinarians participating in low-cost antirabies clinics. This subsection applies to a veterinarian licensed under Title 32, chapter 71-A or an assistant under the direction of the veterinarian providing professional services within the scope of the veterinarian's license who participates in a low-cost antirabies clinic established under this section. Adherence by the veterinarian or assistant to the standards of care within the profession creates a rebuttable presumption that the conduct of the veterinarian or assistant was not negligent.

7§3918. Violation

A person who violates this chapter commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

7§3919. Seizure of stray cats and small animals

1. Definition. For the purposes of this chapter, a "stray cat" means a cat on the premises of a person other than the owner of the cat, without the consent of the owner or occupant of the premises, on a public street or on other public property, except under the physical control of the owner.

2. Seizure by animal control officer. An animal control officer or person acting in that capacity may seize or humanely trap a stray cat or small animal and deliver it to an animal shelter as provided for in section 3919-A or section 3919-E or to the owner, if the owner is known. If ownership can not be established, such a cat or small animal may be handled as a homeless cat or small animal for the purpose of acceptance and disposition by an animal shelter.

3. Person finding stray cat. A person finding a stray cat or small animal and not knowing the owner or residence of the cat or small animal may take that cat or small animal to the animal shelter designated by the municipality in which the cat or small animal was found.

7§3919-A. Procedure for acceptance and disposition of cats by animal shelter

An animal shelter to which a cat is taken may accept the cat unless the shelter is in quarantine. An animal shelter accepting a cat shall comply with the provisions of this section.

1. Cats with identification. An animal shelter that accepts a cat with cat identification shall make a reasonable attempt to notify the owner by telephone or by sending a written notice within 24 hours of accepting the cat. Except as provided in subsections 4 and 5, the animal shelter shall hold the cat for a period of 6 days beginning on and including the day of acceptance. If the owner claims the cat within the 6-day period, the animal shelter shall release the cat to the owner upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care. Upon expiration of the 6-day period, ownership of the cat is vested with the animal shelter and the animal shelter may then handle the cat as a homeless cat for disposition in accordance with subsection 2.

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 48 hours or, for feral cats, not less than 24 hours. After the 24-hour or 48-hour period, the animal shelter may treat the cat as a homeless cat and may:

A. Except as provided in section 3938-A, offer the cat for adoption, sell or give away the cat; or

B. Otherwise dispose of the cat humanely in accordance with Title 17, chapter 42, subchapter 4.

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

3. Owner's claim after 6-day period. An owner may reacquire a cat at any time prior to its disposition under subsection 2 upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care and any other reasonable fee imposed by the animal shelter.

4. Euthanasia for severely sick or severely injured cat or small animal. 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 cat or small animal upon determining that the following conditions are met:

A. The animal control officer of the municipality where the cat or small animal was found has been notified or, if the cat or small animal has identification, the owner of the cat or small animal has been notified; and

B. A veterinarian states in writing that the cat's or small animal's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the cat or small animal 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 or small animal.

5. Immunity. A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner of a cat or small animal for the loss of that cat or small animal resulting from actions taken in compliance with this section. Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transference of a cat or small animal to a research facility in violation of subsection 2.

7§3919-B. Disposition of pet when owner is institutionalized

Notwithstanding sections 3913 and 3919-A and except as provided in Title 17, section 1021, when a person brings a pet to an animal shelter because the owner of that pet is incarcerated or hospitalized, that person shall provide the animal shelter with the name and address of the pet's owner and the name and address of the facility where the person is incarcerated or hospitalized. The person bringing the pet to the shelter shall also provide the shelter with that person's name and address and that person's relationship to the owner or the official capacity in which that person is acting to enforce the animal welfare laws. The animal shelter may accept the pet unless the shelter is in quarantine. An animal shelter accepting a pet under this section shall comply with the provisions of this section.

1. Notice. An animal shelter that accepts a pet under this section shall within 24 hours of receiving the pet send a notice by mail, return receipt requested, to the owner of the pet at the owner's last known address. The notice must inform the owner of the provisions of this section.

2. Release of pet. Upon payment of costs incurred for food, shelter and veterinary care, an animal shelter shall release a pet accepted under this section to its owner or to a person who is designated in a letter signed by the owner as acting on the owner's behalf.

3. Transfer of ownership; disposition of pet. If an owner fails to arrange for release of a pet in accordance with subsection 2 within 10 days of the pet's acceptance by the shelter, ownership of the pet is vested with the animal shelter upon expiration of the 10-day period and the animal shelter may:

- A.** Except for a wolf hybrid, offer the pet for adoption or sell or give away the pet; or
- B.** Dispose of the pet humanely in accordance with Title 17, chapter 42, subchapter 4.

An animal shelter may not sell or give a pet to a research facility. An animal shelter may not sell, give away or offer for adoption a wolf hybrid. Ownership of a wolf hybrid may be transferred only in accordance with section 3921-B, subsection 3.

4. Claims. When an owner does not arrange for the release of a pet under subsection 2, the animal shelter is entitled to receive from the department \$4 a day for food and shelter for the pet for a maximum of 10 days.

5. Immunity. A person who brings a pet to an animal shelter in accordance with this section is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3. A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3.

Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transfer of a pet to a research facility in violation of subsection 3.

7§3919-C. Animal held pending court decision

When an animal shelter holds an animal at the request or with the approval of the person who seized the animal 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 person who seized the animal monetary compensation in accordance with this section for the period for which food and shelter are furnished to the animal. For the purposes of this section, "person who seized the animal" includes a humane agent, law enforcement or an animal control officer permitted by law to obtain a search warrant or to seize animals ex parte.

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

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

3. Livestock. Except for equines, fowl and rabbits, compensation for a livestock animal is between \$5 and \$8 a day as determined by the department based on the size of the animal.

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

7§3919-D. Temporary animal shelter

The department may temporarily impound animals within an enclosure other than a licensed animal shelter, and such an enclosure constitutes a temporary animal shelter. When animals are held at a temporary animal shelter for more than 21 days, the shelter must comply with the standards established by the department for licensed animal shelters.

7§3919-E. Disposition of small animals

1. Small animals. When an animal shelter accepts a small animal under section 3919 and the animal does not have identification, the animal shelter shall hold that small animal for not less than 48 hours. After the expiration of the 48-hour period, the animal shelter may treat the small animal as homeless and may:

A. Offer the small animal for adoption, sell the small animal, give away the small animal or transfer the small animal to an appropriate facility that can provide for that specific type of small animal; or

B. Otherwise dispose of the small animal humanely in accordance with Title 17, chapter 42, subchapter 4.

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

2. Exceptions. A small animal that is subject to permit requirements of the Department of Inland Fisheries and Wildlife under Title 12, chapter 915 may not be adopted or have its ownership transferred without the permission of the Department of Inland Fisheries and Wildlife.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 721: DOG LICENSES

7§3921. License necessary

A dog may not be kept within the limits of the State, unless the dog has been licensed by its owner or keeper in accordance with the laws of this State.

Any law enforcement agency within the State, counties or municipalities owning dogs for law enforcement purposes shall be required to license the dogs in the municipality in which they are domiciled, but shall be exempt from any license or recording fee, provided that all other licensing requirements are fulfilled.

7§3921-A. Permanent identification of wolf hybrids

The commissioner shall adopt rules to establish methods of identifying wolf hybrids through tattooing, the placement of a microchip under the animal's skin or any other method determined by the commissioner as adequately providing a permanent means of identification on the body of the animal. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A person may not own or keep a wolf hybrid under section 3921-B, subsection 2 or under Title 12, section 12152 unless the animal has identification in compliance with the rules adopted under this section.

7§3921-B. Prohibition on keeping a wolf hybrid; exception

1. Prohibition. Except as provided in subsection 2, a person may not keep a wolf hybrid in the State unless that person holds a valid permit to possess wildlife in captivity issued by the Department of Inland Fisheries and Wildlife under Title 12, section 12152.

2. Exception. A person keeping a wolf hybrid as a pet and in compliance with all applicable provisions in this Part on June 1, 2011 may continue to keep that wolf hybrid as long as the following conditions are met:

- A. The wolf hybrid has been spayed or neutered; and
- B. The owner continues to license the wolf hybrid in accordance with section 3922, subsection 3-B.

3. Restrictions on transfer. A person keeping a wolf hybrid under subsection 2 may transfer ownership of the wolf hybrid to a person:

- A. Holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2;
- B. Who operates an animal refuge in another state that is licensed to accept wolf hybrids; or

C. Who has had direct contact with the wolf hybrid, is familiar with the wolf hybrid's behavior and has been advised of the reporting requirement under subsection 4 and licensing laws under section 3922.

A person transferring ownership of a wolf hybrid under this subsection shall within 10 days of the transfer notify the department and provide the name and address of the person accepting the transfer.

4. Duty to report death. The owner of a wolf hybrid kept under subsection 2 shall notify the department of the wolf hybrid's death on a form prescribed by the department within 30 days of the wolf hybrid's death.

5. Violation. A person who violates this section commits a civil violation for which a fine of \$2,500 may be adjudged.

7§3922. Issuance of license

1. License; January 1st. Each owner or keeper of a dog at the age of 6 months or more, on or before January 1st of each year, shall obtain a license:

A. From the clerk of the municipality where the dog is kept;

B. From the dog recorder in the unorganized territory where the dog is kept or, in the absence of a duly authorized dog recorder, from a dog recorder in the nearest municipality or unorganized territory in the same county where the dog is kept;

C. From a person authorized to issue licenses under section 3923-F; or

D. From the department using the Internet in accordance with section 3923-G.

2. License; after January 1st. The owner or keeper, within 10 days of the conditions of paragraph A or B being met, shall obtain a license, if between January 1st and October 15th of any year:

A. A dog reaches the age of 6 months or more; or

B. A person becomes the owner or keeper of a dog aged 6 months or more.

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

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

3-B. Proof of permanent identification and other restrictions on licensing a wolf hybrid. A municipal clerk may not issue a license for a wolf hybrid until the applicant has filed with the clerk proof that:

A. The wolf hybrid has been permanently identified in accordance with section 3921-A;

B. The wolf hybrid has been spayed or neutered; and

C. The wolf hybrid was licensed in this State in 2011 by:

(1) June 1, 2011 if the wolf hybrid was 6 months old or older on June 1, 2011; or

(2) December 31, 2011 if the wolf hybrid was less than 6 months old on June 1,

4. Service dogs. If a service dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk may not register the dog nor issue to its owner or keeper a license and tag that identifies the dog as a service dog unless the applicant presents written evidence to the municipal clerk that the dog meets the definition of "service dog." For the purpose of this subsection "written evidence" means a service dog certification form approved by the department in consultation with the Maine Human Rights Commission.

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.

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

7§3923-A. License and recording fees

Except as provided in subsection 3 and section 3923-C, a dog owner or keeper obtaining a license from a municipal clerk, dog licensing agent or dog recorder shall pay the license and recording fees established in this section. For purposes of this

section, "dog licensing agent" means an animal shelter or a veterinarian pursuant to section 3923-F.

1. Dogs capable of producing young. A dog owner or keeper shall pay a fee of \$11 to the municipal clerk or dog licensing agent for each dog 6 months of age or older and capable of producing young. A dog is considered capable of producing young unless certification under subsection 2 is provided. The municipal clerk or dog licensing agent shall retain a \$1 recording fee and pay the remaining \$10 to the department for deposit in the Animal Welfare Fund.

2. Dogs incapable of producing young. A dog owner shall pay a fee of \$6 to the municipal clerk or a dog licensing agent for each dog 6 months of age or older and incapable of producing young. A dog 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;

B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog and determined that the dog is incapable of producing young; or

C. A previous license stating that the dog is incapable of producing young. The municipal clerk or dog licensing agent 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 to the department for deposit in the Animal Welfare Fund.

3. Exemption from fees. A municipal clerk or a dog licensing agent shall issue a license upon application and without payment of a license fee required under this section for:

A. A service dog owned or kept by a person with a physical or mental disability;

D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training; and

E. A dog certified by the State and used for law enforcement purposes.

4. Late fees. An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and 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 \$25 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. 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.

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.

7§3923-B. Tags

1. Tags. The municipal clerk or dog licensing agent 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 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 the tag is lost or the owner has moved to a different municipality, the owner or keeper of the dog shall obtain a new license and tag. The municipal clerk or dog licensing agent shall issue another license and tag upon presentation of the original

license and payment of \$1. The clerk or agent 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.

7§3923-C. Kennel license

1. License necessary. A person having 5 or more dogs for the purposes set forth in section 3907, subsection 17 shall obtain a kennel license from the clerk of the municipality where the dogs are kept and that person is subject to rules adopted by the department. The sex, registered number and description are not required for the dogs covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs in or outside the State.

2-A. License fees. A kennel owner shall pay a fee of \$42 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6 months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain \$2 as a recording fee and forward \$10 to the municipality's animal welfare account established pursuant to section 3945 and \$30 to the Animal Welfare Fund.

3. Form of license. The license must be issued in triplicate, the original copy of which is given to the applicant and the remaining 2 copies retained by the municipal clerk. A license covers a maximum of 10 dogs.

4. Kennel tags. Dogs covered by a kennel license must be furnished suitable kennel tags and stickers that must be attached to the back of the tag indicating the year the license is issued and bearing other information as prescribed by the department and are not required to be individually licensed.

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 major substantive rules as defined in Title 5, chapter 375, subchapter 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.

6. Late fees. A late fee of \$25 in addition to the annual fee must be paid by a person who fails to obtain a municipal kennel license by January 31st of each year as required in this section. The late fee must be deposited in the municipality's animal welfare account established pursuant to section 3945.

7§3923-D. Temporary licenses

An animal shelter may issue a temporary dog license when transferring ownership vested in the animal shelter under section 3913, subsection 4 to a person buying or otherwise accepting ownership. The department shall provide animal shelters with temporary license forms. The animal shelter shall complete all information prescribed on the form, provide the owner with the original temporary license and submit the copy for the municipal clerk and the animal control officer to the appropriate municipal clerk. The animal shelter may retain a copy of the temporary license to comply with section 3914. A temporary license is valid for a period of 10 days beginning on the date of issuance. An animal shelter may charge \$1 for issuing a temporary license.

7§3923-E. Monthly report

Municipal clerks or dog recorders shall receive the license fees in accordance with sections 3923-A and 3923-C, pay them to the department and make a monthly report to the department on a department-approved form of all licenses issued and fees received.

7§3923-F. Veterinarian or animal shelter serving as dog licensing agent

The commissioner may authorize an animal shelter licensed in accordance with chapter 723 and a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must provide a process for identifying animal shelters and veterinarians who are willing to serve as dog licensing agents for distributing license blanks, tags and stickers, and for the collection, distribution and deposit of license fees into the appropriate state accounts.

7§3923-G. Internet licensing project

1. Procedure developed; municipality participation. The commissioner may develop and implement a procedure by which a dog owner can electronically apply for and be issued a dog license using a publicly accessible site on the Internet. A municipality may choose to participate in the electronic dog licensing project by contacting and working with the commissioner. Electronic licensing is available only to residents of a municipality that requests and is accepted by the commissioner to participate in the electronic licensing project. The commissioner may limit the number of municipalities that participate in the project.

2. Forms; verification of rabies immunization. The commissioner shall develop a form to be used for electronic licensing under this section. The commissioner shall consult with the Commissioner of Health and Human Services to establish the information needed to verify rabies immunization.

3. Payment of licensing fee. The commissioner shall establish a mechanism for accepting payment of license fees by credit card. An owner or keeper who applies for a dog license using the publicly accessible site on the Internet developed pursuant to subsection 1 shall pay the fee required under section 3923-A and an additional service fee of \$1 for each license to cover administrative costs and pay the Internet service provider.

4. Distribution of licensing fee. The commissioner shall deposit all fees received under this section into the Animal Welfare Fund. The commissioner shall establish procedures for participating municipalities to periodically receive the appropriate credit or payment for license fees collected by the department under this section. A municipality is entitled to a payment or credit of \$3 for each dog licensed under this section. All payments or credits received by a municipality must be deposited or credited to the municipality's animal welfare account established in accordance with section 3945.

6. Exclusion of wolf hybrids. This section does not apply to the licensing of a wolf hybrid. A person owning a wolf hybrid shall obtain a license from the municipal clerk or the dog recorder for the municipality, plantation or unorganized territory in which the person owning the wolf hybrid resides.

7§3924. Violation

1. Civil violation. Any person who violates any section of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

2. Unlawful use of collar or tag. A person who removes a tag or who places a tag on a dog for which the license was not issued commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

7§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.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 723: FACILITY LICENSES

7§3931-A. Breeding kennels

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.

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.

5. License number requirements. A breeding kennel shall prominently display in 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.

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.

7 §3932. Boarding kennels

1. License necessary. A person maintaining a boarding kennel, 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.

2. License fees. The fee for a boarding kennel license is \$75.

4. Advertising. A boarding kennel shall prominently display the state-issued kennel license number in any form of print advertising. The license number must be provided to a person boarding an animal at a boarding kennel.

5. Notice of fees and services. A person maintaining a boarding kennel shall post upon the premises and provide upon request a written notice of fees charged for boarding and for any other services offered at the boarding kennel. The notice must indicate the hours during which the owner of the boarding kennel or a person responsible to the owner of the boarding kennel is on the premises.

6. Conditional boarding kennel license. Upon receiving a license application for a boarding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional boarding kennel license to an applicant who pays the required fees and is not prohibited from obtaining a license under section 3935. The conditional license remains in effect until the boarding kennel meets the requirements for a license under section 3936. If a boarding kennel passes an inspection under section 3936 and meets all other conditions of licensure, the conditional license must be changed to a standard license. If a boarding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

7§3932-A. Animal shelters

1. License necessary. A person operating an animal shelter 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.

2. License fee. The license fee for an animal shelter is \$100.

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

7 §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.

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 that have not been neutered. A person maintaining a 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 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.

7 §3935. License prohibited

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

7§3935-A. Late fees

A person maintaining a facility required to be licensed under this chapter shall pay a late fee equal to 50% of the required license fee if that person fails to renew a license within 30 days of that license's expiration date. The late fee must be deposited in the Animal Welfare Fund established in section 3906-B.

7§3936. Inspection and quarantine

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 major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding kennel 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.

2. Suspension of license. The department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend a kennel, boarding kennel, breeding kennel, animal shelter or pet shop license if a person maintaining the kennel, boarding kennel, breeding kennel, animal shelter or pet shop violates any quarantine or maintains animals contrary to the rules adopted by the department, fails to keep records required by the department or violates any provision of the laws or rules of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession.

7§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.

7 §3937. Investigation

Upon written complaint made to the commissioner by any person alleging violation of this chapter, or any of the rules of the chapter by any licensee, the commissioner shall cause an investigation to be made upon matters related in the complaint.

7 §3938. Violation

A person maintaining an animal shelter, boarding kennel, breeding kennel or pet shop without having obtained a license, or after a license has been revoked or suspended, commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 a day may be adjudged.

7 §3938-A. Minimum age of transfer for cats and dogs

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

7 §3939. Dog licenses

Nothing in this chapter may be construed to exempt licensed facilities from the license requirements of chapter 721.

7 §3939-A. Spay; neuter of dogs and cats

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

2. Detrimental to health. If a licensed veterinarian or licensed veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter or rescue group shall collect a deposit of not less than \$50 and not more than \$150 at the time of sale or placement. The animal shelter or rescue group shall determine the amount of the deposit based on the cost of spaying or neutering within the

geographic area served by the animal shelter or rescue group. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

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

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

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

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

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

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

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

7§3939-B. Violations

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

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

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 725: MUNICIPAL DUTIES

7§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 municipal offices.

7§3942. Issuance of dog licenses

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.

The clerk shall retain \$1 from each license fee as a recording fee. The clerk shall deposit \$2 from each license for a dog incapable of producing young in the municipality's animal welfare account established in accordance with section 3945.

7§3944. Issuance of kennel licenses

Municipal clerks and dog recorders shall issue kennel licenses to kennel owners or operators in accordance with section 3923-C.

7§3945. Use of license fees and court fines retained by municipalities

Except for the \$1 recording fee pursuant to section 3942 retained by the municipal clerk, all fees and court fines retained by municipalities must be kept in a separate account and must be used for the salaries and costs of animal control, enforcement of licensing laws, care of stray animals that are injured or abandoned and the support of one or more approved animal shelters. Any money not expended for these purposes in a municipality's fiscal year does not lapse, but must be carried over to the next fiscal year.

7§3946. Dog recorders in unorganized territories

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees and pay them to the department. The recorders shall keep the clerk's copy of all licenses issued by them and make reports to the department on a form approved by the department of all licenses

issued and fees received. The recorders shall report following each month in which licenses are actually issued and fees are actually collected.

7§3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911(*Dogs at Large*), 3912(*Disposition of Dogs at Large*), 3916(*Rabies Vaccinations*), 3921(*Dog Licenses Necessary*), 3924(*Violations*), 3948(*Animal Control*), 3950(*Local Regulations*), 3950-A(*Official Refusal or Neglect of Duty*), 3952-A (*Keeping a Dangerous or Nuisance Dog*) and 4041(*Animal Trespass*) and Title 17, section 1023(*Investigating Animal Cruelty*), responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313(*Suspect Animals*) and 1313-A(*Destruction of Suspect Animals*) 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.

A municipality may not appoint a person to the position of animal control officer who has been convicted of murder, a Class A or Class B offense or a violation of Title 17-A, chapter 9, 11, 12 or 13 or has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section.

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

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

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer within 10 business days. In the event the position is vacant upon termination or resignation of the animal control officer, the municipal clerk shall notify the commissioner within 10 business days of the vacancy.

7§3948. Animal control

1. Control. Municipalities shall control dogs running at large.

2. Medical attention. Law enforcement officers and animal control officers shall take a stray animal to its owner, if known, or, if the owner is unknown, shall ensure that any injured companion animal that is at large or in a public way is given proper medical attention.

3. Domesticated and undomesticated animals. A municipality shall control domesticated animals that are a cause of complaint in the community. A municipality shall control animals that pose a threat to public health or safety. A municipality may control undomesticated animals in matters on which no other department is charged by law to regulate.

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.

7§3949. Animal shelter designation

Municipal clerks, annually, on or before April 1st, shall certify to the commissioner the name and location of the animal shelter with which the municipality has entered into a contract to accept stray animals or have an arrangement for an animal shelter that will accept stray animals. Animal shelters designated by the municipality under this section must comply with commissioner rules.

A municipality may contract with an animal shelter licensed under section 3932-A for other animal control services. A municipality may not contract with a shelter for the performance of the duties of an animal control officer as specified in section 3947 unless an employee of that shelter is the appointed animal control officer for that municipality and the duties of an animal control officer are performed by the person so appointed.

7§3950. Local regulations

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter, including the establishment of fees necessary and appropriate to finance the cost of animal control services, except that municipalities may not adopt breed-specific ordinances, laws or regulations. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect.

1. Certain agricultural working dogs exempt from barking dog ordinances.

A municipal ordinance, law or regulation that prohibits or limits barking dogs does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock. For the purposes of this subsection, the term "livestock" has the same meaning as in section 3907, subsection 18-A.

7§3950-A. Official refusal or neglect of duty

1. Violation. A mayor, municipal officer, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable, police officer, sheriff or animal control officer commits a civil violation if that person refuses or intentionally fails to perform the duties imposed by:

- A. This chapter;
- B. Chapter 719; *Uncontrolled Dogs*
- C. Chapter 720; *Rabies Prevention*
- D. Chapter 721; *Dog Licensing*
- E. Chapter 725; *Municipal Duties* or
- F. Chapter 727. *Dangerous Dogs*

2. Penalty. A person who violates subsection 1 commits a civil violation for which a fine of not less than \$50 and not more than \$500 and costs may be adjudged.

3. Investigation. The commissioner, at the commissioner's own instance or upon written complaint made to the commissioner by another person, shall investigate an alleged refusal or neglect of duty by a municipal officer.

4. Prosecution. The commissioner shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to animals and to the liability of municipal officers and their agents for failure, neglect or refusal to comply with the laws relating to animals.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 727: DANGEROUS DOGS AND NUISANCE DOGS

7§3951. Killing for assault permitted

Any person may lawfully kill a dog if necessary to protect that person, another person or a domesticated animal during the course of a sudden, unprovoked assault.

7§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

(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 the order wounds any person by a sudden assault or wounds or kills any domestic 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.

7§3953. Stealing, injuring or killing dogs

Except as provided in section 3951 and Title 12, section 12404, and unless the killing is justified to protect persons or property, a person who steals, confines or secretes, willfully or negligently injures or willfully or negligently kills a dog is liable in damages to the dog's owner in a civil action.

7§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.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 729: DAMAGE BY ANIMALS

7§3961. Reimbursement for damage done by animals

1. Injuries and damages by animal. When an animal damages a person or that person's property due to negligence of the animal's owner or keeper, the owner or keeper of that animal is liable in a civil action to the person injured for the amount of damage done if the damage was not occasioned through the fault of the person injured.

2. Injuries by dog. Notwithstanding subsection 1, when a dog injures a person who is not on the owner's or keeper's premises at the time of the injury, the owner or keeper of the dog is liable in a civil action to the person injured for the amount of the damages. Any fault on the part of the person injured may not reduce the damages recovered for physical injury to that person unless the court determines that the fault of the person injured exceeded the fault of the dog's keeper or owner.

7§3961-A. Attack on service animal

A person who owns or keeps a dog that attacks, injures or kills a service animal while the service animal is in discharge of its duties commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

When a person is adjudicated of a violation of this section, the court shall order the person to make restitution to the owner of the service animal for any veterinary bills and necessary retraining costs or replacement costs of the service animal if it is disabled or killed.

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

7§3962-A. Penalty for damage to livestock or pets by animals

1. Violation. Except as provided in subsection 3, the owner or keeper of an animal that due to negligence of the animal's owner or keeper kills or injures livestock, poultry, domestic rabbits or pets commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged in addition to costs.

2. Additional remedy. A person who suffers damage as a result of a violation of subsection 1 may also pursue a civil action against the owner or keeper of the animal pursuant to section 3961.

3. Exception. If the owner or keeper of an animal that kills or injures another animal establishes that the animal that was killed or injured provoked the killing or injury or that the animal that committed the killing or injury was leashed or

controlled on the owner's or keeper's property at the time of the killing or injury, then the owner or keeper is not liable under this section or section 3961.

7§3963. Joint and several liability

If any properly enclosed livestock, poultry, domestic rabbits or pets are killed or injured by 2 or more dogs at the same time and the dogs are kept by 2 or more owners or keepers, the owners or keepers are jointly and severally liable for the damage.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 730-A: BREEDING, SALE AND TRANSPORTATION OF SMALL MAMMALS

7§3970-A. Sale and importation of juvenile ferrets

1. Prohibition on sale. A person, firm, corporation or other business entity may not sell or offer for sale or resale in the State any ferret that is less than 8 weeks of age as determined by examination for adult canine dentition.

2. Prohibition on importation. A person, firm, corporation or other business entity may not ship or bring into the State any ferret that is less than 8 weeks of age as determined by examination for adult canine dentition unless that ferret is transported with its mother.

3. Penalty. A person who violates this section commits a civil violation for which a fine not to exceed \$100 per violation may be adjudged.

7§3970-B. Breeding and sale of small mammals

1. Rulemaking. The commissioner shall adopt major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A to regulate the breeding and sale of small mammals, including, but not limited to, guinea pigs, hamsters and rabbits. The rules must reflect the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture for the care of small mammals. Rules adopted pursuant to this section apply only to persons who are not regulated or required to be licensed under chapter 723 or 735.

2. Penalty. A person who violates the rules adopted under this section commits a civil violation for which a fine not to exceed \$100 per violation may be adjudged.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 731: MISTREATMENT OF ANIMALS

7§3971. Vivisection prohibited in public and private schools

1. Use of animals in schools. No live vertebrate, except eggs, may be used in kindergarten and grades one to 12 of any public or private school as part of a scientific experiment or for any other purpose in which the animal is experimentally medicated or drugged in a manner to cause painful reactions or to induce painful or lethal pathological conditions, or in which the animal is injured through any other type of treatment, experiment or procedure, including, but not limited to, anesthetization or electric shock or where the normal health of the animal is interfered with or where pain or distress is caused.

No person may, in the presence of any student in kindergarten and grades one to 12, practice vivisection or exhibit a vivisected animal. Dissection of dead animals or any portions of dead animals in schools shall be confined to the classroom and to the presence of students engaged in the study of dissection and shall not be for the purpose of exhibition.

This subsection shall also apply to any activity associated with or sponsored by the school system.

2. Treatment of animals in general. Live animals used as class pets or for purposes not prohibited in subsection 1 shall be housed and cared for in a safe and humane manner. The animals shall not remain in school over periods when school is not in session, unless adequate care is provided at all times.

3. Standards of treatment. Any animal whose use is permitted under this section shall be treated in accordance with the ethical and humane standards promulgated by the commissioner pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, after consultation with representative groups in the State having an interest or expertise in the field of animal welfare, biology and education.

4. Enforcement. The commissioner shall enforce this section in consultation with the Commissioner of Education.

5. Penalty for violations. Any person who violates this section shall be punished by a fine of not more than \$75.

7§3972. Unlawful use of animals

1. Unlawful use of animals. It is unlawful for any person to:

A. Sell, display, raffle, give away or offer for sale within the State any live animals that have been dyed or otherwise artificially colored;

B. Sell, display, raffle, give away or offer for sale to the public any live fowl, turtles or rabbits under 8 weeks of age in lots of less than **2**;

C. Use any live animal as a premium, fund-raising device, prize or award or use any live animal in a raffle, contest, game or promotion except as authorized by law or rule;

D. Use any live animal as bait in any racing contest or in the training of animals for racing contests;

E. Tie, tether or restrain any animal in a manner that is inhumane or detrimental to its welfare;

F. Intentionally cause an equine to fall or lose its balance by any means whatsoever. For the purposes of this paragraph, the term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny. This paragraph does not apply to the lawful laying down of an equine for medical or identification purposes; or

G. Abandon, dump or dispose of any deceased domesticated animal on public property or on private property without the permission of the property owner.

2. Violation. Any person who makes unlawful use of animals contrary to this section commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged. For the purposes of this section, "animal" does not include lobsters or shellfish.

3. Construction. Nothing in this section may be construed to apply to any animal to be used or raised for agriculture, aquaculture or fishing, to any dog to be used or raised for hunting or exhibition purposes, by persons with proper facilities otherwise authorized by law, or to games using animals in which the participating animal is not caused, directly or indirectly, to perform any act that deviates from the animal's natural behavior provided that the game is conducted by an educational or cultural institution or other nonprofit service organization.

4. Exception. Notwithstanding subsection 1, paragraph C, livestock may be raffled by charitable organizations licensed under Title 17, section 1837, subsection 3 for fund-raising purposes. For the purposes of this section, "charitable organization" has the same meaning as defined in Title 9, section 5003, subsection 1. Proceeds from a raffle under this subsection must be used for charitable purposes. The animal must be awarded in freezer-ready form.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 733: TRANSPORTATION OF ANIMALS

7§3981. Intrastate transportation of animals

1. Period of confinement. No railroad, motor truck, common carrier or its receiver, trustee or lessee which transports animals within the State or other person having the care, custody or charge of animals loaded into any such form of transportation may confine the animals in cars, boats, vehicles or vessels of any description for a period longer than 28 consecutive hours without unloading the animals in a humane manner, by means of a chute or tailgate of sufficient size, into properly equipped pens or other suitable enclosures for rest, water and feeding for a period of at least 5 consecutive hours, unless prevented by storm, accident or other unavoidable cause which cannot be anticipated or avoided by the exercise of due diligence and foresight.

In estimating the time of confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest, food or water in a car, boat, vehicle or vessel shall be included.

2. Extension of time for confinement. Upon the separate written request of the owner or person in custody of the shipment of animals, the time of confinement may be extended to 36 hours.

3. Sheep. A railroad, motor truck, common carrier or its receiver, trustee or lessee, or other person having the care, custody or charge of sheep loaded into any such form of transportation, is not required to unload sheep in the nighttime, but, when the time expires in the nighttime, the sheep may continue in transit to a suitable place of unloading not exceeding the maximum limitation of 36 hours during which they may be confined.

4. Preference of animals as freight. A railroad, motor truck and common carrier within the State shall give cars, boats, vehicles or vessels containing cattle, sheep, swine or other animals a continuous passage in preference to other freight. Cars, boats, vehicles or vessels loaded with animals at any station shall have precedence over all other freight.

5. Conditions of transportation. Cars, boats, vehicles or vessels shall be sufficiently covered or boarded on the sides and ends to afford proper protection to animals in case of storms or severe cold weather and shall be properly ventilated. A greater number of animals shall not be loaded into any car, boat, vehicle or vessel than can stand comfortably within.

No person may transport any animal in or upon any car, boat, vehicle or vessel in a cruel or inhumane manner.

6. Violation. Any person who violates this section commits a civil violation for which a forfeiture of not less than \$50 nor more than \$500 for every such offense may be adjudged.

7. Construction. Nothing in this chapter may be construed to prohibit the use of strike cages for dogs while in the lawful sport of hunting or in training or the movement of livestock or poultry when standards of the industry are followed.

7§3982. Liens

A railroad, motor truck, common carrier or its receiver, trustee or lessee has a lien on all animals in transit for reimbursement of penalties paid in consequence of the direction or orders of the owner or person in custody of the shipment of animals and for all extra expenses or damages incurred in the care and protection of animals according to this chapter.

7§3983. Possession of animals unlawfully detained

The commissioner, a humane agent, sheriff, deputy sheriff, constable, police officer or person authorized to make arrests may take possession of any animals detained in violation of this chapter and may unload the animals and place them in properly equipped pens or other suitable enclosures for rest, water and feeding. The commissioner or any person taking possession pursuant to this section has a lien on the animals detained for expenses incurred for the care given.

7§3984. Enforcement of lien

The commissioner or any person having a lien in accordance with section 3982 or 3983 may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631.

7§3985. Immunity from liability

Neither the commissioner nor any person having a lien in accordance with section 3982 or 3983 is liable for the detention of animals pursuant to this chapter.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 735: RESEARCH INSTITUTIONS

7§3991-A. Regulation of research institutions

1. License necessary. A research or teaching institution of higher education may not employ live animals in scientific investigation, experiment or instruction or for the testing of drugs or medicines without first having been issued a license under this section by the commissioner.

2. Application. A research or teaching institution desiring to obtain a license shall make application to the commissioner. On receipt of the application, the commissioner shall investigate as necessary to determine whether the public interest will be served by the issuance of the license. The commissioner may issue the license as long as the research or teaching institution, by reason of its standards, facilities, practices or activities, is a fit and proper institution to receive the license and that its issuance is in the public interest. The standards for licensure are those contained in United States Code, Title 7, Section 2143 and any federal regulations issued pursuant to that law. This chapter may not be construed to be more restrictive than federal law. In the case of conflict between state law and federal law or a mandatory rule, regulation or order of the Federal Government or its agencies, the federal law, rule, regulation or order governs.

3. Fees; license renewal. Before issuance of a license, each research or teaching institution licensed under this chapter shall pay to the commissioner a license fee of \$200. A license expires on June 30th next following the date of issue. The commissioner shall annually renew each license upon the application of the licensee, unless, after notice and hearing as provided in this chapter, the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the renewal is not in the public interest. The commissioner, after notice and hearing as provided in this chapter, may modify, fail to renew, suspend or revoke any license if the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the continuation of the license is not in the public interest.

4. Noncompliance. If, in the opinion of the commissioner, there is or may be noncompliance with or a violation of this chapter or of a rule adopted by the commissioner that is of sufficient gravity to warrant further action, the commissioner may request an informal conference with the licensee. The commissioner shall provide the licensee with adequate notice of the conference and the issues to be discussed.

If the commissioner finds that the factual basis of the alleged noncompliance with or violation of this chapter is true and may warrant further action, the commissioner:

A. With the consent of the licensee, may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the health and welfare of animals and to rehabilitate or educate the licensee;

B. In consideration for acceptance of a voluntary surrender of the license, may negotiate stipulations, in a consent decree to be signed by the commissioner, the licensee and the Office of the Attorney General, that ensure protection of the health and welfare of animals and that serve to rehabilitate or educate the licensee;

C. If the commissioner concludes that modification or nonrenewal of the license may be in order, shall hold an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4; or

D. If the commissioner concludes that suspension or revocation of the license is in order, shall file a complaint in the District Court in accordance with Title 4, chapter

5. Grounds for discipline. Grounds for an action to modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter are:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. A violation of this chapter or a rule adopted by the commissioner; and

C. Conviction of a crime involving cruelty to animals.

6. Violation; penalty. A person may not knowingly violate this chapter or the rules issued pursuant to this chapter. The following penalties apply.

A. A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged.

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not more than \$250 may be adjudged.

7. Rules. The commissioner may adopt rules that are necessary to carry out the purposes of this chapter.

8. Inspection. In connection with the granting, continuance or renewal of a license and in connection with an investigation of alleged cruelty or alleged violation of this chapter or the rules issued pursuant to this chapter, the commissioner, at least annually, may visit and inspect the research and teaching institutions or animal research and care facilities of any licensee or of any research or teaching institution that has applied for a license.

CHAPTER 737 CALF AND PIG SCRAMBLES

7§4001. Regulation of calf and pig scrambles

1. Permit required. Any person sponsoring a calf or pig scramble shall obtain a permit from the commissioner for each specific event at least 10 days before the event.

2. Application. Applications for calf or pig scramble permits shall specify the name of the applicant, the type of scramble and the date or dates of the scramble.

3. Fee. A fee of \$10 must be submitted with any application for a calf or pig scramble.

4. Rules. Each applicant obtaining a permit under this section is subject to the rules adopted by the commissioner on the weight and size of animals, age of participants, length of event and such other requirements as the commissioner considers necessary.

5. Violation. Any person who violates this chapter or any of the rules issued pursuant to this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 739: CRUELTY TO ANIMALS

7§4011. Cruelty to animals

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

- A.** Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;
- B.** Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;
- C.** Is a licensed veterinarian or a person certified under Title 17, section 1042 and that person kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians;
- D.** Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;
- E.** Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;
- F.** Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter;
- G.** Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to chapter 202-A and Title 12, Part 13, and excluding humane trapping of animals for population control efforts or animal control pursuant to this Part;
- H.** Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition;

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal; or

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

2. Affirmative defenses. It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards;

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

7§4012. Cruelty to birds

1. Cruelty to birds. A person is guilty of cruelty to birds if that person:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;

B. Shoots at any bird or is present as a party, umpire or judge at a shooting;
or

C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for the purposes of paragraphs A and B.

2. Construction. This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

3. Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

7§4013. Necessary sustenance

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

7§4014. Necessary medical attention

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

7§4015. Proper shelter, protection from the weather and humanely clean conditions

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather and humanely clean conditions as prescribed in this section.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

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

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

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

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

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

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5-A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in section 1341, subsection 1.

5-A. Livestock maintained under a rotational grazing system.

Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, "rotational grazing system" means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

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

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

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

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

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

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and "dogs kept as sled dogs or dogs used in competition" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

7 § 4016. Violation

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or

civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

7§4017. Rules

The commissioner may adopt any rules necessary or useful to carry out this chapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

7§4018. Report of suspected cruelty

1. Report by veterinarian. Except as provided in subsection 1-A, a veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of cruelty or neglect in violation of this chapter or Title 17, chapter 42 may report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

1-A. Report by veterinarian required. A veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of aggravated cruelty under Title 17, section 1031, subsection 1-B shall report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

2. Immunity. A veterinarian reporting or testifying under this section is immune from criminal or civil liability or professional disciplinary action that might otherwise result from these actions. The immunity from liability for releasing confidential information applies only to the release of information to the court or to the department, an animal control officer, attorney for the State or law enforcement agency involved in the investigation.

7§4019. Removal from unattended motor vehicle

1. Removal authorized. A law enforcement officer, humane agent, animal control officer, firefighter as defined in Title 26, section 2101, first responder as defined in Title 32, section 83, subsection 13-A or security guard licensed under

Title 32, chapter 93, referred to in this section as "authorized persons," may take all steps that are reasonably necessary to remove an animal from a motor vehicle if the animal's safety, health or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause extreme suffering or death.

2. Notice required. A law enforcement officer, humane agent or animal control officer who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the officer's or agent's name and office and the address of the location where the animal may be claimed. A firefighter, first responder or security guard who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the person's name and the address of the location where the animal may be claimed. The owner may claim the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.

3. Immunity. An authorized person who removes an animal from a motor vehicle pursuant to subsection 1 is immune from criminal or civil liability that might otherwise result from the removal.

7 § 4020. Cruel confinement of calves raised for veal and sows during gestation

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

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.

D. "Farm" has the same meaning as in section 152.

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

- A.** Lying down, standing up and fully extending the animal's limbs; and
- B.** Turning around freely.

3. Exceptions. Subsection 2 does not apply:

- A.** To an animal while it is the subject of scientific or agricultural research;
- B.** During examination, testing, individual treatment of or operation on an animal for veterinary purposes;
- C.** To an animal being transported;
- D.** To an animal at a rodeo exhibition or state or county fair exhibition;
- E.** To an animal at a 4-H event or similar exhibition;
- F.** To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and
- G.** To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

The affirmative defense provisions in section 4016, subsection 3 do not apply to this section. It is not an affirmative defense to alleged violations of this section that the calf or sow was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 741: ANIMAL TRESPASS

7§4041. Animal trespass

1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

2. Removal. The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

B. The animal is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

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

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period.

4. Fines. A person who violates this section is subject to the following fines.

A. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$500 must be adjudged.

B. A person who violates this section after having been adjudicated as having committed a violation of this section commits a civil violation for which a fine of \$1,000 must be adjudged.

C. A person who violates this section after having been adjudicated as having committed 2 or more violations of this section commits a civil violation for which a fine of \$2,500 must be adjudged.

4-A. Restitution; court costs and fees. In addition to fines, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the property owner against the owner or keeper of the animal based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section. Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the animal must also pay reasonable court costs and attorney's fees of the department, municipality or law enforcement agency if the department, municipality or law enforcement agency is the prevailing party in any court proceeding.

4-B. Forfeiture. If the department, a municipality or a law enforcement agency determines that a repeated violation of this section by an owner or keeper of an animal jeopardizes the public health, welfare or safety of the community, the department, municipality or law enforcement agency may bring a forfeiture action in the county in which the violations occurred under Title 14, section 506. In an action brought under this subsection, the burden of proof is on the department, municipality or law enforcement agency. If a court determines that a repeated violation of this section jeopardizes the public health, welfare or safety of the community, the court may order any animal that is the subject of the violation sold in a commercially reasonable manner and apply the proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this section with any remaining balance returned to the owner or keeper of the animal.

5. Exemption. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.

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

A. "Animal" does not include cats.

B. "Authorized employee of the department" means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 743: EQUINE ACTIVITIES

7§4101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

4. Equine. "Equine" means a horse, pony, mule, donkey or hinny.

5. Equine activity. "Equine activity" includes but is not limited to the following:

- A. Riding or driving an equine or riding as a passenger on or in a vehicle powered by an equine;
- B. Equine training, teaching or testing activities;
- C. Boarding or keeping an equine, including, but not limited to, normal daily care of an equine;
- D. Riding, inspecting or evaluating an equine belonging to another person, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine;
- E. Rides, trips, hunts or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor;
- F. Providing or assisting in the provision of hoof care, including, but not limited to, horseshoeing;
- G. Trailering, loading, unloading or transporting an equine;
- H. Providing or assisting in the provision of veterinary treatment or maintenance care for an equine;
- I. Conducting or assisting in the conducting of procedures necessary to breed an equine by means of artificial insemination or otherwise;
- J. Participating in an equine activity sponsored by an equine activity sponsor;
- K. Participating or assisting a participant in an equine activity at an equine event;
- L. Managing or assisting in the managing of an equine in an equine event;
- M. Showing or displaying an equine;

- N. Operating or assisting in the operation of an equine event;
- O. Providing or assisting in the provision of equine dental care; and
- P. Participating in racing.

6. Equine activity sponsor. "Equine activity sponsor" means an individual, group, club, partnership, corporation or other entity, whether operating for profit or nonprofit, that sponsors, organizes or provides the facilities for an equine activity, including, but not limited to: pony clubs; 4-H clubs; field trial clubs; hunt clubs; riding clubs; classes or programs sponsored by a school or college; therapeutic riding programs; and operators, instructors and promoters of equine facilities at which equine activities are held, including, but not limited to, stables, clubhouses, ponyride strings, fairs and arenas.

6-A. Equine event. "Equine event" means an event in which an equine activity occurs, including, but not limited to, fairs, competitions, performances or parades that involve any breed of equine and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, 3-day events, combined training, 4-H events, Pony Club events, rodeos, driving, pulling, cutting, reining, team penning, barrel racing, polo, steeplechasing, endurance or nonendurance trail riding, English and western performance riding, games, packing, recreational riding and hunting.

7. Equine professional. "Equine professional" means a person engaged for compensation:

- A. In instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger on the equine;
- B. In renting equipment or tack to a participant;
- C. In providing daily care of equines boarded at an equine facility; or
- D. In training an equine.

7-A. Inherent risks of equine activities. "Inherent risks of equine activities" means those dangers and conditions that are an integral part of equine activities, including, but not limited to:

- A. The propensity of an equine to behave in ways that may result in damages to property or injury, harm or death to persons on or around the equine. Such equine behavior includes, but is not limited to, bucking, shying, kicking, running, biting, stumbling, rearing, falling and stepping on;
- B. The unpredictability of an equine's reaction to such things as sounds, sudden movements and unfamiliar objects, persons or other animals;

- C. Certain hazards such as surface and subsurface conditions;
- D. Collisions with other equines or objects; and
- E. Unpredictable or erratic actions by others relating to equine behavior.

8. Participant. "Participant" means a person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

9. Spectator. "Spectator" means a person who is in the vicinity of an equine activity but who is not a participant.

7§4103-A. Liability for equine activities

1. Liability. Except as provided in subsection 2, an equine activity sponsor, an equine professional or any other person engaged in an equine activity is not liable for any property damage or damages arising from the personal injury or death of a participant or spectator resulting from the inherent risks of equine activities. Except as provided in subsection 2, a person may not make any claim or recover from any person for any property damage or damages for personal injury or death resulting from the inherent risks of equine activities. Each participant and spectator in an equine activity expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury or death that results from the inherent risk of equine activities. Each participant has the sole responsibility for knowing the range of that person's ability to manage, care for and control a particular equine or perform a particular equine activity. It is the duty of each participant to act within the limits of the participant's own ability, to maintain reasonable control of the particular equine at all times while participating in an equine activity, to heed all warnings and to refrain from acting in a manner that may cause or contribute to the injury of any person or damage to property.

2. Exceptions; participants. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if the equine activity sponsor, equine professional or person:

- A. Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury;
- B. Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition that was known or should have been known to the equine activity sponsor, equine professional or person;
- C. Commits an act or omission that constitutes reckless disregard for the safety of others and that act or omission caused the injury. For the purposes

of this section, "reckless" has the same meaning as "recklessly," defined in Title 17-A, section 35, subsection 3, paragraph A; or

D. Intentionally injures the participant.

3. Assumption of risk. In a personal injury action against an equine professional, a defense or immunity described in subsection 1 may be asserted only if the person injured in the course of an equine activity:

A. Had actual knowledge of the inherent risks of equine activities;

B. Had professed to have sufficient knowledge or experience to be on notice of the inherent risks; or

C. Had been notified of the inherent risks and the limitations of liability. For the purposes of this subsection, notice of the inherent risks of equine activity may be satisfied either by a statement signed by the person injured or by a sign or signs prominently displayed at the place where the equine activity was initiated. The statement or sign must contain at least the following information.

"WARNING

Under Maine law, an equine professional has limited liability for an injury or death resulting from the inherent risks of equine activities."

The message on a sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near stables, corrals or arenas where the equine professional conducts equine activities.

4. Exceptions; persons who are not participants. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if that equine activity:

A. Causes injury or death to a person who is not a participant and who is in a place where a reasonable person would not expect an equine activity to occur; or

B. Causes injury or death to a spectator and that spectator was in a place designated or intended by an activity sponsor as a place for spectators.

Title 7: AGRICULTURE AND ANIMALS
Part 9: ANIMAL WELFARE
Chapter 745: SALE OF DOGS AND CATS

7§4151. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Animal. "Animal" means a dog, wholly of the species *canis familiaris*, or a cat, wholly or in part of the species *felis domesticus*.

2. Breeder. "Breeder" means a person, firm, partnership, corporation or association that breeds animals for direct or indirect sale to the public.

3. Health problem. "Health problem" means any disease, illness or any congenital or hereditary condition that would impair the health or function of an animal.

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 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.

5. Veterinarian. "Veterinarian" means a person licensed as a veterinarian in any state.

7§4152. Disclosure

1. Required disclosure. A seller shall deliver to a purchaser of an animal a written disclosure containing the following:

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, internal or external parasite treatments, medication or any veterinarian examination or treatment received by the animal while in the possession of the seller;

B. A statement signed by the seller that the animal at time of delivery has no known health problem or a statement disclosing any known health problem. The statement must include the date at which the seller is aware that the animal was last seen by a veterinarian;

C. A seller who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal; and

D. The seller shall indicate whether or not, to the seller's knowledge, the animal or its sire or dam is registered with, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms.

2. Optional disclosure. The seller may provide the purchaser with a list of congenital or hereditary problems that are known to affect the breed being purchased and a list of any health problems for which the seller does not warranty the animal.

3. Disclosure procedures. The following disclosure procedures must be followed.

A. The disclosure required by subsection 1 must be made part of the statement of consumer rights set forth in section 4160.

B. The written disclosure made pursuant to this section must be signed by both the seller certifying the accuracy of the statement and by the purchaser of the animal acknowledging receipt of the statement.

C. The seller shall make a prospective purchaser aware that the purchaser may see this information prior to purchase.

7§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.

7§4153. Sale prohibited

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.

A seller may not sell a wolf hybrid.

7§4155. Rights of the purchaser

1. Unfit for sale. If, within 10 days after receipt of the animal by the purchaser, a veterinarian states in writing that the animal has a health problem that existed in the animal at the time of delivery or if, within one year after receipt of the animal by the purchaser, a veterinarian states in writing that due to a hereditary or congenital defect the animal has died or has a condition that will shorten its life or will require constant treatment during its life, the animal is considered to have been unfit for sale at the time of sale.

2. Death; remedies. When an animal dies due to a health problem that would have rendered the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. An animal of equal value, if available; or

B. A refund of the full purchase price of the animal.

3. Health problem; remedies. When an animal has a health problem that renders the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. Return of the animal to the seller for a refund of the full purchase price of the animal;

B. Exchange of the animal for an animal of the purchaser's choice of equivalent value, providing a replacement is available; or

C. Retainment of the animal and reimbursement for 1/2 of the reasonable veterinary fees not to exceed 1/2 of the original purchase price of the animal.

4. Veterinary service; fees. The fee for veterinary service is reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the fee for the service is comparable to fees charged by other veterinarians who are in proximity to the treating veterinarian.

5. Sellers not exempt. Sellers 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.

7§4156. Responsibilities of purchaser

To obtain the remedies provided in section 4155, the purchaser has the following responsibilities with respect to an animal with a health problem.

1. Veterinary diagnosis. The purchaser must notify the seller, within 2 business days, of the diagnosis by a veterinarian of a health problem and provide the seller with the name and telephone number of the veterinarian and a copy of the veterinarian report on the animal.

2. Refund. If the purchaser wishes to receive a full refund for the animal, the purchaser must return the animal no later than 2 business days after receipt of a written statement from a veterinarian indicating that the animal is unfit due to a health problem. With respect to a dead animal, the purchaser must provide the seller with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the receipt of the animal by the purchaser.

7§4157. Rights of seller

1. Refusal to sell. A seller may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter.

2. Exemption from purchaser remedies. A refund, replacement or reimbursement of veterinary fees is not required if any one or more of the following conditions are met.

A. The health problem or death of the animal resulted from maltreatment, neglect or a disease contracted while in the possession of the purchaser or from an injury sustained subsequent to receipt of the animal by the purchaser.

B. A disclosure statement was provided to the purchaser pursuant to section 4152 that disclosed the health problem for which the purchaser seeks to return the animal.

C. The health problem is a hereditary or congenital one covered by section 4152.

7§4158. Contest

1. Demand for remedy; contest. When a seller wishes to contest a demand for the remedy specified in section 4155, the seller may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the seller. The veterinarian designated by the seller must be practicing at a veterinary clinic within 100 miles of the purchaser's residence. The seller shall pay the cost of this examination or autopsy. The seller has a right of recovery against the purchaser if the seller is not obligated to provide a remedy under section 4155.

2. Right to court action. If the seller does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees.

7§4159. Posted notice

A seller whose facility has public access shall post, in a prominent location in the area to which a prospective purchaser would have access, a notice printed in a minimum of 48-point, bold-faced type and containing the following language:

"YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND DISCLOSURE OF YOUR ANIMAL'S HEALTH HISTORY AND THE WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE TIME OF PURCHASE."

7§4160. Notice of consumer rights.

1. Written notice. A seller shall provide the purchaser a written notice of rights, signed by the seller, certifying the accuracy of the information contained in the notice. The notice must be signed by the purchaser, acknowledging that the purchaser has reviewed and understood the written notice. A signed copy must be retained by the seller and one copy given to the purchaser. The notice must be in a minimum of 16-point, bold-faced type and must state the following:

"A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND CATS:
The sale of dogs and cats is subject to consumer protection regulations. Maine law also provides safeguards to protect sellers and animal purchasers. Attached is a copy of the Maine Revised Statutes, Title 7, chapter 745. Contained in this law is a statement of your consumer rights and remedies. Also attached is your pet's health history and specific warranty information."

2. Oral notice. In addition, all medical information required to be disclosed pursuant to this section must be orally disclosed to the purchaser by the seller prior to purchase.

The statement of consumer rights must also contain or have attached the disclosure required under section 4152 and the name and phone number of the state agency to be contacted in the event of perceived violations of this chapter.

7§4161. Limitation

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law.

7§4162. Additional penalties

1. Civil violation. A person who fails to meet a requirement of this chapter commits a civil violation for which a fine of not less than \$50 or more than \$500 per violation may be adjudged.

2. Action against pet shops and breeding kennels. The department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend the license of a pet shop or breeding kennel that violates any provision of this chapter or rules adopted under section 3906-B, subsection 10 to implement this chapter.

7§4163. Dog or cat vendor's license

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

1. Vendor's license; fee. A person may apply for a vendor's license by completing and submitting to the department an application form provided by the department. Upon receipt of a completed application, the department shall issue a vendor's license and an identifying license number that is valid for a period of 90 days from the date of issuance. A person is entitled to one vendor's license in a 12-month period at no charge. A fee of \$25 must be submitted with each additional application for a vendor's license within a 12-month period.

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

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

Title 12: CONSERVATION
Part 13: INLAND FISHERIES AND WILDLIFE HEADING:
Subpart 2: DEPARTMENT ORGANIZATION HEADING:
Chapter 903: DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
HEADING:
Subchapter 2: COMMISSIONER: POWERS AND DUTIES HEADING:

4. Search and rescue. Whenever the commissioner receives notification that any person has gone into the woodlands or onto the inland waters of the State on a hunting, fishing or other trip and has become lost, stranded or drowned, the commissioner shall exercise the authority to take reasonable steps to ensure the safe and timely recovery of that person, except in cases involving downed or lost aircraft covered by Title 6, section 303.

A. The commissioner may summon any person in the State to assist in search and rescue attempts. Each person summoned must be paid at a rate set by the commissioner with the approval of the Governor and must be provided with subsistence while engaged in these activities.

B. The commissioner may enter into written agreements with other agencies or corporations, including commercial recreational areas, allowing partial search and rescue responsibility within specified areas.

C. The commissioner may terminate a search and rescue operation by members of the department when, in the commissioner's opinion, all reasonable efforts have been exhausted.

D. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or

(2) If a person knowingly provided false information that led to a search and rescue operation, from the person who provided that false information.

4-A. Search and rescue dogs. A person assisting the commissioner under subsection 4 with a search and rescue dog certified by or in training with an organization recognized by the Bureau of Warden Service may be accompanied by the search and rescue dog in a place of public accommodation without being required to pay an extra charge or security deposit for the search and rescue dog. The owner of the search and rescue dog is liable for any damages done to the premises by that animal. For purposes of this subsection, "place of public accommodation" has the same meaning as in Title 5, section 4553, subsection 8, paragraph A.

Title 12: CONSERVATION
Part 13: INLAND FISHERIES AND WILDLIFE HEADING:
Subpart 4: FISH AND WILDLIFE HEADING:
Chapter 915: HUNTING: SEASONS, REQUIREMENTS AND RESTRICTIONS
HEADING:
Subchapter 15: WILDLIFE IMPORTATION AND POSSESSION PERMITS AND
REQUIREMENTS HEADING:

12§12160. Disposition of wolf hybrids

1. Determination of species. The department shall respond to requests under Title 7, section 3911-B, subsection 3 for assistance in capturing and disposing of an animal suspected of being a wolf hybrid. The department may presume that the animal is a wolf hybrid if:

- A.** Licensure as a dog under Title 7, section 3922 cannot be confirmed;
- B.** The animal bears no identification indicating ownership; and
- C.** The animal has distinct wolf like characteristics

The department may pursue genetic testing to determine if the animal is a wolf or wolf hybrid.

2. Rulemaking. The department shall adopt rules establishing procedures for disposing of animals determined to be wolf hybrids under subsection 1. For the purposes of this section, "disposing" includes, but is not limited to, transferring the animal to a person holding a permit under section 12152 or euthanasia in accordance with Title 17, chapter 42, subchapter 4. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Title 16: COURT PROCEDURE -- EVIDENCE
Chapter 9: INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION
ACT

16 § 804. Limitation on dissemination of intelligence and investigative record information

Except as provided in sections 805 and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would:

- 1. Interfere with criminal law enforcement proceedings.** Interfere with law enforcement proceedings relating to crimes;
- 2. Result in dissemination of prejudicial information.** Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- 3. Constitute an invasion of privacy.** Constitute an unwarranted invasion of personal privacy;
- 4. Disclose confidential source.** Disclose the identity of a confidential source;
- 5. Disclose confidential information.** Disclose confidential information furnished only by a confidential source;
- 6. Disclose trade secrets or other confidential commercial or financial information.** Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office;
- 7. Disclose investigative techniques or security plans.** Disclose investigative techniques and procedures or security plans and procedures not known by the general public;
- 8. Endanger law enforcement or others.** Endanger the life or physical safety of any individual, including law enforcement personnel;
- 9. Disclose statutorily designated confidential information.** Disclose information designated confidential by statute;
- 10. Interfere with civil proceedings.** Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office;

11. Disclose arbitration or mediation information. Disclose conduct of or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; or

12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.

16 § 805. Exceptions

This chapter does not preclude dissemination of intelligence and investigative record information that is confidential under section 804 by a Maine criminal justice agency to:

1. Another criminal justice agency. Another criminal justice agency;

2. A person or entity for purposes of intelligence gathering or ongoing investigation. A person or public or private entity as part of the criminal justice agency's administration of criminal justice or the administration of civil justice by the Department of the Attorney General or a district attorney's office;

3. An accused person or that person's agent or attorney. A person accused of a crime or that person's agent or attorney for trial and sentencing purposes if authorized by:

A. The responsible prosecutorial office or prosecutor; or

B. A court rule, court order or court decision of this State or of the United States.

As used in this subsection, "agent" means a licensed professional investigator, an expert witness or a parent, foster parent or guardian if the accused person has not attained 18 years of age;

4. Court. A federal court, the District Court, Superior Court or Supreme Judicial Court or an equivalent court in another state;

5. An authorized person or entity. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or

6. Secretary of State. The Secretary of State for use in the determination and issuance of a driver's license suspension.

Title 17: CRIMES
Chapter 42: ANIMAL WELFARE HEADING:
Subchapter 1: GENERAL PROVISIONS HEADING:

17 § 1011. Definitions

As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. "Act" means the Animal Welfare Act.

2. Animal. "Animal" means every living, sentient creature not a human being.

3. Animal control. "Animal control" means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. Animal control officer. "Animal control officer" means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

5-A. Animal shelter. "Animal shelter" means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

8. Boarding kennel. "Boarding kennel" means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult dogs 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, 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.

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this chapter.

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or his duly authorized agent.

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. Equine facility. "Equine facility" means a boarding stable or commercial riding facility.

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.

13. Service dog kept for breeding purposes. "Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. "Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. "Humane agent" means an employee of the Department of Agriculture, Conservation and Forestry who assists in enforcing this chapter.

15-A. Humane society. "Humane society" means a nonprofit group or organization incorporated for the purpose of providing physical service directly to abused and abandoned animals, improving the conditions of animals, providing education concerning animals or fund-raising to promote animal welfare.

15-B. Humanely clean conditions. "Humanely clean conditions" means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition

or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. "Law enforcement officer" means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

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

19. Municipality. "Municipality" means a city, town or plantation.

20. Mutilate. "Mutilate" means to injure or disfigure by irreparably damaging body parts. "Mutilate" does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

21. Owner. "Owner" means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.

22. Person. "Person" means an individual, corporation, partnership, association or any other legal entity.

23. Pet shop. "Pet shop" means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

24. Respective municipality. "Respective municipality" means, in the case of towns and cities, the municipality where the dog is found or in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found or the designee of that municipality.

24-A. Service dog. "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. Shelter. "Shelter" means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.

26. Torment, torture and cruelty. "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

27. Vertebrate. "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. "Warrant" means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. "Wolf hybrid" means a mammal that is the offspring of the reproduction between any species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

17§1012. Unlawful sale, consignment or rental of diseased horses

1. Unlawful sale, consignment or rental of diseased horses. A person is guilty of unlawful sale, consignment or rental of diseased horses if that person receives, offers for sale or sells at private sale or public auction, consigns or rents any horse which, by reason of debility, disease or lameness or for other cause could not be worked in the State without violating the laws against cruelty to animals.

2. Penalty. Unlawful sale, consignment or rental of diseased horses is a Class E crime.

3. Violation. Any licensed auctioneer violating this section may be punished by loss of license in addition to other penalties provided by law.

4. Exception. This section shall not be construed to prohibit the sale to or the purchase of horses by humane societies.

17 § 1013. Unlawful production of motion pictures

1. Unlawful production of motion pictures. A person, including an owner or the owner's agent, is guilty of unlawful production of motion pictures if that person knowingly or intentionally prepares, manufactures, makes or participates in the preparation, manufacture or making of any motion picture film or videotape production involving cruelty to animals during the course of preparation, manufacture, making or exhibition of the motion picture film or videotape production.

2. Penalty. Unlawful production of motion pictures is a Class E crime.

17 § 1015. Surcharge imposed

A surcharge of 10% must be added to every fine or penalty imposed by any court in this State for a violation of this chapter. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under Title 7, section 3906-B, subsection 2.

17§1021. Possession of animals

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application must be served upon the owner with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner can not be found by reasonable diligence, or is out of state although a resident of this State, a copy of the application and order of court must be left at the owner's last and usual place of abode.

If the owner is not known, then 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.

3. Hearing. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

A. Direct the applicant or other suitable person to take possession of and provide for the animal, order its sale, adoption or placement;

B. Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful; or

C. If appropriate, allow the animal to be returned to its owner.

4. Ex parte order. An ex parte order shall be as follows.

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that:

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

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.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, the humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

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 and retain 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. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, 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. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the 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 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. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the State, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the State's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

6. Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the

complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into custody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

17§1022. Prevention of cruelty

The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence.

17§1023. Investigation and reporting of cruelty

1. Investigations; reports. Law enforcement officers, animal control officers and humane agents shall investigate alleged violations of Title 7, chapter 739 and this chapter. The commissioner shall maintain a record of each alleged case of cruelty to animals investigated by a humane agent. The commissioner shall report annually on the disposition of cases as required under Title 7, section 3906-B.

A law enforcement officer or animal control officer who investigates a case of alleged cruelty to animals and pursues a civil or criminal action based on that investigation shall report to the commissioner on the final disposition of the case.

3. Cooperation between agencies. For the purposes of this section, law enforcement officers, the commissioner or the commissioner's designee, humane agents, a state veterinarian and certified animal control officers may exchange information and reports pertaining to an investigation of cruelty to animals pursuant to subsection 4 and Title 7, section 3909, subsection 6.

4. Confidential information. The names of and other identifying information about persons providing information pertaining to criminal or civil cruelty to animals

to the Department of Agriculture, Conservation and Forestry are confidential information and may not be released.

17§1024. Impeding the performance of an officer

It is unlawful for a person to assault, resist, oppose, impede, intimidate or interfere with a person engaged in or on account of the performance of that person's official duties under this subchapter.

17§1025. Handling of animals seized or held

1. Handling of animals. No humane agent, animal control officer, animal shelter, pound, animal care center, humane society or veterinarian and anyone acting under their authority and having possession of any animal by reason of his office may:

A. Provide or supply dealers, commercial kennels or laboratories with the animal; or

B. Give, release, sell, trade, loan, transfer or otherwise provide any live animal to any individual, firm, association, corporation, educational institution, laboratory, medical facility or anyone else for purposes of experimentation or vivisection.

2. Livestock. Livestock to be sold at public auction is exempt from this section.

17§1026. Penalty for violation

Any person found in violation of sections 1024 and 1025 is guilty of a Class E crime.

17§1027. Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting

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

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

2. Show cause hearing. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing. 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. 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.

17 § 1031. Cruelty to animals

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially

similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13, and excluding humane trapping of animals for population control efforts or animal control under Title 7, Part 9. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

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 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.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Conservation and Forestry.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3-B. Penalties. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$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 including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or

civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

17§1032. Cruelty to birds

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

4. Criminal or civil prosecution. A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

17§1033. Animal fighting

1. Animal fighting. A person is guilty of animal fighting if that person knowingly:

A. Owns, possesses, keeps or trains any animal with the intent that the animal engage in an exhibition of fighting with another animal;

B. For amusement or gain, causes any animal to fight with another animal or causes any animals to injure each other; or

C. Permits any act in violation of paragraph A or B to be done on any premises under that person's charge or control.

1-A. Penalty. A person who violates subsection 1 commits a Class C crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of subsection 1.

2. Viewing animal fighting. A person is guilty of viewing animal fighting if that person knowingly is present at any place or building where preparations are being made for an exhibition of the fighting of animals or is present at such an exhibition.

2-A. Penalty. A person who violates subsection 2 commits a Class D crime.

3. Affirmative defense. It is an affirmative defense to prosecution under subsections 1 and 2 that the activity charged involves the possession, training, exhibition or use of an animal in the otherwise lawful sport of animal hunting and the training or use of hunting dogs. It is also an affirmative defense that the defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

4. Exception. Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, farming and security services is exempt from subsections 1 and 2.

17§1034. Application for search warrant

A law enforcement officer or humane agent, having probable cause to believe that a violation of section 1031, 1032 or 1033 has taken place or is taking place, shall enter the premises where the animal is kept with the consent of the owner or shall make application for a search warrant. If the judge or justice of the peace is satisfied that probable cause exists, he shall issue a search warrant directing a law enforcement officer or humane agent in the county to proceed immediately to the location of the alleged violation and directing the law enforcement officer or humane agent to search the place designated in the warrant, retaining in his custody, subject to the order of the court, such property or things as specified in the warrant, including any animal.

17§1035. Necessary sustenance

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

17 §1036. Necessary medical attention

A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

17 §1037. Proper shelter; protection from the weather and humanely clean conditions

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

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 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.

B. Except as provided in subsections 5, 5-A and 7, shelter from inclement weather must be provided according to this paragraph.

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

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 7, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5-A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in Title 7, section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in Title 7, section 1341, subsection 1.

5-A. Livestock maintained under a rotational grazing system.

Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, "rotational grazing system" means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

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

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

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5

times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

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

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

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and "dogs kept as sled dogs or dogs used in competition" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

17§1037-A. Affirmative defense

It is an affirmative defense to alleged violations of sections 1035, 1036 and 1037 that the animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Conservation and Forestry.

17§1038. Animals abandoned at animal care facilities

Abandoning an animal at a veterinarian's office, boarding kennel, animal grooming facility or animal day-care facility is a Class D crime.

1. Determination of abandonment. There is a rebuttable presumption of abandonment if an owner:

A. Places an animal in the custody of a licensed veterinarian for treatment, boarding or other care, or in a boarding kennel, animal grooming facility or animal day-care facility for services offered by that facility; and

B. Fails to claim the animal within 10 days after written notice is sent in accordance with subsection 2.

2. Notice requirement. Before any animal may be considered abandoned under this section, a veterinarian's office, boarding kennel, animal grooming facility or animal day-care facility shall send written notice, by registered or certified mail, return receipt requested, to the owner or keeper at the owner's or keeper's last known address. Proof of attempted delivery constitutes sufficient notice.

3. Ownership of abandoned animal. When an owner or keeper fails to claim an animal within 10 days of a notice being sent under subsection 2, the veterinarian,

kennel, facility or individual who has custody and control of the animal is considered the owner of the animal and shall arrange for its care, including, but not limited to, its adoption, sale or placement with a licensed animal shelter.

4. Financial obligation. The disposal of an abandoned animal under this section does not relieve the owner or keeper of the animal of any financial obligation, including, but not limited to, costs incurred for veterinary treatment, boarding, grooming or other care.

5. Penalty. In addition to the penalties provided in Title 17-A for a Class D crime, the penalties in section 1031, subsection 3-B also apply.

17 §1039. Cruel confinement of calves raised for veal and sows during gestation

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

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.

D. "Farm" has the same meaning as in Title 7, section 152, subsection 5.

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and

B. Turning around freely.

3. Exceptions. Subsection 2 does not apply:

- A.** To an animal while it is the subject of scientific or agricultural research;
- B.** During examination, testing, individual treatment of or operation on an animal for veterinary purposes;
- C.** To an animal being transported;
- D.** To an animal at a rodeo exhibition or state or county fair exhibition;
- E.** To an animal at a 4-H event or similar exhibition;
- F.** To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and
- G.** To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

5. Penalty. A violation of subsection 2 is a Class D crime.

6. Criminal or civil prosecution. A person may be arrested or detained for a violation of subsection 2 in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruel confinement under Title 7, section 1039. The attorney for the State may elect to charge a defendant with a criminal violation under this section or a civil violation under Title 7, section 4020. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of cruel confinement and are not subject to proof or disproof as prerequisites or conditions for conviction under this section or adjudication under Title 7, section 4020.

It is not an affirmative defense to prosecution under this section that the sow or calf is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Title 17: CRIMES
Chapter 42: ANIMAL WELFARE HEADING:
Subchapter 4: EUTHANASIA OF CATS AND DOGS HEADING:

17 §1041. Euthanasia by prescribed methods

A cat or dog may not be destroyed by any method, agent or device except as described in this subchapter, subchapter III and Title 7, chapter 739.

17 §1042. Euthanasia performed by licensed veterinarian or certified person

The mandatory method of euthanasia of cats and dogs when conducted by a licensed veterinarian or a person certified under subsection 3 must be the administration of a barbiturate overdose. The mandatory method of euthanasia must be implemented according to the following methods and under the following conditions.

1. Intravenous, intraperitoneal, intrathoracic or intracardial injection.

Intravenous, intraperitoneal, intrathoracic or intracardial injection of a lethal solution may be used.

2. Use of undamaged hypodermic needle. An undamaged hypodermic needle of a size suitable for the size and species of animal must be used.

3. Administration by a licensed veterinarian. Administration may only be by a licensed veterinarian or by a person trained for this purpose who is certified by the commissioner and subject to regular observation concerning continued efficiency. A person certified under this subsection may only euthanize animals that are vested to an animal shelter. A person certified to perform euthanasia may not euthanize an animal if, by performing that euthanasia, the person is in violation of Title 32, chapter 71-A.

4. Euthanasia solution. A licensed animal shelter having both a consulting veterinarian and a certified euthanasia technician may purchase, store and administer euthanasia solution for the euthanasia of cats, dogs and ferrets that are vested to the shelter, provided the purchase, storage and administration is in accordance with federal requirements. The director of the licensed animal shelter, as a veterinarian, a certified euthanasia technician or an agent of the certified euthanasia technician, is the only person with the authority to purchase euthanasia solution.

17 §1043. Emergency methods

The following methods shall be used only in an emergency situation in which the safety of people or other animal life is threatened or in a situation in which the mandatory method of euthanasia of cats and dogs cannot be implemented

expeditiously and will cause undue suffering. The following methods shall not be used as a substitute for the mandatory method.

1. Shooting. The animal may be destroyed by shooting, provided that:

A. The animal is restrained in a humane manner;

B. Shooting is performed by highly skilled and trained personnel utilizing a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot; and

C. Maximum precaution is taken to protect the general public, employees and other animals.

17 §1044. Tranquilizing cats and dogs

Prior to the euthanasia of cats and dogs, sedatives may be administered to these animals. Curariform immobilizers shall not be used on cats and dogs prior to euthanasia, except by veterinarians in extreme circumstances.

17 §1045. Inspection

The Department of Agriculture, Conservation and Forestry may inspect or investigate any facility in which cats or dogs are destroyed.

17 §1046. Penalty for violation

Any person, firm or corporation found in violation of this subchapter is guilty of a Class E crime.

Title 17: CRIMES
Chapter 47: DISCRIMINATION
Subchapter 2: MODEL WHITE CANE LAW

17 §1312. Rights

1. Streets and public places. The blind, the visually handicapped and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places.

2. Public conveyances. The blind, the visually handicapped and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

3. Service dogs. Every totally or partially blind or otherwise physically or mentally disabled person has the right to be accompanied by a service dog, especially trained for the purpose, in any of the places listed in subsection 2 without being required to pay an extra charge for the service dog; however, the person is liable for any damage done to the premises or facilities by such a dog.

4. Especially trained service dog trainer; access to public facilities; responsibilities. An especially trained service dog trainer, while engaged in the actual training process and activities of service dogs, has the same rights, privileges and responsibilities described in this section with respect to access to and use of public facilities as are applicable to a blind, visually handicapped or otherwise physically or mentally disabled person.

5. Housing accommodations; persons with service dogs. Every blind or visually handicapped or otherwise physically or mentally disabled individual who has a service animal, such as a service dog, is entitled to full and equal access to all housing accommodations provided for in this section. Blind or visually impaired or otherwise physically or mentally disabled individuals may not be required to pay extra compensation to keep service animals. A blind or visually impaired or otherwise physically or mentally disabled person is liable for any damages done to the premises by the service animal.

6. Housing accommodations; definitions. "Housing accommodations," as used in this section, means any real property, or portion of real property, which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, including, but not limited to, public housing projects and all forms of publicly assisted housing, single

and multifamily rental and sale units, lodging places, condominiums and cooperative apartments. "Housing accommodations" does not include:

- A.** The rental of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other, if the owner or members of the owner's family reside in that housing accommodation; or
- B.** The rental of a room or rooms in a housing accommodation, if the rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in that housing accommodation.

7. Service dog; definition. As used in this section, "service dog" means a dog that meets the definition of "service animal" in Title 5, section 4553, subsection 9-E, paragraph B.

17 §1313. Motor vehicle drivers

The driver of a vehicle approaching a totally or partially blind or otherwise physically disabled pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a service dog as defined in section 1312, subsection 7 shall take all necessary precautions to avoid injury to that blind or otherwise physically disabled pedestrian, and any driver who fails to take such precautions is liable in damages for any injury caused the pedestrian. A totally or partially blind or otherwise physically disabled pedestrian, not carrying such a cane or using a service dog in any of the places, accommodations or conveyances listed in section 1312, has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind or otherwise physically disabled pedestrian to carry such a cane or to use a service dog in any such places, accommodations or conveyances may not be held to constitute nor be evidence of contributory negligence.

17 §1314. Penalties

1. Public facilities; other rights. A person, firm or corporation or the agent of a person, firm or corporation may not:

- A.** Deny or interfere with admittance to or enjoyment of the public facilities described in section 1312; or
- B.** Otherwise interfere with the rights of a person who is totally or partially blind or a person with other disabilities under section 1312.

2. Penalty. Violation of this section is a Class E crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

17 §1314-A. Misrepresentation of service dog

A person who fits a dog with a harness, collar, vest or sign of the type commonly used by blind persons in order to represent that the dog is a service dog or commonly used by persons with disabilities to represent that the dog is a service dog when training of the type that guide dogs normally receive has not been provided or when the dog does not meet the definition of "service dog" as defined in section 1312, subsection 7 commits a civil violation for which a fine of not more than \$500 may be adjudged.

Title 17-A: MAINE CRIMINAL CODE
Part 2: SUBSTANTIVE OFFENSES
Chapter 9: OFFENSES AGAINST THE PERSON

17 §210-A. Stalking

1. A person is guilty of stalking if:

A. The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

- (1) To suffer serious inconvenience or emotional distress;
- (2) To fear bodily injury or to fear bodily injury to a close relation;
- (3) To fear death or to fear the death of a close relation;
- (4) To fear damage or destruction to or tampering with property; or
- (5) To fear injury to or the death of an animal owned by or in the possession and control of that specific person.

Violation of this paragraph is a Class D crime;

C. The actor violates paragraph A and has one or more prior convictions in this State or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this paragraph, "another jurisdiction" also includes any Indian tribe.

Violation of this paragraph is a Class C crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of one year. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the defendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence;

D. The actor violates paragraph A and the course of conduct is directed at or concerning 2 or more specific persons that are members of an identifiable group.

Violation of this paragraph is a Class C crime; or

E. The actor violates paragraph C and at least one prior conviction was for a violation of paragraph D.

Violation of this paragraph is a Class B crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of 2 years. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the defendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.

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

A. "Course of conduct" means 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property. "Course of conduct" also includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information.

B. "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent, grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household or any person with a significant personal or professional relationship.

D. "Emotional distress" means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of emotional distress or a mental health diagnosis.

E. "Serious inconvenience" means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct. "Serious inconvenience" includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

Title 17-A: MAINE CRIMINAL CODE
Part 2: SUBSTANTIVE OFFENSES
Chapter 19: FALSIFICATION IN OFFICIAL MATTERS

17 §456. Tampering with public records or information

1. A person is guilty of tampering with public records or information if he:
 - A.** Knowingly makes a false entry in, or false alteration of any record, document or thing belonging to, or received or kept by the government, or required by law to be kept by others for the information of the government; or
 - B.** Presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in subsection 1, paragraph A; or
 - C.** Intentionally destroys, conceals, removes or otherwise impairs the verity or availability of any such record, document or thing, knowing that he lacks authority to do so.
2. Tampering with public records or information is a Class D crime.

17 §457. Impersonating a public servant

1. A person is guilty of impersonating a public servant if he falsely pretends to be a public servant and engages in any conduct in that capacity with the intent to deceive anyone.
2. It is no defense to a prosecution under this section that the office the person pretended to hold did not in fact exist.
3. Impersonating a public servant is a Class E crime.

**Title 19-A: DOMESTIC RELATIONS HEADING:
Part 4: PROTECTION FROM ABUSE HEADING:
Chapter 101: PROTECTION FROM ABUSE HEADING:**

19§4006. Hearings

1. Full hearing. Within 21 days of the filing of a complaint, a hearing must be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. If a request for temporary, emergency or interim relief is denied, the hearing must be held as soon as practicable within the 21-day period.

5-A. Interim relief; care, custody or control of animals. The court may make an order concerning the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household and may enjoin the defendant from injuring or threatening to injure any such animal.

Title 22: HEALTH AND WELFARE
Subtitle 2: HEALTH
Part 3: PUBLIC HEALTH HEADING:
Chapter 251: COMMUNICABLE DISEASES HEADING:
Subchapter 5: RABIES OR HYDROPHOBIA

22 §1313. Procedures for the transportation, quarantine, euthanasia and testing of animals suspected of having rabies

1. Establishment of procedures. The commissioner, in consultation with the Commissioner of Agriculture, Conservation and Forestry and the Commissioner of Inland Fisheries and Wildlife, shall adopt rules, in accordance with the Maine Administrative Procedure Act, establishing procedures for responding to a report of an animal suspected of having rabies. The procedures must include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies and, when that animal has bitten a person, provisions for the notification of the animal control officer in the locality where the bite occurred. The procedures may differ based on the perceived public health threat determined in part by consideration of the following factors:

- A.** Whether the animal is a domesticated animal for which a known effective vaccine exists and, if so, whether the animal's vaccination status can be verified;
- B.** Whether the animal has bitten a person or exhibited other aggressive behavior; and
- C.** Whether the animal is a wolf hybrid that has bitten or may have otherwise exposed a person or a domesticated animal to rabies.

2. Role of animal control officer; game warden. An animal control officer appointed in accordance with Title 7, section 3947 receiving a report of an animal suspected of having rabies shall ensure that the procedures established pursuant to this section and sections 1313-A and 1313-B are carried out. If the animal is an undomesticated animal, other than a wolf hybrid, a game warden shall assist the animal control officer.

3. Costs associated with transportation, quarantine, testing and euthanasia.

The Department of Inland Fisheries and Wildlife shall provide for or pay all necessary costs for transportation and euthanasia of an undomesticated animal suspected of having rabies. The owner of a domesticated animal or a wolf hybrid suspected of having rabies shall pay all costs for transportation, quarantine, euthanasia and testing of the animal. If a domesticated animal or a wolf hybrid is a stray or the owner is unknown, the municipality in which the animal was apprehended is responsible for transportation, quarantine, euthanasia and testing costs. Cost of testing animals judged by the department to have created a public

health risk of rabies must be borne by the department through its General Fund appropriations.

22 §1313-A. Provisions for immediate destruction of certain animals

If an undomesticated animal suspected of having rabies bites or may have otherwise exposed to rabies a person or a domestic animal, an animal control officer or a game warden shall immediately either remove the undomesticated animal or cause the undomesticated animal to be removed and euthanized for testing. If a wolf hybrid suspected of having rabies bites or may have otherwise exposed to rabies a person or a domestic animal, an animal control officer or a law enforcement officer shall immediately cause the animal to be euthanized for testing. When in the judgment of the animal control officer, game warden or law enforcement officer the animal poses an immediate threat to a person or domestic animal, the animal control officer, game warden or law enforcement officer may immediately kill or order killed that animal without destroying the head. The Department of Inland Fisheries and Wildlife shall arrange for the transportation of the head to the State Health and Environmental Testing Laboratory, except that the animal control officer shall make the arrangements if the animal is a wolf hybrid.

The Department of Inland Fisheries and Wildlife shall pay transportation and testing costs for undomesticated animals. The owner of a domesticated ferret, domesticated wolf or domesticated wolf hybrid shall pay transportation and testing costs for that animal.

22 §1313-B. Civil violation, court authorization for removal and other remedies

1. Violation. A person who violates a rule established under this chapter commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged for each offense. In addition, the court may include an order of restitution as part of the sentencing for costs including removing, controlling and confining the animal.

2. Court authorization for removal. When home quarantine procedures, as described on the official notice of quarantine, have been violated, or in the case of a wolf hybrid, when the owner fails to bring the animal to a veterinarian for euthanasia and testing or to turn the animal over to authorities as required by rules established pursuant to this chapter, an animal control officer, person acting in that capacity or law enforcement officer shall apply to the District Court or Superior Court for authorization to take possession of the animal for placement, at the owner's expense, in a veterinary hospital, boarding kennel or other suitable location for the remainder of the quarantine period or, in the case of a wolf hybrid, removal for euthanasia. At the end of the quarantine period for domestic animals, or if the animal shows signs of rabies, the person in possession of the animal shall report to the court, and the court shall either dissolve the possession order or order the animal euthanized and tested for rabies.

3. Other remedies. In addition to filing a civil action to enforce this section:

A. The municipality may record a lien against the property of the owner or keeper of an animal if the person fails or refuses to comply with an order to confine or quarantine the animal;

B. The municipal officers or their designated agent, such as the animal control officer, shall serve written notice on the owner or keeper of the animal that specifies the action necessary to comply with the order and the time limit for compliance;

C. If the owner or keeper of the animal fails to comply within the time stated, the animal control officer must apply to District Court or Superior Court for an order to seize the animal and make arrangements for quarantine or euthanasia at the owner's or keeper's expense; and

D. If the owner or keeper of the animal fails to pay the costs of confinement or quarantine within 30 days after written demand from the municipal officers, the municipal assessors may file a record of lien against the property of the owner or keeper of the animal.

Title 22: HEALTH AND WELFARE
Subtitle 3: INCOME SUPPLEMENTATION HEADING:
Part 2: AGED, BLIND, DISABLED OR MEDICALLY INDIGENT PERSONS
Chapter 958-A: ADULT PROTECTIVE SERVICES ACT HEADING:
Subchapter 1: GENERAL PROVISIONS HEADING:

22 §3474. Records; confidentiality, disclosure

1. Confidentiality of adult protective records. All department records which contain personally identifying information and are created or obtained in connection with the department's adult protective activities and activities related to an adult while under the jurisdiction of the department are confidential and subject to release only under the conditions of subsections 2 and 3. Within the department, the records shall be available only to and used by authorized departmental personnel and legal counsel for the department in carrying out their functions.

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons, with protection for the identity of reporters and other persons when appropriate:

A. An agency responsible for investigating a report of adult abuse, neglect or exploitation when the investigation is authorized by statute or by an agreement with the department;

B. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, except as provided in subsection 3, paragraph D;

C. A physician treating an incapacitated or dependent adult who the physician reasonably suspects may be abused, neglected or exploited;

D. An incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited or the caretaker of the incapacitated or dependent adult;

E. A person having the legal responsibility or authorization to care for, evaluate, treat or supervise an incapacitated or dependent adult;

F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the research and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent must be obtained by the department prior to the contact;

G. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857;

H. A relative by blood, marriage or adoption of an incapacitated or dependent adult named in a record;

I. A member of a panel appointed by the department or the Office of the Attorney General to review the death or serious injury of an incapacitated or dependent adult or a child; and

J. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B.

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:

A. The guardian ad litem of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited;

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access must be limited to in camera inspection unless the court determines that disclosure of the information is necessary for the resolution of an issue pending before it;

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; and

D. An advocacy agency conducting an investigation under chapter 961, United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, regarding a developmentally disabled person or mentally ill person who is or who, within the last 90 days, was residing in a facility rendering care or treatment, when a complaint has been received by the agency or there is probable cause to believe that that individual has been subject to abuse or neglect, and that person does not have a legal guardian or the person is under public guardianship. The determination of which information and records are relevant to the investigation is made by agreement between the department and the agency.

22 §3475. Penalty for violations

A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. Any licensed, registered, accredited or certified professional who has been adjudged to have violated a provision of this chapter must, in addition to any financial penalty, be reported by the court or the department to the appropriate professional licensing organization, registration board, accrediting unit or facility.

22 §3477. Persons mandated to report suspected abuse, neglect or exploitation

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited:

- A. While acting in a professional capacity:
- (1) An allopathic or osteopathic physician;
 - (2) A medical resident or intern;
 - (3) A medical examiner;
 - (4) A physician's assistant;
 - (5) A dentist, dental hygienist or dental assistant;
 - (6) A chiropractor;
 - (7) A podiatrist;
 - (8) A registered or licensed practical nurse;
 - (9) A certified nursing assistant;
 - (10) A social worker;
 - (11) A psychologist;
 - (12) A pharmacist;
 - (13) A physical therapist;
 - (14) A speech therapist;
 - (15) An occupational therapist;
 - (16) A mental health professional;
 - (17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;
 - (18) Emergency room personnel;
 - (19) An ambulance attendant;
 - (20) An emergency medical technician or other licensed medical service provider;
 - (21) Unlicensed assistive personnel;
 - (22) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
 - (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
 - (24) A sexual assault counselor;
 - (25) A family or domestic violence victim advocate;
 - (26) A naturopathic doctor;
 - (27) A respiratory therapist;
 - (28) A court-appointed guardian or conservator; or
 - (29) A chair of a professional licensing board that has jurisdiction over mandated reporters;
- B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation;

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation.

The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; that person's occupation; and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened.

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened.

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

22 §3479-A. Immunity from liability

1. Reporting and proceedings. A person participating in good faith in reporting under this subchapter, or in a related adult protection investigation or proceeding, is immune from any civil liability that might otherwise result from these actions, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

2. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

Title 22: HEALTH AND WELFARE
Subtitle 3: INCOME SUPPLEMENTATION HEADING:
Part 3: CHILDREN
Chapter 1071: CHILD AND FAMILY SERVICES AND CHILD PROTECTION ACT
Subchapter 2: REPORTING OF ABUSE OR NEGLECT

22 §4011-A. Reporting of suspected abuse or neglect

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A youth camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters;
- (29) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
- (30) A sexual assault counselor;

- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation. Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

If a person required to report notifies either the person in charge of the institution, agency or facility or the designated agent, the notifying person shall acknowledge in writing that the institution, agency or facility has provided confirmation to the notifying person that another individual from the institution, agency or facility has made a report to the department. The confirmation must include, at a minimum, the name of the individual making the report to the department, the date and time of the report and a summary of the information conveyed. If the notifying person does not receive the confirmation from the institution, agency or facility within 24 hours of the notification, the notifying person immediately shall make a report directly to the department.

An employer may not take any action to prevent or discourage an employee from making a report.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child or that a suspicious child death has been caused by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the appropriate district attorney's office.

If a person required to report notifies either the person in charge of the institution, agency or facility or the designated agent, the notifying person shall acknowledge

in writing that the institution, agency or facility has provided confirmation to the notifying person that another individual from the institution, agency or facility has made a report to the appropriate district attorney's office. The confirmation must include, at a minimum, the name of the individual making the report to the appropriate district attorney's office, the date and time of the report and a summary of the information conveyed. If the notifying person does not receive the confirmation from the institution, agency or facility within 24 hours of the notification, the notifying person immediately shall make a report directly to the appropriate district attorney's office.

An employer may not take any action to prevent or discourage an employee from making a report.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that there has been a suspicious child death.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred comes from treatment of a person responsible for the abuse, neglect or death, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse, neglect or death. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the

person responsible for the abuse, neglect or death to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

6. Permissive reporting of animal cruelty, abuse or neglect.

Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

22 §4014. Immunity from liability

1. Reporting and proceedings. A person, including an agent of the department, participating in good faith in reporting under this subchapter or participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding.

2. Photographs and x rays. A person participating in good faith in taking photographs or x rays under this subchapter is immune from civil liability for invasion of privacy that might otherwise result from these actions.

3. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

**Title 29-A: MOTOR VEHICLES AND TRAFFIC HEADING:
Chapter 5: VEHICLE REGISTRATION HEADING:
Subchapter 1: REGISTRATION HEADING:
Article 3: REGISTRATION PLATES HEADING:**

29-A §456-G. Support Animal Welfare registration plate

1. Support Animal Welfare plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the annual motor vehicle registration fee required by section 501 and the contribution provided for in subsection 2, shall issue a registration certificate and a set of Support Animal Welfare special registration plates to be used in lieu of regular registration plates.

2. Contribution; credit to funds. In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the initial contribution for Support Animal Welfare special registration plates is \$20, which must be deposited with the Treasurer of State and credited as follows:

A. Five dollars to the animal welfare auxiliary fund pursuant to Title 7, section 3906-B, subsection 16;

B. Five dollars to the Companion Animal Sterilization Fund established in Title 7, section 3910-B;

C. Nine dollars to the Highway Fund for administrative and production costs;

D. One dollar to the Specialty License Plate Fund established under section 469.

3. Design; review; vanity plates. The Secretary of State, in consultation with private businesses and nonprofit organizations concerned with animal welfare, shall determine a design for the Support Animal Welfare special registration plates. The joint standing committee of the Legislature having jurisdiction over transportation matters shall review the final design prior to manufacture of the plates. The Secretary of State shall issue upon request Support Animal Welfare special registration plates that are also vanity plates. Support Animal Welfare special registration plates are issued in accordance with the provisions of this section and section 453.

4. Renewal fee. In addition to the regular motor vehicle registration fee prescribed by law, the annual renewal contribution for Support Animal Welfare special registration plates is \$15, which must be deposited with the Treasurer of State and credited as follows:

A. Five dollars to the animal welfare auxiliary fund pursuant to Title 7, section 3906-B, subsection 16;

B. Five dollars to the Companion Animal Sterilization Fund established in Title 7, section 3910-B;

C. Four dollars to the Highway Fund for administrative and production costs;

D. One dollar to the Specialty License Plate Fund established under section 469.

5. Payment for costs associated with the production and issuance of the first 2,000 plates. The sponsor of the Support Animal Welfare special registration plates shall provide \$50,000 to the Secretary of State for costs associated with the production and issuance of plates. The Secretary of State shall deposit these funds in the Specialty License Plate Fund established under section 469. In accordance with section 468, subsection 3-A, the Secretary of State shall provide 2,000 credit receipts to the sponsor to provide to each supporter who contributed \$25. A credit receipt may be used only to obtain one set of Support Animal Welfare special registration plates.

6. Transfer of fees. On a quarterly basis, the Secretary of State shall transfer the revenue from the issuance and renewal of the Support Animal Welfare special registration plates to the Treasurer of State for deposit and crediting pursuant to subsections 2 and 4.

7. Duplicate plates. The Secretary of State shall issue a Support Animal Welfare special registration plate in a unique 3-number and 3-letter combination sequence. Vanity plates may not duplicate vanity plates issued in another class of plate.

8. Weight limit. Support Animal Welfare special registration plates may be issued for a motor vehicle that does not exceed 10,000 pounds. A motor vehicle that exceeds 6,000 pounds is subject to the fees in section 504.

9. Date of first issue. The Secretary of State shall issue the first Support Animal Welfare special registration plate no later than October 1, 2009.

**Title 29-A: MOTOR VEHICLES AND TRAFFIC HEADING:
Chapter 19: OPERATION HEADING:
Subchapter 1: RULES OF THE ROAD HEADING:**

29-A §2054. Emergency and auxiliary lights; sirens; privileges

2. Authorized lights. Authorized lights are governed as follows.

C. The use of amber lights on vehicles is governed by the following.

(8) A vehicle used by an animal control officer appointed pursuant to Title 7, section 3947 may be equipped with auxiliary lights that emit a flashing amber light.

29-A § 2087. Transporting dogs in open vehicle regulated

Transporting dogs in an open vehicle is governed by this section.

1. Definition. For the purposes of this section, "open vehicle" means a motor vehicle with a portion of the vehicle not enclosed by a top and windows or sides. "Open vehicle" includes, but is not limited to, pickup trucks and convertibles.

2. Restrictions. A person driving an open vehicle may not transport a dog in the open portion of that vehicle on a public way unless the dog is protected in a manner that prevents the dog from falling or jumping or being thrown from the vehicle.

3. Exceptions. Notwithstanding subsection 2, this section does not apply to:

A. A dog being transported by a farmer or a farm employee who is engaged in agricultural activities requiring the services of a dog; or

B. A hunting dog at a hunting site or being transported between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for that activity.

Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 71-A: MAINE VETERINARY PRACTICE ACT OF 1975 HEADING:

32 §4872. Disposal of abandoned animals

Any veterinarian may dispose of any animal the veterinarian has reason to believe has been abandoned in the veterinarian's establishment if the veterinarian gives notice of the veterinarian's intention to do so to the owner at the owner's last known address by registered or certified mail, return receipt requested and allows a period of 5 days to elapse after the receipt is returned before disposing of such animal; but if the owner can not be located at that address, the veterinarian shall give the notice by publication in a newspaper having a circulation in the town in which the owner was last known to reside, and shall allow a period of 10 days to elapse after the publication before disposing of the animal. The animal is considered abandoned if the owner was not located by registered mail or notice by publications and did not reply in person or by mail within the time periods outlined stating the owner's intent to claim the animal.

Title 33: PROPERTY
Chapter 21: LOST GOODS AND STRAY BEASTS

33 § 1051. Duty of finder of money or goods worth \$3 or more

Whoever finds lost money or goods of the value of \$3 or more shall, if the owner is unknown, within 7 days give notice thereof in writing to the clerk of the town where the money or goods are found and post a notification thereof in some public place in said town. If the value is \$10 or more, the finder, in addition to the notice to the town clerk and the notification to be posted, shall, within one month after finding, publish a notice thereof in some newspaper published in the town, if any, otherwise in some newspaper published in the county.

33 § 1052. Taking up stray beasts; notice

Whoever takes up a stray beast shall, within 7 days, give notice thereof in writing, containing a description of its color and its natural and artificial marks, to the clerk of the town where such beast is taken, and shall cause a notice thereof, containing a like description of the beast, to be posted, and if such beast is of the value of \$10 or more, to be published in the manner provided in section 1051; otherwise he shall not be entitled to compensation for any expenses which he may incur relative thereto.

33 § 1053. Appraisal if value \$10 or more

Every finder of lost goods or stray beasts of the value of \$10 or more shall, within 2 months after finding and before using them to their disadvantage, procure a warrant from the town clerk or a notary public, directed to 2 persons appointed by said clerk or notary, not interested except as inhabitants of the town, returnable at said clerk's office within 7 days from its date, to appraise said goods under oath.

33 § 1054. Restitution to appearing owner; money or goods

If the owner of such lost money or goods appears within 6 months, and if the owner of such stray beasts appears within 2 months after said notice to the town clerk and gives reasonable evidence of ownership to the finder, the owner shall have restitution of them or the value of the money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by the district court, if the owner and finder cannot agree.

33 § 1055. Strays

If such owner appears within 6 months after such notice is filed with the town clerk and proves his title to the beasts, he shall, if they have not been sold, have restitution of the same after paying the charges arising thereon as provided in section 1054. If the beasts have been sold, he shall be entitled to receive the money so deposited in the treasury from the proceeds of the sale. If no owner appears within 6 months, the beasts or the value or price thereof after deducting said charges shall, as prescribed in section 1056, be equally divided between the finder and the town.

33 § 1056. Finder's rights when no owner appears

If no owner appears within 6 months, such money or lost goods shall belong to the finder by paying 1/2 their value after deducting all necessary charges to the treasurer of said town; but if he neglects to pay it on demand, it may be recovered in an action brought by said treasurer in the name of the town.

33 § 1057. Sale of strays when no owner appears

If the owner does not appear and prove his title to the beasts within said 2 months, the finder may sell them at public auction, first giving notice of such sale at least 4 days before the time of sale in 2 public places in the town in which the beasts were taken up. The proceeds of the sale, after deducting all lawful charges, shall be deposited in the town treasury.

33 § 1058. Failure to give notice; penalty

If the finder of lost money or goods of the value of \$3 or more or if the person taking up such stray beast neglects to give notice to the town clerk and to cause them to be advertised as provided, he forfeits to the owner the full value thereof unless he delivers or accounts therefor to the owner, in which case he shall forfeit not more than \$20, 1/2 to the town and 1/2 to the prosecutor.

33 § 1059. Recovery of strays without paying charges; penalty

Whoever takes away a beast held as a stray, without paying all lawful charges incurred in relation to the same, shall forfeit to the finder double the amount of said charges, not exceeding the value of the beast, and in addition thereto shall be liable for any trespass committed by him in so doing.

33 § 1060. Damages by animals; remedy; lien

Any person injured in his land by sheep, swine, horses, asses, mules, goats or neat cattle, in a common or general field, or in a close by itself, may recover his damages by taking up any of the beasts doing it, and giving the notice provided in section 1052, or in a civil action against the person owning or having possession of the beasts at the time of the damage, and there shall be a lien on said beasts, and they may be attached in such action and held to respond to the judgment as in other cases, whether owned by the defendant or only in his possession. If the beasts were lawfully on the adjoining lands, and escaped there from in consequence of the neglect of the person suffering the damage to maintain his part of the partition fence, their owner shall not be liable therefor.

**Title 34-B: BEHAVIORAL AND DEVELOPMENTAL SERVICES HEADING:
Chapter 1: GENERAL PROVISIONS
Subchapter 6: REPORTING ANIMAL CRUELTY, ABUSE OR NEGLECT**

§1901. Animal cruelty, abuse or neglect; reporting

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

A. "Animal" means every living, sentient creature not a human being.

B. "Cruelty, abuse or neglect" means every act, omission or instance of neglect when unnecessary or unjustifiable pain or suffering is caused or permitted.

C. "Owner" means a person, firm, partnership, association or corporation owning, keeping or harboring an animal.

D. "Reasonably suspect" means to hold an objectively reasonable suspicion based upon facts that would cause a reasonable person in a like position to draw on that person's training or experience to suspect animal cruelty, abuse or neglect.

2. Report. An employee of a state-funded child or adult protective services agency or other social service agency, including those providing mental health services that are funded or licensed by the department, while acting in the employee's professional capacity or within the scope of the employee's employment, who has knowledge of or observes an animal that the employee knows or reasonably suspects has been the victim of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902.

3. Duty. Nothing in this section may be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse or neglect.

4. Immunity from liability. A person participating in good faith in reporting under this subchapter is immune from any civil or criminal liability that might otherwise result from these actions, including, but not limited to, any civil or criminal liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

Title 36: TAXATION
Part 8: INCOME TAXES
Chapter 831: PROCEDURE AND ADMINISTRATION

36 §5284-A. Companion animal sterilization voluntary checkoff

1. Companion Animal Sterilization Fund. Taxpayers who, when filing their return, are entitled to a refund under this Part may designate that a part of that refund be paid into the Companion Animal Sterilization Fund established in Title 7, section 3910-B. A taxpayer who is not entitled to a refund under this Part may contribute to the Companion Animal Sterilization Fund by including with the taxpayer's return sufficient funds to make the contribution. Each individual income tax return form must contain a designation in substantially the following form: "Contribution to Companion Animal Sterilization Fund: () \$5, () \$10, () \$25 or () Other \$... ."

2. Contributions credited to Companion Animal Sterilization Fund. The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the assessor shall deduct the cost of administering the Companion Animal Sterilization Fund checkoff and report the remainder to the Treasurer of State, who shall credit the amount to the Companion Animal Sterilization Fund, which is established in Title 7, section 3910-B.

3. Effective date. This section applies to tax years beginning on and after January 1, 2004.

Editor's note.

The rules and regulations for this section may change at any point after publication. Please check with the Animal welfare program for any changes.

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
DIVISION OF ANIMAL AND PLANT HEALTH
Chapter 701: RULES GOVERNING ANIMAL WELFARE

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Chapter 701: RULES GOVERNING ANIMAL WELFARE

PURPOSE

To ensure that only healthy animals, including birds, are offered for sale and that all animals, within the scope of the Commissioner's authority, receive proper care, housing facilities, and disease control, and that records of sales and purchases, euthanasia records and licenses will be monitored by Animal Welfare Program.

SECTION I - GENERAL

A. DEFINITIONS

1. **BEDDING MATERIAL** - The term "bedding material" means those dry materials with low conductivity and not detrimental to the animal.
2. **BOARDING KENNEL** "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.
3. **CAGE/PEN** - The terms "cage" and "pen" are synonymous and refer to a portable enclosure or a fixed permanent enclosure located within a primary structure, designed for securing animals. This enclosure is used primarily as the animals' sleeping area and is a separate structure from exercise areas, dog runs or other enclosures used in the keeping of animals. The cage/pen consists of side walls, a top and bottom and a latched gate or door consisting of wire mesh or rods, all constructed of materials harmless to the well-being of the animal.
4. **CRATE** - The term "crate" refers to a portable enclosure designed for securing animals on a temporary basis for purposes of transport, exhibition, or medical treatment.
5. **EXERCISE AREA** - The term "exercise area" refers to an enclosed space which is secured, either in or out of doors, that is designed exclusively for the exercise of animals appropriate of the type and species of animal. It is an area separate and distinct from the animals' sleeping area. It must be constructed of materials that are not harmful to animals and that are suitable for efficient removal of animal waste and for effective sanitation and disinfection.

6. FACILITY - The term "facility" refers to pet shops, shelters, kennels, and boarding kennels.
7. HOUSING FACILITY – The term "housing facility" means any premises, shed, barn, building, trailer, or other structure or area housing or intended to house animals, including foster homes.
8. IMMEDIATE FAMILY - The term "immediate family" refers to one of the following family relationships: father, mother, brother, sister, son, spouse or daughter.
9. IMPERVIOUS SURFACE – The term "impervious surface" means a surface that does not permit the absorption of fluids. Such surfaces are those that can be thoroughly and repeatedly cleaned and disinfected, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.
10. KENNEL - "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.
11. PERSON - The term "person" refers to an individual, corporation, partnership, association, or any other legal entity.
12. PET SHOP - "Pet shop" means a place, or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purposes of sale to the public.
13. PRIMARY STRUCTURE - The term "primary structure" means the main building used for housing or displaying animals.
14. SHELTER - "Animal shelter" means a:
 - a. Facility that houses domesticated animals and operates or the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes; or
 - b. Rescue group. An organization or individual that receives domesticated animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes.
15. VETERINARIAN OF REFERENCE – The term "Veterinarian of Reference" means the veterinarian employed, contracted, or that volunteers with the

shelter, rescue group, pet store, or kennel to ensure the health of the animals in its care and ensure proper disease control.

B. LICENSES

1. A license is required for each pet shop, shelter, kennel and boarding kennel.
2. Licenses must be posted in a conspicuous place on the premises of each pet shop, shelter, kennel and boarding kennel.
3. License numbers must be posted in any advertisements and on any websites.

C. RECORDS

Each pet shop, shelter, kennel and boarding kennel, must make and maintain for at least two (2) years the following records of its activities:

1. Official Certificates of Veterinary Inspection (CVI) as required by State of Maine statute and rule.
2. The name and address of the person(s) from whom the animal was received.
3. The name and address of the person(s) receiving or buying the animal, excluding fish and rodents and lagomorphs.
4. Records of vaccination and medical treatments given to the animal.
5. Mortality records and causes of mortality.
6. Records of veterinary services.
7. Records of euthanasia must be kept for positive identification of every animal euthanized.
8. Animal fostering agreements with a list of animals fostered.
9. Records of maintenance, storage and distribution of pharmaceuticals and controlled substances in accordance with the US Department of Justice Drug Enforcement Administration regulations and the Maine Veterinary Practice Act, 32 MRS §§ 4851 et seq.
10. Records, except for CVI's, can be stored electronically.

D. PRIMARY STRUCTURES

All pet shops, shelters, kennels and boarding kennels must be comprised of a primary structure that is in good repair and structurally sound. All primary structures must have available running water, heat, and electricity.

E. TEMPERATURE CONTROL

1. The inside minimum temperature must be kept at a level to maintain good general health and condition for animals housed in the facilities.
2. Outside facilities must provide shade exclusive of the housing structure by either natural or manufactured devices for all animals kept out of doors.

F. SANITATION

1. Waste facilities must be cleaned in such a manner as to minimize vermin, insect infestation, disease, and odor.
2. Cages/pens, food and water dishes and other utensils must be disinfected as needed to be kept in a sanitary condition.
3. Animals must be removed from cages/pens during cleaning. Cages/pens must be clean and dry before animals are replaced.

G. FOOD

1. Food supplies must be protected against contamination and deterioration, and refrigeration must be provided for perishable food and supplies.
2. Animals must be fed at least twice a day or as directed by owner/keeper in the case of a boarded animal(s), with a wholesome and nutritionally complete food and of sufficient quantity to meet the requirements for their age, size, breed, and condition. Animals that have been determined by a veterinarian to be malnourished or which have prominent hip or rib bones showing which is not normal to the breed, must be fed more frequently.
3. Lactating females must be fed daily in sufficient quantity and quality to maintain their body weight while providing sufficient nutrition for the production of milk.
4. Puppies and kittens must be fed at least three times daily once they are able to ingest and metabolize solid food.
5. Clean water must be available at all times and must be in a tip resistant container that is low enough to allow the animals free access.

6. Birds must have food and water available at all times.
7. These requirements must be attended to daily including weekends and holidays.

H. DISEASE CONTROL

1. Animals with clinical evidence of infectious, contagious, parasitic, or communicable disease must be separated from others in order to minimize the spread of disease.
2. Effective programs for the control of disease, insects, external parasites, and other pests must be established and maintained with the Veterinarian of Reference.

I. NOISE

All noise must be kept at a minimum to prevent auditory discomfort and restlessness.

J. VENTILATION

All areas in which animals are kept must be ventilated in such a manner that a movement of fresh air is present to prevent noxious fumes, chemical odors, heat buildup, smoke or odors of excrement and urine from being detectable.

K. LIGHTING

All animals must have exposure to artificial or natural daylight a minimum of eight (8) hours per day.

L. SPECIAL INSTRUCTIONS

The seller/provider of any animal must furnish written instructions as to the proper feeding, care, health information, and any special needs associated with the animal sold or provided.

M. HEALTH OF ANIMALS AT THE TIME OF RELEASE

The following conditions make an animal unfit for sale or release:

1. Obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality.
2. Obvious signs of starvation or malnutrition.
3. Congenital abnormalities, except with disclosure and acceptance by the person adopting or potential owner.

4. Blindness, except with disclosure and acceptance by the person adopting or potential owner.
5. Animals determined to be unfit for sale or release as described above, must be isolated and treated by/or at the direction of a licensed veterinarian or euthanized in a humane manner. If the treatment for any of the above conditions brings about recovery to a good, normal state of health, as determined by acceptable veterinary practice, the animal can then be considered for release or sale. (The new owner must be apprised of the condition treated and the treatment provided the animal.)
6. Animals with aggression that pose a risk to public safety that cannot be safely managed by behavioral program shall not be adopted or sold to the public.

N. UNLAWFUL SALE OF PUPPIES AND KITTENS

It is unlawful for any person to sell, adopt, or give away any dog (puppy) or cat (kitten) until completion of its seventh week of life.

O. QUARANTINE NOTIFICATION

When a licensed veterinarian, not employed by the State, quarantines a pet shop, shelter, kennel or boarding kennel, then both the veterinarian and the holder of the license must immediately notify the Animal Welfare Program. Immediate notification may be oral, but a written confirmation of such oral notification must be sent to the Animal Welfare Program within twenty-four (24) hours.

P. VIOLATIONS

The Animal Welfare Program will, upon written complaint by any person alleging violation of these Rules, or upon its own motion if it has reason to believe such a violation exists, cause an investigation to be made. If a violation is found to exist, the Animal Welfare Program or the Attorney General may seek enforcement remedies including but not limited to revocation or suspension of the license.

Q. AUTHORIZED AGENTS (Access to Facilities)

Authorized agents of the Animal Welfare Program must at all reasonable times be allowed access to the physical premises and the records maintained by any pet shop, shelter, kennel and boarding kennel.

SECTION II - SPECIFIC RULES BY CATEGORY OF ACTIVITY

In addition to the general regulations listed in Section I, the following specific regulations apply to each of the following categories:

A. PET SHOPS

1. The housing facilities must be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
2. Dogs must be removed from the cage a minimum of twice every twenty-four hour period.
3. There must be a separate and suitable exercise area provided that is properly controlled for the safety of the animals.
4. Cages/Pens for birds - Birds must be provided space to allow full expansion of their wings. Birds must be housed only with other compatible species unless housed singularly.
5. Cages/Pens for cats - Confinement areas must allow a minimum of four (4) square feet per cat inclusive of the area occupied by the litter boxes which offers enough room to comfortably stand. Cats must have litter boxes with ample clean litter available at all times. When multiple cats are kept in a common area there must be at least one 1 1/2 square foot litter box or equivalent for every three cats.
6. Animals or birds must not be placed in cages/pens over other animals or birds unless the enclosure is properly constructed to prevent excreta from entering the lower enclosure.
7. Males and females capable of reproduction must not be housed together.
8. Dogs and Cats must not be placed in the same cage/pen nor dogs or cats be housed in the same cage/pen with other species of animals.
9. Females with litters must be housed in an area that minimizes disruption to them.
10. All cages/pens must have a clean dry place for the animal to lie down and the flooring must be an impervious surface without perforations. There must be clean and sufficient bedding material to retain the animal's body heat. Manufactured grids that will not potentially injure the feet are acceptable.
11. The primary structure must have provisions for proper disposal of dead or euthanized animals.

12. The design and location of a cage and exercise area must be of such nature as to permit ready and convenient access for cleaning, sanitation and care of animals.

B. SHELTERS

1. The housing facilities must be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
2. Dogs must be removed from the cage a minimum of twice every twenty-four hour period.
3. There must be a separate and suitable exercise area provided that is properly controlled for the safety of the animals.
4. Animals must not be placed in cages/pens over other animals unless the enclosure is properly constructed to prevent excreta from entering the lower enclosure.
5. Males and females capable of reproduction must not be housed together.
6. Cages/Pens for cats - Confinement areas must allow a minimum of four (4) square feet per cat inclusive of the area occupied by the litter boxes. Cats must have litter boxes with ample clean litter available at all times. When multiple cats are kept in a common area there must be at least one 1 1/2 square foot litter box or equivalent for every three cats.
7. Dogs and cats must not be placed in the same cage/pen nor dogs or cats be housed in the same cage/pen with other species of animals.
8. Females with litters must be housed in an area that minimizes disruption to them.
9. Areas housing puppies from birth to two (2) weeks old must be kept at a high enough ambient temperature to maintain their normal internal temperature. Manufactured grids that will not potentially injure the feet are acceptable.
10. All cages/pens must have a clean dry place for the animal to lie down and the flooring must be an impervious surface without perforations. There must be clean and sufficient bedding material if it is necessary to retain the animal's normal body heat.
11. The primary structure must have provisions for proper disposal of dead or euthanized animals.

12. The design and location of a cage and exercise area must be of such a nature as to permit ready and convenient access for cleaning, sanitation and care of animals.
13. Shelter managers and staff must diligently try to locate the owner of any animal in their custody including utilizing any type of identification (tattoos, name tags, rabies tags, microchips or any other identifying characteristics).
14. Controlled substances and medications must be securely stored, maintained and logged in accordance with the US Department of Justice Drug Enforcement Administration regulations.
15. Sharps containers must be provided and properly disposed of in accordance with Maine Department of Environmental Protection Chapter 900 Rules, Biomedical Waste Management.
16. Isolation areas must be provided to all animals being imported from out of state to ensure their health at the time of adoption in accordance with rules set forth in Chapter 216 Rules Governing the Sale of Dogs and Cats and Importation of Dogs and Cats for Resale or Adoption.

C. KENNELS AND BOARDING KENNELS

1. The housing facilities must be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
2. Dogs must be removed from the cage a minimum of twice every twenty-four hour period.
3. There must be a separate and suitable exercise area provided that is properly controlled for the safety of the animals.
4. Cages/Pens for cats - Confinement area must allow a minimum of four (4) square feet per cat inclusive of the area occupied by the litter boxes. Cats must have litter boxes with ample clean litter available at all times. When multiple cats are kept in a common area there must be at least one 1 1/2 square foot litter box or equivalent for every three cats.
5. Animals must not be placed in cages/pens over other animals unless the enclosure is properly constructed to prevent excreta from entering the lower enclosure.
6. Females must not be housed with males unless requested by owners/keepers.
7. Females with litters must be housed in an area that minimizes disruption to them.

8. Areas housing puppies from birth to two (2) weeks old must be kept at a high enough ambient temperature to maintain their normal internal temperature.
9. All cages/pens must have a clean dry place for the animal to lie down and the flooring must be an impervious surface without perforations. There must be clean and sufficient bedding material to retain the animal's normal body heat. Wire floor does not include manufactured grids that will not potentially injure the feet.
10. The design and location of a cage and exercise area must be of such nature as to permit ready and convenient access for cleaning, sanitation and care of the animal.

D. OUTSIDE FACILITIES FOR DOG HOUSE; TETHERING OF ANIMALS

1. (a) Any shelter, kennel or boarding kennel owning or keeping a dog that shelters the dog out of doors must have outside housing facilities consisting of a four (4) sided structure and roof made of waterproof and windproof material with an R factor of .9 (example: .9 = 3/4" thickness (wood)). There shall be a portal of entry of sufficient size to allow the dog unimpeded passage, which shall include a baffled or appropriate sheltered entrance.

(b) This opening must face south or the direction away from which most wind driven precipitation comes. This facility must have a solid floor at least three (3) inches above the ground level, with clean and sufficient bedding material to retain the animal's normal body heat.

2. (a) When animals are confined by a chain or similar device, the chain must be attached to both the animal and the anchor by a swivel or similar device so the chain will not become entangled or twisted. The chain or similar device must be attached to a well-fitting collar or harness that in no way cuts into the animal's flesh, impedes the circulation, its vocalization, nor ability to ingest food or water.

(b) The gauge of the chain must be appropriate for the size of the animal involved and the chain must be at least five (5) times the length of the animal from the tip of its nose to the base of its tail. The exception is in the case of dogs which are bred and trained as sled dogs, for which the length of the chain must not be less than 1 1/2 times the length of the dog from the tip of its nose to the base of its tail if tied on a pivot and 3 times the length of the dog from the tip of its nose to the base of its tail to a stationary point.

3. Multiple animals kept in such fashion must be kept far enough apart to prevent the restraining devices from becoming entangled.

4. For dogs that are tethered at a pivot point permitting a 360 degree area of movement, the tether must be 2 1/2 times the length of the dog from the tip of its nose to the base of its tail.

SECTION III - CIVIL VIOLATION

A. PET SHOPS, KENNELS AND BOARDING KENNELS

Any pet shop, kennel or boarding kennel that violates Chapter 723 of Title 7 of the Maine Revised Statutes, or these Rules, commits a civil violation for which a forfeiture of not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars per day may be adjudged.

B. SHELTERS

Any shelter that violates Chapter 719 of Title 7 of the Maine Revised Statutes, or these Rules, commits a civil violation for which a forfeiture of not less than fifty (\$50.00) dollars nor more than two-hundred (\$200.00) dollars per day may be adjudged.

SECTION IV - PIG SCRAMBLES

A. Any person or organization planning to hold a pig scramble must obtain a permit from the Department of Agriculture Conservation and Forestry no later than ten (10) days prior to the event.

B. To obtain a permit, the applicant must specify and list the precise location of the event, the time it is to be held (plus or minus one hour) and the person or persons who will be in charge of the event.

C. RULES

1. The person in charge of the event is responsible for the animals being "well cared for" prior to, during, and after the event until such time as the new owners remove the animals from the premises.

2. No lubricant may be used on the pig or the contestant.

3. The pigs must not weigh less than sixteen (16) pounds for the 8-10 age group, and not less than twenty two (22) pounds for the 10-12 age group.

4. The contestants must not be over the age of 12.

5. The event must not last more than ten (10) minutes.

6. The bags or sacks used must be burlap to give the animal adequate breathing and cooling air.

7. The manager of the event must have someone available to purchase or take the animals if an animal is caught by someone who does not have adequate facilities to care for the animals at his/her residence.

8. The area/ring being used must be no less than 3,000 square feet.

9. A pig must only be used for one event per day.

10. RULES MUST BE POSTED IN A CONSPICUOUS PLACE AT EVENT SITE

11. PERMITS PERIODS MUST NOT EXCEED TEN (10) DAYS FOR MULTIPLE EVENTS SPONSORED BY ANY PRIVATE OR PUBLIC ORGANIZATION

SECTION V - CALF SCRAMBLES

A. Any person or organization planning to hold a calf scramble must obtain a permit from the Department of Agriculture, Conservation and Forestry no later than ten (10) days prior to the event.

B. To obtain a permit, the applicant must specify and list the precise location of the event, the time it is to be held (plus or minus one hour) and the person or persons who will be in charge of the event.

C. RULES

1. The person in charge of the event is responsible for the animals being "well cared for" prior to, during, and after the event until such time as the new owners remove the animals from the premises.

2. The calves must not weigh less than 300 pounds or over 600 pounds.

3. The contestants must be restricted to the age of 14 to 17 years. (Age 17, as of January 1st of the year the event is held.)

4. The event must not last more than twelve (12) minutes.

5. Nothing can be attached to any portion of the animal for removal by contestants from the animal during competition.

6. The manager of the event must have someone available to purchase or take the animals if an animal is caught by someone who does not have adequate facilities to care for the animals at his/her residence.

7. The manager of this event must have the facilities to hold the calves which have been won until the winning contestant is ready to leave the premises.

8. The area/ring being used must be no less than 3,000 square feet.

9. A calf must only be used for one event per day.

10. RULES MUST BE POSTED IN A CONSPICUOUS PLACE AT EVENT SITE

11. PERMITS PERIODS MUST NOT EXCEED TEN (10) DAYS FOR MULTIPLE EVENTS SPONSORED BY ANY PRIVATE OR PUBLIC ORGANIZATION

SECTION VI - STANDARDS FOR THE HOUSING AND CARE OF HORSES (ALL EQUINE)

A. HOUSING

1. A constructed shelter, with a minimum of three sides and a waterproof roof, must be provided at all times to protect equines from sun, rain, wind and other inclement weather.

2. The roof must be waterproof.

3. The shelter must be of sufficient height and size so that the animals may stand upright in their normal position, with safe head clearances, and accommodate all animals comfortably at all times.

4. The floor must be dry and suitable for the animals to lie down.

5. Any animal must be provided with extra protection by improved housing facilities, blankets, or other methods, if the health of the animal is compromised in any way.

6. Where indoor shelter is provided, that shelter must be adequately ventilated to prevent excessive dust or excessive moisture that may be detrimental to the equine's health.

B. FOOD

1. Equines must have unlimited access to clean water to maintain normal hydration.
2. Each equine must have sufficient hay, grain, or other feed to maintain its normal bodyweight. Additional feed must be fed to underweight animals to achieve normal weight.
3. The feeding arrangements must be such that each animal gets its own proper share of food twice a day.
4. All owners/keepers of equine must have on hand at all times enough hay and grain to maintain all equine in a healthy condition.

SECTION VII - THE SPAY/NEUTER REIMBURSEMENT PROGRAM

Summary: The purpose of this section is to establish rules that will allow reimbursement to animal shelters for extended days that stray dogs and cats must stay to be spayed or neutered before being given up for adoption.

A. DEFINITIONS: For the purpose of this chapter the following words mean:

1. "Spay/neuter" means to sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles.
2. "Animal shelter" (see and use definition in the Animal Welfare Laws 7 M.R.S. Section 3907, 5-A).
3. "Strays" means a cat or dog with no known owner that may be deserted, sick, or injured.
4. "Reimbursement" means to compensate part of the expense of sterilizing an animal.
5. "Dog licensing fee" means a fee collected by a municipal clerk or dog recorder for the issuance of a dog license authorized under 7 M.R.S. Section 3923.

B. FUNDING

Funds for the reimbursement are to be allocated from the dog-licensing fee and from private or public donations. This fund must be a separate, non-lapsing account and named - Animal Welfare Fund: Spaying/Neutering Account.

C. PROCEDURE

Upon receiving a letter from the animal shelter requesting reimbursement for a stray dog that has been in their possession for at least six (6) days minimum or a stray cat that has been in its possession for at least 48 hours minimum and that particular animal was neutered or spayed, the state will reimburse that shelter at the rate of ten dollars (\$10.00) per dog and the rate of five dollars (\$5.00) per cat. The animal shelter must attach to the letter a copy of a Certificate of Neutering signed by a licensed veterinarian.

STATUTORY AUTHORITY: 7 M.R.S.A. §3906-B. Section 10

SECTION VIII

01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

Chapter 702: RULES FOR THE LOW INCOME SPAY/NEUTER PROGRAM

Summary: This Chapter establishes and implements a low-income spay/neuter program for cats and dogs. Eligibility requirements for participation in the program and procedures for veterinarian reimbursement, and program administration and performance measurements are contained in these rules.

The purpose of the low-income spay/neuter program is to reduce:

- a) Stray and unwanted cats and dogs
- b) Cat and dog euthanasia rates
- c) Dog bites
- d) Feral cats
- e) Threats to public health and safety from rabies and other zoonotic diseases.
- f) Community and state animal control costs

1. DEFINITIONS

- A. **CAT** – A member of the genus and species known as felis catus.
- B. **COMMISSIONER** – The Commissioner of the State of Maine Department of Agriculture, Conservation and Forestry.
- C. **DEPARTMENT** – The Department of Agriculture, Conservation and Forestry.
- D. **DOG** – A member of the genus and species known as canis familiaris.
- E. **DOG LICENSE** – A State of Maine license obtained by the owner or keeper of a dog at the age of 6 months or more, on or before January 1st of each year.
- F. **FERAL CAT** – A cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.
- G. **KEEPER** – A person in possession or control of an animal becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.
- H. **LICENSED ANIMAL SHELTER** – A facility, licensed by the state, which includes a physical structure or part of a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals.

I. OWNER – Any person, firm, partnership, association or corporation that owns, keeps or harbors a dog or other animal.

J. PROGRAM – The Low-Income Spay/Neuter Program for dogs and cats.

K. SPAY/NEUTER – To sterilize a female animal by removing the ovaries or to castrate a male animal by removing the testicles or by FDA approved pharmaceutical sterilization.

L. STRAY ANIMAL – A cat or dog with no known owner that may be deserted, sick, or injured.

M. UNWANTED – A cat or dog abandoned or not wanted by its owner or keeper.

2. ELIGIBILITY

A. To be eligible for the low-income spay/neuter program a person must:

1. Be an independent adult (18 years or older and not declared as a dependent for tax purposes by another person);

2. Be a Resident of the State of Maine;

3. Be the owner or keeper of the cat or dog being spayed or neutered by a participating veterinarian;

4. Make a co-payment determined on an annual basis by the Commissioner. The requirement for a co-payment may be waived if the Director of the Animal Welfare Program and/or the Administrator determines that its payment by the owner or keeper of the animal would create a financial hardship; and

5. Have a household income less than 133% of the federal poverty level. If program funding allows, the Commissioner may increase the household income limit for the purposes of this requirement up to 150% of the poverty level.

B. Determination and the approval of any government public assistance program that may be used to indicate eligibility shall be at the Commissioner's discretion.

C. Dogs and cats imported or transferred from out of state are not eligible for participation in the program.

3. VETERINARIAN PARTICIPATION

A. Any veterinarian licensed in this state may participate in the program established under this Chapter. To participate, a veterinarian must file a signed agreement with the Commissioner on a biennial basis on a form provided by the Commissioner agreeing to all pre-set fees and program conditions. Pre-set fees shall be set by the Commissioner on a biennial basis in consultation with the Maine Veterinary Medical Association.

B. For all cats and dogs sterilized under this program the Commissioner shall reimburse the veterinarians for services on a monthly basis in accordance with the pre-set amount. The pre-set fee shall cover the cost of the pre-surgical exam, the spay/neuter surgery and a rabies vaccination. The owner shall be responsible for the payment of any additional procedures administered by the veterinarian that are not covered under this program.

4. PROGRAM ADMINISTRATION

A. The Department's Animal Welfare (AWP) or an organization or individual that meets the statutory requirements of Title 7 M.R.S. §3910-B ¶1-A Companion Animal Sterilization Fund shall administer the program for the Commissioner and shall be responsible for:

1. Issuing vouchers;
2. Procuring veterinarian participation agreements and maintaining positive relations with the veterinarians;
 3. Maintaining a list of participating veterinarians;
 4. Determining individual owner eligibility;
5. Notifying participating veterinarians of the co-payment as determined by the Commissioner on a yearly basic;
 6. Collecting of co-payments; and
 7. Reimbursing veterinarians in accordance with the agreements and those rules.

B. If the program is contracted to an organization or individual, the Commissioner shall deposit all funds in the Companion Animal Sterilization Fund directly into the Help Fix ME account of the organization or individual as determined by the Department of Administrative and Financial Services. The contracted organization or individual shall submit quarterly financial reports to the Commissioner. This report shall include but not be limited to the number of vouchers issued.

5. PERFORMANCE MEASUREMENT

Performance Measurement is necessary to determine the success of the program and to assess if any changes in the program should be made. To measure the performance of this program, the AWP shall require standardized reporting of statewide cat and dog intake and euthanasia numbers to the AWP by licensed animal shelters, which are required to keep and maintain such information in accordance with 01-001 CMR Chapter 701: Rules Governing Animal Welfare 1C. The reporting will be on forms provided by the Department.

6. DISTRIBUTION OF FUNDS

A. In order for the Companion Animal Sterilization Fund /Help Fix ME funds to be used effectively and reduce animal overpopulation and euthanasia, the apportionment of the funds to be shall be applied to the program shall be determined as follows:

1. The Director of the Animal Welfare Program and/or Administrator shall apportion available funds between cats and dogs according to the need to control overpopulation of cats or dogs.
2. If one species is overpopulated but not the other, then no more than 10% of the program's funds can be spent on that species that is not overpopulated, with priority given to those breeds that are most difficult to place for adoption.
3. If here is no overpopulation of either species, then the funds shall be expended according to requests for assistance from qualifying low-income applicants.
4. The Commissioner shall consult with Maine humane societies, shelters and other stakeholders the Commissioner deems relevant to make the determinations regarding overpopulation and breeds that are difficult to adopt.

7. FUNDING

A Low-Income Spay/Neuter Fund shall be established for this program. Any monies received by the Commissioner in accordance with the authority provided by 7 M.R.S. §3906-B(13) shall be deposited into a separate, non-lapsing account and shall be dedicated for use by the Commissioner exclusively for implementation of this program, including veterinarian reimbursement, administration, promotions and other costs associated with the program. Interest earnings credited to the assets of the fund shall become part of the fund.

STATUTORY AUTHORITY: 7 M.R.S. §3906-B and §3910-B

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
DIVISION OF ANIMAL HEALTH AND INDUSTRY**

**Chapter 216: RULES GOVERNING THE SALE OF DOGS AND CATS AND
IMPORTATION OF DOGS AND CATS FOR RESALE OR ADOPTION**

1. STATUTORY AUTHORITY

The Statutory Authority is found in 7 MRSA §1753 and §1809 and grants the Commissioner of Agriculture, Conservation and Forestry the authority to promulgate all rules that are deemed proper and necessary to maintain the health of all dogs and cats imported into the State for resale or adoption or offered for resale or adoption within the State.

2. DEFINITIONS

The following terms have the following meanings:

A. Accredited Veterinarian

A licensed veterinarian who has been accredited by the United States Department of Agriculture, Animal Plant Health inspection Service - Veterinary Services to represent the State and Federal Government in assuming responsibilities for disease and parasite eradication as defined by the *Code of Federal Regulation 9*, chapter 1 (1-1-86 edition), Part 161.

B. Adoption

For the purposes of this Chapter, adoption shall consist of any and all activities undertaken by private parties and/or individuals, and organized or unorganized rescue groups and humane societies with the intent or effect of transferring possession and/or ownership to others of imported animals as described in this rule.

C. Canine Diseases

1. **Canine Distemper:** A highly contagious viral disease of dogs. The virus is spread by direct contact or aerosol droplets from secretions of infected animals. Infected animals may show gastrointestinal and respiratory distress with pneumonia and neurologic complications. The infected animals may shed virus for several months.
2. **Canine ehrlichiosis:** A disease of dogs, transmitted by ticks, caused by the obligate intracellular organism, Ehrlichia canis.
3. **Heartworm:** A parasitic disease of dogs, transmitted by mosquitoes, caused by the filarial organism, Dirofilaria immitis.
4. **Hepatitis:** A viral infection of dogs that cause symptoms that vary from a slight fever and congestion of the mucus membranes to severe depression, prolonged

bleeding time and lose of weight. The virus is shed in urine, feces and saliva of infected animals.

5. **Leptospirosis:** A bacterial infection of dogs characterized by a sudden onset, weakness, lack of appetite, vomiting and high temperature.
6. **Lyme disease:** A tickborne, bacterial disease of domestic animals and humans caused by the bacteria, *Borrelia burgdorferi*.
7. **Infectious Tracheobronchitis (canine adenovirus 2 and parainfluenza virus):** A viral disease commonly known as Kennel cough, usually mild and self-limiting involving the trachea and bronchi of dogs.
8. **Canine Parvo Virus:** A viral disease causing a severe hemorrhagic enteritis in dogs of all ages. It has a sudden onset with varying degrees of mortality.

D. **Feline Diseases**

1. **Feline Viral Rhinotracheitis:** A viral infection of cats, causing fever, frequent sneezing, conjunctivitis, rhinitis and salivation. Mortality may be high in young kittens and aged cats. The illness is often prolonged and may cause a marked weight loss due to lack of appetite and severe depression.
2. **Feline Calici Virus:** A disease of the oral cavity, respiratory tract and lungs, causing fever, lack of appetite and severe depression.
3. **Panleukopenia.** A highly contagious disease of cats, commonly called Feline Distemper. All secretions and excretions of affected animals contain the virus and the infection may be spread by direct contact or by contaminated objects.

E. **Import**

To move dogs or cats either internationally or interstate into the State of Maine.

F. **Official Certificate of Veterinary Inspection**

A legible certificate or form signed by an accredited veterinarian and approved by the Chief Livestock official of the State or Country of origin that shows the age, sex, breed, description and health record of each dog or cat and the name of the consignor and consignee.

The certificate or form shall list the vaccines administered to each dog or cat and shall state that the animal(s) is/are not showing signs of infectious, contagious and or communicable diseases.

G. **Permit for State Entry**

A document issued by the Commissioner of the Department of Agriculture, Conservation and Forestry to the owner or owners of dogs and cats purchased (or dogs and cats whose ownership or care-taking responsibilities have been transferred to another person) for

resale or adoption in the State of Maine that must be obtained previous to the time of entry into the State for resale.

H. Pet shop

A place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

I. The Commissioner

The Commissioner of the Department of Agriculture, Conservation and Forestry.

J. The Department

The Maine Department of Agriculture, Conservation and Forestry.

K. Valid Certificate of Immunization

A certificate of immunization for rabies specified by the National Association of State Public Health Veterinarians and authenticated by a licensed veterinarian.

3. PERMIT FOR STATE ENTRY

- A. Any person or persons importing dogs and/or cats into the State for resale or adoption is required by the Commissioner to obtain a permit from the Department of Agriculture, Conservation and Forestry previous to the time of entry. This permit must accompany shipment.
- B. Dogs and cats entering the State that do not have health status that is satisfactory to the Commissioner, may be required to be examined by an accredited veterinarian at the owners' expense and may be held under quarantine until the Commissioner is satisfied that the animal(s) is/are not a threat to animals or humans of the State.
- C. Dogs and cats brought into the State for resale or adoption without a permit may be condemned by the Commissioner of Agriculture, Conservation and Forestry and euthanized without indemnity.
- D. Upon request and prior to the issuing of a permit, an application for a permit will be sent to the importer. The application must be completed and returned to the Department of Agriculture, Conservation and Forestry, Division of Animal Health and Industry.
- E. The receiver of a permit will be required to submit quarterly statements or a copy of all invoices to the Department of Agriculture, Conservation and Forestry stating the number, type and destination of dogs and cats purchased or accepted for resale or adoption in Maine.
- F. A new permit may be issued each fiscal year. Permits may be suspended without a hearing for up to 90 days in accordance with 5 MRSA §10004 (1979) if a disease problem exists on the permit holder's premises that requires immediate action be taken to protect public health

and safety. Further administrative action may be taken as necessary in accordance with 5 MRSA §10051.

4. REQUIRED IMMUNIZATION

A. Dogs and cats transported into the State of Maine for resale or adoption shall be immunized against diseases not less than 14 days before entry and must be current on their vaccinations for these diseases as evidenced by a statement on the Health Record. Dogs must also be tested for heartworm, Lyme disease and canine ehrlichiosis with the results noted on the Certificate of Veterinary Inspection.

1. Dogs shall be immunized against the following diseases:

- a. Canine Distemper
- b. Hepatitis
- c. Leptospirosis
- d. Infectious Tracheobronchitis
- e. Canine Parvo Virus
- f. Dogs three months old or older must have a current vaccine for rabies as evidenced by a valid certificate of immunization signed by a licensed veterinarian.

2. Cats shall be immunized against the following diseases:

- a. Feline Viral Rhinotracheitis
- b. Feline Calici Virus
- c. Feline Panleukopenia
- d. Cats three months old or older must have a current vaccine for rabies as evidenced by a valid certificate of immunization signed by a licensed veterinarian.

B. Dogs and cats acquired within the State for resale or adoption shall be immunized against diseases not less than 14 days before resale or adoption.

1. Dogs shall be immunized against the following diseases:

- a. Canine Distemper
- b. Hepatitis
- c. Leptospirosis

- d. Infectious Tracheobronchitis
 - e. Canine Parvo Virus
 - f. Dogs three months old or older must have a current vaccine for rabies as evidenced by a valid certificate of immunization signed by a licensed veterinarian.
2. Cats shall be immunized against the following diseases:
- a. Feline Viral Rhinotracheitis
 - b. Feline Calici Virus
 - c. Feline Panleukopenia
 - d. Cats three months of age or older must have a current vaccine for rabies as evidenced by a valid certificate of immunization signed by a licensed veterinarian.

5. OFFICIAL CERTIFICATE OF VETERINARY INSPECTION

Dogs and cats entering the State for resale or adoption shall be accompanied by an official Certificate of Veterinary Inspection issued by an accredited veterinarian with a copy sent to the Commissioner. This certificate is valid for 30 days from the date it was issued.

6. HOLDING PERIOD

Dogs and cats imported for resale or adoption shall be retained by the importer for a period of five days if they are six months of age or younger and for a period of 48 hours if they are older than six months of age before being offered for resale or adoption.

- A. For the purposes of this Chapter, dogs and cats must be held for this respective five day or 48 hour period in a structure that meets the minimum standards required in the Animal Welfare Rules, Section I and is not in violation of Title 7 Chapter 739, *Cruelty to Animals*.
- B. If, during this holding period, any dog or cat exhibits signs of infectious, contagious, parasitic or communicable disease, included but not limited to coughing, sneezing, vomiting, diarrhea or bloody stool, that animal must be isolated and examined by a veterinarian immediately.
 - a. If any dog or cat is diagnosed with an infectious, contagious or parasitic disease, the animal must be isolated and treated as directed by the veterinarian, and must not be sold, placed or adopted until the veterinarian has declared it to be in a good state of health.
 - b. Any dogs or cats that have been deemed exposed to the infected animal must be quarantined, if necessary, under the direction of the veterinarian or a State

Veterinarian and held until such time the veterinarian declares them to be free of disease.

7. AGE OF CATS AND DOGS FOR RESALE

No person, or persons shall import for resale or adoption, or offer for resale or adoption in the State of Maine, any dog or cat less than 56 days of age.

8. HEALTH RECORD

Dogs and cats sold in the State shall be accompanied by a health record indicating dates and types of vaccines administered.

9. VIOLATION

Whoever violates this rule commits a civil violation for which a forfeiture not to exceed \$500 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed \$50,000.

EFFECTIVE DATE:

December 15, 1975

AMENDED:

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REPEALED AND REPLACED:

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CORRECTIONS:

February, 2014 – agency names, formatting