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## An Act To Amend the Animal Welfare Laws

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

**Sec. 1. 7 MRSA §3906-C, sub-§1**, as amended by PL 2003, c. 405, §4, is further amended to read:

**1. Membership.** The council consists of ~~12~~13 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 ~~or breeding~~ 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 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; ~~and~~
- M. One member representing a ~~State-based~~an animal advocacy group ~~based in the State; and~~
- N. 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.

**Sec. 2. 7 MRSA §3906-C, sub-§2**, as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

**2. Staff.** ~~The commissioner or the commissioner's designee serves as an ex officio nonvoting member.~~ The department shall provide necessary staffing services to the council.

**Sec. 3. 7 MRSA §3906-C, sub-§4**, as repealed and replaced by PL 2001, c. 399, §3, is amended to read:

**4. Terms of office.** Except for initial appointees and the commissioner or the commissioner's designee, each member serves for a term of 3 years or until the member's successor has ~~qualified~~been appointed. Except for the commissioner or the commissioner's designee, ~~a~~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.

**Sec. 4. 7 MRSA §3907, sub-§8,** as amended by PL 1997, c. 33, §1, is further amended to read:

**8. Boarding kennel.** "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned ~~dogs or other pets, or both,~~companion animals are kept or trained at any one time for their owners in return for a fee or compensation. "Boarding kennel" includes a place, building, tract of land or abode at which control of a companion animal is taken from the owner for a portion of a day for the purposes of exercise, day care or entertainment. "Boarding kennel" does not include dog grooming facilities.

**Sec. 5. 7 MRSA §3907, sub-§17,** as amended by PL 2007, c. 702, §6, is further amended to read:

**17. Kennel.** "Kennel" means 5 or more dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials, ~~mushings~~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.

**Sec. 6. 7 MRSA §3909, sub-§2,** as amended by PL 1997, c. 683, Pt. B, §1, is further amended to read:

**2. Designated employees of the department.** For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian to issue and serve civil process~~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 humane agents or a state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. Certification of the humane agents and a state veterinarian for this purpose is as provided under Title 30-A, section 4453, subsection 5. ~~Once certified,~~prosecution Prosecution by the certified humane agent or a state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

**Sec. 7. 7 MRSA §3909, sub-§2-A** is enacted to read:

**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 individual law enforcement officers 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.

**Sec. 8. 7 MRSA §3909, sub-§5** is enacted to read:

**5. Enforcement provision; animal control officers.** The commissioner:

A. May suspend or revoke the certification issued pursuant to section 3906-B of any person who:

(1) Has been found guilty of murder or a Class A, Class B, Class C or Class D crime or of violating any provision of Title 17-A, chapter 15, 19, 25 or 45;

(2) Has engaged in conduct that is prohibited or penalized by state law as murder or a Class A, Class B, Class C or Class D crime or by any provision of the Maine Criminal Code, chapter 15, 19, 25, or 45;

(3) Has falsified or misrepresented material facts in obtaining or maintaining the certification;  
or

(4) Has failed to perform the duties of an animal control officer pursuant to section 3947; and

B. Shall investigate a complaint, on the commissioner's own motion or otherwise, regarding the failure of an animal control officer to comply with the requirements of section 3906-B. The commissioner or the commissioner's designee may, upon notice, conduct an informal conference with the animal control officer. If the commissioner finds that the factual basis of the complaint is true and that further action is warranted, the commissioner may:

(1) Enter into a consent agreement with the animal control officer, which may contain provisions to ensure compliance, including voluntary surrender of the certification and terms and conditions of recertification; or

(2) Suspend the animal control officer's certification pending a hearing held in accordance with the provisions of the Maine Administrative Procedure Act.

**Sec. 9. 7 MRSA §3913, sub-§3, ¶B**, as amended by PL 1997, c. 690, §11, is further amended to read:

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. Only an animal shelter that has an adoption policy approved by the department is eligible for reimbursement of these fees.

**Sec. 10. 7 MRSA §3919-A, sub-§2**, as amended by PL 2007, c. 439, §9, is further amended to read:

**2. Homeless cats.** When an animal shelter accepts a cat under section 3919 and that cat does not have cat identification or is determined to be a feral cat, the animal shelter shall hold the cat for not less than 48 hours. After the 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.

If at least 2 shelter personnel who are experienced and qualified to assess a cat's temperament pursuant to a standard behavioral assessment protocol approved by the department determine that the cat is feral, then the minimum holding period for such a cat is reduced to 24 hours.

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

**Sec. 11. 7 MRSA §3919-B, sub-§1**, as enacted by PL 2003, c. 405, §9, is amended to read:

**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.

**Sec. 12. 7 MRSA §3923-A, sub-§4**, as amended by PL 2003, c. 405, §13, is further amended to read:

**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 or dog recorder a late fee of \$15 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk 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.

~~An owner or keeper whose name appears on a municipal warrant issued in accordance with section 3943 must pay the late fee of \$25 required by that section and is not subject to this subsection.~~

**Sec. 13. 7 MRSA §3923-F**, as enacted by PL 2001, c. 422, §10, is amended to read:

**§ 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 H-A2-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 municipal and state accounts. The animal shelters and veterinarians shall retain a recording fee of \$3 and pay the remaining fee to the department for deposit in the Animal Welfare Fund.

**Sec. 14. 7 MRSA §3931-B, sub-§3**, as enacted by PL 2001, c. 129, §4, is amended to read:

**3. Permanent identification of offspring; record of transfer.** A person operating a wolf hybrid kennel shall have the offspring of a wolf hybrid permanently identified prior to transferring ownership or care of the animal. When a wolf hybrid is sold, given away or exchanged or ownership or care of the wolf hybrid is otherwise transferred, the person operating the wolf hybrid kennel must notify the department of the transfer and provide the name and address of the person accepting transfer of the wolf hybrid within 3 business days. The person operating the wolf hybrid kennel shall keep and maintain the records of transfer for a period of ten years.

**Sec. 15. 7 MRSA §3932, sub-§5** is enacted to read:

**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.

**Sec. 16. 7 MRSA §3933, sub-§3**, as enacted by PL 2003, c. 350, §1, is amended to read:

**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 immediately upon request of the department.

**Sec. 17. 7 MRSA §3935**, as amended by PL 2007, c. 439, §21, is further amended to read:

**§ 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.

**Sec. 18. 7 MRSA §3936, sub-§2**, as amended by PL 1993, c. 89, §1 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**2. Suspension of license.** ~~The District Court, upon complaint of the commissioner, the Attorney General or the Commissioner of Inland Fisheries and Wildlife, department~~ may 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 pending an administrative hearing in accordance with the provisions of the Maine Administrative Procedure Act.

**Sec. 19. 7 MRSA §3943**, as amended by PL 2003, c. 405, §21, is repealed.

**Sec. 20. 7 MRSA §3947**, as amended by PL 2007, c. 439, §26, is further amended to read:

### **§ 3947. Animal control officers**

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3943, 3948, 3950, 3950-A, 3952 and 4041 and Title 17, section 1023 responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and any other duties to control animals as the municipality may require.

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.

**Sec. 21. 7 MRSA §3948, sub-§2**, as amended by PL 1997, c. 690, §30, is further amended to read:

**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, to an animal shelter~~ and ensure that any injured companion animal that is at large or in a public way is given proper medical attention.

**Sec. 22. 7 MRSA §3950-A, sub-§2**, as enacted by PL 2003, c. 452, Pt. B, §21 and affected by Pt. X, §2, is amended to read:

**2. Penalty.** A person who violates subsection 1 commits a civil violation for which a fine of not less than ~~\$50~~\$250 and not more than ~~\$250~~\$500 and costs may be adjudged.

**Sec. 23. 7 MRSA §4015, sub-§6**, as amended by PL 2007, c. 439, §28, is further amended to read:

**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~~dogs kept as sled dogs, 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 ~~arctic breeds~~dogs kept as sled dogs, 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 ~~arctic breeds~~dogs kept as sled dogs, 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"~~dogs kept as sled dogs" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities.

**Sec. 24. 7 MRSA §4162**, as repealed and replaced by PL 1997, c. 690, §55 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 4162. Additional penalties**

**1. Civil violation.** A person who fails to meet a requirement of this chapter commits a civil violation for which a ~~forfeiture~~fine not to exceed \$100 per violation per day may be adjudged.

**2. Action against pet shops, animal shelters and kennels.** The department may ~~file an action in District Court to~~ revoke or suspend the license of a pet shop, boarding kennel, animal shelter or breeding kennel that violates any provision of this chapter pending an administrative hearing in accordance with the provisions of the Maine Administrative Procedure Act.

**Sec. 25. 17 MRSA §1011, sub-§17**, as amended by PL 2007, c. 702, §40, is further amended to read:

**17. Kennel.** "Kennel" means ~~one pack or collection of~~5 or more dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials, ~~mushing~~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.

**Sec. 26. 17 MRSA §1037, sub-§7**, as enacted by PL 2005, c. 340, §4, is amended to read:

**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~~dogs kept as sled dogs, the portal must be constructed ~~in a manner that keeps~~with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must ~~have~~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 ~~arctic breeds~~dogs kept as sled dogs, 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 ~~arctic breeds~~dogs kept as sled dogs, 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~~ "dogs kept as sled dogs" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities.

## SUMMARY

This bill amends the Maine Revised Statutes, Title 7 and Title 17 as related to animal welfare by:

1. Adding a position to the Animal Welfare Advisory Council to represent licensed breeding kennels;
2. Removing the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee as an ex officio member of the Animal Welfare Advisory Council;
3. Changing the definition of "boarding kennel" to include training facilities that board or keep animals while they are in training;
4. Allowing humane agents to issue civil summons for violations of animal welfare laws;
5. Allowing the commissioner to investigate complaints concerning animal control officers and suspend or revoke their state-issued certification;
6. Requiring animal shelters to have an adoption policy approved by the Department of Agriculture, Food and Rural Resources in order to be eligible for reimbursement of fees for strays;
7. Requiring the evaluation of suspected feral cats and reducing the holding period for feral cats to 24 hours;
8. Requiring animal shelters to send notice to the last known address of a person hospitalized or incarcerated;
9. Allowing the department to adopt rules to allow animal shelters to sell dog licenses;
10. Adding animal shelters to the list of facilities that may not be owned by felons within 10 years of their convictions;
11. Allowing the Department of Agriculture, Food and Rural Resources to revoke or suspend a facility license if that facility violates any quarantine or maintains animals contrary to the rules of the department, fails to keep records required or violates any provision of laws or rules of the Department of Inland Fisheries and Wildlife;

12. Eliminating municipal dog license warrant procedures and establishing a year-round late fee of \$25;

13. Requiring municipalities to notify the Commissioner of Agriculture, Food and Rural Resources within 10 days of the appointment or vacancy of an animal control officer;

14. Ensuring that any injured companion animal taken up by a law enforcement officer or animal control officer is given proper medical care;

15. Increasing the fine for official refusal or neglect of duty by certain officials;

16. Clarifying the sheltering provisions for dogs kept as sled dogs; and

17. Allowing the Department of Agriculture, Food and Rural Resources to investigate complaints against pet shops, animal shelters and kennels and to suspend or revoke licenses pending an administrative hearing as defined by the Maine Administrative Procedure Act.