

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

S.P. 26 - L.D. 11

An Act To Regulate the Keeping of Wolf Hybrids

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the keeping of wolf hybrids poses concerns for public safety; and

Whereas, current regulation of wolf hybrid kennels does not provide adequate safeguards; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §3907, sub-§8-A, as amended by PL 2009, c. 403, §1, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs, ~~wolf hybrids~~ or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value 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.

Sec. 2. 7 MRSA §3907, sub-§12-C, as enacted by PL 1997, c. 690, §5, is amended to read:

12-C. Dog. "Dog" means a member of the genus and species known as canis familiaris, 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 as defined in subsection 30.

Sec. 3. 7 MRSA §3907, sub-§12-D, as amended by PL 2007, c. 702, §4, is further amended to read:

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.

Sec. 4. 7 MRSA §3907, sub-§17, as amended by PL 2009, c. 343, §4, 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, 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. 5. 7 MRSA §3911-A, as enacted by PL 2001, c. 129, §1, is amended to read:

§3911-A. Abandonment of wolf hybrid

A person who abandons a wolf hybrid licensed under section 3922 commits a civil violation for which a ~~forfeiture fine~~ 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 and may also be subject to a penalty under Title 12, section 12153. 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.

Sec. 6. 7 MRSA §3911-B is enacted to read:

§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.

Sec. 7. 7 MRSA §3914, as amended by PL 2007, c. 439, §7, is further amended by adding at the end a new paragraph to read:

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.

Sec. 8. 7 MRSA §3919-B, sub-§3, as enacted by PL 2003, c. 405, §9, is amended to read:

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. ~~Offer~~ 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.

Sec. 9. 7 MRSA §3921-A, as enacted by PL 2001, c. 129, §2, is amended to read:

§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 ~~H-A~~ 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.

Sec. 10. 7 MRSA §3921-B is enacted to read:

§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.

Sec. 11. 7 MRSA §3922, sub-§3-B, as enacted by PL 2001, c. 129, §3, is amended to read:

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 ~~the wolf hybrid has been permanently identified in accordance with section 3921-A;~~

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, 2011.

Sec. 12. 7 MRSA §3923-G, sub-§6 is enacted to read:

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.

Sec. 13. 7 MRSA §3931-B, as enacted by PL 2001, c. 129, §4, is repealed.

Sec. 14. 7 MRSA §4151, sub-§1, as enacted by PL 1995, c. 589, §1, is amended to read:

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

Sec. 15. 7 MRSA §4153, as amended by PL 2007, c. 702, §24, is further amended by adding at the end a new paragraph to read:

A seller may not sell a wolf hybrid.

Sec. 16. 12 MRSA §12160 is enacted to read:

§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 wolflike 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.

Sec. 17. 17 MRSA §1011, sub-§8-A, as amended by PL 2009, c. 403, §11, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult dogs, ~~wolf hybrids~~ or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value 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.

Sec. 18. 17 MRSA §1011, sub-§17, as amended by PL 2009, c. 343, §25, 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, 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. 19. Department of Inland Fisheries and Wildlife to require a permit to possess wolf hybrids. The Commissioner of Inland Fisheries and Wildlife shall amend rules adopted under the Maine Revised Statutes, Title 12, section 12152 to require a permit for the importation and possession of wolf hybrids as defined in Title 7, section 3907, subsection 30. The commissioner shall establish confinement standards in rule that prevent escape of a wolf hybrid and restrict unauthorized humans from having contact with a wolf hybrid kept under a permit. The rule must recognize the exception for wolf hybrids kept as pets under Title 7, section 3921-B, subsection 2. Rules adopted under this section must be in effect no later than July 1, 2012.

Sec. 20. Department of Agriculture, Food and Rural Resources to assist in identifying wolf hybrids kept as pets. The Commissioner of Agriculture, Food, and Rural Resources shall periodically update the Commissioner of Inland Fisheries and Wildlife on the number and location of wolf hybrids licensed under the Maine Revised Statutes, Title 7, section 3922, subsection 3-B. Upon determining that all of the wolf hybrids kept as pets under that provision have died, the commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall submit a bill to repeal the exception under Title 7, section 3921-B, subsection 2 and clarify that a permit issued by the Department of Inland Fisheries and Wildlife is required to keep any wolf hybrid in captivity.

Sec. 21. Transition provisions. The following transition provisions apply.

1. The Companion Animal Sterilization Fund established under the Maine Revised Statutes, Title 7, section 3910-B may be used for the spaying and neutering of wolf hybrids until February 1, 2012.

2. Until July 1, 2012, a person operating a facility licensed as an animal shelter under Title 7, section 3932-A and functioning as a refuge exclusively for wolf hybrids on April 1, 2011 may:

A. Accept wolf hybrids from other animal shelters licensed under Title 7, section 3932-A; and

B. Accept ownership of a wolf hybrid directly from an owner when the wolf hybrid was living with its owner in this State in 2011.

3. A person operating a facility licensed as an animal shelter under Title 7, section 3932-A and functioning as a refuge exclusively for wolf hybrids on April 1, 2011 must obtain a permit to possess wildlife under Title 12, section 12152 no later than December 31, 2012 to continue keeping wolf hybrids.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor