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An Act To Clarify, Streamline and Promote Fair Animal Welfare Laws

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

Sec. 1. 7 MRSA §3906-B, sub-§12, as enacted by PL 1995, c. 502, Pt. C, §12, is repealed.

Sec. 2. 7 MRSA §3906-B, sub-§17, as enacted by PL 2009, c. 548, §2, is repealed.

Sec. 3. 7 MRSA §3906-C, sub-§1, as amended by PL 2009, c. 333, §1, is further amended to read:

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 commercial boarding or training 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 personal kennel license issued under section 3923-C; and
- O. One member representing licensed ~~breeding~~commercial breeder 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 personal kennel license issued under section 3923-C, the Governor shall consider nominations made by state-based dog clubs.

Sec. 4. 7 MRSA §3907, sub-§8, as amended by PL 2009, c. 343, §3, is repealed.

Sec. 5. 7 MRSA §3907, sub-§8-A, as amended by PL 2011, c. 100, §1, is repealed.

Sec. 6. 7 MRSA §3907, sub-§§10-A and 10-B are enacted to read:

10-A. Commercial boarding or training kennel. "Commercial boarding or training kennel" means an establishment, other than an animal shelter or animal control facility, used for boarding, holding, day care, overnight stays or training during which the owner of an animal is not present, for a fee or consideration. "Commercial boarding or training kennel" does not include a grooming facility holding dogs solely for the purpose of grooming and not overnight boarding, an individual who temporarily, and not in the normal course of business, boards or cares for animals of others or a licensed pet shop.

10-B. Commercial breeder kennel. "Commercial breeder kennel" means an establishment where 5 or more adult female dogs or cats capable of breeding are kept and more than 16 dogs or cats raised on the premises are sold to the public or for exchange to wholesalers, brokers or pet shops in return for consideration in a 12-month period. "Commercial breeder kennel" does not include a personal 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.

Sec. 7. 7 MRSA §3907, sub-§17, as amended by PL 2011, c. 100, §4, is repealed.

Sec. 8. 7 MRSA §3907, sub-§22-C is enacted to read:

22-C. Personal kennel. "Personal kennel" means an establishment where 5 or more dogs are kept under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. Breeding of personally owned dogs may take place for the purpose of improving the breed, exhibiting or use in sporting activity or other personal reasons, except that selling, trading, bartering or distributing the breeding from a personal kennel may be only to other breeders or individuals by private sale and not to wholesalers, brokers or pet shops. A personal kennel may not sell, trade or barter a dog not bred from its personally owned dogs. A dog temporarily housed at a personal kennel in conjunction with an animal shelter or rescue registered with the department may be sold, traded or bartered as long as the transfer is not made for the purpose of making a profit.

Sec. 9. 7 MRSA §3907, sub-§24-B is enacted to read:

24-B. Serious bodily injury. "Serious bodily injury" means a bodily injury that creates in a person a substantial risk of death or that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ or extended convalescence necessary for recovery of physical health.

Sec. 10. 7 MRSA §3914, first ¶, as amended by PL 2007, c. 439, §7, is further amended to read:

Animal shelters, kennels, ~~breeding~~commercial breeder kennels, commercial boarding or training 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.~~

Sec. 11. 7 MRSA §3923-C, as amended by PL 2009, c. 403, §2, is further amended to read:

§ 3923-C. Personal kennel license

1. License necessary. A person having 5 or more dogs for the purposes set forth in section 3907, subsection ~~4722-C~~ shall obtain a personal 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 personal kennel license. The license expires December 31st annually. The personal kennel license permits the licensee or authorized agent to transport under control and supervision the personal kennel dogs in or outside the State.

2-A. License fees. A personal kennel owner shall pay a fee of \$42 to the municipal clerk for each license to keep dogs. A personal kennel license is needed only for dogs 6 months of age or older. A personal kennel owner may not keep more than 10 dogs per personal kennel 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 personal kennel 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. [PL 1997, c. 690, § 19 (AMD).]

4. Kennel tags. Dogs covered by a personal kennel license must be furnished suitable personal kennel tags and stickers that must be attached to the back of the personal kennel tag indicating the year the personal kennel 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~~ Upon a determination that probable cause exists to believe that a personal kennel is being maintained in a manner deleterious or threatening to the dogs in the personal kennel and the issuance of a warrant pursuant to that determination, an animal control officer, at any reasonable time, escorted by the personal kennel owner or the personal kennel owner's agent, may inspect the personal 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 personal 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 personal 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.

Sec. 12.7 MRSA §3931-A, as amended by PL 2009, c. 403, §§3 to 6, is further amended to read:

§ 3931-A. Commercial breeder kennels

1. License necessary. A person maintaining a breedingcommercial breeder kennel, as defined in section 3907, must obtain a commercial breeder kennel license from the department and is subject to rules adopted by the department. The commercial breeder kennel license expires 12 months after the date of issuance. An applicant for a breedingcommercial breeder kennel license shall state in the application the number of female dogs or cats capable of breeding that are maintained at the breedingcommercial breeder kennel. The department shall issue a commercial breeder kennel license or a conditional commercial breeder kennel 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 breedingcommercial breeder kennel that maintains at least 5 but no more than 10 female dogs or cats capable of breeding is a Category 1 breedingcommercial breeder kennel.

B. A breedingcommercial breeder kennel that maintains at least 11 but no more than 20 female dogs or cats capable of breeding is a Category 2 breedingcommercial breeder kennel.

C. A breedingcommercial breeder kennel that maintains 21 or more female dogs or cats capable of breeding is a Category 3 breedingcommercial breeder kennel.

2. Commercial breeder kennel license fees. The commercial breeder kennel license fee is \$75 for a Category 1 breedingcommercial breeder kennel, \$100 for a Category 2 breedingcommercial breeder kennel and \$150 for a Category 3 breedingcommercial breeder kennel.

5. License number requirements. A breedingcommercial breeder kennel shall prominently display in any advertising the state-issued commercial breeder kennel license number.

The breedingcommercial breeder kennel shall provide its commercial breeder kennel license number to a person purchasing or receiving an animal from the breedingcommercial breeder kennel.

6. Conditional commercial breeder kennel license. Upon receiving an application for a breedingcommercial breeder kennel that does not at the time of application hold a valid commercial breeder kennel license under this section, the department shall issue a conditional breedingcommercial breeder kennel license. The conditional commercial breeder kennel license remains in effect until the

~~breedingcommercial breeder~~ kennel passes an inspection under section 3936. If a ~~breedingcommercial breeder~~ kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional ~~breedingcommercial breeder~~ kennel license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

Sec. 13. 7 MRSA §3932, as amended by PL 2009, c. 343, §15, is further amended to read:

§ 3932. Commercial boarding or training kennels

1. License necessary. A person maintaining a commercial boarding or training kennel, as defined in section 3907, shall obtain a commercial boarding or training kennel license from the department and is subject to rules adopted by the department. The commercial boarding or training kennel 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 commercial boarding or training kennel license is \$75.

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

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

5. Notice of fees and services. A person maintaining a commercial boarding or training 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 commercial boarding or training kennel. The notice must indicate the hours during which the owner of the commercial boarding or training kennel or a person responsible to the owner of the commercial boarding or training kennel is on the premises.

Sec. 14. 7 MRSA §3935, as amended by PL 2009, c. 343, §17, is further amended to read:

§ 3935. License prohibited

The department may not issue a license to maintain a commercial boarding or training kennel, ~~breedingcommercial breeder~~ 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. 15. 7 MRSA §3936, as amended by PL 2009, c. 403, §7, is further amended to read:

§ 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder kennel or pet shop. The commissioner may inspect animal shelters, ~~kennels,~~commercial boarding or training kennels, ~~breeding~~commercial breeder 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder 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,~~commercial boarding or training kennel, ~~breeding~~commercial breeder kennel, animal shelter or pet shop license if a person maintaining the ~~kennel,~~commercial boarding or training kennel, ~~breeding~~commercial breeder 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.

Sec. 16. 7 MRSA §3938, as amended by PL 1993, c. 657, §36, is further amended to read:

§ 3938.Violation

A person maintaining an animal shelter, commercial boarding or training kennel, ~~breeding~~commercial breeder 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~~fine of not less than \$50 nor more than \$200 a day may be adjudged.

Sec. 17. 7 MRSA §3938-A, as enacted by PL 2007, c. 439, §22, is amended to read:

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

A person or an animal shelter, commercial boarding or training kennel, ~~breeding~~commercial breeder 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.

Sec. 18. 7 MRSA §3944, as amended by PL 1997, c. 690, §27, is further amended to read:

§ 3944. Issuance of personal kennel licenses

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

Sec. 19. 7 MRSA §3952, sub-§1-A, as enacted by PL 2007, c. 170, §2, is amended to read:

1-A. Identification of dogs. In addition to orders imposed under subsection 1, the court may order that the owner or keeper of a dangerous dog:

A. Provide the animal control officer in the municipality where the dangerous dog is kept with photographs and descriptions of ~~dogs kept by that owner or keeper~~the dangerous dog including the sex, breed, age and identifying markings of ~~each~~the dog; or

B. ~~Have dogs kept by that owner or keeper~~Cause the dangerous dog to be permanently identified by tattooing, microchip placement or other means directed by the court; ~~or.~~

C. ~~Confine other dogs kept on the owner's or keeper's premises as provided in subsection 1, paragraph A and subsection 8.~~

Sec. 20. 7 MRSA §4015, sub-§1, ¶A, as enacted by PL 1987, c. 383, §3, is amended to read:

A. The ambient temperature shallmust be compatible with the species, breed and health of the animal.

Sec. 21. 7 MRSA §4151, sub-§4-A, as enacted by PL 2007, c. 702, §22, is amended to read:

4-A. Seller. "Seller" means the owner or operator of a breeding~~commercial breeder~~ kennel as defined in section 3907, subsection ~~8-A~~10-B 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.

Sec. 22. 7 MRSA §4152, sub-§1, ¶A, as amended by PL 2009, c. 403, §9, is further amended to read:

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, ~~or 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;

Sec. 23. 7 MRSA §4162, sub-§2, as amended by PL 2009, c. 343, §24, is further amended to read:

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

Sec. 24. 7 MRSA §4163, as amended by PL 2007, c. 702, §§36 and 37, is repealed.

Sec. 25. 17 MRSA §1011, sub-§8, as enacted by PL 1987, c. 383, §4, is repealed.

Sec. 26. 17 MRSA §1011, sub-§8-A, as amended by PL 2011, c. 100, §17, is repealed.

Sec. 27. 17 MRSA §1011, sub-§§10-A and 10-B are enacted to read:

10-A. Commercial boarding or training kennel. "Commercial boarding or training kennel" means an establishment, other than an animal shelter or animal control facility, used for boarding, holding, day care, overnight stays or training during which the owner of an animal is not present, for a fee or consideration. "Commercial boarding or training kennel" does not include a grooming facility holding dogs solely for the purpose of grooming and not overnight boarding, an individual who temporarily, and not in the normal course of business, boards or cares for animals of others or a licensed pet shop.

10-B. Commercial breeder kennel. "Commercial breeder kennel" means an establishment where 5 or more adult female dogs or cats capable of breeding are kept and more than 16 dogs or cats raised on the premises are sold to the public or for exchange to wholesalers, brokers or pet shops in return for consideration in a 12-month period. "Commercial breeder kennel" does not include a personal 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.

Sec. 28. 17 MRSA §1011, sub-§15-A, as enacted by PL 1991, c. 779, §45, is amended to read:

15-A. Humane society. "Humane society" means a nonprofit group or organization incorporated and operating in the State 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.

Sec. 29. 17 MRSA §1011, sub-§17, as amended by PL 2011, c. 100, §18, is repealed.

Sec. 30. 17 MRSA §1011, sub-§22-B is enacted to read:

22-B. Personal kennel. "Personal kennel" means an establishment where 5 or more dogs are kept under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. Breeding of personally owned dogs may take place for the purpose of improving the breed, exhibiting or use in sporting activity or other personal reasons, except that selling, trading, bartering or distributing the breeding from a personal kennel may be only to other breeders or individuals by private sale and not to wholesalers, brokers or pet shops. A personal kennel may not sell, trade or barter a dog not bred from its personally owned dogs. A dog temporarily housed at a personal kennel in conjunction with an animal shelter or rescue registered with the department may be sold, traded or bartered as long as the transfer is not made for the purpose of making a profit.

Sec. 31. 17 MRSA §1025, sub-§1, ¶A, as enacted by PL 1987, c. 383, §4, is amended to read:

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

Sec. 32. 17 MRSA §1031, sub-§2, ¶A, as enacted by PL 1987, c. 383, §4, is amended to read:

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

Sec. 33. 17 MRSA §1038, as enacted by PL 2005, c. 422, §11, is amended to read:

§ 1038. Animals abandoned at animal care facilities

Abandoning an animal at a veterinarian's office, commercial boarding or training 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 commercial boarding or training 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, commercial boarding or training 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.

Sec. 34. 22 MRSA §1313-B, sub-§2, as amended by PL 2007, c. 133, §3, is further amended to read:

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, commercial boarding or training 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.

SUMMARY

This bill repeals the definition of "intermittent agent" in the animal welfare laws. It changes the definitions of "kennel," "boarding kennel" and "breeding kennel" to create 3 new kennel license designations: personal kennel license, commercial boarding or training kennel license and commercial breeder kennel license. It also defines serious bodily injury. The bill also makes the changes to the animal

welfare laws necessary to reflect the changes made in the defined terms. It removes the provision of law that requires a person to obtain a vendor's license to sell a dog or cat.