

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

## An Act To Amend the Laws Governing Animal Trespass

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

**Sec. 1. 7 MRSA §4041, sub-§3-A** is enacted to read:

**3-A. Criminal violation.** A 3rd or subsequent violation of subsection 3 is a Class E crime.

**Sec. 2. 7 MRSA §4041, sub-§4**, as amended by PL 2011, c. 18, §1, is further amended to read:

**4. Fines; restitution.** ~~A fine of not less than \$50 nor more than \$500 must be adjudged for a civil violation under subsection 3. In addition, the~~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 offenderowner 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.

A. A fine of not less than \$50 nor more than \$500 must be adjudged for a first violation under subsection 3.

B. For a 2nd violation of subsection 3, a fine of \$1,000 must be adjudged.

C. For a 3rd or subsequent violation of subsection 3, a fine of \$2,500 must be adjudged.

Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the animal must 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.

**Sec. 3. 7 MRSA §4041, sub-§4-A** is enacted to read:

**4-A. 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.

## **SUMMARY**

This bill amends the animal trespass law in the following ways:

1. It makes a 3rd or subsequent violation a Class E crime;
2. It makes the fine for a 2nd violation \$1,000;
3. It makes the fine for a 3rd or subsequent violation \$2,500;
4. It requires a repeat violator to pay the reasonable court costs and attorney's fees for the Department of Agriculture, Conservation and Forestry, municipality or law enforcement agency; and
5. It authorizes forfeiture of an animal of a repeat violator if the court finds that the repeat violation jeopardizes the public health, safety or welfare.