

States' Animal Cruelty Statutes: Maine

Current through the 2019 Second Regular Session of the 129th Legislature. The Second Regular Session convened January 8, 2020 and adjourned sine die March 17, 2020.

§ 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. [FN1]
5. **Repealed.** Laws 1993, c. 657, § 43.
- 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.
7. **Repealed.** Laws 1999, c. 254, § 18.
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, 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.
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, Food and Rural Resources 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. Guide dog or hearing dog kept for breeding purposes. “Guide dog or hearing 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 guide dogs or hearing dogs and living with a resident of the State.

14. Guide dog or hearing dog kept prior to training. “Guide dog or hearing 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 guide dog or hearing 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, Food and Rural Resources 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.

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 one pack or collection of dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes.

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.

22-A. Repealed. Laws 1997, c. 690, § 58.

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 or “assistance animal” set forth in Title 5, section 4553, subsection 1-H.

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.

§ 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.

§ 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.

§ 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.

§ 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 cruelly 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. Full hearing. A full hearing must be held within 31 days of application for authorization under subsection 1. The court shall take notice that the evidence in a matter under this subsection is a living animal requiring proper care and nourishment and shall advance the matter on the docket and give the matter priority over other cases when the court determines that the interests of justice so require. In the event of a postponement of the original hearing date, the court shall reschedule the matter for full hearing no more than 14 days later than the original hearing date. 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 or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

- A.** Declare the animal forfeited and direct the applicant or other suitable person to take possession of and provide for the animal, or order its sale, adoption or placement;
- B.** Order the animal to be disposed of humanely if a veterinarian determines that, given reasonable time and care, the animal's recovery is doubtful or that the animal is diseased or disabled beyond recovery; or
- C.** If appropriate, allow the animal to be returned to its owner.

All veterinary records, seizure reports prepared by a humane agent, a state veterinarian or a person authorized to make arrests, police reports, witness statements and other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a hearing. An oral statement of a witness included in a police report is admissible only if the witness is present. After hearing, the court shall issue a writ of possession, order the disposition of the animal or return the animal to its owner, in which case the animal must be returned within 30 days of the seizure.

3-A. Emergency euthanasia. If an animal in the possession of a humane agent, state veterinarian, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner is in a condition that could cause the animal to suffer while in custody or if the animal is severely sick or severely injured and there is no possibility of recovery, the animal may be euthanized. The custodian of the animal shall submit in writing to the district attorney in the prosecutorial district where the animal is located a written report including a statement from a veterinarian stating the condition of the animal and how continued care could cause greater harm or damage to the animal. An animal euthanized under this subsection must receive a full necropsy to detail the condition of the animal and confirm the veterinarian's diagnosis.

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 31 days under subsection 3.

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 humane agent, state veterinarian or person authorized to make arrests without court order. A humane agent, state veterinarian or person authorized to make arrests 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, the state veterinarian or the person authorized to make arrests 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, the state veterinarian or the person authorized to make arrests 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, the state veterinarian or the person authorized to make arrests shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent, the state veterinarian or the person authorized to make arrests 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, the state veterinarian or the person authorized to make arrests shall apply to the court for a possession order under subsection 3. Notwithstanding the provisions of subsection 3, 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, the state veterinarian or the person authorized to make arrests shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent, the state veterinarian or the person authorized to make arrests 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.

5-B. Temporary possession ban. An owner or keeper of an animal that was lawfully seized or impounded pursuant to this section or section 1034 is prohibited from possessing or acquiring an animal prior to any hearing to determine possession of the animal that was lawfully seized or impounded. Notice of the prohibition under this subsection must be served to the owner or keeper subject to the prohibition. An owner or keeper who violates the prohibition under this subsection commits a civil violation for which a fine of not more than \$200 may be adjudged for each day of violation.

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 631.1 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.

§ 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.

§ 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.

2. Repealed. Laws 1997, c. 690, § 67.

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.

§ 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.

§ 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.

§ 1026. Penalty for violation

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

§ 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. Repealed. Laws 2019, c. 237, § 8, eff. Sept. 19, 2019.

2-A. Appeal of action or order. 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 may appeal the action or order to the Superior Court pursuant to the Maine Rules of Civil Procedure.

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.

§ 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. 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; 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.

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.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

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; or

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.

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. Repealed. Laws 2003, c. 452, § I-18, eff. July 1, 2004.

3-A. Repealed. Laws 2003, c. 452, § I-19, eff. July 1, 2004.

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. Repealed. Laws 2019, c. 99, § 1, eff. Sept. 19, 2019

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

D. The court, as part of the sentence for a violation of this section:

(1) May prohibit a defendant convicted of a Class D crime under this section from owning, possessing or having on the defendant's premises an animal for a period of time that the court determines to be reasonable, up to and including permanent relinquishment;

(2) Shall prohibit a defendant convicted of a Class C crime under this section from owning, possessing or having on the defendant's premises an animal for a period of at least 5 years, up to and including permanent relinquishment;

(3) May impose any other reasonable restrictions on a defendant's future ownership or custody of an animal as determined by the court to be necessary for the protection of animals, including but not limited to reasonable restrictions on future ownership, possession or custody and prohibiting the person from employment that involves the care of animals or any other contact with animals; and

(4) May order as a condition of probation that probationer be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined to be appropriate by the court, receive psychiatric or psychological counseling at the defendant's expense.

Upon motion by the defendant and upon completion of conditions specified in an order entered under this paragraph, the court may reduce or modify restrictions or conditions imposed under this paragraph.

E. Intentional or knowing violation of a court order issued under paragraph D is a Class D crime. An animal owned or possessed by the defendant or on the defendant's premises in violation of a court order under paragraph D is subject to immediate forfeiture as ordered by the court.

F. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having on the probationer's premises an animal is subject to revocation of probation and removal of the animal at the probationer's expense if this condition is intentionally or knowingly violated.

3-C. Separate advocate. In any proceeding brought under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. A decision of the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal. An advocate appointed under this subsection must be appointed from a list provided to the court by the Maine State Bar Association pursuant to paragraph B.

A. The advocate may:

(1) Monitor the proceeding;

(2) Consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the animal and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and law enforcement officers;

(3) Attend hearings; and

(4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, as long as the information and recommendations are based solely on the duties undertaken pursuant to this subsection.

B. The Maine State Bar Association shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students with an interest in animal issues and the legal system. Attorneys and law students serve on a voluntary basis as advocates under this subsection.

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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 and 7, 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 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.

C. Repealed. Laws 2007, c. 702, § 50.

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. 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.

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 in

a manner that keeps wind and precipitation out of the interior. The shelter must have 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, 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, 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.

§ 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.

§ 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.

§ 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 41 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 4020. 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.

§ 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.

§ 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

§ 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.

§ 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.

§ 1045. Inspection

The Department of Agriculture, Food and Rural Resources may inspect or investigate any facility in which cats or dogs are destroyed.

§ 1046. Penalty for violation

Any person, firm or corporation found in violation of this subchapter is guilty of a Class E crime.

§ 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.

§ 3901. Animal Welfare Act

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

§ 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.

§ 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, 1 723, 2 7253 and 7354 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit ½ 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.

5. Repealed. Laws 1995, c. 502, § C-10, eff. Nov. 30, 1995.

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,⁵ 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 426 or a person who has been adjudicated of a civil violation for cruelty to animals under chapter 7397 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 375,⁸ 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.

13. Repealed. Laws 2003, c. 682, § 1.

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 and for costs associated with department laboratory services needed to control or eradicate diseases affecting 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.

§ 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;
- F. Repealed. Laws 2001, c. 399, § 3.
- 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.

§ 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-A. Repealed. Laws 2013, c. 115, § 1, eff. Oct. 9, 2013.
- 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 725.1
- 5. Repealed. Laws 1993, c. 657, § 2.
- 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.

7. Repealed. Laws 2005, c. 510, § 2.

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-A. Repealed. Laws 1999, c. 498, § 1.

12-B. Repealed. Laws 2005, c. 510, § 5.

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 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-A. Repealed. Laws 1993, c. 657, § 4.

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-A. Repealed. Laws 1997, c. 690, § 6.

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 or "assistance animal" set forth in Title 5, section 4553, subsection 1-H.

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

25. Repealed. Laws 1993, c. 657, § 10.

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.

28. Repealed. Laws 2015, c. 223, § 3.

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.

§ 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 42,¹ 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. Repealed. Laws 2003, c. 405, § 5.

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.

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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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.

§ 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 375,1 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.

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

§ 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.

§ 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.

§ 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.

§ 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 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.

C. Repealed. Laws 2007, c. 702, § 16.

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. 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 arctic breeds, 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, 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.

§ 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.

1-A. Separate advocate. In any proceeding brought under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. A decision of the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal. An advocate appointed under this subsection must be appointed from a list provided to the court by the Maine State Bar Association pursuant to paragraph B.

A. The advocate may:

(1) Monitor the proceeding;

(2) Consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the animal and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and law enforcement officers;

(3) Attend hearings; and

(4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, as long as the information and recommendations are based solely on the duties undertaken pursuant to this subsection.

B. The Maine State Bar Association shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students with an interest in animal issues and the legal system. Attorneys and law students serve on a voluntary basis as advocates under this subsection.

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.

§ 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.

§ 4018. Report of suspected cruelty

1. Report by veterinarian. Except as provided in subsection 1-A,1 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 422 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

§ 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 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.

§ 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 41 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.