

## CHAPTER 723

### FACILITY LICENSES

#### §3931. Kennels

(REPEALED)

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §28 (AMD). PL 1993, c. 657, §29 (RP).

#### §3931-A. Breeding kennels

**1. License necessary.** A person maintaining a breeding kennel, as defined in section 3907, must obtain a license from the department and is subject to rules adopted by the department. The license expires 12 months after the date of issuance. An applicant for a breeding kennel license shall state in the application the number of female dogs or cats capable of breeding that are maintained at the breeding kennel. The department shall issue a license or a conditional license under subsection 6 in one of the 3 categories described in paragraphs A, B and C and collect a fee in accordance with subsection 2.

A. A breeding kennel that maintains at least 5 but no more than 10 female dogs or cats capable of breeding is a Category 1 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

B. A breeding kennel that maintains at least 11 but no more than 20 female dogs or cats capable of breeding is a Category 2 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

C. A breeding kennel that maintains 21 or more female dogs or cats capable of breeding is a Category 3 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

[PL 2009, c. 403, §3 (AMD).]

**2. License fees.** The license fee is \$75 for a Category 1 breeding kennel, \$100 for a Category 2 breeding kennel and \$150 for a Category 3 breeding kennel.

[PL 2009, c. 403, §4 (RPR).]

#### **3. Dog licenses.**

[PL 1993, c. 468, §13 (RP).]

#### **4. Surcharge on sale of dogs and cats that have not been neutered.**

[PL 2005, c. 510, §7 (RP).]

**5. License number requirements.** A breeding kennel shall prominently display in any advertising the state-issued kennel license number.

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

[PL 2009, c. 403, §5 (AMD).]

**6. Conditional breeding kennel license.** Upon receiving an application for a breeding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional breeding kennel license. The conditional license remains in effect until the breeding kennel passes an inspection under section 3936. If a breeding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional breeding kennel license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

[PL 2009, c. 403, §6 (NEW).]

## SECTION HISTORY

PL 1991, c. 779, §29 (NEW). PL 1993, c. 468, §13 (AMD). PL 1993, c. 657, §30 (AMD). PL 1995, c. 490, §10 (AMD). PL 2003, c. 405, §16 (AMD). PL 2005, c. 281, §6 (AMD). PL 2005, c. 510, §7 (AMD). PL 2007, c. 702, §8 (AMD). PL 2009, c. 403, §§3-6 (AMD).

**§3931-B. Wolf hybrid kennel****(REPEALED)**

## SECTION HISTORY

PL 2001, c. 129, §4 (NEW). PL 2011, c. 100, §13 (RP).

**§3932. Boarding kennels**

**1. License necessary.** A person maintaining a boarding kennel, as defined in section 3907, shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later.

[PL 1993, c. 657, §31 (AMD).]

**2. License fees.** The fee for a boarding kennel license is \$75.

[PL 2003, c. 405, §17 (AMD).]

**3. Dog licenses.**

[PL 1993, c. 657, §32 (RP).]

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

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

[PL 2007, c. 439, §18 (NEW).]

**5. Notice of fees and services.** A person maintaining a boarding kennel shall post upon the premises and provide upon request a written notice of fees charged for boarding and for any other services offered at the boarding kennel. The notice must indicate the hours during which the owner of the boarding kennel or a person responsible to the owner of the boarding kennel is on the premises.

[PL 2009, c. 343, §15 (NEW).]

**6. Conditional boarding kennel license.** Upon receiving a license application for a boarding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional boarding kennel license to an applicant who pays the required fees and is not prohibited from obtaining a license under section 3935. The conditional license remains in effect until the boarding kennel meets the requirements for a license under section 3936. If a boarding kennel passes an inspection under section 3936 and meets all other conditions of licensure, the conditional license must be changed to a standard license. If a boarding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.

[PL 2013, c. 115, §13 (NEW).]

## SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §30 (AMD). PL 1993, c. 657, §§31,32 (AMD). PL 2003, c. 405, §17 (AMD). PL 2007, c. 439, §18 (AMD). PL 2009, c. 343, §15 (AMD). PL 2013, c. 115, §13 (AMD).

**§3932-A. Animal shelters**

**1. License necessary.** A person operating an animal shelter as defined in section 3907 shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later.

[PL 1993, c. 657, §33 (NEW).]

**2. License fee.** The license fee for an animal shelter is \$100.

[PL 2003, c. 405, §18 (AMD).]

**3. Temporary placement.** Facilities where animals are temporarily placed by the department are exempt from licensing requirements.

[PL 2007, c. 439, §19 (NEW).]

**4. Conditional animal shelter license.**

[PL 2015, c. 223, §8 (RP).]

#### SECTION HISTORY

PL 1993, c. 657, §33 (NEW). PL 2003, c. 405, §18 (AMD). PL 2007, c. 439, §19 (AMD). PL 2013, c. 115, §14 (AMD). PL 2015, c. 223, §8 (AMD).

#### §3933. Pet shops

**1. License necessary.** A person maintaining a pet shop, as defined in section 3907, shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later. A license issued under this section does not authorize a person to keep for sale or offer for sale dogs or cats unless the pet shop meets the requirements of section 4153, subsection 3, paragraph B. For purposes of this section, a licensed pet shop that meets the requirements of section 4153, subsection 3, paragraph B is a grandfathered pet shop.

[PL 2019, c. 544, §2 (AMD).]

**2. License fees.** The fee for a pet shop license is \$150.

[PL 2003, c. 405, §19 (AMD).]

**3. Records.** A person maintaining a pet shop, as defined in section 3907, shall keep a record of each animal received by the pet shop, except for mice and fish. The record must include the name and address of the person or company from whom the animal was received and the name and address of the person buying or otherwise acquiring the animal from the pet shop. The record must be kept on file for a period of 2 years following the sale or other disposition of the animal by the pet shop and must be made available to the department within 24 hours of the request of the department.

[PL 2009, c. 343, §16 (AMD).]

**4. Surcharge on sale of dogs and cats by grandfathered pet shops.** A person maintaining a grandfathered pet shop shall collect a surcharge of \$25 on each cat or dog sold that has not been neutered and forward the entire surcharge to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B.

[PL 2019, c. 544, §2 (AMD).]

**5. Advertising.** A grandfathered pet shop license holder advertising to the public the availability of a dog or cat for sale or in any way exchanging a dog or cat for value shall prominently display the state-issued pet shop license number in any publication in which the pet shop license holder advertises. The pet shop license number must be provided to a person adopting or purchasing an animal from the pet shop.

[PL 2019, c. 544, §2 (AMD).]

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §31 (AMD). PL 1993, c. 657, §34 (AMD). PL 2003, c. 350, §1 (AMD). PL 2003, c. 405, §19 (AMD). PL 2005, c. 281, §7 (AMD). PL 2007, c. 439, §20 (AMD). PL 2009, c. 343, §16 (AMD). PL 2019, c. 544, §2 (AMD).

#### **§3934. Exemption from licensure**

**(REPEALED)**

##### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §32 (RP).

#### **§3935. License prohibited**

The department may not issue a license to maintain a boarding kennel, breeding kennel, animal shelter or pet shop to a person who, within the 10 years previous to the application for the license, has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13 or a criminal violation under Title 17, chapter 42 or under a criminal law involving cruelty to animals that is no longer in effect or, within 10 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739 or has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section. [PL 2009, c. 343, §17 (AMD).]

##### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §14 (AMD). PL 1993, c. 657, §35 (AMD). PL 2005, c. 422, §8 (AMD). PL 2007, c. 439, §21 (AMD). PL 2009, c. 343, §17 (AMD).

#### **§3935-A. Late fees**

A person maintaining a facility required to be licensed under this chapter shall pay a late fee equal to 50% of the required license fee if that person fails to renew a license within 30 days of that license's expiration date. The late fee must be deposited in the Animal Welfare Fund established in section 3906-B. [PL 2005, c. 422, §9 (NEW).]

##### SECTION HISTORY

PL 2005, c. 422, §9 (NEW).

#### **§3936. Inspection and quarantine**

**1. Inspection and quarantine.** The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter an animal shelter, kennel, boarding kennel, breeding kennel or pet shop and make examinations and conduct any recognized tests for the existence of contagious or infectious diseases or conditions. If the animal shelter, kennel, boarding kennel, breeding kennel or pet shop is also used for human habitation, the person authorized to make examinations and conduct tests must be escorted by the owner, or the owner's agent, of the animal shelter, kennel, boarding kennel, breeding kennel or pet shop and the examinations and tests may be made only in those portions of the premises used as an animal shelter, kennel, boarding kennel, breeding kennel or pet shop. The commissioner may inspect animal shelters, kennels, boarding kennels, breeding kennels and pet shops in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. In conducting inspections, measures established by the department through rulemaking must be used to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding kennel or pet shop, in person or by registered mail, and the quarantine must be maintained as long as the department determines necessary.

The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of violations.  
[PL 2009, c. 403, §7 (AMD).]

**2. Suspension of license.** The department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend a kennel, boarding kennel, breeding kennel, animal shelter or pet shop license if a person maintaining the kennel, boarding kennel, breeding kennel, animal shelter or pet shop violates any quarantine or maintains animals contrary to the rules adopted by the department, fails to keep records required by the department or violates any provision of the laws or rules of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession.  
[PL 2009, c. 343, §18 (AMD).]

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §33 (AMD). PL 1993, c. 89, §1 (AMD). PL 1995, c. 490, §11 (AMD). PL 1997, c. 690, §24 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2009, c. 343, §18 (AMD). PL 2009, c. 403, §7 (AMD).

#### **§3936-A. Noncompliance; subsequent inspection required**

If, upon inspection under section 3936, the commissioner or the commissioner's designee finds a facility licensed under this chapter to be in violation of this chapter or rules adopted under this chapter, the commissioner or the commissioner's designee shall issue a written notice describing the violation, the required corrective action to be taken and the date by which the correction must be made. No fee is charged for the first follow-up inspection. If the corrective action has not been taken within the specified period and 2 or more follow-up inspections are needed in any calendar year, the department shall charge the licensee a fee equal to 50% of the original license fee for each follow-up inspection. The original notice of a violation must inform the licensee of the fee charged for follow-up inspections.  
[PL 2009, c. 403, §8 (NEW).]

If the person operating the facility fails to complete corrective actions by the date noted in the original notice or a subsequent date specified by the department, the department may revoke, suspend or refuse to renew a license issued under this chapter pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5. [PL 2009, c. 403, §8 (NEW).]

#### SECTION HISTORY

PL 2009, c. 403, §8 (NEW).

#### **§3937. Investigation**

Upon written complaint made to the commissioner by any person alleging violation of this chapter, or any of the rules of the chapter by any licensee, the commissioner shall cause an investigation to be made upon matters related in the complaint. [PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD).

#### **§3938. Violation**

A person maintaining an animal shelter, boarding kennel, breeding kennel or pet shop without having obtained a license, or after a license has been revoked or suspended, commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 a day may be adjudged. [PL 1993, c. 657, §36 (AMD).]

#### SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §14 (AMD). PL 1993, c. 657, §36 (AMD).

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

A person or an animal shelter, boarding kennel, breeding kennel or grandfathered pet shop that sells, gives away or otherwise transfers ownership of a dog or cat before it has reached its 56th day of life commits a civil violation for which a fine of not less than \$50 nor more than \$200 may be adjudged. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933. [PL 2019, c. 544, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 439, §22 (NEW). PL 2019, c. 544, §3 (AMD).

**§3939. Dog licenses**

Nothing in this chapter may be construed to exempt licensed facilities from the license requirements of chapter 721. [PL 1993, c. 657, §37 (NEW).]

SECTION HISTORY

PL 1993, c. 657, §37 (NEW).

**§3939-A. Spay; neuter of dogs and cats**

**1. Spay; neuter.** Except as otherwise provided in subsections 2 and 3, an animal shelter may not place with a new owner a dog or cat that has not been spayed or neutered unless an appointment has been made with a licensed veterinarian to spay or neuter the animal within 30 days of accepting ownership. A person who accepts ownership of a dog or cat that is unaltered shall, in addition to any other charges or other fees, make a deposit equal to 100% of the cost of the scheduled surgery with the animal shelter and shall sign a spay-neuter agreement. The animal shelter must refund the deposit upon receiving proof of sterilization.

For purposes of this section, "place" means to sell, give away or otherwise transfer possession of a cat or dog.

[PL 2015, c. 223, §9 (AMD).]

**2. Detrimental to health.** If a licensed veterinarian or licensed veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter shall collect a deposit of not less than \$50 and not more than \$150 at the time of sale or placement. The animal shelter shall determine the amount of the deposit based on the cost of spaying or neutering within the geographic area served by the animal shelter. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

Upon receipt of proof of sterilization, the animal shelter shall immediately and fully refund the deposit. [PL 2015, c. 494, Pt. A, §4 (RPR).]

**3. Extension.** Notwithstanding subsection 1, an animal shelter may extend the date by which spaying or neutering is to be completed at its discretion for good cause. An extension must be in writing.

[PL 2015, c. 223, §9 (AMD).]

**4. Reimbursement of deposit.** If a dog or cat dies prior to spaying or neutering and within the agreement period, the owner is entitled to reimbursement of the deposit paid under subsection 1. If a dog or cat dies prior to spaying or neutering and within 120 days of signing an agreement under subsection 2, the owner is entitled to reimbursement of the deposit paid under subsection 2. To receive reimbursement under this subsection, the owner must provide the animal shelter with a letter signed by a licensed veterinarian stating that the cat or dog has died and providing a description of the animal.

[PL 2015, c. 223, §9 (AMD).]

**5. Unclaimed deposits.** Except as provided in subsections 2, 3 and 4, deposits received under subsection 1 or 2 that are unclaimed within 120 days of the date the spay-neuter agreement was signed must be:

- A. Used to subsidize spaying or neutering of dogs and cats offered for placement by the animal shelter receiving the deposits; or [PL 2015, c. 223, §9 (AMD).]
- B. Remitted to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B. [PL 2007, c. 439, §23 (NEW).]

When extensions are granted under subsection 3 and the deposits are unclaimed 120 days after the extended date for spaying or neutering, those deposits must be disposed of under paragraphs A and B. [PL 2015, c. 223, §9 (AMD).]

#### SECTION HISTORY

PL 2007, c. 439, §23 (NEW). PL 2015, c. 209, §1 (AMD). PL 2015, c. 223, §9 (AMD). PL 2015, c. 494, Pt. A, §4 (AMD).

#### §3939-B. Violations

**1. Noncompliance by new owner.** If a person receiving a dog or cat from an animal shelter fails to comply with section 3939-A, that person forfeits the sterilization deposit and commits a civil violation for which a fine of not less than \$50 nor more than \$200 per animal may be adjudged. [PL 2015, c. 223, §10 (AMD).]

**2. Noncompliance by animal shelter.** If an animal shelter fails to require a spay-neuter agreement or fails to collect a deposit as required under section 3939-A, that animal shelter commits a civil violation for which a fine of not less than \$50 nor more than \$200 per animal may be adjudged. [PL 2015, c. 223, §10 (AMD).]

#### SECTION HISTORY

PL 2007, c. 439, §24 (NEW). PL 2015, c. 223, §10 (AMD).

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