

§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, 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. [PL 2005, c. 422, §1 (AMD).]

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. [PL 2009, c. 652, Pt. A, §6 (RPR).]

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. [PL 2009, c. 343, §6 (NEW).]

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. [PL 2009, c. 343, §6 (NEW).]

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. [PL 2009, c. 343, §6 (NEW).]

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. [PL 2009, c. 343, §6 (NEW).]

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3. Education requirement; management.

[PL 2003, c. 405, §5 (RP).]

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.

[PL 2009, c. 343, §7 (AMD).]

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. [PL 2001, c. 422, §5 (NEW).]

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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.

[PL 2009, c. 343, §8 (NEW).]

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.

[PL 2013, c. 267, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §16 (AMD). PL 1995, c. 490, §6 (AMD). PL 1997, c. 456, §3 (RPR). PL 1997, c. 683, §B1 (AMD). PL 1999, c. 254, §2 (AMD). PL 2001, c. 422, §5 (AMD). PL 2003, c. 405, §§5,6 (AMD). PL 2003, c. 536, §3 (AMD). PL 2005, c. 422, §1 (AMD). PL 2009, c. 213, Pt. M, §2 (AMD). PL 2009, c. 343, §§5-8 (AMD). PL 2009, c. 652, Pt. A, §6 (AMD). PL 2013, c. 267, Pt. C, §1 (AMD).

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