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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 445, L.D. 1283, Bill, “An Act To Amend the Laws Governing Animal Trespass”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 7 MRSA §4041, sub-§4, as amended by PL 2011, c. 18, §1, is repealed and the following enacted in its place:

- 4. Fines.** A person who violates this section is subject to the following fines.
 - A. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$500 must be adjudged.
 - B. A person who violates this section after having been adjudicated as having committed a violation of this section commits a civil violation for which a fine of \$1,000 must be adjudged.
 - C. A person who violates this section after having been adjudicated as having committed 2 or more violations of this section commits a civil violation for which a fine of \$2,500 must be adjudged.

Sec. 2. 7 MRSA §4041, sub-§§4-A and 4-B are enacted to read:

4-A. Restitution; court costs and fees. In addition to fines, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the property owner against the owner or keeper of the animal based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section. Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the

COMMITTEE AMENDMENT

1 animal must also pay reasonable court costs and attorney's fees of the department,
2 municipality or law enforcement agency if the department, municipality or law
3 enforcement agency is the prevailing party in any court proceeding.

4 **4-B. Forfeiture.** If the department, a municipality or a law enforcement agency
5 determines that a repeated violation of this section by an owner or keeper of an animal
6 jeopardizes the public health, welfare or safety of the community, the department,
7 municipality or law enforcement agency may bring a forfeiture action in the county in
8 which the violations occurred under Title 14, section 506. In an action brought under this
9 subsection, the burden of proof is on the department, municipality or law enforcement
10 agency. If a court determines that a repeated violation of this section jeopardizes the
11 public health, welfare or safety of the community, the court may order any animal that is
12 the subject of the violation sold in a commercially reasonable manner and apply the
13 proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this
14 section with any remaining balance returned to the owner or keeper of the animal.'

15 **SUMMARY**

16 The amendment strikes and replaces the bill. The amendment removes the penalty of
17 a Class E crime for a 3rd or subsequent violation of the animal trespass statute. The
18 amendment maintains animal trespass as a civil violation but increases the fines for
19 repeated violations. The amendment also clarifies the existing statutory restitution
20 provision and maintains the new forfeiture provision proposed in the bill.

21 **FISCAL NOTE REQUIRED**

22 **(See attached)**