

TITLE XL

AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY

CHAPTER 437

SALE OF PETS AND DISPOSITION OF UNCLAIMED ANIMALS

Transfer of Animals and Birds

Section 437:1

437:1 License Required. – No person, firm, corporation or other entity shall engage in the business of transferring with or without a fee or donation required, to the public, live animals or birds customarily used as household pets unless the premises on which they are housed, harbored or displayed for such purposes are duly licensed and inspected by the department of agriculture, markets, and food of the state of New Hampshire. This section shall also apply to commercial kennels and to any person, firm, corporation, or other entity engaged in the business of, including activity as a broker, transferring live animals or birds customarily used as household pets for transfer to the public, with or without a fee required, and whether or not a physical facility is owned by the licensee in New Hampshire when transfer to the final owner occurs within New Hampshire. These provisions shall not effect the provisions of RSA 437:7.

Source. 1985, 72:1. 1995, 130:4, eff. July 23, 1995. 2004, 107:1, eff. Jan. 1, 2005. 2007, 160:1, eff. Aug. 17, 2007. 2009, 296:2, eff. Sept. 29, 2009.

Section 437:2

437:2 Definitions. – In this chapter:

I. "Animal shelter facility" means a facility, including the building and the immediate surrounding area, which is used to house or contain animals and which is owned, operated and maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals, and also a public pound for the housing of strays or a pound operated by any person, excluding veterinarians, who contracts with a municipality to serve that function.

I-a. "Commercial kennel" means any person, business, corporation, or other entity that transfers 10 or more litters or 50 or more puppies in any 12-month period.

II. "Department" means the state department of agriculture, markets, and food.

III. "Pet shop" means any establishment licensed to keep, maintain, and transfer certain live animals, birds, and fish at retail to the public.

IV. [Repealed.]

V. "Broker" means any individual or entity acting as agent or intermediary in negotiating or

transferring dogs, cats, or ferrets when transfer to the final owner occurs in New Hampshire.

VI. "Transfer" means transfer of ownership of live animals, birds, or fish from any person, firm, corporation, or other entity to a member of the public.

Source. 1985, 72:1. 1995, 130:4, eff. July 23, 1995. 2004, 107:2, eff. Jan. 1, 2005. 2007, 160:6, eff. Aug. 17, 2007. 2009, 296:3, eff. Sept. 29, 2009. 2013, 38:1, 10, I, eff. Aug. 3, 2013.

Section 437:3

437:3 Licenses. – Licenses shall be valid each year from July 1 to the following June 30. Application for licenses shall be made annually in writing to the department accompanied by a fee of \$200. After January 1, the fee shall be \$100. Annual license renewal fee shall be \$200. A license shall be issued if after inspection the department finds that the premises and cages and facilities thereon meet the proper standards for health and sanitation and that their use will not result in inhumane treatment of said animals or birds, and proof is provided with the application that the zoning enforcement official of the municipality wherein such facility is to be maintained has certified that the facility conforms to the municipal zoning regulations. Such licenses shall be in the form prescribed by the department, shall be publicly displayed at the premises covered by them, and shall be adjacent to animal display cages. Each such license shall be subject to suspension or revocation at any time by the department, if in the judgment of the department the conditions under which it was issued are not being maintained. Upon receipt of a written complaint alleging violation of this subdivision, the department shall investigate said complaint within a reasonable time. All license fees shall be deposited in the state treasury.

Source. 1985, 72:1, eff. July 1, 1985. 2004, 107:3, eff. Jan. 1, 2005. 2009, 296:4, eff. Sept. 29, 2009. 2010, Sp. Sess., 1:57, eff. July 1, 2010. 2011, 224:317, eff. July 1, 2011. 2013, 38:2, eff. Aug. 3, 2013.

Section 437:4

437:4 Prohibition. – No licensee under this subdivision shall transfer to any member of the public other than to a qualified veterinarian or licensed animal shelter facility any maimed, sick, or diseased animal or bird other than as permitted under RSA 437:10, II nor shall any licensee treat inhumanely any animal or bird in his or her care or possession or under his or her control.

Source. 1985, 72:1, eff. July 1, 1985. 2009, 296:5, eff. Sept. 29, 2009. 2012, 115:2, eff. Aug. 4, 2012.

Section 437:5

437:5 Rulemaking. –

I. The department may adopt rules, under RSA 541-A, relative to health and sanitation standards to effectuate the purposes of this subdivision.

II. The rules shall also include health precautions in the case of birds and animals which are offered for transfer, displayed, kept, or placed in stores or shopping facilities where food or drink of any kind is sold, prepared or served.

III. Medical treatment and use of controlled drugs on any animal or bird under the care or possession or under the control of any licensee other than a veterinarian may be administered only under the direction and supervision of a veterinarian for the purposes of this subdivision.

Source. 1985, 72:1, eff. July 1, 1985. 2009, 296:6, eff. Sept. 29, 2009.

Section 437:6

437:6 Information to be Furnished. – Any licensee hereunder shall furnish to the department such information relative to the selling, placing or giving away of animals or birds as provided herein or relative to the maintenance of the premises used for such purposes as may be required by the department.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:7

437:7 Exception. – The license provisions of this subdivision shall not apply to breeders of dogs licensed under the provisions of RSA 466:6; veterinarians; owners and operators of horse riding stables; and auctioneers, breeders or keepers of farm livestock.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:8

437:8 Inspections. – Each licensee's facilities shall be inspected by a employee of the department or by a person appointed by the department at reasonable times determined by the department and no less frequently than once a year with the possibility of additional random inspections. Licensees without a physical facility in New Hampshire shall be exempt from facility inspection, though interstate health certificates or official health certificates for every imported dog, cat, or ferret handled by the licensee shall be submitted to the department for review within one month of the date of writing of the certificate.

Source. 1985, 72:1, eff. July 1, 1985. 2007, 160:2, eff. Aug. 17, 2007. 2013, 38:3, eff. Aug. 3, 2013. 2014, 23:1, eff. Jan. 1, 2015.

Section 437:9

437:9 Penalty. –

I. Any person who violates any provision of this subdivision shall be guilty of a misdemeanor.

II. In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.

III. Once a license has been revoked under the provisions of RSA 437:3, the department may require that all animals and birds located on the premises for which such license was revoked shall be removed by the licensee from said premises within 3 working days after said revocation and be relocated to a safe and sanitary place approved by the department.

Source. 1985, 72:1, eff. July 1, 1985. 2004, 7:1, eff. April 5, 2004; 107:4, eff. Jan. 1, 2005.

Section 437:9-a

437:9-a Notice and Hearing. – No license shall be suspended or revoked until a hearing is held before the commissioner of agriculture, markets, and food. Written notice of such a hearing shall be given to the licensee at least 10 days before said hearing. The notice shall be by certified mail and shall

state the date, time, and place of hearing and set forth the charges against the licensee. Decisions of the commissioner shall be subject to rehearing and appeal in the manner prescribed by RSA 541.

Source. 2013, 38:4, eff. Aug. 3, 2013.

Importation and Sale

Section 437:10

437:10 Dogs, Cats, and Ferrets. –

I. No dog, cat, or ferret shall be offered for transfer by a licensee without first being protected against infectious diseases using a vaccine approved by the state veterinarian. No dog, cat, or ferret shall be offered for transfer by a licensee unless accompanied by an official health certificate issued by a licensed veterinarian. No transfer shall occur unless the transferred animal is accompanied by a health certificate issued within the prior 14 days. Said certificate shall be in triplicate, one copy of which shall be sent to the state veterinarian, one copy of which shall be for the licensee's records, and one copy of which shall be given to the transferee upon transfer as provided in paragraph II. If an official health certificate is produced, it shall be prima facie evidence of transfer.

II. The original of the official health certificate accompanying the dog, cat, or ferret offered for transfer by a licensee shall be kept on the premises where dogs, cats, and ferrets are displayed, and made available for inspection upon request. The public will be informed of their right to inspect the health certificate for each dog, cat, or ferret by a sign prominently displayed in the area where the dogs, cats, or ferrets are displayed. Upon transfer of the dog, cat, or ferret, this health certificate shall be updated by the licensee if any other medication or treatment has been given by a licensed veterinarian or the licensee to the dog, cat, or ferret and shall be given to the transferee in addition to any other documents which are customarily delivered to the transferee. The transferee may accept a dog, cat, or ferret that has a noncontagious illness that has caused it to fail its examination by a licensed veterinarian for an official health certificate under paragraph I; the transferee shall sign a waiver that indicates the transferee has knowledge of the dog, cat, or ferret's noncontagious medical condition and then submit such waiver to the licensee who shall send a copy to the state veterinarian.

III. Animal shelter facilities, as defined in RSA 437:2, I, are exempt from the requirements of this section relative to transferring dogs, cats, and ferrets except that:

(a) All animal shelter facilities shall have on premises a microchip scanner and shall maintain a file of recognized pet retrieval agencies including but not limited to national tattoo or microchip registries.

(b) Where an owner is not known, all animal shelter facilities shall inspect for tattoos, ear tags, or other permanent forms of positive identification and shall scan for a microchip upon admission of an unclaimed or abandoned animal as defined in RSA 437:18, IV and prior to transferring ownership of an unclaimed or abandoned animal.

(c) All animal shelters shall comply with the provisions of RSA 437:10, V and RSA 437:13-a, IV.

IV. No person, firm, or corporation shall ship or bring into the state of New Hampshire, to offer for transfer in the state of New Hampshire, any cat, dog, or ferret less than 8 weeks of age. No licensee shall offer for transfer any cat, dog, or ferret less than 8 weeks of age.

V. Once a dog, cat, or ferret intended for transfer has entered the state, it shall be held at least 48 hours at a facility licensed under RSA 437:1 or at a facility operated by a licensed veterinarian separated from other animals on the premises before being offered for transfer.

Source. 1985, 72:1. 1995, 202:13, eff. June 12, 1995. 1998, 368:3, eff. Aug. 25, 1998. 2002, 13:1, eff. May 24, 2002. 2007, 160:5, eff. Aug. 17, 2007. 2009, 296:7, eff. Sept. 29, 2009. 2012, 115:1, eff. Aug.

4, 2012. 2013, 38:5, 6, eff. Aug. 3, 2013. 2014, 23:2, eff. Jan. 1, 2015.

Section 437:11

437:11 Importation and Transfer Violation. – In addition to the penalty specified in RSA 437:9, any person, firm or corporation may have the license for a pet shop suspended or revoked by the commissioner of agriculture, markets, and food for violation of this subdivision.

Source. 1985, 72:1. 1995, 130:5; 202:14, eff. June 12, 1995. 2009, 296:8, eff. Sept. 29, 2009.

Section 437:12

437:12 Notice and Hearing. – [Repealed 2013, 38:10, II, eff. Aug. 3, 2013.]

Section 437:13

437:13 Examination by Licensed Veterinarian. – Within 14 days of transfer, the transferee of a dog, cat, or ferret from a licensee may have the dog, cat, or ferret examined by a licensed veterinarian selected by the transferee and, unless said examination indicates the dog, cat, or ferret to be free of disease, the transferee shall be entitled to substitution or, at the transferee's option, a full refund of the purchase price of the dog, cat, or ferret, if applicable, upon return of the dog, cat, or ferret to the licensee within 2 business days of said examination, accompanied by the veterinarian's certificate.

Source. 1985, 72:1. 1995, 202:15, eff. June 12, 1995. 2009, 296:9, eff. Sept. 29, 2009.

Health Certificate for Dogs, Cats, and Ferrets

Section 437:13-a

437:13-a Health Certificate for Dogs, Cats, and Ferrets. –

I. No dog, cat or ferret shall be transferred by any person in the state or out of the state for a fee without first being inoculated against infectious diseases using a vaccine approved by the state veterinarian. No dog, cat, or ferret shall be transferred by any person in the state or out of the state for a fee unless accompanied by an official health certificate issued by a licensed veterinarian within 14 days. Said health certificate shall be in triplicate, of which one copy shall be sent to the state veterinarian in accordance with RSA 437:8, one copy shall be kept by the person transferring ownership of said dog, cat, or ferret for a period of at least 3 years, and one copy shall be given to the new owner.

II. For purposes of this section, an official health certificate means a certificate signed by a licensed veterinarian on a form approved by the state veterinarian, containing the name and address of the person transferring ownership of the dog, cat, or ferret, the age, sex, breed, and description of the dog, cat, or ferret, a list of all types of vaccines or medication administered to the dog, cat, or ferret, and the certification of the veterinarian that the dog, cat, or ferret is free from visual evidence of any communicable diseases or internal or external parasites.

III. No person shall transfer or cause to be transferred any dog, cat, or ferret less than 8 weeks of age.

IV. All incorporated or chartered humane societies with operating shelters in the state of New Hampshire are exempt from the requirements of this section relative to transferring dogs, cats, or ferrets except that all dogs, cats, or ferrets transferred out of an animal shelter facility shall have a form of positive identification, including but not limited to a tattoo, collar, microchip, ear tag, or any other

permanent form of identification approved by the commissioner of agriculture, markets, and food and dogs, cats, and ferrets shall be vaccinated against rabies in accordance with RSA 436. All dogs, cats, or ferrets shall be accompanied by an official health certificate if the dog, cat, or ferret was imported into the state for transfer with or without a fee.

V. The commissioner of the department of agriculture, markets, and food or designee is hereby authorized on the commissioner's own initiative or pursuant to complaints of other persons to investigate any complaints made pursuant to this section and to enforce the penalties of RSA 437:13-a, VI. The commissioner shall adopt rules under RSA 541-A relative to the procedures for such investigations.

VI. (a) Any person who violates this subdivision shall be guilty of a misdemeanor.

(b) In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.

Source. 1987, 186:4. 1995, 130:4. 1998, 368:4, eff. Aug. 25, 1998. 2004, 7:2, eff. April 5, 2004. 2007, 160:3, eff. Aug. 17, 2007. 2009, 296:10, eff. Sept. 29, 2009. 2013, 38:8, eff. Aug. 3, 2013. 2014, 23:4, eff. Jan. 1, 2015.

Sale, Gift, or Display of Certain Birds and Rabbits

Section 437:14

437:14 Artificial Coloring. – No chick, duckling, gosling, or rabbit that has been dyed or otherwise colored artificially shall be sold or offered for sale; raffled; offered or given as a prize, premium, or advertising device; or displayed in any store, shop, carnival, or other public place.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:15

437:15 Sale or Gift. – Rabbits younger than 4 weeks of age shall not be sold or offered for sale; raffled; or offered or given as a prize, premium, or advertising device.

Source. 1985, 72:1, eff. July 1, 1985. 2012, 82:1, eff. July 22, 2012.

Section 437:16

437:16 Conditions of Keeping and Display. – Stores, shops, vendors, and others offering chicks, ducklings, goslings, or rabbits younger than 4 weeks of age for sale, raffle, or as a prize, premium, or advertising device, or displaying chicks, ducklings, goslings, or rabbits to the public, shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings, goslings, or rabbits in good health, and shall keep adequate food and water available to the birds or animals at all times.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:17

437:17 Penalty. – Any person, firm, or corporation violating any of the provisions of this subdivision

shall be guilty of a violation; provided that after any violation has been called to the attention of the violator by any law enforcement officer, each day on which such violation continues or is repeated shall constitute a separate offense.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:17-a

437:17-a Monk Parakeets. – Monk parakeets (*Myiopsitta monachus*), also known as quaker parrots, may be possessed and sold within the state.

Source. 2011, 116:1, eff. July 30, 2011.

Unclaimed and Abandoned Animals

Section 437:18

437:18 Definitions. – As used in this subdivision, unless the context otherwise requires:

I. "Animal" means a domestic animal, a household pet, or a wild animal in captivity.

II. "Owner" means the person having the right of possession of an animal, whether such right was acquired by gift, purchase, or other means.

III. "Animal care center" means any veterinary establishment, humane society, boarding kennel, or other center providing care and treatment for animals.

IV. "Abandoned animal" means:

(a) Any animal whose owner neglects or refuses to reclaim it within 7 days after the mailing of the notification provided for in RSA 437:19.

(b) Any animal left in an animal care center by a person unknown or by an owner who, when leaving the animal, gives a false name or false address.

(c) Any ferret in the custody of the animal care center for at least 7 days.

(d) Any cat in the custody of the animal care center for at least 7 days which has a form of positive identification including, but not limited to a tattoo, collar, microchip, eartag, or any other form of identification approved by the commissioner of agriculture, markets, and food pursuant to rules adopted under RSA 466:13-a.

V. "Operator" means the director, manager, veterinarian, or other person charged with the supervision of an animal care center.

Source. 1985, 72:1. 1998, 368:2, eff. Aug. 25, 1998.

Section 437:19

437:19 Notice to Owner; Reclaiming of Animals. – The operator of an animal care center having custody of an animal, the owner of which has refused or neglected to reclaim the animal for a period of 7 days, or has refused or neglected to pay the just fees and charges due for boarding, grooming, surgical, medical or other care of the animal for a period of 7 days, shall notify the owner by certified mail of the intention of the operator to treat the animal as an abandoned animal within the meaning of this subdivision if the owner does not reclaim the animal or pay the charges and fees within 7 days after the mailing of the notification. Any cat not licensed in accordance with RSA 466:13-a and which is reclaimed from an animal care center shall be released to the owner only upon proof of a current, valid

rabies vaccination or upon being vaccinated against rabies in accordance with RSA 436.

Source. 1985, 72:1. 1998, 368:5, eff. Aug. 25, 1998.

Section 437:20

437:20 Disposition of Abandoned Animals. – Ownership of an animal shall vest in the operator of the animal care center having custody thereof upon determination that the animal has been abandoned under the provisions of this subdivision, and the operator may dispose of such abandoned animal in any lawful manner as if he were its rightful owner.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:21

437:21 Duty of Operator. – It shall be the duty of the operator of an animal care center, when taking custody of an animal, to advise its owner of the provisions of this subdivision.

Source. 1985, 72:1, eff. July 1, 1985.

Section 437:22

437:22 Experimentation and Vivisection Prohibited. –

I. It shall be unlawful for any agent acting on behalf of an animal shelter facility as defined in RSA 437:2, I, or an animal care center as defined in RSA 437:18, III, to give, release, sell, trade or transfer with or without a fee any live animal brought, caught, detained, obtained or procured by any means, to any association, corporation, individual, educational institution, laboratory, medical facility, or anyone else, for the purpose of experimentation or vivisection.

II. All animals which are put to death by an animal control officer, humane retaining facility, animal care facility, or agents acting on behalf of such a facility shall be put to death humanely using a method approved by the commissioner of the New Hampshire department of agriculture, markets, and food.

III. Any person who violates the provisions of paragraphs I or II shall be guilty of a misdemeanor.

Source. 1985, 72:1. 1995, 130:4, eff. July 23, 1995.