

2022-1780h

AMENDED ANALYSIS

This bill establishes the revolving fund for agricultural hearing officers.

This bill also requires a dog, cat, or ferret to be transferred with a health certificate, and establishes an administrative fine for violations.

Amendment to SB 368-FN
- Page 2 -

1 4 **Effective Date.** This act shall take effect January 1, 2023.

Amendment to SB 368-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing the agricultural hearings officer revolving fund and relative to penalties
4 for unlawfully transferring dogs, cats, and ferrets.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Revolving Fund for Agricultural Hearings Officers. Amend RSA 425 by inserting
9 after section 11 the following new section:

10 425:11-a Revolving Fund for Agricultural Hearings Officers.

11 I. There is established within the department of agriculture, markets, and food a revolving
12 fund for agricultural hearings officers. All fines collected by the department, except as provided in
13 RSA 427:14, shall be deposited into the fund. The fund shall be nonlapsing and continually
14 appropriated to the department to fund the department's adjudicative procedures, including, but not
15 limited to, the costs associated with contracting with one or more hearing officers who shall be
16 responsible for administering all aspects of the department's adjudicative procedure as directed by
17 the commissioner. The amount withdrawn from the fund shall not exceed \$75,000 in total each year.
18 The department of agriculture, markets, and food shall every quarter forward any unpaid fines
19 assessed in an adjudicative proceeding to the attorney general for collection in accordance with RSA
20 7:15-a.

21 II. At the end of each quarter of the fiscal year any balance in the fund in excess of \$10,000
22 shall be deposited in the general fund.

23 2 New Subparagraph; Revolving Fund for Agricultural Hearings Officers. Amend RSA 6:12:
24 II(b) by inserting after subparagraph (383) the following new subparagraph:

25 (384) Moneys deposited in the revolving fund for agricultural hearings officers under
26 RSA 425:11-a.

27 3 Transfer of Birds and Animals; Penalty. Amend RSA 437:10, I to read as follows:

28 I. Any *person who transfers ownership of a live dog, cat, or ferret without an official*
29 *certificate of transfer or* any pet vendor who transfers live animals or birds customarily used as
30 household pets in this state without having a license to do so as required by this chapter shall be
31 guilty of a misdemeanor *and may be subject to an administrative fine levied by the*
32 *commissioner, not to exceed \$1,000 for each violation.*

Heather Goley

From: Howard Pearl
Sent: Wednesday, April 27, 2022 10:41 AM
To: Heather Goley
Subject: SB368 committee report

Rep Howard Pearl for the committee. This bill as amended will establish a Revolving Fund for an Agricultural Hearing Officer to assist the Ag Commissioner in all aspects of the adjudicative process within the Department. The department is capped at accessing the fine moneys deposited into the fund, not to exceed \$75,000 annually. Additionally, the bill applies the official certificate of transfer requirement equally to all transfers by fixing a loophole identified by the department in RSA 437:10 relating to the penalty for transferring an animal without a certificate of transfer, this is required in RSA 438:8 VI of current statute and provides for an administrative action not just a criminal penalty.

Motion: OTP/A 16-0
Consent

Howard C Pearl

State Representative Merrimack 26

Owner Pearl & Sons Farm LLC

Loudon Town Moderator

Environment & Agriculture Committee Chair

Member NH Solid Waste Working Group

Member NH Weights & Measures Advisory Board

NH Farm Bureau Treasurer

409 Loudon Ridge Rd

Loudon N.H. 03307

603-231-1482 cell

CONSENT CALENDAR

Environment and Agriculture

SB 368-FN, (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Howard Pearl for Environment and Agriculture. This bill as amended will establish a revolving fund for an Agricultural Hearing Officer to assist the Agriculture Commissioner in all aspects of the adjudicative process within the Department. The department is capped at accessing the fine moneys deposited into the fund, not to exceed \$75,000 annually. Additionally, the bill applies the official certificate of transfer requirement equally to all transfers by fixing a loophole identified by the department in RSA 437:10 relating to the penalty for transferring an animal without a certificate of transfer, this is required in RSA 438:8 VI of current statute and provides for an administrative action not just a criminal penalty. **Vote 16-0.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Environment and Agriculture
Bill Number:	SB 368-FN
Title:	(New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.
Date:	April 27, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-1780h

STATEMENT OF INTENT

This bill as amended will establish a revolving fund for an Agricultural Hearing Officer to assist the Agriculture Commissioner in all aspects of the adjudicative process within the Department. The department is capped at accessing the fine moneys deposited into the fund, not to exceed \$75,000 annually. Additionally, the bill applies the official certificate of transfer requirement equally to all transfers by fixing a loophole identified by the department in RSA 437:10 relating to the penalty for transferring an animal without a certificate of transfer, this is required in RSA 438:8 VI of current statute and provides for an administrative action not just a criminal penalty.

Vote 16-0.

Rep. Howard Pearl
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

April 27, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Environment and Agriculture to which was referred SB 368-FN,

AN ACT (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Howard Pearl

FOR THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

2022-1780h

AMENDED ANALYSIS

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14 appropriated to the department to fund the department's adjudicative procedures, including, but not
15 limited to, the costs associated with contracting with one or more hearing officers who shall be
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29 *certificate of transfer or* any pet vendor who transfers live animals or birds customarily used as
30 household pets in this state without having a license to do so as required by this chapter shall be
31 guilty of a misdemeanor *and may be subject to an administrative fine levied by the*
32 *commissioner, not to exceed \$1,000 for each violation.*

- Assume 50-70 administrative actions (fines, suspensions, revocations) each 12-month period and 40-50 alleged violators will request a pre-hearing conference or a formal hearing.
- The contracted hearing officer(s) will handle “all aspects of the Department's adjudicative procedure” subsequent to a division proposing an administrative action.
- Department employees will solely act as expert witnesses in any administrative matter. Current Department employees are not attorneys or otherwise trained in prosecution.
- Putting together an administrative case as the Department's ‘prosecutor’ takes an average of 40-60 hours of staff time subsequent to documenting violations and issuing a proposed fine, suspension, revocation.
- The current process of relying on Department employees to develop and prosecute cases as well as act as hearing officers is an impediment to efficient resolution in many cases. The Department often attempts to gain compliance without fines (re-inspections, formal agreements, etc.), since the administrative process is very resource intensive.
- Some proportion of violators would be more responsive to formal administrative actions.
- A contracted person handling all administrative matters subsequent to a proposed action will free up 20-30 hours of Department time in each instance. The time saved is not money saved, but time that can be committed to doing other work that currently gets left undone.

AGENCIES CONTACTED:

Department of Agriculture, Markets, and Food

**SB 368-FN FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2022-1108s)**

AN ACT relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,500	\$7,500	\$7,500
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Revolving fund for agricultural hearings officers			

METHODOLOGY:

This bill increases the fine for subsequent offenses of unlicensed sale of live animals and establishes the revolving fund for agricultural hearing officers.

The Department of Agriculture, Markets, and Food makes the following assumptions regarding the fiscal impact of this bill:

- 4 divisions (animal industry, pesticide control, regulatory services, weights & measures) would generate the bulk of administrative fines.
- Based on a review of recent information, the Department assumes total annual administrative fines of about \$100,000 of which approximately 75-80% will be collected. This includes approximately \$75,000 of fines currently collected and deposited in the general fund. Under the bill this revenue will be deposited in the revolving fund for agricultural hearings officers, decreasing general fund revenue by approximately \$75,000.
- The Department assumes this bill may lead to imposition of an additional \$10,000 more in fines (10%) leading to collection of an additional \$7500 per year. Including the anticipated new revenue plus the existing fine revenue, there will be approximately \$82,500 per year available for hiring contractors.

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on SB 368-FN

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE:

LOB ROOM: 301 - 303

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 2022 1780h
(if offered)
- Interim Study (2nd year)

Moved by Rep. Paul Seconded by Rep. Buxby Vote: 16-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. Paul Seconded by Rep. Buxby Vote: _____

MOTION: (Please check one box)

- OTP
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- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: [Signature]
Rep Barbara Comtois, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on SB 368-FN

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 26, 2022

LOB ROOM: 301 - 303

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Pearl

Seconded by Rep. Bixby

AM Vote: 16-0

Amendment # 2022-1780h

Moved by Rep. Pearl

Seconded by Rep. Bixby

Vote: 16-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Barbara Comtois, Clerk



2022 SESSION

Environment and Agriculture

2022-1780H

Bill #: SB368FL Motion: OTPA AM #: _____ Exec Session Date: 4-26-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearl, Howard C. Chairman	✓		
Aron, Judy F. Vice Chairman <i>Lascelles, Rich</i>	✓		
Comtois, Barbara Clerk	✓		
Verville, Kevin G. <i>Khaw, Aboul</i>	✓		
Davis, Arnold G.			
Stapleton, Walter A.	✓		
Homola, Susan <i>Johnson, Dawn</i>	✓		
Kennedy, Margaret Anne			
Mason, James L. <i>Spillane, Jim</i>	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.	✓		
Bouldin, Andrew J.	✓		
Dutzy, Sherry	✓		
Murray, Megan A.	✓		
Von Plinsky, Sparky	✓		
Caplan, Tony	✓		
Perez, Maria <i>Woods, Gary</i>	✓		
TOTAL VOTE:	16	0	



2022 SESSION

Environment and Agriculture

Bill #: HB 368-FU Motion: Adopt AM #: 2022-1780H Exec Session Date: 4-26-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearl, Howard C. Chairman	✓		
Aron, Judy F. Vice Chairman <u>Lascelles, Rich</u>	✓		
Comtois, Barbara Clerk	✓		
Verville, Kevin G. <u>Khaw, Abul</u>	✓		
Davis, Arnold G.			
Stapleton, Walter A.	✓		
Homola, Susan <u>Johnson, Dawn</u>	✓		
Kennedy, Margaret Anne			
Mason, James L. <u>Spillane, Jim</u>	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.	✓		
Bouldin, Andrew J.	✓		
Dutzy, Sherry	✓		
Murray, Megan A.	✓		
Von Plinsky, Sparky	✓		
Caplan, Tony	✓		
Perez, Maria <u>Woods, Gary</u>	✓		
TOTAL VOTE:	16	0	

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 368-FN Date April 12, 2022
 Committee Environment + Agriculture

**** Please Print All Information ****

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Rep [unclear]	Smith Hobbs	[unclear]	guy/m		X

ONLINE
 6 YEA
 41 Nay

free from disease. Q. so, they are following the law with exception of living conditions? A. no, this is only the most extreme case, I am asking for money to hire a person to deal with this issue. We are in failure; this solution will cost you nothing. The legislature has put the department in a terrible position

Rep Pearl – Q. if this is a zoning issue, has the town taken action? A. they have been arrested regarding this and it still does nothing. Q. Concerned about the FN, you want the fines from weights & measures monies to be diverted to address this issue of a hearing officer – A. yes, weights & measures bring in more money

Rep Aron – Q. there are 4 divisions, where does the fine money go? A. it goes to general fund Q. would it be better to raise the fines and it would help fund the hearing officers A. No, only funds that we needed. I do not see the need for a FT Hearing Officer, if you can sell a dog for \$4K and only pay a \$1k fine, I would do that all day long for a \$3K profit.

Angela Ferrari – DOGS – written testimony – opposes OTP - Commissioner mentioned that fines of up to \$1K were not being imposed, so why would we increase the fines? Unintended consequence of the increase would be the avoidance of fines would promote hoarding. A sale at \$4k with a fine of \$1k does not equate to a \$3k profit. Conflict of interest with increased fines. In order for the hearing officer to sustain position, it would be self-serving to increase the fines. If law enforcement wasn't interested in speeding would they then just increase the fines? RSA 399: d - would be more of a deterrent to fund the hearing officer.

Hearing recessed until 2 p.m. next Tuesday, April 19, 2022

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: An act relative to animal vending licenses.

DATE: April 12, 2022

ROOM: 301

Time Public Hearing Called to Order: _01:02 p.m.

Time Adjourned: ___01:34 p.m.

(Please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Horrigan, Schultz, Dutzy, M. Murray, Caplan Von Plinsky, and Perez

SPONSORS: Sen. Bradley, Dist 3; Sen. Hennessey, Dist 1; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Cavanaugh, Dist 16; Sen. Prentiss, Dist 5; Rep. Bixby, Straf. 17

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Bixby – introduced bill

Commissioner Jasper – Commissioner of Department of Agriculture – written testimony - introduced by Senator Bradley on behalf of the department, after the Senate hearing and an amendment - Currently all hearings are done in-house, and sometimes acts as a hearing office, and issue fines.

Rep Aron – Q. would it be easier to refer this to the AG's office? A. the AG's office does not have the time to work on this, and should be left to the local PD. I cannot force the AG and PD to do anything the only thing we can enforce is the fines and licensing. Q. could we put this under the AG's office through legislation? A. They don't have the time

Rep Bixby – Q. \$1,000 for 1st offense and \$5,000 for additional offenses, if someone sells 10 dogs, would they be all at the first offense or would it be 9 at the additional fine? A. I don't think we have ever fined more than \$1,000 and it is up to \$1,0000. Each health certificate is a transfer and a first offense

Rep Murray – Q. Does any other department operate this way? A. not to my knowledge.

Rep Comtois Q. Are they getting health certificates? A. the veterinarian is doing nothing wrong, recently just got a call from a PD about transferring animals w/out a health certificate. Q. What are they violating? A. dog can be healthy and still be filthy, health certificate just means that they are

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 12, 2022

ROOM: 301 - 303

Time Public Hearing Called to Order: 1:02 pm

Time Adjourned: 1:13

(please circle if present)

Johnson

Committee Members: Reps. Pearl, Aron, Comtois, ^{Siron}Verville, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, ~~Sofikitis~~, ^{Spang}Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Bill Sponsors:

Sen. Bradley
Sen. Sherman
Sen. Avard
Sen. Prentiss

Sen. Hennessey
Sen. Rosenwald
Sen. Gannon
Rep. Bixby

Sen. Watters
Sen. D'Allesandro
Sen. Cavanaugh

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Multiple horizontal lines for testimony input.

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Respectfully submitted,

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Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: (New Title) establishing the agricultural hearings officer revolving fund and relative to penalties for unlawfully transferring dogs, cats, and ferrets.

DATE: April 12, 2022

LOB ROOM: 301 - 303

Time Public Hearing Called to Order: 1:02 p.m.

Time Adjourned: 1:30 p.m.

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Mason, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Bill Sponsors:

Sen. Bradley

Sen. Watters

Sen. Sherman

Sen. Rosenwald

Sen. D'Allesandro

Sen. Avard

Sen. Gannon

Sen. Cavanaugh

Sen. Prentiss

Rep. Bixby

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HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: An act relative to animal vending licenses.

DATE: April 19, 2022

ROOM: 301

Time Public Hearing Called to Order: _2:00 p.m.

Time Adjourned: _2:10 p.m.

(Please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Horrigan, Schultz, Dutzy, M. Murray, Caplan Von Plinsky, and Perez

SPONSORS: Sen. Bradley, Dist 3; Sen. Hennessey, Dist 1; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Cavanaugh, Dist 16; Sen. Prentiss, Dist 5; Rep. Bixby, Straf. 17

TESTIMONY

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Stacey Ober – AKC – as amended – would increase subsequent violation fines – stated last week they have not fined up to the maximum amount – unclear how RSA437:10 – unlicensed pet vendor, it constitutes a misdemeanor, and the Dept of Ag has expressed they are not getting the assistance they need to enforce it as a misdemeanor. The bigger issue that is not addressed is that the Dept was tipped off about an individual transferring without health certificates and no veterinarian exam which results in a complete end run around the law. This bill should be amended to fix this issue, instead of penalizing those transferring animals with a health certificate, but that do not have a License compared to those doing a complete end run around the law.

Rep Dutzy – does your organization do any oversight pursuant to your membership A. we do a lot of education Q. do you make referrals to PD's A. AKC will arbitrarily schedule inspections of members and make sure they kennel is complying with the care policy

ONLINE

9 in favor

43 opposed

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN Continued from 4/12

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 19, 2022

ROOM: 301 - 303

Time Public Hearing Called to Order: 2:00 pm

Time Adjourned: 2:10 pm

(please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, ~~Verville~~, Davis, Stapleton, Homola, ~~Kennedy~~, Mason, G. Sanborn, Bixby, ~~Sofikitis~~, ~~Andrew Bouldin~~, Dutzy, M. Murray, Von Plinsky, Caplan and Perez
Gallegher →

Bill Sponsors:

Sen. Bradley	Sen. Hennessey	Sen. Watters
Sen. Sherman	Sen. Rosenwald	Sen. D'Allesandro
Sen. Avar	Sen. Gannon	Sen. Cavanaugh
Sen. Prentiss	Rep. Bixby	

TESTIMONY

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Stacy Ober AKC

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: (New Title) establishing the agricultural hearings officer revolving fund and relative to penalties for unlawfully transferring dogs, cats, and ferrets.

DATE: April 19, 2022

LOB ROOM: 301 - 303

Time Public Hearing Called to Order: 2:00p.m.

Time Adjourned: 2:10 p.m.

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Mason, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Bill Sponsors:

Sen. Bradley

Sen. Watters

Sen. Sherman

Sen. Rosenwald

Sen. D'Allesandro

Sen. Avarad

Sen. Gannon

Sen. Cavanaugh

Sen. Prentiss

Rep. Bixby

TESTIMONY

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Stacey Ober – American Kennel Club (AKC) – as amended – would increase subsequent violation fines – stated last week they have not fined up to the maximum amount – unclear how RSA437:10 – unlicensed pet vendor, it constitutes a misdemeanor, and the Dept of Ag has expressed they are not getting the assistance they need to enforce it as a misdemeanor. The bigger issue that is not addressed is that the Dept was tipped off about an individual transferring without health certificates and no veterinarian exam which results in a complete end run around the law. This bill should be amended to fix this issue, instead of penalizing those transferring animals with a health certificate, but that do not have a License compared to those doing a complete end run around the law.

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ONLINE

9 in favor

43 opposed

Respectfully submitted,

Rep. Barbara Comtois
Clerk

2022-1674h

AMENDED ANALYSIS

This bill establishes the revolving fund for agricultural hearing officers.

This bill also requires a dog, cat, or ferret to be transferred with a health certificate.

UNAPPROVED

Amendment to SB 368-FN
- Page 2 -

1 4 New Paragraph; Health Certificates for Cats and Dogs. Amend RSA 437:8 by inserting after
2 paragraph III the following new paragraph:

3 III-a. No person, firm, corporation, or other entity shall transfer ownership of a dog, cat, or
4 ferret without an official health certificate.

5 5 New Paragraph; Health Certificates for Cats and Dogs; Database Version. Amend 2021,
6 91:303 by inserting after paragraph III the following new paragraph:

7 III-a. No person, firm, corporation, or other entity shall transfer ownership of a dog, cat, or
8 ferret without an official health certificate.

9 6 Effective Date. This act shall take effect January 1, 2023.

UNAPPROVED

Amendment to SB 368-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing the agricultural hearings officer revolving fund and relative to penalties
4 for unlawfully transferring dogs, cats, and ferrets.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7

8 1 New Section; Revolving Fund for Agricultural Hearings Officers. Amend RSA 425 by inserting
9 after section 11 the following new section:

10 425:11-a Revolving Fund for Agricultural Hearings Officers.

11 I. There is established within the department of agriculture, markets, and food a revolving
12 fund for agricultural hearings officers. All fines collected by the department shall be deposited into
13 the fund. The fund shall be nonlapsing and continually appropriated to the department to fund the
14 department's adjudicative procedures, including, but not limited to, the costs associated with
15 contracting with one or more hearing officers who shall be responsible for administering all aspects
16 of the department's adjudicative procedure as directed by the commissioner. The amount withdrawn
17 from the fund shall not exceed \$75,000 in total each year. The department of agriculture, markets,
18 and food shall every quarter forward any unpaid fines assessed in an adjudicative proceeding to the
19 attorney general for collection in accordance with RSA 7:15-a.

20 II. At the end of each quarter of the fiscal year any balance in the fund in excess of \$10,000
21 shall be deposited in the general fund.

22 2 New Subparagraph; Revolving Fund for Agricultural Hearings Officers. Amend RSA 6:12:
23 II(b) by inserting after subparagraph (383) the following new subparagraph:

24 (384) Moneys deposited in the revolving fund for agricultural hearings officers under
25 RSA 425:11-a.

26 3 Transfer of Birds and Animals; Penalty. Amend RSA 437:10, I to read as follows:

27 I. Any *person who transfers ownership of a live dog, cat, or ferret without an official*
28 *certificate of transfer* or any pet vendor who transfers live animals or birds customarily used as
29 household pets in this state without having a license to do so as required by this chapter shall be
30 guilty of a misdemeanor *and may be subject to an administrative fine levied by the*
31 *commissioner, not to exceed \$1,000 for each violation.*

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN

BILL TITLE: An act relative to animal vending licenses.

DATE: April 26, 2022

ROOM: 301

**Time Public Hearing Called to Order: 10:45am
Time Adjourned: 10:50am**

(Please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Horrigan, Schultz, Dutzy, M. Murray, Caplan Von Plinsky, and Perez

SPONSORS: Sen. Bradley, Dist 3; Sen. Hennessey, Dist 1; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Cavanaugh, Dist 16; Sen. Prentiss, Dist 5; Rep. Bixby, Straf. 17

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Hearing Notes:

Rep. Pearl speaks to the bill and the amendment that is non-germane 2022-1674h and speaks to the amendment. Speaks to the circumstances where violations in the law were occurring and there was no mechanism to implement a mechanism to issue penalty for non-certificated transfers. Speaks about the language in paragraph 4 and 5, but notes that there may be a duplication of language already in statute. Therefore, he's drafted amendment 2022-1780h and speaks to the language that is already in statute and makes the language clearer and concise around the changes between the two amendments.

Rep. Comtois asks about education to help the public become more aware of the requirements to get certificates to transfer animals?

This is a mechanism to already enforce what is in statute.

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN AMENDMENT 2022-1674h

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 26, 2022

ROOM: 301 - 303

Time Public Hearing Called to Order: 10:45

Time Adjourned: 10:50

Committee Members: Reps. Pearl, ^{Spillane}~~Aron~~, Comtois, ^{Lascelles}~~Verville~~, ^{Khan}~~Davis~~, Stapleton, ^{Johnson}~~Homola~~, Kennedy, Mason, G. Sanborn, Bixby, Sofikitis, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan and ^{Woods}~~Perez~~

Bill Sponsors:

Sen. Bradley Sen. Hennessey Sen. Watters
Sen. Sherman Sen. Rosenwald Sen. D'Allesandro
Sen. Avard Sen. Gannon Sen. Cavanaugh
Sen. Prentiss Rep. Bixby

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Horizontal lines for testimony input.

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON SB 368-FN Amendment #2022-1674h

BILL TITLE: (New Title) establishing the agricultural hearings officer revolving fund and relative to penalties for unlawfully transferring dogs, cats, and ferrets.

DATE: April 26, 2022

LOB ROOM: 301 - 303 **Time Public Hearing Called to Order:** 10:45 a.m.

Time Adjourned: 10:50 a.m.

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Bill Sponsors:

Sen. Bradley

Sen. Watters

Sen. Sherman

Sen. Rosenwald

Sen. D'Allesandro

Sen. Avarad

Sen. Gannon

Sen. Cavanaugh

Sen. Prentiss

Rep. Bixby

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Howard Pearl speaks to the bill and the amendment that is non-germane 2022-1674h and speaks to the amendment. Speaks to the circumstances where violations in the law were occurring and there was no mechanism to implement a mechanism to issue penalty for non-certificated transfers. Speaks about the language in paragraph 4 and 5, but notes that there may be a duplication of language already in statute. Therefore, he's drafted amendment 2022-1780h and speaks to the language that is already in statute and makes the language clearer and concise around the changes between the two amendments.

Rep. Comtois asks about education to help the public become more aware of the requirements to get certificates to transfer animals?

This is a mechanism to already enforce what is in statute.

Respectfully submitted,

Rep. Barbara Comtois
Clerk

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Senator Sherman	SD 24	NH	Support		
Tessa Dyer	Loudon	NH	Oppose		
Tiffany Cross	Merrimack	NH	Oppose		

Name	Town	State	Position	Attachment	Typed
Cindy Rosenwald	Nashua	NH	Support		
Cindy Rosenwald	Nashua	NH	Support		
Cindy Rosenwald	Nashua	NH	Support		
Cindy Williams	Mont Vernon	NH	Oppose		
Colby Tavares	Franklin	NH	Oppose		
Curtis Howland	Manchester	NH	Oppose		
Cynthia Eliason	Whitefield	NH	Oppose		
Cynthia Webster	Derry	NH	Oppose		
Deborah Medic	Lyndeborough	NH	Oppose		
Diane Richardson	Springfield	NH	Oppose		
Donna Howe	Manchester	NH	Oppose		
Erin Hennessey	Senate District 1	NH	Support		
Erin Hennessey	Senate District 1	NH	Support		
Helen Cross	Merrimack	NH	Oppose		
Janet Rothwell	Wilton	NH	Oppose		
Jeff Langevin	Meredith	NH	Oppose		
Joseph Zalewski	Concord	NH	Oppose		
Karen Dewey	NEWPORT	NH	Oppose		
Karen Schwartz	Gilmanton	NH	Oppose		
Kate Champney	Epsom	NH	Oppose		
Lana Nickerson	Eaton Center	NH	Oppose		
Laurie Russell	Nelson	NH	Oppose		
Laurie Zalewski	Concord	NH	Oppose		
Marla Fields	Epsom	NH	Oppose		
Michael Howe	Manchester	NH	Oppose		
Miriam Cahill-Yeaton	Epsom	NH	Support		
Nova Clifford	Pembroke	NH	Oppose		
Pat Clampa	Merrimack	NH	Oppose		
Senator David Watters	Dover	NH	Support		
Senator Kevin Cavanaugh	Manchester	NH	Support		
Senator Sherman	SD 24	NH	Support		

The New Hampshire
House of Representatives

HOUSE OF REPRESENTATIVES - ONLINE TESTIMONY SUBMISSIONS

House Environment and Agriculture ▼

SB368 ▼

Support: 10 | Oppose: 45 | Neutral: 0

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
James Phinizy	Acworth	NH	Oppose	View PDF	
Stacey Ober	West Yarmouth	MA	Oppose	View PDF	
Barb Burri	Plaistow	NH	Oppose		View Text
Dianne Tyree	Hollis	NH	Oppose		View Text
EDWARD HALL	Merrimack	NH	Oppose		View Text
Elizabeth Shattuck	Mont Vernon	NH	Oppose		View Text
Gail Fisher	Manchester	NH	Oppose		View Text
James Phinizy	Acworth	NH	Oppose		View Text
Joan Eversole	Metedith	NH	Oppose		View Text
Joan Scialdone	East Kingston	NH	Oppose		View Text
Joanna Kimball	Plaistow	NH	Oppose		View Text
Karen MacIntyre	Hancock	NH	Oppose		View Text
Katherine DelGrosso	Warner	NH	Oppose		View Text
Madelyn Cirinna	Hampton Falls	NH	Oppose		View Text
Nancy Holmes	New Boston	NH	Oppose		View Text
Nancy Holmes	New Boston	NH	Oppose		View Text
ROLAND MASSE	Merrimack	NH	Oppose		View Text
Amanda Russo	Franklin	NH	Oppose		
Angela Ferrari	Mont Vernon	NH	Oppose		
Bill Alleman	Weare	NH	Oppose		
Bonnie Pike	Durham	NH	Oppose		

Full

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

SUBCOMMITTEE WORK SESSION on SB 368-FN

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 19, 2022

Subcommittee Members: Reps. Pearl, Aron, Comtois, Verville, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, ~~Sofikitis~~, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Gillette

Comments and Recommendations:

NEW. General Amendment Next Tuesday 4.26.22

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

[Handwritten Signature]

Rep. _____ Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

SUBCOMMITTEE WORK SESSION on SB 368-FN

BILL TITLE: (New Title) relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

DATE: April 19, 2022

Subcommittee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Mason, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky, Caplan and Perez

Comments and Recommendations: Non germane amendment next Tuesday, April 26, 2022.

Respectfully submitted,

Rep. Barbara Comtois
Subcommittee Clerk

What is the solution?

The Department of Agriculture needs to start utilizing the Department of Justice by referring these situations to the Attorney General. That in itself would probably get the attention of the unlicensed to resolve the current issues the Department has faced.

Alternatively, the ability to issue cease and desist orders, similar to that of the NH Banking Commissioner, may be a more appropriate step for the Department of Agriculture.

TITLE XXXVI
PAWNBROKERS AND MONEYLENDERS
CHAPTER 399-D
DEBT ADJUSTMENT SERVICES
Section 399-D:20

399-D:20 Cease and Desist. –

- I. The department may issue a cease and desist order against any person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter.
- II. (a) The order shall be calculated to give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order.
(b) Valid delivery of such order shall be by hand or certified mail at the principal office of the person.
(c) A hearing, if requested, shall be held not later than 10 days after the written request for such hearing is received by the commissioner.
(d) Within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as issued or as amended by the commissioner.
(e) If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true.
(f) If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order and no hearing is ordered by the commissioner, then such person shall likewise be deemed in default, and the order shall, on the 31st day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.
- III. If any person refuses to obey the commissioner's order, an action may be brought by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. Any person who fails to comply with such injunction shall be subject to a fine not exceeding \$10,000 or imprisonment, or both.

Again, thank you for your consideration of SB 368. We hope that you will vote this bill **Inexpedient to Legislate** or refer to interim study so a proper solution can be identified.

D.O.G.S. continues to offer to assist in the drafting of legislation that impacts our community.

Sincerely,



Angela Ferrari, President,
Dog Owners of the Granite State



April 11, 2022

Chairman Howard Pearl and Members of the House Environment and Agriculture Committee –

I am writing on behalf of Dog Owners of the Granite State (D.O.G.S.) to thank you for your consideration of SB 368, *relative to penalties for poisoning dogs*. On behalf of our membership of responsible local pet owners and breeders, D.O.G.S. respectfully **opposes** this bill as written.

In discussions with Department of Agriculture, Markets & Foods Commissioner Shawn Jasper, surrounding the issue this bill was directed at solving, it was shared that there are 1-2 situations each year regarding pet vendors that are time consuming for the Department to deal with.

Type of Situations

1. Someone not obtaining a license and continuing to transfer animals, or
2. A licensee has had their license revoked, is unwilling to make necessary updates to reinstate their license, yet continues to transfer animals.

The above scenarios result from a person's blatant disregard for the requirements to legally transfer animals in New Hampshire, including the fines already in law. An increase in fines is unlikely to result in compliance.

It was noted in the discussion with the Commissioner that fines were often ignored in these situations. So it is curious that this is the direction the amended bill has gone.

Exorbitant Fines & Unintended Consequences

- In current law, if someone transfers a litter of puppies without a license (let's say 10 puppies), They could be fined up to \$1,000 per violation. That would be per puppy, as each transfer would be considered a violation. That is \$10,000, along with a misdemeanor charge. If SB 368 were to become law, that person could be fined \$1,000 for the first puppy and \$5,000 for each subsequent puppy sold. That is a total of \$46,000 for one litter.
- In order to avoid the exorbitant fines, SB 368 will promote hoarding. As we saw in the Bradford Golden Retriever case, a pet vendor's license had lapsed and since she was unable to legally transfer puppies, to avoid the current fine of \$1000 per puppy, she kept all of the puppies. They ended up producing more puppies and before she knew it, she was in well over her head.

Conflict of Interest

SB 368 establishes a revolving fund where the exorbitant fines will be deposited. This fund will be used to cover the costs for a new position for hearing officers, to cover the 4 divisions (animal industry, pesticide control, regulatory services, weights & measures) in the Department. Without imposing exorbitant fines on the Pet Vendors, the salaries for the hearing officers wouldn't be covered.

The Pet Vendor fines would be covering hearing officer salaries for all 4 divisions within the Department.

- Shouldn't fines be raised across the department then, rather than single out one class of licensees?

office work and the violations end? What will happen to the hearings officers and the fund then?

While I can see allowing the Dept. of Ag to increase fines for the repeated violation of the *same issue* (rather than any secondary issue), I cannot see any point in spending all this money on a revolving fund that is essentially a bounty being paid to contractors who will have an incentive to file repeated violations to increase available money for those salaries.

As these violations are a misdemeanor I see no reason that the Dept. of Ag should be involved in enforcement. Violators who refuse to comply should have their information forwarded to the Attorney General's office for prosecution as the law indicates.

The Attorney General's office can issue cease and desist orders and can prosecute the misdemeanors. This should free up the Dept. of Ag. resources currently dedicated to handling the pet vendors in violation of the law and rules. Current education procedures should remain in place before escalation as it appears those do work to resolve most of the problems found.

I ask that you either vote this bill as inexpedient to legislate as it is not well thought out and appears fiscally imprudent, or amend it to remove the revolving fund and hearing officers leaving only the increase in fines and adding that the increase is for repeats of the same violation.

The Attorney General's office should take care of any enforcement and that escalation may well be enough to resolve the problems currently being encountered by the Dept. of Ag.

Sincerely,

Nancy Holmes

New Boston, NH

There is no indication of what the revolving fund might be used for other than salaries.

In addition, the hearing officers are not intended to handle pet vendor violations only, but also violations across all four divisions based on the funds raised by just, or possibly unjust, fines imposed on pet vendors. So these fines on the few pet vendors licensed in the state are intended to provide for hiring an unknown number of new employees/contractors for the Dept. of Ag who will be covering violations in all four divisions.

Currently the Dept. of Ag appears to not be handing the information on violators over to the Attorney General's office for prosecution. Vendors who lose their license should still be allowed to sell up to 30 dogs or cats per year under our current law (RSA 437:1 IV). Only after that are they in violation.

The Dept. of Ag claims the current fines are being paid and ignored as a cost of doing business or remain unpaid by violators. What proof is there that increasing the fines will change violator behavior?

There appears to be no time limit on the time between first and second violation for the \$5000 fine to be imposed. Based on the law as written the violations could be years apart and unrelated to each other.

There appears to be no hearing or appeal process for the imposition of these fines. The only hearing process showing in the law is for revocation of a license.

There appears to be no criteria for qualifications for hearing officers.

The information from the Dept. of Ag is that only one to two pet vendors per year are at issue here. There is no indication of how many fines or at what dollar value the uncollected fines on those individuals are.

From the fiscal note it appears the Dept. of Ag intends to cease sending the usual \$100,000 in annually collected fines from across the entire department to the general fund. It also appears that the intention is to spend \$82,000 on new hires to collect \$75,000 in anticipated new fines. No mention was made of the cost to administer and audit that fund. I'm having a very hard time getting the numbers being used to add up to a beneficial result for the State of NH.

What if the increased fines work and all (two) pet vendors cease violating rules around their sales of pets? What if lawsuits filed by the Attorney General's

4/10/2022

Mr. Chairman and Members of the House Environment and Agriculture Committee,

Re: Opposition to SB368

The original SB368 bill was intended to only impact those pet vendors whose license has been rescinded. The amended bill creates expanded fines for all pet vendors no matter what status their license is in.

My understanding is the New Hampshire Department of Agriculture, Markets & Food (hereafter referred to as Dept. of Ag.) needs a better way to handle those pet vendors who defy state law on transfer of animals after their license is revoked. The amended bill goes way beyond that.

Currently the penalty portion of the law is as follows.

437:10 Penalty. –

I. Any pet vendor who transfers live animals or birds customarily used as household pets in this state without having a license to do so as required by this chapter shall be guilty of a misdemeanor.

II. In addition to the penalty under paragraph I, any pet vendor 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.

Based on the law above, the transfer of animals by a person without a license, who meets the requirements of needing a license, is guilty of a misdemeanor. Such violators should be turned over to the Attorney General's office for prosecution. That is the agency responsible for law enforcement.

The bill as amended creates a conflict of interest situation by paying for new positions, called agricultural hearings officers, out of the fines collected.

This reduces incentive for the Dept. of Ag. to work with vendors to resolve problems and vastly increases incentive for imposition of fines on all pet vendors to ensure there is plenty of money to pay for the hearing officers.

A bounty system is a poor choice for paying for these new positions. (Just imagine if police officers only got paid when the dollar value of the tickets they wrote covered their salaries!) Just two \$5000 fines would make up the \$10,000 needed for a hearing officer.

I am also surprised that you have no sympathy for what this department is going through in this area. You refer to "numerous contradictions and conundrums raised in the fiscal note", yet you have pointed out no such issues. Nor can I find any, the fiscal note is straightforward, but as with all fiscal notes of this type, it is only a best guess. Your issues all seem to be about your sympathy for those who repeatedly violate the law, as such merely asking the committee to eliminate the increase in the fine would have sufficiently protected the guilty from the consequences of their actions. However, you want the whole bill killed, indicating to me that you do not want to see any increase in our ability to carry out the duties the legislature has placed on us. We are in failure mode when it comes to pet vending and without the ability to contract with hearing officers we will remain there. For reasons I cannot fathom, failure seems to be the place that you and dog breeders want us to be, this without one example of how we have unfairly treated anyone who has been fined by this department or how their hearing process has been unfair.

Sincerely,
Shawn

Shawn N. Jasper, Commissioner
State of New Hampshire
Department of Agriculture, Markets & Food
Mailing: PO Box 2042, Concord, NH 03302
Physical: 25 Capitol St., Room 220, Concord, NH 03301
603-271-3551 Main Office
603-419-9191 cell
Shawn.n.jasper@agr.nh.gov

Heather Goley

From: Jasper, Shawn <Shawn.N.Jasper@agr.nh.gov>
Sent: Wednesday, April 13, 2022 10:31 AM
To: ~House Environment and Agriculture Committee
Subject: James Phinizy's written testimony

Dear Members of the Committee,

I don't mean to inundate you with emails on this subject, but this bill is the most important one that this department has before the legislature this year. Those of you who were at the hearing yesterday have the testimony of Mr. Phinizy. I responded to him this morning and I wanted you to see it as well. If I waited until next Tuesday, I felt you might not have the opportunity to fully absorb what seems to be going on with all the testimony. Which is to make sure that we remain in failure mode for another year. You heard false testimony yesterday that I had stated that we have many uncollected fines. That is simply false - we don't. If fines are not remitted to us, after following a process, they are turned over to the DOJ's collection bureau. Just the threat of that happening almost always results in the fines being paid.

Thank you,
Shawn

Jay,

I received a copy of your written testimony at the hearing on SB 368. I want to take a few minutes to respond to it.

While it is a great theory to think that the DOJ has time to deal with Pet Vendors, they have made it clear to us that they do not have the resources to prosecute cases on our behalf, but even so the law, which you have copied, makes it clear that the fines are in addition to the potential of being charged with a misdemeanor. Realistically, no pet vendor is going to jail for selling too many dogs or keeping a dirty kennel. As I am sure you understand, ultimately a fine or loss of license is the only punishment that will be handed out.

I have no idea where you got the idea that raising the fines has anything to do with raising more money or that this is in response to one or two repeat offenders. I would like to know where you got that information from, it certainly wasn't from me. This is in response to what I see as a broken system of fining the same amount, no matter the number or severity of the offence. I don't see the increase in fines as being necessary to hire contacted hearing officers.

As a former legislator you know full well that fines deposited into the general fund are not available to the department which issues those fines. There would need to be an appropriation in the department's budget. I have no desire to increase the department's budget for this purpose and I have no idea what we would need on an annual basis to fund this purpose. I am also quite sure that the numbers of cases each heard each year will vary greatly. This idea seemed like a good way of thinking outside of the box.

Pet vendors are a very unique class of licensees, they are the only ones whose bad actions can bring severe emotional distress to individuals. Licensees who sell short cords of wood, who use scales that are not certified, or who sell invasive species of plants do not harm people in the same way the pet vendors can. We also seldom see repeat violators in or other categories of licensee, once they receive a \$1,000 fine we seldom have to fine them again, although it does happen. It is also not an additional \$5000, as you state, it is up to an additional \$4000. I can't imagine why you seem to feel that people repeatedly breaking the law, shouldn't receive an increase in their penalty. Where else can someone break the law over 150 times (an actual number from 2021) in a year and see no increased penalty?

The legislature should work with us to provide the tools we need to do the job we have been directed to do or eliminate pet vending altogether. Even this request is unlikely to solve the problem, but it is a step in the right direction.

Sincerely,

Shawn N. Jasper, Commissioner
State of New Hampshire
Department of Agriculture, Markets & Food
Mailing: PO Box 2042, Concord, NH 03302
Physical: 25 Capitol St., Room 220, Concord, NH 03301
603-271-3551 Main Office
603-419-9191 cell
Shawn.n.jasper@agr.nh.gov

Heather Goley

From: Jasper, Shawn <Shawn.N.Jasper@agr.nh.gov>
Sent: Monday, April 11, 2022 4:20 PM
To: ~House Environment and Agriculture Committee
Subject: SB 368

Dear Members of the Environment and Committee,

I just now received an email which was sent to you yesterday. I know that the time allocated for the hearing is brief and that there will be a work session on the bill next week. However, I wanted to address some glaring misconceptions that are in the email sent to you.

The issue of the violation of the law being a misdemeanor is misleading. The DOJ does not deal with these offenses, charges need to be brought forward by local law enforcement. We have no control over them. Prosecuting pet vendors is not a priority for them. The law is clear that the administrative fines are a separate action and that is where we come into play. The email is also off base by claiming that we are creating a conflict of interest. We are not proposing to hire anyone, we would be contracting with individuals, who have no interest in the outcome. If a conflict exists, exists currently and this would remove any conflict. Currently either I or a director act as the hearing officer, obviously we have close relationships with those who are issuing the fines to begin with. That fact makes it more difficult to be impartial. Under the proposal there would be no relationship between those issuing the fine and those hearing a case. The hearing officers would only be able to uphold or reduce the fines which Animal Industry imposes. Those hearing officers would have no way of knowing what monies were available, nor would they have any reason to do anything , but to consider the facts of the cases brought before them.

I dislike the idea of monies collected as fines staying with a department, this does not do anything like that. The monies used to adjudicate the fines would be paid directly to the hearing officers, none would stay with the department. There is no incentive for us fine anyone. The hearing officers do not get to file charges or issue fines. The only other expenses that could be paid out of this fund are those associated with the cost of the hearing. Which really are limited to postage and the cost of recording the hearings.

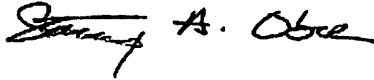
While it is true that the hearing officers are intended to be used by other divisions, it is not true that pet vendors would be paying for the hearing officers of other divisions. The Division of Weights and Measures brings in more fine money than comes in from pet vending and they actually have fewer hearings that pet vendors do. Again the AG's Office does not and cannot prosecute the offenses in this chapter. The hearing process is established by law and set out in our administrative rules, all fines are subject to the same standards. The time limit on violations is also set out in law – January 1st through December 31st of each year. The clock is reset each year. The person writing this letter has no knowledge of our operations, whatsoever.

The law does not allow for cease and desist orders to be filed by anyone. The law sets out an adjudicative process, which is what we are trying to deal with in the bill.

Qualifications for positions are seldom, if ever set out in law. The qualifications for hearing officers would be spelled out within the contracts themselves. Currently there are no qualifications for our hearing officers. We have no intention of using all of the fines we collect on hearing officers, but instead our intentions are to better enforce the laws of the state of NH as determined by the legislature, not by the department. We are currently in, what I would consider to be, failure mode. When the law was changed from 50 to 25 animals, I stated that we needed a minimum of 4 addition people to properly deal with the pet vending issues. We received one. The difference between 25 and 30 is immaterial as we were in failure mode at 50.

AKC strongly urges the committee to send the bill to study for discussion of the challenge communicated by the Department, appropriate research, and recommendations for an effective, equitable solution. I am available as a resource to you and can be reached at (919) 816-3348 or Stacey.Ober@akc.org.

Sincerely,

A handwritten signature in black ink that reads "Stacey A. Ober". The signature is written in a cursive style with a large, sweeping initial "S".

Stacey Ober, JD
Legislative Analyst and Community Outreach Coordinator, New England
AKC Government Relations

Cc: Angela Ferrari, Dog Owners of the Granite State (DOGS)

The definition for “pet vendor” at RSA 437:1 Definitions. – is

“...any person, firm, corporation, or other entity that transfers 30 or more dogs, 30 or more cats, 30 or more ferrets, or 50 or more birds, live animals or birds customarily used as household pets to the public, with or without a fee or donation 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, between January 1 and December 31 of each year. Pet vendor also means any person, firm, corporation, or other entity that transfers amphibians, reptiles, fish, or small mammals customarily used as household pets to the public in quantities set in rules adopted by the department, with or without a fee or donation required, and whether or not a physical facility is owned by the licensee in New Hampshire between January 1 and December 31 of each year.”

You are a “pet vendor” if you are a New Hampshire *licensee*. The significant fine increases in SB 368 (up to \$5,000), would apply to you as a licensed pet vendor for any second or subsequent violation of any law or rule.

Please note that current law at RSA 437:10, I makes one transferring live animals without a license is guilty of a misdemeanor. Even if SB 368, as amended, also imposed significant fines specifically for the unlicensed transfer of live animals, it would be unlikely stop this illegal activity. Typically, engaging in any activity without the required license is addressed by issuing a cease-and-desist order. One example of this is the New Hampshire Banking Commissioner’s cease and desist authority over pawnbrokers and moneylenders at RSA 399-D:20.

II. Establishment of a Department Revolving Fund Creates a Conflict of Interest:

Under Section 2, the bill establishes a revolving fund into which fines collected are deposited and utilized to directly pay the salary or contracts for hearing officers. These officers would be authorized to decide if, and how much to fine a violator. ***This clearly creates a serious conflict of interest because hearing officers would be responsible for imposing an adequate number and amount of fines to ensure compensation for their services.*** This absolutely does not establish a fair or objective adjudicative process.

III. Questionable Funding Model:

According to the fiscal note, the Department intends to divert \$100,000 in fines collected and previously deposited into the general fund into the newly established revolving fund. In combination with the proposed increased fines, this fund will compensate hearing officers for handling “all aspects of the Department's adjudicative procedure subsequent to a division proposing an administrative action”.

There are four divisions within the Department; animal industry, pesticide control, regulatory services, and weights and measures ***This proposed model appears to disproportionately finance the hiring of hearing officers for the entire Department by imposing significant fines on the pet vendor licensees.*** This raises serious concerns for AKC and affiliated New Hampshire clubs.



AMERICAN
KENNEL CLUBSM

Stacey Ober, J.D.
Legislative Analyst
Community Outreach
New England Region

April 12, 2022

The Honorable Howard Pearl, Chair
New Hampshire House Committee on Environment and Agriculture
LOB Room 303, 33 North State Street
Concord, New Hampshire 03301

RE: American Kennel Club Strongly Opposes SB 368, As Amended, Relative to the Unlicensed Sale of Live Animals and Establishing the Agricultural Hearings Officer Revolving Fund.

Dear Chair Pearl and Members of the House Committee on Environment and Agriculture:

Founded in 1884, the American Kennel Club (AKC) is a recognized and trusted expert in canine health, breeding, and training. We represent over 5,000 dog clubs nationally, including 14 in New Hampshire, which represent thousands of dog owners. We advocate for the purebred dog as a family companion, advance canine health, and well-being, protect the rights of dog owners, and promote the ideals of responsible dog ownership.

AKC strongly opposes SB 368 as amended and passed by the Senate. Although the new title reflects the Department of Agriculture, Markets and Food's (the Department's) reason for requesting the bill be introduced - to prevent the unlicensed sale of live animals, the proposed text does nothing to solve this problem. Instead, **SB 368, as amended** would:

- (1) increase the fines to **any pet vendor** who violates **any of the law's provisions** a second or subsequent time from "not to exceed \$1,000" to "up to \$5,000", with no specificity that these exceptionally high fines are for those illegally operating without a license,
- (2) create a significant conflict of interest by allowing hearing officers to essentially set the amount of fines that will cover their salaries, and
- (3) appropriate funds from the collection of pet vendor fines to cover costs for multiple divisions within the Department.

I. Increased Fines Inappropriately Applied to Licensed Pet Vendors for Any Violations with No Specificity for Unlicensed Persons Engaged in Activities Requiring a License:

The Department has said it needs tools to address limited situations where a person continues to transfer live animals after their pet vendor license has been revoked. However, SB 368, as amended, is seriously flawed. ***The bill text fails to address the Department's stated problem because it makes no specificity of these fines for any "person" who transfers live animals without a license.***

Founded in 1884; a not-for-profit corporation

8051 Arco Corporate Drive Raleigh, NC 27617 Tel 919-816-3600 www.akc.org

Please consider SB368-fn inexpedient to legislate

James Phinizy <jamesphinizy@gmail.com>

Mon, Apr 11, 2022 at 6:06 PM

SB 368-fn, as amended, looks to solve a problem that more easily could be addressed by referring recalcitrant or habitual offenders to the Department of Justice for enforcement, called for in *NH RSA 437:12 - I** which states succinctly:

"...Any pet vendor who transfers live animals or birds customarily used as household pets in this state without having a license to do so as required by this chapter shall be guilty of a misdemeanor."

There is absolutely no logic changing statute by raising the administrative fines in order to offset the expense for one or two offenders who are the exception and not the rule. It would be far more sensible to refer such cases to the the Attorney General's office which could prosecute those very few who do not comply with an administrative order as called for in *RSA 437:12-I*.

If one looks at the fiscal note, there seems to be sufficient funds derived from current fines already collected and deposited in the general fund - **IN EXCESS of \$75,000** - to cover any such cost going forward.

Furthermore, it does not seem equitable to assess only one class of licensee such an exorbitant amount as proposed in the bill - an additional \$5,000 - when other licensees are not held to the same standard and criteria.

Accordingly, as a former member and Chair of the Committee on Environment and Agriculture, I would ask that you consider this bill as *Inexpedient to Legislate* of at least put into Interim Study to sort out the numerous contradictions and conundrums raised in the Fiscal Note and actually review with the Department of Justices the appropriate and constitutionally sound method of penalty - not just merely penalize on class of licensee to help fund hearings for all four Departmental divisions

Thank you for your kind consideration

Jay Phinizy, Acworth, NH.

***437:10 Penalty. –**

- I. Any pet vendor who transfers live animals or birds customarily used as household pets in this state without having a license to do so as required by this chapter shall be guilty of a misdemeanor.
- II. In addition to the penalty under paragraph I, any pet vendor 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. 2017, 156:233, eff. July 1, 2017.

breaking the law, shouldn't receive an increase in their penalty. Where else can someone break the law over 150 times (an actual number from 2021)in a year and see no increased penalty?

I am also surprised that you have no sympathy for what this department is going through in this area. You refer to "numerous contradictions and conundrums raised in the fiscal note", yet you have pointed out no such issues. Nor can I find any, the fiscal note is straightforward, but as with all fiscal notes of this type, it is only a best guess. Your issues all seem to be about your sympathy for those who repeatedly violate the law, as such merely asking the committee to eliminate the increase in the fine would have sufficiently protected the guilty form the consequences of their actions. However, you want the whole bill killed, indicating to me that you do not want to see any increase in our ability to carry out the duties the legislature has placed on us. We are in failure mode when it comes to pet vending and without the ability to contract with hearing officers we will remain there. For reasons I cannot fathom, failure seems to be the place that you and dog breeders want us to be, this without one example of how we have unfairly treated anyone who has been fined by this department or how their hearing process has been unfair.

Sincerely,

Shawn

Shawn N. Jasper, Commissioner
State of New Hampshire, Department of Agriculture, Markets & Food

Jay,

I received a copy of your written testimony at the hearing on SB 368. I want to take a few minutes to respond to it.

While it is a great theory to think that the DOJ has time to deal with Pet Vendors, they have made it clear to us that they do not have the resources to prosecute cases on our behalf, but even so the law, which you have copied, makes it clear that the fines are in addition to the potential of being charged with a misdemeanor. Realistically, no pet vendor is going to jail for selling too many dogs or keeping a dirty kennel. As I am sure you understand, ultimately a fine or loss of license is the only punishment that will be handed out.

I have no idea where you got the idea that raising the fines has anything to do with raising more money or that this is in response to one or two repeat offenders. I would like to know where you got that information from, it certainly wasn't from me. This is in response to what I see as a broken system of fining the same amount, no matter the number or severity of the offence. I don't see the increase in fines as being necessary to hire contacted hearing officers.

As a former legislator you know full well that fines deposited into the general fund are not available to the department which issues those fined. There would need to be an appropriation in the department's budget. I have no desire to increase the department's budget for this purpose and I have no idea what we would need on an annual basis to fund this purpose. I am also quite sure that the numbers of cases each heard each year will vary greatly. This idea seemed like a good way of thinking outside of the box.

Pet vendors are a very unique class of licensees, they are the only ones whose bad actions can bring severe emotional distress to individuals. Licensees who sell short cords of wood, who use scales that are not certified, or who sell invasive species of plants do not harm people in the same way the pet vendors can. We also seldom see repeat violators in or other categories of licensee, once they receive a \$1,000 fine we seldom have to fine them again, although it does happen. It is also not an additional \$5000, as you state, it is up to an additional \$4000. I can't imagine why you seem to feel that people repeatedly

I greatly appreciate the time the committee has spent on this bill, for I have spent well over the last 30 years working with various DAMF Commissioners towards bettering the animal laws. To say I do not have sympathy for the department is misleading at best. More importantly, it is paramount that the department treat every constituent fairly and with equanimity.

Jay Phinizy
Acworth

From: Jasper, Shawn <Shawn.N.Jasper@agr.nh.gov>
Sent: Wednesday, April 13, 2022 10:30 AM
To: ~House Environment and Agriculture Committee
<HouseEnvironmentandAgricultureCommittee@leg.state.nh.us>
Subject: James Phinizy's written testimony

Dear Members of the Committee,

I don't mean to inundate you with emails on this subject, but this bill is the most important one that this department has before the legislature this year. Those of you who were at the hearing yesterday have the testimony of Mr. Phinizy. I responded to him this morning and I wanted you to see it as well. If I waited until next Tuesday, I felt you might not have the opportunity to fully absorb what seems to be going on with all the testimony. Which is to make sure that we remain in failure mode for another year. You heard false testimony yesterday that I had stated that we have many uncollected fines. That is simply false - we don't. If fines are not remitted to us, after following a process, they are turned over to the DOJ's collection bureau. Just the threat of that happening almost always results in the fines being paid.

Thank you,

Shawn

2) Section 2 will establish a revolving fund, which, quoting the actual text: "..... shall be nonlapsing and continually appropriated to the department to fund the department's adjudicative procedures, including, but not limited to, the costs associated with contracting with one or more hearing officers who shall be responsible for administering all aspects of the department's adjudicative procedure as directed by the commissioner....."

The department, which according to the fiscal note recently generated ~ \$100,0000, while collecting ~ \$75,000 in administrative fines, hardly needs to raise an additional estimated \$7,500 (see the fiscal note) in order to "fund" the proposed revolving fund. It needs only to apply for this cost in subsequent budget requests in each biennium.

There appears to be more than sufficient revenue at present to fund the proposed revolving fund. From the fiscal note: ".....This includes approximately \$75,000 of fines currently collected and deposited in the general fund...." If it is necessary in the future to increase fines for this proposed revolving fund, for whatever reason, then such fines should be increased across the board and across all the divisions - not just on one set of licensees - regardless of the rationalization provided.

There is a really a far greater and more significant problem, moreover, in that to create a revolving fund, funded solely with administrative fines, only incentivizes the imposition of larger fines in order to generate even more revenue - to my mind not only does that create a vicious cycle it is a polite way to say and a subtle definition of bounty hunting.

Finally, I am told that there is now a proposal being considered to add language to *SB368* that will place a cap on the revolving fund at \$75,000. The fiscal note states: "...Including the anticipated new revenue plus the existing fine revenue, there will be approximately \$82,500 per year available for hiring contractors..." Since \$75,000 is under consideration, which - according to the fiscal note - present fines already generate, then there certainly is no need to raise administrative fines on Pet Vendors whatsoever.

But it leaves me with a simple observation and question of what are the real intentions or direction of *SB368*; it has been changed so much?

To the members of the Committee:

I urge you - when working on *SB368* as amended **to concentrate on what is actually written and what the bill actually says it will do if passed into law and what direction will it take.**

I ask that you focus on the direct effect *SB368* will have were it to pass into law and ignore those things which are not only speculative but not relevant or germane to the actual intent of *SB368*, such as: whether or not there is cooperation between the Department of Agriculture (DAMF) and The Department of Justice (DOJ); whether or not DOJ or the AG's office will or won't prosecute a misdemeanor (a matter best worked out by the two department heads) or even which Division in the DAMF may need or require the hearing process the most over any given time period.

SB 368 intends to do the following:

1) **The first section of SB368-fn will raise fines only on pet vendors up to \$5,000 after the first offense for each subsequent offense.**

I perhaps was not clear in my previous testimony about raising administrative fines. I still maintain that to increase such fines for up to \$5,000 per each additional violation on just one class of licensee (in this case pet vendors) in order to cover costs incurred by all four Divisions within the department (and not just the Division of Animal Industry) is not only inappropriate but discriminatory, even possibly unconstitutional. It singles out one class of licensee unfairly to the benefit of the other licensees, where such cost should be borne equitably and across the board by all.

Note: According to the fiscal note, there cannot be a problem with pet vendors in general, as the most the department expects to receive in increased revenue is \$7500 annually. That means it probably will only be from two additional fines per annum!

additional tool available for the case mentioned. Bear in mind this is not just a case of a person selling puppies or kittens but of a business operating illegally in that town.

In looking back at the information in the fiscal note, I find I was in error stating the Department intended to spend \$82000+ to gain \$75000, it is actually only \$7500 in anticipated gain from new fines that is listed in the fiscal note. That to me still appears to be a lot of money to pay out for so little gain. I feel there must be a better way.

Right now only 75% of the fines imposed are deposited in the general fund and 25% remain uncollected. With all the changes being made in this bill there is still no expectation of improving those percentages, nor is any remedy to improve upon such collections brought forward – only 75% of new fines are expected to be collected according to the fiscal note.

I also see no information on costs of training a new employee/contractor, the qualifications of person considered to be sufficiently skilled to be contracted or hired (even on a part time basis) as a hearing officer.

Frankly, finding such a skilled person(s) in today's labor market who is willing to take on a sporadic job may be difficult. I do not see an assessment offered in the proposed language or the fiscal note for cost to administer the new fund, the cost for interviewing, the payroll costs for handling part time employees/contractors, verification of hours worked and verification of expense sheets. Someone has to do all this, and I ask at what cost in man hours this work will be done?

I do believe the Department of Agriculture has an issue that needs a solution. I don't think SB368 is it.

What if instead of new fines, the refusal to pay administrative fines in excess of \$\$\$\$ dollars or willful repeated violations results in the offence being raised to the level of a Class A Misdemeanor? What if Section **425:11 - Law Enforcement** made it clear the DOJ is responsible to handle the egregious cases? That sort of change should be a better deterrent to pet vendors doing business illegally.

I suggest, if you can't kill the bill, an interim study where the Department lays out in writing exactly what the current challenges are for the study group to review. That way people outside of the Department would be the ones who spend the time to brainstorm potential solutions that the Department can then review.

Sincerely,
Nancy Holmes
New Boston, NH

I was very concerned to hear that the Department would like to end all oversight of pet vendors as a solution to issues being faced. I think this would be a huge disservice to the state and all the pet loving owners in it. No oversight of pet stores, shelters, animal brokers, and commercial breeders seems a risky stance to take.

I'd now like to refer you to this section of law: **Section 425:11 - Law Enforcement.**
<http://www.gencourt.state.nh.us/rsa/html/XL/425/425-11.htm>

It directly states part of the Commissioner's job in the Department is to "cooperate with the attorney general and county attorneys in enforcing the laws" including "such other laws as relate to the subject matter of this department." To me, this section should apply to pet vendor regulations, as that is a part of the Department's duties. The DOJ appears also bound by this but perhaps that area could be clarified.

We have heard that there are only one or two pet vendors at a high level of violation. I cannot see how it can be much of a burden to turn so few cases over to the DOJ for them to handle. It's not as if every pet vendor case would be handed over, just the egregious violators.

It was stated that one pet vendor has cost the Department ~100 man hours (i.e. two hours a week). I would think this sort of task/extra work might be covered more frugally with overtime pay directly allocated to this issue (and only to this issue).

As was stated in testimony the Department was given an extra full time employee recently to help with just these types of issues.

I am not sure how that new person is spending their time, but given the statement that the most complicated pet vendor case is costing the Department 100 man hours a year I would expect a full time employee should be able to cover that. A FTE should give the department somewhere around 1800-2000+ hours a year minus vacation, sick days, holidays etc. Again, the math isn't working for me.

One of the onerous pet vendor issues apparently arose due to a zoning violation in the town in question. As we know Department resources are limited, it appears worthwhile to work with the DOJ and the municipalities to take prosecution of the misdemeanors and zoning violations off of the Department's workload.

I am not a lawyer but as I read RSA 676:17-a
<http://www.gencourt.state.nh.us/rsa/html/lxiv/676/676-17-a.htm>
It appears that a cease and desist order can be imposed on someone violating zoning and any cost of doing this can be recovered from the defendant if the court upholds the action.

As I read through this section of the law, it also allows for real estate liens, plus additional fines to be collected by the municipal tax collector. This appears to me to be an

4/18/2022

Mr. Chairman and Members of the House Environment and Agriculture Committee,

I am still in opposition to the passage of SB368. I do apologize for the length of this email but there are many issues with this bill that I feel need addressing.

I was sorry to hear in the recording of last week's hearing on SB368 that there is still a lack of understanding about the conflict of interest implicit in paying contractors or employees out of fines they are negotiating with pet vendors. Who would reduce a fine when their payday may be impacted? Currently Department employees' salaries are not dependent on fines collected.

As has been stated in testimony on this bill, under RSA 437:10 the lack of a license when transferring pets by a pet vendor leaves the vendor subject to a \$1000 fine for each violation. This violation is also a misdemeanor.

<http://www.gencourt.state.nh.us/rsa/html/XL/437/437-10.htm>

It was stated in testimony that one particular pet vendor has sold over 200 animals in violation of this law. When I do the math, this means that the pet vendor should have accrued over \$200,000 in fines at \$1000 per each sale that is a violation.

If \$200,000 in fines has not been accrued, then I would ask why not? If it has been, then I ask why I should believe \$5000 fines will force the pet vendor into compliance? Sure that would be \$1 million dollars in fines (and does that really sound fair?) but would they be imposed, and would they change the vendor's actions? I believe all those violations would also add up to over 200 misdemeanors which seems to me to be enough to get the DOJ involved at some level.

I'd like to share with the committee a more realistic analysis of puppy sales and profits. The only breed I see regularly bred and sold in New Hampshire for the dollar amount of \$3-5 thousand dollars per puppy is French Bulldogs. That breed typically has two to four pups in a litter. The breed quite frequently requires the use of artificial insemination along with multiple tests for determining the correct point in the heat cycle to ensure pregnancy. Due to the breed's body shape a C-section is quite likely to be needed. And then there is a risk of losing dam and pups due to anesthesia complications.

Last time I checked I was told a C-section would cost me around \$3000. I have not been breeding since 2005, and never bred French Bulldogs, but I doubt the cost of this surgery has decreased. As you can see the cost of producing pups in this breed is quite high, dictating a high price to defray those costs. (This breeding information may also apply to English Bulldogs.)

located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended; source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 , as amended; [or] septage or sludge as defined in RSA 485-A:2, IX-a and XI-a; **or post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at such facility prior to conversion.**

8 New Paragraph; Solvolysis; Definition. Amend RSA 149-M:4 by inserting after paragraph XXII the following new paragraph:

XXII-a. "Solvolysis" means a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be removed. The products of solvolysis include monomers, intermediates, and valuable chemicals and raw materials. The process includes but is not limited to hydrolysis, amyolysis-~~ammonolysis~~ ~~ammonolysis~~, ~~methanolysis~~ and ~~glycolysis~~ glycolysis.

9 New Subdivision; Regulation of Advanced Recycling. Amend RSA 149-M by inserting after section 61 the following new subdivision:

Regulation of Advanced Recycling

149-M:62 Regulation of Advanced Recycling.

I. The department shall regulate advanced recycling facilities as manufacturing facilities. An advanced recycling facility and the products and by-products of advanced recycling shall be subject to applicable statutes and departmental rules relative to air, water, waste and land use. The department may enter and inspect any advanced recycling facility to determine whether storage of materials prior to advanced recycling is a nuisance or poses a threat to the environment. The department may utilize its enforcement authorities under RSA 149-M:15 to require abatement of the nuisance or threat if found. ~~The department may enter and inspect any advanced recycling facility to ensure compliance with all applicable statutes and departmental rules relative to air, water, waste and land use and take any enforcement actions necessary.~~

II. Products of advanced recycling shall not be considered "waste-derived products" or "refuse-derived fuel" and shall not be subject to the provisions of this chapter and rules created under its authority relating to waste-derived products and refuse-derived fuel, including but limited to the certification provisions of Env-Sw 1500.

III. Advanced recycling facilities shall give consideration to utilizing post-use polymers and recovered feedstocks generated within the state.

~~IV. Any materials brought in for processing but rejected as not appropriate shall be transferred or disposed of in accordance with existing solid waste regulations for manufacturers, e-considered solid waste.~~

10 Effective Date. This act shall take effect 60 days after its passage.

Does not
reference how
to make RA products.

~~intermediate, or final products, plastics and chemical feedstock basic and unfinished chemicals, waxes, lubricants, coatings, and other basic raw materials, hydrocarbons.~~

4 New Paragraph; Gasification; Definitions. Amend RSA 149-M:4 by inserting after paragraph IX-a the following new paragraph:

IX-b. "Gasification" means a manufacturing process through which recovered feedstocks are heated and converted into a synthesis gas fuel and gas mixture in an oxygen-~~controlled~~deficient atmosphere and the synthesis gas mixture is converted into valuable plastics and chemical feedstocks and raw materials ~~and intermediate and final products, including but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstock and other basic hydrocarbons that are returned to economic utility in the form of raw materials and products.~~

5 New Paragraph; Post-Use Polymer; Definitions. Amend RSA 149-M:4 by inserting after paragraph XV the following new paragraph:

XV-a. "Post-use polymer" means a plastic to which all of the following apply:

- (a) The plastic is derived from any industrial, commercial, agricultural, or domestic activities.
- (b) It is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.
- (c) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and chemical feedstocks, other ~~basic hydrocarbons,~~ basic raw materials, or other intermediate products or final products using advanced recycling.
- (d) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities such as paper labels and metal rings.
- (e) The plastic is processed at a advanced recycling facility or held at such facility prior to processing.

6 New Paragraphs; Pyrolysis; Recovered Feedstock; Definitions. Amend RSA 149-M:4 by inserting after paragraph XVIII the following new paragraphs:

XVIII-a. "Pyrolysis" means a manufacturing process through which ~~post-use synthetic and/or biological post-use~~ polymers are heated in the absence of oxygen, ~~sometimes in the presence of catalysts,~~ until ~~melted and~~ thermally decomposed, ~~and then cooled and condensed, resulting in a gaseous fraction, a liquid fraction, and a solid fraction. The gaseous fraction is predominantly short chain hydrocarbons. The liquid fraction is alkyl and aromatic hydrocarbons typically ranging from five to twenty carbons, and the solid fraction consists of char, ash, and wax. The composition and proportions of the fractions vary with feedstock composition, processing temperature, time, carrying fluid, uniformity of processing temperature, and choice of catalysts. The resulting chemicals can be used as raw materials for manufacturing, and are then cooled, condensed, and then~~ converted into valuable raw materials and intermediate and final products, including ~~but not limited to~~ plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks and other basic raw materials hydrocarbons, that are returned to economic utility in the form of raw materials or products.

XVIII-b. "Recovered feedstock" means one or more of the following materials that has been processed so it may be used as feedstock in an advanced recycling facility:

- (a) Post-use polymers.
- (b) Materials for which the United States Environmental Protection Agency has ~~made a non-waste determination pursuant to 40 C.F.R. 241.3(e), or has otherwise~~ determined are feedstocks for advanced recycling and not solid waste.
- (c) Recovered feedstock does not include unprocessed municipal solid waste.
- (d) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

7 Solid Waste; Definition. Amend RSA 149-M:XXII to read as follows:

XXII. "Solid waste" means any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material. It includes solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter, it does not include hazardous waste as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not

4-19-2022

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the regulatory status of advanced recycling and manufacturing facilities.

Findings & Purpose: New Hampshire is committed to a clean environment and protection of its natural resources. The U.S. Environmental Protection Agency has recognized that reusing and recycling post-use materials conserves natural resources, reduces waste, prevents pollution, reduces greenhouse gasses contributing to climate change and serves as an important economic driver, helping to create jobs and tax revenue.

The purpose of this Chapter is to facilitate recycling of greater amounts and more types of plastics by ensuring that advanced plastic recycling technologies in New Hampshire protect the public health and safety by being appropriately regulated as manufacturers under New Hampshire's applicable statutes and departmental rules relative to air, water, waste and land use. New Hampshire stands to be a recycling leader in the Northeast, by joining over 18 U.S. states as well as international recognition of these technologies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraphs; Definitions. Amend RSA 149-M:4 by inserting after paragraph I the following new paragraphs:

I-a. "Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic ~~hydrocarbon~~ raw materials, feedstock chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. The recycled products produced at advanced recycling facilities include ~~, but are not limited to~~ monomers, oligomers, plastics, plastics and chemical feedstocks, ~~basic and unfinished chemicals, waxes, lubricants, and coatings, and other basic hydrocarbons.~~ For the purposes of this chapter, the products of advanced recycling do not include hydrocarbons which are sold or marketed as fuels for energy. For the purposes of this chapter, "advanced recycling" shall not be considered solid waste management, solid waste processing, waste processing, treatment, incineration, or combustion.

I-b. "Advanced recycling facility" means a facility that receives, stores, and converts post use polymers and recovered feedstock it receives using advanced recycling. An advanced recycling facility shall be considered a manufacturing facility. For the purposes of this chapter, "advanced recycling facilities" shall not be considered facilities, solid waste facilities, solid waste management facilities, waste management facilities, processing/treatment facilities, solid waste collection, storage, and transfer facilities, processing facilities, treatment facilities, or incinerators.

2 Definition of Certified Waste-Derived Product. Amend RSA 149-M:4, II-a to read as follows:

II-a. "Certified waste-derived product" means a constituent of solid waste which is no longer regulated as a solid waste when certified by the department to be recyclable for its original use or alternate uses and which poses no greater risk to the environment, public health, and safety than exists by producing, distributing, using, or disposing comparable products which are not waste-derived. ***Products derived from advanced recycling shall not be considered waste-derived products or require certification as waste-derived products.***

3 New Paragraph; Depolymerization; Definitions. Amend RSA 149-M:4 by inserting after paragraph V the following new paragraph:

V-a. "Depolymerization" means a manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers, plastic and chemical feedstocks or raw

LBA
22-2887
12/14/21

**SB 368-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to animal vending licenses.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2022 through 2025.

AGENCIES CONTACTED:

Department of Agriculture, Markets, and Food

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Penalty; Unlicensed Sale of Live Animals. Amend RSA 437:10, II to read as follows:

2 II. In addition to the penalty under paragraph I, any pet vendor who violates any of the
3 provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied
4 by the commissioner, not to exceed \$1,000 for ~~each~~ *the first violation, and up to \$5,000 for each*
5 *subsequent violation.*

6 2 New Section; Revolving Fund for Agricultural Hearings Officers. Amend RSA 425 by inserting
7 after section 11 the following new section:

8 425:11-a Revolving Fund for Agricultural Hearings Officers.

9 I. There is established within the department of agriculture, markets, and food a revolving
10 fund for agricultural hearings officers. All fines collected by the department shall be deposited into
11 the fund. The fund shall be nonlapsing and continually appropriated to the department to fund the
12 department's adjudicative procedures, including, but not limited to, the costs associated with
13 contracting with one or more hearing officers who shall be responsible for administering all aspects
14 of the department's adjudicative procedure as directed by the commissioner. The department of
15 agriculture, markets, and food shall every quarter forward any unpaid fines assessed in an
16 adjudicative proceeding to the attorney general for collection in accordance with RSA 7:15-a.

17 II. At the end of each quarter of the fiscal year any balance in the fund in excess of \$10,000
18 shall be deposited in the general fund.

19 3 New Subparagraph; Revolving Fund for Agricultural Hearings Officers. Amend RSA 6:12:
20 II(b) by inserting after subparagraph (383) the following new subparagraph:

21 (384) Moneys deposited in the revolving fund for agricultural hearings officers under
22 RSA 425:11-a.

23 4 Effective Date. This act shall take effect July 1, 2022.

SB 368-FN - AS AMENDED BY THE SENATE

03/24/2022 1108s

2022 SESSION

22-2887
08/11

SENATE BILL **368-FN**

AN ACT relative to the unlicensed sale of live animals and establishing the agricultural hearings officer revolving fund.

SPONSORS: Sen. Bradley, Dist 3; Sen. Hennessey, Dist 1; Sen. Watters, Dist 4; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Cavanaugh, Dist 16; Sen. Prentiss, Dist 5; Rep. Bixby, Straf. 17

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill increases the fine for subsequent offenses of unlicensed sale of live animals.

This bill also establishes the revolving fund for agricultural hearing officers.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.