

Edit. The adopting, amending, and repealing language (AARL) is missing. Please be sure to include it at the time of adoption.

CHAPTER Agr 1700 TRANSFER OF ANIMALS AND BIRDS

Agr 1702.01 **Definitions.** As used herein:

Edit. Underline.

- (a) "Animal" means an animal customarily used as a household pet;
- (b) "Bird" means any bird customarily used as a household pet;
- (c) "Broker" means a "pet vendor" as defined in RSA 437:1, IV that does not own or operate a physical facility within New Hampshire;
- (d) "Carapace" means a bony or chitinous case or shield covering the back or part of the back of an animal;
- (e) "Foster facilities" means premises which are not in the business of transferring animals because they house animals solely for medical or behavioral rehabilitation when the animals are owned by a license-holder for another premises;
- (f) "License holder" means any person to whom a license has been issued by the department either as a broker or for a premises used to house, harbor, or display animals intended for transfer to the public;
- (g) "Person" means any individual, firm, corporation, or other entity engaged in the business of transferring to the public animals customarily used as household pets;
- (h) "Primary enclosure" means a four-sided structure that is used as a housing unit for an animal;
- (i) "Reasonable times" means a minimum of eight regular, posted open hours maintained by the license holder at the same time every week between 8 am and 4pm, Monday through Friday, which are subject to unannounced inspection by the department and access to the public for the return of pets in accordance with RSA 437:3;
- (j) "State" means the state of New Hampshire;
- (k) "Turtles" means all chelonia, including tortoises and terrapins being sold as household pets; and
- (l) "Zoonotic disease" means an illness that is transmissible to humans from animals customarily used as household pets.

~~Agr 1707.02 Application Form and Zoning Approvals.~~

- (a) ~~Persons seeking a pet vendor license shall apply for that license by completing and submitting form "Application to License Pet Vendor Premises" (Revised 9/21) with a non-refundable fee required by RSA 437:3.~~
- (b) ~~Pursuant to RSA 437:3, local zoning approval shall not be required for pet vendors transferring 49 or fewer dogs, cats, ferrets, or birds between January 1 and December 31 of a year.~~
- (c) ~~Pursuant to RSA 437:3, local zoning approval shall be required for pet vendors transferring 50 or more dogs, cats, ferrets, or birds between January 1 and December 31 of a year.~~
- (d) ~~Any pet vendor license issued by the department without sufficient proof provided by the applicant of local zoning approval shall automatically be suspended when a pet vendor transfers 49 such animals between January 1 and December 31.~~
- (e) ~~If the license is suspended as described in (d) above, the person shall not transfer any more such animals until the license holder submits sufficient proof of local zoning approval to the department and receives from the department written approval reinstating the suspended license.~~
- (f) ~~Any pet vendor found in violation of any of these provisions shall be subject to the penalties in RSA 437:10 for operating as an unlicensed pet vendor.~~

APPENDIX

Rule	State Statute
Agr 1702.01	RSA 437:1, IV & RSA 437:9, I
Agr 1707.02	RSA 437:9, I

Note to the JLCAR. The Committee previously voted to preliminarily object to the rule based on staff comments. Specifically to language in the rule that would automatically suspend a person's licensee without notice and a hearing in violation of RSA 541-A:30, III, and RSA 437:4, as amended by 2021, 215:4 (HB 250). The agency proposed different language to try to address the issue but each proposal would have still violated the licensee's right to notice and hearing. See the attachments. The agency has in this objection response deleted the entire section, and the IP Notice indicates that Agr 1707.02 was being readopted with amendment to implement the new requirement for local zoning approval only once a pet vendor transfers 50 or more animals pursuant to Chapter 215, the Laws of 2021 (HB 250), eff. 8-17-21. The IP proposal inserted new paragraphs which represent (b)-(f) above. It is not clear when the agency will move forward with rulemaking to implement HB 250. If the Committee determines that the deletion does not adequately address the preliminary objection it could enter a final objection or it could determine that there is a new basis for objection to the proposal based on clarity caused by the deletion of the primary rule in the proposal.



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

January 21, 2022

Shawn N. Jasper, Commissioner
Department of Agriculture, Markets, & Food
25 Capitol Street
Concord, NH 03301

Re: Preliminary Objection to Final Proposal 2021-104

Dear Commissioner Jasper:

At its meeting on January 21, 2022, the Joint Legislative Committee on Administrative Rules (Committee) voted, pursuant to RSA 541-A:13, IV, to enter a preliminary objection to Final Proposal 2021-104 containing rules Agr 1702.01(f) & (i) and Agr 1707.02 of the Department of Agriculture (Department) relative to the transfer of animals and birds. The Committee made a preliminary objection to Final Proposal 2021-104 on the ground that the rule Agr 1707.02(d), allows for automatic suspension of a license in violation of RSA 541-A:30, III and RSA 437:4, as amended by 2021, 215:4, which authorizes suspension only after notice to the licensee and an opportunity for a hearing.

You may respond to the Committee's preliminary objection by amending the final proposal to resolve the bases for objection, by withdrawing the rule, or by making no changes. You are required to respond in writing to the Committee's preliminary objection within 45 days of the date on which it was made, which was January 21, 2022. In this instance, the 45th day is Monday, March 7, 2022.

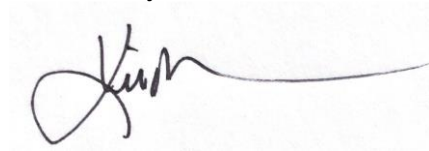
After the Committee has received your response, the Committee may take further action ranging from approval of the objection response to voting to support the sponsorship of a joint resolution to address the issues remaining with the proposal. Pursuant to RSA 541-A:13, VII(b), the Committee will have up to 50 days after the end of your response period to take action concerning a joint resolution, although the Committee can take action prior to that date. In this instance the 50th day is April 26, 2022. Please note that there is no deadline by which the Committee must act to approve the rules or to enter final objections, and the Committee may do so even after the adoption of the rules by the Department.

Shawn N. Jasper, Commissioner
January 21, 2022
Page 2

Please be advised that, pursuant to RSA 541-A:14, I, you may not adopt the rules until one of the following has occurred: 1) the expiration of the objection response review period without the Committee having taken action with respect to voting to support the sponsorship of a joint resolution; or 2) the Committee has taken action that is specifically in lieu of voting to support the sponsorship of a joint resolution.

If you have any questions concerning the provisions in RSA 541-A relative to objections, responses, or adoptions, please call me at 271-6647.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kim", with a long horizontal flourish extending to the right.

Kim Reeve
Committee Attorney

cc: Stephen K. Crawford, DVM, State Veterinarian

New Hampshire
Department of Agriculture,
Markets & Food

Shawn N. Jasper, Commissioner

March 7, 2022

Office of Legislative Services
Administrative Rules Division
State House, Room 109
Concord, NH 03301

RE: NOTICE NO. 2021-104


RULE # Agr 1700

Dear Director:

Enclosed are fixed and annotated copies of the New Hampshire Department of Agriculture, Markets & Food's (department) response to the Joint Legislative Committee on Administrative Rules' (JLCAR) preliminary objection to the aforementioned rules. The department addressed JLCAR staff comments by striking the proposed changes to Agr 1707.02, instead opting to retain the current language in said section.

Please advise if the enclosed copies achieve that purpose.

Sincerely,



Shawn N. Jasper
Commissioner

Enclosures