

Full Text

Title 6 of the Codes, Rules and Regulations of New York State, Part 151, Propagation and Sale of Fur-bearing Animals, is repealed in its entirety and a new Part 151 is adopted to read as follows:

§151.1 Definitions

As used in this Part, the following terms shall mean:

Fur-bearing animal means beaver, bobcat, coyote, raccoon, sable or marten, skunk, otter, fisher, nutria and muskrat propagated, or kept alive in captivity, under a license issued pursuant to section 151.2 of this part.

License means a license issued pursuant to section 151.2 of this part authorizing the continued possession of fur-bearing animals for the production of carcasses or pelts, or disposal of live fur-bearing animals to a person licensed or otherwise legally authorized to possess such fur-bearing animal for exhibition, scientific, or educational purposes only.

151.2 License

(a) The department in its discretion may issue a license to a person authorizing the continued possession of fur-bearing animals provided the person:

(1) was licensed by the department to possess fur-bearing animals under the provisions of section 11-1907 of the Environmental Conservation Law on April first, two thousand twelve;

(2) has maintained a valid license authorizing possession of fur-bearing animals since April first, two thousand twelve; and

(3) does not acquire any additional fur-bearing animals except for progeny produced through propagation of animals possessed under a license issued pursuant to this Part.

(b) A license is valid in the calendar year in which it is issued and shall expire on December 31.

(c) A license is valid only for the person identified on the license and is not transferrable.

(d) In order to authorize the continuance of such licenses thereafter, the licensee shall file with the department a renewal application each year prior to the expiration of their license. The fee for renewal of a license shall be twenty-five dollars.

(e) Renewal of a license must be made on forms provided by the department. Each licensee shall make a report of his or her operations on forms provided by the department upon renewal of and prior to the expiration of the license.

Title 6 of the Codes, Rules and Regulations of New York State, Part 153, Preserve Licenses, is amended as follows: Sections 153.1 and 153.2 are repealed, section 153.3 is renumbered section 151.1 and amended as follows:

153.[3]1 Domestic game animal breeders - tuberculosis and chronic wasting disease testing

[All persons possessing] Persons required to possess a license issued pursuant to section 11-1905 of the Environmental Conservation Law [must]shall comply with Part 189 of this title and any applicable regulations adopted by the Department of Agriculture and Markets for the detection, control and eradication of tuberculosis (1 NYCRR Parts 60 and 62) and chronic wasting disease (1 NYCRR Part 68). Failure to comply with the terms of such regulations shall be grounds for the revocation of such license pursuant to [section]Part 175[.5] of this Title.

Title 6 of the Codes, Rules and Regulations of New York State, Part 170, Miscellaneous Licenses, is amended as follows: Sections 170.1 and 170.3 are repealed. Paragraph (4) of subdivision 170.5(b) is deleted.

Paragraphs (2) and (3) of subdivision 170.5(b) are amended as follows:

(2) possess a valid New York State hunting license; and

(3) provide two (one inch by one inch) full face photographs, one of which will be affixed to the permit[; and].

[(4) submit a \$5 permit fee.]

Title 6 of the Codes, Rules and Regulations of New York State, Part 174, Sale of Live Birds, is repealed in its entirety and a new Part 174 is adopted to read as follows:

Part 174: Sale of Live Birds

§174.1 Definitions

As used in this Part the following terms shall have the following meanings:

- (a) Bird breeder means a person engaged in the activity of propagating captive bred birds, as defined in this Part, for sale.
- (b) Butt-end leg band means an open ring leg band applied by a bird breeder to the leg of a captive bred bird of any age using pliers or a similar tool.
- (c) Seamless leg band means a solid ring leg band applied by a bird breeder to the leg of a newly hatched captive bred bird, incapable of being removed when the bird has reached adult size without either destroying the band or injuring the bird. To qualify as a seamless leg band the band must be permanently closed in such a way that it cannot be reopened without destroying the integrity of the band.
- (d) Captive bred bird means birds born in captivity from eggs produced by captive parents. Captive bred bird shall not include birds designated as endangered or threatened in Part 182 of this Title or by the Secretary of the Interior as listed in Part 17 of Title 50 of the Code of Federal Regulations, birds listed as Migratory Birds in Part 10 of Title 50 of the Code of Federal Regulations or Prohibited Invasive Species listed in Part 575 of this Title.

(e) Department means the Department of Environmental Conservation.

(f) Bird means all live birds except domestic game birds as defined in ECL 11-0103(4)(a), and other domesticated birds such as chickens, turkeys, guinea fowl, peafowl and pigeons.

(g) Sale means any delivery or transfer of title to or possession of a bird for a consideration, and includes offering or exposing for sale, and soliciting for sale by catalogs, newspapers, magazines or other advertising matter. Any public display of a bird in a pet store or other retail or wholesale establishment dealing in birds shall be deemed to be an offering for sale.

§174.2 Prohibition

Except as permitted by section 174.3 of this Part, the sale of birds or their eggs in the state is prohibited.

§174.3 Permitted Sales

(a) The following species of captive bred birds may be sold without restriction:

Species common name:	Species scientific name:
Diamond dove	<i>Geopelia cuneata</i>
Cockatiel (including mutations)	<i>Nymphicus hollandicus</i>
Crimson rosella	<i>Platycercus elegans</i>
Eastern rosella	<i>Platycercus eximius</i>
Pale-headed (blue) rosella	<i>Platycercus adscitus</i>
Red-rumped parakeet (including all mutations)	<i>Psephotus haematonotus</i>

Bourke's parrot	<i>Neophema bourkii</i>
Budgerigar (including all mutations)	<i>Melopsittacus undulatus</i>
Blue-masked lovebird	<i>Agapornis personata</i> Var.
Zebra finch	<i>Poephila guttata</i>
(Lady) Gouldian finch	<i>Chloebia gouldiae</i>
Society (Bengalese) finch	<i>Lonchura striata</i>
Java sparrow	<i>Padda (Lonchura) oryzivora</i>
Common canary (including all varieties)	<i>Serinus canaria</i>

(b) Birds possessed prior to May 1, 1986 may be sold provided the seller obtains a permit from the department.

The department may require submission of documentation or other proof establishing that the bird was possessed in captivity prior to May 1, 1986.

(c) Captive bred birds bearing the identification required by section 174.4 of this Part may be sold.

d) State, federal or local governmental agencies may sell birds.

(e) Scientific, zoological or educational institutions having a license issued by the department pursuant to section 11-0515 of the Environmental Conservation Law authorizing the sale of birds may sell birds.

(f) Persons having a falconry license issued pursuant to section 11-1003 of the Environmental Conservation Law may sell the progeny of lawfully possessed raptors.

(g) Domestic game birds or their eggs may be sold by a person licensed pursuant to section 11-1901 of the Environmental Conservation Law provided that all domestic game birds sold must be captive bred.

(h) The department may authorize the sale of birds by license issued pursuant to sections 11-0535 of the Environmental Conservation Law or Part 182 of this Title.

(i) The department may authorize other sales which will accomplish the purposes of section 11-1728 of the Environmental Conservation Law and this Part.

§174.4 Identification of Birds

(a) Except as authorized pursuant to section 174.3 of this Part, when a captive bred bird is sold or offered for sale, the bird must be marked with a seamless leg band or a butt-end leg band applied by a veterinarian as described in subdivision (b) of this section.

(b) Banding Requirements: (1) butt-end leg bands must be visibly marked with the Veterinarians identification number. (2) In the event a band is removed for medical reasons a veterinarian licensed in the State of New York must either apply their own band with their identifying number or not band the bird. If the owner of the bird intends to sell this bird, it must be banded and the owner must notify the department within 10 days of replacement of the band of: the date of replacement; name and address of the attending veterinarian; the reason why the band was removed; and, the identifying number on the replacement band.

(c) Pet stores and other retail or wholesale establishments dealing in birds other than those listed in subdivision (a) of section 174.3 of this Part must prominently display a sign visible to the public on the premises where such birds are offered for sale. Letters in the sign must be at least one-half inch in height and of contrasting color to the background. The sign shall contain the following:

Notice to Customers

Only captive bred birds may be sold in New York State. With the exception of certain common species, all birds offered for sale must be marked with a band. A violation should be reported to the New York State Department of Environmental Conservation at: 1-844-332-3267 or central.dispatch@dec.ny.gov.

(d) A pet store or other retail or wholesale establishment dealing in birds other than birds named in subdivision (a) of section 174.3 of this Part must maintain records, including invoices and bills of sale showing when, where and from whom such birds were acquired. Such records must be open to inspection at reasonable hours by employees of the department and must be maintained during the time such birds are possessed by the pet store or retail establishment and for three years thereafter.

(e) Bird breeders shall keep and maintain on their premises complete records of the purchase and sale, application of seamless leg bands, transfers, breeding loans, and births and deaths of birds and shall make such records available for inspection at reasonable hours by employees of the department.

Title 6 of the Codes, Rules and Regulations of New York State, Part 182, Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern; Incidental Take Permits, is amended as follows: Subdivisions (b) and (c) of Section 182.8 are amended to read as follows:

§182.8 Prohibition

(b) No person shall, except under permit or license from the department issued pursuant to Part 175 of this Title[(Special Licenses)] or as provided in section 182.14 of this Part with respect to alligator, caiman or crocodile, or as provided for in Environmental Conservation Law 11-0535-a with respect to sale or distribution of articles containing elephant and mammoth ivory or rhinoceros horn:

(1) import, transport, possess or sell any live endangered or threatened species of fish or wildlife, or any carcass, hide or part thereof[,]; or

(2) sell or possess with intent to sell any article made in whole or in part from the skin, hide or other part of such species unless such [species, hide or part thereof]article was in the possession of such person or manufactured [on or before]prior to the date such species was designated as endangered or threatened by the Secretary of the Interior or the department, and such possession must be evidenced by such legal proof as may be required by the commissioner.[The transfer or sale of any skin, hide or part of such species lawfully possessed may be continued under permit from the department, provided the person or concern holding such inventory for transfer or sale submits to the department an affidavit unequivocally stating that such inventory was acquired prior to the date such species was designated as endangered or threatened by the Secretary of the Interior or the department, the inventory is listed in sufficient detail to permit its identification, and the inventory is labeled in accordance with procedures established by the department.]

(c) No person shall [fail to comply with the terms or conditions contained in any permit issued pursuant to this Part or Part 175 of this Title (Special Licenses)].sell or offer for sale any species in contravention of the provisions of Environmental Conservation Law 11-0536.