

## Licensing of Dogs

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**Cross References.** Adoption of regulations as to licensing and restraint of dogs by cities or towns, see RSA 466:39.

### NOTES TO DECISIONS

#### Purpose

#### Purpose

The object of the provisions requiring the licensing of dogs is to oblige the owners and keepers of dogs to pay the damages caused by them. *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

**Cited** Cited in *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

#### **466:1 Procuring License; Tag.**

Every owner or keeper of a dog 4 months old or over shall annually, cause it to be registered, numbered, described, and licensed for one year in the office of the clerk of the city or town in which the dog is kept, and shall cause it to wear around its neck a collar to which shall be attached a metal tag with the following information thereon: the name of the city or town, year of

issue of license and its registered number. The tag and license shall be furnished by the clerk at the expense of the city or town. Regardless of when the license is obtained, the license shall be effective from May 1 of each year to April 30 of the subsequent year.

**Source.** 1891, 60:1. 1925, 96:1. PL 150:6. RL 180:6. RSA 466:1. 1957, 217:1. 1995, 298:1, eff. Jan. 1, 1996. 1996, 67:1, eff. Jan. 1, 1997. 1997, 273:1, eff. Jan. 1, 1998.

#### **Amendments**

—**1997.** Substituted “4 months old” for “3 months old” following “keeper of a dog” in the first sentence.

—**1996.** Deleted “on or before April 30” preceding “cause it to be registered” and deleted “from the ensuing May 1” preceding “in the office of” in the first sentence, and added the third sentence.

—**1995.** Substituted “in which the” for “wherein said” preceding “dog is kept” in the first sentence and rewrote the second sentence.

—**1957.** Rewrote the first sentence.

**Cross References.** Group licenses, see RSA 466:6.

License fees generally, see RSA 466:4.

Penalty for keeping unlicensed dog, see RSA 466:13.

Proceedings relating to unlicensed dogs, see RSA 466:14 et seq.

#### **NOTES TO DECISIONS**

**Cited** Cited in *Morey v. Brown*, 42 N.H. 373, 1861 N.H. LEXIS 116 (1861); *State v. Colby*, 67 N.H. 391, 36 A. 252, 1892 N.H. LEXIS 88 (1893); *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

#### **466:1-a Vaccination Required.**

**I.** Before a license is issued under the provisions of this subdivision, the owner or keeper of a dog shall furnish to the clerk verification from a licensed veterinarian that the dog has been vaccinated against rabies in accordance with the provisions of RSA 436. Persons applying for a group license under RSA 466:6 shall also furnish to the clerk verification from a licensed veterinarian that the dogs have been vaccinated against rabies in accordance with RSA 436.

**II.** Notwithstanding paragraph I, if a valid rabies certificate is on file with the clerk in accordance with RSA 436:102, the owner shall not be required to produce such verification at time of licensure.

**Source.** 1967, 188:2. 1994, 353:2, eff. Jan. 1, 1995. 1997, 162:1, eff. Aug. 8, 1997.

## **Amendments**

—**1997.** Designated the existing provisions of the section as par. I and added par. II.

—**1994.** Deleted “except under the provisions of RSA 466:6” following “subdivision”, substituted “verification from a licensed veterinarian” for “a certification” following “clerk”, substituted “RSA 436” for “RSA 442-A” and made a minor change in phraseology in the first sentence and added the second sentence.

### **466:1-b Rabies Certificate.**

Upon receipt of a copy of a rabies certificate from a veterinarian pursuant to RSA 436:102, the clerk of the town or city shall send written notice to the owner or keeper of any unlicensed dog relative to the licensing requirements provided for in RSA 466:1. If the owner or keeper of the unlicensed dog fails to license the dog in a timely manner, the town or city clerk shall notify the local law enforcement officer of a violation of RSA 466:1.

**Source.** 1994, 353:3, eff. Jan. 1, 1995.

**Cross References.** Penalty for keeping unlicensed dog, see RSA 466:13.

### **466:1-c Authorization to Issue Licenses; Local Law Enforcement Officers.**

The town or city clerk may authorize a local law enforcement officer to issue licenses and collect license fees pursuant to RSA 466:4. For the purposes of this section, a local law enforcement officer means the local police department of the city or town, the dog officer in a city or town, or a humane society which performs animal control functions as may be designated by the local governing body. The town or city clerk shall determine the criteria for the receipt of funds and recordkeeping.

**Source.** 1994, 353:3, eff. Jan. 1, 1995.

### **466:1-d Lists of Licensed Dog Owners.**

**I.** Except as provided in paragraphs II and III and RSA 466:11 and RSA 466:14, no dog registration records, information, or lists shall be sold, rented, transferred, or otherwise made available in whole or in part, in any form or format, directly or indirectly, to another person.

**II.** Dog registration records, information, or lists may be made available pursuant to a court order or in response to a request from the state, a political subdivision of the state, the federal government, or a law enforcement agency solely for use in official business. The request shall be on a case-by-case basis. Any information, record, or list received pursuant to this paragraph shall not be further transferred or otherwise made available to any other person or listed entity not

authorized under this paragraph, except as provided in RSA 466:13.

**III.** Without otherwise compromising the confidentiality of the files, nothing in this section shall prohibit a body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected, or to a person or agency attempting to provide for the welfare of an animal.

**Source.** 2007, 67:1, eff. August 10, 2007.

#### **466:2 Part of Year.**

An owner of a dog may at any time have it licensed until the ensuing May 1; and a person becoming the owner or keeper of a dog not duly licensed after May 1 shall cause it to be registered, numbered, described and licensed as provided in RSA 466:1.

**Source.** 1891, 60:2. PL 150:7. RL 180:7.

**Revision note.** Reference to “the preceding section” was changed to “RSA 466:1” in order to clarify the meaning of the reference in light of the enactment of RSA 466:1-a subsequent to the enactment of RSA 466:1, to which the phrase originally referred, and this section.

**Cross References.** License fees generally, see RSA 466:4.

Penalty for keeping unlicensed dog, see RSA 466:13.

Proceedings relating to unlicensed dogs, see RSA 466:14 et seq.

#### **NOTES TO DECISIONS**

**Cited** Cited in *State v. Colby*, 67 N.H. 391, 36 A. 252, 1892 N.H. LEXIS 88 (1893).

#### **466:3 Transfer.**

A license duly recorded shall be valid in any part of the state, and may be transferred with the dog licensed. The clerk of the town or city may charge \$1.50 to cover the cost of the tag for the new license.

**Source.** 1891, 60:7. PL 150:8. RL 180:8. RSA 466:3. 1996, 67:2, eff. Jan. 1, 1997.

#### **Amendments**

—1996. Added the second sentence.

#### **466:4 Fees.**

**I. (a)** The fee for every license for a year or portion of a year shall be:

(1) \$4.50 for dogs at least 4 months old but less than 7 months old which are not spayed or neutered and \$4.50 for a neutered male or spayed female dog 7 months old or older; provided, however, that the owner or keeper of such spayed female dog or neutered male dog shall comply with the provisions of RSA 466:1-a to the satisfaction of the clerk of the town or city in which such dog is owned or kept; or

(2) \$7 for any unneutered male or unspayed female dog 7 months old or older.

(b) In addition to the sum required in subparagraphs I(a)(1) and (2), each year the owner of each dog shall pay the clerk of the city or town where the dog is registered a companion animal population control fee of \$2.

(c) The clerk shall remit all companion animal population control fees collected to the state treasurer along with the fees sent in accordance with RSA 466:9, provided that such companion animal population control fees shall be deposited into the companion animal neutering fund, established in RSA 437-A:4-a.

**II.** Notwithstanding paragraph I, the fee for every license for a year or a portion of a year shall be \$2 for a dog of either sex if the owner is 65 years of age or older. Such owner shall not be required to pay the companion animal population control fee, under RSA 466:4, I(b), for licensing of one dog; provided, however, that, if such owner wishes to license more than one dog, the fee for any additional license shall be as provided in paragraph I.

**III.** Fees for dogs licensed in a commercial kennel shall be based on the numbers of dogs licensed, as in RSA 466:6 for group licenses. For purposes of this paragraph, “commercial kennel” means the establishment or domicile of any person who sells dogs at wholesale or retail; and, if retail, who sells or transfers 10 or more litters per year, or sells or transfers 50 or more puppies per year; or who derives 40 percent or more of gross annual income from the sale or transfer of dogs. The owner or keeper of any dog licensed under this paragraph shall not be assessed a companion animal population control fee.

**Source.** 1891, 60:3. 1903, 109:1. PL 150:9. RL 180:9. RSA 466:4. 1977, 356:1. 1979, 98:1. 1983, 228:1. 1986, 213:1. 1989, 157:1. 1993, 219:1, eff. Jan. 1, 1994; 219:5, eff. July 1, 1997. 1995, 298:2, eff. Jan. 1, 1996; 298:3, eff. at 12:01 a.m., July 1, 1997. 1996, 67:3, eff. Jan. 1, 1997; 242:1, 3, eff. Aug. 9, 1996; 242:4, at 12:01 a.m., eff. July 1, 1997. 1997, 162:2, eff. Aug. 8, 1997; 273:3, eff. Jan. 1, 1998; 332:4, eff. Aug. 22, 1997.

### **Amendments**

—1997. Paragraph I(a)(1): Chapter 162 substituted “comply with the provisions of RSA 466:1-a” for “furnish a certificate from the person performing the operation” following “male dog shall”.

Chapter 273 substituted “4 months old” for “3 months old” following “at least”.

Paragraph I(c): Chapter 332 substituted “companion animal neutering fund, established in RSA 437-A:4-a” for “general fund” at the end of the paragraph.

—**1996.** Paragraph I(a)(1): Rewritten by ch. 67 to the extent that a detailed comparison would be impracticable.

Paragraph I(a)(2): Chapter 67 added “7 months old or older” following “female dog”.

Paragraph I(b): Chapter 242 deleted “except those licensed under a group license” preceding “shall pay”.

Paragraph III: Chapter 242 deleted “or RSA 466:6” preceding “shall not be assessed” in the third sentence.

—**1995.** Paragraph III: Chapter 298:2 deleted “his” preceding “gross annual” in the second sentence.

Chapter 298:3 deleted the third sentence.

—**1993.** Paragraph I: Rewritten by ch. 219:1, 5 to the extent that a detailed comparison would be impracticable. Chapter 219:5 was repealed by 1995, 154:1, I.

Paragraph II: Rewritten by ch. 219:1, 5 to the extent that a detailed comparison would be impracticable. Chapter 219:5 was repealed by 1995, 154:1, I.

Paragraph III: Chapter 219:1 added the third sentence.

Chapter 219:5, which was repealed by 1995, 154:1, I, deleted the third sentence.

—**1989.** Paragraph I(a): Substituted “\$4.50” for “\$3.50”.

Paragraph I(b): Substituted “\$7” for “\$6.00”.

—**1986.** Paragraphs I, II: Rewritten to the extent that a detailed comparison would be impracticable.

—**1983.** Paragraph III: Added.

—**1979.** Designated the existing provisions of the section as par. I and added par. II.

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

**Repeal of 1993, 219:5 amendment** 1995, 154:1, I, eff. July 31, 1995, provided for the repeal of 1993, 219:5, which amended this section. Therefore, the text of the section reverted to the version set out in 1993, 219:1, as subsequently amended.

**Contingent 1997 amendment.** 1997, 273:2, provided for amendment of this section. However, under the terms of 1997, 273:4, I, eff. Jan. 1, 1998, the amendment did not take effect.

**Cross References.** Charge for late payment of fees, see RSA 466:7.

Exemptions from fees, see RSA 466:8.

Group license fees, see RSA 466:6.

Licensing of guard dogs used by commercial establishments generally, see RSA 466:47.

Municipal license fees, see RSA 466:39.

Registration of guard dog in addition to license requirement, see RSA 466:48.

#### NOTES TO DECISIONS

**Cited** Cited in *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

#### **466:5 Disposal of Fees.**

All moneys arising from the licensing of dogs and cats, if the municipality licenses cats, remaining in the treasury of any town or city at the end of the town or city fiscal year, which is not due to holders of orders given for loss of or damages to domestic animals by dogs, or which has not been paid to the department of agriculture, markets, and food under RSA 466:9 or the state treasurer under RSA 466:4, I(c) shall be for the use of the town or city.

**Source.** 1867, 4:1. GS 105:15. 1876, 18:1. GL 115:18. PS 88:14. 1921, 85, VI:10. PL 121:17. RL 140:17. 1949, 22:1. RSA 466:5. 1995, 298:4, eff. Jan. 1, 1996.

#### **Amendments**

—**1995.** Rewritten to the extent that a detailed comparison would be impracticable.

**Cross References.** Disposition of fees by clerks generally, see RSA 466:9.

#### **466:6 Group Licenses.**

**I.** The owner or keeper of 5 or more dogs shall annually by April 30 pay the required fee and obtain a license authorizing the owner or keeper to keep the dogs upon the premises described in the license, or off the premises while under such owner's or keeper's control. Such owner or keeper shall not be required to obtain a “commercial kennel” license under RSA 466:4, III unless such person has a commercial kennel as defined under RSA 466:4, III.

**II.** No town clerk shall refuse to issue a group license to an owner or keeper who has complied with the requirements of this subdivision.

**III.** The fee shall be \$20 for the group license, \$2 of which shall be remitted to the town clerk for deposit into the companion animal neutering fund, established in RSA 437-A:4-a, as the companion animal population control fee, and \$18 shall be retained by the town or municipality.

**IV.** No fee shall be required for dogs which are under the age of 3 months.

**V.** Upon request, an owner or keeper shall receive numbered license tags for each dog included under the owner's or keeper's group license.

**Source.** 1909, 135:1. 1925, 97:1. PL 150:10. 1927, 61:1. 1941, 59:1. RL 180:10. RSA 466:6. 1977, 356:2. 1981, 306:2. 1986, 213:2, 3. 1987, 186:1. 1995, 298:5, 6, eff. Jan. 1, 1996. 1996, 242:2, eff. Aug. 9, 1996. 1997, 332:5, eff. Aug. 22, 1997.

### **Amendments**

—**1997.** Paragraph III: Substituted “companion animal neutering fund, established in RSA 437-A:4-a” for “general fund” preceding “as the companion animal”.

—**1996.** Paragraph III: Rewritten to the extent that a detailed comparison would be impracticable.

—**1995.** Paragraph I: Substituted “the owner or keeper” for “him” following “authorizing” and “such owner’s or keeper’s” for “his” preceding “control” in the first sentence.

Paragraph V: Substituted “the owner’s or keeper’s” for “his” preceding “group”.

—**1987.** Paragraph I: Added the second sentence.

—**1986.** Paragraph III(b): Inserted “of dogs” following “number”.

Paragraph III(c): Inserted “of dogs” following “number”.

Paragraph IV: Rewritten to the extent that a detailed comparison would be impracticable.

—**1981.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

**Purpose of 1981 amendment.** 1981, 306:1, eff. Aug. 15, 1981, provided:

“The purpose of this act [which amended this section] is to clarify the current law on group licenses for dogs, which have been called ‘kennel licenses.’ This name has led to confusion about what the license is and what rights it gives to a holder. A group license does not give permission to operate a commercial kennel. Since regulation of land uses is properly done through zoning, and regulation of various commercial operations through local ordinances, these should not be regulated through issuance or denial of group licenses. A person who has met all the requirements set out in RSA 466 shall not be denied a group license for his dogs.”

**Cross References.** License fees generally, see RSA 466:4.

Providing verification of rabies vaccination to town clerk, see RSA 466:1-a.

### **466:6-a Breeder's Health Certificate.**

[Repealed 2013, 38:10, eff. August 3, 2013.]

**Former section(s)** Former RSA 466:6-a, which was derived from 1977, 356:3; 1979, 24:1, 2; 1987, 186:2, 3; 1995, 130:4, 298:7; 2004, 7:3; 2007, 160:4; and 2009, 296:11, related to the issuance of breeder’s health certificates for dogs.



### **466:7 Additional Charge Where Payment of License Fee Is Delayed.**

In addition to the license fees provided in RSA 466:4, there shall be a charge of \$1 for each month or any part thereof that the fees remain unpaid if said fees are not paid before June 1 in any year.

**Source.** 1953, 39:1. RSA 466:7. 1965, 325:1. 1977, 356:4, eff. Aug. 30, 1977.

#### **Amendments**

—**1977.** Substituted “fees provided in RSA 466:4” for “fee for dogs provided by this subdivision”.

—**1965.** Substituted “\$1” for “fifty cents” and “June 1” for “July first”.

**Cross References.** Group license fees generally, see RSA 466:6.

License fees generally, see RSA 466:4.

### **466:8 Exemption From Fees for Registration and Licensing.**

**I.** No fee shall be required for the registration and licensing of a dog which has served with the armed forces of the United States and has received an honorable discharge therefrom.

**II.** No fee shall be required for the registration and licensing of a service animal dog as defined in RSA 167-D:1, IV. When registering and applying for a license for a dog that is a service animal, the owner or trainer shall present an identification card issued by a recognized dog training agency. If a dog has been trained by its owner and does not have an identification card issued by a recognized dog training agency or school, in order to register and license a dog that is a service animal, the dog shall pass the Assistance Dogs International Public Access Test administered by a service animal trainer, as defined in RSA 167-D:1, V, and the owner shall present a letter from a health care professional stating that the individual requires the use of a service animal to perform tasks directly related to his or her disability.

**III.** The owner of a dog that is a service animal may elect for the registration and licensing of such dog to be permanent and not subject to annual renewal so long as such dog has met the requirements of this section.

**IV.** For the purpose of this section, the town clerk of each town or municipality shall determine the process by which permanently registered dogs that are service animals will be tracked for town purposes and ensure that town service animal owners are not required to participate, in any way, with an annual renewal of such dog’s registration or licensing. In cases of change of town of residency, the service animal owner shall re-register the dog at no cost. If the owner has elected to obtain a tag through the governor’s commission on disability as set forth in

paragraph V, the owner shall let the governor's commission on disability know of any change in town of residency.

**V.** Certificates and tags stamped "G C D – Permanent Registration" with a registration number shall be issued by the governor's commission on disability to those who wish to affix such a tag on their service animal's collar after registering the dog under paragraph II. Tags and certificates may be obtained directly from the governor's commission on disability which will verify with the town clerk that such dog has met the requirements under paragraph II and is duly registered and licensed by the town of residency. Tags issued by the governor's commission on disability shall not be used to verify the legitimacy or authenticity of a service animal for any purpose.

**VI.** Upon the death or retirement of a service animal, the owner or person in possession of the service animal tag shall immediately return the tag to the governor's commission on disability.

**VII.** The tag identifying a service animal shall be used only by an eligible service animal, as defined in RSA 167-D:1, IV.

**VIII.** The owners and trainers of dogs that are service animals shall comply with all state and local ordinances regarding rabies certification under RSA 436:102 and RSA 466:1-a.

**Source.** 1945, 102:1. RSA 466:8. 1955, 16:1. 1977, 542:3. 1983, 275:2. 1989, 45:9. 1990, 131:4, eff. June 18, 1990. 2012, 211:1, eff. August 12, 2012.

#### **Amendments**

—**2012.** The 2012 amendment rewrote the section to the extent that a detailed comparison would be impracticable.

—**1990.** Substituted "guide" for "seeing eye" following "licensing of a" in the second sentence and following "recognized" in the third sentence.

—**1989.** Made a minor stylistic change in the section catchline, deleted "or" following "blind person" and added "or a service dog which is used by a mobility impaired person" following "deaf person" in the second sentence and deleted "or" preceding "a deaf or hearing impaired" and inserted "or mobility impaired" thereafter, deleted "or" preceding "hearing ear dog" and inserted "or service dog" thereafter in the third sentence.

—**1983.** Deleted "during World War II" following "United States" in the first sentence, inserted "ear" following "hearing" in the second sentence, and added the third sentence.

—**1977.** Added "or a hearing dog which is used by a deaf person" following "blind person" in the second sentence.

—**1955.** Deleted "the" preceding "World War II" in the first sentence and added the second sentence.

**Cross References.** License fees generally, see RSA 466:4.

## **466:9 Payment of Fees.**

**I.** Clerks of the towns and cities shall issue dog licenses, receive the money for the licenses, and pay the same into the treasuries of their respective towns and cities on or before June 1 each year, retaining to their own use \$1 for each license and submitting \$.50 for each license to the department of agriculture, markets, and food for the purpose specified in paragraph II. The clerks shall return to their respective town or city treasurer a sworn statement of the amount of moneys thus received and paid over by them.

**II.** The \$.50 received by the department of agriculture, markets, and food for each license issued pursuant to paragraph I shall be credited to a special nonlapsing fund to be used exclusively for the operation of the veterinary diagnostic laboratory established under RSA 436:92, and are hereby continually appropriated for such purpose to be expended under the supervision of the commissioner of agriculture, markets, and food.

**Source.** 1891, 60:5. PL 150:12. RL 180:12. RSA 466:9. 1977, 353:1. 1992, 289:10. 1994, 353:4, eff. Jan. 1, 1995. 1995, 130:4, 5, eff. July 23, 1995.

### **Amendments**

—**1995.** Paragraph I: Substituted “department of agriculture, markets, and food” for “department of agriculture” in the first sentence.

Paragraph II: Substituted “department of agriculture, markets, and food” for “department of agriculture” and “commissioner of agriculture, markets, and food” for “commissioner of agriculture”.

—**1994.** Paragraph I: Substituted “dog” for “said” following “issue”, “for the licenses” for “therefor” following “money” and “\$1” for “\$.50” following “own use” in the first sentence.

—**1992.** Substituted “department of agriculture” for “state treasurer” preceding “for the purpose” in the first sentence of par. I and preceding “for each license” in par. II and “RSA 436:92” for “RSA 443:96” in par. II.

—**1977.** Designated the existing provisions of the section as par. I, rewrote that paragraph, and added par. II.

**Cross References.** Disposition of fees by clerks at end of year, see RSA 466:5.

## **466:10 Hydrophobia Symptoms to Be Printed on License.**

[Repealed 1977, 30:1, eff. May 28, 1977.]

**Former section(s).** Former RSA 466:10, which was derived from 1891, 60:4; PL 150:11; and RL 180:11, related to the requirement that the symptoms of hydrophobia be printed on dog licenses.

## **466:11 Records.**

**I.** Clerks of towns and cities shall keep a record of all licenses issued by them, with the names of the keepers or owners of dogs licensed, and the names, registered numbers and descriptions of all such dogs. Clerks of towns and cities shall furnish yearly to the local governing body a list of those owners who have failed to renew their license for use in preparing the warrant of unlicensed dogs.

**II.** With the owner's consent, a veterinarian may report the euthanizing or death during treatment of a licensed dog to the town or city clerk in order to have the record reflect that the dog was euthanized or died. A veterinarian providing such a report may also provide the town or city clerk with the mailing and street addresses of the owner of the dog. Written reports, if any, shall be destroyed after receipt by the town or city clerk, and any resulting record reflecting the dog's death shall not specify the manner or cause of death.

**Source.** 1891, 60:5. PL 150:13. RL 180:13. RSA 466:11. 1994, 353:5, eff. Jan. 1, 1995. 2008, 42:1, eff. July 11, 2008.

### **Amendments**

—**2008.** The 2008 amendment added designation I and added II.

—**1994.** Added the second sentence.

**Cross References.** Preparation of lists of dogs owned in cities or towns, see RSA 466:43.

## **466:12 Account.**

Each city and town treasurer shall keep an accurate and separate account of all moneys received and expended by such treasurer under the provisions of this chapter relating to dogs and cats.

**Source.** 1891, 60:6. PL 150:14. RL 180:14. 1995, 298:8, eff. Jan. 1, 1996.

### **Amendments**

—**1995.** Substituted "such treasurer" for "him" following "expended by" and added "and cats" following "to dogs".

**Cross References.** Disposition of fees, see RSA 466:5, 9.

## **466:13 Forfeiture.**

Whoever is the owner or keeper of a dog and who fails to license or renew the dog license pursuant to RSA 466:1 shall forfeit \$25 to the town or city clerk of the municipality in which the dog is kept. If the forfeiture is not made to the town or city clerk within 15 calendar days of the notice of forfeiture, the case may be disposed of in a district court as a violation with a fine not to exceed \$50, notwithstanding the provisions of RSA 651:2, IV. A forfeiture shall not relieve the owner or keeper of the requirement of proper licensing of the dog as required by RSA 466:1. This section shall also apply to cats, if the municipality licenses cats. Any forfeitures collected under this section may be retained by the city or town for the administration and enforcement of this chapter.

**Source.** 1891, 60:8. PL 150:15. RL 180:15. RSA 466:13. 1994, 353:6, eff. Jan. 1, 1995. 1995, 298:9, eff. Jan. 1, 1996. 1996, 67:4, eff. Jan. 1, 1997. 2001, 274:6, eff. July 16, 2001.

### **Amendments**

—**2001.** Deleted “after notice provided pursuant to RSA 466:14” preceding “forfeit” in the first sentence; substituted “may” for “shall” preceding “be disposed” and “as a violation with a fine not to exceed \$50, notwithstanding the provisions of RSA 651:2, IV” for “or municipal court” at the end of the second sentence; and “a forfeiture” for “this forfeiture” at the beginning of the third sentence.

—**1996.** Substituted “license or renew the dog license pursuant” for “license the dog pursuant” and inserted “after notice provided pursuant to RSA 466:14” preceding “forfeit \$25” in the first sentence.

—**1995.** Substituted “15 calendar days” for “96 hours” in the second sentence and added the fourth and fifth sentences.

—**1994.** Rewritten to the extent that a detailed comparison would be impracticable.

### **NOTES TO DECISIONS**

1. Proceedings for recovery of forfeiture—Generally
  2. —Complainants
  3. —Defenses

#### **1. Proceedings for recovery of forfeiture—Generally**

Recovery of a forfeiture for the unlawful keeping of a dog may be by indictment. *State v. McConnell*, 70 N.H. 158, 46 A. 458, 1899 N.H. LEXIS 79 (1900).

#### **2. —Complainants**

Any person may be a complainant in a prosecution to enforce the forfeiture. *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

#### **3. —Defenses**

Procuring a license after April 30 will not relieve an owner of liability for the forfeiture for keeping a dog without a license prior to the procurement of the license. *State v. Colby*, 67 N.H. 391, 36 A. 252, 1892 N.H.

## Licensing of Cats

466:13-a Licensing of Cats.

### **466:13-a Licensing of Cats.**

The governing body of a municipality may vote to license cats in a similar manner as it licenses dogs. If a municipality elects to license cats, the same penalties shall apply for unlicensed cats as for unlicensed dogs, and the provisions of RSA 466:8 of the preceding subdivision shall not apply to cats. If a municipality elects to license cats, it shall also develop a procedure similar to the procedure in RSA 466:4, III and 466:6 for group licensure. If a municipality elects to license cats, it shall require cats to have a form of identification, including, but not limited to a tattoo, collar, surgically implanted microchip or ear tag, or any other form approved by the commissioner of agriculture, markets, and food. The commissioner of agriculture, markets, and food shall adopt rules, under RSA 541-A, relative to the forms of identification.

**Source.** 1994, 99:3, eff. July 9, 1994. 1995, 130:5, eff. July 23, 1995. 2013, 38:9, eff. August 3, 2013.

### **Amendments**

—**2013.** The 2013 amendment substituted “RSA 466:8” for “RSA 466:6-a and 466:8” in the second sentence.

—**1995.** Substituted “commissioner of agriculture, markets, and food” for “commissioner of agriculture” in the fourth and fifth sentences.

## Unlicensed Dogs

466:14 Warrants; Proceedings.

466:15 Fees.

466:16 Returns.

466:17, 466:18.

466:18-a Title to Unlicensed Dogs in Humane Societies.

**Cross References.** Disposition of unclaimed and abandoned animals generally, see RSA 437:18 et seq.

Licensing requirements generally, see RSA 466:1 et seq.

### **466:14 Warrants; Proceedings.**

The town or city clerk shall annually, between June 1 and June 20, present to the local governing body a list of those owners of dogs that have failed to license or not renewed their dog licenses pursuant to RSA 466:1. The local governing body shall, within 20 days from June 20, issue a warrant to a local official authorized to issue a civil forfeiture for each unlicensed dog. The warrant may also authorize a local law enforcement officer to seize any unlicensed dog. The civil forfeiture may be sent by certified mail, or delivered in hand, or left at the abode of the dog owner. The cost of service shall not exceed \$5 and may be recovered by the city or town in addition to the amount of the civil forfeiture. If the unlicensed dog is seized, it shall be held in a town or city holding facility for a period of 7 days, after which time full title to the dog shall pass to the facility, unless the owner of the dog has, before the expiration of the period, caused the dog to be licensed. The owner shall pay the facility a necessary and reasonable sum per day, as agreed upon by the governing body of the town or city and the facility, for each day the dog has been kept and maintained by the facility, plus any necessary veterinary fees incurred by the facility for the benefit of the dog. Before a local law enforcement officer seizes any unlicensed dog, a written warning shall be given to the dog owner.

**Source.** RS 127:5. CS 133:5. GS 105:5. GL 115:7. PS 118:8. 1891, 60:11. PL 150:18. RL 180:18. RSA 466:14. 1965, 325:2. 1967, 150:1. 1977, 559:1. 1983, 198:1. 1987, 91:1. 1994, 353:7, eff. Jan. 1, 1995. 1995, 298:10, eff. Jan. 1, 1996. 1996, 67:5, eff. Jan. 1, 1997. 2000, 128:1, eff. Jan. 1, 2001. 2001, 274:7, eff. July 16, 2001.

### **Amendments**

—**2001.** Added the fourth sentence, substituted “unlicensed” for “licensed” in the fifth sentence, and made a minor stylistic change.

—**2000.** Inserted “failed to license or” following “dogs that have” in the first sentence.

—**1996.** Deleted “and hold it” following “unlicensed dog” in the third sentence, added the fourth sentence and added “if the licensed dog is seized, it shall be held” preceding “in a town or city” in the fifth sentence.

—**1995.** Rewrote the former second sentence as the present second and third sentences.

—**1994.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1987.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1983.** Substituted “\$5” for “\$3”.

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

—1967. Substituted “June” for “May” and deleted “and any person may” after “keepers thereof”.

—1965. Inserted “either to collect the fees due and pay them over to their respective town or city clerk or” preceding “to kill”.

**Cross References.** Proceedings as to dogs maintained by humane societies, see RSA 466:18-a.

#### NOTES TO DECISIONS

**Cited** Cited in *State v. M'Duffie*, 34 N.H. 523, 1857 N.H. LEXIS 133 (1857); *Morey v. Brown*, 42 N.H. 373, 1861 N.H. LEXIS 116 (1861); *Hurd v. Chesley*, 55 N.H. 21, 1874 N.H. LEXIS 5 (1874).

#### 466:15 Fees.

Such officers, other than those employed under regular pay, shall receive such compensation for services performed under RSA 466:14 as may be determined by the mayor of the city or the selectmen of the town in which such dogs are seized and held.

**Source.** RS 127:5. CS 133:5. GS 105:5. GL 115:7. PS 118:8. 1891, 60:11. PL 150:19. RL 180:19. RSA 466:15. 1965, 325:3, eff. April 1, 1966.

**Revision note.** At the end of the section, substituted “seized and held” for “destroyed” for purposes of conformity with RSA 466:14, as amended, which no longer specifically provides for destruction of unlicensed dogs.

#### Amendments

—1965. Rewritten to the extent that a detailed comparison would be impracticable.

#### NOTES TO DECISIONS

**Cited** Cited in *State v. M'Duffie*, 34 N.H. 523, 1857 N.H. LEXIS 133 (1857); *Morey v. Brown*, 42 N.H. 373, 1861 N.H. LEXIS 116 (1861); *Hurd v. Chesley*, 55 N.H. 21, 1874 N.H. LEXIS 5 (1874); *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

#### 466:16 Returns.

Each local law enforcement officer to whom the warrant named in RSA 466:14 is issued shall return the warrant, on or before August 31, to the local governing body issuing it and, shall state in the return the number of owners who received and paid the civil forfeiture, the number of dogs in the city or town which have been seized and held under the provisions of RSA 466:14, and the number of owners who have received summons to a district or municipal court for failure to pay the civil forfeiture pursuant to RSA 466:13 or to license the dog pursuant to RSA 466:1.

**Source.** 1891, 60:12. PL 150:20. RL 180:20. RSA 466:16. 1994, 353:8, eff. Jan. 1, 1995. 2000, 128:2, eff. Jan. 1, 2001.



**Revision note.** Substituted “seized and held” for “killed” following “the number of dogs” and “city or town have been” for purpose of conformity with RSA 466:14, as amended, which no longer specifically provides for destruction of unlicensed dogs.

#### **Amendments**

—**2000.** Substituted “August 31” for “July 30”.

—**1994.** Rewritten to the extent that a detailed comparison would be impracticable.

#### **NOTES TO DECISIONS**

**Cited** Cited in *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899).

**466:17, 466:18.**

[Repealed 1967, 30:1, eff. May 15, 1967.]

**Former section(s).** Former RSA 466:17 and 466:18, which were derived from 1891, 60:13; PL 150:21, 22; and RL 180:21, 22, related to certificates issued by mayors and chairmen of the selectmen, and the prosecution of city and town officers who failed to comply with the provisions of the chapter. See now RSA 466:37.

#### **466:18-a Title to Unlicensed Dogs in Humane Societies.**

Whenever an incorporated society for the prevention of cruelty to animals shall keep and maintain for 7 consecutive days an unlicensed dog whose owner is unknown, full title to the unlicensed dog shall pass to the society at the end of the 7-day period, unless the owner of the dog shall, before the expiration of the period, cause the dog to be licensed and shall pay the society a necessary and reasonable fee per day for each day the dog has been kept and maintained by the society, plus any necessary veterinary fees incurred by the society for the benefit of the dog.

**Source.** 1955, 84:1. 1977, 29:2; 559:2. 1983, 198:2. 1987, 91:2, eff. July 5, 1987.

#### **Amendments**

—**1987.** Substituted “a necessary and reasonable fee” for “the sum of \$5” preceding “per day for each day” and made other minor stylistic changes.

—**1983.** Substituted “\$5” for “\$3”.

—**1977.** Chapters 29 and 559 rewrote section to the extent that a detailed comparison would be impracticable.

## Remedies and Penalties for Injuries Done by Dogs

466:19 Liability of Owner or Keeper.  
466:20 Double Damages.  
466:21 Liability of Towns or Cities.  
466:22 Procedure to Enforce.  
466:23 Suit.  
466:24 Costs.  
466:25 Orders, How Payable.  
466:26 Recovery Over.  
466:27 Remedies.  
466:28 Killing Dogs Legalized.

**Cross References.** Liability of owners for damages to game by dogs, see RSA 466:33 et seq.

Liability of owners for failure to control dogs deemed to be vicious, a menace or a nuisance, see RSA 466:31-a.

Liability of owners for failure to restrain dogs under municipal dog control ordinances, see RSA 466:30-a.

### **466:19 Liability of Owner or Keeper.**

Any person to whom or to whose property, including sheep, lambs, fowl, or other domestic creatures, damage may be occasioned by a dog not owned or kept by such person shall be entitled to recover damages from the person who owns, keeps, or possesses the dog, unless the damage was occasioned to a person who was engaged in the commission of a trespass or other tort. A parent or guardian shall be liable under this section if the owner or keeper of the dog is a minor.

**Source.** 1851, 1124. CS 133:7. GS 105:7. GL 115:10. PS 118:9. PL 150:23. RL 180:23. RSA 466:19. 1989, 158:1. 1991, 213:1. 1995, 298:11, eff. Jan. 1, 1996.

### **Amendments**

—**1995.** Substituted “such person” for “him” preceding “shall be”, “damages from” for “such damage of” following “recover”, “owns, keeps, or possesses the dog” for “owns or keeps the dog, or has it in his possession” preceding “unless the damage” and “a person who” for “him while he” preceding “was engaged” in the first sentence.

—**1991.** Inserted “including sheep, lambs, fowl, or other domestic creatures” following “property”.

—**1989.** Added the second sentence.

## NOTES TO DECISIONS

1. Common law
2. Purpose
3. Construction
4. Construction with other laws
5. Basis for liability—Generally
  6. —Liability as keeper
  7. —Liability as person in possession
8. Defenses—Exercise of care by owner
  9. —Contributory negligence
  10. —Trespass or other tort
11. Pleadings
12. Instructions
13. Jurisdiction

### 1. Common law

In an action at common law for injuries caused by a dog, the burden of proof was upon the plaintiff to establish that the owner of the dog knew or had reason to know that it had vicious propensities. *Orne v. Roberts*, 51 N.H. 110, 1871 N.H. LEXIS 13 (1871). See also *Gagnon v. Frank*, 83 N.H. 122, 139 A. 373, 1927 N.H. LEXIS 47 (1927).

### 2. Purpose

The purpose for the enactment of this section was to obviate the difficulty of showing the owner's knowledge of the vicious propensities of the dog as required at common law. *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984).

The purpose of this section, imposing liability on the keeper of a dog for injuries and property damage caused by it to any person, unless the danger was occasioned while such person was engaged in the commission of a trespass or other tort, is to obviate the difficulty of showing the owner's or keeper's knowledge of the vicious propensities of the dog as required by common law. *Wike v. Allison*, 105 N.H. 393, 200 A.2d 860, 1964 N.H. LEXIS 86 (1964).

### 3. Construction

(Unpublished) Summary judgment to defendant was warranted in plaintiff's dog-bite action under RSA 466:19, as the dog's act of bolting into a roadway, which caused plaintiff to swerve while on her motorcycle and hit a telephone pole, was not vicious or mischievous for purposes of statutory coverage. *Lorrain v. Branscombe*, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 10188 (Jan. 30, 2012).

Legislature did not intend wording of this section to encompass father's claim for mental and emotional injuries incurred as a result of witnessing defendants' dog attack his daughter. *Douglas v. Fulis*, 138 N.H. 740, 645 A.2d 76, 1994 N.H. LEXIS 95 (1994).

This section is to be given a reasonable interpretation. *Gagnon v. Frank*, 83 N.H. 122, 139 A. 373, 1927 N.H. LEXIS 47 (1927).

One hired to care for the dog may not recover under this section. *Gagnon v. Frank*, 83 N.H. 122, 139

A. 373, 1927 N.H. LEXIS 47 (1927).

#### **4. Construction with other laws**

This section and former RSA 466:20 were not intended to cover a situation where no vicious or mischievous acts by a dog were alleged. *Noyes v. Labrecque*, 106 N.H. 357, 211 A.2d 421, 1965 N.H. LEXIS 167 (1965).

#### **5. Basis for liability—Generally**

Trial court erred in requiring plaintiffs to elect between their common law negligence claims and their claim under the dog bite statute. *Hewes v. Roby*, 135 N.H. 476, 606 A.2d 810, 1992 N.H. LEXIS 61 (1992).

This section makes owners or keepers of dogs strictly liable for harm caused by their dogs' vicious or mischievous acts. *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984).

A person injured by a dog may recover damages from either the owner or the keeper, but not from both. *Gagnon v. Martin*, 116 N.H. 336, 358 A.2d 406, 1976 N.H. LEXIS 347 (1976).

#### **6. —Liability as keeper**

(Unpublished) Summary judgment to defendant was warranted in plaintiff's dog-bite action under RSA 466:19, as plaintiff failed to sufficiently show that defendant was the dog's keeper; the dog was owned by defendant's son, who lived and worked on defendant's business premises. *Lorrain v. Branscombe*, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 10188 (Jan. 30, 2012).

Where the evidence showed that a husband had sole care and control of a dog and that his wife had nothing to do with the dog, the wife was not chargeable as its keeper. *Janus v. Akstin*, 91 N.H. 373, 20 A.2d 552, 1941 N.H. LEXIS 29 (1941).

The word “kept” implies more than a mere harboring of the animal for a limited purpose or time, and a person becomes liable as a “keeper” only when, either with or without the owner's permission, he undertakes to manage, control or care for a dog in the manner of dog owners in general; it is not enough that he permits the casual presence of a dog upon his premises and merely feeds or shelters it. *Raymond v. Bujold*, 89 N.H. 380, 199 A. 91, 1938 N.H. LEXIS 41 (1938).

One who retains another's lost dog in his possession for only a limited time and only for the purpose of delivering it to its owner upon demand is not its keeper within this section. *Raymond v. Bujold*, 89 N.H. 380, 199 A. 91, 1938 N.H. LEXIS 41 (1938).

#### **7. —Liability as person in possession**

The fact that a head of a family merely permitted a dog to remain in his household did not warrant a finding that he was “in possession,” so as to be liable under this section for injuries caused by it, where the actual ownership, care, custody and control of the dog was in an adult member of the family. *Glidden v. Szybiak*, 95 N.H. 318, 63 A.2d 233, 1949 N.H. LEXIS 1 (1949).

A finding that a wife had her husband's dog in her possession was not warranted where the husband testified that his wife did not like the dog and that the husband when there, and his boy when the husband was away, took care of the dog. *Janus v. Akstin*, 91 N.H. 373, 20 A.2d 552, 1941 N.H. LEXIS 29 (1941).

#### **8. Defenses—Exercise of care by owner**

In actions under this section, no question of care or negligence on the part of the dog owner is

involved; the utmost vigilance to prevent his dog from doing an injury affords him no defense. *Chickering v. Lord*, 67 N.H. 555, 32 A. 773, 1893 N.H. LEXIS 54 (1894).

### **9. —Contributory negligence**

Comparative fault statute, RSA 507:7-d, applies to cases brought under the dog owners liability statute. *Bohan v. Ritzo*, 141 N.H. 210, 679 A.2d 597, 1996 N.H. LEXIS 73 (1996).

Where the events which gave rise to plaintiffs' action occurred before the effective date of statute which abolished defense of contributory negligence as it applied to statutory liability, defense of contributory negligence applied to their claim under the dog bite statute and the defense of comparative negligence applied to their negligence claim. *Hewes v. Roby*, 135 N.H. 476, 606 A.2d 810, 1992 N.H. LEXIS 61 (1992).

This section does not confer a right of action to a person whose injury is due wholly or in part to his own negligence. *Wike v. Allison*, 105 N.H. 393, 200 A.2d 860, 1964 N.H. LEXIS 86 (1964).

The doctrine of contributory negligence applies in an action to enforce the statutory liability. *Quimby v. Woodbury*, 63 N.H. 370, 1885 N.H. LEXIS 36 (1885), superseded by statute as stated in, *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984).

### **10. —Trespass or other tort**

In an action to recover for personal injuries sustained as the result of being bitten by dogs in the possession of defendant, plaintiff's entry on defendant's land on lawful business at a reasonable hour of the day without being warned or asked to leave and without disturbing or damaging defendant's property did not constitute a "trespass or other tort" within the meaning of this section. *Frenette v. Gillis*, 106 N.H. 210, 208 A.2d 453, 1965 N.H. LEXIS 129 (1965).

In an action under this section to recover for a dog bite received by a child, the fact that the child engaged in play with the dog and pulled its ears did not constitute a trespass which would prevent recovery where there was no evidence that the dog was in any way injured thereby. *Glidden v. Szybiak*, 95 N.H. 318, 63 A.2d 233, 1949 N.H. LEXIS 1 (1949).

### **11. Pleadings**

Where defendants' dog ran toward plaintiff's leg as if to bite him, resulting in plaintiff's reacting instinctively, falling, and badly injuring himself, plaintiff sufficiently alleged mischievousness on part of dog, and an actual bite or other direct physical contact was not required. *Bohan v. Ritzo*, 141 N.H. 210, 679 A.2d 597, 1996 N.H. LEXIS 73 (1996).

The declaration in an action to recover for injury done by a dog is not defective because it fails to formally allege plaintiff's freedom from fault. *Smith v. Hallahan*, 75 N.H. 534, 78 A. 122, 1910 N.H. LEXIS 42 (1910).

### **12. Instructions**

An instruction that "if the head of a family, having the possession and control of a house or premises, suffer or permit a dog to be kept on the premises in the way such domestic animals are usually kept, ... such head of a family may be regarded as the keeper of a dog within the meaning of the statute" is sufficiently favorable to the defendant. *Cummings v. Riley*, 52 N.H. 368, 1872 N.H. LEXIS 53 (1872).

### **13. Jurisdiction**

(Unpublished) Federal court had jurisdiction over a dog-bite action under RSA 466:19 where there

was diversity under 28 U.S.C.S. § 1332(a)(1), as plaintiff was a citizen of Maine, defendant was a citizen of New Hampshire, and the amount in controversy exceeded \$ 75,000. *Lorrain v. Branscombe*, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 10188 (Jan. 30, 2012).

**Cited** Cited in *East Kingston v. Towle*, 48 N.H. 57, 1868 N.H. LEXIS 13 (1868); *McIntire v. Plaisted*, 57 N.H. 606, 1876 N.H. LEXIS 134 (1876); *Whitaker v. Warren*, 60 N.H. 20, 1880 N.H. LEXIS 57 (1880); *Chickering v. Lord*, 67 N.H. 555, 32 A. 773, 1893 N.H. LEXIS 54 (1894); *Unity v. Pike*, 68 N.H. 71, 44 A. 78, 1894 N.H. LEXIS 33 (1894); *Colby v. Lee*, 83 N.H. 303, 142 A. 115, 1928 N.H. LEXIS 20 (1928); *Richards v. Leppard*, 118 N.H. 666, 392 A.2d 588, 1978 N.H. LEXIS 265 (1978); *Bagley v. Controlled Env't Corp.*, 127 N.H. 556, 503 A.2d 823, 1986 N.H. LEXIS 201 (1986).

## RESEARCH REFERENCES

**New Hampshire Practice** 8-4 N.H.P. Personal Injury-Tort & Insurance Practice § 4.09.

8-4 N.H.P. Personal Injury-Tort & Insurance Practice § 4.25.

8-5 N.H.P. Personal Injury-Tort & Insurance Practice § 5.02.

### **466:20 Double Damages.**

[Repealed 1985, 126:2, eff. Jan. 1, 1986.]

**Former section(s).** Former RSA 466:20, which was derived from 1863, 2753:1; GS 105:8; GL 115:11; PS 118:10; 1891, 60:14; PL 150:24; and RL 180:24, related to double damages.

## NOTES TO DECISIONS

1. Constitutionality
2. Construction
3. Construction with other laws
4. Applicability
5. Pleadings

### **1. Constitutionality**

This section represents a reasonable response to the problem of injuries caused by dogs, and, by its deterrent effect, bears a substantial relationship to its object and the classifications of tortfeasors it creates; thus, it does not contravene the right of a dog owner to equal protection of the laws as guaranteed by the state constitution. *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984). (Decided under prior law.)

While this section is neither distinctively penal nor remedial, it is so far penal that it is not unconstitutional by reason of authorizing the recovery of double damages. *Craig v. Gerrish*, 58 N.H. 513, 1879 N.H. LEXIS 228 (1879); *Quimby v. Woodbury*, 63 N.H. 370, 1885 N.H. LEXIS 36 (1885), superseded by statute as stated in, *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984). (Decided under prior law.)

### **2. Construction**

This section is penal so far as it imposes the payment of double damages as a forfeiture, and remedial so far as it provides for the recovery of damages as compensation for the injury done. *Quimby v. Woodbury*, 63 N.H. 370, 1885 N.H. LEXIS 36 (1885), superseded by statute as stated in, *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984). (Decided under prior law.)

### **3. Construction with other laws**

This section and RSA 466:19 were not intended to cover a situation where no vicious or mischievous acts by a dog were alleged. *Noyes v. Labrecque*, 106 N.H. 357, 211 A.2d 421, 1965 N.H. LEXIS 167 (1965). (Decided under prior law.)

### **4. Applicability**

This section applies to both an action founded on RSA 466:19, governing liability of dog owners or keepers, and a common law negligence action for damages resulting from injuries inflicted by a dog. *Allgeyer v. Lincoln*, 125 N.H. 503, 484 A.2d 1079, 1984 N.H. LEXIS 406 (1984). (Decided under prior law.)

### **5. Pleadings**

The fact that one who has been injured by a dog declares “in an action of tort” is sufficient to show that the action is brought under this section so as to permit recovery of the double damages provided for by the section, although not in the terms declared for. *Smith v. Hallahan*, 75 N.H. 534, 78 A. 122, 1910 N.H. LEXIS 42 (1910). (Decided under prior law.)

#### **466:21 Liability of Towns or Cities.**

[Repealed 2011, 152:1, I, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:21, which was derived from 1863, 2753:3; GS 105:10, 12–14; GL 115:13–16; 1889, 97:1; PS 118:11–14; 1891, 60:16, 18; 1907, 103:1; PL 150:25; RL 180:25; RSA 466:21; and 1995, 298:12, related to the liability of towns or cities for damages caused by dogs.

#### **466:22 Procedure to Enforce.**

[Repealed 2011, 152:1, II, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:22, which was derived from 1863, 2753:3; GS 105:10, 12–14; GL 115:13–16; 1889, 97:1; PS 118:11–14; 1891, 60:16, 18; 1907, 103:1; PL 150:26; RL 180:26; RSA 466:22; 1991, 213:2; and 1995, 298:13, related to enforcement of statements of damage done by dogs as presented to municipal officers.

#### **466:23 Suit.**

[Repealed 2011, 152:1, III, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:23, which was derived from 1863, 2753:3; GS 105:10, 12–14; GL 115:13–16; 1889, 97:1; PS 118:11–14; 1891, 60:16, 18; 1907, 103:1; PL 150:27; RL 180:27; RSA 466:23; and 1995, 298:14, related to lawsuits against municipalities regarding damages caused by dogs.

#### **466:24 Costs.**

[Repealed 2011, 152:1, IV, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:24, which was derived from 1863, 2753:3; GS 105:10, 12–14; GL 115:13–16; 1889, 97:1; PS 118:11–14; 1891, 60:16, 18; 1907, 103:1; PL 150:28; RL 180:28; RSA 466:24; and 1995, 298:15, related to costs of lawsuits regarding damage caused by dogs.

#### **466:25 Orders, How Payable.**

[Repealed 2011, 152:1, V, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:25, which was derived from 1863, 2753:3; GS 105:10, 12–14; GL 115:13–16; 1889, 97:1; PS 118:11–14; 1891, 60:16, 18; 1907, 103:1; PL 150:29; RL 180:29; RSA 466:25; and 1995, 298:16, related to payment of orders in lawsuits regarding damages caused by dogs.

#### **466:26 Recovery Over.**

[Repealed 2011, 152:1, VI, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:26, which was derived from 1863, 2753:3; GS 105:13; GL 115:16; PS 118:13; PL 150:30; and RL 180:30, related to the recovery of damages by a municipality from a dog owner.

#### **466:27 Remedies.**

[Repealed 2011, 152:1, VII, eff. August 7, 2011.]

**Former section(s).** Former RSA 466:27, which was derived from 1891, 60:17; PL 150:31; RL 180:31; RSA 466:27; 1985, 126:1; and 1991, 213:3, related to reasonable efforts to recover damages caused by dogs from dog owners.



## **466:28 Killing Dogs Legalized.**

Any person may kill a dog that suddenly assaults the person while such person is peaceably walking or riding without the enclosure of its owner or keeper; and any person may kill a dog that is found out of the enclosure or immediate care of its owner or keeper worrying, wounding, or killing sheep, lambs, fowl, or other domestic animals.

**Source.** 1891, 60:15. PL 150:32. RL 180:32. RSA 466:28. 1991, 213:4., 1995, 298:17, eff. Jan. 1, 1996.

### **Amendments**

—**1995.** Substituted “the person” for “him” following “assaults” and “such person” for “he” preceding “is peaceably”.

—**1991.** Deleted “neat cattle” preceding “sheep” and inserted “lambs, fowl” thereafter.

**Cross References.** Killing of dogs maiming or pursuing game, see RSA 466:36.

## **Muzzling and Restraining Dogs**

466:29 Order; Rabies Epidemic.

466:29-a Hearing.

466:30 Special Notice.

466:30-a Dog Control Law.

466:30-b Referendum.

466:31 Dogs a Menace, a Nuisance or Vicious.

466:31-a Penalties.

466:32 Officers' Fees.

**Cross References.** Power of cities to adopt bylaws regulating dogs running at large, see RSA 47:17.

Power of towns to adopt bylaws regulating dogs running at large, see RSA 31:39.

### **466:29 Order; Rabies Epidemic.**

**I.** In the case of a rabies epidemic, the mayor and aldermen of a city or the selectmen of a town may order that all dogs within the limits of the city or town shall be muzzled or restrained from running at large during the time prescribed by such order. After passing the order, the governing body of such city or town shall post a certified copy of the order in 2 or more public

places in the city or town, or, if a daily newspaper is published in the city or town, publish a copy at least once in the newspaper.

**II.** The mayor or aldermen or selectmen may issue their warrant to one or more of the police officers of such city or town who shall, after 24 hours from the publication of the notice required under paragraph I, impound all dogs found running at large contrary to such order. The dog owner shall be notified, if the owner's identity is known. Any dog impounded in accordance with this section who has been conclusively found to be rabid shall be destroyed in the most humane manner possible. After 7 consecutive days of impoundment, title of a dog shall pass to the facility holding the dog, unless the owner has claimed such dog. The owner of the dog shall be responsible for all costs associated with the impoundment of the dog under this section.

**Source.** 1891, 60:19. PL 150:33. RL 180:33. RSA 466:29. 1955, 117:1. 1989, 158:2. 1995, 298:18, eff. Jan. 1, 1996.

#### **Amendments**

—**1995.** Paragraph II: Substituted “the owner’s” for “his” preceding “identity” in the second sentence and “the dog” for “his dog” following “impoundment of” in the fifth sentence.

—**1989.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1955.** Added “after a hearing, if any is required by the provisions of RSA 466: 29-a” at the beginning of the first sentence.

**Cross References.** Adoption by referendum of provision controlling dogs running at large, see RSA 466:30-a, 30-b.

Compensation of police officers or constables for services, see RSA 466:32.

Impoundment of rabies suspects, see RSA 436:105.

#### **466:29-a Hearing.**

[Repealed 1989, 158:8, eff. July 16, 1989.]

**Former section(s).** Former RSA 466:29-a, which was derived from 1955, 117:2, related to hearings on orders requiring dogs to be muzzled or restrained from running at large.

#### **466:30 Special Notice.**

The mayor and aldermen or selectmen may cause special service of any order issued under RSA 466:29 to be made upon any person, requiring that a dog owned or kept by the person shall be muzzled or restrained from running at large, by causing a certified copy of the order to be

delivered to such person. If the person refuses or neglects to comply within 12 hours, the person shall be fined not more than \$25.

**Source.** 1891, 60:21. PL 150:34. RL 180:34. RSA 466:30. 1989, 158:3. 1995, 298:19, eff. Jan. 1, 1996.

### **Amendments**

—**1995.** Substituted “the person” for “him” preceding “shall be” and “such person” for “him” following “delivered to” in the first sentence and “the person” for “he” preceding “refuses” and deleted “he” following “12 hours” in the second sentence.

—**1989.** Rewritten to the extent that a detailed comparison would be impracticable.

### **NOTES TO DECISIONS**

**Cited** Cited in *State v. McConnell*, 70 N.H. 158, 46 A. 458, 1899 N.H. LEXIS 79 (1900).

### **466:30-a Dog Control Law.**

**I.** Notwithstanding any other provisions of this chapter, it shall be unlawful for any dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, for guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), for supervised competition and exhibition, or for training for such. For the purpose of this section, “accompanied” means that the owner or custodian must be able to see or hear, or both, or have reasonable knowledge of where the dog is hunting, where training is being conducted, where trials are being held, or where the dog is guarding, working, or herding livestock. Nothing herein provided shall mean that the dog must be within sight at all times.

**II.** In this section, “at large” means off the premises of the owner or keeper and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner or custodian.

**III.** Any authorized person may seize, impound or restrain any dog in violation of this section and deliver said dog to a person or shelter authorized to board dogs. Such dogs shall be handled as strays or abandoned dogs pursuant to applicable laws.

**IV.** In addition to impounding a dog found at large or in violation of this section, any local law enforcement officer may issue, in the name of the owner or keeper of such dog, a notice of violation for a nuisance dog pursuant to RSA 466:31, II(a).

**V.** The provisions of this section shall not be effective in any city or town unless adopted by a city or town pursuant to RSA 466:30-b.

**Source.** 1977, 379:1. 1994, 353:9, eff. Jan. 1, 1995. 2006, 11:1, eff. March 3, 2006.

## Amendments

—**2006.** Paragraph I: Inserted “guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), for” preceding “supervised competition” and “for” preceding “training for such” in the first sentence and rewrote the second sentence.

—**1994.** Paragraph IV: Rewritten to the extent that a detailed comparison would be impracticable.

**Effective Date.** 1977, 379:2, II, provided:

“RSA 466:30-a shall take effect as provided in RSA 466:30-b [which provides for adoption of the provisions of RSA 466:30-a by referendum].”

**Cross References.** Classification of crimes, see RSA 625:9.

Confinement of wolf hybrids, see RSA 466-A:5.

Custody and disposition of unclaimed and abandoned animals, see RSA 437:18 et seq.

Sentences, see RSA 651.

## NOTES TO DECISIONS

### Liability of town

#### Liability of town

Because the Dog Control Law, RSA 466:30-a did not impose liability upon a town to prevent a stray dog from wandering onto a homeowner's property and chewing on the homeowner's dwelling, the district court erred as a matter of law in finding the town liable to the homeowner. *Cui v. Chief, Barrington Police Dep't*, 155 N.H. 447, 924 A.2d 397, 2007 N.H. LEXIS 76 (2007).

#### 466:30-b Referendum.

**I. (a)** Any city or town desiring to adopt the provisions of RSA 466:30-a may do so by approving as described in paragraph II or III the following question: “Shall we adopt the provisions of RSA 466:30-a which make it unlawful for any dog to run at large, except when accompanied by the owner or custodian, and when used for hunting, herding, supervised competition and exhibition or training for such?”

**(b)** The ballot containing the question shall include 2 squares next to the question allowing the voter to vote “Yes” or “No.” If no cross is made in either of the squares, the ballot shall not be counted on the question.

**(c)** If a majority of those voting on the question vote “Yes,” RSA 466:30-a shall apply within the city or town.

**II. (a)** In a town, the question shall be included in the annual meeting warrant upon a vote of

the selectmen or upon application of voters according to the provisions of RSA 39:3 for annual meetings.

(b) The selectmen shall hold a public hearing on the question at least 15 days but not more than 30 days before the annual meeting. Notice of the hearing shall be posted in 2 public places in the town and published in a newspaper of general circulation in the town at least 7 days in advance.

(c) Voting shall be by official ballot if that system has been adopted by the town. In other towns, voting shall be by a special ballot prepared by the clerk.

**III.** In a city, the question shall be placed on the official ballot for any regular municipal election upon a vote of the city council or upon submission to the city council of a petition signed by 5 percent of the registered voters.

**IV.** Any town or city which has adopted RSA 466:30-a may rescind its adoption by majority vote of those voting on the question submitted to the voters in the same manner as provided for adoption under paragraph II or III. The question on rescission shall read: “Shall we rescind our adoption of RSA 466:30-a concerning dog control so that it will no longer be unlawful for a dog to run at large in this town (or city)?”

**V.** A town or city which either does not adopt, or rescinds its adoption of, RSA 466:30-a, may adopt other ordinances pertaining to dogs running at large under RSA 31:39 or RSA 47:17, XI.

**Source.** 1977, 379:1. 1979, 14:1. 1981, 407:1, eff. Aug. 22, 1981.

#### **Amendments**

—1981. Rewritten to the extent that a detailed comparison would be impracticable.

—1979. Rewritten to the extent that a detailed comparison would be impracticable.

**Applicability of 1979.** 1979, 14:2, eff. May 18, 1979, provided:

“Section 1 of this act [which amended this section] shall not apply to those cities and towns which have previously adopted RSA 466:30-a.”

**Contingent 1999 amendment.** 1999, 278:16, eff. July 14, 1999, provided:

“If a constitutional amendment to the New Hampshire constitution providing that municipalities shall have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions is adopted by the voters in the 2000 general election, then sections 1–15 of this act [which amended this section and RSA 31:39; 41:11; 47:17; 143-A:5, I, III; 149-M:17, II(b); 179:19, V; 231:132-a, Intro. par.; 266:24, I; 502:14; and 502-A:8, enacted RSA 31:39-b and 47:17-a, and repealed RSA 31:39-a; 31:40–43], shall take effect January 1, 2001. If such a constitutional amendment is not adopted, then sections 1–15 of this act shall not take effect.”

**Contingent 1999 amendment; outcome of 2000 general election.** In the 2000 general election, the voters of New Hampshire rejected the constitutional amendment referred to above, which would have provided that municipalities would have home rule authority to exercise any powers not specifically prohibited by the state or federal constitutions. Consequently, sections 1–15 of 1999, 278:16 [which amended this section and RSA 31:39; 41:11; 47:17; 143-A:5, I, III; 149-M:17, II(b); 179:19, V; 231:132-a, Intro. par.; 266:24, I; 502:14; and 502-A:8, enacted RSA 31:39-b and 47:17-a, and repealed RSA 31:39-a; 31:40–43] did not take effect.

## **466:31 Dogs a Menace, a Nuisance or Vicious.**

### **I. [Repealed.]**

**II.** Under this section, a dog is considered to be a nuisance, a menace, or vicious to persons or to property under any or all but not limited to the following conditions:

(a) If a dog is “at large,” which means it is off the premises of the owner or keeper and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner or custodian. This subparagraph shall not include a dog which is being used for hunting, supervised competition, exhibition, or training for such activities if accompanied by the owner or custodian, or a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), meaning that the owner or custodian must be able to see or hear the dog, or have reasonable knowledge of where the dog is hunting or herding, or where training is being conducted or where trials are being held, provided that such dog does not have to be within sight at all time;

(b) If it barks for sustained periods of more than ½ hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4);

(c) If it digs, scratches, or excretes, or causes waste or garbage to be scattered on property other than its owner’s;

(d) If any female dog in season (heat) is permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult. At all other times such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog. A female dog in heat shall not be used for hunting;

(e) If it growls, snaps at, runs after, or chases any person or persons not on the premises of the owner or keeper;

(f) If it runs after, or chases bicycles, motor vehicles, motorcycles, or other vehicles being driven, pulled or pushed on the streets, highways, or public ways;

(g) If, whether alone or in a pack with other dogs, it bites, attacks, or preys on game

animals, domestic animals, fowl or human beings.

**II-a.** If the skin of a person has been punctured by a dog and the incident was reported, including the identity of the dog and its owner, to the animal officer, if any, or to the town clerk, such officer or clerk shall, within 24 hours, notify the injured person, or, in the case of a minor, the minor's parent or guardian, whether, according to town records, the dog has been appropriately immunized against rabies.

**III. (a)** Any person who fails, by appropriate action including but not limited to restraining an animal from running at large, or otherwise effectively abating a nuisance found such under the provisions of this section, or who fails to comply with any other provisions of this section after being so ordered, shall have the person's dog taken into custody by the police of the city, constable of the town, or other person authorized by the town and such disposition made of the dog as the court may order.

**(b)** Notwithstanding RSA 466:31-a, if a law enforcement officer does not witness the nuisance behavior, the name of the complainant shall be released as public information before any fine under RSA 466:31-a shall be levied.

**Source.** 1951, 52:1. RSA 466:31. 1957, 148:1. 1967, 294:1. 1969, 239:1. 1973, 531:125. 1977, 222:1. 1989, 158:4. 1994, 353:10, 14, eff. Jan. 1, 1995. 1995, 298:20, eff. Jan. 1, 1996. 2006, 11:2, eff. March 3, 2006. 2007, 244:1, eff. August 27, 2007.

### **Amendments**

—**2007.** Paragraph III(a): Deleted “or” preceding “constable of the town” and inserted “or other person authorized by the town” thereafter.

—**2006.** Paragraph II(a): Deleted “herding” preceding “supervised competition” and “or” thereafter and inserted “or a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4)” following “or custodian” in the second sentence.

Paragraph II(b): Added “not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4)” at the end.

Paragraph II(e): Added “not on the premises of the owner or keeper” at the end.

—**1995.** Paragraph III: Designated the existing provisions of the paragraph as subpar. (a) and substituted “the person's” for “his” preceding “dog taken” in that subparagraph and added subpar. (b).

—**1994.** Paragraph I: Repealed.

Paragraph II: Added a new subpar. (a), redesignated former subpar. (a) as subpar. (b) and substituted “more than ½ hour” for “time” following “periods of” in that subparagraph and redesignated former subpars. (b)–(f) as subpars. (c)–(g), respectively.

—**1989.** Paragraph II-a: Added.

—**1977.** Paragraph I: Inserted “in writing” following “make a complaint” in the first sentence.

Paragraphs II, III: Rewritten to the extent that a detailed comparison would be impracticable.

—**1973.** Paragraph III: Rewritten to the extent that a detailed comparison would be impracticable.

—**1969.** Paragraphs I, II: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraph III: Added.

—**1967.** Designated the existing provisions of the section as par. I, rewrote that paragraph, and added par. II.

—**1957.** Added the third and fourth sentences and rewrote the fifth sentence.

**Cross References.** Certification of rabies vaccination by veterinarian, see RSA 436:102.

Compensation of police officers or constables for services, see RSA 466:32.

Permitting dog to run at large in territory inhabited by game, see RSA 466:33.

### **466:31-a Penalties.**

**I.** Any person who violates any provision of RSA 466:31 shall be guilty of a violation; provided that if such person chooses to pay the civil forfeiture specified in paragraph II, the person shall be deemed to have waived the right to have the case heard in district or municipal court and shall not be prosecuted or found guilty of a violation of RSA 466:31. Any person who does not pay the civil forfeiture specified in paragraph II shall have the case disposed of in district or municipal court.

**II.** Any person who violates any of the provisions of RSA 466:31 shall be liable for a civil forfeiture, which shall be paid to the clerk of the town or city wherein such dog is owned or kept within 96 hours of the date and time notice is given by any law enforcement officer or other person authorized by the town to the owner or keeper of a dog in violation of RSA 466:31. If the forfeiture is paid, said payment shall be in full satisfaction of the assessed penalty. The forfeiture shall be in the amount as specified for the following violations:

(a) \$25 for the first nuisance offense under RSA 466:31, II(a), (b), (c) or (d); \$100 for the second or subsequent nuisance offense committed within 12 months of the first nuisance offense under RSA 466:31, II(a), (b), (c) or (d).

(b) \$50 for the first menace offense under RSA 466:31, II(e) or (f); \$200 for the second or subsequent menace offense committed within 12 months of the first menace offense under RSA 466:31, II(e) or (f).

(c) \$100 for the first vicious offense under RSA 466:31, II(g).

(d) \$400 for the second or subsequent vicious offense committed within 12 months of the first vicious offense under RSA 466:31, II(g).



**III.** Any person who pays a civil forfeiture specified in paragraph II 2 times in any 12-month period according to the records of the town or city clerk, may not pay a civil forfeiture for subsequent violations of RSA 466:31 in that 12-month period, but shall have those cases disposed of in district or municipal court. In the case of a vicious dog, as described by RSA 466:31, II(g), where its behavior presents a threat to public safety, immediate district court or municipal court proceedings may be initiated in lieu of the civil forfeiture.

**Source.** 1977, 222:2. 1989, 158:5, 6. 1994, 353:11, 12, eff. Jan. 1, 1995. 1995, 298:21, eff. Jan. 1, 1996. 2007, 244:2, eff. August 27, 2007; 339:3 eff. January 1, 2008.

### **Amendments**

—**2007.** Paragraph II: Chapter 244 inserted “or other person authorized by the town” preceding “to the owner” in the introductory paragraph.

Paragraph II: Chapter 339 substituted “\$100” for “\$50” preceding “for the second”, inserted “or subsequent” preceding “nuisance offense” in subpar. (a), substituted “\$200” for “\$100” following “RSA 466:31, II(e) or (f)” in subpar. (b) and “\$400” for “\$200” preceding “for the second or subsequent” in subpar. (d).

—**1995.** Paragraph I: Substituted “the person” for “he” following “paragraph II”, “the” for “his” following “waived” and deleted “he” preceding “shall not” in the first sentence.

—**1994.** Paragraph II: Amended subpars. (a)–(c) generally and added subpar. (d).

Paragraph III: Substituted “12-month period” for “year” in two places in the first sentence and added the second sentence.

—**1989.** Paragraph II(a): Substituted “\$25” for “\$10”.

Paragraph II(b): Substituted “\$50” for “\$15”.

Paragraph II(c): Substituted “\$100” for “\$25”.

Paragraph III: Substituted “2” for “3” preceding “times”.

**Contingent 2007 amendment.** 2007, 339:4, eff. January 1, 2008, provided, in part: “If HB 44 [ch. 244] of the 2007 legislative session becomes law, then section 3 of this act [which amended this section] shall take effect January 1, 2008 and section 2 of this act [which amended this section] shall not take effect.” Pursuant to the terms of this provision, the section is set out above as amended by 2007, 339:3.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

### **466:32 Officers' Fees.**

Police officers or constables shall be compensated for service under RSA 466:31 as provided in RSA 466:15.

**Source.** 1891, 60:20. PL 150:35. RL 180:35. 1953, 52:2. RSA 466:32. 1989, 158:7, eff. July 16, 1989.

#### **Amendments**

—**1989.** Deleted “RSA 466:29 and” preceding “RSA 466:31”.

### **Damages to Game**

466:33 Dogs at Large.

466:34 Pursuing Game, etc.

466:35 Maiming Game.

466:36 Killing Dogs.

#### **466:33 Dogs at Large.**

It shall be unlawful for the owner or custodian of any dog to permit such dog to run at large in territory inhabited by game birds or quadrupeds, or on lands where livestock is pastured, at any time of the year; provided that hares and rabbits may be hunted with dogs during the open season under the owner’s control and supervision. Any organized club may hold a club licensed or sanctioned field trial on game which is otherwise protected. Said club shall secure permission from the owner of the land on which said trial is to be held, and shall notify the executive director of the fish and game department at least 2 weeks in advance of the date and place of the trial. Whoever violates the provisions of this section shall be guilty of a violation. Dogs which are guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4), shall be exempt from this section.

**Source.** 1913, 143:1, 2. 1915, 14:1, 2. PL 150:36. 1933, 16:1. RL 180:36. 1947, 241:1. RSA 466:33. 1957, 154:1. 1961, 126:2; 149:1. 1971, 574:1. 1973, 531:126. 1977, 113:4, eff. June 2, 1977. 2006, 11:3, eff. March 3, 2006.

**Revision note.** In the second sentence, deleted “provided that” preceding “any organized game club” for purposes of clarity.

In the third sentence, substituted “the executive director of the fish and game department” for “the director of the fish and game department” pursuant to RSA 206:8, II.

#### **Amendments**

—**2006.** Deleted “therefor” following “open season” in the first sentence and added the fifth sentence.

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1973.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1971.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1961.** Chapter 126:2 deleted a proviso in the first sentence permitting the hunting of bear with dogs.

Chapter 149:1 substituted “January first” for “April first” and added a proviso permitting hunting of hares and rabbits with dogs in the first sentence.

—**1957.** Added a proviso in the first sentence permitting the hunting of bear or bobcat with dogs between January first and June first.

**Cross References.** Classification of crimes, see RSA 625:9.

Control of dogs running at large generally, see RSA 466:29, 30-a.

Hunting with dogs, see RSA 207:12-a et seq.

Sentences, see RSA 651.

#### NOTES TO DECISIONS

**Cited** Cited in *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

#### **466:34 Pursuing Game, etc.**

Any owner of a dog to whom notice has been given that such dog, when at large, has been discovered pursuing or harassing moose, caribou, deer or sheep, or injuring any domestic creature, shall be guilty of a violation for each subsequent occasion on which said dog shall be so discovered.

**Source.** 1899, 28:1. 1901, 10:11. PL 150:37. RL 180:37. RSA 466:34. 1971, 574:2. 1973, 531:127, eff. at 11:59 p.m., Oct. 31, 1973.

#### **Amendments**

—**1973.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1971.** Substituted “twenty-five dollars” for “five dollars”.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

#### NOTES TO DECISIONS

**Cited** Cited in *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

### **466:35 Maiming Game.**

If any dog, at any time, shall maim, injure or destroy any wild animal protected by law, the owner thereof shall be fined the same amount which the statutes impose upon persons for killing the same animal contrary to law.

**Source.** 1899, 28:1. 1901, 10:1. PL 150:38. RL 180:38.

### **466:36 Killing Dogs.**

Any conservation officer, state police officer, dog constable, or any New Hampshire certified police officer may kill any dog found in the act of maiming or in close pursuit of deer, moose, caribou, sheep, cattle, swine, poultry, or any domestic animal. No civil action for recovery of damages shall lie against any conservation officer, state police officer, dog constable, or any New Hampshire certified police officer while acting under authority granted herein. The owner or owners of any dog or dogs caught in the act of maiming or in close pursuit of deer, moose, caribou, sheep, cattle, swine, poultry, or any domestic animal shall be guilty of a violation and notwithstanding the provisions of Title LXII may be fined up to \$500.

**Source.** 1947, 241:2. RSA 466:36. 1967, 161:1. 1971, 574:3. 1977, 588:5. 1983, 68:1, eff. July 18, 1983.

#### **Amendments**

—**1983.** Deleted “or” preceding “dog constable” and inserted “or any New Hampshire certified police officer” thereafter in the first and second sentences, deleted “or” preceding “poultry” and inserted “or any domestic animal” thereafter in the first and third sentences, and substituted “violation and notwithstanding the provisions of Title LXII may be fined up to \$500” for “misdemeanor” in the third sentence.

—**1977.** Substituted “shall be guilty of a misdemeanor” for “may be fined not more than three hundred dollars” in the last sentence.

—**1971.** Inserted “state police officer or dog constable” following “conservation officer” in the first and second sentences.

—**1967.** Rewritten to the extent that a detailed comparison would be impracticable.

**Cross References.** Classification of crimes, see RSA 625:9.

Killing of dogs generally, see RSA 466:28.

Sentences, see RSA 651.

#### **NOTES TO DECISIONS**

##### **1. Authority of officials**

## 2. Liability of officials

### 1. Authority of officials

Under this section, permitting the killing of dogs by certain officials, where accurate identification of a dog may be problematical when an officer acts at a later time, the lack of certainty is obviated by giving the appropriate officer the power to kill only while the dog is actually maiming or closely pursuing the animal. *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

It is reasonable to place a strict interpretation on this section, which permits the killing of dogs by certain officials, because a narrow grant of authority in the appropriate official ensures that this section is utilized solely to prevent impending harm to animals and not in retribution to dispatch summarily the offending animal after the fact. *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

### 2. Liability of officials

In an action for damages brought by plaintiffs against town dog constable who shot the plaintiffs' dog several minutes after and some distance from the point where he had observed a dog resembling the one owned by the plaintiffs in pursuit of a deer, the trial court erred in finding the dog constable immune from liability under this section, since it gives an appropriate officer the power to kill only while the dog is actually maiming or closely pursuing an animal. *McBride v. Orr*, 124 N.H. 66, 466 A.2d 952, 1983 N.H. LEXIS 359, 42 A.L.R.4th 835 (1983).

## Penalties, etc.

466:37 Official Neglect.

466:38 How Recoverable.

466:39 City or Town Bylaws.

### **466:37 Official Neglect.**

Any city or town officer who refuses or willfully neglects to perform the duties imposed upon such officer by this chapter relating to dogs shall be guilty of a violation, the fine to be paid to the city or town.

**Source.** 1891, 60:22. PL 150:39. RL 180:39. RSA 466:37. 1977, 588:7. 1995, 298:22, eff. Jan. 1, 1996.

### **Amendments**

—**1995.** Substituted “such officer” for “him” following “imposed upon”.

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

## NOTES TO DECISIONS

**Cited** Cited in *State v. Colby*, 67 N.H. 391, 36 A. 252, 1892 N.H. LEXIS 88 (1893); *State v. Howard*, 69 N.H. 507, 43 A. 592, 1898 N.H. LEXIS 70 (1899); *State v. McConnell*, 70 N.H. 158, 46 A. 458, 1899 N.H. LEXIS 79 (1900).

### **466:38 How Recoverable.**

All fines and penalties provided in this chapter relating to dogs may be recovered on complaint before a district court or municipal court in the town or county where the offense is committed.

**Source.** 1891, 60:24. PL 150:40. RL 180:40. RSA 466:38. 1957, 244:19, eff. Sept. 23, 1958.

**Revision note.** Reference to “a municipal court” changed to “a district court or municipal court”. Pursuant to 1963, 331:1, municipal courts were abolished, unless continued by vote of its citizens at an election to be held in 1964, and the jurisdiction, powers and duties thereof were conferred upon district courts. See RSA 502-A:34 and 502-A:35.

### **Amendments**

—**1957.** Deleted “a justice of the peace or” following “complaint before”.

## NOTES TO DECISIONS

**Cited** Cited in *State v. McConnell*, 70 N.H. 158, 46 A. 458, 1899 N.H. LEXIS 79 (1900).

### **466:39 City or Town Bylaws.**

The local governing body may make such additional bylaws and regulations concerning the licensing and restraining of dogs as it deems reasonable, and may affix penalties not exceeding \$50 for a breach thereof. Such bylaws and regulations shall relate only to dogs owned or kept in such city or town, and the annual fee required for a license shall in no case be more than \$1 in addition to the sum hereby required.

**Source.** 1891, 60:23. PL 150:41. RL 180:41. RSA 466:39. 1994, 353:13, eff. Jan. 1, 1995. 2007, 339:1, eff. January 1, 2008.

### **Amendments**

—**2007.** Substituted “\$50” for “\$25” in the first sentence.

—**1994.** Substituted “local governing body” for “city council of a city or any town” preceding “may make”, “it deems reasonable” for “they deem expedient” following “dogs as” and “\$25” for “\$10” in the first sentence.

**Cross References.** License fees generally, see RSA 466:4, 6.

Regulation of dogs running at large generally, see RSA 466:29, 30-a.

## NOTES TO DECISIONS

### Generally

#### Generally

This section and RSA 47:17 authorized a city to enact an ordinance allowing the chief of police to issue a complaint against one who violated the ordinance by allowing his dog to run at large, and the chief of police was not thereby unlawfully delegated legislative authority. *State v. Merski*, 115 N.H. 48, 333 A.2d 159, 1975 N.H. LEXIS 220 (1975).

### Miscellaneous

466:40 Mutilation Prohibited.

466:40-a Possession of Cropped Dog.

466:41 Exhibition of Mutilated Dogs Prohibited.

466:42 Stealing Dogs, etc.

466:42-a Stealing Dogs, etc.

466:42-b Civil Recovery.

466:43 List of Owners.

466:44 Restaurants and Food Stores.

466:45 Responsibility of Cities and Towns.

#### **466:40 Mutilation Prohibited.**

Any person who shall crop or cut or cause to be cropped or cut off the whole or any part of the ear of a dog, unless such person is a veterinarian duly registered under the provisions of RSA 332-B and unless such operation is performed while the dog is under an anesthetic, shall be fined not more than \$250.

**Source.** 1943, 141:1, par. 17-a. RSA 466:40. 1955, 129:1, eff. May 9, 1955.

**Revision note.** Reference to “RSA chapter 332” changed to “RSA 332-B” in light of repeal of RSA 332 and enactment of RSA 332-B by 1971, 328.

#### **Amendments**

—**1955.** Rewritten to the extent that a detailed comparison would be impracticable.

#### **466:40-a Possession of Cropped Dog.**

The possession of a dog with an ear cropped or cut off and with a resulting wound unhealed, confined upon the premises of or in charge or custody of any person, shall be prima facie evidence of a violation of the provisions of RSA 466:40 by the person in control of such premises or the person having charge or custody, unless such person shall have in the person's possession a certificate of cropping signed by a veterinarian duly registered under the provisions of RSA 332-B certifying that the veterinarian performed the operation in accordance with the provisions of RSA 466:40, giving the date of the operation, the name of the owner of the dog and a description of the dog.

**Source.** 1943, 141:1, par. 17-a. RSA 466:40-a. 1955, 129:1. 1995, 298:23, eff. Jan. 1, 1996.

**Revision note.** Reference to “RSA chapter 332” changed to “RSA 332-B” in light of repeal of RSA 332 and enactment of RSA 332-B by 1971, 328.

#### **Amendments**

—**1995.** Substituted “a resulting” for “the” preceding “wound” and deleted “resulting therefrom” thereafter, “the person's” for “his” preceding “possession” and “the veterinarian” for “he” preceding “performed”.

—**1955.** Rewritten to the extent that a detailed comparison would be impracticable.

#### **RESEARCH REFERENCES**

##### **New Hampshire Trial Bar News**

For article, “Presumptions in New Hampshire Law—A Guide Through the Impenetrable Jungle (Part 1),” see 10 N.H. Trial Bar News 55, 60 n.82 (Winter 1990).

##### **466:41 Exhibition of Mutilated Dogs Prohibited.**

[Repealed 1955, 129:1, eff. May 9, 1955.]

**Former section(s).** Former RSA 466:41, which was derived from 1943, 141:1, par. 17-b, related to the prohibition against the exhibition of mutilated dogs.

##### **466:42 Stealing Dogs, etc.**

[Repealed 1959, 1:2, eff. April 6, 1959.]

**Former section(s).** Former RSA 466:42, which was derived from 1891, 60:9; PL 150:16; and RL 180:16, related to the stealing of dogs. See now RSA 466:42-a and RSA 466:42-b.



#### **466:42-a Stealing Dogs, etc.**

Whoever wrongfully removes the collar from or steals a dog licensed and collared as aforesaid shall be guilty of a misdemeanor. Whoever distributes or exposes a poisonous substance with intent that the same shall be eaten by any dog shall be guilty of a misdemeanor and shall be liable to the dog's owner for its value.

**Source.** 1959, 1:1. 1969, 274:1. 1977, 588:6, eff. Sept. 16, 1977.

#### **Amendments**

—**1977.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1969.** Substituted “two hundred and fifty dollars” for “fifty dollars” in the first sentence and “fifty dollars” for “ten dollars” and “five hundred dollars” for “fifty dollars” in the second sentence.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

#### **NOTES TO DECISIONS**

**Cited** Cited in *State v. McConnell*, 70 N.H. 158, 46 A. 458, 1899 N.H. LEXIS 79 (1900).

#### **466:42-b Civil Recovery.**

Whoever wrongfully kills or maims, entices or carries away a licensed dog shall be liable to its owner for its value in a civil proceeding.

**Source.** 1959, 1:1, eff. April 6, 1959.

#### **466:43 List of Owners.**

The assessors shall annually make a list of all dogs owned or kept in their respective city or town on April 1, with the owners' or keepers' names, and return the same to the city or town clerk on or before May 1. An owner or keeper of a dog who refuses to answer or answers falsely to the assessors relative to the ownership thereof shall be fined not less than \$10 for the use of the town.

**Source.** 1891, 60:10. PL 150:17. RL 180:17.

**Cross References.** Records of licenses issued, see RSA 466:11.

## **466:44 Restaurants and Food Stores.**

**I.** Except as provided in paragraph II, no person shall bring any animal into any restaurant or any store that sells food; and no person shall allow any animal to enter in any store that sells food, except for service animals as provided in RSA 167-D. Whoever violates the provisions of this paragraph shall be guilty of a violation.

**II.** A restaurant owner may allow his or her properly disciplined companion dog inside his or her place of business. Such dogs shall not be allowed in food preparation or production areas. A restaurant owner allowing his or her companion dog shall prominently display a sign at all public entrances advising patrons that his or her companion dog is allowed on the premises and that such dog shall be removed from any portion of the premises where members of the public are present in the event a patron with a service animal is present.

**Source.** 1971, 190:1. 1973, 531:128. 1983, 275:7. 1989, 45:10. 1990, 131:4, eff. June 18, 1990. 2010, 305:1, eff. September 11, 2010. 2011, 170:4, eff. January 1, 2012.

### **Amendments**

—**2011.** The 2011 amendment substituted “service animals” for “guide dogs leading blind persons, and the hearing ear dog and the service dog” in the first sentence of I and substituted “service animal” for “service dog” in the last sentence of II.

—**2010.** The 2010 amendment added the I designation; in I, added “Except as provided in paragraph II” at the beginning, substituted “in any store” for “or remain in any restaurant or in any store,” and substituted “paragraph” for “section”; and added II.

—**1990.** Substituted “guide” for “seeing eye” following “except for” in the first sentence.

—**1989.** Inserted “and the service dog” preceding “as provided in RSA 167-D” in the first sentence.

—**1983.** Added “and the hearing ear dog as provided in RSA 167-D” following “blind persons” at the end of the first sentence and made other minor stylistic changes.

—**1973.** Rewritten to the extent that a detailed comparison would be impracticable.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.

## **466:45 Responsibility of Cities and Towns.**

Every city and town shall inform every restaurant and every store that sells food in such city or town of the provisions of RSA 466:44.

**Source.** 1971, 190:1, eff. Aug. 10, 1971.

## Guard Dogs in Commercial Establishments

466:46 Definitions.  
466:47 License.  
466:48 Registration.  
466:49 Registration Fee.  
466:50 Registration Requirements.  
466:51 Inspections.  
466:52 Hearing.  
466:53 Notification to Local Agencies.  
466:54 Penalty.

**Purpose.** 1985, 29:1, eff. June 8, 1985, provided:

“It is the legislative intent to set reasonable requirements and conditions for the use of guard dogs in commercial establishments so that the general public safety will not be endangered.”

### **466:46 Definitions.**

In this subdivision:

**I.** “Commercial establishment” means any business operated by a person, firm, partnership, corporation or other legal entity which sells, rents, leases or otherwise transacts a retail or wholesale business with the general public.

**II.** “Custodian of guard dog” means any person, firm, partnership, or corporation which owns, leases or maintains a guard dog on the property of a commercial establishment to protect the establishment from unauthorized intrusion.

**III.** “Guard dog” means any breed of dog of either sex which is utilized to attack or repel unauthorized intruders whether on command or by instinct.

**IV.** “Local law enforcement authority” means the local police department of the city or town or the dog officer in a city or town, as may be designated by the city council or board of selectmen.

**Source.** 1985, 29:2, eff. June 8, 1985.

### **466:47 License.**

A guard dog shall be licensed pursuant to RSA 466:4.

**Source.** 1985, 29:2, eff. June 8, 1985.

**466:48 Registration.**

In addition to the dog license required by RSA 466:4, no guard dog shall be used in any city or town without prior approval of the local law enforcement authority and appropriate registration with that authority.

**Source.** 1985, 29:2, eff. June 8, 1985.

**Cross References.** Registration requirements, see RSA 466:50.

**466:49 Registration Fee.**

The annual registration fee for a guard dog shall be \$10, paid to the local law enforcement authority for deposit in the general fund of the city or town. Each registration shall expire one year from the date of issue.

**Source.** 1985, 29:2, eff. June 8, 1985.

**466:50 Registration Requirements.**

Prior to approval of the registration of any guard dog, the custodian shall provide to the local law enforcement authority satisfactory proof of the following:

**I.** That the premises to be guarded by the guard dog has sufficient restraining devices, such as fences or walls, to prevent access by the public during the periods that the guard dog is used to protect the premises from unauthorized entry or the escape by the guard dog from the enclosed premises.

**II.** That the guard dog shall be treated and maintained in a humane manner whether or not the dog is on guard duty.

**III.** That the custodian has liability insurance for each dog of not less than \$100,000 to protect the general public, in the event the guard dog eludes confinement and attacks and injures a person on public or private property.

**IV.** That the guard dog has been properly licensed pursuant to RSA 466:4.

**V.** That the premises to be guarded by a guard dog shall be properly posted to warn the general public with sufficient number of signs as may be required by the local law enforcement authority.

**Source.** 1985, 29:2, eff. June 8, 1985.

### **466:51 Inspections.**

The local law enforcement authority shall inspect the premises of each custodian of a registered guard dog during normal business hours. If conditions on said premises do not meet the requirements of RSA 466:50, the local law enforcement authority shall direct removal of the dog until the defect is corrected.

**Source.** 1985, 29:2, eff. June 8, 1985.

### **466:52 Hearing.**

If the custodian of a registered guard dog has had the dog's registration voided pursuant to RSA 466:51, the custodian may request in writing a hearing before the city council or board of selectmen, as appropriate, and said hearing shall be conducted within 30 days of receipt of the request for the hearing. The decision of either the city council or board of selectmen shall be final; provided, however, the custodian may appeal to the appropriate superior court within 30 days for a trial de novo.

**Source.** 1985, 29:2, eff. June 8, 1985.

### **466:53 Notification to Local Agencies.**

**I.** The local law enforcement authority shall notify the local fire department and other agencies which may need emergency access to the guarded premises, as may be appropriate, that a guard dog has been duly registered and is authorized to be in a specifically designated commercial establishment.

**II.** The custodian shall provide the local law enforcement authority with the name or names of persons to be contacted in the event of an emergency, who are able to control the guard dog and permit unimpeded access to the commercial establishment to handle the emergency as may be necessary.

**Source.** 1985, 29:2, eff. June 8, 1985.

### **466:54 Penalty.**

Any person, firm, partnership or corporation who violates any provision of this subdivision shall be guilty of a violation for the first offense and guilty of a misdemeanor for subsequent offenses.

**Source.** 1985, 29:2, eff. June 8, 1985.

**Cross References.** Classification of crimes, see RSA 625:9.  
Sentences, see RSA 651.

## **CHAPTER 466-A**

### **Wolf Hybrids**

466-A:1 Definitions.  
466-A:2 General Applicability.  
466-A:3 Prohibitions.  
466-A:4 Vaccination.  
466-A:5 Confinement.  
466-A:5-a Rulemaking Authority.  
466-A:6 Penalty; Administrative Fines.

**Cross References.** Animal population control, see RSA 437-A.  
Power of city council to adopt ordinances regulating dogs, see RSA 47:17.  
Power of towns to adopt bylaws regulating domestic animals, see RSA 31:39.

#### **466-A:1 Definitions.**

In this chapter:

**I.** [Repealed.]

**II.** “Canine” means a member of a species of mammal consisting of dogs, wolves, jackals, foxes, and coyotes.

**III.** “Hybrid” means an offspring of 2 animals of different species or genera.

**IV.** “Owner” means any person keeping, harboring, or having charge or control of a hybrid, or permitting any hybrid to habitually be or remain on, or be lodged or fed within such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises hybrids owned by other persons.

**V.** “Person” means any individual, partnership, company, association, trust, corporation, governmental unit or agency, or any other legal entity.

**VI.** “Wolf” means any canine classified as *Canis lupis* or *Canis rufus*.

**VII.** “Wolf hybrid” means any canine which has had a wolf ancestor within the previous 4 generations. This definition shall include a wolf or wolf hybrid as either a sire or dam, grandsire or dam, great-grandsire or dam or great-great grandsire or dam. An animal shall also be

considered a wolf hybrid if it has been represented by its owner or former owner as having wolf ancestry.

**Source.** 1994, 265:1, eff. June 6, 1994. 1995, 91:1, eff. Sept. 29, 1995. 1998, 309:4, eff. June 26, 1998.

#### **Amendments**

—**1998.** Paragraph I: Repealed.

—**1995.** Added a new par. I and redesignated former pars. I–VI as pars. II–VII.

#### **466-A:2 General Applicability.**

The provisions of RSA 466, RSA 436:99–109 and RSA 644:8, shall apply to wolf hybrids, except as modified by the provisions of this chapter.

**Source.** 1994, 265:1, eff. June 6, 1994. 1995, 91:2, eff. Sept. 29, 1995.

#### **Amendments**

—**1995.** Substituted “wolf hybrids” for “this chapter” following “apply to” in the first sentence and deleted the second sentence.

#### **466-A:3 Prohibitions.**

**I.** No person shall sell or resell, offer for sale or resale, or release or cause to be released a wolf hybrid in the state of New Hampshire.

**II. (a)** A person may import a wolf hybrid provided the wolf hybrid is spayed or neutered and has proper documentation of the spaying or neutering.

**(b)** A person may bring a wolf hybrid into the state temporarily for competitive events.

**III.** Any person possessing a wolf hybrid shall keep accurate licensing and vaccination records, as required by RSA 466-A:2 and neutering records, as provided in RSA 466-A:3, II, which shall be available for inspection by an animal control officer or law enforcement officer.

**Source.** 1994, 265:1, eff. June 6, 1994. 1995, 91:3–6, eff. Sept. 29, 1995. 1998, 309:1, eff. June 26, 1998.

#### **Amendments**

—**1998.** Rewritten to the extent that a detailed comparison would be impracticable.

—**1995.** Paragraph I: Added “II-a, or II-b” following “in paragraph II”.

Paragraph II: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraphs II-a, II-b: Added.

Paragraph III: Deleted “or acquiring” following “possessing” and inserted “and neutering records, as provided in RSA 466-A:3, II-a” preceding “which shall”.

#### **466-A:4 Vaccination.**

The owner of a wolf hybrid shall be required by the veterinarian administering the rabies vaccination, as required by RSA 436:100, to sign an affidavit in the presence of a veterinarian indicating awareness that the use of the canine-approved vaccine on wolf hybrids is experimental and acknowledging that neither the veterinarian administering the vaccine nor the manufacturer of the vaccine shall be liable in the event the wolf hybrid contracts rabies. The commissioner of the department of agriculture, markets, and food shall determine the form and content of this affidavit by rules adopted pursuant to RSA 541-A. If the commissioner of agriculture, markets, and food makes a determination that the rabies vaccine is proven to be effective when administered to wolf hybrids, then the signing of this affidavit shall no longer be required.

**Source.** 1994, 265:1, eff. Dec. 1, 1994. 1995, 130:4, 5, eff. July 23, 1995.

#### **Amendments**

—**1995.** Substituted “department of agriculture, markets, and food” for “department of agriculture” in the second sentence and “commissioner of agriculture, markets, and food” for “commissioner of agriculture” in the third sentence.

#### **466-A:5 Confinement.**

Each wolf hybrid shall be under the physical control of the owner or confined in an enclosure or structure sufficient to prohibit escape. Adequate facilities and shelter, clean of waste and debris and free of infestation, shall be provided for keeping such animal.

**Source.** 1994, 265:1, eff. June 6, 1994.

#### **466-A:5-a Rulemaking Authority.**

The commissioner of agriculture, markets, and food shall adopt rules, under RSA 541-A, relative to standards for confinement and control under RSA 466-A:5.

**Source.** 1998, 309:2, eff. June 26, 1998. 2012, 171:25, eff. August 10, 2012.



### **Amendments**

—**2012.** The 2012 amendment deleted “and any other matter necessary for the administration of this chapter” at the end.

### **466-A:6 Penalty; Administrative Fines.**

**I.** Any person in violation of this chapter or any rule adopted under this chapter shall be guilty of a class A misdemeanor.

**II.** Any person who violates any provision of this chapter, or any rule or order of the commissioner of agriculture, markets, and food, shall be subject to the imposition of an administrative fine levied by the commissioner, not to exceed \$1,000 for each violation.

**Source.** 1994, 265:1, eff. June 6, 1994. 1998, 309:3, eff. June 26, 1998.

### **Amendments**

—**1998.** Rewritten to the extent that a detailed comparison would be impracticable.

**Cross References.** Classification of crimes, see RSA 625:9.

Sentences, see RSA 651.