

Summary of New Hampshire ANS Laws*

NH statutes: <http://www.gencourt.state.nh.us/rsa/html/indexes/search.html>

NH statutes: Policy and Agency Powers:

- 1) Powers and Duties of the Commissioner: The Department of Agriculture, Markets & Food commissioner shall conduct research and educational activities regarding invasive species' environmental and economic effects upon New Hampshire. N.H. Rev. Stat. Ann. § 430:53:I (2003).
- 2) Powers and Duties of the Commissioner: The commissioner shall distribute information and make recommendations regarding invasive species control. N.H. Rev. Stat. Ann. § 430:53:II (2003).
- 3) Powers and Duties of the Commissioner: The commissioner shall annually publish and prepare the "New Hampshire Prohibited Invasive Species List" upon consultation with the invasive species committee. The listed species will be those deemed to immediately threaten public health, the environment, native species, or commercial agriculture or forestry. The commissioner may prohibit the possession, collection, transportation, sale, propagation, cultivation, importation, or transplanting of any species on that list. N.H. Rev. Stat. Ann. § 430:53:III (2003).
- 4) Penalties: A person shall have committed a misdemeanor if he violated any part of § 430, or any rule adopted under it. The person shall additionally be liable for a civil forfeiture not to exceed \$5,000 for each violation, for each day of a continuing violation. N.H. Rev. Stat. Ann. § 430:57 (2003).
- 5) Penalties: A person who violates any part of § 430, or any rule adopted under it, shall be subject to an administrative fine not to exceed \$1,000 per violation. N.H. Rev. Stat. Ann. § 430:57 (2003).
- 6) Powers and Duties of the Commissioner: The commissioner shall annually publish and prepare the "New Hampshire Restricted Invasive Species List" upon consultation with the invasive species committee. The listed species will be those deemed to have potential economic or environmental harm, but their potential harm can be eliminated or reduced by cultural or biological methods. N.H. Rev. Stat. Ann. § 430:53:IV (2003).
- 7) Rulemaking: DES shall adopt rules regarding designating plants as exotic aquatic weeds, administrating and enforcing exotic aquatic

weed prohibitions, exemptions to exotic aquatic weed prohibitions, and designating restricted use exotic aquatic weed control areas. N.H. Rev. Stat. Ann. § 487: 24 (2003).

- 8) Milfoil and Other Exotic Aquatic Plants Prevention; Grant Fund Report and Budget: DES shall give an annual report to the governor, council, speaker of the house, and senate president. The report shall describe, *inter alia*, the prevention and research projects funded by the milfoil and other exotic aquatic plants prevention program. The report shall also describe the amount of aid given to municipalities or state subdivisions, non-profits, and research institutions. This law will be repealed effective 1/1/2008 [five years after the law's passage]. N.H. Rev. Stat. Ann. § 487: 29 (2003).
- 9) New Hampshire Native Plant Protection: These native plant protection statutes do not directly relate to fighting ANS, but do offer an interesting policy perspective that could be analogous to ANS laws for all states. The statutes discuss the importance of native plants to the people of New Hampshire. The laws discuss, *inter alia*, inventorying, rulemaking, interagency and interstate cooperation, and law enforcement. N.H. Rev. Stat. Ann. §§ 217-A:1-12 (2003).

Introduction & Possession of Fish and Other Animals:

- 1) Import, Possession, or Release of Wildlife: No one shall possess, import, possess, exhibit, sell, exhibit, or sell any live marine species or wildlife, or their eggs or progeny, without first obtaining a permit from the executive director of fish and game. The executive director may refuse to issue that permit if she determines that issuing the permit may pose significant disease, genetic, ecological, environmental, health, safety, or welfare risks to persons, marine species, or wildlife. N.H. Rev. Stat. Ann. § 207:14:I (2003).
- 2) Import, Possession, or Release of Wildlife: The fish and game executive director shall adopt rules to administer § 207. The executive director shall also adopt rules regarding importing, possessing, exhibiting, selling, or releasing marine species and wildlife. N.H. Rev. Stat. Ann. § 207:14:II (2003).
- 3) Import, Possession, or Release of Wildlife: The fish and game executive director may exempt from the provisions of § 207:14 marine species or wildlife, or their eggs or progeny. She may establish a list of those species. N.H. Rev. Stat. Ann. § 207:14:III (2003).
- 4) Import, Possession, or Release of Wildlife: Any person who violates § 207, or any rule adopted under § 207, shall be guilty of a violation.

Such person shall be guilty of an additional violation for each marine species or wildlife possessed contrary to § 207's provisions. N.H. Rev. Stat. Ann. § 207:14:IV (2003).

Introduction & Possession of Plants:

- 1) Exotic Aquatic Weed Prohibition: A person may not import, distribute, grow, sell, offer to sell, buy, transport, or introduce exotic aquatic weeds in New Hampshire. The DES commissioner may exempt any exotic aquatic weed from these prohibitions. N.H. Rev. Stat. Ann. § 487:16-a (2003).
- 2) Exotic Aquatic Weed Penalties: A person may not knowingly or recklessly distribute, grow, sell, offer to sell, buy, import, or introduce exotic aquatic weeds into New Hampshire water bodies. Any person who does so shall be guilty of a violation. N.H. Rev. Stat. Ann. § 487:16-b (2003).
- 3) Penalty; Administrative Fines: After notice and hearing, the DES commissioner may impose an administrative fine for violating § 487:16-b. The fine may not exceed \$2,000. N.H. Rev. Stat. Ann. § 487:7:II (2003).
- 4) Penalty; Administrative Fines: The commissioner shall promulgate rules regarding a schedule of administrative fines which may be imposed for violations of § 487. N.H. Rev. Stat. Ann. § 487:7:II(a) (2003).

Bait:

- 1) Bait Prohibited: No one may use carp or goldfish as live bait when fishing in any New Hampshire waters. N.H. Rev. Stat. Ann. § 211:16 (2003).
- 2) Permit to Import: No kind of fish to be used as bait shall be brought into New Hampshire without first procuring a permit. N.H. Rev. Stat. Ann. § 214:34-d (2003).
- 3) Penalties: Any one who violates § 214:34-d shall be guilty of a violation. N.H. Rev. Stat. Ann. § 214:37 (2003).

Fish Propagation and Aquaculture:

- 1) Aquaculture: The executive director of fish and game shall adopt rules regarding aquaculture, including, *inter alia*, the propagation, planting,

possession, releasing, and transportation of aquatic or marine species. N.H. Rev. Stat. Ann. § 211:62-e (2003).

Dedicated Funding:

- 1) New Hampshire Clean Lakes Program: The \$5 fee collected under boat registration fees shall be put into a nonlapsing fund and expended by DES. DES shall spend \$.50 of the fee to preserve and restore lakes (exclusive of exotic aquatic weed control), \$1.50 of the fee to control exotic aquatic weeds, and \$3 of the fee for the milfoil and other exotic aquatic plants prevention program. On 1/1/2008 (five years after the law's passage) the milfoil and other exotic aquatic plants prevention fund will cease to exist, but the other funds and expenditures shall remain. N.H. Rev. Stat. Ann. § 487: 25 (2003).

Spending & Spending Priorities:

- 1) Program Established: DES, after notice and comment, may give grants to businesses, citizens, lakefront associations, and local governmental agencies to manage exotic aquatic weeds where eradication is deemed impossible. The grants also need to be approved by the Fish and Wildlife Department. N.H. Rev. Stat. Ann. § 487: 17:III (2003).
- 2) Project Prioritization: Project approval shall be based upon priorities determined by rules that DES adopts. The first priority shall be to control new infestations. Second priority shall go to publicly accessible lakes, or lakes that supply drinking water. Implementation shall be based by assessing potential success, practicability, technical feasibility, and cost effectiveness. Feasible and cost effective long-term solutions are preferred over short-term solutions. N.H. Rev. Stat. Ann. § 487: 18 (2003).
- 3) Cost Sharing: In an exotic aquatic weed infestation control project, the state may assume the project's entire cost. N.H. Rev. Stat. Ann. § 487: 21:III (2003).
- 4) Cost Sharing: Up to ten percent of the total funding may be spent on lake eutrophication and exotic aquatic weeds research. N.H. Rev. Stat. Ann. § 487: 21:IV (2003).
- 5) Grant Program Established: A grant program to be run by DES is established. The funds shall derive from the § 487: 25 milfoil and other exotic aquatic plants prevention program. Until 1/1/08, DES can grant funds to other state agencies, municipalities or political subdivisions of the state, and non-profits to administer milfoil and

other exotic aquatic plants prevention programs. Grants can also go to higher education institutions to conduct research on milfoil and other exotic aquatic plants remediation. Up to two thirds of the fund shall go to prevention, and the remainder to research. Distribution of prevention grants shall also require the Department of Public Safety commissioner' approval. On 1/1/2008 (five years after the law's passage), § 487: 26 will be repealed. N.H. Rev. Stat. Ann. § 487: 26 (2003).

Task Forces and Committees:

- 1) Committee Established: The Invasive Species Committee is established to advise the DAMF commissioner. Its members are specified. N.H. Rev. Stat. Ann. § 430:54 (2003).

Control of Invasive Plants:

- 10) Program Established: DES shall preserve and restore New Hampshire lakes and ponds by suffering from eutrophication by:
 - a) Diagnosing degraded lakes and ponds and implementing long-term solutions to restore water quality when feasible and cost-effective.
 - b) Diagnosing lakes and ponds and implementing long-term solutions to preserve water quality when feasible and cost-effective.
 - c) Providing short-term solutions to maintain water quality, including controlling exotic aquatic weeds. N.H. Rev. Stat. Ann. § 487: 17:I (2003).
- 11) Program Established: DES is authorized to prevent the introduction of, further spread of, and management or control of exotic aquatic weeds. Activities include:
 - a) Educating boaters about exotic aquatic weeds control and controlling small new infestations.
 - b) Controlling small new infestations, if:
 - 1) The water body had been free of that exotic aquatic weed within the previous five years.
 - 2) The infestation is not widespread in the water body, and DES has determined that the weed can be controlled there.
 - 3) The treatment uses the most environmentally sound methods.
 - d) Developing emergency response protocols to control small new infestations.
 - e) Restricting use, after consulting with other specified agencies, of exotic aquatic weed control areas. N.H. Rev. Stat. Ann. § 487: 17:II (2003).

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*Note: The statutes listed are not spelled out in their entirety. Only those parts that I felt were germane to ANS were included. I have also paraphrased the statutes to avoid quoting them directly, and to hopefully make them clearer.

Definitions: Statutorily defines exotic aquatic weeds as those vascular aquatic plants not native to New Hampshire before 1950. N.H. Rev. Stat. Ann. § 487:16 (2003).