

# Update — New York Bird Ban

by Jerry Jennings  
Woodland Hills, California

A revised draft of the regulations proposed under New York's law banning the sale of wild exotic birds has been promulgated for public comment. Hearings were held at three New York locations — Rochester, March 11, 1985; Flushing, March 14, 1985; and Albany, March 15, 1985 — where New York residents were invited to offer their opinions.

Under the revised proposal, no live wild birds may be offered for sale,

unless they have been born and reared in captivity. Birds born and reared in captivity must be so identified with a closed band of a size small enough that it must be placed on the bird's leg when a baby and incapable of being placed upon a newly fledged or adult bird.

The banding requirement applies to all psittacine birds and all passerine birds (finches, etc.) except for nine exempt species, which the Department of Conservation (the enforcing agency) has determined to be either "...species that are predominantly raised in captivity; mutant forms not normally found in the wild or hybrids of two or more species..." This list includes the budgerigar, cockatiel, canary, society finch, zebra finch, Gouldian finch, diamond dove, Java rice bird, and blue masked lovebird.

The revised draft regulations also require all breeders to be licensed by the state in order to sell birds, except for those breeders selling any of the exempt species. Licensed bird breeders will be allowed to sell any exotic bird, so long as that bird was born and reared in captivity, is close banded, and the sale is made to another licensed person. Unlicensed persons will not be allowed to sell any species not included on the exempt list.

To apply for a breeder's license, each applicant must provide the Department of Conservation with 1) a statement describing the applicant's purpose for applying for a license, 2) the number and species by common and scientific name of birds to be held for breeding purposes, 3) the address of the facility where birds will be possessed and bred and a description of the area and facilities to be used for breeding purposes, 4) a summary of the experience and technical expertise that the applicant has had in the raising and breeding of birds and the species and number of birds bred, and any other information which the department may deem pertinent or necessary.

In evaluating a license application, the department will consider the following criteria: 1) whether the birds will be used for bona fide breeding purposes, 2) whether the facilities described in the application are sufficient and adequate for the purpose of humanely and successfully breeding and raising captive wild birds of the species described, 3) whether the applicant, by virtue of his background, experience and knowledge can reasonably be expected to humanely and successfully breed and raise captive birds of the species described, and 4) the applicant's

prior record of compliance with the provisions of the Fish and Wildlife Law, regulations adopted pursuant thereto or conditions of licenses or permits issued pursuant thereto.

The regulations further provide for certain conditions for each license. A license will 1) be valid for not more than two years and expire on the date stamped on the face thereof, 2) require that the licensee keep and maintain complete records of the purchase and sale, transfer, birth and death of birds held pursuant to such license, 3) require that all birds possessed pursuant to such license be confined in the facility and premises described on the license, 4) authorize the sale of the birds described in the license, 5) contain such other conditions as the department deems necessary and proper.

Naturally, each license application must be accompanied by a non refundable application fee. The fee for a license "... is \$50.00 for the initial license and \$10.00 for each succeeding license or amendment thereto.

The Department of Conservation intends to vigorously enforce the regulations with a series of fines and penalties, which are delineated in Section 174.10 of the regulations. To wit, "A violation of any provision of this part is punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. In addition thereto, a person who violates any provision of this part is liable to a civil penalty of sixty dollars and an additional penalty of twenty-five dollars for each bird involved in the violation."

Needless to say, New York has gone from a state of virtual no regulations regarding the keeping and breeding of birds to one of extreme regulation. What once was a hobby of innocent and quiet leisure, is now a regulated mini-industry burdened with criminal sanctions. There is no other segment of the animal husbandry industry so severely regulated.

The American Federation of Aviculture will endeavor to obtain further revision of the regulations to expand the list of exempt species, which should rightly include many more and to remove the criminal sanctions for violations. (It is ludicrous to threaten innocent people with incarceration for so innocuous a pastime as aviculture.) At the same time co-operative efforts with PIJAC and other groups will be maintained to amend or repeal the legislation that authorized these regulations. ●

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