

What is a “special license” and how is one obtained?

A “special license” is an optional license available only to the owner or keeper of domestic pets and wolf-hybrids for breeding purposes. This is in contrast to a kennel permit, which must be obtained by the owner or keeper of two or more domestic pets or wolf-hybrids four months of age or older that are kept either for sale or for commercial breeding purposes.

A special license is available to breeders of dogs, wolf-hybrids, and other domestic pets such as cats and ferrets if your town also requires them to be licensed. The cost for the license is \$30.00 for the first ten breeding domestic pets and \$3.00 for each additional pet licensed by April 1st and \$45.00 and \$4.50, respectively, thereafter. Domestic pets covered by the license are exempt from all other licenses and fees, including municipal license surcharges, but not from the \$1.00 state rabies control program fee. 20 V.S.A. §§ 3581(f), 3583(b). The purpose for this discounted fee structure is to provide a financial inducement to breeders to keep their breeding pets away from children and to prevent them from escaping. The holder of the license is required to have a current vaccination against rabies for each pet and to also keep the pets within a proper enclosure. A “proper enclosure” is defined as “a locked fence or structure of sufficient height and sufficient depth into the ground to prevent the entry of young children and to prevent the animal from escaping. A proper enclosure also provides humane shelter for the animal.” 20 V.S.A. § 3583(a)(1).

The question has recently been raised whether the failure on the part of a town to ensure the existence of a proper enclosure prior to the issuance of a special license presents any kind of risk of heightened liability exposure for a town. Generally speaking, absent a duty of care, an action in negligence will fail. Here the duty of care rests with the owner or keeper of the pets, not the town, as it is the holder of the license who has the affirmative legal obligation to “keep” the pets within a proper enclosure. To this point, the Attorney General’s Office has previously opined that “enclosure” is not taken in the literal sense and does not preclude the removal of the domestic pets under proper supervision. A duty of care derives from the idea that is the party in control who is in the best position to protect against harm. In this regard, a town probably has no more duty of care to prevent the possible infliction of damage by a domestic pet covered by this license than it does when it is informed of the vicious disposition of a dog. Commenting on a town’s failure to act when notified of such a propensity, the Vermont Supreme Court ruled that “defendants’ ability to exercise control over dogs exists in narrowly circumscribed conditions and is statutory, not contractual, in nature ... The town’s right to control dogs that bite does not give rise to a generalized duty to control vicious dogs.” *Rubin v. Town of Poultney*, 168 Vt. 624 (1998).

Some towns presently require special license applicants to affirm in writing that they will keep their domestic pets or wolf-hybrids in a proper enclosure and comply with the provisions of the special license statute. This practice may provide a small measure of insulation from the limited liability faced by a town and serve the purpose of impressing the requirements of the law upon the license holder and the town’s expectations that the statute will be complied with.

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