

States' Animal Cruelty Statutes: Colorado

Current through all legislation of the 2020 Regular Session.

§ 12-315-120. Reporting requirements--immunity for reporting--veterinary-patient-client privilege inapplicable

(1) A licensed veterinarian who, during the course of attending or treating an animal, has reasonable cause to know or suspect that the animal has been subjected to cruelty in violation of section 18-9-202, or subjected to animal fighting in violation of section 18-9-204, shall report or cause a report to be made of the animal cruelty or animal fighting to a local law enforcement agency or the bureau of animal protection.

(2) A licensed veterinarian shall not knowingly make a false report of animal cruelty or animal fighting to a local law enforcement agency or to the bureau of animal protection.

(3) A licensed veterinarian who willfully violates the provisions of subsection (1) or (2) of this section commits a class 1 petty offense, punishable as provided in section 18-1.3-503.

(4) A licensed veterinarian who in good faith reports a suspected incident of animal cruelty or animal fighting to the proper authorities in accordance with subsection (1) of this section shall be immune from liability in any civil or criminal action brought against the veterinarian for reporting the incident. In any civil or criminal proceeding in which the liability of a veterinarian for reporting an incident described in subsection (1) of this section is at issue, the good faith of the veterinarian shall be presumed.

(5) The veterinary-patient-client privilege described in section 24-72-204(3)(a)(XIV) may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202 or for an act of animal fighting under section 18-9-204.

§ 18-9-201. Definitions

As used in this part 2, unless the context otherwise requires:

(1) "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

(2) "Animal" means any living dumb creature, including a certified police working dog, a police working horse, and a service animal as those terms are defined, respectively, in subsections (2.3), (2.4), and (4.7) of this section.

(2.3) "Certified police working dog" means a dog that has current certification from a state or national agency or an association that certifies police working dogs, and that is part of a working law enforcement team.

(2.4) "Police working horse" means a horse that is currently working full time or part time as part of a working law enforcement team and has met the standards of the law enforcement team to work in such capacity.

(2.5) "Disposal" or "disposition" means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5(4); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service; or euthanasia.

(2.7) "Euthanasia" means to produce a humane death by techniques accepted by the American veterinary medical association.

(2.9) "Livestock" means bovine, camelids, caprine, equine, ovine, porcine, and poultry.

(3) "Mistreatment" means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(4) "Neglect" means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with the species, breed, and type of animal.

(4.5) "Serious physical harm", as used in section 18-9-202, means any of the following:

(a) Any physical harm that carries a substantial risk of death;

(b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(c) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(4.7) "Service animal" means any animal, the services of which are used to aid the performance of official duties by a fire department, fire protection district, or governmental search and rescue agency. Unless otherwise specified, "service animal" does not include a "certified police working dog" or a "police working horse" as defined in subsections (2.3) and (2.4) of this section.

(5) "Sexual act with an animal" means an act between a person and an animal involving direct physical contact between the genitals of one and the mouth, anus, or genitals of the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit accepted animal husbandry practices.

§ 18-9-201.5. Scope of part 2

(1) Nothing in this part 2 shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of title 35, C.R.S.

(2) In case of any conflict between this part 2 or section 35-43-126, C.R.S., and the wildlife statutes of the state, said wildlife statutes shall control.

(3) Nothing in this part 2 shall affect animal care otherwise authorized by law.

(4) Nothing in this part 2 shall affect facilities licensed under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended.

§ 18-9-202. Cruelty to animals--aggravated cruelty to animals--neglect of animals--offenses

(1)(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal or a certified police working dog or police working horse if he or she violates the provisions of subsection (1) of this section with respect to a service animal, certified police working dog, or police working horse, as those terms are defined in section 18-9-201(2.3), (2.4), and (4.7), whether the service animal, certified police working dog, or police working horse is on duty or not on duty.

(1.6) Repealed by Laws 2016, Ch. 236, § 2, eff. June 6, 2016.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the

owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)(a) Except as otherwise provided in subsection (2)(b) of this section, cruelty to animals, or cruelty to a service animal or certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is a class 1 misdemeanor.

(a.5)(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. If the violation is a felony offense in violation of subsection (1.5) of this section, a felony offense in violation of subsection (2)(b)(II) of this section, or any other violation of this section demonstrating knowing torture or torment of an animal that needlessly injured, mutilated, or killed the animal, the court shall require a comprehensive evaluation to help determine the causative factors. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person must be ordered to complete, as a condition of any sentence to probation or a deferred judgment or sentence, an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(IV) Upon successful completion of an anger management treatment program, a mental health treatment program, or any other appropriate treatment program, the court may suspend any fine imposed; except for a five-hundred-dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title 18, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, or cruelty to a service animal or a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is required to pay a mandatory minimum fine of one thousand dollars and is required to complete an anger management treatment program or any other appropriate treatment program.

(V.5) In addition to any other sentence imposed for a felony conviction pursuant to this section, the court shall enter an order prohibiting the defendant from owning, possessing, or caring for a pet animal as defined in section 35-80-102(10) as a condition of the sentence for a period of three to five years, unless the defendant's treatment provider makes a specific recommendation not to impose the ban and the court agrees with the recommendation.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This subsection (2)(a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when the treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 32 of title 44, the treatment of animals involved in research if the research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d)(I) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, the court shall order him or her to make restitution to the agency or individual owning the service animal for any veterinary bills and replacement costs of the service animal if it is disabled or killed as a result of the cruelty to animals incident.

(II) If a person is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, the court shall order him or her to make restitution to the agency or individual owning the certified police working dog or police working horse for all expenses, including any immediate and ongoing veterinary expenses related to the incident, and replacement costs for the certified police working dog or police working horse if it is permanently disabled or killed as a result of the cruelty to animals incident. If the court finds that the person who is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section did so with malicious intent, the person shall additionally make restitution to the agency or individual owning the certified police working dog or police working horse for all training and certification costs related to the certified police working dog or police working horse.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

(4) The short title of this section is "Punky's Law".

§ 18-9-202.5. Impounded animals--costs of impoundment, provision, and care--disposition--procedures--application--definition

(1)(a)(I) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by filing a payment for impoundment, care, and provision costs with the court in an amount determined by the impound agency to be sufficient to provide for the animal's care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody.

(II) To the extent practicable, within seventy-two hours after an impoundment described under subparagraph (I) of this paragraph (a), upon request from the owner or custodian of the impounded animal, the impound agency shall allow a licensed veterinarian of the owner's or custodian's choosing and at his or her expense to examine the animal at a time and place selected by the impound agency, which examination

may include taking photographs of the animal and taking biological samples for the purpose of diagnostic testing.

(b) The owner or custodian must file the payment:

(I) Within ten days after the animal is impounded; or

(II) If the owner or custodian requests a hearing pursuant to subparagraph (I) of paragraph (c) of this subsection (1), in accordance with subparagraph (IV) of paragraph (c) of this subsection (1).

(c)(I) Within ten days after the date of impoundment, the owner or custodian may request a hearing in a criminal court of competent jurisdiction. The owner or custodian must provide notice to the district attorney of his or her request for a hearing. If the owner or custodian requests a hearing, the court shall hold the hearing within ten days after the request is made.

(II) At the hearing, the court shall determine, as appropriate:

(A) Whether costs associated with the impoundment, care, and provision, as determined by the impound agency, are fair and reasonable and necessary, which costs shall be specifically itemized by the impound agency prior to the date of the hearing and shall include, at a minimum, an accounting of the costs of upkeep and veterinary services;

(B) Whether there was sufficient probable cause for the impoundment; and

(C) If the court finds probable cause for impoundment existed and the owner or custodian elects not to pay the reasonable impoundment, care, or provision costs to prevent disposition, release of the animal to the impound agency for disposition.

(III) A warrant issued in accordance with C.R.C.P. 41(b)1 authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

(IV) If probable cause is found at a hearing conducted under this paragraph (c), the owner or custodian shall file payment for costs at the hearing.

(d) At the end of the time for which expenses are covered by an initial or any subsequent impoundment, care, and provision payment:

(I) If the owner or custodian desires to prevent disposition of the animal, the owner or custodian must file a new payment with the court within ten days prior to the previous payment's expiration.

(II) If the owner or custodian has not timely filed an additional payment for impoundment, care, and provision costs, the impound agency may determine disposition of the animal unless there is a court order

prohibiting disposition. Unless subsection (4) of this section applies, the owner or custodian is liable for any additional costs for the care of, provision for, or disposal of the animal.

(2)(a) Failure to pay the impoundment, care, and provision costs pursuant to subsection (1) of this section results in the forfeiture of the right to contest those costs and any ownership rights to the animal in question.

(b) A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful ownership of a dangerous dog as described in section 18-9-204.5 is deemed abandoned and may be disposed of as the impound agency deems proper.

(c) If, in the opinion of a licensed veterinarian, an impounded animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(3) The court shall order an impound agency to refund to the owner or custodian all impoundment, care, and provision payments made for the animal if, after trial, a judge or jury enters or returns in favor of the owner or custodian a verdict of not guilty for all charges related to the original impoundment of the animal.

(4)(a) With respect to the sale of an animal, the proceeds are first applied to the costs of the sale and then to the expenses for the care of and provision for the animal during impoundment and the pendency of the sale, including expenses incurred by the impound agency that have not been paid by the owner or custodian. If the owner of the animal is convicted of cruelty to animals under section 18-9-202, animal fighting under section 18-9-204, or unlawful ownership of a dangerous dog under section 18-9-204.5 or is found by court order to have mistreated, neglected, or abandoned the animal under article 42 of title 35, C.R.S., the remaining proceeds, if any, are paid to the impound agency. If the owner of the animal is not convicted of such charges or is not found by court order to have mistreated, neglected, or abandoned the animal, the impound agency shall pay over the remaining proceeds, if any, to the owner of the animal.

(b) If the impound agency is the department of agriculture, the department shall transmit the moneys credited for expenses to the state treasurer, who shall credit them to the animal protection fund created in section 35-42-113, C.R.S.

(c) If the owner of the animal cannot be found, the court shall pay any remaining proceeds after all other expenses have been paid to the impound agency into the animal protection fund or, if the impound agency is not the department of agriculture, to such other impound agency as the court orders. An owner claiming the remaining proceeds must make the claim within one year after the payment of the proceeds to the impound agency. A claim not so presented to the court is forever barred unless the court, by proper order made in any case, otherwise decrees. An impound agency shall pay to the claimant any refund ordered by court decree.

(d) At least six days prior to sale of the animal, the impound agency shall provide written notice to the owner, at the owner's last-known address, of the time and place of the sale of the animal.

(e) If the owner of the animal is unknown, the impound agency shall publish for one week, in a newspaper of general circulation in the jurisdiction in which the animal was found, notice of sale of the animal and shall further post notice of the sale of the animal at a place provided for public notices in the jurisdiction in which the sale will take place, at least five days prior to the sale.

(f) This subsection (4) does not apply to the disposition of an animal for a fee by:

(I) Adoption of an animal;

(II) Release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.;

(III) Release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or

(IV) Release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service.

(5) For purposes of this section, "impound agency" means an animal shelter as defined in section 35-80-102(1), C.R.S., the department of agriculture, created in section 24-1-123, C.R.S., or any other agency that impounds an animal pursuant to paragraph (a) of subsection (1) of this section or section 18-9-202(1.8).

(6) This section does not apply to animals impounded solely under article 42 of title 35, C.R.S.

§ 18-9-204. Animal fighting--penalty

(1)(a) No person shall cause, sponsor, arrange, hold, or encourage a fight between animals for the purpose of monetary gain or entertainment.

(b) For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he or she:

(I) Is knowingly present at or wagers on such a fight;

(II) Owns, trains, transports, possesses, breeds, sells, transfers, or equips an animal with the intent that such animal will be engaged in such a fight;

(III) Knowingly allows any such fight to occur on any property owned or controlled by him;

(IV) Knowingly allows any animal used for such a fight to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;

(V) Knowingly uses any means of communication for the purpose of promoting such a fight; or

(VI) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.

(2)(a) Except as described in paragraph (b) of this subsection (2), a person who violates the provisions of this section commits a class 5 felony and, in addition to the punishment provided in section 18-1.3-401, the court shall impose upon the person a mandatory fine of at least one thousand dollars.

(b) A person who commits a second or subsequent violation of this section commits a class 4 felony and, in addition to the punishment provided in section 18-1.3-401, the court shall impose upon the person a mandatory fine of at least five thousand dollars.

(3) Nothing in this section shall prohibit normal hunting practices as approved by the division of parks and wildlife.

(4) Nothing in this section shall be construed to prohibit the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

§ 18-9-204.5. Unlawful ownership of dangerous dog --legislative declaration--definitions

(1) The general assembly hereby finds, determines, and declares that:

(a) Dangerous dogs are a serious and widespread threat to the safety and welfare of citizens throughout the state because of the number and serious nature of attacks by such dogs; and

(b) The regulation and control of dangerous dogs is a matter of statewide concern.

(2) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

(a.5) "Bureau" means the bureau of animal protection in the department of agriculture, division of animal industry, created pursuant to section 35-42- 105, C.R.S.

(b) "Dangerous dog" means any dog that:

(I) Inflicts bodily or serious bodily injury upon or causes the death of a person or domestic animal; or

(II) Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily or serious bodily injury upon or cause the death of any person or domestic animal; or

(III) Engages in or is trained for animal fighting as described and prohibited in section 18-9-204.

(c) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

(d) "Domestic animal" means any dog, cat, any animal kept as a household pet, or livestock.

(e) "Owner" or "owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal, as the term is defined in paragraph (d) of this subsection (2), including a dangerous dog as the term is defined in paragraph (b) of this subsection (2).

(f) "Serious bodily injury" has the same meaning as such term is defined in section 18-1-901(3)(p).

(3)(a) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.

(b) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts bodily injury upon any person commits a class 3 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (b) commits a class 2 misdemeanor.

(c) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts serious bodily injury to a person commits a class 1 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (c) commits a class 6 felony.

(d) Any owner who violates paragraph (a) of this subsection (3) whose dog causes the death of a person commits a class 5 felony.

(e)(I) Any owner who violates paragraph (a) of this subsection (3) whose dog injures or causes the death of any domestic animal commits a class 3 misdemeanor.

(II) Any owner of a dog that is involved in a second or subsequent violation under this paragraph (e) commits a class 2 misdemeanor. The minimum fine specified in section 18-1.3-501 for a class 2 misdemeanor shall be mandatory.

(III)(A) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions of title 16, C.R.S., governing restitution.

(B) Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any

reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.

(B.5) An owner who violates paragraph (a) of this subsection (3) and whose dog damages or destroys the property of another person commits a class 1 petty offense.

(C) Any owner whose dog damages or destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

(e.5) The court shall order any owner of a dangerous dog who has been convicted of a violation of this section to:

(I) Confine the dangerous dog in a building or enclosure designed to be escape-proof and, whenever the dog is outside of the building or enclosure, keep the dog under the owner's control by use of a leash. The owner shall post a conspicuous warning sign on the building or enclosure notifying others that a dangerous dog is housed in the building or enclosure. In addition, if the conviction is for a second or subsequent offense, the dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(II) Immediately report to the bureau in writing any material change in the dangerous dog's situation, including but not limited to a change, transfer, or termination of ownership, change of address, escape, or death;

(III) At the owner's expense, permanently identify the dangerous dog through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous dog shall report the microchipping information to the bureau within ten days after implantation of the microchip, pursuant to section 35-42- 115(2), C.R.S.

(IV) Prior to the implantation of the microchip, pay a nonrefundable dangerous dog microchip license fee of fifty dollars to the bureau;

(V) Prior to the dangerous dog receiving any service or treatment, disclose in writing to any provider of the service or treatment, including but not limited to a veterinary health care worker, dog groomer, humane agency staff person, pet animal care facility staff person, professional dog handler, or dog trainer, each acting in the performance of his or her respective duties, that the dangerous dog has been the subject of a conviction of a violation of this section;

(VI) Prior to a change, transfer, or termination of ownership of a dangerous dog, disclose in writing to the prospective owner that the

dangerous dog has been the subject of a conviction of a violation of this section.

(f) In addition to any other penalty set forth in this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury, or death to a person, the court, pursuant to applicable provisions of title 16, C.R.S., governing restitution, shall order the defendant to make restitution in accordance with said provisions.

(g)(I) In addition to the penalties set forth in paragraphs (b) to (e) of this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court shall order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by euthanasia administered by a licensed veterinarian.

(II) In addition to any penalty set forth in paragraphs (b) to (e) of this subsection (3), for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of a different owner, the court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by euthanasia administered by a licensed veterinarian.

(h)(I) An affirmative defense to the violation of this subsection (3) shall be:

(A) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(B) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(C) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;

(D) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

(E) That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

(II) The affirmative defenses set forth in subparagraph (I) of this paragraph (h) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in section 18-9-204.

(4) Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., the owner's dangerous dog may be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., sets bail for an owner's release from custody pending final disposition, the court may require, as a condition of bond, that the owner's dangerous dog be placed by an impound agency, as defined in section 18-9-202.5(2), at the owner's expense in a location selected by the impound agency including a public animal shelter, licensed boarding facility, or veterinarian's clinic, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this subsection (4).

(5)(a) Nothing in this section shall be construed to prohibit a municipality from adopting any rule or law for the control of dangerous dogs; except that any such rule or law shall not regulate dangerous dogs in a manner that is specific to breed.

(b) Nothing in this section shall be construed to abrogate a county's authority under part 1 of article 15 of title 30, C.R.S., to adopt dog control and licensing resolutions and to impose the penalties set forth in section 30-15-102, C.R.S.; except that any such resolution shall not regulate dangerous dogs in a manner that is specific to breed.

(c) No municipality or county may destroy or dispose of a dog that is awaiting destruction or disposition as of April 21, 2004, in connection with a violation or charged violation of a municipal or county ban on one or more specific dog breeds.

(6) The provisions of this section shall not apply to the following:

(a) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(b) To any dog that inflicts bodily or serious bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, or trainer each acting in the performance of his or her respective duties, unless the owner is subject to a court order issued pursuant to paragraph (e.5) of subsection (3) of this section and the owner has failed to comply with the provisions of subparagraph (V) of paragraph (e.5) of subsection (3) of this section; or

(c) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

§ 18-9-205. Disposition of fines

Any fines collected pursuant to section 18-9-204 shall be transmitted to the state treasurer, who shall then transmit the same to the county where the offense occurred for deposit in the general fund to be used for the care of the animals involved in the offense, if required, or, if not required, for any other lawful purpose.

§ 18-9-206. Unauthorized release of an animal--penalty--restitution

(1) Any person who intentionally releases any animal which is lawfully confined for scientific, research, commercial, legal sporting, or educational purposes or for public safety purposes because the animal has been determined to be dangerous to people, has an infectious disease, or is quarantined to determine whether or not it has an infectious disease without the consent of the owner or custodian of such animal commits the offense of unauthorized release of an animal.

(2) Unauthorized release of an animal is a class 2 misdemeanor.

(3) Any person who is convicted of unauthorized release of an animal shall be ordered to pay restitution for any damages resulting from such release, including the cost of restoring any animal to confinement, the cost of restoring the health of any animal which is released, the cost of any damage to real or personal property which is caused by a released animal, or any cost which results if the release causes the failure of an experiment, including the costs of repeating the experiment, replacement of any animal released, and the cost of labor and materials associated with such experiment.

§ 18-9-207. Tampering or drugging of livestock

(1) As used in this section, unless the context otherwise requires:

(a) "Exhibition" means a show or sale of livestock at a fair or elsewhere in this state that is sponsored by or under the authority of the state or any unit of local government or any agricultural, horticultural, or livestock society, association, or corporation.

(b) "Livestock" means any domestic animal generally used for food or in the production of food, including, but not limited to, cattle, sheep, goats, poultry, swine, or llamas.

(c) "Sabotage" means intentionally tampering with an animal belonging to or owned by another person that has been registered, entered, or exhibited in any exhibition or raised for the apparent purpose of being entered in an exhibition.

(d)(l) "Tamper" means any of the following:

(A) Treatment of livestock in such a manner that food derived from the livestock would be considered adulterated under the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S.;

(B) The injection, use, or administration of any drug that is prohibited by any federal, state, or local law or any drug that is used in a manner prohibited by federal law or the law of this state or any locality thereof;

(C) The injection or other internal or external administration of any product or material, whether gas, solid, or liquid, to an animal for the purposes of deception, including concealing, enhancing, or transforming the true conformation, configuration, color, breed, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(D) The use or administration for cosmetic purposes of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance;

(E) The use or application of any drug or feed additive affecting the central nervous system of the animal;

(F) The use or administration of diuretics for cosmetic purposes;

(G) The manipulation or removal of tissue, by surgery or otherwise, so as to change, transform, or enhance the true conformation or configuration of the animal;

(H) Subjecting the animal to inhumane conditions or procedures for the purpose of concealing, enhancing, or transforming the true conformation, configuration, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(I) Attaching to the animal's hide foreign objects, including hair or hair substitutes, cloth, and fibers, for the purpose of deception, including concealing, enhancing, or transforming the true conformation, configuration, color, breed, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(J) Substituting a different animal for the animal registered or entered in the exhibition without the permission of a responsible official of the exhibition.

(II) "Tamper" does not include any action taken or activity performed or administered by a licensed veterinarian or in accordance with instructions of a licensed veterinarian if the action or activity was undertaken for accepted medical purposes during the course of a valid veterinarian-client-patient relationship or any action taken as part of accepted grooming, ranching, commercial, or medical practices. "Tampering" shall not be construed to include normal ranching practices.

(2)(a) No person shall commit any act in this state that would constitute tampering with or sabotaging any livestock that has been registered, entered, or exhibited in any exhibition in this state.

(b) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug to or for livestock unless such drug is approved by the United States food and drug administration or the United States department of agriculture; except that, if either agency has approved an application submitted for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act", the drug may be used only for the approved investigational use.

(c) No person shall administer, distribute, possess, sell, or use any dangerous drug to or for livestock unless the drug is accompanied by a prescription issued by a licensed veterinarian entitled to practice in this state.

(3) Any person who violates the provisions of this section commits a class 1 misdemeanor. However, in lieu of the fine provided in section 18-1.3-501, the court may impose a fine of not less than one thousand dollars or more than one hundred thousand dollars.

(4) The name and photograph of any person convicted of violating the provisions of this section shall be made available for publication in newspapers of general circulation and trade journals.

§ 18-9-208. Forfeiture of animals

(1) Upon the motion of the prosecuting attorney or upon the court's own motion, after the conviction of a defendant for cruelty to animals as described in section 18-9-202, or for animal fighting as described in section 18-9-204, the court may order the forfeiture of any animal owned by or in the custody of the defendant that:

(a) Was abused, neglected, mistreated, injured, or used by the defendant during the course of the criminal episode that gave rise to such conviction;

(b) Participated in or was affected by any act set forth in section 18-9-204(1).

(2)(a) If an animal is the subject of a motion made under subsection (1) of this section and is not owned by the defendant, the court may nevertheless enter an order of forfeiture of the animal if the court finds that:

(I) The animal was abandoned prior to the criminal episode described in subsection (1) of this section;

(II) The owner of the animal is unknown; or

(III) The owner of the animal is known but cannot be located.

(b) Any person who contests a motion brought under this section shall establish such person's standing as a true owner of the animal. The factors to be considered by the court in determining whether such person is a true owner shall include, but shall not be limited to, the following:

(I) Whether the person was the primary user, custodian, or possessor of the animal;

(II) Whether there is evidence that ownership of the animal is vested in the person;

(III) Whether consideration was paid for the purchase of the animal, and, if so, how much of the consideration was furnished by the person.

(c) If the court determines that a person other than the defendant is the true owner of the animal, the court may not enter an order forfeiting the animal under this section unless the court finds:

(I) The true owner was involved in the criminal episode described in subsection (1) of this section;

(II) The true owner knew or reasonably should have known of the criminal episode described in subsection (1) of this section and failed to take all reasonable steps available to him or her to prevent it; or

(III) Ownership of the animal was conveyed to the true owner in order to avoid a forfeiture.

(3) An order of forfeiture entered pursuant to this section shall provide for the immediate disposition of the forfeited animal by any means described in section 18-9-201 (2.5) other than return to the owner. If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(4) The owner or custodian of an animal that is the subject of a motion brought under this section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall the prosecuting attorney or the office of the prosecuting attorney be liable for such cost.

(5) The court in its discretion may order a forfeiture authorized by this section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

§ 18-9-209. Immunity for reporting animal cruelty--false report--penalty

(1) Except as otherwise provided in subsection (2) of this section, a person who, in good faith, reports a suspected incident of animal cruelty, as described in section 18-9-202, to a local law enforcement agency or to the state bureau of animal protection shall be immune from civil liability for reporting the incident.

(2) The provisions of subsection (1) of this section shall not apply to a person who knowingly makes a false report of animal cruelty.

(3) A person who knowingly makes a false report of animal cruelty to a local law enforcement agency or to the state bureau of animal protection commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501.

§ 19-2-918.5. Sentencing--animal cruelty--anger management treatment

(1) In addition to any sentence imposed pursuant to this section, any juvenile who has been adjudicated a juvenile delinquent for the commission of cruelty to animals, as described in section 18-9-202, in which the underlying factual basis of which has been found by the court to include the knowing torture or torment of an animal that needlessly injured, mutilated, or killed an animal, may be ordered to complete an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(2) The court may order an evaluation to be conducted prior to disposition if an evaluation would assist the court in determining an appropriate disposition. The parents or legal guardian of the juvenile ordered to undergo an evaluation shall be required to pay the cost of the evaluation. If the evaluation results in a recommendation of treatment and if the court so finds, the juvenile must be ordered to complete an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(3) The disposition for any juvenile who has been adjudicated a juvenile delinquent a second or subsequent time, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, as described in section 18-9-202, must include the completion of an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(3.5) In addition to any sentence imposed pursuant to this section for any juvenile who has been adjudicated a juvenile delinquent for the commission of cruelty to animals, as described in section 18-9-202, the court may enter an order prohibiting the juvenile or other party from owning, possessing, or caring for a pet animal as defined in section 35-80-102(10), unless the juvenile's treatment provider makes a specific recommendation not to impose the ban and the court agrees with the recommendation.

(4) Nothing in this section shall preclude the court from ordering treatment in any appropriate case.

(5) This section does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when the treatment is in accordance with accepted animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 32 of title 44, the treatment of animals involved in research if the research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

§ 35-42-101. Short title

This article shall be known and may be cited as the “Animal Protection Act”.

§ 35-42-102. Legislative declaration

The general assembly hereby finds and declares that the protection of companion animals and livestock is a matter of statewide concern; and that it is the policy of this state that persons responsible for the care or custody of such animals be persons fit to adequately provide for the health and well-being of such animals.

§ 35-42-103. Definitions

As used in this article, unless the context otherwise requires:

- (1) “Abandon” means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.
- (2) “Accepted animal husbandry” means practices generally recognized as appropriate in the care of animals consistent with the species, breed, and type of animal.
- (3) “Animal” means any living dumb creature.
- (4) “Commissioner” means the Colorado commissioner of agriculture or his designee.
- (5) “Companion animal” means domestic dogs, domestic cats, small pet birds, and other nonlivestock species.
- (6) “Department” means the Colorado department of agriculture.
- (7) “Division” means the division of animal industry of the department of agriculture.
- (8) “Livestock” means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the commissioner as agricultural products.
- (9) “Mistreat” means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.
- (10) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with the species, breed, and type of animal.

§ 35-42-104. Scope of article

(1) Nothing in this article shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals, or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of this title.

(2) In case of any conflict between this article or regulations adopted pursuant to this article or section 35-43-126 and the wildlife statutes of the state, said wildlife statutes shall control.

(3) Nothing in this article shall affect animal care otherwise authorized by law.

(4) Nothing in this article shall affect facilities licensed under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended

§ 35-42-105. Bureau of animal protection--creation

There is hereby created the state bureau of animal protection, referred to in this article as the "bureau".

§ 35-42-106. Powers and duties of the commissioner

The commissioner has the power to administer and enforce the provisions of this article, appoint agents and establish the qualifications of such agents, promulgate rules and regulations, enter into contracts, and implement training, procedures, and rules and regulations of recommended standards for animal control officers.

§ 35-42-107. Bureau personnel--appointment

(1) Subject to the provisions of section 13 of article XII of the state constitution, the commissioner shall appoint such animal protection agents as are necessary to carry out the provisions of this article.

(2) The commissioner may appoint agents who are employees of the state, Colorado-based nonprofit corporations, municipal corporations, counties, cities, cities and counties, or any other local governmental entity or political subdivision of the state.

(3) When agents who are employees of nonprofit corporations are appointed, the corporation shall furnish evidence of minimum liability insurance covering said agent in the amount of one hundred thousand dollars. The state shall not be liable for the actions of such agents. Agents of the bureau shall submit to training as specified by the commissioner.

(4) Agents of the bureau who have completed training as specified by the commissioner are vested with the power to conduct investigations and issue summons and complaints to enforce the provisions of part 2 of article 9 of title 18 and article 80 of this title 35 as granted peace officers pursuant to section 16-2-104, and are designated as peace officers, as described in sections 16-2.5-101 and 16-2.5-118.

(5) The commissioner may, in his discretion, revoke the commission of any agent.

(6) The commissioner may in his discretion determine classifications and subclassifications for commissions of agent.

(7) Agents authorized to investigate cases involving livestock shall be employees of the division or the division of brand inspection of the department or any sheriffs when appointed and within their jurisdiction.

(8) All commissions issued by the commissioner shall expire on the anniversary date of issuance.

(9) A commission may, in the discretion of the commissioner, be renewed.

(10) All commissions shall be approved by the state agricultural commission.

§ 35-42-108. Care of confined animal

(1) Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(2) Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.

(3) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(4) In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

§ 35-42-109. Protection of animals mistreated, neglected, or abandoned

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.

(2)(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

- (II) Placed for adoption in a suitable home;
- (III) Given to a suitable animal shelter;
- (IV) Humanely destroyed as deemed proper by the court; or
- (V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

§ 35-42-110. Injured animals may be euthanized

Any agent of the bureau or peace officer, as described in section 16-2.5-101, C.R.S., may lawfully euthanize or cause to be euthanized, as defined in section 18-9-201(2.7), C.R.S., any animal in his or her charge when, in the judgment of such agent or peace officer, and in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery. In the event a licensed veterinarian is not available, the animal may be euthanized if, by the written certificate of two persons, one of whom may be selected by the owner if the owner so requests, called to view the animal in the presence of the agent, the animal appears to be severely injured past recovery, severely disabled past recovery, severely diseased past recovery, or unfit for any useful purpose.

§ 35-42-111. Investigations--access--administrative subpoena

(1) The commissioner, upon his own motion or upon the complaint of any person, shall make any investigations necessary to ensure compliance with this article.

(2)(a) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access, upon consent or upon obtaining an administrative search warrant, to all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule made pursuant to this article.

(b) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses and the production of all books, memoranda, papers, and other

documents, articles, or instruments and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(3) Complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period.

§ 35-42-112. Enforcement

(1) The commissioner or his designee shall enforce the provisions of this article.

(2)(a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule made pursuant to this article has occurred and immediate enforcement is deemed necessary, he may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule made pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and shall require that all actions causing the violation be ceased.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(d) Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.

(3) Whenever it appears to the commissioner upon sufficient evidence satisfactory to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or of any rule adopted pursuant to this article, he may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule adopted pursuant to this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

§ 35-42-113. Animal protection fund--creation

(1) There is hereby created an animal protection fund. Any donations collected for animal protection, any net proceeds from the sale of an animal pursuant to section 18-9-202.5(4), C.R.S., and any moneys from restitution ordered for the expenses of the department of agriculture in selling and providing for the care of and provision for an

animal disposed of under the animal cruelty laws in accordance with part 2 of article 9 of title 18, C.R.S., or this article shall be transmitted to the state treasurer, who shall credit the moneys to the animal protection fund. The general assembly shall make annual appropriations from that fund to the department of agriculture to aid in carrying out the purposes of this article; except that no such appropriations may be made for personal services.

(2) All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly through legislation.

§ 35-42-114. Local regulation

The provisions of this article shall not be construed to limit or preempt additional regulation by any city, town, or city and county. Nothing in this article shall interfere with the authority of the department of public health and environment in the enforcement of part 7 of article 4 of title 25, C.R.S., or the department of agriculture in the enforcement of article 80 of this title.

§ 35-42-115. Dangerous dog registry--created--cash fund

(1) The bureau shall establish a statewide dangerous dog registry consisting of a database of information concerning microchip types and placement by veterinarians and licensed shelters in dangerous dogs pursuant to the provisions of section 18-9-204.5(3)(e.5), C.R.S. The commissioner may promulgate such rules as may be necessary for the implementation of this section.

(2) A veterinarian or licensed shelter that implants a microchip pursuant to the provisions of section 18-9-204.5(3)(e.5)(III), C.R.S., shall provide to the bureau a veterinary record of the microchip. The bureau shall maintain each veterinary record provided in a registry on a statewide database.

(3) Each person who is ordered to identify his or her dangerous dog through microchip implantation shall pay to the bureau a nonrefundable dangerous dog microchip license fee of fifty dollars, as required in section 18-9-204.5(3)(e.5)(IV), C.R.S. The bureau shall transmit all fees collected pursuant to this subsection (3) to the state treasurer who shall credit the same to the dangerous dog microchip licensure cash fund, referred to in this section as the "fund", which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly to the bureau for the costs incurred in implementing this section. The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

§ 35-80-101. Short title

This article shall be known and may be cited as the "Pet Animal Care and Facilities Act".

§ 35-80-102. Definitions

As used in this article, unless the context otherwise requires:

(1) "Animal shelter" means a public or private facility licensed pursuant to this article and the rules and regulations adopted pursuant thereto.

(1.5) "Bird hobby breeder facility" means any facility engaged in the operation of breeding and raising birds for the purpose of personal enjoyment that does not transfer more than thirty birds per year.

(2) "Canine hobby breeder facility" means any facility which transfers no more than twenty-four dogs per year or breeds no more than two litters per year, whichever is greater.

(3) "Commission" means the state agricultural commission.

(4) "Commissioner" means the commissioner of agriculture, or the designee of the commissioner.

(5) "Committee" means the pet animal advisory committee created in section 35-80-115.

(6) "Department" means the department of agriculture.

(6.3) "Dispose" or "disposition" means adoption of a pet animal, return of a pet animal to the owner, release of a pet animal to a rescue group licensed pursuant to this article, release of a pet animal to another pet animal facility licensed pursuant to this article or to a rehabilitator licensed by the division of wildlife or the United States fish and wildlife service, or euthanasia.

(6.5) "Dog breeder" means any firm, person, or corporation which is engaged in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring same, excluding racing greyhounds that are not intended to be companion pets.

(6.6) "Dog breeder, large scale operation" or "large scale operation dog breeder" means a dog breeder that transfers at least one hundred dogs per year, excluding racing greyhounds that are not intended to be companion pets.

(6.7) "Dog breeder, small scale operation" or "small scale operation dog breeder" means a dog breeder that transfers at least twenty-five but no more than ninety-nine dogs per year.

(7) "Euthanasia" means to produce a humane death by techniques accepted by the American veterinary medical association.

(8) "Feline hobby breeder facility" means any facility that produces or transfers no more than twenty-four cats per year or breeds no more than three litters per year.

(9) "Livestock" means cattle, horses, mules, burros, sheep, poultry, swine, llama, and goats, regardless of use, and any animal that is used for working purposes on a farm or ranch, and any other animal designated by the commissioner, which animal is raised for food or fiber production.

(10) "Pet animal" means dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any other species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock, as defined in subsection (9) of this section. "Pet animal" does not include an animal that is used for working purposes on a farm or ranch.

(11) "Pet animal facility" means any place or premise used in whole or in part, which part is used for the keeping of pet animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, or otherwise transferring such animals. "Pet animal facility" also includes any individual animals kept by such a facility as breeding stock, such licensing of individual breeding stock to be inclusive in the pet animal facility license. "Pet animal facility" shall not mean a common carrier engaged in intrastate or interstate commerce. For purposes of this article, two or more animal facilities that have the same or a similar purpose and operate from one place or premises shall be considered a single pet animal facility.

(11.2) "Pet animal rescue" means any person licensed pursuant to this article who accepts pet animals for the purpose of finding permanent adoptive homes for animals and does not maintain a central facility for keeping animals, but rather uses a system of fostering in private homes or boarding or keeping pets in licensed pet animal facilities.

(11.4) "Prospective owner" means a person who has no prior rights of ownership to the pet animal to be adopted.

(11.6) "Release" means adoption, sale, or other transfer to the permanent custody of an owner by an animal shelter or pet animal rescue.

(11.8) "Small animal breeder facility" means any facility that transfers more small mammals than the maximum number established by the commissioner by rule for each particular species.

(12) "Small animal hobby breeder facility" means any facility that transfers a number of small mammals that is less than the maximum number established by the commissioner by rule for each particular species.

(13) Deleted by Laws 2000, Ch. 290, § 4, eff. May 30, 2000.

(14) "Sterilization" means the act of permanently rendering an animal incapable of reproduction. The term applies to surgical methods, including the procedures commonly referred to as spay and neuter, and nonsurgical methods and technologies approved by the United States food and drug administration, the United States department of agriculture, or other appropriate designated federal authority.

§ 35-80-103. Scope of article

(1) Any person who operates a pet animal facility that is licensed as of December 31, 1993, by the United States department of agriculture shall not be subject to the routine

inspection provisions of this article but shall be subject to all other provisions, including but not limited to those concerning licensure and investigation of reported violations.

(2) The provisions of this article 80 shall not apply to:

(a) Any veterinary hospital which boards pet animals for the purpose of veterinary medical care only and does not actively solicit boarding business in any way;

(b) Any research facility, circus, or publicly or privately owned zoological park or petting zoo licensed or registered under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended;

(c) Any bird hobby breeder facility, canine hobby breeder facility, feline hobby breeder facility, small animal hobby breeder facility, or any other hobby breeder facility as defined by the commissioner which is specific to other pet animal species;

(d) Any pet animal training facility where the pet animal owner or such owner's designee, other than a training facility operator, is present during the duration of the animal's stay;

(e) Any kennel operated for the breeding or sale or racing of racing greyhounds that are not intended to be companion pets;

(f) Any facility licensed pursuant to article 60 of title 12, C.R.S., for the racing of greyhounds;

(g) Any wildlife regulated by the division of wildlife or department of natural resources;

(h) Livestock, as defined in section 35-80-102(9);

(i) Any owner, breeder, handler, or trainer while transporting a pet animal to or from or exhibiting or competing at any event licensed, regulated, or sanctioned by the American kennel club, united kennel club, or any other nationally recognized registering organization.

(j) Any wildlife sanctuary;

(k) The boarding of no more than three pet animals at one time;

(l) A company that uses technology in its business model that is not a pet animal facility, as that term is defined in section 35-80-102(11).

(3)(a) Any pet animal facility structure in existence and licensed by the department of health through 1991 that was in compliance with that department's regulations for such licenses shall be exempt from any conflicting requirements of this article or rules and regulations of the commissioner concerning physical premises.

(b) Any laws or rules promulgated for pet animal facilities shall not require the construction of any new buildings or major reconstruction of the existing physical premises of facilities specified in paragraph (a) of this subsection (3).

§ 35-80-104. Pet animal facility license required

Any person operating a pet animal facility shall possess a valid pet animal facility license issued by the commissioner in accordance with this article and any rules and regulations adopted by the commissioner in accordance with the provisions of this article.

§ 35-80-105. Pet animal facility--licensure requirements--application--fees

(1) Each applicant for a pet animal facility license shall submit an application providing all required information in the form and manner required by the commissioner.

(2) Each location of a pet animal facility shall be separately licensed.

(3) If a pet animal facility operates under more than one business name from a single location:

(a) No additional pet animal facility license shall be required for the different business names;

(b) The pet animal facility operator must maintain separate records pursuant to section 35-80-107 for each such business name; and

(c) The name of each business providing services that are related to those of a pet animal facility shall be listed with the commissioner in the form and manner designated. The commissioner may require that a separate fee be paid for each such business name.

(4) Each applicant for a pet animal facility license shall pay an annual license fee in the amount specified by rule of the commissioner, which amount shall not exceed three hundred fifty dollars per license.

(5) Each pet animal facility license shall expire on March 1 of each year.

(6) Each licensee shall report to the commissioner, in the form and manner the commissioner shall designate, any change to the information provided in the application or reports previously submitted within fifteen days of any such change.

(7) Licenses issued pursuant to this article shall not be transferable.

(8) Each pet animal facility licensed pursuant to this article shall display in a conspicuous place signage that contains contact information for the office or other appropriate department subdivision that administers this article.

§ 35-80-106. Pet animal facility license--renewal

(1) Each pet animal facility shall apply to renew its license on or before the first working day of March for the year of renewal. Said application shall be in the form and manner prescribed by the commissioner and shall be accompanied by the required renewal fee.

(2) If the application for renewal is not postmarked on or before the first working day of March for the year of renewal, a penalty fee of ten percent of the renewal fee shall be assessed. No license shall be renewed until the renewal fee and any penalty fee are paid.

(3) If the application and fee for renewal are not postmarked on or before April 1, the license shall not be renewed and the pet animal facility shall apply for a new license.

(4) The commissioner may refuse to renew a license pursuant to this section for failure to pay an outstanding civil penalty imposed under section 35-80-113.

§ 35-80-106.3. Animal holding periods--disposition of unclaimed animals-- immunity from actions over disposition of a pet animal

(1) Any pet animal held by or in the custody of a licensed animal shelter, whether public or private, and not reclaimed by the owner shall be held by the animal shelter for a minimum of five days after acquisition by the animal shelter before it may become available for adoption or otherwise disposed of at the discretion of the animal shelter; except that a shelter supervisor may determine that a pet animal without identification, including but not limited to a microchip or collar, may be disposed of in three days if such shelter supervisor determines the shelter has no additional resources for such pet animal or determines that such pet animal is dangerous. For purposes of this section, "days" means days during which the shelter is open to the public. If the animal shelter acquires the pet animal from the owner or an authorized representative of the owner, the pet animal becomes the property of the animal shelter at the time of transfer of the pet animal, and the pet animal may be disposed of by and at the discretion of the animal shelter. If the pet animal is abandoned, as defined in section 18-9-201(1), C.R.S., the pet animal becomes the property of the animal shelter upon acquisition and may be disposed of by and at the discretion of the animal shelter. The animal shelter shall be the steward of stray animals for the purposes of providing prophylactic veterinary care under the written protocol and direction of the shelter veterinarian. Pet animals, which in the opinion of a veterinarian or the animal shelter supervisor, if a veterinarian is not available, are experiencing extreme pain or suffering, may be disposed of immediately by the animal shelter through euthanasia after the animal shelter has exhausted reasonable efforts to contact the owner; however, for pet animals with identification, the animal shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four hours.

(2) An animal shelter and any employee thereof that complies with the minimum holding period as set forth in subsection (1) of this section or that disposes of a pet animal in accordance with the provisions of subsection (1) of this section for owner-surrendered animals, abandoned animals, or suffering animals shall be immune from liability in a civil action brought by the owner of a pet animal for the shelter's disposition of a pet animal.

(3) Nothing in this section shall preclude a town, city, city and county, or county from adopting, maintaining, or enforcing an ordinance that exceeds the minimum holding period as set forth in subsection (1) of this section. Nothing in this section shall preclude a licensed animal shelter, whether public or private, from adopting, maintaining, or following a policy that exceeds the minimum holding period as set forth in subsection (1) of this section.

§ 35-80-106.4. Sterilization of ownerless dogs and cats required--rules--exceptions--violations

(1) An animal shelter or pet animal rescue shall not release a dog or cat to a prospective owner unless the animal has been sterilized by a licensed veterinarian.

(2) If a licensed veterinarian declares in writing that a sterilization procedure could jeopardize the life or health of the dog or cat, the procedure may be delayed until such time that a veterinarian determines that the dog or cat is fit to undergo the sterilization procedure. At such time, the prospective owner shall have the animal sterilized. If the determination of unfitness for sterilization has been made prior to release, the animal shelter or pet animal rescue may release the dog or cat to the prospective owner, subject to the provisions of this subsection (2).

(3) This section does not apply to:

(a) The release of a dog or cat to a person with prior and continuing ownership rights to the dog or cat who is reclaiming the animal from an animal shelter or pet animal rescue;

(b) The transfer of an animal from an animal shelter or pet animal rescue to another animal shelter or pet animal rescue or to a veterinarian;

(c) Repealed by Laws 2019, Ch. 409, § 3, eff. Aug. 2, 2019.

(d) Public animal shelters eligible for waiver of licensing fees pursuant to rules promulgated by the commissioner; or

(e) A facility in an area with limited access to licensed veterinarians that has been granted an exemption by the commissioner.

(4) Nothing in this section shall preclude a town, city, county, or city and county from adopting, maintaining, or enforcing an ordinance that exceeds the minimum requirements adopted by the commissioner in implementing and enforcing this section. Nothing in this section shall preclude a licensed animal shelter, whether public or private, from adopting, maintaining, or following a policy that exceeds the minimum requirements adopted by the commissioner in implementing and enforcing this section.

§ 35-80-106.5. Psittacine bird leg band—fee--rules

(1) Each applicant for a Colorado psittacine bird leg band shall be issued a bird leg band number by the commissioner after paying the required application fee, and each holder of a bird leg band number shall pay an annual renewal fee on or before October 1 of each year.

(2) The application and renewal fees described in subsection (1) of this section shall be set forth in rule adopted by the commissioner.

§ 35-80-107. Record-keeping requirements

Each pet animal facility shall keep and maintain records in the form and manner designated by the commissioner. Such records shall be retained for a period of two years and shall be kept at the address specified in the license application for the pet animal facility.

§ 35-80-108. Unlawful acts

(1) Unless otherwise authorized by law, it is unlawful and a violation of this article for any person or entity:

- (a) To perform any of the acts of a pet animal facility for which licensure is required without possessing a valid license under this article;
- (b) To solicit, advertise, or offer to perform any of the acts for which licensure as a pet animal facility is required without possessing a valid license to perform such acts;
- (c) To refuse to comply with a cease and desist order issued pursuant to section 35-80-111;
- (d) To refuse or fail to comply with the provisions of this article;
- (e) To make a material misstatement in a license application, a license renewal application, or to the department during an official investigation;
- (f) To impersonate any state, county, city and county, or municipal official or inspector;
- (g) To refuse or fail to comply with any rules or regulations adopted by the commissioner pursuant to this article or any lawful order issued by the commissioner;
- (h) To aid or abet another in any violation of this article or any rule promulgated by the commissioner under the provisions of this article;
- (i) To import or have in such person's possession for the purpose of selling, trading, giving, or otherwise transferring certain species of birds designated by the commissioner that have not been legally banded with a leg band applied during the prefeathered stage of development and appropriate to the size and species of the bird;
- (j) To sell, barter, exchange, or otherwise transfer, possess, import, or cause to be imported into this state:
 - (I) Any type of turtle with a length in carapace of less than four inches; or
 - (II)(A) Any species of nonhuman primate.
 - (B) Such prohibitions, with respect to nonhuman primates, shall not apply to a zoological park or a research institute licensed or registered under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131, et seq., as amended, nor shall they apply to the keeping of a nonhuman primate as a household pet

by any person who owned such primate on or before July 1, 1973, or to the keeping by a disabled person of a nonhuman primate specially trained to assist such person.

(k) To sell, transfer, or adopt dogs or cats under the age of eight weeks;

(k.5) To transfer cats under the minimum weight limit set by rule of the commissioner;

(l) To sell, transfer, or adopt guinea pigs, hamsters, or rabbits under the age of four weeks, and such other pet animal species as may be specified by the commissioner; and

(m) To alter or falsify any certificate of veterinary inspection or any other certificate of veterinary health.

(1.5) Paragraphs (i), (j), (k), and (l) of subsection (1) of this section shall apply to all persons and entities, including those specifically exempted under section 35-80-103(1), (2)(a), (2)(c), (2)(d), and (2)(e).

(2) It is unlawful and a violation of this article for any person operating a pet animal facility:

(a) To refuse to permit entry or inspection in accordance with section 35- 80-110;

(b) To sell, offer for sale, barter, exchange, or otherwise transfer immature domestic fowl in lots of less than twenty-five as pets;

(c) To sell, offer for sale, barter, exchange, or otherwise transfer raccoons or other animal species of wildlife that are prohibited to be kept as pets by the division of wildlife in the department of natural resources;

(d) To import or cause to be imported any pet animal for the purpose of sale, resale, trade, or barter by a pet animal facility operator unless such operator is the holder of a valid pet animal facility license issued pursuant to this article;

(e) To allow a license issued pursuant to this article to be used by an unlicensed person;

(f) To make any misrepresentation or false promise through advertisements, employees, agents, or otherwise in connection with the business operations licensed pursuant to this article or for which an application for a license is pending; and

(g) To fail to take reasonable care to release for sale, trade, or adoption only those pet animals that are free of undisclosed disease, injury, or abnormality.

(3) It is unlawful and a violation of this article for any employee or official of the department or any person designated by the commissioner pursuant to section 35-80-109(6) to disclose or use for his or her own advantage any information derived from any reports or records submitted to the department pursuant to section 35-80-110 or to reveal such information to anyone except authorized persons, including officials or employees of the state, the federal government, and the courts of this or other states.

(4) The failure by any person to comply with the provisions of paragraph (a) or (b) of subsection (1) of this section or paragraph (f) of subsection (2) of this section is a deceptive trade practice and is subject to the provisions of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S.

§ 35-80-109. Powers and duties of commissioner--rules

(1) The commissioner is authorized to administer and enforce the provisions of this article and any rules and regulations adopted pursuant thereto.

(2) The commissioner is authorized to adopt all reasonable rules for the administration and enforcement of this article, including, but not limited to:

(a) Minimum standards of physical facility, sanitation, ventilation, heating, cooling, humidity, spatial and enclosure requirements, nutrition, humane care, medical treatment, sterilization of dogs and cats released to prospective owners from animal shelters and pet animal rescues, and method of operation, including the minimum holding period for and disposition of stray or abandoned pet animals that are, in the opinion of the commissioner, necessary to carry out the provisions of this article; except that each holding period shall comply with section 35-80-106.3(1);

(a.5) The minimum weight requirement for the transfer of cats;

(b) Maintenance of records concerning health care, euthanasia, and transactions involving pet animals;

(b.5) The content of, and procedures for, any written recommendations and warnings concerning rabies vaccinations that the commissioner may require a licensee to give in connection with the sale, transfer, trade, or adoption of a dog, cat, or ferret;

(b.6) Written disclosures by licensees in connection with the sale, transfer, trade, or adoption of a dog, cat, ferret, or bird and the retention by licensees of written documentation that the disclosures were made;

(c) The establishment of qualifications for any applicant and standards of practice for any of the licenses authorized under this article, including the establishment of classifications and subclassifications for any license authorized under this article;

(d) The issuance and reinstatement of any license authorized under this article and the grounds for any disciplinary actions authorized under this article, including letters of admonition or the denial, restriction, suspension, or revocation of any license authorized under this article; and

(e)(l) The amount of any license fee for a pet animal facility license. Such license fee may be different for different classifications and subclassifications of any license authorized under this article. The commissioner is authorized to determine the amount of any licensing fee authorized under this article based on

the actual cost of administering and enforcing this article and any rules adopted pursuant thereto.

(II) Repealed by Laws 2009, Ch. 327, § 4, eff. July 1, 2011.

(3) The commissioner is authorized to conduct hearings required under sections 35-80-112 and 35-80-113 pursuant to article 4 of title 24, C.R.S., and to use administrative law judges to conduct such hearings when their use would result in a net saving of costs to the department.

(4) The commissioner is authorized to establish the annual date or dates on which licenses and psittacine bird leg bands issued pursuant to this article shall expire.

(5) The commissioner is authorized to enter into cooperative agreements with any agency or political subdivision of this state or with any agency of the United States government for the purpose of carrying out the provisions of this article, receiving grants-in-aid, and securing uniformity of rules.

(6) The powers and duties vested in the commissioner by this article may be delegated to qualified employees of the department.

(7) The commissioner shall appoint an advisory committee pursuant to section 35-80-115.

§ 35-80-110. Inspections--investigations--access--subpoena--duty to report suspected animal cruelty or animal fighting--immunity

(1) The commissioner, upon his or her own motion or upon the complaint of any person, may make any investigations necessary to ensure compliance with this article.

(2) Complaints of record made to the commissioner and the results of his or her investigations may, in the discretion of the commissioner, be closed to public inspection, except to the person in interest, as defined in section 24-72-202(4), C.R.S., or as provided by court order, during the investigatory period and until dismissed or until notice of hearing and charges are served on a licensee.

(3) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access upon consent or upon obtaining an administrative search warrant:

(a) To those portions of all buildings, yards, pens, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule promulgated pursuant to this article; and

(b) To all records required to be kept and may make copies of such records for the purpose of carrying out any provision of this article or any rule promulgated pursuant to this article.

(3.5) After the denial, suspension, or revocation of a license for a pet animal facility, the commissioner shall have free and unimpeded access to the areas and records that are reasonably necessary to verify that operation of such a pet animal facility has ceased.

The commissioner shall have such access upon consent or upon obtaining a search warrant to the following areas and records:

(a) To those portions of all buildings, yards, pens, and other areas in which animals are suspected of being kept, handled, or transported without the appropriate license; and

(b) To all records that are equivalent to those required to be kept for the purpose of carrying out the provisions of this article. The commissioner may make copies of such records for the purpose of carrying out any provision of this article or any rule promulgated pursuant to this article.

(4) The commissioner shall have full authority to administer oaths and take statements, issue subpoenas requiring the attendance of witnesses before him or her, and require the production of all books, memoranda, papers and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(5)(a) If the commissioner or the commissioner's designee, in the course of an investigation under this article, has reasonable cause to know or suspect that an animal has been subjected to animal cruelty in violation of section 18-9-202, C.R.S., or animal fighting in violation of section 18-9-204, C.R.S., the commissioner or the commissioner's designee shall report or cause a report to be made of the animal cruelty or animal fighting to a local law enforcement agency or the state bureau of animal protection created in section 35-42-105. The commissioner or the commissioner's designee shall not knowingly make a false report.

(b) The mere filing of a complaint does not generate a requirement to report under paragraph (a) of this subsection (5).

(c) A commissioner or a commissioner's designee who willfully violates the provisions of this subsection (5) commits a class 1 petty offense, punishable as provided in section 18-1.3-503, C.R.S.

(d)(I) If the commissioner or the commissioner's designee in good faith reports a suspected incident of animal cruelty or animal fighting to the proper authorities in accordance with this subsection (5), he or she is immune from liability in any civil or criminal action brought in connection with the report.

(II) In a civil or criminal action brought in connection with the report, the commissioner or the commissioner's designee is presumed to have acted in good faith.

§ 35-80-111. Enforcement

(1) The commissioner or the commissioner's designee shall enforce the provisions of this article.

(2)(a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule promulgated pursuant to this article has occurred and immediate enforcement is deemed necessary, he or she may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule promulgated pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all actions cease forthwith. At any time after service of the order to cease and desist, the person may request, at such person's discretion, a prompt hearing to determine whether or not such violation has occurred. Such hearing shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S., and shall be determined promptly.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(3) Whenever the commissioner possesses sufficient evidence satisfactorily indicating that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or any rule adopted under this article, the commissioner may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule or order issued under this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

§ 35-80-112. Disciplinary actions--denial of license--definition

(1) The commissioner, pursuant to the provisions of article 4 of title 24, may issue letters of admonition or deny, suspend, refuse to renew, restrict, or revoke any license authorized under this article 80 if the applicant or licensee:

(a) Has refused or failed to comply with any provision of this article, any rule adopted under this article, or any lawful order of the commissioner;

(b) Has been convicted of a local, state, or federal offense involving the theft, importation, capture, neglect, or abuse of an animal; or cruelty to animals as defined in article 9 of title 18; or any similar statute of any other state;

(c) Has had an equivalent license denied, revoked, or suspended by any authority;

(d) Has refused to provide the commissioner with reasonable, complete, and accurate information regarding the care of animals when requested by the commissioner; or

(e) Has falsified any information requested by the commissioner.

(2) In any proceeding held under this section, the commissioner may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction if the violation which prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action under this section.

(3) No licensee whose license has been revoked may apply or reapply for a license under this article 80 until two years after the date of the revocation. The two-year period of ineligibility also applies to a principal, officer, director, manager, or any other person who has substantial control or authority over the daily operations of the entity, whether the person applies individually or as a principal, officer, director, manager, or other person who has or would have substantial control or authority over the daily operations of the same or a different entity.

(4) As used in this section, "convicted" means having entered a plea of guilty, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, or a plea of no contest, accepted by the court, or having received a verdict of guilty by a judge or jury.

§ 35-80-112.5. Denial of license--animal cruelty or animal fighting conviction

(1) The commissioner, pursuant to article 4 of title 24, C.R.S., may deny, refuse to renew, or revoke any license authorized under this article if the applicant or licensee, or any principal, officer, director, manager, or other person who has or would have substantial control or authority over the licensee or over its daily operations, has been convicted of cruelty to animals pursuant to section 18-9-202(1)(a) or (1.5)(a), C.R.S., or any similar statute of any other state.

(2) Notwithstanding subsection (1) of this section, the commissioner, pursuant to article 4 of title 24, C.R.S., shall deny, refuse to renew, or revoke any license authorized under this article if the applicant or licensee, or any principal, officer, director, manager, or other person who has or would have substantial control or authority over the licensee or over its daily operations, has been convicted, at any time, of:

- (a) Animal fighting pursuant to section 18-9-204, C.R.S., or any similar statute of any other state;
- (b) Aggravated cruelty to animals pursuant to section 18-9-202(1.5)(b), C.R.S., or any similar statute of any other state; or
- (c) A second or subsequent conviction of cruelty to animals pursuant to section 18-9-202(1)(a) or (1.5)(a), C.R.S., or any similar statute of any other state.

§ 35-80-113. Civil penalties

(1) Any person who violates any provision of this article or any rule adopted pursuant to this article is subject to a civil penalty, as determined by the commissioner. The maximum penalty shall not exceed one thousand dollars per violation.

(2) No civil penalty may be imposed unless the person charged is given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.

(3) If the commissioner is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commissioner, the commissioner may:

- (a) Bring suit to recover the amount of the civil penalty plus costs and attorney fees by action in any court of competent jurisdiction; or
- (b) Refuse to renew any license authorized under this article that was issued to a person who has not paid the civil penalty pursuant to section 35-80-106(4).

(4) Repealed by Laws 2009, Ch. 327, § 8, eff. July 1, 2009.

§ 35-80-114. Criminal penalties

Any person who violates the provisions of section 35-80-108(1)(a), (1)(b), (1)(c), (1)(f), or (1)(m) commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

§ 35-80-115. Advisory committee

(1) There is hereby established a pet animal advisory committee to advise the commissioner in establishing rules under this article 80 and to provide ongoing review of this article 80. The members of the advisory committee shall receive no compensation or reimbursement from the state of Colorado or the department for expenses incurred in the performance of their duties. The advisory committee shall consist of seventeen persons appointed by the commissioner as follows:

- (a) One person who represents animal rescue;
- (b) One person who represents bird breeders;
- (c) One person who represents small-scale operation dog breeders;
- (d) One person who represents cat breeders;
- (e) One person who represents small animal breeders;
- (f) One person who represents boarding kennels;
- (f.5) One person who represents the “dog day care industry”, which term means premises on which dogs are kept primarily for the purpose of short-term care;
- (g) One person who represents pet groomers;
- (h) One person who represents pet animal retailers;
- (i) One person who represents pet animal wholesalers;
- (j) One person who represents animal control officers;
- (k) One person who represents animal shelters;
- (l) One veterinarian licensed pursuant to article 315 of title 12;
- (m) Three members of the general public, none of whom shall represent or have a financial interest in any of the groups listed in this subsection (1); and

(n) One person who represents large-scale operation dog breeders.

(2) All members of the advisory committee shall be residents of this state.

(3) In the event of a vacancy on the advisory committee prior to the completion of the member's full term, the commissioner shall appoint a person to complete the remainder of the term. Such person shall represent the same group as the member he or she is replacing, pursuant to subsection (1) of this section.

(4) The initial appointments of the animal rescue representative, the small animal breeder, the pet animal wholesaler, one member from the general public, and the large-scale operation dog breeder shall expire on January 1, 1995. The initial appointments of the bird breeder, the representative of boarding kennels, the representative of animal control officers, the small-scale operation dog breeder, and one member from the general public shall expire on January 1, 1996. The initial appointment of all other members shall be for a term of three years. Thereafter, members of the advisory committee shall serve for terms of three years.

(5) Repealed by Laws 2009, Ch. 327, § 6, eff. July 1, 2009.

§ 35-80-116. Pet animal care and facility fund--fees--fines

(1) All fees collected pursuant to this article 80 shall be transmitted to the state treasurer who shall credit the fee to the pet animal care and facility fund, which fund is hereby created. All money credited to the fund is a part of the fund and shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill. Notwithstanding the provisions of this section to the contrary, all interest derived from the deposit and investment of this fund shall be credited to the general fund, in accordance with section 24-36-114. The general assembly shall make annual appropriations from the fund to the department of agriculture for direct and indirect expenses incurred in carrying out the purposes of this section.

(2) All civil fines collected pursuant to this article 80 shall be transmitted to the state treasurer, who shall credit them to the general fund.

§ 35-80-116.5. Pet overpopulation authority--creation--duties and powers--pet overpopulation fund

(1) There is hereby created the Colorado pet overpopulation authority, also referred to in this section as the "authority", which shall be a body corporate and a political subdivision of the state. The authority is not an agency of state government and is not subject to administrative direction by any state agency except as provided in this article.

(2)(a) The powers of the Colorado pet overpopulation authority shall be vested in a board of directors consisting of the following:

(l) One representative of the animal assistance foundation or its successor organization;

- (II) One representative of the Colorado federation of animal welfare agencies or its successor organization;
- (III) One representative of a state veterinary medical association;
- (IV) One representative of an association organized for Colorado animal control officers;
- (V) One representative from the department of agriculture;
- (VI) One member from an animal rescue organization;
- (VII) One member of the general public with an interest in animal welfare; and
- (VIII) One representative of western Colorado.

(b) The commissioner shall appoint the board members to three-year terms; except that three of the members appointed on September 1, 2001, shall serve an initial term of two years. Each member shall serve at the pleasure of the commissioner and shall continue in office until the member's successor is appointed and qualified. Initial members of the authority shall be appointed no later than September 1, 2001.

(c) On the expiration of the term of a member of the board, that member's successor shall be appointed by the commissioner for a term of three years; except that, in the case of a vacancy, the commissioner shall appoint a person who shall serve for the unexpired term.

(3)(a) Each board member shall meet the following qualifications at the time of appointment

and throughout the member's term of office:

- (I) Residency in this state; and
- (II) Demonstration of an active interest in the education of the community regarding the benefits of pet overpopulation control in Colorado.

(b) The commissioner shall immediately declare the office of any member of the board vacant whenever the commissioner finds that the member is not qualified under this subsection (3) or that the member is unable to perform the duties of the office.

(c) Members shall serve without compensation for any service provided to the Colorado pet overpopulation authority. Members shall not receive any reimbursement from the board for any expenses incurred fulfilling their responsibilities pursuant to this section.

(4) The board may:

(a) Adopt an education program concerning pet overpopulation with emphasis on the importance of spaying and neutering to control pet overpopulation;

(b) Develop, adopt, and implement a process to fund and expend moneys for the activities and responsibilities of the board. Funding for the board includes the moneys available in the pet overpopulation fund created in subsection (5) of this section.

(c) Accept gifts, grants, and donations, including personal services, for the activities and responsibilities of the board. Any gift, grant, or donation other than personal services shall be deposited into the pet overpopulation fund created in subsection (5) of this section.

(d) Develop, adopt, and implement a cooperative process to work with local veterinarians, licensed animal shelters, and local communities concerning animal sheltering and pet overpopulation control in this state.

(5)(a) Donations collected pursuant to subsection (4) of this section and section 39-22-2201, C.R.S., shall be transmitted to the state treasurer and credited to the pet overpopulation fund, which fund is hereby created in the state treasury. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(b) All unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and not revert back to the general fund or any other fund or be used for any purpose other than the purposes set forth in this section. Such moneys shall be appropriated continually to the state treasurer, who shall transfer all available moneys in the pet overpopulation fund to the pet overpopulation authority at least quarterly unless the board expressly requests otherwise. The board shall expend moneys from the pet overpopulation fund for the implementation of this section.

(c) When expending funds to implement this section, the Colorado pet overpopulation authority shall give priority to the areas that have an insufficient number of pet animal veterinary resources to adequately meet local needs.

(d) There is hereby created in the pet overpopulation fund the adopt a shelter pet account, which consists of moneys donated to qualify for the adopt a shelter pet special license plate pursuant to section 42-3-234, C.R.S.

(e) The authority shall use the moneys in the adopt a shelter pet account to support the spay and neutering and other medical costs of animals in animal shelters and rescues or to support overpopulation education programs; except that up to ten percent of the moneys in the adopt a shelter pet account may be used for the administration of the account.

(6) Except as provided in section 42-3-234, C.R.S., the Colorado pet overpopulation authority, created pursuant to this section, shall not be funded by or through any state agency.

(7) Nothing in this section shall be construed to authorize the Colorado pet overpopulation authority to promulgate rules to implement this section.

§ 35-80-117. Repeal of article--sunset review--report to general assembly

(1) This article 80 is repealed, effective September 1, 2026.

(2) Before the repeal, the licensing functions of the commissioner are scheduled for review in accordance with section 24-34-104.

(3) On or before February 1, 2018, the commissioner shall provide a written report to the agriculture, livestock, and natural resources committee and the finance committee of the house of representatives and the agriculture, natural resources, and energy committee and the finance committee of the senate, or their successor committees, containing the following information, as of September 1, 2013, and September 1, 2017:

(a) A schedule of the fees charged for all classes of licenses issued under this article and for renewal of those licenses;

(b) The total revenue received by the department as a result of the fees charged for licenses and renewals under this article; and

(c) The total number of personnel employed by the department to administer this article.

(4) On or before February 1, 2015, and annually thereafter, the commissioner shall provide a written report to the executive committee of the legislative council, the agriculture, livestock, and natural resources committee of the house of representatives, and the agriculture, natural resources, and energy committee of the senate, or their successor committees, explaining the need for and purposes of any increase in the fee charged for any class of licenses issued under this article or for renewal of those licenses, including without limitation a statement of the number of inspections performed per month before and after the increase.