

CHAPTER 297

AGRICULTURE

SENATE BILL 98-188

BY SENATORS Wham, Alexander, Johnson, and Phillips;
also REPRESENTATIVES Anderson, Alexander, G. Berry, Hefley, Johnson, Spradley, Swenson, and George.

AN ACT

CONCERNING THE COLORADO HORSE DEVELOPMENT AUTHORITY, AND, IN CONNECTION THEREWITH,
ALLOWING FOR THE IMPOSITION OF AN ASSESSMENT ON HORSE BRAND INSPECTIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 35-41-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-41-104. Board's authority to impose fees and charges. (10) IN ADDITION TO THE BRAND INSPECTION FEE AUTHORIZED BY THIS SECTION, THE ASSESSMENT DETERMINED BY THE BOARD OF DIRECTORS OF THE COLORADO HORSE DEVELOPMENT AUTHORITY PURSUANT TO SECTION 35-57.8-109 SHALL BE COLLECTED ON HORSES AS A PART OF THE BRAND INSPECTION MADE ON HORSES UNDER THE SAME AUTHORITY, AT THE SAME TIME AND PLACE, IN THE SAME MANNER, AND ON THE SAME HORSES THAT ARE SUBJECT TO BRAND INSPECTION AND BRAND INSPECTION FEES.

SECTION 2. 35-57.8-101, Colorado Revised Statutes, is amended to read:

35-57.8-101. Short title. This article shall be known and may be cited as the "Colorado Horse Development ~~Board~~ AUTHORITY Act".

SECTION 3. 35-57.8-102, Colorado Revised Statutes, is amended to read:

35-57.8-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "AUTHORITY" MEANS THE COLORADO HORSE DEVELOPMENT AUTHORITY CREATED BY SECTION 35-57.8-103 (2).

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(+) (2) "Board" means the BOARD OF DIRECTORS OF THE Colorado horse development ~~board~~ AUTHORITY created by section ~~35-57.8-103~~ (+) 35-57.8-104 (1).

(-) (3) "Commissioner" means the commissioner of agriculture.

SECTION 4. 35-57.8-103, Colorado Revised Statutes, is amended to read:

35-57.8-103. Legislative declaration - Colorado horse development authority - creation. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS IN THE PUBLIC INTEREST AND WELFARE THAT OWNERS OF HORSES BE AUTHORIZED AND ENCOURAGED TO ACT JOINTLY AND IN COOPERATION IN STIMULATING, BY RESEARCH, EDUCATION, ADVERTISING, AND OTHER METHODS, THE PROMOTION OF THE HORSE INDUSTRY IN THE STATE. IT IS THE INTENT AND PURPOSE OF THIS ARTICLE TO AUTHORIZE AND PROVIDE A METHOD AND PROCEDURE FOR EFFECTIVELY CORRELATING AND ENCOURAGING THE PROMOTION OF HORSES AND THE FINANCING THEREOF PURSUANT TO THE POWERS OF THE GENERAL ASSEMBLY AS AUTHORIZED BY LAW. IT IS FURTHER DECLARED THAT THE HORSE HAS A LONG ESTABLISHED RELATIONSHIP WITH THE CITIZENS OF COLORADO AND THEREFORE THE STATE IS AFFECTED WITH A PUBLIC INTEREST TO ENSURE THE CONTINUATION OF A STABLE AND EXPANDING HORSE INDUSTRY BY ESTABLISHING POLICIES CONCERNING HORSE PROMOTION IN THIS STATE AND BY EDUCATING THE PUBLIC CONCERNING THE HEALTH, CARE, AND WELFARE OF HORSES.

(+) (2) There is hereby created the Colorado horse development ~~board~~ AUTHORITY that is a body corporate and a political subdivision of the state. The ~~board~~ AUTHORITY is not an agency of state government and is not subject to administrative direction by any state agency except:

(a) As provided in this article;

(b) For purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.;

(c) For purposes of inclusion in the risk management fund and the self-insured property fund and by the department of personnel pursuant to part 15 of article 30 of title 24, C.R.S.

SECTION 5. 35-57.8-104, Colorado Revised Statutes, is amended to read:

35-57.8-104. Colorado horse development authority - board of directors - members - terms. (1) (a) ~~The commissioner shall appoint fourteen members to the board as follows~~ THE POWERS OF THE AUTHORITY SHALL BE VESTED IN A BOARD OF DIRECTORS, WHICH SHALL BE COMPOSED OF:

(+) (I) Five representatives of five different horse organizations in this state;

(+) (II) One representative of a state horse show association;

(+) (III) One representative of a state veterinary association;

(+) (IV) One representative of a university equine extension service;

(e) (V) Two representatives of an organization that operates statewide to promote and protect the interests of horses and that represents all types of horse uses and horse breeds;

(f) (VI) Four representatives of horse industry support services.

(b) AT LEAST TWO REPRESENTATIVES SHALL BE FROM THE WESTERN SLOPE.

(2) The commissioner shall appoint the board members to THREE-YEAR terms. ~~determined by the commissioner.~~ The terms of ~~any three~~ NO MORE THAN FIVE members shall ~~not~~ expire on the same year. Each member serves at the pleasure of the commissioner and shall continue in office until the member's successor is appointed and qualified. THE MEMBERS OF THE BOARD WHO ARE IN OFFICE ON SEPTEMBER 1, 1998, SHALL COMPRISE THE ORIGINAL BOARD OF DIRECTORS OF THE AUTHORITY, AND THEIR INITIAL TERMS ON THE BOARD SHALL END AT THE SAME TIME AS THE TERMS TO WHICH THEY WERE APPOINTED ON THE COLORADO HORSE DEVELOPMENT BOARD PRIOR TO SEPTEMBER 1, 1998.

(3) 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.

SECTION 6. 35-57.8-108 (2), Colorado Revised Statutes, is amended to read:

35-57.8-108. Acceptance of grants and gifts - horse development fund.

~~(2) There is created in the office of state treasurer the horse development fund. Moneys collected under subsection (1) of this section shall be deposited in the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to the board for the purpose of implementing this article. Moneys in the fund at the end of the fiscal year shall remain in the fund and shall not revert to the general fund.~~ THE HORSE DEVELOPMENT FUND IS ABOLISHED, AND ANY MONEYS IN THE FUND AS OF JUNE 30, 1998, SHALL REVERT TO THE GENERAL FUND.

SECTION 7. Article 57.8 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

35-57.8-109. Horse promotion authority assessment. (1) (a) TO CARRY OUT THE PROVISIONS AND INTENT OF THIS ARTICLE, THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS, BY AND THROUGH THE BRAND COMMISSIONER OR A DESIGNATED AGENT THEREOF, SHALL COLLECT AN ASSESSMENT ON HORSES FOR WHICH A BRAND INSPECTION FEE IS ALSO COLLECTED AS PROVIDED IN SECTION 35-41-104. THE BOARD OF DIRECTORS OF THE AUTHORITY SHALL DETERMINE THE ASSESSMENT IN AN AMOUNT NOT TO EXCEED THREE DOLLARS PER HORSE. NO PERSON SHALL BE ASSESSED MORE THAN A TOTAL OF ONE HUNDRED DOLLARS IN A CALENDAR YEAR.

(b) ANY PERSON MAY PURCHASE A COLORADO HORSE DEVELOPMENT AUTHORITY ASSESSMENT CARD FOR ONE HUNDRED DOLLARS FROM THE AUTHORITY TO PROVIDE EVIDENCE TO THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS, BY AND THROUGH THE BRAND COMMISSIONER OR A DESIGNATED AGENT THEREOF, AT THE

TIME A BRAND INSPECTION FEE IS COLLECTED AS PROVIDED IN SECTION 35-41-104, THAT THE ASSESSMENT DUE PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION HAS BEEN COLLECTED. SUCH COLORADO HORSE DEVELOPMENT AUTHORITY ASSESSMENT CARD SHALL BE VALID FOR A PERIOD OF ONE CALENDAR YEAR.

(2) THE ASSESSMENT SHALL BE DIRECTLY DEPOSITED BY THE LIVESTOCK INSPECTORS INTO AN ACCOUNT SPECIFIED BY THE COLORADO HORSE DEVELOPMENT AUTHORITY BOARD. THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS IS AUTHORIZED TO BILL THE COLORADO HORSE DEVELOPMENT AUTHORITY A FEE COLLECTED PURSUANT TO AGREEMENT BETWEEN THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS AND THE COLORADO HORSE DEVELOPMENT BOARD. SUCH FEE SHALL NOT EXCEED TEN PERCENT OF THE ASSESSMENT DETERMINED BY THE BOARD PURSUANT TO THIS SECTION.

35-57.8-110. Collection procedure. (1) THE OPERATORS OF ALL STOCKYARDS AND LIVESTOCK AUCTION MARKETS SHALL DEDUCT THE ASSESSMENT FROM THE PROCEEDS OF SALE OWED BY THEM TO THE RESPECTIVE OWNERS OF HORSES AS AUTHORIZED BY SECTION 35-57.8-109.

(2) WHEN AN OPERATOR SENDS OR GIVES ANY WRITTEN STATEMENT TO AN OWNER OR THE OWNER'S AGENT RELATING TO THE PROCEEDS OWING THE OWNER, THE OPERATOR SHALL INCLUDE A STATEMENT OF THE AMOUNT DEDUCTED FROM THE PROCEEDS UNDER SECTION 35-57.8-109.

(3) OPERATORS SHALL PROMPTLY PAY TO THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS ALL ASSESSMENTS COLLECTED BY THEM PURSUANT TO SUBSECTION (1) OF THIS SECTION.

35-57.8-111. Refunds. (1) ANY PERSON WHO HAS PAID AN ASSESSMENT AT THE TIME OF BRAND INSPECTION AS REQUIRED BY SECTION 35-37.8-109 SHALL, UPON REQUEST, BE ENTITLED TO A REFUND OF SUCH ASSESSMENT FROM THE BOARD WITHIN A REASONABLE TIME; EXCEPT THAT A PERSON WHO HAS PURCHASED A COLORADO HORSE DEVELOPMENT AUTHORITY ASSESSMENT CARD SHALL NOT BE ENTITLED TO A REFUND PURSUANT TO THIS SECTION.

(2) NOTWITHSTANDING ANY OTHER LAWS TO THE CONTRARY, AND TO CARRY OUT THE INTENT OF THIS SECTION TO ENSURE A REFUND, THE BOARD, EXCEPT AS PROVIDED BY SUBSECTION (3) OF THIS SECTION, IS AUTHORIZED TO PROCESS CLAIMS FOR REFUND AND MAY MAKE SUCH REFUNDS WITHOUT THE NECESSITY OF VERIFICATION OF PAYMENT BY THE APPLICANT. THE REFUND SHALL BE BASED ONLY ON THE SIGNED STATEMENT OF THE REFUND CLAIM AND OTHER INFORMATION AS IS CONTAINED THEREON UNLESS OTHER INFORMATION OR VERIFICATION IS REQUIRED BY SUBSECTION (3) OF THIS SECTION.

(3) THE BOARD, BEFORE PROCESSING AND MAKING A REFUND, MAY REQUIRE ANY ADDITIONAL INFORMATION OR VERIFICATION IT DEEMS NECESSARY TO DETERMINE THE VALIDITY OF THE CLAIM FOR REFUND. THE BOARD MAY FILE AN ACTION TO RECOVER FROM ANY PERSON A REFUND OF ASSESSMENTS ILLEGALLY OBTAINED.

(4) A CLAIM FOR REFUND SHALL BE SIGNED BY THE PERSON WHO PAID THE CONTRIBUTION. ANY PERSON WHO FILES A FRAUDULENT OR FALSE CLAIM FOR

REFUND, WHO, BY ANY FALSE PRETENSES, OBTAINS OR ATTEMPTS TO OBTAIN A REFUND NOT LEGALLY DUE SUCH PERSON, OR WHO SIGNS A CLAIM FOR REFUND IN THE NAME OF AND FOR ANOTHER PERSON COMMITS THEFT, AS DEFINED IN SECTION 18-4-401, C.R.S., AND SHALL BE PUNISHED ACCORDINGLY.

SECTION 8. 29-1-102 (13), Colorado Revised Statutes, is amended to read:

29-1-102. Definitions. As used in this part 1, unless the context otherwise requires:

(13) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of Colorado; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. The office of the county public trustee shall be deemed an agency of the county for the purposes of this part 1. "Local government" does not include the Colorado postsecondary educational facilities authority, the university of Colorado hospital authority, the Colorado student obligation bond authority, the Colorado health facilities authority, the Colorado housing and finance authority, the Colorado agricultural development authority, the Colorado sheep and wool authority, the Colorado beef council authority, the Colorado horse development ~~board~~ AUTHORITY, the fire and police pension association, any public entity insurance or investment pool formed pursuant to state law, any county or municipal housing authority, any association of political subdivisions formed pursuant to section 29-1-401, or any home rule city or town, home rule city and county, cities and towns operating under a territorial charter, school district, or junior college district.

SECTION 9. 29-1-602 (5) (b), Colorado Revised Statutes, is amended to read:

29-1-602. Definitions. As used in this part 6, unless the context otherwise requires:

(5) (b) Except for purposes of section 29-1-603 (4), "local government" does not include the fire and police pension association, any county or municipal housing authority, any public entity insurance pool formed pursuant to state law, the Colorado sheep and wool authority, the Colorado beef council authority, the Colorado horse development ~~board~~ AUTHORITY, or any association of political subdivisions formed pursuant to section 29-1-401.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1998