

CHAPTER 286

AGRICULTURE

HOUSE BILL 94-1096

BY REPRESENTATIVES Jerke, Dyer, Acquafresca, George, Taylor, Eisenach, Chlouber, and Shoemaker;
also SENATORS Rizzuto, Casey, Cassidy, Mutzebaugh, and Wattenberg.

AN ACT

CONCERNING THE TRANSFER OF CERTAIN FUNCTIONS OF THE DEPARTMENT OF NATURAL RESOURCES TO THE DEPARTMENT OF AGRICULTURE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 33-1-106 (3) (b) and the introductory portion to 33-1-106 (3) (c), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended, and the said 33-1-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

33-1-106. Authority to regulate taking, possession, and use of wildlife.
(3) (b) For purposes of this subsection (3), "captive wild ungulates" means wildlife which are ungulates lawfully acquired and held in confinement for breeding for agricultural purposes, production of meat, or other animal products; except that "captive wild ungulates" does not include wildlife held or used for the purpose of hunting OR DOMESTIC ELK OR FALLOW DEER HELD BY PERSONS LICENSED PURSUANT TO SECTION 35-41.5-104, C.R.S.

(c) Captive wild mammals AND ALTERNATIVE LIVESTOCK which have escaped from an owner's control may be removed from the wild by the division of wildlife at the owner's expense, but not sooner than seventy-two hours after the division has given the owner or his designee actual notice of such escape, or the owner has notified the division of such escape. The amount the division of wildlife may charge an owner shall be limited to actual costs incurred by the division to accomplish such removal, subject to further limitation by the following maximum caps:

(4) THE COMMISSION MAY PROPOSE RULES CONCERNING:

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

(a) (I) HUNTING OF ALTERNATIVE LIVESTOCK AS DEFINED IN SECTION 35-41.5-102 (1), C.R.S.;

(II) MAINTAINING THE PURITY OF THE NATIVE SPECIES OF ELK IN THE ELK HERDS OF COLORADO BY PREVENTING THE INTRODUCTION OF RED DEER OR HYBRID NONNATIVE SPECIES, WHETHER BY THE IMPORTATION OF UNTESTED LIVE ANIMALS, GAMETES, EGGS, SPERM, OR OTHER GENETIC MATERIAL, INTO COLORADO. FOR PURPOSES OF THIS SUBPARAGRAPH (II), "NATIVE SPECIES OF ELK" INCLUDES THOSE SUBSPECIES NATIVE TO NORTH AMERICA INCLUDING CERVUS ELAPHUS ROOSEVELTI, CERVUS ELAPHUS NANNODES, CERVUS ELAPHUS NELSONI, CERVUS ELAPHUS MANITOBENSIS, CERVUS ELAPHUS CANADENSIS, AND CERVUS ELAPHUS MERRIAVI;

(III) REQUIREMENTS THAT OWNERS OF ALTERNATIVE LIVESTOCK HAVE SAMPLES TAKEN FOR THE PURPOSE OF IDENTIFYING INDIVIDUAL ANIMALS;

(IV) PERIMETER FENCES FOR ALTERNATIVE LIVESTOCK FARMS, LICENSED PURSUANT TO ARTICLE 41.5 OF TITLE 35, C.R.S., TO PREVENT INGRESS OF BIG GAME WILDLIFE AND EGRESS OF ALTERNATIVE LIVESTOCK.

(b) THE AGRICULTURE COMMISSION SHALL REVIEW ANY RULES PROPOSED BY THE COMMISSION AND MAY MAKE RECOMMENDATIONS TO THE COMMISSION CONCERNING SUCH RULES. THE AGRICULTURE COMMISSION SHALL APPROVE ALL RULES PROMULGATED PURSUANT TO THIS SECTION PRIOR TO ADOPTION BY THE COMMISSION.

(c) FOR PURPOSES OF CARRYING OUT THE RULES PROMULGATED PURSUANT TO THIS SECTION, AT ANY REASONABLE TIME DURING REGULAR BUSINESS HOURS, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL HAVE FREE AND UNIMPEDED ACCESS UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT TO:

(I) ALL BUILDINGS, YARDS, PENS, PASTURES, AND OTHER AREAS IN WHICH ANY ALTERNATIVE LIVESTOCK IS KEPT, HANDLED, OR TRANSPORTED; AND

(II) ALL RECORDS REQUIRED TO BE KEPT AND TO MAKE COPIES OF SUCH RECORDS.

SECTION 2. Article 1 of title 33, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

33-1-121. Captive wildlife and alternative livestock board - created - duties.

(1) THERE IS HEREBY CREATED AND ESTABLISHED IN THE DIVISION THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD, WHICH SHALL ACT JOINTLY WITH THE DEPARTMENT OF AGRICULTURE AND SHALL CONSIST OF SIX MEMBERS, EACH OF WHOM SHALL BE APPOINTED NO LATER THAN SIXTY DAYS AFTER JUNE 7, 1994. THE MEMBERS OF THE BOARD SHALL BE APPOINTED AS FOLLOWS:

(a) TWO MEMBERS WHO ARE NOT OWNERS OF CAPTIVE WILDLIFE OR ALTERNATIVE LIVESTOCK AND WHO MAY BE EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE, APPOINTED BY THE COMMISSIONER OF AGRICULTURE;

(b) TWO MEMBERS WHO ARE NOT OWNERS OF CAPTIVE WILDLIFE OR ALTERNATIVE LIVESTOCK AND WHO MAY BE EMPLOYEES OF THE DIVISION, APPOINTED BY THE

DIRECTOR;

(c) TWO MEMBERS WHO ARE OWNERS OF ALTERNATIVE LIVESTOCK; ONE OF WHOM SHALL BE APPOINTED BY THE COMMISSIONER OF AGRICULTURE AND ONE OF WHOM SHALL BE APPOINTED BY THE DIVISION DIRECTOR, FROM A LIST OF FOUR NAMES SUBMITTED BY PERSONS HOLDING ACTIVE LICENSES.

(2) (a) THE TERM OF OFFICE OF THE MEMBERS OF THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL BE THREE YEARS; BUT OF THE MEMBERS FIRST APPOINTED TO THE BOARD, TWO MEMBERS SHALL BE APPOINTED FOR ONE-YEAR TERMS, TWO MEMBERS SHALL BE APPOINTED FOR TWO-YEAR TERMS, AND THE REMAINING TWO MEMBERS SHALL BE APPOINTED FOR THREE-YEAR TERMS. THE ASSIGNMENT OF SUCH INITIAL TERMS SHALL BE MADE BY THE DIRECTOR. EACH MEMBER SHALL SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND DEEMED QUALIFIED. ANY CURRENT MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT. THE APPOINTING ENTITY SHALL FILL A VACANCY BY APPOINTMENT FOR THE REMAINDER OF AN UNEXPIRED TERM. THE COMMISSIONER OF AGRICULTURE AND THE DIRECTOR OF THE DIVISION SHALL BE EX OFFICIO NONVOTING MEMBERS OF THE BOARD. BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION. THE BOARD SHALL MEET AT LEAST QUARTERLY AND ADDITIONALLY AS NECESSARY.

(b) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL ANNUALLY ELECT A CHAIRMAN AND VICE-CHAIRMAN, EACH OF WHOM SHALL SERVE AT THE PLEASURE OF THE BOARD.

(c) A MAJORITY OF THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL CONSTITUTE A QUORUM, AND, IF A QUORUM IS PRESENT, IN PERSON OR BY TELEPHONE, THE BOARD MAY ACT UPON A VOTE OF A MAJORITY OF THOSE PRESENT.

(d) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL CONSTITUTE A "PUBLIC ENTITY" AND EACH MEMBER AND EMPLOYEE OF THE BOARD SHALL CONSTITUTE A "PUBLIC EMPLOYEE" WITHIN THE MEANING OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

(e) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED IN THIS ARTICLE UNDER THE DEPARTMENT OF NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(3) (a) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL REVIEW OR INITIATE AND CONSIDER, PRIOR TO PRESENTATION TO THE COMMISSION FOR ADOPTION, EVERY RULE OR POLICY THAT IS TO REGULATE OR CONTROL, OR OTHERWISE RELATES TO, CAPTIVE WILDLIFE OR ALTERNATIVE LIVESTOCK, THE SPREAD OF DISEASE WITHIN PRIVATELY OWNED WILDLIFE OR ALTERNATIVE LIVESTOCK FACILITIES, THE IMPORTATION INTO THE STATE, OR THE DISTRIBUTION OF ANY WILDLIFE OR ALTERNATIVE LIVESTOCK SPECIES.

(b) AFTER CONSIDERING ANY PROPOSED RULE, THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL VOTE TO APPROVE OR DISAPPROVE THE RULE.

(c) THE PROPOSED RULES APPROVED BY THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL BE SENT TO THE COMMISSION WITH THE RECOMMENDATION TO ADOPT. THE COMMISSION SHALL, THROUGH ITS NORMAL REGULATORY REVIEW PROCEDURE, TIMELY REVIEW THE RULE AND ACT EITHER TO ADOPT OR TO DECLINE TO ADOPT THE RULE. IN THE EVENT THE COMMISSION DECLINES TO ADOPT THE RULE, IT SHALL CONVEY ITS DECISION TO THE BOARD, ALONG WITH AN EXPLANATION OF THE REASON FOR ITS DECISION.

(d) THE PROPOSED RULES DISAPPROVED BY THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL NOT BE FORWARDED TO THE COMMISSION UNLESS THE DIRECTOR DETERMINES THAT A SITUATION OR CONDITION EXISTS THAT THREATENS TO HAVE A SERIOUS IMPACT ON EXISTING TERRESTRIAL WILDLIFE POPULATIONS AND THAT THE PROPOSED REGULATION SHOULD BE CONSIDERED BY THE COMMISSION IN SPITE OF THE RECOMMENDATION OF THE BOARD. THE DIRECTOR SHALL THEN FORWARD THE RULE TO THE COMMISSION ALONG WITH A RECOMMENDATION OF DISAPPROVAL FROM THE BOARD.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIMINISH OR SUPERSEDE THE AUTHORITY OF THE COMMISSION TO REGULATE OR MANAGE WILD POPULATIONS OF TERRESTRIAL ORGANISMS IN THE STATE.

(5) (a) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL REVIEW ANY ORDERS FOR THE DESTRUCTION OF CAPTIVE WILDLIFE, ALTERNATIVE LIVESTOCK, OR QUARANTINES OF CAPTIVE WILDLIFE FACILITIES THAT LAST BEYOND THIRTY DAYS; EXCEPT THAT DESTRUCTION ORDERS MAY BE APPROVED BY THE STATE VETERINARIAN OR THE DIRECTOR UPON A DETERMINATION THAT A SITUATION EXISTS THAT THREATENS IMMINENT DANGER TO EXISTING WILDLIFE, LIVESTOCK POPULATIONS, OR HUMAN HEALTH AND SAFETY, AND THAT NO MORE REASONABLE MEANS EXIST TO CONTROL THE CONDITION.

(b) DESTRUCTION OF CAPTIVE WILDLIFE OR ALTERNATIVE LIVESTOCK OR QUARANTINES OF CAPTIVE WILDLIFE FACILITIES SHALL BE DONE IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE DIVISION OR THE STATE VETERINARIAN'S OFFICE.

(c) THE BOARD SHALL PERIODICALLY REVIEW REGULATIONS OF THE DIVISION AND DEPARTMENT OF AGRICULTURE RELATING TO DESTRUCTION OF CAPTIVE WILDLIFE OR ALTERNATIVE LIVESTOCK OR QUARANTINES OF CAPTIVE WILDLIFE FACILITIES AND SHALL RECOMMEND APPROPRIATE CHANGES TO THE WILDLIFE COMMISSION OR THE AGRICULTURE COMMISSION.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1999.

SECTION 3. 35-1-102 (6), Colorado Revised Statutes, 1984 Repl. Vol., is amended, and the said 35-1-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

35-1-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) (a) "CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD" MEANS THE

BOARD CREATED IN SECTION 33-1-121, C.R.S.

(b) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE JULY 1, 1999.

(6) "Livestock" means cattle, sheep, goats, swine, mules, poultry, horses, ALTERNATIVE LIVESTOCK, AS DEFINED IN SECTION 35-41.5-102 (1), and such domesticated animals as fox, mink, marten, chinchilla, beaver, and rabbits, and all other animals raised or kept for profit.

SECTION 4. 35-1-106 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

35-1-106. Powers and duties of commission. (1) In addition to all other powers and duties conferred upon the commission by the provisions of this article, the commission has the following specific powers and duties:

(o) TO PROMULGATE RULES REQUIRING THE OWNERS OF ALTERNATIVE LIVESTOCK, AS DEFINED IN SECTION 35-41.5-102 (1), TO OBTAIN CERTIFICATION SHOWING THAT THE ALTERNATIVE LIVESTOCK HERD MEETS THE REQUIREMENTS OF A TUBERCULOSIS SURVEILLANCE PLAN APPROVED BY THE STATE VETERINARIAN AND MEETS REGULATIONS PERTAINING TO THE CONTROL OF INFECTIOUS DISEASES AND PARASITES AS DETERMINED BY THE DEPARTMENT.

SECTION 5. 35-1-106, Colorado Revised Statutes, 1984 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-1-106. Powers and duties of commission. (2) THE WILDLIFE COMMISSION SHALL REVIEW THE RULES CONCERNING ALTERNATIVE LIVESTOCK PROPOSED BY THE COMMISSION PURSUANT TO PARAGRAPH (o) OF SUBSECTION (1) OF THIS SECTION AND SHALL MAKE RECOMMENDATIONS TO THE COMMISSION CONCERNING SUCH RULES. THE COMMISSION SHALL NOT ADOPT OR IMPLEMENT RULES CONCERNING ALTERNATIVE LIVESTOCK THAT IMPACT NATIVE BIG GAME WILDLIFE WITHOUT THE PRIOR APPROVAL OF THE WILDLIFE COMMISSION. IN ADDITION, THE WILDLIFE COMMISSION MAY PROPOSE RULES TO THE COMMISSION DESIGNED TO PROTECT NATIVE BIG GAME WILDLIFE.

SECTION 6. Title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 41.5 **Alternative Livestock Act**

35-41.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "ALTERNATIVE LIVESTOCK ACT".

35-41.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ALTERNATIVE LIVESTOCK" MEANS ANY DOMESTICATED ELK OR FALLOW DEER AS SUCH ARE CLASSIFIED AS ALTERNATIVE LIVESTOCK PURSUANT TO THIS ARTICLE. ALTERNATIVE LIVESTOCK SHALL NOT BE CONSIDERED WILDLIFE FOR PURPOSES OF

THIS ARTICLE.

(2) "BOARD" MEANS THE STATE BOARD OF STOCK INSPECTION COMMISSIONERS CREATED IN SECTION 35-41-101.

(3) "COMMISSION" MEANS THE STATE AGRICULTURAL COMMISSION CREATED IN SECTION 35-1-105.

(4) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE OR THE COMMISSIONER'S DESIGNEE.

(5) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(6) "ESCAPED ALTERNATIVE LIVESTOCK" MEANS AN ANIMAL NOT WITHIN THE CONTROL OR UNDER THE DIRECTION OF A LICENSEE OR A LICENSEE'S DESIGNEE.

(7) "LICENSE" MEANS AN ALTERNATIVE LIVESTOCK FARM LICENSE.

(8) "LICENSEE" MEANS A PERSON, COMPANY, CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP.

35-41.5-103. Scope of article. (1) THE FOLLOWING ARE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND TO ANY RULES ADOPTED PURSUANT THERETO:

(a) ANY ANIMAL CLASSIFIED AS AN ALTERNATIVE LIVESTOCK PURSUANT TO THIS ARTICLE; AND

(b) ANY PERSON SELLING, TRADING, GIVING, BARTERING, OR OTHERWISE TRANSFERRING ANY ALTERNATIVE LIVESTOCK IN THIS STATE, UNLESS SPECIFICALLY EXEMPTED ELSEWHERE IN THIS ARTICLE.

(2) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO:

(a) WILDLIFE REGULATED BY THE DIVISION OF WILDLIFE; OR

(b) LIVESTOCK AS DEFINED IN SECTION 35-41-100.3 (5).

35-41.5-104. Alternative livestock farm license required. ANY PERSON OPERATING A FARM OR RANCH AT WHICH ALTERNATIVE LIVESTOCK ARE RAISED SHALL OBTAIN A VALID ALTERNATIVE LIVESTOCK FARM LICENSE ISSUED BY THE BOARD PURSUANT TO THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT THERETO. SUCH LICENSE SHALL BE ISSUED FOR A SPECIFIC CLASS OR SUBCLASS OF ALTERNATIVE LIVESTOCK.

35-41.5-105. Powers and duties of the board. (1) THE BOARD IS HEREBY AUTHORIZED TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE AND ANY RULES ADOPTED PURSUANT THERETO.

(2) THE BOARD SHALL ADOPT ANY NECESSARY AND REASONABLE RULES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO RULES GOVERNING:

(a) OPERATING STANDARDS FOR AN ALTERNATIVE LIVESTOCK FARM;

(b) INSPECTIONS OF ALTERNATIVE LIVESTOCK FOR PURPOSES OF LICENSING OR RENEWING A LICENSE, CHANGES OF OWNERSHIP OF ALTERNATIVE LIVESTOCK, AND MOVEMENT OF ALTERNATIVE LIVESTOCK, INCLUDING REQUIRING PROOF THAT ALTERNATIVE LIVESTOCK MEET THE REQUIREMENTS OF A TUBERCULOSIS SURVEILLANCE PLAN ADOPTED PURSUANT TO SECTION 35-1-106 (1) (o) AND THAT SUCH ALTERNATIVE LIVESTOCK MEET REQUIREMENTS CONCERNING THE CONTROL OF INFECTIOUS DISEASES AS REQUIRED BY THE COMMISSION, AND REQUIREMENTS CONCERNING GENETIC PURITY AS REQUIRED BY THE WILDLIFE COMMISSION;

(c) ESTABLISHING THE FORM AND MANNER OF SUBMISSION OF RECORDS REQUIRED FOR LICENSURE AND RECORD KEEPING PURSUANT TO THIS ARTICLE;

(d) ESTABLISHING STANDARDS OF PRACTICE FOR A LICENSEE;

(e) SETTING CLASSIFICATIONS AND SUBCLASSIFICATIONS OF ALTERNATIVE LIVESTOCK;

(f) DEFINING GROUNDS FOR DISCIPLINARY ACTION AUTHORIZED UNDER THIS ARTICLE, INCLUDING LETTERS OF ADMONITION OR THE DENIAL, SUSPENSION, REVOCATION, OR RESTRICTION OF ANY LICENSE;

(g) SETTING FEES FOR LICENSES BASED UPON THE CLASSIFICATION OF AN ALTERNATIVE LIVESTOCK FARM; AND

(h) THE DISPOSITION OF ANY ESTRAY TAKEN UP BY INSPECTORS AS DETERMINED TO BE PROPER AND JUST AND IN THE BEST INTEREST OF THE OWNER OF THE ESTRAY.

(3) THE BOARD SHALL SET LICENSING AND INSPECTION FEES FOR EACH CLASSIFICATION OF ALTERNATIVE LIVESTOCK BASED ON THE ACTUAL COST OF ADMINISTERING AND ENFORCING THIS ARTICLE AND ANY RULES ADOPTED PURSUANT THERETO.

(4) THE BOARD IS AUTHORIZED TO CHARGE A SERVICE FEE TO COVER THE COST OF ADMINISTRATIVE REQUIREMENTS IN ADDITION TO ANY INSPECTION FEE.

(5) THE BOARD IS AUTHORIZED TO CONDUCT HEARINGS REQUIRED UNDER SECTIONS 35-41.5-112, 35-41.5-113, AND 35-41.5-114 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND TO USE ADMINISTRATIVE LAW JUDGES TO CONDUCT SUCH HEARINGS WHEN THE USE OF ADMINISTRATIVE LAW JUDGES WOULD RESULT IN A NET SAVING OF COSTS TO THE BOARD.

(6) THE BOARD IS AUTHORIZED TO ENTER INTO COOPERATIVE AGREEMENTS WITH AND TO ACCEPT GRANTS FROM ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER STATE, OR WITH ANY AGENCY OF THE UNITED STATES GOVERNMENT, SUBJECT TO LIMITATIONS SET FORTH ELSEWHERE IN THE COLORADO REVISED STATUTES AND THE STATE CONSTITUTION, TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

(7) THE POWERS AND DUTIES VESTED IN THE BOARD BY THIS ARTICLE MAY BE

DELEGATED TO QUALIFIED EMPLOYEES OF THE DEPARTMENT AND THE DIVISION OF WILDLIFE.

(8) THE WILDLIFE COMMISSION MAY REVIEW RULES CONCERNING ALTERNATIVE LIVESTOCK PROPOSED BY THE BOARD AND MAY MAKE RECOMMENDATIONS TO THE BOARD CONCERNING SUCH RULES.

(9) THE BOARD MAY ASSIGN A BRAND TO AN ALTERNATIVE LIVESTOCK FARM LICENSE. SUCH BRAND SHALL BE USED AS DIRECTED BY THE BOARD PURSUANT TO RULE.

(10) IF TWO OR MORE PERSONS CLAIM OWNERSHIP OF ANY CERTAIN ALTERNATIVE LIVESTOCK AND THE TRUE OWNER IS NOT READILY ASCERTAINABLE, THE BOARD MAY:

(a) TREAT THE ALTERNATIVE LIVESTOCK AS AN ESTRAY PURSUANT TO ARTICLE 44 OF THIS TITLE; OR

(b) PROVIDE FOR ARBITRATION OF THE CLAIM OF OWNERSHIP UNDER THE SUPERVISION OF THE BOARD OR THE DESIGNEE OF THE BOARD.

35-41.5-106. Alternative livestock farm - license requirements - application - fees. (1) EACH APPLICANT FOR AN ALTERNATIVE LIVESTOCK FARM LICENSE SHALL SUBMIT AN APPLICATION PROVIDING ALL INFORMATION IN THE FORM AND MANNER AS REQUIRED BY THE BOARD.

(2) NO LICENSE SHALL BE ISSUED:

(a) UNLESS ACCOMPANIED BY DOCUMENTATION THAT THE ALTERNATIVE LIVESTOCK ON THE FARM ARE IN COMPLIANCE WITH THE RULES PROMULGATED BY THE COMMISSION PURSUANT TO SECTION 35-1-106 (1) (o);

(b) UNLESS ACCOMPANIED BY DOCUMENTATION THAT THE ALTERNATIVE LIVESTOCK ON THE LIVESTOCK FARM HAVE BEEN INSPECTED BY THE BOARD;

(c) UNTIL THE BOARD HAS INSPECTED AND APPROVED THE FARM; AND

(d) UNLESS ACCOMPANIED BY A SITE REVIEW AND RECOMMENDATION ISSUED BY THE DIVISION OF WILDLIFE IF SUCH SITE REVIEW AND RECOMMENDATION IS COMPLETED WITHIN THIRTY DAYS AFTER THE REQUEST IS RECEIVED FROM THE BOARD. IF THE SITE REVIEW AND RECOMMENDATION IS NOT ISSUED WITHIN THIRTY DAYS AFTER THE REQUEST IS RECEIVED, THE REQUIREMENT FOR SUCH SITE REVIEW AND RECOMMENDATION SHALL BE DEEMED WAIVED.

(3) EACH SEPARATE LOCATION OF A FARM SHALL BE LICENSED SEPARATELY.

(4) (a) IF AN ALTERNATIVE LIVESTOCK FARM OPERATES UNDER MORE THAN ONE BUSINESS NAME FROM A SINGLE LOCATION, THE NAME OF EACH SUCH OPERATION SHALL BE LISTED WITH THE BOARD IN THE FORM AND MANNER REQUIRED BY THE BOARD. THE BOARD MAY REQUIRE THAT A SEPARATE FEE BE PAID FOR EACH BUSINESS NAME SO LISTED.

(b) NO ADDITIONAL ALTERNATIVE LIVESTOCK FARM LICENSE SHALL BE REQUIRED FOR AN ADDITIONAL BUSINESS NAME.

(c) IF AN ALTERNATIVE LIVESTOCK FARM OPERATES UNDER MORE THAN ONE BUSINESS NAME FROM A SINGLE LOCATION, THE FARM SHALL MAINTAIN SEPARATE RECORDS PURSUANT TO SECTION 35-41.5-108 FOR EACH SUCH BUSINESS NAME.

(5) EACH APPLICANT FOR AN ALTERNATIVE LIVESTOCK FARM LICENSE SHALL PAY A LICENSE FEE IN AN AMOUNT DETERMINED BY THE BOARD.

(6) EACH ALTERNATIVE LIVESTOCK FARM LICENSE SHALL EXPIRE ON AUGUST 31 IN THE YEAR FOLLOWING THE YEAR OF ISSUANCE.

(7) EACH LICENSEE SHALL REPORT TO THE BOARD, IN THE FORM AND MANNER REQUIRED BY THE BOARD, ANY CHANGE IN THE INFORMATION PROVIDED IN SUCH LICENSEE'S APPLICATION OR IN SUCH REPORTS PREVIOUSLY SUBMITTED, WITHIN FIFTEEN DAYS OF SUCH CHANGE.

(8) LICENSES ISSUED PURSUANT TO THIS ARTICLE ARE NOT TRANSFERABLE.

(9) EACH ALTERNATIVE LIVESTOCK FARM LICENSEE SHALL:

(a) SEPARATE ALTERNATIVE LIVESTOCK FROM CAPTIVE WILDLIFE AS REQUIRED BY THE BOARD;

(b) HAVE THE ALTERNATIVE LIVESTOCK INSPECTED BY THE BOARD PRIOR TO ANY MOVEMENT, SALE, OR SLAUGHTER;

(c) IDENTIFY IN THE FORM AND MANNER DESIGNATED BY THE BOARD EACH ALTERNATIVE LIVESTOCK ANIMAL IN ITS POSSESSION;

(d) MAINTAIN RECORDS OF THE ALTERNATIVE LIVESTOCK INVENTORY IN ACCORDANCE WITH SECTION 35-41.5-108.

35-41.5-107. Alternative livestock farm license - renewals. (1) AN ALTERNATIVE LIVESTOCK FARM LICENSED PURSUANT TO THIS ARTICLE SHALL MAKE AN APPLICATION TO RENEW ITS LICENSE ON OR BEFORE JUNE 30. SAID APPLICATION SHALL BE IN THE FORM AND MANNER PRESCRIBED BY THE BOARD AND SHALL BE ACCOMPANIED BY THE RENEWAL FEE.

(2) NO LICENSE SHALL BE RENEWED UNLESS ACCOMPANIED BY AN INSPECTION CERTIFICATE SHOWING THAT THE ALTERNATIVE LIVESTOCK ON THE ALTERNATIVE LIVESTOCK FARM HAVE BEEN INSPECTED AND CERTIFIED BY THE BOARD FOR HEALTH AND GENETIC PURITY DURING THE IMMEDIATELY PRECEDING NINETY-DAY PERIOD.

(3) IF THE APPLICATION FOR RENEWAL IS NOT POSTMARKED ON OR BEFORE JUNE 30, A PENALTY FEE OF TEN PERCENT OF THE RENEWAL FEE SHALL BE ASSESSED AND ADDED TO THE RENEWAL FEE. NO LICENSE SHALL BE RENEWED UNTIL THE TOTAL FEE IS PAID.

(4) IF THE APPLICATION AND FEE FOR RENEWAL ARE NOT POSTMARKED ON OR

BEFORE AUGUST 31, THE LICENSE SHALL NOT BE RENEWED, AND A NEW LICENSE SHALL BE REQUIRED.

35-41.5-108. Record-keeping requirements. (1) EACH ALTERNATIVE LIVESTOCK FARM LICENSEE SHALL KEEP AND MAINTAIN RECORDS IN THE FORM AND MANNER DESIGNATED BY THE BOARD.

(2) RECORDS MAINTAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE RETAINED AT THE LICENSEE'S ADDRESS OF RECORD:

(a) FOR A PERIOD OF THREE YEARS AFTER THE DEATH OR SALE OF AN ANIMAL IF SUCH RECORD PERTAINS TO AN ALTERNATIVE LIVESTOCK; OR

(b) FOR A PERIOD OF THREE YEARS IF SUCH RECORD DOES NOT PERTAIN TO AN ALTERNATIVE LIVESTOCK.

35-41.5-109. Unlawful acts. (1) UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON TO:

(a) PERFORM ANY OF THE ACTS FOR WHICH LICENSURE AS AN ALTERNATIVE LIVESTOCK FARM IS REQUIRED WITHOUT POSSESSING A VALID LICENSE;

(b) HOLD ONESELF OUT AS BEING SO QUALIFIED TO PERFORM ANY OF THE ACTS FOR WHICH LICENSURE PURSUANT TO THIS ARTICLE IS REQUIRED WITHOUT POSSESSING A VALID LICENSE;

(c) SOLICIT, ADVERTISE, OR OFFER TO PERFORM ANY OF THE ACTS FOR WHICH LICENSURE AS AN ALTERNATIVE LIVESTOCK FARM IS REQUIRED WITHOUT POSSESSING A VALID LICENSE TO PERFORM SUCH ACTS;

(d) REFUSE OR FAIL TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

(e) REFUSE OR FAIL TO COMPLY WITH ANY RULES ADOPTED BY THE BOARD PURSUANT TO THIS ARTICLE OR TO ANY LAWFUL ORDER ISSUED BY THE BOARD;

(f) REFUSE TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED PURSUANT TO SECTION 35-41.5-112;

(g) WILLFULLY MAKE A MATERIAL MISSTATEMENT IN THE APPLICATION FOR A LICENSE OR IN THE APPLICATION FOR RENEWAL THEREOF OR TO THE DEPARTMENT DURING AN OFFICIAL INVESTIGATION;

(h) IMPERSONATE ANY FEDERAL, STATE, COUNTY, CITY AND COUNTY, OR MUNICIPAL OFFICIAL OR INSPECTOR;

(i) AID OR ABET ANOTHER IN ANY VIOLATION OF THIS ARTICLE OR OF ANY RULE PROMULGATED PURSUANT THERETO;

(j) HUNT ALTERNATIVE LIVESTOCK WITHOUT FIRST OBTAINING A HUNTER EDUCATION CERTIFICATE PURSUANT TO SECTION 33-6-107 (8), C.R.S.; OR

(k) SHIP ANY ALTERNATIVE LIVESTOCK OTHER THAN THOSE DESCRIBED IN THE CERTIFICATE PROVIDED BY THE BRAND INSPECTOR INSPECTING SUCH ALTERNATIVE LIVESTOCK OR TO REMOVE ANY ALTERNATIVE LIVESTOCK AND TO SUBSTITUTE ANOTHER WITHOUT THE KNOWLEDGE OF THE BRAND INSPECTOR.

(2) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY ALTERNATIVE LIVESTOCK FARM TO:

(a) IMPORT OR POSSESS FOR THE PURPOSE OF SELLING, TRADING, GIVING, OR OTHERWISE TRANSFERRING ANY ALTERNATIVE LIVESTOCK WITHOUT HAVING SAID ALTERNATIVE LIVESTOCK INSPECTED IN ACCORDANCE WITH THIS ARTICLE; EXCEPT THAT THIS PARAGRAPH (a) SHALL NOT APPLY TO ALTERNATIVE LIVESTOCK SOLD, TRADED, GIVEN, OR TRANSFERRED BY AN OPERATING ZOOLOGICAL PARK AS DEFINED BY THE WILDLIFE COMMISSION OR RESEARCH INSTITUTION USING SUCH ANIMALS FOR SCIENTIFIC RESEARCH, IF THE PARK OR INSTITUTION OTHERWISE COMPLIES WITH THIS ARTICLE AND ALL RULES PROMULGATED PURSUANT THERETO;

(b) SELL ANY ALTERNATIVE LIVESTOCK IN, BY, TO, OR FROM ANY UNLICENSED ALTERNATIVE LIVESTOCK FARM;

(c) SELL ANY ALTERNATIVE LIVESTOCK IN, BY, TO, OR FROM ANY ALTERNATIVE LIVESTOCK FARM UNLESS SUCH ALTERNATIVE LIVESTOCK HAS BEEN INSPECTED IN ACCORDANCE WITH THIS ARTICLE;

(d) REFUSE TO PERMIT ENTRY OR INSPECTION IN ACCORDANCE WITH SECTION 35-41.5-110;

(e) SELL, OFFER FOR SALE, BARTER, EXCHANGE, OR OTHERWISE TRANSFER RED DEER OR RED DEER HYBRIDS WITHIN THE STATE OF COLORADO;

(f) ALLOW A LICENSE ISSUED PURSUANT TO THIS ARTICLE TO BE USED BY AN UNLICENSED PERSON; OR

(g) 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.

35-41.5-110. Inspections - investigations - access - subpoena. (1) THE BOARD, UPON ITS OWN MOTION OR UPON THE COMPLAINT OF ANY PERSON, MAY MAKE ANY AND ALL INVESTIGATIONS NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE.

(2) (a) APPROPRIATE DIVISION OF WILDLIFE PERSONNEL MAY ACCOMPANY THE BOARD ON ANY INSPECTION AND MAY REQUEST AN INSPECTION OF ANY LICENSED ALTERNATIVE LIVESTOCK FARM.

(b) THE BOARD SHALL PERFORM ANY SUCH REQUESTED INSPECTION WITHIN SEVENTY-TWO HOURS AFTER RECEIPT OF SUCH REQUEST, EXCLUDING WEEKENDS AND LEGAL HOLIDAYS.

(c) IF THE BOARD IS UNABLE TO PERFORM ANY SUCH REQUESTED INSPECTION

WITHIN SEVENTY-TWO HOURS AFTER RECEIPT OF SUCH REQUEST, EXCLUDING WEEKENDS AND LEGAL HOLIDAYS, THE DIVISION OF WILDLIFE SHALL BE AUTHORIZED TO PERFORM SUCH REQUESTED INSPECTION.

(d) THE ACTUAL COST FOR, PLUS MILEAGE FOR, ANY INSPECTION REQUESTED BY THE DIVISION OF WILDLIFE SHALL BE PAID FOR BY THE DIVISION OF WILDLIFE.

(3) COMPLAINTS OF RECORD MADE TO THE BOARD AND THE RESULTS OF THE BOARD'S INVESTIGATIONS MAY, IN THE DISCRETION OF THE BOARD, 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 THE PERSON IN INTEREST.

(4) FOR PURPOSES OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE AND RULES PROMULGATED PURSUANT THERETO, AT ANY REASONABLE TIME DURING REGULAR BUSINESS HOURS, THE BOARD SHALL HAVE FREE AND UNIMPEDED ACCESS UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT TO:

(a) ALL BUILDINGS, YARDS, PENS, PASTURES, AND OTHER AREAS IN WHICH ANY ALTERNATIVE LIVESTOCK IS KEPT, HANDLED, OR TRANSPORTED; AND

(b) ALL RECORDS REQUIRED TO BE KEPT AND TO MAKE COPIES OF SUCH RECORDS.

(5) (a) THE BOARD SHALL HAVE FULL AUTHORITY TO ADMINISTER OATHS AND TAKE STATEMENTS, TO ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF 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.

(b) UPON FAILURE OR REFUSAL OF ANY WITNESS TO OBEY ANY SUBPOENA, THE BOARD 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.

(6) AS PART OF ANY INSPECTION FOR THE LICENSING OR RENEWAL OF AN ALTERNATIVE LIVESTOCK FARM, ANY CHANGE OF OWNERSHIP OF ANY ALTERNATIVE LIVESTOCK, AND ANY MOVEMENT OF ALTERNATIVE LIVESTOCK, THE BOARD SHALL REQUIRE:

(a) PROOF THAT THE ALTERNATIVE LIVESTOCK FARM HAS MAINTAINED THE PURITY OF THE ALTERNATIVE LIVESTOCK HERDS BY PREVENTING THE INTRODUCTION OF RED DEER OR HYBRID NONNATIVE SPECIES EITHER BY THE IMPORTATION OF UNTESTED LIVE ANIMALS, GAMETES, EGGS, SPERM, OR OTHER GENETIC MATERIAL INTO ALTERNATIVE LIVESTOCK HERDS IN COLORADO;

(b) PROOF THAT EACH ALTERNATIVE LIVESTOCK ANIMAL ORIGINATES FROM A LEGAL SOURCE; AND

(c) RECORDS TO BE KEPT AND ANIMALS TO BE MARKED SO AS TO IDENTIFY

INDIVIDUAL ANIMALS.

35-41.5-111. Escaped alternative livestock. (1) ANY ALTERNATIVE LIVESTOCK NOT RECOVERED BY ITS LICENSED OWNER WITHIN SEVENTY-TWO HOURS AFTER ESCAPE SHALL BE REPORTED TO THE DIVISION OF WILDLIFE IN SUCH MANNER AS REQUIRED BY THE DIVISION OF WILDLIFE.

(2) ANY ESCAPED ALTERNATIVE LIVESTOCK KILLED BY A LICENSED HUNTER IN A MANNER WHICH OTHERWISE COMPLIES WITH TITLE 33, C.R.S., AND ANY RULES PROMULGATED PURSUANT THERETO, SHALL BE DEEMED A LEGAL KILLING AND NEITHER THE LICENSED HUNTER, THE DEPARTMENT, NOR THE DIVISION OF WILDLIFE SHALL BE LIABLE TO THE OWNER FOR SUCH KILLING.

35-41.5-112. Enforcement. (1) THE BOARD OR ITS DESIGNEE SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE.

(2) (a) IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE HAS OCCURRED AND IMMEDIATE ENFORCEMENT IS DEEMED NECESSARY, IT MAY ISSUE A CEASE AND DESIST ORDER, WHICH SHALL REQUIRE A PERSON TO CEASE VIOLATING ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE.

(b) A CEASE AND DESIST ORDER SHALL SET FORTH THE PROVISIONS ALLEGED TO HAVE BEEN VIOLATED, THE FACTS CONSTITUTING THE VIOLATION, AND THE REQUIREMENT THAT ALL VIOLATING ACTIONS IMMEDIATELY CEASE.

(c) (I) AT ANY TIME AFTER SERVICE OF THE ORDER TO CEASE AND DESIST, THE PERSON FOR WHOM SUCH ORDER WAS SERVED MAY REQUEST, AT SUCH PERSON'S DISCRETION, A PROMPT HEARING TO DETERMINE WHETHER OR NOT SUCH VIOLATION HAS OCCURRED.

(II) A HEARING HELD PURSUANT TO THIS PARAGRAPH (c) SHALL BE CONDUCTED IN CONFORMANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE DETERMINED PROMPTLY.

(3) IF THE BOARD POSSESSES SUFFICIENT EVIDENCE TO INDICATE THAT A PERSON HAS ENGAGED IN ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE OR OF ANY RULE ADOPTED UNDER THIS ARTICLE, THE BOARD 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 UNDER THIS ARTICLE. IN ANY SUCH ACTION, THE BOARD SHALL NOT BE REQUIRED TO PLEAD OR PROVE IRREPARABLE INJURY OR THE INADEQUACY OF THE REMEDY AT LAW. THE COURT SHALL NOT REQUIRE THE BOARD TO POST A BOND.

35-41.5-113. Disciplinary actions - denial of license. (1) THE BOARD, PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF ADMONITION OR MAY DENY, SUSPEND, REFUSE TO RENEW, RESTRICT, OR REVOKE ANY LICENSE AUTHORIZED UNDER THIS ARTICLE IF THE APPLICANT OR LICENSEE HAS:

(a) REFUSED OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE, ANY

RULE ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE BOARD;

(b) HAD AN EQUIVALENT LICENSE DENIED, REVOKED, OR SUSPENDED BY ANY AUTHORITY;

(c) REFUSED TO PROVIDE THE BOARD WITH REASONABLE, COMPLETE, AND ACCURATE INFORMATION REGARDING ANY ALTERNATIVE LIVESTOCK WHEN REQUESTED BY THE BOARD;

(d) FALSIFIED ANY INFORMATION REQUESTED BY THE BOARD;

(e) BEEN CONVICTED OF STEALING LIVE BIG GAME WILDLIFE; OR

(f) HAD A LICENSE ISSUED PURSUANT TO 33-1-106, C.R.S., REVOKED.

(2) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE BOARD 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.

35-41.5-114. 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 BOARD. 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 BOARD 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 BOARD, THE BOARD MAY BRING SUIT TO RECOVER SUCH AMOUNT PLUS COSTS AND ATTORNEY FEES BY ACTION IN ANY COURT OF COMPETENT JURISDICTION.

(4) BEFORE IMPOSING ANY CIVIL PENALTY, THE BOARD MAY CONSIDER THE EFFECT OF SUCH PENALTY ON THE ABILITY OF THE PERSON CHARGED TO STAY IN BUSINESS.

35-41.5-115. Criminal penalties. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SECTION 35-41.5-109 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106 (1), C.R.S.

35-41.5-116. Alternative livestock farm cash fund - creation - fees. ALL FEES AND CIVIL FINES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE ALTERNATIVE LIVESTOCK FARM CASH FUND, WHICH FUND IS HEREBY CREATED. ALL MONEYS CREDITED TO THE FUND AND ALL INTEREST EARNED ON THE INVESTMENT OF MONEYS IN THE FUND SHALL BE A PART OF THIS 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. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM SUCH FUND TO THE DEPARTMENT TO CARRY OUT THE

PURPOSES OF THIS ARTICLE. THE BOARD IS AUTHORIZED TO EXPEND A MAXIMUM OF THREE AND SIX-TENTHS PERCENT, OR ACTUAL COSTS, WHICHEVER IS LESS, OF THE BASE APPROPRIATION ALLOCATED TO THE BRAND INSPECTION DIVISION TO OFFSET THE INDIRECT COSTS OF THE BOARD.

35-41.5-117. Disposition of alternative livestock taken by officer. (1) (a) AN INSPECTOR SHALL DECLARE AN ALTERNATIVE LIVESTOCK IS AN ESTRAY, AS DEFINED IN SECTION 35-44-101, IF DURING AN INSPECTION OF THE ALTERNATIVE LIVESTOCK PRIOR TO SHIPMENT OR REMOVAL FROM THE STATE THE INSPECTOR FINDS AN ALTERNATIVE LIVESTOCK BEARING MARKS, IDENTIFICATION TAGS, OR BRANDS DIFFERENT FROM THOSE OF THE OWNER OF THE OTHER ALTERNATIVE LIVESTOCK IN THE SHIPMENT AND THE OWNER OR SHIPPER FAILS TO EXHIBIT A BILL OF SALE OR OTHER AUTHORITY FOR THE POSSESSION OF THE ALTERNATIVE LIVESTOCK.

(b) UPON DECLARING AN ALTERNATIVE LIVESTOCK AN ESTRAY, A BRAND INSPECTOR SHALL TAKE POSSESSION OF THE ALTERNATIVE LIVESTOCK ON BEHALF OF THE BOARD AND SHALL DISPOSE OF SUCH ALTERNATIVE LIVESTOCK IN ACCORDANCE WITH ARTICLE 44 OF THIS TITLE AND ANY RULES PROMULGATED THERETO.

(2) ANY PERSON SATISFYING THE BOARD THAT SUCH PERSON IS THE OWNER OF AN ESTRAY ALTERNATIVE LIVESTOCK THAT HAS BEEN DISPOSED OF PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE FORTHWITH PAID THE AMOUNT FOR WHICH THE ALTERNATIVE LIVESTOCK WAS SOLD LESS ANY REASONABLE AND NECESSARY EXPENSES.

(3) (a) ALL MONEYS IN THE ESTRAY FUND CREATED IN SECTION 35-41-102 DERIVED FROM THE DISPOSAL OF ESTRAY ALTERNATIVE LIVESTOCK BY THE BOARD PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THAT HAVE BEEN IN THE ESTRAY FUND FOR SIX YEARS OR LONGER AND FOR WHICH NO VALID CLAIM HAS BEEN MADE, SHALL BE CREDITED TO THE BRAND INSPECTION FUND CREATED IN SECTION 35-41-102.

(b) ANY CLAIM FOR MONEYS IN THE ESTRAY FUND MADE BY THE OWNER OF AN ALTERNATIVE LIVESTOCK SOLD AS AN ESTRAY PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE MADE WITHIN THREE YEARS FROM THE DATE OF THE SALE OF SUCH ESTRAY ALTERNATIVE LIVESTOCK OR SUCH CLAIM SHALL BE FOREVER BARRED.

(4) A BRAND INSPECTOR SHALL REFUSE TO ISSUE A CERTIFICATE AUTHORIZING THE TRANSPORT OF ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF AND SHALL SEIZE THE SAME IF:

(a) THE PERSON IN CONTROL OF THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF IS NOT IN POSSESSION OF A DULY EXECUTED BILL OF SALE;

(b) THE PERSON IN CONTROL OF THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF CANNOT FURNISH OTHER SATISFACTORY PROOF THAT SUCH PERSON IS THE LAWFUL OWNER OF THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF; OR

(c) THE INSPECTOR HAS GOOD REASON TO BELIEVE THAT THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF ARE STOLEN.

(5) (a) A BRAND INSPECTOR OR LEVEL I, Ia, OR II PEACE OFFICER, AS DEFINED IN SECTION 18-1-901 (3) (1), C.R.S., IS AUTHORIZED TO STOP AND INSPECT ANY VEHICLE TRANSPORTING OR CONTAINING ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF.

(b) A BRAND INSPECTOR OR PEACE OFFICER MAY DEMAND TO SEE A BILL OF SALE, PERMIT, OR CERTIFICATE FOR THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF FROM THE PERSON OPERATING THE VEHICLE.

(c) IF THE OPERATOR OF THE VEHICLE IS UNABLE TO PRODUCE A BILL OF SALE, PERMIT, OR CERTIFICATE, THE INSPECTOR OR PEACE OFFICER IS AUTHORIZED TO:

(I) ARREST, WITH OR WITHOUT WARRANT, THE VEHICLE OPERATOR;

(II) SEIZE THE VEHICLE AND THE ALTERNATIVE LIVESTOCK OR CARCASSES THEREOF; AND

(III) RETAIN POSSESSION OF THE VEHICLE AND THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF UNTIL:

(A) THE VEHICLE OPERATOR CAN PRODUCE EVIDENCE SATISFACTORY TO THE BOARD THAT THE VEHICLE OPERATOR OR THE PERSON FOR WHOM THE ALTERNATIVE LIVESTOCK IS BEING TRANSPORTED, IS THE LAWFUL OWNER THEREOF; OR

(B) THE ALTERNATIVE LIVESTOCK, OR THE CARCASSES THEREOF, ARE DISPOSED OF PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OR SUBSECTION (6) OF THIS SECTION.

(d) AFTER A VEHICLE SEIZED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5) HAS BEEN UNLOADED BY THE BRAND INSPECTOR OR PEACE OFFICER AT THE SITE WHERE THE SEIZED LIVESTOCK OR CARCASSES ARE BEING HELD, SUCH VEHICLE SHALL BE MADE AVAILABLE FOR RETURN TO THE OWNER OF SUCH VEHICLE.

(6) IF A BRAND INSPECTOR OR PEACE OFFICER DEEMS IT NECESSARY TO SELL CARCASSES TAKEN PURSUANT TO SUBSECTION (5) OF THIS SECTION TO PREVENT LOSS BY SPOILING, THE BRAND INSPECTOR OR PEACE OFFICER IS AUTHORIZED TO DO SO. THE PROCEEDS FROM THE SALE OF THE CARCASSES SHALL BE CREDITED TO THE ESTRAY FUND CREATED IN SECTION 35-41-102.

(7) (a) IF WITHIN TEN DAYS AFTER ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF HAVE BEEN SEIZED:

(I) THE OWNERSHIP OF SUCH ALTERNATIVE LIVESTOCK OR CARCASSES IS SHOWN AND ESTABLISHED, THE ALTERNATIVE LIVESTOCK, THE CARCASSES THEREOF, OR THE PROCEEDS FROM THE SALE OF THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF SHALL BE DELIVERED TO THE OWNER; OR

(II) THE OWNERSHIP OF SUCH ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF IS NOT SHOWN AND ESTABLISHED, THE ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF SHALL BE DISPOSED OF PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) ANY MONEYS DERIVED FROM THE SALE OF ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF SHALL BE CREDITED TO THE ESTRAY FUND CREATED IN SECTION 35-41-102.

(c) THE FACTS CONCERNING THE DETENTION AND SALE OF ANY ALTERNATIVE LIVESTOCK OR THE CARCASSES THEREOF SHALL BE REPORTED TO THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH SUCH ALTERNATIVE LIVESTOCK OR CARCASSES WERE DETAINED AND SOLD.

(8) UNLESS ALTERNATIVE LIVESTOCK REQUIRED TO BE INSPECTED PURSUANT TO THIS ARTICLE ARE RELEASED BY A BRAND INSPECTOR, SUCH ALTERNATIVE LIVESTOCK SHALL BE INSPECTED BY A DULY AUTHORIZED BRAND INSPECTOR ON ARRIVAL AT ANY MARKET, REGARDLESS OF WHETHER THE ALTERNATIVE LIVESTOCK HAS BEEN PREVIOUSLY INSPECTED AT THE POINT OF ORIGIN, BEFORE SUCH ALTERNATIVE LIVESTOCK ARE WEIGHED.

SECTION 7. 24-1-124 (3) (h), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-1-124. Department of natural resources - creation - divisions of. (3) The department of natural resources shall consist of the following divisions:

(h) (III) (A) THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED IN THIS ARTICLE UNDER THE DEPARTMENT OF NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 1999.

SECTION 8. 35-44-101 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

35-44-101. Definition. As used in this article, unless the context otherwise requires:

(1) "Estray" means any bovine animal, horse, mule, ~~or~~ ass, OR ALTERNATIVE LIVESTOCK AS DEFINED IN SECTION 35-41.5-102, C.R.S., found running at large upon public or private lands in the state of Colorado whose owner is either known or unknown in the section where found or which is outside the limits of its usual range or pasture. It is unlawful for any person, corporation, or company, or any of its employees or agents, to take into its custody any such estray and retain possession of the same, except as provided in this article.

SECTION 9. Article 44 of title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

35-44-114. Disputed ownership - animal deemed not alternative livestock. IN ANY INSTANCE WHERE THE BOARD DETERMINES THAT AN ANIMAL IS NOT AN ALTERNATIVE LIVESTOCK, ANY DISPUTE AS TO OWNERSHIP SHALL BE DECIDED BY THE STATE WILDLIFE COMMISSION.

SECTION 10. 35-46-101 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

35-46-101 Definitions. As used in this article, unless the context otherwise requires:

(2) "Livestock" includes horses, cattle, mules, asses, goats, sheep, swine, buffalo, and cattalo, BUT DOES NOT INCLUDE "ALTERNATIVE LIVESTOCK" AS DEFINED IN SECTION 35-41.5-102 (1).

SECTION 11. 35-50-110, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

35-50-110. Quarantine established - enforced - penalty. (1) Whenever the state agricultural commission or its authorized representative deems it necessary to quarantine any premises, county, district, or section of the state for the purpose of preventing the spread of any infectious or contagious disease among the ~~domestic animals~~ LIVESTOCK within the state, the said commission has the authority, through its members, officers, or inspectors, to call on all sheriffs or other peace or police officers of any county within the state to assist in maintaining such quarantine and to arrest anyone who may violate such quarantine or any rules or regulations made by said commission for the purpose of maintaining such quarantine, and it is the duty of all sheriffs or other peace officers to act in such cases when so called upon, and they shall be allowed such recompense as is provided by statute for similar services.

(2) Any person who willfully violates any provision of subsection (1) of this section or who moves or causes to be moved any single head or any herd of cattle, horses, sheep, goats, swine, ~~or~~ poultry, OR OTHER LIVESTOCK from a quarantined area in violation of a quarantine order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than two thousand dollars, or by imprisonment in the county jail for not less than ninety days nor more than one year, or by both such fine and imprisonment. In the case of a second or subsequent conviction under the provisions of this section, a sentence of imprisonment within the minimum and maximum terms shall be mandatory and shall not be subject to suspension. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

SECTION 12. Article 50 of title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

35-50-114.5. Cervidae disease revolving fund - creation. (1) (a) THE COMMISSION MAY LEVY AN ASSESSMENT OF NO MORE THAN FIVE DOLLARS PER HEAD OF CERVIDAE PER YEAR FROM THE OWNERS OF ALTERNATIVE LIVESTOCK CERVIDAE OR CAPTIVE WILDLIFE CERVIDAE WHICH SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE CERVIDAE DISEASE FUND, WHICH FUND IS HEREBY CREATED. THE FUND SHALL BE MAINTAINED AT A LEVEL OF NO MORE THAN TWO HUNDRED THOUSAND DOLLARS AND SHALL BE ADMINISTERED BY THE COMMISSION PURSUANT TO THE RECOMMENDATIONS OF THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD CREATED IN SECTION 33-1-121, C.R.S.

(b) IF THE FUND REACHES A LEVEL OF TWO HUNDRED THOUSAND DOLLARS OR

MORE THE COMMISSION SHALL CEASE MAKING ANY ASSESSMENTS UNTIL SUCH TIME AS THE LEVEL OF THE FUND FALLS BELOW TWO HUNDRED THOUSAND DOLLARS AND THE COMMISSION DETERMINES THAT A LEVY IS NECESSARY.

(2) THE DIVISION OF WILDLIFE MAY CONTRIBUTE AN AMOUNT TO THIS FUND SUBJECT TO APPROVAL BY THE WILDLIFE COMMISSION.

(3) (a) THE MONEYS IN THE FUND MAY BE USED TO INDEMNIFY OWNERS OF CERVIDAE DESTROYED FOR THE CONTROL OF CONTAGIOUS AND INFECTIOUS DISEASES.

(b) COMBINED STATE AND FEDERAL INDEMNITY SHALL NOT EXCEED EIGHTY PERCENT OF ACTUAL APPRAISED VALUE.

(4) ALL MONEYS CREDITED TO THE FUND SHALL BE 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. 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, C.R.S. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM THE FUND TO THE COMMISSION FOR DIRECT AND INDIRECT EXPENSES INCURRED IN CARRYING OUT THE PURPOSES OF THIS SECTION.

SECTION 13. 35-55-101 (1), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

35-55-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, ~~and~~ poultry, AND ALTERNATIVE LIVESTOCK AS DEFINED IN SECTION 35-41.5-102.

SECTION 14. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the alternative livestock farm cash fund, created in section 35-41.5-116, Colorado Revised Statutes, not otherwise appropriated, to the department of agriculture, for allocation to the agricultural services division, for the fiscal year beginning July 1, 1994, the sum of thirty thousand four hundred three dollars (\$30,403), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1994, the sum of two thousand three hundred twenty three dollars (\$2,323), or so much thereof as may be necessary, for the provision of legal services to the department of agriculture for the purposes of this act. Such appropriation shall be from cash funds received by the department of agriculture, alternative livestock farm cash fund.

(3) For the implementation of this act, the total appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1994, to the department of natural resources, division of wildlife, shall be reduced by twenty-eight thousand nine hundred two dollars (\$28,902) and 0.5 FTE, which amount shall be from the wildlife cash fund.

SECTION 15. Effective date. This act shall take effect July 1, 1994.

SECTION 16. 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: May 31, 1994