

CHAPTER 123

AGRICULTURE

SENATE BILL 99-137

BY SENATORS Evans, Chlouber, Epps, Hernandez, and Wattenberg;
also REPRESENTATIVES Alexander, Coleman, and Mace.

AN ACT

CONCERNING THE AUTHORITY OF LICENSED PET ANIMAL FACILITIES OVER ANIMALS IN THEIR CARE.

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

SECTION 1. 35-80-102 (1), Colorado Revised Statutes, is amended, and the said 35-80-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

35-80-102. Definitions. As used in this article, unless the context otherwise requires:

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

(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.

SECTION 2. Article 80 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

35-80-106.3. Animal holding periods - disposition of unclaimed animals -

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

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. 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. PET ANIMALS, WHICH IN THE OPINION OF A VETERINARIAN 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 FIVE-DAY 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 FIVE-DAY 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 FIVE-DAY MINIMUM HOLDING PERIOD AS SET FORTH IN SUBSECTION (1) OF THIS SECTION.

SECTION 3. 18-9-201, Colorado Revised Statutes, is amended to read:

18-9-201. Definitions. As used in ~~section 18-9-202~~ SECTIONS 18-9-202 AND 18-9-202.5, 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.

(2.5) "DISPOSAL" OR "DISPOSITION" MEANS ADOPTION OF AN ANIMAL, RETURN OF AN ANIMAL TO THE OWNER, 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 TO A REHABILITATOR LICENSED BY THE DIVISION OF WILDLIFE 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.

(3) "Mistreatment" means every act or omission ~~which~~ 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.

SECTION 4. Part 2 of article 9 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-202.5. Financial bonding requirements for costs of holding impounded animals. THE OWNER OR CUSTODIAN OF AN ANIMAL THAT HAS BEEN IMPOUNDED BECAUSE OF ALLEGED NEGLIGENCE OR ABUSE OR BECAUSE OF INVESTIGATION OF CHARGES OF CRUELTY TO ANIMALS AS DESCRIBED IN SECTION 18-9-202 MAY PREVENT DISPOSITION OF THE ANIMAL BY AN ANIMAL SHELTER, AS DEFINED IN SECTION 35-80-102 (1), C.R.S., THAT IS CARING FOR THE ANIMAL BY POSTING A BOND WITH THE COURT IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE ANIMAL'S CARE AND KEEPING FOR AT LEAST THIRTY DAYS, INCLUDING THE DAY ON WHICH THE ANIMAL WAS TAKEN INTO CUSTODY. SUCH BOND SHALL BE FILED WITH THE COURT WITHIN TEN DAYS AFTER THE ANIMAL IS IMPOUNDED. AT THE END OF THE TIME FOR WHICH EXPENSES ARE COVERED BY THE BOND, IF THE OWNER OR CUSTODIAN DESIRES TO PREVENT DISPOSITION OF THE ANIMAL BY THE ANIMAL SHELTER, THE OWNER OR CUSTODIAN SHALL POST A NEW BOND WITH THE COURT WITHIN TEN DAYS AFTER THE PRIOR BOND'S EXPIRATION. HOWEVER, THE COURT SHALL ORDER THE IMMEDIATE DISPOSITION OF THE ANIMAL BY EUTHANASIA IF, IN THE OPINION OF A VETERINARIAN, THE ANIMAL IS EXPERIENCING EXTREME PAIN OR SUFFERING. AT THE END OF THE TIME FOR WHICH EXPENSES ARE COVERED BY THE BOND, THE ANIMAL SHELTER MAY DETERMINE DISPOSITION OF THE ANIMAL UNLESS THERE IS A COURT ORDER PROHIBITING SUCH DISPOSITION. THE OWNER OR CUSTODIAN SHALL BE LIABLE FOR THE COST OF THE CARE, KEEPING, OR DISPOSAL OF THE ANIMAL.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 19, 1999