

CHAPTER 370

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1261

BY REPRESENTATIVE(S) Lee, Coleman, Fran gas, Larson, Merrifield, Miller, Ragsdale, Stafford, Williams S., and Roman off;
also SENATOR(S) Johnson S., and Jones.

AN ACT

CONCERNING THE REGULATION OF DANGEROUS DOGS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 18-9-202.5 (1), Colorado Revised Statutes, is amended to read:

18-9-202.5. Financial bonding requirements for costs of holding impounded animals. (1) (a) 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, ~~or animal fighting,~~ OR UNLAWFUL OWNERSHIP OF A DANGEROUS DOG as described in sections 18-9-202, ~~and~~ 18-9-204, AND 18-9-204.5, respectively, may prevent disposition of the animal by an impound agency by posting a bond with the court in an amount sufficient to provide for the animal's care and keeping at the impound agency 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, 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 impound agency 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.

(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 SHALL BE DEEMED ABANDONED AND MAY BE DISPOSED OF AS THE IMPOUND AGENCY

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

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SECTION 2. 18-9-204.5 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-9-204.5. Unlawful ownership of dangerous dog. (2) As used in this section, unless the context otherwise requires:

(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.

SECTION 3. 18-9-204.5 (3) (e.5) and (4), Colorado Revised Statutes, are amended to read:

18-9-204.5. Unlawful ownership of dangerous dog. (3) (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 such dangerous dog in a building or enclosure designed to be escape-proof and, whenever such dog is outside of such building or enclosure, keep the dog under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(II) IMMEDIATELY REPORT TO THE BUREAU ANY MATERIAL CHANGE IN THE DANGEROUS DOG'S SITUATION, INCLUDING BUT NOT LIMITED TO A 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.

(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 ~~shall~~ 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 ~~shall~~ MAY require, as a condition of bond, that the owner's dangerous dog be placed at the owner's expense in a public animal shelter, licensed boarding facility, or veterinarian's clinic of the owner's choosing, 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).

SECTION 4. Article 42 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of moneys in the dangerous dog microchip licensure cash fund, pursuant to section 35-42-115 (3), Colorado Revised Statutes, not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 2004, the sum of fifteen thousand three hundred forty-three dollars (\$15,343), or so much thereof as may be necessary, for the implementation of this act. The General Assembly has determined that this act can be implemented with contract services, and therefore no separate appropriation of FTE authority is necessary to carry out the purposes of this act.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to offenses committed on or after said date.

SECTION 7. 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 4, 2004