

CHAPTER 195

AGRICULTURE

HOUSE BILL 06-1132

BY REPRESENTATIVE(S) Hoppe, Berens, Coleman, Garcia, Hefley, Kerr J., Merrifield, Stafford, and Todd;
also SENATOR(S) Isgar, Entz, and Taylor.

AN ACT

CONCERNING THE DISPOSITION OF ANIMALS IMPOUNDED UNDER ANIMAL CRUELTY LAWS, AND, IN CONNECTION THEREWITH, AUTHORIZING THE SALE OF SUCH ANIMALS WITH THE PROCEEDS APPLIED TO THE COST OF CARE OF SUCH IMPOUNDED ANIMALS, AUTHORIZING COURT HEARINGS ON THE REASONABLENESS OF COSTS ASSOCIATED WITH BONDS TO PREVENT THE DISPOSITION OF AN IMPOUNDED ANIMAL, AUTHORIZING THE RECOVERY OF SUCH COSTS THROUGH RESTITUTION IN CRIMINAL CASES, AND MAKING AN APPROPRIATION.

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

SECTION 1. 18-9-201 (2.5), Colorado Revised Statutes, is amended to read:

18-9-201. Definitions. As used in sections 18-9-202 and 18-9-202.5, unless the context otherwise requires:

(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 (1) (c); 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.

SECTION 2. 18-9-202.5 (1) (a) and (2), Colorado Revised Statutes, are amended, and the said 18-9-202.5 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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 PURSUANT TO SECTION 18-9-202; animal fighting

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

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 ~~sections 18-9-202, 18-9-204, and~~ SECTION 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~~ PROVISION at the impound agency for at least thirty days, including the day on which the animal was taken into custody. THE OWNER OR CUSTODIAN OF ANY IMPOUNDED ANIMAL MAY REQUEST A HEARING IN A COURT OF COMPETENT JURISDICTION WITHIN TEN DAYS AFTER IMPOUNDMENT TO DETERMINE WHETHER THE COSTS ASSOCIATED WITH THE BOND ARE FAIR AND REASONABLE FOR THE CARE OF AND PROVISION FOR THE IMPOUNDED ANIMAL. 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~~ OF, PROVISION FOR, or disposal of the animal.

(c) (I) 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 OF AND PROVISION FOR THE ANIMAL, INCLUDING EXPENSES INCURRED BY THE IMPOUND AGENCY. 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, SHALL BE 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 SO MISTREATED, NEGLECTED, OR ABANDONED THE ANIMAL, THE REMAINING PROCEEDS, IF ANY, SHALL BE PAID OVER TO THE OWNER OF THE ANIMAL.

(II) IF THE IMPOUND AGENCY IS THE DEPARTMENT OF AGRICULTURE, MONEYS CREDITED TO THE DEPARTMENT OF AGRICULTURE FOR EXPENSES SHALL BE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE ANIMAL PROTECTION FUND, CREATED IN SECTION 35-42-113, C.R.S. IF THE DEPARTMENT OF AGRICULTURE IS NOT THE IMPOUND AGENCY, MONEYS FOR EXPENSES SHALL BE PAID TO SUCH OTHER IMPOUND AGENCY AS THE COURT ORDERS.

(III) IF THE OWNER OF THE ANIMAL CANNOT BE FOUND, ANY REMAINING PROCEEDS AFTER ALL OTHER EXPENSES HAVE BEEN PAID SHALL BE PAID 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. ANY CLAIM FOR SUCH REMAINING PROCEEDS BY THE OWNER OF THE ANIMAL SHALL BE MADE WITHIN ONE YEAR AFTER THE PAYMENT THEREOF TO THE IMPOUND AGENCY AND, UNLESS SO PRESENTED TO THE COURT, SHALL BE FOREVER BARRED UNLESS THE COURT BY PROPER ORDER MADE IN ANY CASE OTHERWISE DECREES. ANY REFUND ORDERED BY COURT DECREE SHALL BE PAID TO THE CLAIMANT BY THE IMPOUND

AGENCY.

(IV) 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.

(V) IF THE OWNER OF THE ANIMAL IS UNKNOWN, THE IMPOUND AGENCY SHALL CAUSE TO BE PUBLISHED FOR ONE WEEK, IN A NEWSPAPER OF GENERAL CIRCULATION IN THE JURISDICTION WHEREIN SUCH ANIMAL IS FOUND, NOTICE OF SALE OF THE ANIMAL, AND SHALL FURTHER CAUSE NOTICE OF THE SALE OF THE ANIMAL TO BE POSTED AT A PLACE PROVIDED FOR PUBLIC NOTICES IN THE JURISDICTION WHEREIN SUCH SALE WILL TAKE PLACE, AT LEAST FIVE DAYS PRIOR TO THE SALE.

(VI) THE PROVISIONS OF THIS PARAGRAPH (c) SHALL NOT APPLY TO THE DISPOSITION OF AN ANIMAL FOR A FEE BY:

(A) ADOPTION OF AN ANIMAL;

(B) RELEASE OF AN ANIMAL TO A RESCUE GROUP LICENSED PURSUANT TO ARTICLE 80 OF TITLE 35, C.R.S.;

(C) RELEASE OF AN ANIMAL TO ANOTHER PET ANIMAL FACILITY LICENSED PURSUANT TO ARTICLE 80 OF TITLE 35, C.R.S.; OR

(D) RELEASE OF AN ANIMAL TO A REHABILITATOR LICENSED BY THE DIVISION OF WILDLIFE OR THE UNITED STATES FISH AND WILDLIFE SERVICE.

(2) For purposes of this section, "impound agency" means an agency, including, but not limited to, an animal shelter as defined in section 35-80-102 (1), C.R.S., AND THE DEPARTMENT OF AGRICULTURE, CREATED IN SECTION 24-1-123, C.R.S., that impounds an animal pursuant to the provisions of subsection (1) of this section or section 18-9-202 (1.8).

SECTION 3. 35-42-113 (1), Colorado Revised Statutes, is amended to read:

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 (1) (c), 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 ANIMALS 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 same to the animal protection fund. The general assembly shall make annual appropriations from such fund to the department of agriculture to aid in carrying out the purposes of this article. Such appropriations shall not be made for personal services.

SECTION 4. 18-1.3-602 (3) (c) (I), Colorado Revised Statutes, is amended to read:

18-1.3-602. Definitions. As used in this part 6, unless the context otherwise

requires:

(3) (c) (I) "Restitution" shall also include all costs incurred by a government agency or private entity to:

(A) Remove, clean up, or remediate a place used to manufacture or attempt to manufacture a controlled substance or which contains a controlled substance or which contains chemicals, supplies, or equipment used or intended to be used in the manufacturing of a controlled substance; ~~or~~

(B) Store, preserve, or test evidence of a controlled substance violation; OR

(C) SELL AND PROVIDE 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 THIS TITLE OR ARTICLE 42 OF TITLE 35, C.R.S.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the animal protection fund created in section 35-42-113, 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, 2006, the sum of eight thousand dollars (\$8,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 6. Effective date - applicability. (1) 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 (August 9, 2006, if adjournment sine die is on May 10, 2006); 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.

(2) The provisions of this act shall apply to animals impounded on or after the applicable effective date of this act.

Approved: May 11, 2006