

CHAPTER 327

AGRICULTURE

SENATE BILL 09-118

BY SENATOR(S) Gibbs, Hodge, Isgar, Newell, Schwartz, Tochtrop;
also REPRESENTATIVE(S) Fischer, Curry, Hullinghorst, Todd.

AN ACT

CONCERNING CONTINUATION OF PET ANIMAL CARE REGULATION, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 35-80-117 (1), Colorado Revised Statutes, is amended to read:

35-80-117. Repeal of article - sunset review. (1) This article is repealed, effective July 1, ~~2009~~ 2014.

SECTION 2. Repeal. 24-34-104 (40) (i), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(i) ~~The licensing of pet animal facilities pursuant to article 80 of title 35, C.R.S.;~~

SECTION 3. 24-34-104 (45), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (45) The following agencies, functions, or both, shall terminate on July 1, 2014:

(h) THE LICENSING OF PET ANIMAL FACILITIES PURSUANT TO ARTICLE 80 OF TITLE 35, C.R.S.

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

SECTION 4. 35-80-109 (2) (e), Colorado Revised Statutes, is amended to read:

35-80-109. Powers and duties of the commissioner - rules - repeal. (2) The commissioner is authorized to adopt all reasonable rules for the administration and enforcement of this article, including, but not limited to:

(e) (I) The amount of any license fee for a pet animal facility license. Such license fee may be different for different classifications and subclassifications of any license authorized under this article. THE COMMISSIONER IS AUTHORIZED TO DETERMINE THE AMOUNT OF ANY LICENSING FEE AUTHORIZED UNDER THIS ARTICLE BASED ON THE ACTUAL COST OF ADMINISTERING AND ENFORCING THIS ARTICLE AND ANY RULES ADOPTED PURSUANT THERETO.

(II) (A) PRIOR TO JULY 1, 2010, THE COMMISSIONER MAY RAISE FEES FOR LICENSES AND RENEWALS AUTHORIZED UNDER THIS ARTICLE BY AN AMOUNT SUFFICIENT TO HIRE ONE ADDITIONAL FULL-TIME EMPLOYEE TO CONDUCT INSPECTIONS UNDER THIS ARTICLE; EXCEPT THAT, NO SUCH INCREASE SHALL CAUSE ANY LICENSE OR RENEWAL FEE TO EXCEED THE MAXIMUM FEE AMOUNT SPECIFIED IN SECTION 35-80-105 (4).

(B) NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO ABROGATE OR IMPAIR THE AUTHORITY OF THE COMMISSIONER TO ADMINISTER THIS ARTICLE, INCLUDING THE POWER TO SET FEES PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

(C) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 5. The introductory portion to 35-80-115 (1), Colorado Revised Statutes, is amended, and the said 35-80-115 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH to read:

35-80-115. Advisory committee - sunset review - repeal. (1) There is hereby established a pet animal advisory committee to advise the commissioner in establishing regulations under this article and to provide ongoing review of this article. The members of the advisory committee shall receive no compensation or reimbursement from the state of Colorado or the department for expenses incurred in the performance of their duties. The advisory committee shall consist of ~~sixteen~~ SEVENTEEN persons appointed by the commissioner as follows:

(f.5) ONE PERSON WHO REPRESENTS THE "DOG DAY CARE INDUSTRY", WHICH TERM MEANS PREMISES ON WHICH DOGS ARE KEPT PRIMARILY FOR THE PURPOSE OF SHORT-TERM CARE;

SECTION 6. Repeal. 35-80-115 (5), Colorado Revised Statutes, is repealed as follows:

35-80-115. Advisory committee. (5) (a) ~~This section is repealed, effective July 1, 2009.~~

(b) ~~Prior to said repeal, the advisory committee appointed pursuant to this section shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

SECTION 7. Repeal. 2-3-1203 (3) (v) (II), Colorado Revised Statutes, is repealed as follows:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(v) July 1, 2009:

(II) ~~The pet animal advisory committee appointed pursuant to section 35-80-115, C.R.S.;~~

SECTION 8. Repeal. 35-80-113 (4), Colorado Revised Statutes, is repealed as follows:

35-80-113. Civil penalties. (4) ~~Before imposing any civil penalty, the commissioner may consider the effect of such penalty on the ability of the person charged to stay in business.~~

SECTION 9. 35-80-105 (5), Colorado Revised Statutes, is amended to read:

35-80-105. Pet animal facility - licensure requirements - application - fees. (5) Each pet animal facility license shall expire ~~on March 1 of each year~~ ON A DATE SPECIFIED BY THE COMMISSIONER BY RULE.

SECTION 10. 35-80-106 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

35-80-106. Pet animal facility license - renewal. (1) Each pet animal facility shall apply to renew its license on or before the ~~first working day of March for the year of renewal~~ EXPIRATION DATE OF THE LICENSE. Said application shall be in the form and manner prescribed by the commissioner and shall be accompanied by the required renewal fee.

(2) If the application for renewal is not postmarked on or before the ~~first working day of March for the year of renewal~~ EXPIRATION DATE OF THE LICENSE, a penalty fee of ten percent of the renewal fee shall be assessed. No license shall be renewed until the renewal fee and any penalty fee are paid.

(3) If the application and fee for renewal are ~~not~~ postmarked ~~on or before April 1~~ LATER THAN ONE CALENDAR MONTH AFTER THE EXPIRATION DATE OF THE LICENSE, the license shall not be renewed and the pet animal facility shall apply for a new license.

SECTION 11. 35-80-106.5, Colorado Revised Statutes, is amended to read:

35-80-106.5. Psittacine bird leg band - fee - rules. (1) Each applicant for a Colorado psittacine bird leg band shall be issued a bird leg band number by the commissioner after paying the required application fee, and each holder of a bird leg band number shall pay an annual renewal fee on or before ~~October 1 of each year~~ THE ANNUAL DATE SET BY THE COMMISSIONER.

(2) The application, ~~and renewal~~ fees, AND ANNUAL RENEWAL DATE described in subsection (1) of this section shall be set forth in rule adopted by the commissioner.

SECTION 12. 35-80-109 (4), Colorado Revised Statutes, is amended to read:

35-80-109. Powers and duties of the commissioner - rules. (4) The commissioner is authorized to ~~determine the amount of any licensing fee authorized under this article based on the actual cost of administering and enforcing the article and any rules and regulations adopted pursuant thereto~~ ESTABLISH THE ANNUAL DATE OR DATES ON WHICH LICENSES AND PSITTACINE BIRD LEG BANDS ISSUED PURSUANT TO THIS ARTICLE SHALL EXPIRE.

SECTION 13. 35-80-108 (1) (j) (I) and (1) (j) (II) (B), Colorado Revised Statutes, are amended to read:

35-80-108. Unlawful acts. (1) Unless otherwise authorized by law, it is unlawful and a violation of this article for any person or entity:

(j) To sell, barter, exchange, or otherwise transfer, possess, import, or cause to be imported into this state:

(I) Any type of turtle with a length in carapace of less than four inches; EXCEPT THAT A PERSON MAY POSSESS A TURTLE THAT THE PERSON HAS BRED WITH A LENGTH IN CARAPACE OF LESS THAN FOUR INCHES; or

(II) (B) Such prohibitions, with respect to nonhuman primates, shall not apply to a ~~zoological park or a research institute~~ FACILITY OR EXHIBITOR PROPERLY licensed or registered under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended, nor shall they apply to the keeping of a nonhuman primate as a household pet by any person who owned such primate on or before July 1, 1973, or to the keeping by a disabled person of a nonhuman primate specially trained to assist such person.

SECTION 14. 35-80-102 (10), Colorado Revised Statutes, is amended to read:

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

(10) "Pet animal" means dogs, cats, rabbits, guinea pigs, hamsters, mice, RATS, GERBILS, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any other species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock, as defined in subsection (9) of this section. "Pet animal" does not include an animal that is used for working purposes on a farm or ranch.

SECTION 15. 35-80-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

35-80-105. Pet animal facility - licensure requirements - application - fees.

(8) EACH PET ANIMAL FACILITY LICENSED PURSUANT TO THIS ARTICLE SHALL DISPLAY IN A CONSPICUOUS PLACE SIGNAGE THAT CONTAINS CONTACT INFORMATION

FOR THE OFFICE OR OTHER APPROPRIATE DEPARTMENT SUBDIVISION THAT ADMINISTERS THIS ARTICLE.

SECTION 16. Appropriation - adjustments to the 2009 long bill. For the implementation of this act, appropriations made in the general appropriation act for the fiscal year beginning July 1, 2009, shall be adjusted as follows: The cash funds appropriation to the department of agriculture, agricultural services division, from the pet animal care and facility fund created in section 35-80-116, Colorado Revised Statutes, is increased by the sum of forty-nine thousand six hundred fifty-three dollars (\$49,653) and 1.0 FTE.

SECTION 17. Effective date. This act shall take effect July 1, 2009.

SECTION 18. 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, 2009