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MAR 20 2014

SAVING COLORADO SHELTER PETS ACT

Be it enacted by the People of the State of Colorado:

Colorado Secretary of State

SECTION 1. In Colorado Revised Statutes, 35-80-106.3, amend as follows:

S.WARD
11:45A.M

35-80-106.3. Animal holding periods - disposition of unclaimed animals - immunity from actions over disposition of a pet animal.

(1) **DECLARATION.** THE CITIZENS OF THE STATE OF COLORADO VALUE PET ANIMALS AND DO NOT WANT THEIR TAX DOLLARS SUBSIDIZING THE NEEDLESS KILLING OF HOMELESS ANIMALS, THEREFORE EUTHANASIA SHOULD BE RESERVED FOR MEDICALLY NECESSARY CASES IN WHICH A PET ANIMAL IS EXPERIENCING EXTREME PAIN AND SUFFERING OR HAS A CONTAGIOUS DISEASE THAT MAY SPREAD IF NOT CONTAINED, OR IS DEEMED IRREDEEMABLY HOSTILE OR AGGRESSIVE, NOT AS A SOLUTION FOR REDUCING THE HOMELESS ANIMAL POPULATION. BY IMPLEMENTING A SMALL FEE ON LIVE PET SALES, ANIMAL SHELTERS AND RESCUES WILL HAVE ACCESS TO FUNDS TO IMPLEMENT PROGRAMS TO MAKE SHELTERS TRUE SAFE HAVENS FOR OUR HOMELESS PETS.

(2) IT IS THE PUBLIC POLICY OF THE STATE OF COLORADO TO PROHIBIT ANIMAL SHELTERS AND ANIMAL RESCUES THAT OPERATE WITHIN THE STATE OF COLORADO FROM DISPOSING OF PET ANIMALS IN THEIR CARE AND CUSTODY EXCEPT IN ACCORDANCE WITH ALL SECTIONS HEREIN. ACCORDINGLY, THE PEOPLE OF THE STATE OF COLORADO HEREBY ENACT A LAW TO PROHIBIT ANIMAL SHELTERS AND ANIMAL RESCUES FROM DESTROYING PETS TO CONTROL THE HOMELESS PET POPULATION BUT STILL ALLOWS EUTHANASIA OF HOMELESS PETS IN CASES OF MEDICAL NECESSITY OR IRREDEEMABLE HOSTILITY AND AGGRESSION.

~~(1)(3)~~ Any pet animal held by or in the custody of a licensed animal shelter, whether public or private, OR HELD BY AN ANIMAL RESCUE and not reclaimed by the owner shall be held by the animal shelter OR ANIMAL RESCUE for a minimum of five days after acquisition by the animal shelter OR ANIMAL RESCUE before it may become available for adoption or otherwise disposed of IN ACCORDANCE WITH ALL SECTIONS HEREIN ~~at the discretion of by the animal shelter;~~ except that ~~a~~-AN ANIMAL shelter OR ANIMAL RESCUE supervisor may determine that a pet animal without identification, including but not limited to a microchip or collar, may be disposed of in three days IN ACCORDANCE WITH ALL SECTIONS HEREIN. ~~If such shelter supervisor determines the shelter has no additional resources for such pet animal or determines that such pet animal is dangerous.~~ For purposes of this section, "days" means days during which the ANIMAL shelter OR ANIMAL RESCUE is open to the public. If the animal shelter OR ANIMAL RESCUE acquires the pet animal from the owner or an authorized representative of the owner, the pet animal becomes the property of the animal shelter OR PET ANIMAL RESCUE at the time of transfer of the pet animal, and the pet animal may be PLACED FOR ADOPTION IMMEDIATELY or disposed of IN ACCORDANCE WITH ALL SECTIONS HEREIN ~~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 OR PET ANIMAL RESCUE upon acquisition and may be PLACED FOR ADOPTION IMMEDIATELY OR DISPOSED OF IN ACCORDANCE WITH ALL SECTIONS HEREIN ~~disposed of by and at the discretion of the animal shelter.~~

(4)(A) AFTER THE EXPIRATION OF THE RELEVANT HOLDING PERIODS SET FORTH IN SUBSECTION (2) ABOVE, OR UPON RELINQUISHMENT OF THE PET ANIMAL BY THE OWNER, THE PET ANIMAL BECOMES THE PROPERTY OF THE SHELTER OR PET ANIMAL RESCUE AND IS TO BE SHELTERED IN ITS CARE UNTIL SUCH ANIMAL IS DISPOSED OF IN ACCORDANCE WITH ALL SECTIONS HEREIN. TO FUND THE COSTS ASSOCIATED WITH SHELTERING PET ANIMALS UNTIL ADOPTED OR TRANSFERRED, COMMENCING JULY 1, 2015, THE STATE SHALL COLLECT A SAVING SHELTER PETS FEE IN THE AMOUNT OF FIFTEEN PERCENT OF THE SALE PRICE OF ALL PET ANIMALS SOLD IN THE STATE, WHICH FEE SHALL BE PAID INTO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND TO BE DISTRIBUTED IN ACCORDANCE WITH SECTION 35-80-116.5, C.R.S. IN REGARDS TO ANIMAL SHELTERS AND ANIMAL RESCUES, SAID SAVING SHELTER PETS FEE SHALL NOT BE APPLIED TO THE ADOPTION OR TRANSFER FEE COLLECTED UPON DISPOSITION OF A PET ANIMAL BY ADOPTION OR TRANSFER.

(B) THE SAVING SHELTER PETS ACCOUNT SHALL BE ESTABLISHED COMMENCING ON JANUARY 1, 2015. BOTH THE SAVING SHELTER PETS ACCOUNT AND THE PET OVERPOPULATION FUND SHALL AND ARE BOTH CREATED THROUGH SECTION 35-80-116.5, C.R.S.

(5) AFTER THE EXPIRATION OF THE HOLDING PERIODS SET FORTH IN SUBSECTION (2) ABOVE, OR UPON RELINQUISHMENT OF THE PET ANIMAL BY THE OWNER, ANY ANIMAL SHELTER OR ANIMAL RESCUE THAT DETERMINES IT HAS NO ADDITIONAL RESOURCES TO HOUSE SUCH PET ANIMAL SHALL NOTIFY OR MAKE A REASONABLE ATTEMPT TO NOTIFY BY VERIFIABLE WRITTEN OR ELECTRONIC COMMUNICATION ANY ANIMAL SHELTER OR ANIMAL RESCUE THAT HAVE PREVIOUSLY REQUESTED NOTIFICATION FOR ANIMALS SCHEDULED TO BE TRANSFERRED. UPON REQUEST FROM A SOLICITING ORGANIZATION TO TAKE POSSESSION OF THE PET ANIMAL, THE ANIMAL SHELTER OR ANIMAL RESCUE, BEING THE TRANSFEROR, SHALL TRANSFER THE PET ANIMAL TO ANY SOLICITING ORGANIZATION THAT IS BOTH A 501(C)(3) NON-PROFIT AND HAS A VALID PET ANIMAL FACILITY LICENSE, AS REQUIRED UNDER SECTION 35-80-104, C.R.S, AND SHALL NOT REFUSE TO TRANSFER ANY SUCH PET ANIMAL TO A SOLICITING ORGANIZATION THAT REQUESTS TO TAKE POSSESSION OF THE ANIMAL. TRANSFERS SHALL BE MADE TO THE FIRST SOLICITING ORGANIZATION. THE SOLICITING ORGANIZATION SHALL ASSUME ALL COSTS AND LIABILITY FOR THE TRANSPORTATION OF THE ANIMAL. UPON TAKING POSSESSION OF AN ANIMAL, THE SOLICITING ORGANIZATION SHALL ASSUME ALL LIABILITY FOR THE ANIMAL WHILE THE ANIMAL IS IN THE CUSTODY AND CONTROL OF THE SOLICITING ORGANIZATION; EXCEPT THAT THE SOLICITING ORGANIZATION SHALL NOT BE DEEMED RESPONSIBLE FOR HARM CAUSED TO OR BY THE ANIMAL THAT: (1) OCCURRED PRIOR TO THE TIME THE SOLICITING ORGANIZATION ASSUMED POSSESSION OF THE ANIMAL, OR (2) IS DUE TO THE ACTS OR OMISSIONS OF A PERSON NOT ASSOCIATED WITH THE SOLICITING ORGANIZATION.

(6) The animal shelter OR ANIMAL RESCUE shall be the steward of stray animals for the purposes of providing prophylactic veterinary care under the written protocol and direction of the ANIMAL shelter veterinarian. EUTHANASIA OF A pet animal IS ONLY AUTHORIZED AS A METHOD OF DISPOSITION WHEN:

(a) In the WRITTEN opinion of a veterinarian WHO HAS EXAMINED THE ANIMAL ~~OR the animal shelter supervisor, if a veterinarian is not available~~, the pet animal IS ~~are~~ experiencing extreme pain or suffering OR HAS A CONTAGIOUS DISEASE THAT MAY BE SPREAD TO HEALTHY

ANIMALS IF NOT CONTAINED AND EUTHANASIA IS NECESSARY AS PART OF AN INFECTION CONTROL PROTOCOL, OR

(B) IF A PET ANIMAL, AFTER BEING EVALUATED BY A CERTIFIED ANIMAL BEHAVIORIST OR CERTIFIED PROFESSIONAL DOG TRAINER, OR CERTIFIED BEHAVIORIST CANINE CONSULTANT, OR A LICENSED VETERINARIAN BEHAVIORIST, OR A PERSON ACCEPTED BY THE COLORADO COURTS AS A CANINE AGGRESSION EXPERT, IS DEEMED IN WRITING TO BE IRREDEEMABLY HOSTILE OR AGGRESSIVE. NO DOG SHALL BE DEEMED IRREDEEMABLY HOSTILE OR AGGRESSIVE BASED ON BREED OR PHYSICAL CHARACTERISTICS. NO FERAL CAT SHALL BE DEEMED IRREDEEMABLY HOSTILE OR AGGRESSIVE IF IT CAN BE SAFELY NEUTERED OR SPAYED AND VACCINATED AND RETURNED TO WHERE THE CAT WAS FOUND (TRAP NEUTER RETURN).

(C) IN CIRCUMSTANCES WHERE THE STRAY PET ANIMAL IS DEEMED TO BE EXPERIENCING EXTREME PAIN OR SUFFERING, THE PET ANIMAL may be disposed of immediately by the animal shelter OR ANIMAL RESCUE through euthanasia after the animal shelter OR ANIMAL RESCUE has exhausted reasonable efforts to contact the owner; however, for pet animals with identification, the animal shelter OR ANIMAL RESCUE shall exhaust reasonable efforts to contact the owner for up to twenty-four hours. IN CIRCUMSTANCES WHERE THE STRAY PET ANIMAL IS DEEMED IRREDEEMABLY HOSTILE OR AGGRESSIVE, THE PET ANIMAL MAY BE DISPOSED OF THROUGH EUTHANASIA WITHIN THREE DAYS.

~~(2)~~(7) An animal shelter and any employee thereof that complies with the minimum holding period as set forth in subsection (3) of this section or that disposes of a pet animal in accordance with the provisions set forth herein 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 animal shelter's OR ANIMAL RESCUE'S disposition of a pet animal.

~~(3)~~(8) Nothing in this section shall preclude a town, city, city and county, or county from adopting, maintaining, or enforcing an ordinance that exceeds the minimum holding period as set forth in subsection (3) 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 minimum holding period as set forth in subsection ~~(1)~~ (3) of this section.

SECTION 2. In Colorado Revised Statutes, 35-80-113, amend (1) and (3), and add (4) as follows:

35-80-113. 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 commissioner, WITH THE EXCEPTION OF A VIOLATION OF THE EUTHANASIA PROTOCOL IN SECTION 35-80-106.3 (6), IN WHICH CASE THE COMMISSIONER SHALL ASSESS A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER INDIVIDUAL PET ANIMAL EUTHANIZED IN VIOLATION OF SECTION 35-80-106.3(6). The maximum penalty for all other violations shall not exceed one thousand dollars per violation.

(3) If the commissioner 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 commissioner, the commissioner may bring suit to recover such amount OF THE CIVIL PENALTY plus costs and attorney fees by action in any court of competent jurisdiction; AND REFUSE TO RENEW ANY LICENSE AUTHORIZED UNDER THIS ARTICLE THAT WAS ISSUED TO A PERSON WHO HAS NOT PAID THE CIVIL PENALTY PURSUANT TO SECTION 35-80-106 (4).

(4) PRIVATE RIGHT OF ACTION.

(A) IN ADDITION TO ENFORCEMENT BY THE COMMISSIONER, THERE SHALL BE A PRIVATE RIGHT OF ACTION TO ENFORCE VIOLATIONS OF THE EUTHANASIA PROTOCOL CONTAINED IN SECTION 35-80-106.3(6). ANY PERSON RESIDING IN OR DOMICILED UNDER THE LAWS OF THE STATE OF COLORADO MAY BRING SUIT IN A COURT OF COMPETENT JURISDICTION REQUESTING:

- (I) A RESTRAINING ORDER;
- (II) A PRELIMINARY INJUNCTION;
- (III) AN INJUNCTION;
- (IV) A WRIT OF MANDAMUS AND PROHIBITION;
- (V) DAMAGES; OR

(VI) OTHER APPROPRIATE REMEDIES AT LAW OR IN EQUITY THAT WILL COMPEL COMPLIANCE WITH THE EUTHANASIA EXCEPTION OR IMPOSE A CIVIL PENALTY FOR VIOLATION OF THE EUTHANASIA PROTOCOL.

(B) THE PREVAILING PLAINTIFF WILL BE ENTITLED TO COSTS AND ATTORNEY FEES IN BRINGING THE ACTION. THE NON-PREVAILING DEFENDANT SHALL BE ASSESSED A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS PER INDIVIDUAL PET ANIMAL EUTHANIZED IN VIOLATION OF SECTION 35-80-106.3(6). 75% OF THE CIVIL PENALTY SHALL BE PAID INTO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND, THE REMAINING 25% SHALL BE PAID AS DAMAGES TO THE PREVAILING PLAINTIFF.

SECTION 3. In Colorado Revised Statutes, 35-80-116, amend (1), and add (2) and (3) as follows:

35-80-116. Pet animal care and facility fund – fees.

(1) All fees and civil fines collected pursuant to this article WITH THE EXCEPTION OF THE FEES PROVIDED FOR IN SECTION 35-80-106.3(4) shall be transmitted to the state treasurer who shall credit the same to the pet animal care and facility fund, which fund is hereby created. 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. Notwithstanding the provisions of this section to the contrary, 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 department of agriculture for direct and indirect expenses incurred in carrying out the purposes of this section.

(2) ALL SAVING SHELTER PET FEES PROVIDED FOR IN SECTION 35-80-106.3(4) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND, CREATED BY SECTION 35-80-116.5.

SECTION 4. In Colorado Revised Statutes, 35-80-116.5, amend (2) (a) (VII), (6), and (7); and add (8) as follows:

35-80-116.5. Pet overpopulation authority - creation - duties and powers - pet overpopulation fund.

(2)(a) The powers of the Colorado pet overpopulation authority shall be vested in a board of directors consisting of the following:

(VII) THREE MEMBERS ~~One member~~ of the general public with an interest in animal welfare; and

(6) THERE IS HEREBY CREATED IN THE PET OVERPOPULATION FUND THE SAVING SHELTER PETS ACCOUNT THAT CONSISTS OF ALL SAVING SHELTER PET FEES PROVIDED FOR IN SECTION 35-80-106.3(4), GIFTS, GRANTS, AND DONATIONS.

(A) THE FEES SHALL BE APPROPRIATED CONTINUALLY TO THE STATE TREASURER, WHO SHALL TRANSFER ALL AVAILABLE MONEYS IN THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND TO THE PET OVERPOPULATION AUTHORITY AT LEAST QUARTERLY UNLESS THE BOARD EXPRESSLY REQUESTS OTHERWISE. ANY GIFT, GRANT, OR DONATION OTHER THAN PERSONAL SERVICES SHALL BE DEPOSITED INTO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND CREATED IN SUBSECTION (5) OF THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND.

(B) ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND NOT REVERT BACK TO THE GENERAL FUND OR ANY OTHER FUND OR BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SET FORTH IN THIS SECTION. SUCH MONEYS SHALL BE APPROPRIATED CONTINUALLY TO THE STATE TREASURER, WHO SHALL TRANSFER ALL AVAILABLE MONEYS IN THE PET OVERPOPULATION FUND TO THE PET OVERPOPULATION AUTHORITY AT LEAST QUARTERLY UNLESS THE BOARD EXPRESSLY REQUESTS OTHERWISE. THE BOARD SHALL EXPEND MONEYS FROM THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND FOR THE IMPLEMENTATION OF THIS SECTION.

(C) THE AUTHORITY SHALL USE THE MONEY IN THE SAVING SHELTER PETS ACCOUNT TO PROVIDE GRANTS TO ANIMAL SHELTERS OR ANIMAL RESCUES FOR THE PURPOSE OF FUNDING PROGRAMS AND SERVICES FOR:

(I) HIGH-VOLUME, LOW OR NO-COST SPAY/NEUTER PROGRAMS TO PREVENT UNNECESSARY BREEDING;

(II) TNR (TRAP-NEUTER-RELEASE) PROGRAMS TO ADDRESS THE FREE-ROAMING CAT POPULATION AND KEEP FREE-ROAMING CATS OUT OF ANIMAL SHELTERS;

(III) RESOURCES TO COORDINATE OF THE TRANSFER OF PET ANIMALS TO RESCUE GROUPS TO PREVENT OVERCROWDING;

(IV) FOSTER CARE PROGRAMS TO PREVENT OVERCROWDING;

(V) COMPREHENSIVE ADOPTION PROGRAMS, INCLUDING MOBILE ADOPTIONS, USING MEDIA AND TECHNOLOGY TO ADVERTISE ADOPTABLE ANIMALS;

(VI) PET RETENTION PROGRAMS TO KEEP PETS IN HOMES AND OUT OF ANIMAL SHELTERS;

(VII) MEDICAL AND BEHAVIOR PROGRAMS TO REHABILITATE OR TREAT HOMELESS ANIMALS TO READY THEM FOR ADOPTION OR TRANSFER;

(VIII) PUBLIC RELATIONS/ COMMUNITY DEVELOPMENT PROGRAMS TO EDUCATE THE PUBLIC ON THE BENEFITS OF ADOPTING SHELTER ANIMALS;

(IX) VOLUNTEER PROGRAMS TO ASSIST WITH THE WORKLOAD OF ANIMAL SHELTERS AND ANIMAL RESCUES;

(X) PROGRAMS TO ASSIST WITH PROACTIVE REDEMPTIONS SO THAT LOST PETS ARE REUNITED WITH OWNERS;

(XI) FUNDING TO HIRE ADDITIONAL STAFF, THIRD PARTY VENDORS OR CONTRACTORS, OR TO INCREASE SALARIES OF GOOD EMPLOYEES OR ANY OTHER HUMAN RESOURCES FUNDING THAT WILL HELP ATTRACT QUALIFIED CANDIDATES WHO CAN IMPLEMENT THE REQUIREMENTS OF THIS ACT; AND

(XII) FUNDING FOR ANY OTHER PROGRAMS, SERVICES, GOODS OR OTHER RESOURCES THAT WILL HELP IMPLEMENT THE REQUIREMENTS OF THIS ACT.

(D) WHEN EXPENDING FUNDS TO IMPLEMENT THIS SECTION, THE COLORADO PET OVERPOPULATION AUTHORITY SHALL GIVE PRIORITY TO THE AREAS THAT HAVE AN INSUFFICIENT NUMBER OF PET ANIMAL VETERINARY RESOURCES OR FINANCIAL RESOURCES TO ADEQUATELY MEET LOCAL NEEDS.

~~(6)~~(7) Except as provided in section 42-3-234, C.R.S., the Colorado pet overpopulation authority, created pursuant to this section, shall not be funded by or through any state agency.

(7)(8) Nothing in this section shall be construed to authorize the Colorado pet overpopulation authority to promulgate rules to implement this section.

EFFECTIVE DATE. THIS MEASURE TAKES EFFECT ON JULY 1, 2015; EXCEPT THAT SECTIONS 35-80-106.3 (3), 35-80-116 (2), AND 35-80-116.5, C.R.S., AS AMENDED TAKE EFFECT ON JANUARY 1, 2015.