

CHAPTER 365

AGRICULTURE

HOUSE BILL 14-1270

BY REPRESENTATIVE(S) Lesock, Becker, Court, Ginal, Hullinghorst, McCann, Pabon, Pettersen, Rosenthal, Schafer, Young;
also SENATOR(S) Tochtrop, Guzman, Newell, Steadman.

AN ACT

CONCERNING THE SUNSET REVIEW OF THE LICENSING OF PET ANIMAL FACILITIES, AND, IN CONNECTION THEREWITH, CONTINUING THE LICENSING FUNCTIONS OF THE COMMISSIONER OF AGRICULTURE AND MAKING SUBSTANTIVE CHANGES TO THE REGULATORY STATUTES.

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

SECTION 1. In Colorado Revised Statutes, **amend** 35-80-117 as follows:

35-80-117. Repeal of article - sunset review - report to general assembly.

(1) This article is repealed, effective ~~July 1, 2014~~ SEPTEMBER 1, 2019.

(2) Prior to such repeal, the licensing functions of the commissioner shall be reviewed as provided for in section 24-34-104, C.R.S.

(3) ON OR BEFORE FEBRUARY 1, 2018, THE COMMISSIONER SHALL PROVIDE A WRITTEN REPORT TO THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE AND THE FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE AND THE FINANCE COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, CONTAINING THE FOLLOWING INFORMATION, AS OF SEPTEMBER 1, 2013, AND SEPTEMBER 1, 2017:

(a) A SCHEDULE OF THE FEES CHARGED FOR ALL CLASSES OF LICENSES ISSUED UNDER THIS ARTICLE AND FOR RENEWAL OF THOSE LICENSES;

(b) THE TOTAL REVENUE RECEIVED BY THE DEPARTMENT AS A RESULT OF THE FEES CHARGED FOR LICENSES AND RENEWALS UNDER THIS ARTICLE; AND

(c) THE TOTAL NUMBER OF PERSONNEL EMPLOYED BY THE DEPARTMENT TO

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

ADMINISTER THIS ARTICLE.

(4) ON OR BEFORE FEBRUARY 1, 2015, AND ANNUALLY THEREAFTER, THE COMMISSIONER SHALL PROVIDE A WRITTEN REPORT TO THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, EXPLAINING THE NEED FOR AND PURPOSES OF ANY INCREASE IN THE FEE CHARGED FOR ANY CLASS OF LICENSES ISSUED UNDER THIS ARTICLE OR FOR RENEWAL OF THOSE LICENSES, INCLUDING WITHOUT LIMITATION A STATEMENT OF THE NUMBER OF INSPECTIONS PERFORMED PER MONTH BEFORE AND AFTER THE INCREASE.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **repeal** (45) (h); and **add** (50.5) (i) as follows:

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

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

(50.5) The following agencies, functions, or both, terminate on September 1, 2019:

(i) THE LICENSING OF PET ANIMAL FACILITIES BY THE COMMISSIONER OF AGRICULTURE PURSUANT TO ARTICLE 80 OF TITLE 35, C.R.S.

SECTION 3. In Colorado Revised Statutes, 35-80-102, **amend** (6.5) and (6.7) as follows:

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

(6.5) "Dog breeder" means any ~~firm, person or corporation which is engaged~~ THAT ENGAGES in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring ~~same~~ THE DOGS, excluding racing greyhounds that are not intended to be companion pets.

(6.7) "Dog breeder, small scale operation" or "small scale operation dog breeder" means a dog breeder that transfers ~~at least twenty-five~~ MORE THAN THE NUMBER OF DOGS PERMITTED FOR A CANINE HOBBY BREEDER FACILITY but no more than ninety-nine dogs per year.

SECTION 4. In Colorado Revised Statutes, 35-80-103, **add** (2) (j) as follows:

35-80-103. Scope of article. (2) The provisions of this article shall not apply to:

(j) ANY WILDLIFE SANCTUARY.

SECTION 5. In Colorado Revised Statutes, 35-80-105, **amend** (4) as follows:

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

(4) Each applicant for a pet animal facility license shall pay an annual license fee in the amount specified by rule of the commissioner, which amount shall not exceed ~~three~~ SEVEN hundred ~~fifty~~ dollars per license.

SECTION 6. In Colorado Revised Statutes, 35-80-108, **amend** (1) (j) (II) (B) as follows:

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:

(II) (B) ~~Such prohibitions, with respect to nonhuman primates, shall~~ THIS PARAGRAPH (j) DOES not apply to a research 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 7. In Colorado Revised Statutes, 35-80-109, **add** (2) (b.5) and (2) (b.6) as follows:

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

(b.5) THE CONTENT OF, AND PROCEDURES FOR, ANY WRITTEN RECOMMENDATIONS AND WARNINGS CONCERNING RABIES VACCINATIONS THAT THE COMMISSIONER MAY REQUIRE A LICENSEE TO GIVE IN CONNECTION WITH THE SALE, TRANSFER, TRADE, OR ADOPTION OF A DOG, CAT, OR FERRET;

(b.6) WRITTEN DISCLOSURES BY LICENSEES IN CONNECTION WITH THE SALE, TRANSFER, TRADE, OR ADOPTION OF A DOG, CAT, FERRET, OR BIRD AND THE RETENTION BY LICENSEES OF WRITTEN DOCUMENTATION THAT THE DISCLOSURES WERE MADE;

SECTION 8. In Colorado Revised Statutes, 35-80-110, **add** (5) as follows:

35-80-110. Inspections - investigations - access - subpoena - duty to report suspected animal cruelty or animal fighting - immunity. (5) (a) IF THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, IN THE COURSE OF AN INVESTIGATION UNDER THIS ARTICLE, HAS REASONABLE CAUSE TO KNOW OR SUSPECT THAT AN ANIMAL HAS BEEN SUBJECTED TO ANIMAL CRUELTY IN VIOLATION OF SECTION 18-9-202, C.R.S., OR ANIMAL FIGHTING IN VIOLATION OF SECTION 18-9-204, C.R.S., THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL REPORT OR CAUSE A REPORT TO BE MADE OF THE ANIMAL CRUELTY OR ANIMAL FIGHTING TO A LOCAL LAW ENFORCEMENT AGENCY OR THE STATE BUREAU OF ANIMAL PROTECTION CREATED IN SECTION 35-42-105. THE COMMISSIONER OR THE

COMMISSIONER'S DESIGNEE SHALL NOT KNOWINGLY MAKE A FALSE REPORT.

(b) THE MERE FILING OF A COMPLAINT DOES NOT GENERATE A REQUIREMENT TO REPORT UNDER PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) A COMMISSIONER OR A COMMISSIONER'S DESIGNEE WHO WILLFULLY VIOLATES THE PROVISIONS OF THIS SUBSECTION (5) COMMITS A CLASS 1 PETTY OFFENSE, PUNISHABLE AS PROVIDED IN SECTION 18-1.3-503, C.R.S.

(d) (I) IF THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IN GOOD FAITH REPORTS A SUSPECTED INCIDENT OF ANIMAL CRUELTY OR ANIMAL FIGHTING TO THE PROPER AUTHORITIES IN ACCORDANCE WITH THIS SUBSECTION (5), HE OR SHE IS IMMUNE FROM LIABILITY IN ANY CIVIL OR CRIMINAL ACTION BROUGHT IN CONNECTION WITH THE REPORT; AND

(II) IN A CIVIL OR CRIMINAL ACTION BROUGHT IN CONNECTION WITH THE REPORT, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IS PRESUMED TO HAVE ACTED IN GOOD FAITH.

SECTION 9. In Colorado Revised Statutes, 35-80-112, **amend** (3) as follows:

35-80-112. Disciplinary actions - denial of license. (3) No licensee whose license has been revoked may apply or reapply for a license under this article until two years ~~from~~ AFTER the date of ~~such~~ THE revocation. IN THE CASE OF AN ENTITY WHOSE LICENSE WAS REVOKED UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, THE TWO-YEAR PERIOD OF INELIGIBILITY ALSO APPLIES TO A PRINCIPAL, OFFICER, DIRECTOR, MANAGER, OR ANY OTHER PERSON WHO HAS SUBSTANTIAL CONTROL OR AUTHORITY OVER THE DAILY OPERATIONS OF THE ENTITY, WHETHER HE OR SHE APPLIES INDIVIDUALLY OR AS A PRINCIPAL, OFFICER, DIRECTOR, MANAGER, OR OTHER PERSON WHO HAS OR WOULD HAVE SUBSTANTIAL CONTROL OR AUTHORITY OVER THE DAILY OPERATIONS OF THE SAME OR A DIFFERENT ENTITY.

SECTION 10. In Colorado Revised Statutes, **amend** 35-80-112.5 as follows:

35-80-112.5. Denial of license - animal cruelty or animal fighting conviction.

(1) The commissioner, pursuant to ~~the provisions of~~ article 4 of title 24, C.R.S., may deny, refuse to renew, or revoke any license authorized under this article if the applicant or licensee, OR ANY PRINCIPAL, OFFICER, DIRECTOR, MANAGER, OR OTHER PERSON WHO HAS OR WOULD HAVE SUBSTANTIAL CONTROL OR AUTHORITY OVER THE LICENSEE OR OVER ITS DAILY OPERATIONS, has been convicted of cruelty to animals pursuant to ~~article 9 of title 18~~ SECTION 18-9-202 (1) (a) OR (1.5) (a), C.R.S., or any similar statute of any other state.

(2) Notwithstanding subsection (1) of this section, the commissioner, pursuant to ~~the provisions of~~ article 4 of title 24, C.R.S., shall deny, refuse to renew, or revoke any license authorized under this article if the applicant or licensee, OR ANY PRINCIPAL, OFFICER, DIRECTOR, MANAGER, OR OTHER PERSON WHO HAS OR WOULD HAVE SUBSTANTIAL CONTROL OR AUTHORITY OVER THE LICENSEE OR OVER ITS DAILY OPERATIONS, has been convicted, at any time, of: ~~one or more violations of section 18-9-202, C.R.S., the underlying factual basis of which has been found by the court to include the knowing or intentional torture or torment of an animal,~~

~~which needlessly injures, mutilates, or kills an animal~~

(a) ANIMAL FIGHTING PURSUANT TO SECTION 18-9-204, C.R.S., OR ANY SIMILAR STATUTE OF ANY OTHER STATE;

(b) AGGRAVATED CRUELTY TO ANIMALS PURSUANT TO SECTION 18-9-202 (1.5) (b), C.R.S., OR ANY SIMILAR STATUTE OF ANY OTHER STATE; OR

(c) A SECOND OR SUBSEQUENT CONVICTION OF CRUELTY TO ANIMALS PURSUANT TO SECTION 18-9-202 (1) (a) OR (1.5) (a), C.R.S., OR ANY SIMILAR STATUTE OF ANY OTHER STATE.

SECTION 11. Effective date. This act takes effect July 1, 2014.

SECTION 12. 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 6, 2014