

## COLORADO SAVING SHELTER PETS ACT

Ballot Title: AS THE CITIZENS OF THE STATE OF COLORADO VALUE PET ANIMALS AND DO NOT WANT THEIR TAX DOLLARS SUBSIDIZING THE NEEDLESS KILLING OF HOMELESS ANIMALS, EUTHANASIA SHOULD BE RESERVED FOR MEDICALLY NECESSARY CASES IN WHICH A PET ANIMAL IS EXPERIENCING EXTREME PAIN AND SUFFERING OR HAS A CONTAGIOUS TERMINAL DISEASE THAT WILL SPREAD IF NOT CONTAINED, OR IS DEEMED IRREDEEMABLY HOSTILE OR AGGRESSIVE, NOT AS A SOLUTION FOR REDUCING THE HOMELESS ANIMAL POPULATION. WITHOUT ADDITIONAL TAXES AND THROUGH AMPLIFIED MARKETING, INCREASED ADOPTIONS, AND POPULATION CONTROL SHELTERS WILL BECOME TRUE SAFE HAVENS FOR OUR HOMELESS PETS MAKING COLORADO THE FIRST TRUE NO KILL STATE IN THE UNION.

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

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

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

(1) DECLARATION. IT IS IN THE PUBLIC POLICY OF THE STATE OF COLORADO TO PROHIBIT ANIMAL SHELTERS AND PET ANIMAL RESCUES THAT OPERATE WITHIN THE STATE OF COLORADO FROM DISPOSING OF PET ANIMALS IN THEIR CARE AND CUSTODY EXCEPT IN ACCORDANCE WITH THIS STATUTE. ACCORDINGLY, THE PEOPLE OF THE STATE OF COLORADO HEREBY ENACT A LAW TO PROHIBIT SHELTERS AND PET 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)~~(2) Any pet animal held by or in the custody of a licensed animal shelter, whether public or private, OR HELD BY A PET ANIMAL RESCUE and not reclaimed by the owner shall be held by the animal shelter OR PET ANIMAL RESCUE for a minimum of five days after acquisition by the animal shelter before it may become available for adoption or otherwise disposed of IN ACCORDANCE WITH THIS STATUTE ~~at the discretion of by the animal shelter~~; except that a shelter 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 THIS STATUTE. ~~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 shelter OR PET ANIMAL RESCUE is open to the public. If the animal shelter OR PET 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 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 THIS STATUTE ~~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 upon acquisition and~~ may be PLACED FOR ADOPTION IMMEDIATELY OR DISPOSED OF IN ACCORDANCE WITH THIS STATUTE ~~disposed of by and at the discretion of the animal shelter~~.

(3) AFTER THE EXPIRATION OF THE HOLDING PERIODS SET FORTH IN SECTION (2) ABOVE, OR UPON RELINQUISHMENT OF THE PET ANIMAL BY THE OWNER, THE PET ANIMAL BECOMES THE PROPERTY OF THE STATE OF COLORADO, TO BE DISPOSED OF IN ACCORDANCE WITH THIS STATUTE. THE ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL SHELTER THE PET ANIMAL IN ITS CARE UNTIL SUCH ANIMAL IS DISPOSED OF IN ACCORDANCE WITH THIS STATUTE. THE ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL BE ENTITLED TO KEEP ANY ADOPTION OR TRANSFER FEE COLLECTED UPON DISPOSITION OF A PET ANIMAL BY ADOPTION OR TRANSFER. TO FUND THE COSTS ASSOCIATED WITH SHELTERING PET ANIMALS UNTIL ADOPTED OR TRANSFERRED, THE STATE SHALL COLLECT A SAVING SHELTER PETS FEE IN THE AMOUNT OF 15% 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 35-80-116.5, C.R.S.

(4) AFTER THE EXPIRATION OF THE HOLDING PERIODS SET FORTH IN SECTION (2) ABOVE, OR UPON RELINQUISHMENT OF THE PET ANIMAL BY THE OWNER, ANY ANIMAL SHELTER OR PET ANIMAL RESCUE WHICH 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 RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS WHICH HAVE PREVIOUSLY REQUESTED NOTIFICATION FOR ANIMALS SCHEDULED TO BE TRANSFERRED. UPON REQUEST TO TAKE POSSESSION OF THE PET ANIMAL, THE ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL TRANSFER THE PET ANIMAL TO ANY SHELTER OR PET ANIMAL RESCUE THAT IS BOTH A 501(C)(3) NON-PROFIT AND HAS A VALID PACFA LICENSE AND SHALL NOT REFUSE TO TRANSFER ANY SUCH PET ANIMAL TO A SHELTER OR PET ANIMAL RESCUE THAT REQUESTS TO TAKE POSSESSION OF THE ANIMAL. UPON TAKING POSSESSION OF AN ANIMAL, AN ANIMAL RESCUE OR ADOPTION ORGANIZATION OR ORGANIZATION FORMED FOR THE PREVENTION OF CRUELTY TO ANIMALS SHALL ASSUME ALL LIABILITY FOR THE ANIMAL WHILE THE ANIMAL IS IN THE CUSTODY AND CONTROL OF THE ORGANIZATION; PROVIDED THAT THE ORGANIZATION SHALL NOT BE DEEMED RESPONSIBLE FOR HARM CAUSED TO OR BY THE ANIMAL THAT: (1) OCCURRED PRIOR TO THE TIME THE ORGANIZATION ASSUMED POSSESSION OF THE ANIMAL; OR (2) IS DUE TO THE ACTS OR OMISSIONS OF A PERSON NOT ASSOCIATED WITH THE ORGANIZATION.

(5) The animal shelter shall be the steward of stray animals for the purposes of providing prophylactic veterinary care under the written protocol and direction of the 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 TERMINAL DISEASE WHICH WILL 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 AN INDEPENDENT CERTIFIED ANIMAL BEHAVIORIST, 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.

(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 through euthanasia after the animal shelter has exhausted reasonable efforts to contact the owner;

however, for pet animals with identification, the animal shelter 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 3 DAYS.

~~(2)~~(6) An animal shelter and any employee thereof that complies with the minimum holding period as set forth in subsection (2) of this section or that disposes of a pet animal in accordance with the provisions of subsection (2) of this section 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 shelter's disposition of a pet animal.

~~(3)~~(7) 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 (2) 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 (2) of this section.

(8) The Saving Shelter Pets fee shall take effect on January 1, 2015 and monies shall accrue in the Saving Shelter Pets account of the pet overpopulation fund. The remaining amendments shall take effect July 1, 2015.

SECTION 2. In Colorado Revised Statutes, 35-80-113, amend (1); amend (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 (5) IN WHICH CASE THE COMMISSIONER SHALL ASSESS A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS PER VIOLATION, NOR IN EXCESS OF ONE THOUSAND DOLLARS PER VIOLATION. 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; OR 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(5). ANY INDIVIDUAL OR ENTITY RESIDING IN OR DOMICILED UNDER THE LAWS OF THE STATE OF COLORADO MAY BRING SUIT IN A COURT OF COMPETENT JURISDICTION REQUESTING:

- (I) RESTRAINING ORDERS,
- (II) PRELIMINARY INJUNCTIONS,
- (III) INJUNCTIONS,

(IV) WRITS OF MANDAMUS AND PROHIBITION,

(V) DAMAGES,

(VI) OTHER APPROPRIATE REMEDIES AT LAW WHICH 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 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(5). THE CIVIL PENALTY SHALL BE PAID INTO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVERPOPULATION FUND.

SECTION 3. In Colorado Revised Statutes, amend (1) AND ADD (2) AND (3) 35-80-116 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 35-80-106.3(3) 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 FEES PROVIDED FOR IN 35-80-106.3(3) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE SAVING SHELTER PETS ACCOUNT OF THE PET OVER POPULATION FUND, CREATED BY 35-80-116.5.

(3) THESE AMENDMENTS ARE EFFECTIVE AS OF JANUARY 1, 2015 FOR SECTION (2) AND JULY 1, 2015 FOR SECTION (1).

SECTION 4. In Colorado Revised Statutes, amend 35-80-116.5 SECTION (2)(VII) and SECTIONS (6), (7), (8) AND (9) 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, WHICH CONSISTS OF FEES PROVIDED FOR IN 35-80-106.3(3), 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 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 SHELTERS OR PET ANIMAL RESCUES FOR THE PURPOSE OF FUNDING PROGRAMS AND SERVICES FOR:

- (I) DEVELOPMENT OR IMPLEMENTATION OF ADDITIONAL HIGH-VOLUME, LOW OR NO-COST SPAY/NEUTER PROGRAMS TO PREVENT UNNECESSARY BREEDING.
- (II) DEVELOPMENT OR IMPLEMENTATION OF TNR (TRAP-NEUTER-RELEASE) PROGRAMS TO ADDRESS THE FREE-ROAMING CAT POPULATION AND KEEP FREE-ROAMING CATS OUT OF SHELTERS;
- (III) DEVELOPMENT OR IMPLEMENTATION OF PROGRAMS TO COORDINATE THE TRANSFER OF PET ANIMALS TO RESCUE GROUPS TO PREVENT OVERCROWDING.
- (IV) DEVELOPMENT OR IMPLEMENTATION OF FOSTER CARE PROGRAMS TO PREVENT OVERCROWDING.
- (V) DEVELOPMENT OR IMPLEMENTATION OF COMPREHENSIVE ADOPTION PROGRAMS, INCLUDING MOBILE ADOPTIONS, USING MEDIA AND TECHNOLOGY TO ADVERTISE ADOPTABLE ANIMALS.
- (VI) DEVELOPMENT OR IMPLEMENTATION OF PET RETENTION PROGRAMS TO KEEP PETS IN HOMES AND OUT OF SHELTERS.

- (VII) DEVELOPMENT OR IMPLEMENTATION OF MEDICAL & BEHAVIOR PROGRAMS TO REHABILITATE OR TREAT HOMELESS ANIMALS TO READY THEM FOR ADOPTION OR TRANSFER.
  - (VIII) DEVELOPMENT OR IMPLEMENTATION OF PUBLIC RELATIONS/ COMMUNITY DEVELOPMENT PROGRAMS TO EDUCATE THE PUBLIC ON THE BENEFITS OF ADOPTING SHELTER ANIMALS.
  - (IX) DEVELOPMENT OR IMPLEMENTATION OF VOLUNTEER PROGRAMS TO ASSIST WITH THE WORKLOAD OF SHELTERS.
  - (X) DEVELOPMENT OR IMPLEMENTATION OF PROGRAMS TO ASSIST WITH PROACTIVE REDEMPTIONS SO THAT LOST PETS ARE RE-UNITED WITH OWNERS.
- (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.
- (9) THESE AMENDMENTS SHALL TAKE EFFECT ON JANUARY 1, 2015.

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Re: Submission of Revised Proposal for Review and Comment

Dear Mr. Mauer,

Attached to this letter is our revised Proposal for Review and Comment re-titled, *Colorado Saving Shelter Pets Act*. We have incorporated into this Proposal the comments and suggestions from the Legislative Staff Review held on January 14, 2014, as well as, information and suggestions from other professionals. Below are the names and addresses of the two people who are representing the proponents in all matters relating to the Proposal:

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Please advise as to how you would like to proceed. Thank you for your assistance.

Submitted this 28<sup>th</sup> day of January 2014

/s/ George A. Brown  
George A. Brown