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An Act

HOUSE BILL 08-1185

BY REPRESENTATIVE(S) Peniston, Benefield, Borodkin, Buescher, Ferrandino, Fischer, Frangas, Green, Kerr A., Labuda, Looper, Madden, McGihon, Merrifield, Middleton, Primavera, Rice, Romanoff, Stafford, and Todd;
also SENATOR(S) Taylor, and Shaffer.

CONCERNING THE MANDATORY STERILIZATION OF SPECIFIED PET ANIMALS
RELEASED TO PROSPECTIVE OWNERS FROM CERTAIN PET ANIMAL
FACILITIES.

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

SECTION 1. 35-80-102, Colorado Revised Statutes, is amended
BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
read:

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

(8.7) "LICENSED VETERINARIAN" MEANS A PERSON WHO IS LICENSED
TO PRACTICE VETERINARY MEDICINE IN THIS STATE PURSUANT TO ARTICLE
64 OF TITLE 12, 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.

(11.2) "PET ANIMAL RESCUE" MEANS ANY PERSON LICENSED PURSUANT TO THIS ARTICLE WHO ACCEPTS PET ANIMALS FOR THE PURPOSE OF FINDING PERMANENT ADOPTIVE HOMES FOR ANIMALS AND DOES NOT MAINTAIN A CENTRAL FACILITY FOR KEEPING ANIMALS, BUT RATHER USES A SYSTEM OF FOSTERING IN PRIVATE HOMES OR BOARDING OR KEEPING PETS IN LICENSED PET ANIMAL FACILITIES.

(11.4) "PROSPECTIVE OWNER" MEANS A PERSON WHO HAS NO PRIOR RIGHTS OF OWNERSHIP TO THE PET ANIMAL TO BE ADOPTED.

(11.6) "RELEASE" MEANS ADOPTION, SALE, OR OTHER TRANSFER TO THE PERMANENT CUSTODY OF AN OWNER BY AN ANIMAL SHELTER OR PET ANIMAL RESCUE.

(14) "STERILIZATION" MEANS THE ACT OF PERMANENTLY RENDERING AN ANIMAL INCAPABLE OF REPRODUCTION. THE TERM APPLIES TO SURGICAL METHODS, INCLUDING THE PROCEDURES COMMONLY REFERRED TO AS SPAY AND NEUTER, AND NONSURGICAL METHODS AND TECHNOLOGIES APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION, THE UNITED STATES DEPARTMENT OF AGRICULTURE, OR OTHER APPROPRIATE DESIGNATED FEDERAL AUTHORITY.

SECTION 2. Article 80 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

35-80-106.4. Sterilization of ownerless dogs and cats required - rules - exceptions - violations. (1) AN ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL NOT RELEASE A DOG OR CAT TO A PROSPECTIVE OWNER UNLESS:

(a) THE ANIMAL HAS BEEN STERILIZED BY A LICENSED VETERINARIAN; OR

(b)(I) THE PROSPECTIVE OWNER SIGNS AN AGREEMENT TO HAVE THE ANIMAL STERILIZED BY A LICENSED VETERINARIAN WITHIN NINETY DAYS AFTER THE DATE OF RELEASE AND DEPOSITS A FEE, IN AN AMOUNT SPECIFIED BY RULE OF THE COMMISSIONER, WITH THE ANIMAL SHELTER OR PET ANIMAL RESCUE.

(II) UPON RECEIVING A WRITTEN STATEMENT FROM THE LICENSED

VETERINARIAN WHO PERFORMED THE STERILIZATION PROCEDURE THAT THE DOG OR CAT HAS BEEN STERILIZED, THE ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL REFUND THE DEPOSIT TO THE PROSPECTIVE OWNER.

(III) IF THE PROSPECTIVE OWNER FAILS TO PROVIDE THE ANIMAL SHELTER OR PET ANIMAL RESCUE WITH A WRITTEN STATEMENT FROM A LICENSED VETERINARIAN STATING THAT THE VETERINARIAN PERFORMED A STERILIZATION PROCEDURE ON THE DOG OR CAT WITHIN NINETY DAYS AFTER SIGNING THE AGREEMENT:

(A) THE PROSPECTIVE OWNER SHALL FORFEIT THE DEPOSIT AND THE ANIMAL SHELTER OR PET ANIMAL RESCUE SHALL FORWARD THE AMOUNT OF THE DEPOSIT TO THE PET OVERPOPULATION FUND CREATED IN SECTION 35-80-116.5 (5) OR A LOCAL DEDICATED SPAY AND NEUTER FUND; AND

(B) THE ANIMAL SHELTER OR PET ANIMAL RESCUE MAY PROMPTLY RECLAIM THE ANIMAL FROM THE PROSPECTIVE OWNER.

(2) IF A LICENSED VETERINARIAN DECLARES IN WRITING THAT A STERILIZATION PROCEDURE COULD JEOPARDIZE THE LIFE OR HEALTH OF THE DOG OR CAT, THE PROCEDURE MAY BE DELAYED UNTIL SUCH TIME THAT A VETERINARIAN DETERMINES THAT THE DOG OR CAT IS FIT TO UNDERGO THE STERILIZATION PROCEDURE. AT SUCH TIME, THE PROSPECTIVE OWNER SHALL HAVE THE ANIMAL STERILIZED. IF THE DETERMINATION OF UNFITNESS FOR STERILIZATION HAS BEEN MADE PRIOR TO RELEASE, THE ANIMAL SHELTER OR PET ANIMAL RESCUE MAY RELEASE THE DOG OR CAT TO THE PROSPECTIVE OWNER, SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (2).

(3) THIS SECTION SHALL NOT APPLY TO:

(a) THE RELEASE OF A DOG OR CAT TO A PERSON WITH PRIOR AND CONTINUING OWNERSHIP RIGHTS TO THE DOG OR CAT WHO IS RECLAIMING THE ANIMAL FROM AN ANIMAL SHELTER OR PET ANIMAL RESCUE;

(b) THE TRANSFER OF AN ANIMAL FROM AN ANIMAL SHELTER OR PET ANIMAL RESCUE TO ANOTHER ANIMAL SHELTER OR PET ANIMAL RESCUE OR TO A VETERINARIAN;

(c) ANIMAL SHELTERS OR PET ANIMAL RESCUES WITH EXISTING STERILIZATION PROGRAMS THAT ENSURE THAT EVERY DOG OR CAT IS

STERILIZED BEFORE TO BEING RELEASED; OR

(d) PUBLIC ANIMAL SHELTERS ELIGIBLE FOR WAIVER OF LICENSING FEES PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER.

(4) NOTHING IN THIS SECTION SHALL PRECLUDE A TOWN, CITY, COUNTY, OR CITY AND COUNTY FROM ADOPTING, MAINTAINING, OR ENFORCING AN ORDINANCE THAT EXCEEDS THE MINIMUM REQUIREMENTS ADOPTED BY THE COMMISSIONER IN IMPLEMENTING AND ENFORCING 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 REQUIREMENTS ADOPTED BY THE COMMISSIONER IN IMPLEMENTING AND ENFORCING THIS SECTION.

SECTION 3. The introductory portion to 35-80-109 (2) and 35-80-109 (2) (a), Colorado Revised Statutes, are amended to read:

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

(a) Minimum standards of physical facility, sanitation, ventilation, heating, cooling, humidity, spatial and enclosure requirements, nutrition, humane care, medical treatment, STERILIZATION OF DOGS AND CATS RELEASED TO PROSPECTIVE OWNERS FROM ANIMAL SHELTERS AND PET ANIMAL RESCUES, and method of operation, including the minimum holding period for and disposition of stray or abandoned pet animals that are, in the opinion of the commissioner, necessary to carry out the provisions of this article; except that each holding period shall comply with section 35-80-106.3 (1);

SECTION 4. Effective date - applicability. (1) This act shall take effect January 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to releases of dogs and cats from animal shelters or pet animal rescues on or after the applicable effective date of this act.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO