

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 09-0214.01 Kate Meyer

SENATE BILL 09-118

SENATE SPONSORSHIP

Gibbs, Hodge, Isgar

HOUSE SPONSORSHIP

Fischer,

Senate Committees

Agriculture and Natural Resources
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Sunset Process - Senate Agriculture and Natural Resources Committee. Implements the recommendations of the department of regulatory agencies in its sunset review of the "Pet Animal Care and Facilities Act" (PACFA) as follows:

- ! Continues PACFA and its functions through July 1, 2014.
- ! Directs the commissioner of the department of agriculture (commissioner) to set fees at sufficient levels for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Am ended 2nd Reading
April 29, 2009

SENATE
3rd Reading Unam ended
March 30, 2009

SENATE
Am ended 2nd Reading
March 26, 2009

- record-keeping and support technology upgrades.
- ! Continues the pet animal advisory committee indefinitely.
- ! Repeals the specific authorization of the commissioner's authority to consider the effect of a civil penalty on a person's ability to stay in business prior to imposing such penalty.
- ! Removes the statutory renewal date for licenses issued under the PACFA and authorizes the commissioner to set such date by rule.
- ! Changes the destination of civil fines collected pursuant to violations of the PACFA from the pet animal care and facility fund to the general fund.
- ! Allows persons breeding turtles to possess turtles with carapaces of less than 4 inches.
- ! Adds rats and gerbils to the definition of "pet animal".
- ! Requires licensees to display signage containing contact information for PACFA administrators.

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

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

4 **35-80-117. Repeal of article - sunset review.** (1) This article is
 5 repealed, effective July 1, 2009 2014.

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

8 **24-34-104. General assembly review of regulatory agencies**
 9 **and functions for termination, continuation, or reestablishment.**

10 (40) The following agencies, functions, or both, shall terminate on July
 11 1, 2009:

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

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

16 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for termination, continuation, or reestablishment.**

2 (45) The following agencies, functions, or both, shall terminate on July
3 1, 2014:

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

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

8 **35-80-109. Powers and duties of the commissioner - rules -**

9 **repeal.** (2) The commissioner is authorized to adopt all reasonable rules

10 for the administration and enforcement of this article, including, but not

11 limited to:

12 (e) (I) The amount of any license fee for a pet animal facility

13 license. Such license fee may be different for different classifications and

14 subclassifications of any license authorized under this article. THE

15 COMMISSIONER IS AUTHORIZED TO DETERMINE THE AMOUNT OF ANY

16 LICENSING FEE AUTHORIZED UNDER THIS ARTICLE BASED ON THE ACTUAL

17 COST OF ADMINISTERING AND ENFORCING THIS ARTICLE AND ANY RULES

18 ADOPTED PURSUANT THERETO.

19 (II) (A) PRIOR TO JULY 1, 2010, THE COMMISSIONER MAY RAISE

20 FEES FOR LICENSES AND RENEWALS AUTHORIZED UNDER THIS ARTICLE BY

21 AN AMOUNT SUFFICIENT TO HIRE ONE ADDITIONAL FULL-TIME EMPLOYEE

22 TO CONDUCT INSPECTIONS UNDER THIS ARTICLE; EXCEPT THAT, NO SUCH

23 INCREASE SHALL CAUSE ANY LICENSE OR RENEWAL FEE TO EXCEED THE

24 MAXIMUM FEE AMOUNT SPECIFIED IN SECTION 35-80-105 (4).

25 (B) NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED

26 TO ABROGATE OR IMPAIR THE AUTHORITY OF THE COMMISSIONER TO

27 ADMINISTER THIS ARTICLE, INCLUDING THE POWER TO SET FEES PURSUANT

1 TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

2 (C) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
3 2011.

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

7 **35-80-115. Advisory committee - sunset review - repeal.**

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

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

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

20 **35-80-115. Advisory committee.** (5) ~~(a) This section is repealed,~~
21 ~~effective July 1, 2009.~~

22 ~~(b) Prior to said repeal, the advisory committee appointed~~
23 ~~pursuant to this section shall be reviewed as provided for in section~~
24 ~~2-3-1203, C.R.S.~~

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

27 **2-3-1203. Sunset review of advisory committees.** (3) The

1 following dates are the dates for which the statutory authorization for the
2 designated advisory committees is scheduled for repeal:

3 (v) July 1, 2009:

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

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

8 **35-80-113. Civil penalties.** (4) ~~Before imposing any civil~~
9 ~~penalty, the commissioner may consider the effect of such penalty on the~~
10 ~~ability of the person charged to stay in business.~~

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

13 **35-80-105. Pet animal facility - licensure requirements -**
14 **application - fees.** (5) Each pet animal facility license shall expire ~~on~~
15 ~~March 1 of each year~~ ON A DATE SPECIFIED BY THE COMMISSIONER BY
16 RULE.

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

19 **35-80-106. Pet animal facility license - renewal.** (1) Each pet
20 animal facility shall apply to renew its license on or before the ~~first~~
21 ~~working day of March for the year of renewal~~ EXPIRATION DATE OF THE
22 LICENSE. Said application shall be in the form and manner prescribed by
23 the commissioner and shall be accompanied by the required renewal fee.

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

1 penalty fee are paid.

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

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

8 **35-80-106.5. Psittacine bird leg band - fee - rules.** (1) Each
9 applicant for a Colorado psittacine bird leg band shall be issued a bird leg
10 band number by the commissioner after paying the required application
11 fee, and each holder of a bird leg band number shall pay an annual
12 renewal fee on or before ~~October 1 of each year~~ THE ANNUAL DATE SET
13 BY THE COMMISSIONER.

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

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

19 **35-80-109. Powers and duties of the commissioner - rules.**

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

26 

27 **SECTION 13.** 35-80-108 (1) (j) (I) and (1) (j) (II) (B), Colorado

1 Revised Statutes, are amended to read:

2 **35-80-108. Unlawful acts.** (1) Unless otherwise authorized by
3 law, it is unlawful and a violation of this article for any person or entity:

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

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

9 (II) (B) Such prohibitions, with respect to nonhuman primates,
10 shall not apply to a ~~zoological park or a research institute~~ FACILITY OR
11 EXHIBITOR PROPERLY licensed or registered under the provisions of the
12 federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as
13 amended, nor shall they apply to the keeping of a nonhuman primate as
14 a household pet by any person who owned such primate on or before July
15 1, 1973, or to the keeping by a disabled person of a nonhuman primate
16 specially trained to assist such person.

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

19 **35-80-102. Definitions.** As used in this article, unless the context
20 otherwise requires:

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

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

3 **35-80-105. Pet animal facility - licensure requirements -**
4 **application - fees.** (8) EACH PET ANIMAL FACILITY LICENSED PURSUANT
5 TO THIS ARTICLE SHALL DISPLAY IN A CONSPICUOUS PLACE SIGNAGE THAT
6 CONTAINS CONTACT INFORMATION FOR THE OFFICE OR OTHER
7 APPROPRIATE DEPARTMENT SUBDIVISION THAT ADMINISTERS THIS
8 ARTICLE.

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

17 **SECTION 17. Effective date.** This act shall take effect July 1,
18 2009.

19 **SECTION 18. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.