

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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

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.*

- 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 5 repealed, effective July 1, 2009 2019.

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 7 Statutes, is repealed as follows: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 (50), 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 (50) The following agencies, functions, or both, shall terminate on July
3 1, 2019:

4 (c) 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. Repeal.** 35-80-115 (5), Colorado Revised Statutes,
5 is repealed as follows:

6 **35-80-115. Advisory committee.** (5) ~~(a) This section is repealed,~~
7 ~~effective July 1, 2009.~~

8 ~~(b) Prior to said repeal, the advisory committee appointed~~
9 ~~pursuant to this section shall be reviewed as provided for in section~~
10 ~~2-3-1203, C.R.S.~~

11 **SECTION 6. Repeal.** 2-3-1203 (3) (v) (II), Colorado Revised
12 Statutes, is repealed as follows:

13 **2-3-1203. Sunset review of advisory committees.** (3) The
14 following dates are the dates for which the statutory authorization for the
15 designated advisory committees is scheduled for repeal:

16 (v) July 1, 2009:

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

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20 is repealed as follows:

21 **35-80-113. Civil penalties.** (4) ~~Before imposing any civil~~
22 ~~penalty, the commissioner may consider the effect of such penalty on the~~
23 ~~ability of the person charged to stay in business.~~

24 **SECTION 8.** 35-80-105 (5), Colorado Revised Statutes, is
25 amended to read:

26 **35-80-105. Pet animal facility - licensure requirements -**
27 **application - fees.** (5) Each pet animal facility license shall expire on

1 ~~March 1 of each year~~ ON A DATE SPECIFIED BY THE COMMISSIONER BY
2 RULE.

3 **SECTION 9.** 35-80-106 (1), (2), and (3), Colorado Revised
4 Statutes, are amended to read:

5 **35-80-106. Pet animal facility license - renewal.** (1) Each pet
6 animal facility shall apply to renew its license on or before the ~~first~~
7 ~~working day of March for the year of renewal~~ EXPIRATION DATE OF THE
8 LICENSE. Said application shall be in the form and manner prescribed by
9 the commissioner and shall be accompanied by the required renewal fee.

10 (2) If the application for renewal is not postmarked on or before
11 the ~~first working day of March for the year of renewal~~ EXPIRATION DATE
12 OF THE LICENSE, a penalty fee of ten percent of the renewal fee shall be
13 assessed. No license shall be renewed until the renewal fee and any
14 penalty fee are paid.

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

19 **SECTION 10.** 35-80-106.5, Colorado Revised Statutes, is
20 amended to read:

21 **35-80-106.5. Psittacine bird leg band - fee - rules.** (1) Each
22 applicant for a Colorado psittacine bird leg band shall be issued a bird leg
23 band number by the commissioner after paying the required application
24 fee, and each holder of a bird leg band number shall pay an annual
25 renewal fee on or before ~~October 1 of each year~~ THE ANNUAL DATE SET
26 BY THE COMMISSIONER.

27 (2) The application, ~~and renewal~~ fees, AND ANNUAL RENEWAL

1 DATE described in subsection (1) of this section shall be set forth in rule
2 adopted by the commissioner.

3 **SECTION 11.** 35-80-109 (4), Colorado Revised Statutes, is
4 amended to read:

5 **35-80-109. Powers and duties of the commissioner - rules.**

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

12 **SECTION 12.** 35-80-116, Colorado Revised Statutes, is amended
13 to read:

14 **35-80-116. Pet animal care and facility fund - fees - civil fines.**

15 (1) All fees ~~and civil fines~~ collected pursuant to this article shall be
16 transmitted to the state treasurer who shall credit the same to the pet
17 animal care and facility fund, which fund is hereby created. All moneys
18 credited to the fund shall be a part of the fund and shall not be transferred
19 or credited to the general fund or to any other fund except as directed by
20 the general assembly acting by bill. Notwithstanding the provisions of
21 this section to the contrary, all interest derived from the deposit and
22 investment of this fund shall be credited to the general fund, in
23 accordance with section 24-36-114, C.R.S. The general assembly shall
24 make annual appropriations from the fund to the department of
25 agriculture for direct and indirect expenses incurred in carrying out the
26 purposes of this section.

27 (2) ALL CIVIL FINES COLLECTED PURSUANT TO THIS ARTICLE SHALL

1 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT SUCH
2 MONEYS TO THE GENERAL FUND.

3 **SECTION 13.** 35-80-108 (1) (j) (I) and (1) (j) (II) (B), Colorado
4 Revised Statutes, are amended to read:

5 **35-80-108. Unlawful acts.** (1) Unless otherwise authorized by
6 law, it is unlawful and a violation of this article for any person or entity:

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

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

12 (II) (B) Such prohibitions, with respect to nonhuman primates,
13 shall not apply to a ~~zoological park or a research institute~~ FACILITY OR
14 EXHIBITOR PROPERLY licensed or registered under the provisions of the
15 federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as
16 amended, nor shall they apply to the keeping of a nonhuman primate as
17 a household pet by any person who owned such primate on or before July
18 1, 1973, or to the keeping by a disabled person of a nonhuman primate
19 specially trained to assist such person.

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

22 **35-80-102. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (10) "Pet animal" means dogs, cats, rabbits, guinea pigs, hamsters,
25 mice, RATS, GERBILS, ferrets, birds, fish, reptiles, amphibians, and
26 invertebrates, or any other species of wild or domestic or hybrid animal
27 sold, transferred, or retained for the purpose of being kept as a household

1 pet, except livestock, as defined in subsection (9) of this section. "Pet
2 animal" does not include an animal that is used for working purposes on
3 a farm or ranch.

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

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

12 **SECTION 16. Appropriation - adjustments to the 2009 long**
13 **bill.** (1) For the implementation of this act, appropriations made in the
14 general appropriation act for the fiscal year beginning July 1, 2009, shall
15 be adjusted as follows: The cash funds appropriation to the department
16 of agriculture, agricultural services division, from the pet animal care and
17 facility fund created in section 35-80-116, Colorado Revised Statutes, is
18 increased by the sum of forty-six thousand seventeen dollars (\$46,017)
19 and 1.0 FTE.

20 **SECTION 17. Effective date.** This act shall take effect July 1,
21 2009.

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