

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 35. AGRICULTURE
PET ANIMAL CARE
ARTICLE 80. PET ANIMAL CARE AND FACILITIES ACT

C.R.S. 35-80-101 (2014)

35-80-101. Short title

This article shall be known and may be cited as the "Pet Animal Care and Facilities Act".

HISTORY: Source: L. 94: Entire article added, p. 1299, § 8, effective July 1.

Cross references: For authority of boards of county commissioners to conduct agricultural research, see article 24 of title 30.

Law reviews: For article, "Overview of the Pet Animal Care Facilities Act and Regulatory Scheme", see 42 Colo. Law. 83 (July 2013); for article, "Animal-Related Legal Disputes: Litigation, ADR, and Court Appointments", see 42 Colo. Law. 43 (December 2013).

35-80-102. Definitions

As used in this article, unless the context otherwise requires:

(1) "Animal shelter" means a public or private facility licensed pursuant to this article and the rules and regulations adopted pursuant thereto.

(1.5) "Bird hobby breeder facility" means any facility engaged in the operation of breeding and raising birds for the purpose of personal enjoyment that does not transfer more than thirty birds per year.

(2) "Canine hobby breeder facility" means any facility which transfers no more than twenty-four dogs per year or breeds no more than two litters per year, whichever is greater.

(2.5) (Deleted by amendment, L. 2000, p. 1398, § 4, effective May 30, 2000.)

(3) "Commission" means the state agricultural commission.

(4) "Commissioner" means the commissioner of agriculture, or the designee of the commissioner.

(5) "Committee" means the pet animal advisory committee created in [section 35-80-115](#).

(6) "Department" means the department of agriculture.

(6.3) "Dispose" or "disposition" means adoption of a pet animal, return of a pet animal to the owner, release of a pet animal to a rescue group licensed pursuant to this article,

release of a pet animal to another pet animal facility licensed pursuant to this article or to a rehabilitator licensed by the division of parks and wildlife or the United States fish and wildlife service, or euthanasia.

(6.5) "Dog breeder" means any person that engages in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring the dogs, excluding racing greyhounds that are not intended to be companion pets.

(6.6) "Dog breeder, large scale operation" or "large scale operation dog breeder" means a dog breeder that transfers at least one hundred dogs per year, 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 more than the number of dogs permitted for a canine hobby breeder facility but no more than ninety-nine dogs per year.

(7) "Euthanasia" means to produce a humane death by techniques accepted by the American veterinary medical association.

(8) "Feline hobby breeder facility" means any facility that produces or transfers no more than twenty-four cats per year or breeds no more than three litters per year.

(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.

(9) "Livestock" means cattle, horses, mules, burros, sheep, poultry, swine, llama, and goats, regardless of use, and any animal that is used for working purposes on a farm or ranch, and any other animal designated by the commissioner, which animal is raised for food or fiber production.

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

(11) "Pet animal facility" means any place or premise used in whole or in part, which part is used for the keeping of pet animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, or otherwise transferring such animals. "Pet animal facility" also includes any individual animals kept by such a facility as breeding stock, such licensing of individual breeding stock to be inclusive in the pet animal facility license. "Pet animal facility" shall not mean a common carrier engaged in intrastate or interstate commerce. For purposes of this article, two or more animal facilities that have the same or a similar purpose and operate from one place or premises shall be considered a single pet animal facility.

(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.

(11.8) "Small animal breeder facility" means any facility that transfers more small mammals than the maximum number established by the commissioner by rule for each particular species.

(12) "Small animal hobby breeder facility" means any facility that transfers a number of small mammals that is less than the maximum number established by the commissioner by rule for each particular species.

(13) (Deleted by amendment, L. 2000, p. 1398, § 4, effective May 30, 2000.)

(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.

HISTORY: Source: L. 94: Entire article added, p. 1300, § 8, effective July 1.L. 98: (11) and (12) amended and (11.8) added, p. 119, § 1, effective March 24.L. 99: (1) amended and (1.5) and (6.3) added, p. 356, § 1, effective August 4.L. 2000: (2.5) and (13) amended and (6.6) and (6.7) added, p. 1398, § 4, effective May 30.L. 2001: (8) amended, p. 1262, § 1, effective June 5.L. 2008: (8.7), (11.2), (11.4), (11.6), and (14) added, p. 199, § 1, effective January 1, 2009.L. 2009: (10) amended, ([SB 09-118](#)), [ch. 327](#), [p.1743](#), [§ 14](#), effective July 1.L. 2014: (6.5) and (6.7) amended, ([HB 14-1270](#)), [ch. 365](#), [p. 1745](#), [§ 3](#), effective July 1.

35-80-103. Scope of article

(1) Any person who operates a pet animal facility that is licensed as of December 31, 1993, by the United States department of agriculture shall not be subject to the routine inspection provisions of this article but shall be subject to all other provisions, including but not limited to those concerning licensure and investigation of reported violations.

(2) The provisions of this article shall not apply to:

(a) Any veterinary hospital which boards pet animals for the purpose of veterinary medical care only and does not actively solicit boarding business in any way;

(b) Any research facility, circus, or publicly or privately owned zoological park or petting zoo licensed or registered under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended;

(c) Any bird hobby breeder facility, canine hobby breeder facility, feline hobby breeder facility, small animal hobby breeder facility, or any other hobby breeder facility as defined by the commissioner which is specific to other pet animal species;

(d) Any pet animal training facility where the pet animal owner or such owner's designee, other than a training facility operator, is present during the duration of the animal's stay;

(e) Any kennel operated for the breeding or sale or racing of racing greyhounds that are not intended to be companion pets;

(f) Any facility licensed pursuant to article 60 of title 12, C.R.S., for the racing of greyhounds;

(g) Any wildlife regulated by the division of parks and wildlife or department of natural resources;

(h) Livestock, as defined in [section 35-80-102 \(9\)](#);

(i) Any owner, breeder, handler, or trainer while transporting a pet animal to or from or exhibiting or competing at any event licensed, regulated, or sanctioned by the American kennel club, united kennel club, or any other nationally recognized registering organization;

(j) Any wildlife sanctuary.

(3) (a) Any pet animal facility structure in existence and licensed by the department of health through 1991 that was in compliance with that department's regulations for such licenses shall be exempt from any conflicting requirements of this article or rules and regulations of the commissioner concerning physical premises.

(b) Any laws or rules promulgated for pet animal facilities shall not require the construction of any new buildings or major reconstruction of the existing physical premises of facilities specified in paragraph (a) of this subsection (3).

HISTORY: Source: L. 94: Entire article added, p. 1301, § 8, effective July 1. L. 2000: (2)(i) added, p. 1398, § 5, effective May 30. L. 2001: (2)(i) amended, p. 1262, § 2, effective June 5. L. 2014: (2)(j) added, [\(HB 14-1270\), ch. 365, p. 1745, § 4](#), effective July 1.

35-80-104. Pet animal facility license required

Any person operating a pet animal facility shall possess a valid pet animal facility license issued by the commissioner in accordance with this article and any rules and regulations adopted by the commissioner in accordance with the provisions of this article.

HISTORY: Source: L. 94: Entire article added, p. 1302, § 8, effective July 1.

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

(1) Each applicant for a pet animal facility license shall submit an application providing all required information in the form and manner required by the commissioner.

(2) Each location of a pet animal facility shall be separately licensed.

(3) If a pet animal facility operates under more than one business name from a single location:

(a) No additional pet animal facility license shall be required for the different business names;

(b) The pet animal facility operator must maintain separate records pursuant to [section 35-80-107](#) for each such business name; and

(c) The name of each business providing services that are related to those of a pet animal facility shall be listed with the commissioner in the form and manner designated. The commissioner may require that a separate fee be paid for each such business name.

(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 seven hundred dollars per license.

(5) Each pet animal facility license shall expire on a date specified by the commissioner by rule.

(6) Each licensee shall report to the commissioner, in the form and manner the commissioner shall designate, any change to the information provided in the application or reports previously submitted within fifteen days of any such change.

(7) Licenses issued pursuant to this article shall not be transferable.

(8) Each pet animal facility licensed pursuant to this article shall display in a conspicuous place signage that contains contact information for the office or other appropriate department subdivision that administers this article.

HISTORY: Source: L. 94: Entire article added, p. 1302, § 8, effective July 1.L. 2000: (4) amended, p. 1398, § 6, effective May 30.L. 2003: (4) amended, p. 2095, § 5, effective July 1.L. 2009: (5) amended and (8) added, (SB 09-118), ch. 327, pp. 1742, 1743, § § 9, 15, effective July 1.L. 2014: (4) amended, ([HB 14-1270](#)), [ch. 365](#), [p. 1745](#), [§ 5](#), effective July 1.

35-80-106. Pet animal facility license - renewal

(1) Each pet animal facility shall apply to renew its license on or before the expiration date of the license. Said application shall be in the form and manner prescribed by the commissioner and shall be accompanied by the required renewal fee.

(2) If the application for renewal is not postmarked on or before the expiration date of the license, a penalty fee of ten percent of the renewal fee shall be assessed. No license shall be renewed until the renewal fee and any penalty fee are paid.

(3) If the application and fee for renewal are postmarked later than one calendar month after the expiration date of the license, the license shall not be renewed and the pet animal facility shall apply for a new license.

(4) The commissioner may refuse to renew a license pursuant to this section for failure to pay an outstanding civil penalty imposed under [section 35-80-113](#).

HISTORY: Source: L. 94: Entire article added, p. 1303, § 8, effective July 1.L. 2004: (4) added, p. 1894, § 1, effective June 4.L. 2009: (1) to (3) amended, ([SB 09-118](#)), [ch. 327](#), [p. 1742](#), [§ 10](#), effective July 1.

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

(1) Any pet animal held by or in the custody of a licensed animal shelter, whether public or private, and not reclaimed by the owner shall be held by the animal shelter for a minimum of five days after acquisition by the animal shelter before it may become available for adoption or otherwise disposed of at the discretion of 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 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 is open to the public. If the animal shelter 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 disposed of 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 disposed of by and at the discretion of the animal shelter. 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. Pet animals, which in the opinion of a veterinarian or the animal shelter supervisor, if a veterinarian is not available, are experiencing extreme pain or suffering, 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.

(2) An animal shelter and any employee thereof that complies with the minimum holding period as set forth in subsection (1) of this section or that disposes of a pet animal in accordance with the provisions of subsection (1) 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) 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 (1) 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 (1) of this section.

HISTORY: Source: L. 99: Entire section added, p. 356, § 2, effective August 4. L. 2001: Entire section amended, p. 1262, § 3, effective June 5.

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 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.

HISTORY: Source: L. 2008: Entire section added, p. 200, § 2, effective January 1, 2009.

35-80-106.5. Psittacine bird leg band - fee - rules

(1) Each applicant for a Colorado psittacine bird leg band shall be issued a bird leg band number by the commissioner after paying the required application fee, and each holder of a bird leg band number shall pay an annual renewal fee on or before the annual date set by the commissioner.

(2) The application, fees, and annual renewal date described in subsection (1) of this section shall be set forth in rule adopted by the commissioner.

HISTORY: Source: L. 98: Entire section added, p. 119, § 2, effective March 24. L. 2009: Entire section amended, [\(SB 09-118\), ch. 327, p. 1742, § 11](#), effective July 1.

35-80-107. Record-keeping requirements

Each pet animal facility shall keep and maintain records in the form and manner designated by the commissioner. Such records shall be retained for a period of two years and shall be kept at the address specified in the license application for the pet animal facility.

HISTORY: Source: L. 94: Entire article added, p. 1303, § 8, effective July 1.

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:

(a) To perform any of the acts of a pet animal facility for which licensure is required without possessing a valid license under this article;

(b) To solicit, advertise, or offer to perform any of the acts for which licensure as a pet animal facility is required without possessing a valid license to perform such acts;

(c) To refuse to comply with a cease-and-desist order issued pursuant to [section 35-80-111](#);

(d) To refuse or fail to comply with the provisions of this article;

(e) To make a material misstatement in a license application, a license renewal application, or to the department during an official investigation;

(f) To impersonate any state, county, city and county, or municipal official or inspector;

(g) To refuse or fail to comply with any rules or regulations adopted by the commissioner pursuant to this article or any lawful order issued by the commissioner;

(h) To aid or abet another in any violation of this article or any rule promulgated by the commissioner under the provisions of this article;

(i) To import or have in such person's possession for the purpose of selling, trading, giving, or otherwise transferring certain species of birds designated by the commissioner that have not been legally banded with a leg band applied during the prefeathered stage of development and appropriate to the size and species of the bird;

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

(l) Any type of turtle with a length in carapace of less than four inches; except that a person may possess a turtle that the person has bred with a length in carapace of less than four inches; or

(II) (A) Any species of nonhuman primate.

(B) 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.

(k) To sell, transfer, or adopt dogs or cats under the age of eight weeks;

(k.5) To transfer cats under the minimum weight limit set by rule of the commissioner;

(l) To sell, transfer, or adopt guinea pigs, hamsters, or rabbits under the age of four weeks, and such other pet animal species as may be specified by the commissioner; and

(m) To alter or falsify any certificate of veterinary inspection or any other certificate of veterinary health.

(1.5) Paragraphs (i), (j), (k), and (l) of subsection (1) of this section shall apply to all persons and entities, including those specifically exempted under [section 35-80-103 \(1\)](#), (2) (a), (2) (c), (2) (d), and (2) (e).

(2) It is unlawful and a violation of this article for any person operating a pet animal facility:

(a) To refuse to permit entry or inspection in accordance with [section 35-80-110](#);

(b) To sell, offer for sale, barter, exchange, or otherwise transfer immature domestic fowl in lots of less than twenty-five as pets;

(c) To sell, offer for sale, barter, exchange, or otherwise transfer raccoons or other animal species of wildlife that are prohibited to be kept as pets by the division of parks and wildlife in the department of natural resources;

(d) To import or cause to be imported any pet animal for the purpose of sale, resale, trade, or barter by a pet animal facility operator unless such operator is the holder of a valid pet animal facility license issued pursuant to this article;

(e) To allow a license issued pursuant to this article to be used by an unlicensed person;

(f) To make any misrepresentation or false promise through advertisements, employees, agents, or otherwise in connection with the business operations licensed pursuant to this article or for which an application for a license is pending; and

(g) To fail to take reasonable care to release for sale, trade, or adoption only those pet animals that are free of undisclosed disease, injury, or abnormality.

(3) It is unlawful and a violation of this article for any employee or official of the department or any person designated by the commissioner pursuant to [section 35-80-109 \(6\)](#) to disclose or use for his or her own advantage any information derived from any reports or records submitted to the department pursuant to [section 35-80-110](#) or to reveal such information to anyone except authorized persons, including officials or employees of the state, the federal government, and the courts of this or other states.

(4) The failure by any person to comply with the provisions of paragraph (a) or (b) of

subsection (1) of this section or paragraph (f) of subsection (2) of this section is a deceptive trade practice and is subject to the provisions of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S.

HISTORY: Source: L. 94: Entire article added, p. 1303, § 8, effective July 1. L. 98: (1)(i) amended, p. 119, § 3, effective March 24. L. 2000: (1)(k) and (1)(l) amended and (1)(m) added, p. 1399, § 7, effective May 30. L. 2003: (1)(k.5) added, p. 2095, § 6, effective July 1. L. 2009: (1)(j)(I) and (1)(j)(II)(B) amended, [\(SB 09-118\), ch. 327, p. 1743, § 13](#), effective July 1. L. 2014: (1)(j)(II)(B) amended, [\(HB 14-1270\), ch. 365, p. 1746, § 6](#), effective July 1.

35-80-109. Powers and duties of commissioner - rules

(1) The commissioner is authorized to administer and enforce the provisions of this article and any rules and regulations adopted pursuant thereto.

(2) The commissioner is authorized to adopt all reasonable rules 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 \(1\)](#);

(a.5) The minimum weight requirement for the transfer of cats;

(b) Maintenance of records concerning health care, euthanasia, and transactions involving pet animals;

(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;

(c) The establishment of qualifications for any applicant and standards of practice for any of the licenses authorized under this article, including the establishment of classifications and subclassifications for any license authorized under this article;

(d) The issuance and reinstatement of any license authorized under this article and the grounds for any disciplinary actions authorized under this article, including letters of admonition or the denial, restriction, suspension, or revocation of any license authorized under this article; and

(e) (I) The amount of any license fee for a pet animal facility license. Such license fee may be different for different classifications and subclassifications of any license authorized under this article. The commissioner is authorized to determine the amount of any licensing fee authorized under this article based on the actual cost of administering and enforcing this

article and any rules adopted pursuant thereto.

(II) Repealed.

(3) The commissioner is authorized to conduct hearings required under [sections 35-80-112](#) and [35-80-113](#) pursuant to article 4 of title 24, C.R.S., and to use administrative law judges to conduct such hearings when their use would result in a net saving of costs to the department.

(4) The commissioner is authorized to establish the annual date or dates on which licenses and psittacine bird leg bands issued pursuant to this article shall expire.

(5) The commissioner is authorized to enter into cooperative agreements with any agency or political subdivision of this state or with any agency of the United States government for the purpose of carrying out the provisions of this article, receiving grants-in-aid, and securing uniformity of rules.

(6) The powers and duties vested in the commissioner by this article may be delegated to qualified employees of the department.

(7) The commissioner shall appoint an advisory committee pursuant to [section 35-80-115](#).

HISTORY: Source: L. 94: Entire article added, p. 1305, § 8, effective July 1.L. 2001: (2)(a) amended, p. 1263, § 4, effective June 5.L. 2003: (2)(a.5) added, p. 2095, § 7, effective July 1.L. 2008: IP(2) and (2)(a) amended, p. 201, § 3, effective January 1, 2009.L. 2009: (2)(e) and (4) amended, (SB 09-118), ch. 327, pp. 1741, 1743, § § 4, 12, effective July 1.L. 2014: (2)(b.5) and (2)(b.6) added, ([HB 14-1270](#)), [ch. 365](#), [p. 1746](#), [§ 7](#), effective July 1.

Editor's note: Subsection (2)(e)(II)(C) provided for the repeal of subsection (2)(e)(II), effective July 1, 2011. (See L. 2009, p. 1741.)

35-80-110. Inspections - investigations - access - subpoena - duty to report suspected animal cruelty or animal fighting - immunity

(1) The commissioner, upon his or her own motion or upon the complaint of any person, may make any investigations necessary to ensure compliance with this article.

(2) Complaints of record made to the commissioner and the results of his or her investigations may, in the discretion of the commissioner, be closed to public inspection, except to the person in interest, as defined in [section 24-72-202 \(4\), C.R.S.](#), or as provided by court order, during the investigatory period and until dismissed or until notice of hearing and charges are served on a licensee.

(3) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access upon consent or upon obtaining an administrative search warrant:

(a) To those portions of all buildings, yards, pens, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule promulgated pursuant to this article; and

(b) To all records required to be kept and may make copies of such records for the purpose

of carrying out any provision of this article or any rule promulgated pursuant to this article.

(3.5) After the denial, suspension, or revocation of a license for a pet animal facility, the commissioner shall have free and unimpeded access to the areas and records that are reasonably necessary to verify that operation of such a pet animal facility has ceased. The commissioner shall have such access upon consent or upon obtaining a search warrant to the following areas and records:

(a) To those portions of all buildings, yards, pens, and other areas in which animals are suspected of being kept, handled, or transported without the appropriate license; and

(b) To all records that are equivalent to those required to be kept for the purpose of carrying out the provisions of this article. The commissioner may make copies of such records for the purpose of carrying out any provision of this article or any rule promulgated pursuant to this article.

(4) The commissioner shall have full authority to administer oaths and take statements, issue subpoenas requiring the attendance of witnesses before him or her, and require the production of all books, memoranda, papers and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(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.

(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.

HISTORY: Source: L. 94: Entire article added, p. 1307, § 8, effective July 1. L. 2000: (3.5) added, p. 1399, § 8, effective May 30. L. 2014: (5) added, [\(HB 14-1270\), ch. 365, p. 1746, § 8](#), effective July 1.

35-80-111. Enforcement

(1) The commissioner or the commissioner's designee shall enforce the provisions of this article.

(2) (a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule promulgated pursuant to this article has occurred and immediate enforcement is deemed necessary, he or she may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule promulgated pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all actions cease forthwith. At any time after service of the order to cease and desist, the person may request, at such person's discretion, a prompt hearing to determine whether or not such violation has occurred. Such hearing shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S., and shall be determined promptly.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(3) Whenever the commissioner possesses sufficient evidence satisfactorily indicating that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or any rule adopted under this article, the commissioner may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule or order issued under this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

HISTORY: Source: L. 94: Entire article added, p. 1307, § 8, effective July 1.

The commissioner is not required to plead or prove irreparable injury or inadequacy of a remedy at law when seeking either a temporary restraining order or preliminary or permanent injunctive relief upon showing that a person has engaged in or is about to engage in a violation of this act. *Kourlis v. District Court, El Paso County*, 930 P.2d 1329 (Colo. 1997).

The court abused its discretion by placing an unlicensed facility in a more advantageous position than a facility that has initiated a license application and demonstrated eligibility to hold a license prior to receiving and housing animals. *Kourlis v. District Court, El Paso County*, 930 P.2d 1329 (Colo. 1997).

In the judicial enforcement proceeding under this act, the normally applicable irreparable injury and posting of security requirements under [C.R.C.P. 65](#) do not apply. The usually applicable discretion to postpone the effective date of agency action under the Administrative Procedures Act, which the court may issue upon a finding of irreparable injury pending judicial review, does not apply to this statute. *Kourlis v. District Court, El Paso County*, 930 P.2d 1329 (Colo. 1997).

The district court incorrectly utilized the balancing of the equities and public interest factors set forth in *Rathke v. McFarlane*, 648 P.2d 648 (Colo. 1982), which resulted in the continued operation of an unlicensed facility contrary to the act. In the absence of compelling evidence to the contrary, the public interest, and equitable considerations having to do with that interest, favored enforcement of the statutory licensure requirement. *Kourlis v. District Court, El Paso County*, 930 P.2d 1329 (Colo. 1997).

35-80-112. Disciplinary actions - denial of license

(1) The commissioner, pursuant to the provisions of article 4 of title 24, C.R.S., may issue letters of admonition or deny, suspend, refuse to renew, restrict, or revoke any license authorized under this article if the applicant or licensee:

(a) Has refused or failed to comply with any provision of this article, any rule adopted under this article, or any lawful order of the commissioner;

(b) Has been convicted of cruelty to animals as defined in article 9 of title 18, C.R.S., or any similar statute of any other state;

(c) Has had an equivalent license denied, revoked, or suspended by any authority;

(d) Has refused to provide the commissioner with reasonable, complete, and accurate information regarding the care of animals when requested by the commissioner; or

(e) Has falsified any information requested by the commissioner.

(2) In any proceeding held under this section, the commissioner may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction if the violation which prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action under this section.

(3) No licensee whose license has been revoked may apply or reapply for a license under this article until two years after the date of 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.

HISTORY: Source: L. 94: Entire article added, p. 1308, § 8, effective July 1. 2014: (3) amended, [\(HB 14-1270\)](#), [ch. 365](#), [p. 1747](#), [§ 9](#), effective July 1.

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

(1) The commissioner, pursuant to 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 [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 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:

(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.

HISTORY: Source: L. 2000: Entire section added, p. 1399, § 9, effective May 30. L. 2014: Entire section amended, [\(HB 14-1270\), ch. 365, p. 1747, § 10](#), effective July 1.

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. The maximum penalty shall not exceed one thousand dollars per violation.

(2) No civil penalty may be imposed unless the person charged is given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.

(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:

(a) Bring suit to recover the amount of the civil penalty plus costs and attorney fees by action in any court of competent jurisdiction; or

(b) 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) Repealed.

HISTORY: Source: L. 94: Entire article added, p. 1309, § 8, effective July 1. L. 2004: (3) amended, p. 1894, § 2, effective June 4. L. 2009: (4) repealed, [\(SB 09-118\), ch. 327, p. 1742, § 8](#), effective July 1.

35-80-114. Criminal penalties

Any person who violates the provisions of [section 35-80-108 \(1\) \(a\)](#), (1) (b), (1) (c), (1) (f), or (1) (m) commits a class 2 misdemeanor and shall be punished as provided in [section 18-1.3-501, C.R.S.](#)

HISTORY: Source: L. 94: Entire article added, p. 1309, § 8, effective July 1. L. 2000: Entire

section amended, p. 1400, § 10, effective May 30.L. 2002: Entire section amended, p. 1552, § 330, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

35-80-115. Advisory committee

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

- (a) One person who represents animal rescue;
 - (b) One person who represents bird breeders;
 - (c) One person who represents small scale operation dog breeders;
 - (d) One person who represents cat breeders;
 - (e) One person who represents small animal breeders;
 - (f) One person who represents boarding kennels;
 - (f.5) One person who represents the "dog day care industry", which term means premises on which dogs are kept primarily for the purpose of short-term care;
 - (g) One person who represents pet groomers;
 - (h) One person who represents pet animal retailers;
 - (i) One person who represents pet animal wholesalers;
 - (j) One person who represents animal control officers;
 - (k) One person who represents animal shelters;
 - (l) One veterinarian licensed pursuant to article 64 of title 12, C.R.S.;
 - (m) Three members of the general public, none of whom shall represent or have a financial interest in any of the groups listed in this subsection (1); and
 - (n) One person who represents large scale operation dog breeders.
- (2) All members of the advisory committee shall be residents of this state.
- (3) In the event of a vacancy on the advisory committee prior to the completion of the member's full term, the commissioner shall appoint a person to complete the remainder of the term. Such person shall represent the same group as the member he or she is replacing, pursuant to subsection (1) of this section.

(4) The initial appointments of the animal rescue representative, the small animal breeder, the pet animal wholesaler, one member from the general public, and the large scale operation dog breeder shall expire on January 1, 1995. The initial appointments of the bird breeder, the representative of boarding kennels, the representative of animal control officers, the small scale operation dog breeder, and one member from the general public shall expire on January 1, 1996. The initial appointment of all other members shall be for a term of three years. Thereafter, members of the advisory committee shall serve for terms of three years.

(5) Repealed.

HISTORY: Source: L. 94: Entire article added, p. 1309, § 8, effective July 1. L. 2000: (1)(c), (1)(n), (4), and (5)(a) amended, p. 1400, § 11, effective May 30. L. 2009: IP(1) amended, (1)(f.5) added, and (5) repealed, [\(SB 09-118\), ch. 327, p. 1741, §§ 5, 6](#), effective July 1.

35-80-116. Pet animal care and facility fund - fees

All fees and civil fines collected pursuant to this article 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.

HISTORY: Source: L. 94: Entire article added, p. 1310, § 8, effective July 1.

35-80-116.5. Pet overpopulation authority - creation - duties and powers - pet overpopulation fund

(1) There is hereby created the Colorado pet overpopulation authority, also referred to in this section as the "authority", which shall be a body corporate and a political subdivision of the state. The authority is not an agency of state government and is not subject to administrative direction by any state agency except as provided in this article.

(2) (a) The powers of the Colorado pet overpopulation authority shall be vested in a board of directors consisting of the following:

(I) One representative of the animal assistance foundation or its successor organization;

(II) One representative of the Colorado federation of animal welfare agencies or its successor organization;

(III) One representative of a state veterinary medical association;

(IV) One representative of an association organized for Colorado animal control officers;

(V) One representative from the department of agriculture;

(VI) One member from an animal rescue organization;

(VII) One member of the general public with an interest in animal welfare; and

(VIII) One representative of western Colorado.

(b) The commissioner shall appoint the board members to three-year terms; except that three of the members appointed on September 1, 2001, shall serve an initial term of two years. Each member shall serve at the pleasure of the commissioner and shall continue in office until the member's successor is appointed and qualified. Initial members of the authority shall be appointed no later than September 1, 2001.

(c) On the expiration of the term of a member of the board, that member's successor shall be appointed by the commissioner for a term of three years; except that, in the case of a vacancy, the commissioner shall appoint a person who shall serve for the unexpired term.

(3) (a) Each board member shall meet the following qualifications at the time of appointment and throughout the member's term of office:

(I) Residency in this state; and

(II) Demonstration of an active interest in the education of the community regarding the benefits of pet overpopulation control in Colorado.

(b) The commissioner shall immediately declare the office of any member of the board vacant whenever the commissioner finds that the member is not qualified under this subsection (3) or that the member is unable to perform the duties of the office.

(c) Members shall serve without compensation for any service provided to the Colorado pet overpopulation authority. Members shall not receive any reimbursement from the board for any expenses incurred fulfilling their responsibilities pursuant to this section.

(4) The board may:

(a) Adopt an education program concerning pet overpopulation with emphasis on the importance of spaying and neutering to control pet overpopulation;

(b) Develop, adopt, and implement a process to fund and expend moneys for the activities and responsibilities of the board. Funding for the board includes the moneys available in the pet overpopulation fund created in subsection (5) of this section.

(c) Accept gifts, grants, and donations, including personal services, for the activities and responsibilities of the board. Any gift, grant, or donation other than personal services shall be deposited into the pet overpopulation fund created in subsection (5) of this section.

(d) Develop, adopt, and implement a cooperative process to work with local veterinarians, licensed animal shelters, and local communities concerning animal sheltering and pet overpopulation control in this state.

(5) (a) Donations collected pursuant to subsection (4) of this section and [section 39-22-2201, C.R.S.](#), shall be transmitted to the state treasurer and credited to the pet overpopulation fund, which fund is hereby created in the state treasury. 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 pet overpopulation fund for the implementation of this section.

(c) 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 to adequately meet local needs.

(d) There is hereby created in the pet overpopulation fund the adopt a shelter pet account, which consists of moneys donated to qualify for the adopt a shelter pet special license plate pursuant to [section 42-3-234, C.R.S.](#)

(e) The authority shall use the moneys in the adopt a shelter pet account to support the spay and neutering and other medical costs of animals in animal shelters and rescues or to support overpopulation education programs; except that up to ten percent of the moneys in the adopt a shelter pet account may be used for the administration of the account.

(6) 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) Nothing in this section shall be construed to authorize the Colorado pet overpopulation authority to promulgate rules to implement this section.

HISTORY: Source: L. 2001: Entire section added, p. 1053, § 1, effective August 8. L. 2010: (2)(a) and (6) amended and (5)(d) and (5)(e) added, (HB 10-1214), ch. 394, pp. 1871, 1872, § § 1, 2, effective August 11.

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

(1) This article is repealed, effective 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 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.

HISTORY: Source: L. 94: Entire article added, p. 1311, § 8, effective July 1.L. 2000: (1) amended, p. 1400, § 12, effective May 30.L. 2009: (1) amended, [\(SB 09-118\), ch. 327, p. 1740, § 1](#), effective July 1.L. 2014: Entire section amended, [\(HB 14-1270\), ch. 365, p. 1744, § 1](#), effective July 1.
