

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0283.01 Richard Sweetman

HOUSE BILL 11-1063

HOUSE SPONSORSHIP

McKinley,

SENATE SPONSORSHIP

(None),

House Committees
Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING LAWS RELATED TO ANIMAL WELFARE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes various changes regarding animal welfare laws.

Section 1 identifies a person engaged in animal control for a local governmental entity as a peace officer and specifies that the person's authority is limited to enforcement of ordinances and resolutions related to pet animal control.

Section 2 allows conviction of an offense of any felony or crime of moral turpitude to be used as grounds for denial of employment in

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.

local animal control or as an animal protection agent in the bureau of animal protection (agent).

Section 3:

- Grants a court discretion to waive the bond requirement for indigent owners of impounded animals;
- Requires courts to hear on an expedited basis matters related to the reasonableness of a bond requirement in a case involving an impounded animal;
- Requires the bonds paid by an owner of an animal impounded in connection with a charge or investigation of an animal-related offense to be refunded, or the entire amount of the proceeds from sale of the animal to be forwarded, to the owner if the owner is not convicted of the charges; and
- Applies the Colorado rules of civil procedure to impoundment hearings, establishes a clear and convincing standard of proof for such proceedings, and prohibits testimony given by the owner or custodian of an impounded animal from being admitted in any subsequent criminal prosecution.

Section 4 requires nongovernmental entities that contract with counties to enforce pet animal control regulations to make certain information available for public inspection.

Section 5:

- Limits the authority of animal control officers to enforcement of laws concerning the control of pet animals;
- Requires persons engaged in animal control to undergo a criminal history record check prior to such engagement;
- Requires personnel engaged in pet animal control by local governments to carry picture identification and to produce the identification upon request by any interested person;
- Requires animal control officers engaged on and after January 1, 2012, to undergo, at a minimum, the same training as is required for an agent prior to being so engaged; and
- Declares the imposition of minimum standards for persons engaged in animal control to be a valid exercise of the state police power and a matter of statewide concern.

Sections 6 and 13 describe the scope of the "Animal Protection Act" (act).

Section 7 prohibits the commissioner of the Colorado department of agriculture (commissioner) from appointing any nongovernmental entity as an agent or contracting with a nongovernmental entity for the provision of any services relating to the inspection or protection of livestock.

Section 8:

- Requires the commissioner to revoke or refuse to renew the commission of any agent convicted of an offense of cruelty to animals or other felony or crime of moral turpitude;
- Eliminates the power of the commissioner to appoint employees of nonprofit corporations as agents;
- Restricts the authority of agents to enforcement of laws related to animal care, welfare, and protection; and
- Requires that the commissioner shall not renew the contract of an agent who's convicted of or pleads nolo contendere to a felony or crime of moral turpitude.

Section 9 eliminates the requirement that each employee of a nonprofit corporation that is appointed as an agent shall carry minimum liability insurance in the amount of \$100,000.

Section 10 requires an agent to undergo a criminal history record check before being commissioned to enforce the act, and prohibits the commissioner from appointing a person convicted of an offense of cruelty to animals after the commissioner's review of the person's criminal history record check. Agents are required to carry picture identification and to produce the identification upon request by any interested person.

Section 11 repeals the requirement that the animal of an owner adjudged to be able to adequately provide for the animal and fit to care for the animal not be returned to the owner until the owner pays the costs of the food, shelter, and care of the animal during the pendency of the matter.

Section 12 requires the commissioner to obtain a search warrant from a court of competent jurisdiction before conducting a search of private property for purposes of the act.

Section 14 clarifies that the dangerous dog registry is open to public inspection.

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

2 **SECTION 1.** Part 1 of article 2.5 of title 16, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **16-2.5-148. Animal control officer.** AN ANIMAL CONTROL
6 OFFICER OR OTHER PERSON ENGAGED IN ANIMAL CONTROL PURSUANT TO
7 PART 1 OF ARTICLE 15 OF TITLE 30, C.R.S., IS A PEACE OFFICER WHILE
8 ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES; EXCEPT THAT THE

1 PERSON'S AUTHORITY IS LIMITED PURSUANT TO SECTION 30-15-105 (1),
2 C.R.S.

3 **SECTION 2.** 24-5-101 (1) (b) (V) and (1) (b) (VI), Colorado
4 Revised Statutes, are amended, and the said 24-5-101 (1) (b) is further
5 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

6 **24-5-101. Effect of criminal conviction on employment rights.**

7 (1) (b) This subsection (1) shall not apply to:

8 (V) The employment of persons in public or private correctional
9 facilities pursuant to ~~the provisions of~~ sections 17-1-109.5 and 17-1-202
10 (1) (a) (I) and (1.5), C.R.S., and the employment of persons in public or
11 private juvenile facilities pursuant to ~~the provisions of~~ sections
12 19-2-403.3 and 19-2-410 (4), C.R.S.; ~~and~~

13 (VI) The employment of persons by the public employees'
14 retirement association created pursuant to section 24-51-201 who, upon
15 the commencement of that employment, will have access to association
16 investment information, association assets, or financial, demographic, or
17 other information relating to association members or beneficiaries; AND

18 (VII) THE EMPLOYMENT OR ENGAGEMENT OF PERSONS IN ANIMAL
19 CONTROL UNDER SECTION 30-15-105, C.R.S., OR THE APPOINTMENT OF
20 PERSONS AS ANIMAL PROTECTION AGENTS IN THE BUREAU OF ANIMAL
21 PROTECTION UNDER ARTICLE 42 OF TITLE 35, C.R.S.

22 **SECTION 3.** 18-9-202.5 (1) (a) and (1) (c) (I), Colorado Revised
23 Statutes, are amended, and the said 18-9-202.5 is further amended BY
24 THE ADDITION OF A NEW SUBSECTION, to read:

25 **18-9-202.5. Financial bonding requirements for costs of**
26 **holding impounded animals.** (1) (a) (I) The owner or custodian of an
27 animal that has been impounded by an impound agency because of

1 alleged neglect or abuse, or because of investigation of charges of cruelty
2 to animals pursuant to section 18-9-202; animal fighting pursuant to
3 section 18-9-204; mistreatment, neglect, or abandonment under article 42
4 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described
5 in section 18-9-204.5, may prevent disposition of the animal by an
6 impound agency by posting a bond with the court in an amount sufficient
7 to provide for the animal's care and provision at the impound agency for
8 at least thirty days, including the day on which the animal was taken into
9 custody.

10 (II) The owner or custodian of any impounded animal may request
11 a hearing in a court of competent jurisdiction within ten days after
12 impoundment:

13 (A) To determine whether the costs associated with the bond are
14 fair and reasonable for the care of and provision for the impounded
15 animal; OR

16 (B) FOR ANY OTHER GOOD CAUSE SHOWN.

17 (III) ~~Such~~ THE OWNER OR CUSTODIAN OF AN IMPOUNDED ANIMAL
18 MAY ALSO, WITHIN TEN DAYS AFTER IMPOUNDMENT, PETITION A COURT OF
19 COMPETENT JURISDICTION FOR A WAIVER OF THE BOND REQUIREMENT DUE
20 TO THE INDIGENCE OF THE OWNER OR CUSTODIAN. THE COURT TO WHICH
21 A REQUEST FOR A HEARING ON THE REASONABLENESS OF THE BOND OR
22 PETITION FOR WAIVER OF THE BOND REQUIREMENT IS MADE SHALL HEAR
23 THE MATTER ON AN EXPEDITED BASIS. THE bond shall be filed with the
24 court within ten days after the animal is impounded OR, IF A BOND
25 HEARING IS REQUESTED, WITHIN TEN DAYS AFTER THE BOND HEARING. At
26 the end of the time for which expenses are covered by the bond, if the
27 owner or custodian desires to prevent disposition of the animal, the owner

1 or custodian shall post a new bond with the court within ten days after the
2 prior bond's expiration. However, if, in the opinion of a licensed
3 veterinarian, the animal is experiencing extreme pain or suffering or is
4 severely injured past recovery, severely disabled past recovery, or
5 severely diseased past recovery, the animal may be euthanized without a
6 court order.

7 (IV) At the end of the time for which expenses are covered by the
8 bond, the impound agency may determine disposition of the animal unless
9 there is a court order prohibiting ~~such~~ THE disposition. The owner or
10 custodian shall be liable for the cost of the care of, provision for, or
11 disposal of the animal ONLY IF THE OWNER OR CUSTODIAN IS CONVICTED
12 OF CRUELTY TO ANIMALS UNDER SECTION 18-9-202, ANIMAL FIGHTING
13 UNDER SECTION 18-9-204, OR UNLAWFUL OWNERSHIP OF A DANGEROUS
14 DOG UNDER SECTION 18-9-204.5 OR IS FOUND BY COURT ORDER TO HAVE
15 MISTREATED, NEGLECTED, OR ABANDONED THE ANIMAL UNDER ARTICLE
16 42 OF TITLE 35, C.R.S. IF THE OWNER IS NOT CONVICTED OR IS NOT FOUND
17 BY THE COURT TO HAVE MISTREATED, NEGLECTED, OR ABANDONED THE
18 ANIMAL, THE OWNER IS ENTITLED TO RECOVER FROM THE IMPOUND
19 AGENCY THE FULL AMOUNT OF ANY CASH BONDS THAT THE OWNER POSTED
20 FOR THE COSTS ASSOCIATED WITH IMPOUNDMENT OF THE OWNER'S
21 ANIMAL.

22 (c) (I) (A) EXCEPT AS PROVIDED FOR IN SUB-SUBPARAGRAPH (B)
23 OF THIS SUBPARAGRAPH (I), with respect to the sale of an animal, the
24 proceeds shall first be applied to the costs of the sale and then to the
25 expenses for the care of and provision for the animal, including expenses
26 incurred by the impound agency. If the owner of the animal is convicted
27 of cruelty to animals under section 18-9-202, animal fighting under

1 section 18-9-204, or unlawful ownership of a dangerous dog under
2 section 18-9-204.5 or is found by court order to have mistreated,
3 neglected, or abandoned the animal under article 42 of title 35, C.R.S., the
4 remaining proceeds, if any, shall be paid to the impound agency.

5 (B) If the owner of the animal is not convicted of such charges or
6 is not found by court order to have ~~so~~ mistreated, neglected, or abandoned
7 the animal, the ~~remaining~~ ENTIRE proceeds ~~if any~~, FROM THE SALE OF THE
8 ANIMAL shall be paid over to the owner of the animal.

9 (3) IMPOUNDMENT HEARINGS UNDER THIS SECTION SHALL BE
10 CONDUCTED IN CONFORMITY WITH THE COLORADO RULES OF CIVIL
11 PROCEDURE, THE COLORADO RULES OF EVIDENCE, AND THE PRACTICE IN
12 THIS STATE IN THE TRIAL OF CIVIL CASES; EXCEPT THAT, UNLESS THE
13 ANIMAL IS EUTHANIZED WITHOUT A COURT ORDER PURSUANT TO THE
14 OPINION OF A LICENSED VETERINARIAN UNDER PARAGRAPH (a) OF
15 SUBSECTION (1) OF THIS SECTION, PROOF OF MISTREATMENT,
16 ABANDONMENT, OR NEGLECT BY CLEAR AND CONVINCING EVIDENCE IS
17 REQUIRED FOR ANY COURT ORDER OF DISPOSITION OTHER THAN TO
18 RETURN THE ANIMAL TO THE OWNER OR CUSTODIAN. TESTIMONY GIVEN
19 IN AN IMPOUNDMENT HEARING BY AN ANIMAL'S OWNER OR CUSTODIAN IS
20 NOT ADMISSIBLE IN ANY SUBSEQUENT CRIMINAL PROSECUTION.

21 **SECTION 4.** 30-15-103, Colorado Revised Statutes, is amended
22 to read:

23 **30-15-103. Disposition of fines and forfeitures.** (1) All fines
24 and forfeitures for the violation of county resolutions adopted pursuant
25 to this part 1 and all moneys collected by the county for licenses or
26 otherwise shall be paid into the treasury of the county at such times and
27 in such manner as may be prescribed by resolution; or, if there is no

1 resolution providing for the payment, it shall be paid to the county
2 treasurer at once.

3 (2) (a) A NONGOVERNMENTAL ENTITY THAT CONTRACTS WITH OR
4 IS OTHERWISE ENGAGED BY A COUNTY TO ENFORCE REGULATIONS
5 CONCERNING THE CONTROL OF PET ANIMALS IS SUBJECT TO THE
6 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24,
7 C.R.S., AND SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE FOR
8 INSPECTION BY THE PUBLIC AT ANY TIME DURING REGULAR BUSINESS
9 HOURS:

10 (I) THE NUMBER OF PET ANIMALS IMPOUNDED, IF THE ENTITY ACTS
11 AS OR OPERATES AN ANIMAL HOLDING FACILITY;

12 (II) THE COST OF PROVIDING SHELTER, FOOD, AND CARE TO
13 IMPOUNDED PET ANIMALS, BY TYPE OF PET ANIMAL AND PER ANIMAL;

14 (III) THE DISPOSITION OF IMPOUNDED PET ANIMALS; AND

15 (IV) THE SOURCES AND AMOUNTS OF FUNDING AND THE
16 PROPORTION OF REVENUE RECEIVED BY THE ENTITY FROM THE SALE OR
17 OTHER DISPOSITION OF IMPOUNDED PET ANIMALS.

18 (b) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO VIOLATE
19 THE "COLORADO OPENS RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
20 24, C.R.S.

21 **SECTION 5.** 30-15-105, Colorado Revised Statutes, is amended
22 to read:

23 **30-15-105. Animal control officers - peace officer designation.**

24 (1) Personnel engaged in animal control, however titled or
25 administratively assigned, may issue citations or summonses and
26 complaints enforcing the county dog control resolution or any other
27 county resolution concerning the control of pet animals or municipal

1 ordinance CONCERNING THE CONTROL OF PET ANIMALS without regard to
2 the certification requirements of part 3 of article 31 of title 24, C.R.S.
3 Personnel ~~so~~ engaged IN ANIMAL CONTROL shall be included within the
4 definition of "peace officer or firefighter engaged in the performance of
5 his or her duties" in section 18-3-201 (2), C.R.S. Nothing in this part 1
6 ~~is intended to vest~~ VESTS authority in any person ~~so~~ engaged IN ANIMAL
7 CONTROL to enforce any resolution, ordinance, or statute other than the
8 county dog control resolution or any other county resolution concerning
9 the control of pet animals or municipal ordinance CONCERNING THE
10 CONTROL OF PET ANIMALS.

11 (2) A PERSON ENGAGED IN ANIMAL CONTROL UNDER THIS ARTICLE
12 SHALL CARRY PICTURE IDENTIFICATION ISSUED BY THE GOVERNMENTAL
13 ENTITY ENGAGING HIM OR HER AND SHALL PRODUCE THE IDENTIFICATION
14 FOR INSPECTION UPON REQUEST BY ANY INTERESTED PARTY.

15 (3) (a) (I) ON AND AFTER JANUARY 1, 2012, EACH PERSON WHOM
16 A COUNTY SEEKS TO ENGAGE IN ANIMAL CONTROL SHALL SUBMIT A
17 COMPLETE SET OF HIS OR HER FINGERPRINTS TO A LOCAL LAW
18 ENFORCEMENT AGENCY FOR THE PURPOSE OF OBTAINING A
19 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE PERSON
20 SHALL SUBMIT PAYMENT BY CERTIFIED CHECK OR MONEY ORDER FOR THE
21 FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE RECORD CHECK AT THE
22 TIME THE FINGERPRINTS ARE SUBMITTED TO THE COLORADO BUREAU OF
23 INVESTIGATION. UPON RECEIPT OF THE PERSON'S FINGERPRINTS AND
24 RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
25 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
26 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
27 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE

1 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
2 OF THE CRIMINAL HISTORY RECORD CHECK TO THE COUNTY.

3 (II) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE
4 CONTRARY, IF THE COUNTY DETERMINES, AFTER THE CRIMINAL HISTORY
5 RECORD CHECK REQUIRED BY THIS SECTION, THAT THE POTENTIAL
6 APPOINTEE WAS CONVICTED OF OR PLEADED GUILTY TO A CHARGE OF
7 CRUELTY TO ANIMALS AS DESCRIBED IN SECTION 18-9-202, C.R.S., OR ANY
8 OTHER FELONY OR A CRIME OF MORAL TURPITUDE, THE COUNTY SHALL
9 NOT APPOINT OR RENEW THE APPOINTMENT OF THE PERSON.

10 (b) ON AND AFTER JANUARY 1, 2012, A COUNTY SHALL NOT
11 ENGAGE A PERSON IN ANIMAL CONTROL UNDER THIS ARTICLE UNLESS THE
12 PERSON HAS COMPLETED TRAINING THAT, AT A MINIMUM, MEETS THE SAME
13 STANDARDS AND REQUIREMENTS AS APPLY TO THE TRAINING OF ANIMAL
14 PROTECTION AGENTS IN THE BUREAU OF ANIMAL PROTECTION UNDER
15 ARTICLE 42 OF TITLE 35, C.R.S., BEFORE BEING SO ENGAGED.

16 (4) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT
17 IMPOSING UNIFORM STANDARDS FOR PERSONS ENGAGED IN ANIMAL
18 CONTROL IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND
19 WELFARE AND IS THUS A VALID EXERCISE OF THE STATE POLICE POWER.
20 FURTHER, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT REQUIRING
21 PERSONS ENGAGED IN ANIMAL CONTROL TO UNDERGO A MINIMUM LEVEL
22 OF TRAINING IS A MATTER OF STATEWIDE CONCERN.

23 **SECTION 6.** 35-42-104, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **35-42-104. Scope of article.** (5) NOTHING IN THIS ARTICLE
26 SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE DEPARTMENT OF
27 PUBLIC HEALTH AND ENVIRONMENT TO ENFORCE PART 7 OF ARTICLE 4 OF

1 TITLE 25, C.R.S., OR TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO
2 ENFORCE ARTICLE 80 OF THIS TITLE.

3 **SECTION 7.** 35-42-106, Colorado Revised Statutes, is amended
4 to read:

5 **35-42-106. Powers and duties of the commissioner.** The
6 commissioner has the power to administer and enforce the provisions of
7 this article, appoint agents and establish the qualifications of such agents,
8 promulgate rules and regulations, enter into contracts, and implement
9 training, procedures, and rules and regulations of recommended standards
10 for animal control officers; EXCEPT THAT THE COMMISSIONER SHALL NOT
11 APPOINT A NONGOVERNMENTAL ENTITY AS AN AGENT NOR CONTRACT
12 WITH ANY NONGOVERNMENTAL ENTITY FOR THE PROVISIONS OF ANY
13 SERVICES RELATING TO THE INSPECTION OR PROTECTION OF LIVESTOCK.

14 **SECTION 8.** 35-42-107 (1), (2), (4), (5), and (9), Colorado
15 Revised Statutes, are amended to read:

16 **35-42-107. Bureau personnel - appointment.** (1) Subject to the
17 provisions of section 13 of article XII of the state constitution AND
18 SECTION 35-42-107.5, the commissioner shall appoint ~~such~~ animal
19 protection agents as ~~are~~ necessary to carry out the provisions of this
20 article.

21 (2) The commissioner may appoint agents who are employees of
22 the state, ~~nonprofit corporations~~, municipal corporations, counties, cities,
23 cities and counties, or any other local governmental entity or political
24 subdivision of the state.

25 (4) Agents of the bureau who have completed training as specified
26 by the commissioner are vested with the power to issue ~~summons~~
27 SUMMONSES and complaints to enforce the provisions of THIS ARTICLE,

1 part 2 of article 9 of title 18, C.R.S., and article 80 of this title ~~as granted~~
2 ~~peace officers under section 16-2-104, C.R.S.,~~ and shall be designated as
3 peace officers, as described in ~~sections 16-2.5-101 and~~ SECTION
4 16-2.5-118, C.R.S.

5 (5) The commissioner may, in his OR HER discretion, revoke the
6 commission of any agent; EXCEPT THAT, IF AN AGENT IS CONVICTED OF OR
7 PLEADS NOLO CONTENDERE TO A FELONY OR CRIME OF MORAL TURPITUDE,
8 INCLUDING BUT NOT LIMITED TO AN OFFENSE OF CRUELTY TO ANIMALS AS
9 DESCRIBED BY SECTION 18-9-202, C.R.S., THE COMMISSIONER SHALL
10 REVOKE THE AGENT'S COMMISSION.

11 (9) A commission may, in the discretion of the commissioner, be
12 renewed; EXCEPT THAT, IF AN AGENT IS CONVICTED OF OR PLEADS NOLO
13 CONTENDERE TO A FELONY OR CRIME OF MORAL TURPITUDE, INCLUDING
14 BUT NOT LIMITED TO AN OFFENSE OF CRUELTY TO ANIMALS AS DESCRIBED
15 BY SECTION 18-9-202, C.R.S., THE COMMISSIONER SHALL NOT RENEW THE
16 AGENT'S COMMISSION.

17 **SECTION 9. Repeal.** 35-42-107 (3), Colorado Revised Statutes,
18 is repealed as follows:

19 **35-42-107. Bureau personnel - appointment.** (3) ~~When agents~~
20 ~~who are employees of nonprofit corporations are appointed, the~~
21 ~~corporation shall furnish evidence of minimum liability insurance~~
22 ~~covering said agent in the amount of one hundred thousand dollars. The~~
23 ~~state shall not be liable for the actions of such agents. Agents of the~~
24 ~~bureau shall submit to training as specified by the commissioner.~~

25 **SECTION 10.** Article 42 of title 35, Colorado Revised Statutes,
26 is amended BY THE ADDITION OF THE FOLLOWING NEW
27 SECTIONS to read:

1 **35-42-107.5. Criminal history record check.** (1) ON AND AFTER
2 JANUARY 1, 2012, AN AGENT SHALL NOT BE APPOINTED UNDER THIS
3 ARTICLE UNLESS THE AGENT UNDERGOES A CRIMINAL HISTORY RECORD
4 CHECK IN ACCORDANCE WITH THIS SECTION.

5 (2) IN ADDITION TO ANY OTHER REQUIREMENTS OF LAW OR RULE,
6 EACH PERSON WHOM THE COMMISSIONER SEEKS TO APPOINT SHALL SUBMIT
7 A COMPLETE SET OF HIS OR HER FINGERPRINTS TO A LOCAL LAW
8 ENFORCEMENT AGENCY FOR THE PURPOSE OF OBTAINING A
9 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE PERSON IS
10 REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR MONEY ORDER
11 FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE RECORD
12 CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
13 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
14 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
15 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
16 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
17 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
18 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
19 OF THE CRIMINAL HISTORY RECORD CHECK TO THE COMMISSIONER.

20 (3) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE
21 CONTRARY, IF THE COMMISSIONER DETERMINES, SUBSEQUENT TO THE
22 CRIMINAL HISTORY RECORD CHECK REQUIRED BY THIS SECTION, THAT THE
23 POTENTIAL APPOINTEE WAS CONVICTED OF OR PLEADED GUILTY OR NOLO
24 CONTENDERE TO A CHARGE OF CRUELTY TO ANIMALS AS DESCRIBED IN
25 SECTION 18-9-202, C.R.S., OR ANY OTHER FELONY OR A CRIME OF MORAL
26 TURPITUDE, THE COMMISSIONER SHALL NOT APPOINT OR RENEW THE
27 APPOINTMENT OF THE PERSON.

1 **35-42-107.7. Identification required - issuance of identification**

2 **- fee - rules.** (1) AN AGENT ENFORCING THIS ARTICLE SHALL CARRY
3 IDENTIFICATION AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND
4 SHALL PRODUCE THE IDENTIFICATION FOR INSPECTION UPON REQUEST BY
5 ANY INTERESTED PERSON.

6 (2) THE IDENTIFICATION REQUIRED UNDER THIS SECTION SHALL BE
7 ISSUED BY THE DEPARTMENT AND SHALL BEAR, AT A MINIMUM, THE
8 AGENT'S NAME AND PICTURE, A NUMERIC IDENTIFIER UNIQUE TO THAT
9 AGENT, AND THE EXPIRATION DATE OF THE AGENT'S COMMISSION.

10 (3) THE COMMISSIONER SHALL DESIGNATE BY RULE THE FORM OF
11 THE IDENTIFICATION REQUIRED UNDER THIS SECTION. THE COMMISSIONER
12 MAY ALSO ESTABLISH AND COLLECT A FEE FROM AN AGENT TO RECOVER
13 THE ACTUAL COSTS OF PROVIDING THE IDENTIFICATION.

14 **SECTION 11.** 35-42-109 (5) (c) and (5) (d), Colorado Revised
15 Statutes, are amended to read:

16 **35-42-109. Protection of animals mistreated, neglected, or**
17 **abandoned.** (5) (c) The court may adjudge that the owner is a person
18 able to adequately provide for ~~such~~ THE animal and a person fit to own
19 the animal, in which case the animal shall be returned to the owner ~~after~~
20 ~~all reasonable expenses of any food, shelter, and care provided by the~~
21 ~~commissioner have been paid, except that, if such expenses are not paid~~
22 ~~within ten days of a court order adjudging the owner a person able to~~
23 ~~adequately provide for such animal and a person fit to own the animal~~
24 IMMEDIATELY. IF THE OWNER OF THE ANIMAL CANNOT BE LOCATED, the
25 commissioner may, in his discretion and without liability, dispose of the
26 animal by selling it at public auction, placing it for adoption in a suitable
27 home, giving it to a suitable animal shelter, or humanely destroying it as

1 deemed proper by the commissioner.

2 (d) With respect to the sale of an animal, the proceeds shall first
3 be applied to the costs of the sale and then to the expenses for the care
4 and provision of the animal, and the remaining proceeds, if any, shall be
5 paid over to the owner of the animal. ~~If the owner of the animal cannot
6 be found, any remaining proceeds shall be paid into the estray fund,
7 created pursuant to section 35-41-102.~~

8 **SECTION 12.** 35-42-111 (2) (a), Colorado Revised Statutes, is
9 amended to read:

10 **35-42-111. Investigations - access - administrative subpoena.**

11 (2) (a) At any reasonable time during regular business hours, the
12 commissioner shall have free and unimpeded access, upon consent or
13 upon obtaining an administrative search warrant, to all buildings, yards,
14 pens, pastures, and other areas in which any animals are kept, handled, or
15 transported for the purpose of carrying out ~~any provision of this article or
16 any rule made pursuant to this article.~~

17 **SECTION 13.** 35-42-114, Colorado Revised Statutes, is amended
18 to read:

19 **35-42-114. Local regulation.** ~~The provisions of This article shall
20 not be construed to DOES NOT limit or preempt additional regulation by
21 any city, town, or city and county. Nothing in this article shall interfere
22 with the authority of the department of public health and environment in
23 the enforcement of part 7 of article 4 of title 25, C.R.S., or the department
24 of agriculture in the enforcement of article 80 of this title.~~

25 **SECTION 14.** 35-42-115 (1), Colorado Revised Statutes, is
26 amended to read:

27 **35-42-115. Dangerous dog registry - created - cash fund.**

1 (1) The bureau shall establish a statewide dangerous dog registry
2 consisting of a database of information concerning microchip types and
3 placement by veterinarians and licensed shelters in dangerous dogs
4 pursuant to ~~the provisions of~~ section 18-9-204.5 (3) (e.5), C.R.S. The
5 commissioner may promulgate such rules as may be necessary for the
6 implementation of this section. INFORMATION IN THE DATABASE SHALL
7 BE OPEN TO PUBLIC INSPECTION AT ALL REASONABLE TIMES AND SHALL BE
8 ACCESSIBLE ELECTRONICALLY AT ALL TIMES.

9 **SECTION 15. Act subject to petition - effective date.** This act
10 shall take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part shall not take effect
16 unless approved by the people at the general election to be held in
17 November 2012 and shall take effect on the date of the official
18 declaration of the vote thereon by the governor.