

The National Agricultural
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University of Arkansas School of Law

An Agricultural Law Research Project

States' Animal Cruelty Statutes
State of Colorado

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UNIVERSITY of ARKANSAS
SCHOOL of LAW

States' Animal Cruelty Statutes

STATE OF COLORADO

Current through laws effective April 28, 2010, see scope for further details.

§ 18-9-201. Definitions

As used in sections 18-9-201.5, 18-9-202, 18-9-202.5, and 18-9-204.5, unless the context otherwise requires:

(1) "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

(2) "Animal" means any living dumb creature.

(2.5) "Disposal" or "disposition" means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5(1)(c); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S., or to a rehabilitator licensed by the division of wildlife or the United States fish and wildlife service; or euthanasia.

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

(2.9) "Livestock" means bovine, camelids, caprine, equine, ovine, porcine, and poultry.

(3) "Mistreatment" means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(4) "Neglect" means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with the species, breed, and type of animal.

(5) "Sexual act with an animal" means an act between a person and an animal involving direct physical contact between the genitals of one and the mouth, anus, or genitals of

the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit accepted animal husbandry practices.

§ 18-9-201.5. Scope of part 2

(1) Nothing in this part 2 shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of title 35, C.R.S.

(2) In case of any conflict between this part 2 or section 35-43-126, C.R.S., and the wildlife statutes of the state, said wildlife statutes shall control.

(3) Nothing in this part 2 shall affect animal care otherwise authorized by law.

(4) Nothing in this part 2 shall affect facilities licensed under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended.

§ 18-9-202. Cruelty to animals--aggravated cruelty to animals--neglect of animals--offenses

(1)(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(1.6) As used in this section, unless the context otherwise requires:

(a) "Serious physical harm" means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12,

C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 shall be construed to amend or in any manner change the authority of the wildlife commission, as established in title 33, C.R.S., or to prohibit any conduct therein authorized or permitted.

§ 18-9-202.5. Financial bonding requirements for costs of holding impounded animals

(1)(a) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse, or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by posting a bond with the court in an amount sufficient to provide for the animal's care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody. The owner or custodian of any impounded animal may request a hearing in a court of competent jurisdiction within ten days after impoundment

to determine whether the costs associated with the bond are fair and reasonable for the care of and provision for the impounded animal. Such bond shall be filed with the court within ten days after the animal is impounded. At the end of the time for which expenses are covered by the bond, if the owner or custodian desires to prevent disposition of the animal, the owner or custodian shall post a new bond with the court within ten days after the prior bond's expiration. However, if, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order. At the end of the time for which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or custodian shall be liable for the cost of the care of, provision for, or disposal of the animal.

(b) A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful ownership of a dangerous dog as described in section 18-9-204.5 shall be deemed abandoned and may be disposed of as the impound agency deems proper.

(c)(I) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care of and provision for the animal, including expenses incurred by the impound agency. If the owner of the animal is convicted of cruelty to animals under section 18-9-202, animal fighting under section 18-9-204, or unlawful ownership of a dangerous dog under section 18-9-204.5 or is found by court order to have mistreated, neglected, or abandoned the animal under article 42 of title 35, C.R.S., the remaining proceeds, if any, shall be paid to the impound agency. If the owner of the animal is not convicted of such charges or is not found by court order to have so mistreated, neglected, or abandoned the animal, the remaining proceeds, if any, shall be paid over to the owner of the animal.

(II) If the impound agency is the department of agriculture, moneys credited to the department of agriculture for expenses shall be transmitted to the state treasurer and credited to the animal protection fund, created in section 35- 42-113, C.R.S. If the department of agriculture is not the impound agency, moneys for expenses shall be paid to such other impound agency as the court orders.

(III) If the owner of the animal cannot be found, any remaining proceeds after all other expenses have been paid shall be paid into the animal protection fund or, if the impound agency is not the department of agriculture, to such other impound agency as the court orders. Any claim for such remaining proceeds by the owner of the animal shall be made within one year after the payment thereof to the impound agency and, unless so presented to the court, shall be forever barred unless the court by proper order made in any case otherwise decrees. Any refund ordered by court decree shall be paid to the claimant by the impound agency.

(IV) At least six days prior to sale of the animal, the impound agency shall provide written notice to the owner, at the owner's last-known address, of the time and place of the sale of the animal.

(V) If the owner of the animal is unknown, the impound agency shall cause to be published for one week, in a newspaper of general circulation in the jurisdiction wherein such animal is

found, notice of sale of the animal, and shall further cause notice of the sale of the animal to be posted at a place provided for public notices in the jurisdiction wherein such sale will take place, at least five days prior to the sale.

(VI) The provisions of this paragraph (c) shall not apply to the disposition of an animal for a fee by:

- (A) Adoption of an animal;
- (B) Release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.;
- (C) Release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or
- (D) Release of an animal to a rehabilitator licensed by the division of wildlife or the United States fish and wildlife service.

(2) For purposes of this section, "impound agency" means an agency, including, but not limited to, an animal shelter as defined in section 35-80-102(1), C.R.S., and the department of agriculture, created in section 24-1-123, C.R.S., that impounds an animal pursuant to the provisions of subsection (1) of this section or section 18-9-202(1.8).

§ 18-9-204. Animal fighting--penalty

(1)(a) No person shall cause, sponsor, arrange, hold, or encourage a fight between animals for the purpose of monetary gain or entertainment.

(b) For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he or she:

- (I) Is knowingly present at or wagers on such a fight;
- (II) Owns, trains, transports, possesses, breeds, sells, transfers, or equips an animal with the intent that such animal will be engaged in such a fight;
- (III) Knowingly allows any such fight to occur on any property owned or controlled by him;
- (IV) Knowingly allows any animal used for such a fight to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;
- (V) Knowingly uses any means of communication for the purpose of promoting such a fight; or
- (VI) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.

(2) Any person who violates the provisions of this section commits a class 5 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to one thousand dollars. Any person committing a second or subsequent violation of this section commits a class 4 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to five thousand dollars.

(3) Nothing in this section shall prohibit normal hunting practices as approved by the division of wildlife.

(4) Nothing in this section shall be construed to prohibit the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

§ 18-9-204.5. Unlawful ownership of dangerous dog

(1) The general assembly hereby finds, determines, and declares that:

(a) Dangerous dogs are a serious and widespread threat to the safety and welfare of citizens throughout the state because of the number and serious nature of attacks by such dogs; and

(b) The regulation and control of dangerous dogs is a matter of statewide concern.

(2) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

(a.5) "Bureau" means the bureau of animal protection in the department of agriculture, division of animal industry, created pursuant to section 35-42- 105, C.R.S.

(b) "Dangerous dog" means any dog that:

(I) Inflicts bodily or serious bodily injury upon or causes the death of a person or domestic animal; or

(II) Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily or serious bodily injury upon or cause the death of any person or domestic animal; or

(III) Engages in or is trained for animal fighting as described and prohibited in section 18-9-204.

(c) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

(d) "Domestic animal" means any dog, cat, any animal kept as a household pet, or livestock.

(e) "Owner" or "owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal, as the term is defined in paragraph (d) of this subsection (2), including a dangerous dog as the term is defined in paragraph (b) of this subsection (2).

(f) "Serious bodily injury" has the same meaning as such term is defined in section 18-1-901(3)(p).

(3)(a) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.

(b) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts bodily injury upon any person commits a class 3 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (b) commits a class 2 misdemeanor.

(c) Any owner who violates paragraph (a) of this subsection (3) whose dog inflicts serious bodily injury to a person commits a class 1 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (c) commits a class 6 felony.

(d) Any owner who violates paragraph (a) of this subsection (3) whose dog causes the death of a person commits a class 5 felony.

(e)(I) Any owner who violates paragraph (a) of this subsection (3) whose dog injures or causes the death of any domestic animal commits a class 3 misdemeanor.

(II) Any owner of a dog that is involved in a second or subsequent violation under this paragraph (e) commits a class 2 misdemeanor. The minimum fine specified in section 18-1.3-501 for a class 2 misdemeanor shall be mandatory.

(III)(A) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions of title 16, C.R.S., governing restitution.

(B) Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.

(B.5) An owner who violates paragraph (a) of this subsection (3) and whose dog damages or destroys the property of another person commits a class 1 petty offense.

(C) Any owner whose dog damages or destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

(e.5) The court shall order any owner of a dangerous dog who has been convicted of a violation of this section to:

(I) Confine the dangerous dog in a building or enclosure designed to be escape-proof and, whenever the dog is outside of the building or enclosure, keep the dog under the

owner's control by use of a leash. The owner shall post a conspicuous warning sign on the building or enclosure notifying others that a dangerous dog is housed in the building or enclosure. In addition, if the conviction is for a second or subsequent offense, the dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

(II) Immediately report to the bureau in writing any material change in the dangerous dog's situation, including but not limited to a change, transfer, or termination of ownership, change of address, escape, or death;

(III) At the owner's expense, permanently identify the dangerous dog through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous dog shall report the microchipping information to the bureau within ten days after implantation of the microchip, pursuant to section 35-42- 115(2), C.R.S.

(IV) Prior to the implantation of the microchip, pay a nonrefundable dangerous dog microchip license fee of fifty dollars to the bureau;

(V) Prior to the dangerous dog receiving any service or treatment, disclose in writing to any provider of the service or treatment, including but not limited to a veterinary health care worker, dog groomer, humane agency staff person, pet animal care facility staff person, professional dog handler, or dog trainer, each acting in the performance of his or her respective duties, that the dangerous dog has been the subject of a conviction of a violation of this section;

(VI) Prior to a change, transfer, or termination of ownership of a dangerous dog, disclose in writing to the prospective owner that the dangerous dog has been the subject of a conviction of a violation of this section.

(f) In addition to any other penalty set forth in this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury, or death to a person, the court, pursuant to applicable provisions of title 16, C.R.S., governing restitution, shall order the defendant to make restitution in accordance with said provisions.

(g)(I) In addition to the penalties set forth in paragraphs (b) to (e) of this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court shall order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by euthanasia administered by a licensed veterinarian.

(II) In addition to any penalty set forth in paragraphs (b) to (e) of this subsection (3), for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of a different owner, the court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by euthanasia administered by a licensed veterinarian.

(h)(I) An affirmative defense to the violation of this subsection (3) shall be:

(A) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(B) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;

(C) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;

(D) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

(E) That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

(II) The affirmative defenses set forth in subparagraph (I) of this paragraph (h) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in section 18-9-204.

(4) Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., the owner's dangerous dog may be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., sets bail for an owner's release from custody pending final disposition, the court may require, as a condition of bond, that the owner's dangerous dog be placed by an impound agency, as defined in section 18-9-202.5(2), at the owner's expense in a location selected by the impound agency including a public animal

shelter, licensed boarding facility, or veterinarian's clinic, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this subsection (4).

(5)(a) Nothing in this section shall be construed to prohibit a municipality from adopting any rule or law for the control of dangerous dogs; except that any such rule or law shall not regulate dangerous dogs in a manner that is specific to breed.

(b) Nothing in this section shall be construed to abrogate a county's authority under part 1 of article 15 of title 30, C.R.S., to adopt dog control and licensing resolutions and to impose the penalties set forth in section 30- 15-102, C.R.S.; except that any such resolution shall not regulate dangerous dogs in a manner that is specific to breed.

(c) No municipality or county may destroy or dispose of a dog that is awaiting destruction or disposition as of April 21, 2004, in connection with a violation or charged violation of a municipal or county ban on one or more specific dog breeds.

(6) The provisions of this section shall not apply to the following:

(a) To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(b) To any dog that inflicts bodily or serious bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, or trainer each acting in the performance of his or her respective duties, unless the owner is subject to a court order issued pursuant to paragraph (e.5) of subsection (3) of this section and the owner has failed to comply with the provisions of subparagraph (V) of paragraph (e.5) of subsection (3) of this section; or

(c) To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.

§ 18-9-205. Disposition of fines

Any fines collected pursuant to section 18-9-204 shall be transmitted to the state treasurer, who shall then transmit the same to the county where the offense occurred for deposit in the general fund to be used for the care of the animals involved in the offense, if required, or, if not required, for any other lawful purpose.

§ 18-9-206. Unauthorized release of an animal--penalty--restitution

(1) Any person who intentionally releases any animal which is lawfully confined for scientific, research, commercial, legal sporting, or educational purposes or for public safety purposes because the animal has been determined to be dangerous to people, has an infectious disease, or is quarantined to determine whether or not it has an infectious disease without the consent of

the owner or custodian of such animal commits the offense of unauthorized release of an animal.

(2) Unauthorized release of an animal is a class 2 misdemeanor.

(3) Any person who is convicted of unauthorized release of an animal shall be ordered to pay restitution for any damages resulting from such release, including the cost of restoring any animal to confinement, the cost of restoring the health of any animal which is released, the cost of any damage to real or personal property which is caused by a released animal, or any cost which results if the release causes the failure of an experiment, including the costs of repeating the experiment, replacement of any animal released, and the cost of labor and materials associated with such experiment.

§ 18-9-207. Tampering or drugging of livestock

(1) As used in this section, unless the context otherwise requires:

(a) "Exhibition" means a show or sale of livestock at a fair or elsewhere in this state that is sponsored by or under the authority of the state or any unit of local government or any agricultural, horticultural, or livestock society, association, or corporation.

(b) "Livestock" means any domestic animal generally used for food or in the production of food, including, but not limited to, cattle, sheep, goats, poultry, swine, or llamas.

(c) "Sabotage" means intentionally tampering with an animal belonging to or owned by another person that has been registered, entered, or exhibited in any exhibition or raised for the apparent purpose of being entered in an exhibition.

(d)(I) "Tamper" means any of the following:

(A) Treatment of livestock in such a manner that food derived from the livestock would be considered adulterated under the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S.;

(B) The injection, use, or administration of any drug that is prohibited by any federal, state, or local law or any drug that is used in a manner prohibited by federal law or the law of this state or any locality thereof;

(C) The injection or other internal or external administration of any product or material, whether gas, solid, or liquid, to an animal for the purposes of deception, including concealing, enhancing, or transforming the true conformation, configuration, color, breed, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(D) The use or administration for cosmetic purposes of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance;

(E) The use or application of any drug or feed additive affecting the central nervous system of the animal;

(F) The use or administration of diuretics for cosmetic purposes;

(G) The manipulation or removal of tissue, by surgery or otherwise, so as to change, transform, or enhance the true conformation or configuration of the animal;

(H) Subjecting the animal to inhumane conditions or procedures for the purpose of concealing, enhancing, or transforming the true conformation, configuration, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(I) Attaching to the animal's hide foreign objects, including hair or hair substitutes, cloth, and fibers, for the purpose of deception, including concealing, enhancing, or transforming the true conformation, configuration, color, breed, condition, or age of the animal or making the animal appear more sound than the animal would appear otherwise;

(J) Substituting a different animal for the animal registered or entered in the exhibition without the permission of a responsible official of the exhibition.

(II) "Tamper" does not include any action taken or activity performed or administered by a licensed veterinarian or in accordance with instructions of a licensed veterinarian if the action or activity was undertaken for accepted medical purposes during the course of a valid veterinarian-client-patient relationship or any action taken as part of accepted grooming, ranching, commercial, or medical practices. "Tampering" shall not be construed to include normal ranching practices.

(2)(a) No person shall commit any act in this state that would constitute tampering with or sabotaging any livestock that has been registered, entered, or exhibited in any exhibition in this state.

(b) No person shall administer, dispense, distribute, manufacture, possess, sell, or use any drug to or for livestock unless such drug is approved by the United States food and drug administration or the United States department of agriculture; except that, if either agency has approved an application submitted for investigational use in accordance with the "Federal Food, Drug, and Cosmetic Act", the drug may be used only for the approved investigational use.

(c) No person shall administer, distribute, possess, sell, or use any dangerous drug to or for livestock unless the drug is accompanied by a prescription issued by a licensed veterinarian entitled to practice in this state.

(3) Any person who violates the provisions of this section commits a class 1 misdemeanor. However, in lieu of the fine provided in section 18-1.3-501, the court may impose a fine of not less than one thousand dollars or more than one hundred thousand dollars.

(4) The name and photograph of any person convicted of violating the provisions of this section shall be made available for publication in newspapers of general circulation and trade journals.

§ 18-9-208. Forfeiture of animals

(1) Upon the motion of the prosecuting attorney or upon the court's own motion, after the conviction of a defendant for cruelty to animals as described in section 18-9-202, or for animal fighting as described in section 18-9-204, the court may order the forfeiture of any animal owned by or in the custody of the defendant that:

- (a) Was abused, neglected, mistreated, injured, or used by the defendant during the course of the criminal episode that gave rise to such conviction;
- (b) Participated in or was affected by any act set forth in section 18-9-204(1).

(2)(a) If an animal is the subject of a motion made under subsection (1) of this section and is not owned by the defendant, the court may nevertheless enter an order of forfeiture of the animal if the court finds that:

- (I) The animal was abandoned prior to the criminal episode described in subsection (1) of this section;
- (II) The owner of the animal is unknown; or
- (III) The owner of the animal is known but cannot be located.

(b) Any person who contests a motion brought under this section shall establish such person's standing as a true owner of the animal. The factors to be considered by the court in determining whether such person is a true owner shall include, but shall not be limited to, the following:

- (I) Whether the person was the primary user, custodian, or possessor of the animal;
- (II) Whether there is evidence that ownership of the animal is vested in the person;
- (III) Whether consideration was paid for the purchase of the animal, and, if so, how much of the consideration was furnished by the person.

(c) If the court determines that a person other than the defendant is the true owner of the animal, the court may not enter an order forfeiting the animal under this section unless the court finds:

- (I) The true owner was involved in the criminal episode described in subsection (1) of this section;
- (II) The true owner knew or reasonably should have known of the criminal episode described in subsection (1) of this section and failed to take all reasonable steps available to him or her to prevent it; or
- (III) Ownership of the animal was conveyed to the true owner in order to avoid a forfeiture.

(3) An order of forfeiture entered pursuant to this section shall provide for the immediate disposition of the forfeited animal by any means described in section 18-9-201 (2.5) other than return to the owner. If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(4) The owner or custodian of an animal that is the subject of a motion brought under this section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall the prosecuting attorney or the office of the prosecuting attorney be liable for such cost.

(5) The court in its discretion may order a forfeiture authorized by this section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

§ 18-9-209. Immunity for reporting animal cruelty--false report--penalty

(1) Except as otherwise provided in subsection (2) of this section, a person who, in good faith, reports a suspected incident of animal cruelty, as described in section 18-9-202, to a local law enforcement agency or to the state bureau of animal protection shall be immune from civil liability for reporting the incident.

(2) The provisions of subsection (1) of this section shall not apply to a person who knowingly makes a false report of animal cruelty.

(3) A person who knowingly makes a false report of animal cruelty to a local law enforcement agency or to the state bureau of animal protection commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501.

§ 35-80-101. Short title

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

§ 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.

(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 wildlife or the United States fish and wildlife service, or euthanasia.

(6.5) "Dog breeder" means any firm, person, or corporation which is engaged in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring same, 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 at least twenty-five 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.

(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, 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.

(11.8) "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.

§ 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 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.

(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).

§ 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.

§ 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 three hundred fifty dollars per license.
- (5) Each pet animal facility license shall expire on March 1 of each year.
- (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.

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

- (1) Each pet animal facility shall apply to renew its license on or before the first working day of March for the year of renewal. 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 first working day of March for the year of renewal, 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 not postmarked on or before April 1, 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.

§ 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.

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

(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 October 1 of each year.

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

§ 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.

§ 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:

(I) Any type of turtle with a length in carapace of less than four inches; or

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

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

(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 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.