

## SB0057S01 compared with SB0057

~~deleted text~~ shows text that was in SB0057 but was deleted in SB0057S01.

inserted text shows text that was not in SB0057 but was inserted into SB0057S01.

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Senator Dennis E. Stowell proposes the following substitute bill:

### ANIMAL CONTROL ~~§~~ EXCEPTION FOR COMMUNITY CAT MANAGEMENT INITIATIVE

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dennis E. Stowell**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill creates an Animal Welfare chapter in Title 11, Cities, Counties, and Local Taxing Units, and provides minimum requirements for any county or municipality to set up a community cat management program.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ sets minimum requirements for community cat management programs;
- ▶ allows for the registration of community cat colonies by a sponsor;
- ▶ requires the sponsor of a cat colony to actively trap cats in the colony for the

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purpose of sterilizing, vaccinating, and ear-tipping before returning the cat to its original location;

- ▶ requires the sponsor of a cat colony to maintain records on each cat;
- ▶ allows a county or municipality to charge a minimum fee to register a cat colony; and
- ▶ exempts a cat from the three-day mandatory hold requirement if the cat is eligible to participate in the community cat management program.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**77-24-1.5**, as last amended by Laws of Utah 2005, Chapter 126

ENACTS:

**11-46-101**, Utah Code Annotated 1953

**11-46-102**, Utah Code Annotated 1953

**11-46-103**, Utah Code Annotated 1953

**11-46-201**, Utah Code Annotated 1953

**11-46-301**, Utah Code Annotated 1953

**11-46-302**, Utah Code Annotated 1953

**11-46-303**, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

**11-46-202**, (Renumbered from 17-42-102, as last amended by Laws of Utah 2003, Chapter 292)

**11-46-203**, (Renumbered from 17-42-103, as last amended by Laws of Utah 2000, Chapter 217)

**11-46-204**, (Renumbered from 17-42-104, as last amended by Laws of Utah 2000, Chapter 217)

**11-46-205**, (Renumbered from 17-42-105, as last amended by Laws of Utah 2000, Chapter 217)

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**11-46-206**, (Renumbered from 17-42-105.5, as enacted by Laws of Utah 2000, Chapter 217)

**11-46-207**, (Renumbered from 17-42-106, as enacted by Laws of Utah 1998, Chapter 156)

**11-46-208**, (Renumbered from 17-42-107, as enacted by Laws of Utah 1998, Chapter 156)

### REPEALS:

**10-8-64**, as last amended by Laws of Utah 2009, Chapter 282

**10-17-101**, as enacted by Laws of Utah 1998, Chapter 156

**10-17-102**, as last amended by Laws of Utah 2003, Chapter 292

**10-17-103**, as last amended by Laws of Utah 2000, Chapter 217

**10-17-104**, as last amended by Laws of Utah 2000, Chapter 217

**10-17-105**, as last amended by Laws of Utah 2000, Chapter 217

**10-17-105.5**, as enacted by Laws of Utah 2000, Chapter 217

**10-17-106**, as enacted by Laws of Utah 1998, Chapter 156

**10-17-107**, as enacted by Laws of Utah 1998, Chapter 156

**17-42-101**, as enacted by Laws of Utah 1998, Chapter 156

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **11-46-101** is enacted to read:

### **CHAPTER 46. ANIMAL WELFARE ACT**

#### **Part 1. General Provisions**

##### **11-46-101. Title.**

This chapter is known as the "Animal Welfare Act."

Section 2. Section **11-46-102** is enacted to read:

##### **11-46-102. Definitions.**

As used in this chapter:

(1) "Animal" means a cat or dog.

(2) "Animal control officer" means any person employed or appointed by a county or a municipality who is authorized to investigate violations of laws and ordinances concerning animals, to issue citations in accordance with Utah law, and take custody of animals as

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appropriate in the enforcement of the laws and ordinances.

(3) "Animal shelter" means a facility or program:

(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; ~~and~~ or

(b) ~~operated by:~~

~~(i) a first or second class county as defined in Section 17-50-501;~~

~~(ii) a city of the first, second, or third class;~~

~~(iii) a first or second class county operating jointly with any municipality; or~~

~~(iv) a private humane society or private animal welfare organization ~~located within a first or second class county or within a city of the first, second, or third class.~~~~

(4) "Person" means an individual, an entity, or a representative of an entity.

Section 3. Section **11-46-103** is enacted to read:

### **11-46-103. Stray animals.**

(1) Each municipal or county animal control officer shall hold any unidentified or unclaimed stray animal in safe and humane custody for a minimum of three business days after the time of impound and prior to making any final disposition of the animal.

(2) A record of each animal held shall be maintained. The record shall include:

(a) date of impound;

(b) date of disposition; and

(c) method of disposition, which may be:

(i) placement in an adoptive home or other transfer of the animal, which shall be in compliance with Part 2, Animal Shelter Pet Sterilization Act;

(ii) return to its owner;

(iii) placement in a community cat program; or

(iv) euthanasia.

(3) Any cats eligible for ~~and released to~~ a Community Cat Management Program under Part 3, Community Cat Management Act, are exempt from the three-day requirement in Subsection (1).

(4) An unidentified or unclaimed stray animal may be euthanized prior to the completion of the three working day minimum holding period to prevent unnecessary suffering

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due to serious injury or disease, if the euthanasia is in compliance with written agency or department policies and procedures, and with any local ordinances allowing the euthanasia.

(5) An unidentified or unclaimed stray animal shall be returned to its owner upon:

(a) proof of ownership;

(b) compliance with requirements of local animal control ordinances; and

(c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

Section 4. Section **11-46-201** is enacted to read:

### **Part 2. Animal Shelter Pet Sterilization Act**

#### **11-46-201. Title.**

This part is known as the "Animal Shelter Pet Sterilization Act."

Section 5. Section **11-46-202**, which is renumbered from Section 17-42-102 is renumbered and amended to read:

#### ~~[17-42-102].~~ **11-46-202. Definitions.**

~~[As]~~ In addition to the definitions in Section 11-46-102, as used in this [chapter] part:

~~[(1) "Animal" means a cat or dog.]~~

~~[(2) "Animal shelter" means a facility or program:]~~

~~[(a) providing services for stray, lost, or unwanted animals, including holding and placing the animals for adoption, but does not include an institution conducting research on animals, as defined in Section 26-26-1; and]~~

~~[(b) operated by:]~~

~~[(i) a first or second class county as defined in Section 17-50-501;]~~

~~[(ii) a city of the first, second, or third class;]~~

~~[(iii) a first or second class county operating the shelter jointly with any municipality; or]~~

~~[(iv) a private humane society or private animal welfare organization located within a first or second class county or within a city of the first, second, or third class.]~~

~~[(3) "Person" means an individual, an entity, or a representative of an entity.]~~

~~[(4)]~~ (1) "Proof of sterilization" means a written document signed by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:

(a) a specified animal has been sterilized;

(b) the date on which the sterilization was performed; and

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(c) the location where the sterilization was performed.

~~[(5)]~~ (2) "Recipient" means the person to whom an animal shelter transfers an animal for adoption.

~~[(6)]~~ (3) "Sterilization deposit" means the portion of a fee charged by an animal shelter to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in accordance with an agreement between the recipient or the claimant and the animal shelter.

~~[(7)]~~ (4) "Sterilized" means that an animal has been surgically altered either by the spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.

~~[(8)]~~ (5) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 6. Section **11-46-203**, which is renumbered from Section 17-42-103 is renumbered and amended to read:

~~[17-42-103].~~            **11-46-203.** **Animal shelters to transfer only sterilized animals, or shall require sterilization deposit.**

(1) An animal shelter may not transfer an animal that has not been sterilized, except as provided in Subsection (2) or Section ~~[17-42-105.5]~~ 11-46-206.

(2) An animal shelter may transfer an animal for adoption that has not been sterilized only if the animal shelter:

(a) establishes a written agreement, executed by the recipient, stating the animal is not sterilized and the recipient agrees in writing to be responsible for ensuring the animal is sterilized:

(i) within 30 days after the agreement is signed, if the animal is six months of age or older; or

(ii) if the animal is younger than six months of age, within 30 days after the animal becomes six months of age; and

(b) receives from the recipient a sterilization deposit as provided under Section ~~[17-42-104]~~ 11-46-204, the terms of which are part of the written agreement executed by the recipient ~~[under]~~ in accordance with this section.

(3) The shelter may **waive the sterilization deposit and** release any **unsterilized** animal to a sponsor, as defined in Section 11-46-302, provided the sponsor is a non-profit organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code and

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provides proof of sterilization within 30 days.

Section 7. Section **11-46-204**, which is renumbered from Section 17-42-104 is renumbered and amended to read:

~~[17-42-104].~~            **11-46-204. Sterilization deposit.**

(1) A sterilization deposit may be:

(a) a portion of the adoption fee or purchase price of the ~~[pet]~~ animal, which will enable the adopter to take the ~~[pet]~~ animal for sterilization to a veterinarian with whom the animal shelter has an agreement that the veterinarian will bill the animal shelter directly for the sterilization;

(b) a deposit that is:

(i) refundable to the recipient if proof of sterilization of the animal within the appropriate time limits under Section ~~[17-42-103]~~ 11-46-203 is presented to the animal shelter not more than three months after the date the animal is sterilized; and

(ii) forfeited to the animal shelter if proof of sterilization is not presented to the animal shelter in compliance with Subsection (1)(b)(i); or

(c) a deposit under Section ~~[17-42-105.5]~~ 11-46-206 required for an owner to claim an unsterilized animal impounded at the animal shelter.

(2) Sterilization deposits under Subsection (1) shall reflect the average reduced cost of a sterilization of an animal, based on the gender and weight of the animal, that is reasonably available in the area where the animal shelter is located, but the deposit may not be less than \$25.

(3) If a female ~~[dog or cat]~~ animal and her litter are transferred to one person, a sterilization deposit is required only for the female ~~[dog or cat]~~ animal.

(4) All sterilization deposits forfeited or unclaimed under this section shall be retained by the animal shelter and ~~[shall be]~~ used by the animal shelter only for:

(a) a program to sterilize animals, which may include a sliding scale fee program;

(b) a public education program to reduce and prevent overpopulation of animals and the related costs to local governments;

(c) a follow-up program to assure that animals transferred by the animal shelter are sterilized in accordance with the agreement executed under Section ~~[17-42-103]~~ 11-46-203; and

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(d) any additional costs incurred by the animal shelter in the administration of the requirements of this chapter.

Section 8. Section **11-46-205**, which is renumbered from Section 17-42-105 is renumbered and amended to read:

~~[17-42-105].~~            **11-46-205. Failure to comply with sterilization agreement.**

If a recipient fails to comply with the sterilization agreement under Subsection ~~[17-42-103]~~ 11-46-203(2):

- (1) the failure is ground for seizure and impoundment of the animal by the animal shelter from whom the recipient obtained the animal;
- (2) the recipient relinquishes all ownership rights regarding the animal and any claim to expenses incurred in maintenance and care of the animal; and
- (3) the recipient forfeits the sterilization deposit.

Section 9. Section **11-46-206**, which is renumbered from Section 17-42-105.5 is renumbered and amended to read:

~~[17-42-105.5].~~            **11-46-206. Sterilization deposit -- When required for redemption by owner of impounded animal.**

(1) Upon the second impound within a 12-month period and upon any subsequent impound of an animal that is claimed by its owner, an animal shelter may release the impounded animal to its owner only upon payment of all impound fees required by the shelter and:

- (a) receipt of proof the animal has been sterilized; or
  - (b) a sterilization deposit.
- (2) The sterilization deposit shall be refunded to the owner only if the owner provides proof of sterilization to the animal shelter within 30 days of release of the animal to the owner.

Section 10. Section **11-46-207**, which is renumbered from Section 17-42-106 is renumbered and amended to read:

~~[17-42-106].~~            **11-46-207. Penalties.**

- (1) (a) A person who knowingly commits any of the violations in Subsection (2) is subject to a civil penalty of not less than \$250 on a first violation ~~[of Subsection (2)]~~, and a civil penalty of not less than \$500 on any second or subsequent violation ~~[of Subsection (2)]~~.
- (b) The administrator of the animal shelter imposes the civil penalties under this

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section.

(2) A person is subject to the civil penalties under Subsection (1) who:

(a) falsifies any proof of sterilization submitted for the purpose of compliance with this ~~[chapter]~~ part;

(b) provides to an animal shelter or a licensed veterinarian inaccurate information regarding ownership of any animal required to be submitted for sterilization under this ~~[chapter]~~ part;

(c) submits to an animal shelter false information regarding sterilization fees or fee schedules; or

(d) issues a check for insufficient funds for any sterilization deposit required of the person under this ~~[chapter]~~ part.

(3) A person who contests a civil penalty imposed ~~[against him]~~ under this section is entitled to an administrative hearing that provides for the person's rights of due process.

(4) All penalties collected under this section shall be retained by the animal shelter imposing the penalties, to be used solely for the purposes ~~[under]~~ of Subsection ~~[17-42-104]~~ 11-46-204(4).

Section 11. Section **11-46-208**, which is renumbered from Section 17-42-107 is renumbered and amended to read:

~~[17-42-107]~~.            **11-46-208. Local ordinances may be no less restrictive.**

Local ordinances or the adoption or placement procedures of any animal shelter shall be at least as restrictive as the provisions of this ~~[chapter]~~ part.

Section 12. Section **11-46-301** is enacted to read:

### **Part 3. Community Cat Management Act**

**11-46-301. Title.**

This part is known as the "Community Cat Management Act."

Section 13. Section **11-46-302** is enacted to read:

**11-46-302. Definitions.**

In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:

(1) "Community cat" means a feral or free-roaming cat that is without visibly discernable owner identification of any kind, and has been sterilized, vaccinated, and ear-tipped.

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(2) "Community cat caretaker" means any person other than an owner who provides food, water, or shelter to a community cat or community cat colony.

(3) "Community cat colony" means a group of cats that congregates together. Although not every cat in a colony may be a community cat, any cats owned by individuals that congregate with a colony are considered part of it.

(4) "Community cat management program" means a program pursuant to which community cats are sterilized, vaccinated against rabies, and returned to the location where they congregate.

(5) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized for sterilization.

(6) "Feral" has the same meaning as in Section 23-13-2.

(7) "Sponsor" means any animal humane society, non-profit organization, animal rescue, adoption organization, or a designated community cat caretaker that agrees to comply with the requirements of this chapter and maintain written records that are accessible to an animal control officer upon request.

Section 14. Section **11-46-303** is enacted to read:

### **11-46-303. Community cat management program.**

(1) A community cat is exempt from licensing requirements and feeding bans.

(2) The following cats are eligible for release from an animal shelter prior to the mandatory three-day hold period in Section 11-46-103:

(a) a feral or free-roaming cat if eligible for the community cat management program in this part; and

(b) a community cat.

(3) Any county or municipality may create a community cat management program. Any program created shall meet minimum standards set by this part.

(4) A county or municipality may allow individuals or sponsors to trap, sterilize, ear-tip, and vaccinate any feral or free-roaming cat in the community.

(5) ~~A community cat management program shall require from each sponsor:~~

~~(a) registration of each cat colony a sponsor maintains; and~~

~~(b) a statement that all cats in the colony are sterilized, vaccinated, and ear-tipped, or that cats within the colony are being actively trapped in order to be sterilized, vaccinated, and~~

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ear-tipped.

~~(6)~~ } The sponsor of a cat colony shall register each colony ~~{the sponsor maintains and provide the approximate location of each colony to}~~ with the county or municipality, providing the approximate location and size of each colony as well as the number of cats trapped, neutered, and returned.

~~(7)~~ 6 The county or municipality may assess a fee of not more than \$15 for each colony registered. Upon registration, the county or municipality shall provide to the sponsor a document verifying the registration and indicating the approximate location of the registered colony.

~~(8)~~ 7 The sponsor of a registered cat colony shall provide to the county or municipality upon request:

- (a) the number and location by zip code of colonies for which it acts as a sponsor;
- (b) the total number of cats in each of its colonies;
- (c) a description of each cat in each colony; and
- (d) sterilization and vaccination records for each cat in the sponsor's colonies.

~~(9)~~ 8 Sterilization and vaccination records shall be maintained for a minimum of three years.

~~(10)~~ 9 Community cat sponsors or caretakers do not have custody, as defined in Section 76-9-301, of any cat in a community cat colony. Cats in a colony that are obviously owned, as evidenced by a collar, tags, or other discernable owner identification, are not exempt from the provisions of Title 76, Chapter 9, Part 3, Cruelty to Animals.

~~(11)~~ 10 If a county and a municipality within that county both create a community cat management program, they shall coordinate their efforts in order not to require dual registration for colonies within their borders.

Section 15. Section ~~77-24-1.5~~ is amended to read:

### **77-24-1.5. Safekeeping by officer pending disposition -- Records required.**

~~(1)~~ Each peace officer shall:

~~(a)~~ (1) hold all property in safe custody:

~~(i)~~ (a) until it is received into evidence; or

~~(ii)~~ (b) if it is not used as evidence, until it can be disposed of as provided in this

chapter; and

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~~[(b)] (2) maintain a proper record of the property that identifies:~~

~~[(i)] (a) the owner of the property, if known; and~~

~~[(ii)] (b) the case for which it was taken or received and is being held.~~

~~[(2) (a) Each municipal or county animal control officer shall hold any unidentified or unclaimed stray dog or stray cat in safe and humane custody for a minimum of three working days after the time of impound prior to making any final disposition of the animal, including:]~~

~~[(i) placement in an adoptive home or other transfer of the animal, which shall be in compliance with Title 10, Chapter 17, Municipal Animal Shelter Pet Sterilization Act, or Title 17, Chapter 42, County Animal Shelter Pet Sterilization Act; or]~~

~~[(ii) euthanasia.]~~

~~[(b) An unidentified or unclaimed stray dog or stray cat may be euthanized prior to the completion of the three working day minimum holding period to prevent unnecessary suffering due to serious injury or disease, if the euthanasia is in compliance with written established agency or department policies and procedures, and with any local ordinances allowing the destruction.]~~

~~[(c) An unidentified or unclaimed stray dog or stray cat shall be returned to its owner upon:]~~

~~[(i) proof of ownership;]~~

~~[(ii) compliance with requirements of local animal control ordinances; and]~~

~~[(iii) compliance with Title 10, Chapter 17, Municipal Animal Shelter Pet Sterilization Act, or Title 17, Chapter 42, County Animal Shelter Pet Sterilization Act.]~~

**Section 16. Repealer.**

This bill repeals:

**Section 10-8-64, Livestock at large -- Pound -- Distraint.**

**Section 10-17-101, Title.**

**Section 10-17-102, Definitions.**

**Section 10-17-103, Animal shelters shall transfer only sterilized animals, or shall require sterilization deposit.**

**Section 10-17-104, Sterilization deposit.**

**Section 10-17-105, Failure to comply with sterilization agreement.**

**Section 10-17-105.5, Sterilization deposit -- When required for redemption by**

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**owner of impounded animal.**

Section 10-17-106, Penalties.

Section 10-17-107, Local ordinances may be no less restrictive.

Section 17-42-101, Title.

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**Legislative Review Note**

~~as of 1-28-11 10:55 AM~~

~~Office of Legislative Research and General Counsel}~~