

ANIMAL SHELTER PET STERILIZATION ACT

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert C. Steiner

AN ACT RELATING TO LOCAL GOVERNMENT AND ANIMAL WELFARE; PROVIDING THAT ANIMAL SHELTERS AND ORGANIZATIONS SHALL ALTER CATS AND DOGS BEFORE PLACEMENT; LIMITING APPLICATION OF THIS PROVISION TO COUNTIES AND MUNICIPALITIES OF SPECIFIED OR GREATER LEVELS OF POPULATION; REQUIRING THAT IF A CAT OR DOG IS NOT STERILIZED WHEN PLACED, THE PERSON RECEIVING THE ANIMAL MUST PROVIDE A STERILIZATION DEPOSIT THAT IS SUBJECT TO FORFEITURE FOR NONCOMPLIANCE; PROVIDING THAT ANIMAL SHELTERS SHALL APPLY FORFEITED DEPOSITS TO REDUCING PET OVERPOPULATION; AND PROVIDING A CIVIL PENALTY FOR NONCOMPLIANCE OR MISREPRESENTATION.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-24-1.5, as last amended by Chapter 104, Laws of Utah 1995

ENACTS:

10-17-101, Utah Code Annotated 1953

10-17-102, Utah Code Annotated 1953

10-17-103, Utah Code Annotated 1953

10-17-104, Utah Code Annotated 1953

10-17-105, Utah Code Annotated 1953

10-17-106, Utah Code Annotated 1953

10-17-107, Utah Code Annotated 1953

17-42-101, Utah Code Annotated 1953

17-42-102, Utah Code Annotated 1953

17-42-103, Utah Code Annotated 1953

17-42-104, Utah Code Annotated 1953

17-42-105, Utah Code Annotated 1953

17-42-106, Utah Code Annotated 1953

17-42-107, Utah Code Annotated 1953

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

Section 1. Section 10-17-101 is enacted to read:

CHAPTER 17. MUNICIPAL ANIMAL SHELTER PET STERILIZATION ACT

10-17-101. Title.

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

Section 2. Section 10-17-102 is enacted to read:

10-17-102. Definitions.

As used in this chapter:

(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 17-16-13;

(ii) a municipality with a population of 40,000 or greater;

(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 municipality with a population of 40,000 or greater.

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

(4) "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

(c) the location where the sterilization was performed.

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

(6) "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) "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) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 3. Section **10-17-103** is enacted to read:

10-17-103. Animal shelters shall 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).

(2) An animal shelter may transfer an animal 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 10-17-104, the terms of which are part of the written agreement executed by the recipient under this section.

Section 4. Section **10-17-104** is enacted to read:

10-17-104. Sterilization deposit.

(1) A sterilization deposit may be:

(a) a portion of the adoption fee or purchase price of the pet, which will enable the adopter

to take the pet 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 10-17-103 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 10-17-106 required 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 and her litter are transferred to one person, a sterilization deposit is required only for the female dog or cat.

(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 10-17-103; and

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

Section 5. Section **10-17-105** is enacted to read:

10-17-105. Failure to comply with sterilization agreement.

If a recipient fails to comply with the sterilization agreement under Section 10-17-103:

(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 6. Section **10-17-106** is enacted to read:

10-17-106. 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 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;

(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;

(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.

(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 Subsection 10-17-104(4).

Section 7. Section **10-17-107** is enacted to read:

10-17-107. 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.

Section 8. Section **17-42-101** is enacted to read:

CHAPTER 42. COUNTY ANIMAL SHELTER PET STERILIZATION ACT**17-42-101. Title.**

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

Section 9. Section **17-42-102** is enacted to read:

17-42-102. Definitions.

As used in this chapter:

(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 17-16-13;

(ii) a municipality with a population of 40,000 or greater;

(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 municipality with a population of 40,000 or greater.

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

(4) "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

(c) the location where the sterilization was performed.

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

(6) "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) "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) "Transfer" means that an animal shelter sells, gives away, places for adoption, or transfers an animal to a recipient.

Section 10. Section **17-42-103** is enacted to read:

17-42-103. Animal shelters shall 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).

(2) An animal shelter may transfer an animal 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, the terms of which are part of the written agreement executed by the recipient under this section.

Section 11. Section **17-42-104** is enacted to read:

17-42-104. Sterilization deposit.

(1) A sterilization deposit may be:

(a) a portion of the adoption fee or purchase price of the pet, which will enable the adopter to take the pet 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 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 17-42-106 required 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 and her litter are transferred to one person, a sterilization deposit is required only for the female dog or cat.

(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; and

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

Section 12. Section **17-42-105** is enacted to read:

17-42-105. Failure to comply with sterilization agreement.

If a recipient fails to comply with the sterilization agreement under Section 17-42-103:

(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 13. Section **17-42-106** is enacted to read:

17-42-106. 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 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;

(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;

(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.

(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 Subsection 17-42-104(4).

Section 14. Section **17-42-107** is enacted to read:

17-42-107. 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.

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

77-24-1.5. Safekeeping by officer pending disposition -- Records required -- Stray animals.

(1) Each peace officer shall:

(a) hold custodial property in safe custody:

(i) until it is received into evidence; or

- (ii) if it is not used as evidence, until it can be disposed of as provided in this chapter; and
- (b) maintain a proper record of the custodial property that identifies:
 - (i) the owner of the custodial property, if known; and
 - (ii) 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 [and upon];

(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.