

Senator Dennis E. Stowell proposes the following substitute bill:

ANIMAL CONTROL - EXCEPTION FOR COMMUNITY CATS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill creates an Animal Welfare chapter in Title 11, Cities, Counties, and Local Taxing Units.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ defines a sponsor of a cat colony as a person who actively traps cats in a colony for the purpose of sterilizing, vaccinating, and ear-tipping before returning the cat to its original location;
- ▶ exempts community cats from the ~~H→~~ [three] five ~~←H~~ -day mandatory hold requirement;

~~H→~~ ▶ allows a city or county to set up a permitting process for cat colonies and provide notice to adjacent property owners; ~~←H~~ and

▶ allows a shelter that receives a feral cat to release it to a sponsor that operates a community cat program.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~H→~~ [None] This bill coordinates with H.B. 273, Animal Control Amendments, by providing substantive and technical amendments. ~~←H~~

Utah Code Sections Affected:

AMENDS:



26 **77-24-1.5**, as last amended by Laws of Utah 2005, Chapter 126

27 ENACTS:

28 **11-46-101**, Utah Code Annotated 1953

29 **11-46-102**, Utah Code Annotated 1953

30 **11-46-103**, Utah Code Annotated 1953

31 **11-46-201**, Utah Code Annotated 1953

32 **11-46-301**, Utah Code Annotated 1953

33 **11-46-302**, Utah Code Annotated 1953

34 **11-46-303**, Utah Code Annotated 1953

34a **Ĥ→ 11-46-304, Utah Code Annotated 1953 ←Ĥ**

35 RENUMBERS AND AMENDS:

36 **11-46-202**, (Renumbered from 17-42-102, as last amended by Laws of Utah 2003,
37 Chapter 292)

38 **11-46-203**, (Renumbered from 17-42-103, as last amended by Laws of Utah 2000,
39 Chapter 217)

40 **11-46-204**, (Renumbered from 17-42-104, as last amended by Laws of Utah 2000,
41 Chapter 217)

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

44 **11-46-206**, (Renumbered from 17-42-105.5, as enacted by Laws of Utah 2000, Chapter
45 217)

46 **11-46-207**, (Renumbered from 17-42-106, as enacted by Laws of Utah 1998, Chapter
47 156)

48 **11-46-208**, (Renumbered from 17-42-107, as enacted by Laws of Utah 1998, Chapter
49 156)

50 REPEALS:

51 **10-8-64**, as last amended by Laws of Utah 2009, Chapter 282

52 **10-17-101**, as enacted by Laws of Utah 1998, Chapter 156

53 **10-17-102**, as last amended by Laws of Utah 2003, Chapter 292

54 **10-17-103**, as last amended by Laws of Utah 2000, Chapter 217

55 **10-17-104**, as last amended by Laws of Utah 2000, Chapter 217

56 **10-17-105**, as last amended by Laws of Utah 2000, Chapter 217

57 10-17-105.5, as enacted by Laws of Utah 2000, Chapter 217

58 10-17-106, as enacted by Laws of Utah 1998, Chapter 156

59 10-17-107, as enacted by Laws of Utah 1998, Chapter 156

60 17-42-101, as enacted by Laws of Utah 1998, Chapter 156

60a **H→ Utah Code Sections Affected by Coordination Clause:**

60b **11-46-102, Utah Code Annotated 1953**

60c **11-46-302, Utah Code Annotated 1953 ←H**



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

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

64 **CHAPTER 46. ANIMAL WELFARE ACT**

65 **Part 1. General Provisions**

66 **11-46-101. Title.**

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

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

69 **11-46-102. Definitions.**

70 As used in this chapter:

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

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

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

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

80 (b) a private humane society or private animal welfare organization.

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

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

83 **11-46-103. Stray animals.**

84 (1) Each municipal or county animal control officer shall hold any unidentified or
85 unclaimed stray animal in safe and humane custody for a minimum of H→ [three] five ←H business
85a days after

86 the time of impound and prior to making any final disposition of the animal.

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

- 88 (a) date of impound;
- 89 (b) date of disposition; and
- 90 (c) method of disposition, which may be:
- 91 (i) placement in an adoptive home or other transfer of the animal, which shall be in
- 92 compliance with Part 2, Animal Shelter Pet Sterilization Act;
- 93 (ii) return to its owner;
- 94 (iii) placement in a community cat program as defined in Section 11-46-302; or
- 95 (iv) euthanasia.

96 (3) An unidentified or unclaimed stray animal may be euthanized prior to the
 97 completion of the ~~five~~ **three** ~~five~~ working day minimum holding period to prevent
 97a unnecessary suffering
 98 due to serious injury or disease, if the euthanasia is in compliance with written agency or
 99 department policies and procedures, and with any local ordinances allowing the euthanasia.

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

- 101 (a) proof of ownership;
- 102 (b) compliance with requirements of local animal control ordinances; and
- 103 (c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

104 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."

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

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

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

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

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

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

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

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

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

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

121 ~~or]~~

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

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

125 ~~[(4)] (1) "Proof of sterilization" means a written document signed by a veterinarian~~
126 ~~licensed under Title 58, Chapter 28, Veterinary Practice Act, stating:~~

127 (a) a specified animal has been sterilized;

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

129 (c) the location where the sterilization was performed.

130 ~~[(5)] (2) "Recipient" means the person to whom an animal shelter transfers an animal~~
131 ~~for adoption.~~

132 ~~[(6)] (3) "Sterilization deposit" means the portion of a fee charged by an animal shelter~~
133 ~~to a recipient or claimant of an unsterilized animal to ensure the animal is timely sterilized in~~
134 ~~accordance with an agreement between the recipient or the claimant and the animal shelter.~~

135 ~~[(7)] (4) "Sterilized" means that an animal has been surgically altered either by the~~
136 ~~spaying of a female animal or by the neutering of a male animal, so it is unable to reproduce.~~

137 ~~[(8)] (5) "Transfer" means that an animal shelter sells, gives away, places for adoption,~~
138 ~~or transfers an animal to a recipient.~~

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

141 ~~[17-42-103].~~ **11-46-203. Animal shelters to transfer only sterilized**
142 **animals, or shall require sterilization deposit.**

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

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

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

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

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

154 (b) receives from the recipient a sterilization deposit as provided under Section
155 [~~17-42-104~~] 11-46-204, the terms of which are part of the written agreement executed by the
156 recipient [~~under~~] in accordance with this section.

157 (3) The shelter may waive the sterilization deposit and release any unsterilized animal
158 to a sponsor, as defined in Section 11-46-302, provided the sponsor is a non-profit organization
159 that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code and
160 provides proof of sterilization within 30 days.

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

163 [~~17-42-104~~]. **11-46-204. Sterilization deposit.**

164 (1) A sterilization deposit may be:

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

169 (b) a deposit that is:

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

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

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

177 (2) Sterilization deposits under Subsection (1) shall reflect the average reduced cost of
178 a sterilization of an animal, based on the gender and weight of the animal, that is reasonably
179 available in the area where the animal shelter is located, but the deposit may not be less than
180 \$25.

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

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

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

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

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

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

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

195 [~~17-42-105~~]. **11-46-205. Failure to comply with sterilization agreement.**

196 If a recipient fails to comply with the sterilization agreement under Subsection
197 [~~17-42-103~~] 11-46-203(2):

198 (1) the failure is ground for seizure and impoundment of the animal by the animal
199 shelter from whom the recipient obtained the animal;

200 (2) the recipient relinquishes all ownership rights regarding the animal and any claim to
201 expenses incurred in maintenance and care of the animal; and

202 (3) the recipient forfeits the sterilization deposit.

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

205 [~~17-42-105.5~~]. **11-46-206. Sterilization deposit -- When required for**
206 **redemption by owner of impounded animal.**

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

211 (a) receipt of proof the animal has been sterilized; or

212 (b) a sterilization deposit.

213 (2) The sterilization deposit shall be refunded to the owner only if the owner provides
214 proof of sterilization to the animal shelter within 30 days of release of the animal to the owner.

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

217 ~~[17-42-106]~~. **11-46-207. Penalties.**

218 (1) (a) A person who knowingly commits any of the violations in Subsection (2) is
219 subject to a civil penalty of not less than \$250 on a first violation [~~of Subsection (2)~~], and a
220 civil penalty of not less than \$500 on any second or subsequent violation [~~of Subsection (2)~~].

221 (b) The administrator of the animal shelter imposes the civil penalties under this
222 section.

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

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

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

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

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

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

235 (4) All penalties collected under this section shall be retained by the animal shelter
236 imposing the penalties, to be used solely for the purposes [~~under~~] of Subsection [~~17-42-104~~]
237 11-46-204(4).

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

240 ~~[17-42-107]~~. **11-46-208. Local ordinances may be no less restrictive.**

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

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

244 **Part 3. Community Cat Act**

245 **11-46-301. Title.**

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

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

248 **11-46-302. Definitions.**

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

250 (1) "Community cat" means a feral or free-roaming cat that is without visibly
251 discernable ~~Ĥ→~~ or microchip ~~←Ĥ~~ owner identification of any kind, and has been sterilized,
251a vaccinated, and
252 ear-tipped.

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

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

258 (4) "Community cat program" means a program pursuant to which feral cats are
259 sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they
260 congregate.

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

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

264 (7) "Sponsor" means any person or organization that traps feral cats, sterilizes,
265 vaccinates against rabies, and ear-tips them before returning them to the location where they
266 were trapped. A sponsor may be any animal humane society, non-profit organization, animal
267 rescue, adoption organization, or a designated community cat caretaker that also maintains
268 written records on community cats.

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

270 **11-46-303. Community cats.**

271 (1) A cat received by a shelter under the provisions of Section 11-46-103 may be
272 released prior to the ~~Ĥ→~~ [three] five ~~←Ĥ~~ -day holding period to a sponsor that operates a
272a community cat
273 program.

274 (2) A community cat is:

275 (a) exempt from licensing requirements and feeding bans; and

276 (b) eligible for release from an animal shelter prior to the mandatory

276a ~~H→~~ **[three]** five ~~←H~~ -day hold

277 period in Section 11-46-103.

278 (3) Community cat sponsors or caretakers do not have custody, as defined in Section

279 76-9-301, of any cat in a community cat colony. Cats in a colony that are obviously owned, as

280 evidenced by a collar, tags, ~~H→~~ microchip, ~~←H~~ or other discernable owner identification, are not

280a exempt from the

281 provisions of Title 76, Chapter 9, Part 3, Cruelty to Animals.

282 (4) Sterilization and vaccination records shall be maintained for a minimum of three

283 years and be available to an animal control officer upon request.

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

285 **77-24-1.5. Safekeeping by officer pending disposition -- Records required.**

286 ~~[(+)]~~ Each peace officer shall:

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

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

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

290 chapter; and

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

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

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

294 ~~[(2) (a) Each municipal or county animal control officer shall hold any unidentified or~~

295 ~~unclaimed stray dog or stray cat in safe and humane custody for a minimum of three working~~

296 ~~days after the time of impound prior to making any final disposition of the animal, including:]~~

297 ~~[(i) placement in an adoptive home or other transfer of the animal, which shall be in~~

298 ~~compliance with Title 10, Chapter 17, Municipal Animal Shelter Pet Sterilization Act, or Title~~

299 ~~17, Chapter 42, County Animal Shelter Pet Sterilization Act; or]~~

300 ~~[(ii) euthanasia.]~~

301 ~~[(b) An unidentified or unclaimed stray dog or stray cat may be euthanized prior to the~~

302 ~~completion of the three working day minimum holding period to prevent unnecessary suffering~~

303 ~~due to serious injury or disease, if the euthanasia is in compliance with written established~~

304 ~~agency or department policies and procedures, and with any local ordinances allowing the~~

305 destruction.]

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

308 [(i) proof of ownership;]

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

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

311a **H→ Section 16. Section 11-46-304 is enacted to read:**

311b **11-46-304. Permit process for community cat colonies.**

311c **(1) A county or municipality may create a permitting process for community cat**
311d **colonies.**

311e **(2) Any permitting process created by a county or municipality shall provide notice to**
311f **adjacent property owners by:**

311g **(a) mailing notice to the record owner of each parcel within parameters specified by the**
311h **permitting process; or**

311i **(b) posting notice on the property with a sign of sufficient size, durability, print quality,**
311j **and location that is reasonably calculated to give notice to passers-by. ←H**

312 Section H→ [16.] 17. ←H Repealer.

313 This bill repeals:

314 Section 10-8-64, Livestock at large -- Pound -- Distrain.

315 Section 10-17-101, Title.

316 Section 10-17-102, Definitions.

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

319 Section 10-17-104, Sterilization deposit.

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

321 Section 10-17-105.5, Sterilization deposit -- When required for redemption by
322 owner of impounded animal.

323 Section 10-17-106, Penalties.

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

325 Section 17-42-101, Title.

325a **H→ Section 17. Coordinating S.B. 57 with H.B. 273 -- Substantive and technical amendments.**

325b **If this S.B. 57 and H.B. 273, Animal Control Amendments, both pass, it is the intent of**
325c **the Legislature that the Office of Legislative Research and General Counsel prepare the Utah**
325d **Code database for publication by:**

325e **(1) modifying Section 11-46-102 to read: ←H**

- 325f Ĥ→"11-46-102. Definitions.
- 325g As used in this chapter:
- 325h (1) "Animal" means a cat or dog.
- 325i (2) "Animal control officer" means any person employed or appointed by a county or a
- 325j municipality who is authorized to investigate violations of laws and ordinances concerning
- 325k animals, to issue citations in accordance with Utah law, and take custody of animals as
- 325l appropriate in the enforcement of the laws and ordinances.
- 325m (3) "Animal shelter" means a facility or program:
- 325n (a) providing services for stray, lost, or unwanted animals, including holding and
- 325o placing the animals for adoption, but does not include an institution conducting research on
- 325p animals, as defined in Section 26-26-1; or
- 325q (b) a private humane society or private animal welfare organization.
- 325r (4) "Community cat" means a feral or free-roaming cat that:
- 325s (a) is without visibly discernable or microchip owner identification of any kind; and
- 325t (b) is sterilized, vaccinated, and ear-tipped.
- 325u (5) "Community cat program" means a program pursuant to which feral cats are
- 325v sterilized, vaccinated against rabies, ear-tipped, and returned to the locatiion where they
- 325w congregate with other cats.
- 325x (6) "Person" means an individual, an entity, or a representative of an entity."; and
- 325y (2) modifying Section 11-46-302 to read:
- 325z "11-46-302. Definitions.
- 325aa In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:
- 325ab (1) "Community cat caretaker" means any person other than an owner who provides
- 325ac food, water, or shelter to a community cat or community cat colony.
- 325ad (2) "Community cat colony" means a group of cats that congregate together. Although
- 325ae not every cat in a colony may be a community cat, any cats owned by individuals that
- 325af congregate with a colony are considered part of it.
- 325ag (3) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's
- 325ah left ear while the cat is anesthetized for sterilization.
- 325ai (4) "Feral" has the same meaning as in Section 23-13-2.
- 325aj (5) "Sponsor" means any person or organization that traps feral cats, sterilizes,
- 325ak vaccinates against rabies, and ear-tips them before returning them to the location
- 325al where they were trapped. A sponsor may be any animal humane society, non-profit
- 325am organization, animal rescue, adoption organization, or a designated community cat caretaker
- 325an that also maintains written records on community cats." ←Ĥ

FISCAL NOTE

S.B. 57 2nd Sub. (Salmon)

SHORT TITLE: **Animal Control - Exception for Community Cats**

SPONSOR: **Stowell, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill could result in a potential saving for local governments of approximately \$20,000.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.