



## Frequently Asked Questions Regarding HB07- 1235- Animal Cruelty

### **1. Why does HB 1235 impact so many provisions? Why is this bill so important?**

House Bill 1235 covers a broad range of provisions because the bill closes several loopholes in the animal cruelty and animal protection statutes and adds additional provisions to help make communities safer. By closing these loopholes, the bill provides prosecutors with the tools they need to more effectively address animal cruelty. Although it may have been simpler to run several different bills that addressed, all of the proposed provisions are linked by their ability to remedy defects in the current animal cruelty law. By simultaneously closing a number of loopholes and clarifying several provisions, the bill gives prosecutors the legal muscle to charge more physically and sexually violent animal abusers for the crimes they have committed.

### **2. What if I prolong the decision to euthanize my own animal; can I be charged with a crime under either the existing statute or the proposed changes?**

No. The provisions in the cruelty statute and in the proposed changes (both in Title 18 and Title 35) dealing with euthanasia specifically cover the disposition of impounded animals or animals that have been declared dangerous. Also, it is important to understand that the euthanasia provision in 18-9-202.5 9 (financial bonding of impounded animals) and the euthanasia provision in 18-9-202 (cruelty to animals) apply to separate circumstances and should not be read together unless the specific circumstances of a case require it. Finally, because the cruelty statute is based in criminal law, a prosecutor must show that an individual intentionally, negligently, recklessly acted in such a way that an animal was subjected to cruel treatment. Accordingly, owners who provide adequate food, water, and care for by their animals, without any intent to harm them, could not be charged under the cruelty statute, with or without the proposed changes.

### **3. What does it mean in the existing provisions of 35-42-110 when an animal is being described as being in “the charge of” a bureau of animal protection agent or a peace officer? Does the proposed change allow an agent to euthanize any animal without a court order?**

Title 35, which governs the bureau of animal protection and its agents, allows such an agent to “take charge of” an animal if the agent finds that the animal has been mistreated, neglected, or abandoned to such a degree that the animal’s life or health are in danger. As result, the provisions are limited to those situations in which a bureau agent has seized an animal because it is in danger of suffering health consequences or death. If, and only if, a licensed veterinarian finds that the seized animal is experiencing extreme pain or suffering or is injured, disabled, or diseased past recovery, the animal may be euthanized without a court order. Where a veterinarian is not available, the bureau agent may seek

the signatures of two witnesses (including the animal's owner), and then humanely euthanize the animal.

**4. If an officer is called to the scene of a deer hit by car, will this bill affect his or her ability to put the animal down? In other words, how do the existing animal cruelty statute and the proposed changes affect wildlife?**

No. Neither the provisions in the existing animal cruelty statute, nor the proposed changes govern the disposition of wildlife. The taking and disposition of wildlife is clearly regulated under Title 33 of the state law. Nothing in this bill will affect the ability of a peace officer to respond to an incident involving wildlife or the ability of Department of Wildlife personnel to protect wildlife under Title 33. In fact, if there were ever a conflict between the animal cruelty statute and the wildlife statutes, the wildlife statutes always take precedence.

**5. I am concerned about the affect of the proposed changes on rural animal husbandry practices, particularly in defining the term "needlessly kill". Does anything in the existing cruelty statute or the proposed changes prevent an animal owner from humanely euthanizing an animal using a firearm?**

No. The animal cruelty statute specifically exempts accepted animal husbandry practices. Also, because euthanasia by gunshot is considered humane under the American Veterinary Medical Association's guidelines, an individual who determines that their animal needs to be euthanized may do so using a firearm.

**6. What happens if a rancher attempts to euthanize an animal using a firearm, but is unsuccessful? What if an animal is accidentally injured during the dehorning process? If the rancher calls a veterinarian to relieve the animal's suffering and end its life, would the rancher be charged with animal cruelty for "needlessly killing" an animal?**

No. Again, the animal cruelty statute specifically exempts accepted animal husbandry practices, and allows for the humane euthanasia of animals. Moreover, the animal cruelty statute requires that an individual intentionally, negligently, or recklessly treat an animal in such a way that rises to cruelty. Because the intent of the rancher in this situation is to dehorn the animal or to humanely euthanize the animal, indeed to prevent any additional suffering, the rancher would not be charged with cruelty.

**7. Why insert a definition of "needlessly kill" into the existing cruelty statute? Can't judges and prosecutors apply section 18-9-202(1.5) without such a clarification?**

Unfortunately, judges and prosecutors can only apply the law as it is written. Without express language that applies to cases where animals have been so severely injured that they need to be euthanized, the abhorrent actions that led to the euthanasia could go unpunished. Sadly, the existing "needlessly kill" language has already been tested in a case where an animal abuser threw a kitten against a wall, causing severe injury to the kitten. Because a veterinarian eventually euthanized the suffering animal, the animal abuser did not technically kill the kitten, and was consequently not charged with aggravated animal cruelty.

**8. Why do the proposed changes include animals as protected property in the context of restraining orders?**

Abusive spouses and partners often use the threat of violence against children and animals in the home to prevent their victims from leaving. The proposed change is important, because without it, judges and prosecutors may overlook animals in domestic violence cases, leaving both the victim and any animals in the house vulnerable to continued violence. Fortunately, the law already allows judges to include a variety of property in restraining orders, including real property and automobiles. As property, animals can also be included but they are seldom added to restraining orders, even where this inclusion may help a victim leave an abusive spouse or partner. By clarifying the fact that animals are already protected property, we have the opportunity to make a difference in the lives of domestic violence victims without expanding the authority of the courts and without the use of taxpayer dollars.

**9. Why include sexual acts with animals in the proposed changes? Doesn't the animal cruelty statute already prohibit such activity?**

Individuals who engage in these acts are dangerous, because they often go on to physically or sexually abuse people and animals. Current law does not prohibit sexual acts with animals, unless it can be shown that the animal was injured in the course of the act. Even if the animal does sustain injuries, it can be difficult to prove this fact in court. While many may smirk at the suggestion that we add sexual acts with animals to Colorado's cruelty bill, to prosecutors trying to fight against the practice and to the animals subjected to this reprehensible treatment, it is no laughing matter. No matter how uncomfortable the subject, it is important that Colorado take the necessary steps to prevent people from engaging in this horrible act.

**10. Why do the proposed changes penalize the owner of a dog that destroys property? Doesn't the change apply to all dogs, even a puppy that chews on its owner's socks? Can't this provision be used to fuel neighborhood disputes?**

The proposed change only applies to dangerous dogs that are found to have damaged another person's property. So, a teething puppy that chews on its owner's socks would not be subject to the new provisions. Moreover, an individual would have to show that a neighbor's dog a) met the standard of "dangerous" and b) that it destroyed property. As a result, it is unlikely that an individual could use the provision to falsely accuse a neighbor.