

1                                    AMENDMENT TO HOUSE BILL 2391

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2391 by replacing  
3 everything after the enacting clause with the following:

4            "Section 1. Short title. This Act may be cited as the  
5 Humane Euthanasia in Animal Shelters Act.

6            Section 5. Definitions. The following terms have the  
7 meanings indicated, unless the context requires otherwise:

8            "Animal" means any bird, fish, reptile, or mammal other  
9 than man.

10           "DEA" means the United States Department of Justice Drug  
11 Enforcement Administration.

12           "Department" means the Department of Professional  
13 Regulation.

14           "Director" means the Director of the Department of  
15 Professional Regulation.

16           "Euthanasia agency" means an entity certified by the  
17 Department for the purpose of animal euthanasia that holds an  
18 animal control facility or animal shelter license under the  
19 Animal Welfare Act.

20           "Euthanasia drugs" means Schedule IIN or Schedule IIIN  
21 substances (nonnarcotic controlled substances) as set forth  
22 in the Illinois Controlled Substances Act that are used by a

1 euthanasia agency for the purpose of animal euthanasia.

2 "Euthanasia technician" or "technician" means a person  
3 employed by a euthanasia agency or working under the direct  
4 supervision of a veterinarian and who is certified by the  
5 Department.

6 "Veterinarian" means a person holding the degree of  
7 Doctor of Veterinary Medicine who is licensed under the  
8 Veterinary Medicine and Surgery Practice Act of 1994.

9 Section 10. Certification requirement, exemptions.

10 (a) No person shall euthanize animals in an animal  
11 shelter or animal control facility without possessing a  
12 certificate issued by the Department under this Act.

13 (b) Nothing in this Act shall be construed as preventing  
14 a licensed veterinarian or an instructor during an approved  
15 course from humanely euthanizing animals in animal shelters  
16 or animal control facilities.

17 Section 15. Powers and duties of the Department.

18 (a) The Department shall exercise the powers and duties  
19 prescribed by the Civil Administrative Code of Illinois for  
20 the administration of licensure Acts and shall exercise other  
21 powers and duties necessary for effectuating the purposes of  
22 this Act.

23 (b) The Department may adopt rules to administer and  
24 enforce this Act including, but not limited to, setting fees  
25 for original certification and renewal and restoration of  
26 certification, and may prescribe forms to be issued to  
27 implement this Act. At a minimum, the rules adopted by the  
28 Department shall include standards and criteria for  
29 certification and for professional conduct and discipline.

30 Section 20. Application for original certification.

31 Applications for original certification shall be made to the

1 Department in writing, shall be signed by the applicant on  
2 forms prescribed by the Department, and shall be accompanied  
3 by a nonrefundable fee set by rule. The Department may  
4 require information from the applicant that, in its judgment,  
5 will enable the Department to determine the qualifications of  
6 the applicant for certification.

7 Section 25. Euthanasia agency.

8 (a) To be certified as a euthanasia agency, an entity  
9 must apply to the Department, hold a license under the Animal  
10 Welfare Act as an animal control facility or an animal  
11 shelter, pay the required fee, and agree to:

12 (1) Keep euthanasia drugs in a securely locked  
13 cabinet or a metal safe when not in use. A temporary  
14 storage cabinet may be used when a euthanasia technician  
15 is on duty and animals are being euthanized during the  
16 workday.

17 (2) Comply with the requirements of the Illinois  
18 Food, Drug and Cosmetic Act, federal Food, Drug and  
19 Cosmetic Act (21 U.S.C. 301 et seq. (1976)), federal  
20 Controlled Substances Act (21 U.S.C. 801 et seq. (1976)),  
21 and the Illinois Controlled Substances Act.

22 (3) Keep the conditions of the euthanasia area  
23 clean and sanitary with adequate equipment and supplies  
24 to enable the humane disposition of animals.

25 (b) The Department may inspect the facility prior to the  
26 issuance of the certification.

27 (c) The euthanasia agency shall notify the Department in  
28 writing within 30 days of the time that the employment of a  
29 euthanasia technician is terminated from the euthanasia  
30 agency.

31 Section 35. Technician certification; duties.

32 (a) An applicant for certification as a euthanasia

1 technician shall file an application with the Department and  
2 shall:

3 (1) Be 18 years of age.

4 (2) Be of good moral character. In determining  
5 moral character under this Section, the Department may  
6 take into consideration whether the applicant has engaged  
7 in conduct or activities that would constitute grounds  
8 for discipline under this Act.

9 (3) Submit fingerprints to the Illinois State  
10 Police or its designated vendor as set forth by rule.  
11 These fingerprints shall be checked against the Illinois  
12 State Police and Federal Bureau of Investigation criminal  
13 history record databases. A separate fee shall be  
14 charged to the applicant for fingerprinting, payable  
15 either to the Department or the Illinois State Police or  
16 its designated vendor.

17 (4) Hold a current license or certification from  
18 the American Humane Association, the National Animal  
19 Control Association, the Illinois Federation of Humane  
20 Societies, or the Humane Society of the United States.

21 (5) Pay the required fee.

22 (b) The duties of a euthanasia technician shall include  
23 but are not limited to:

24 (1) preparing animals for euthanasia and scanning  
25 each animal, prior to euthanasia, for microchips;

26 (2) accurately recording the dosages administered  
27 and the amount of drugs wasted;

28 (3) ordering supplies;

29 (4) maintaining the security of all controlled  
30 substances and drugs;

31 (5) humanely euthanizing animals via intravenous  
32 injection by hypodermic needle, intraperitoneal injection  
33 by hypodermic needle, solutions or powder added to food  
34 or by mouth, intracardiac injection only on comatose

1 animals by hypodermic needle, or carbon monoxide in a  
2 commercially manufactured chamber; and

3 (6) properly disposing of euthanized animals after  
4 verification of death.

5 (c) Upon termination from a euthanasia agency, a  
6 euthanasia technician shall not perform animal euthanasia  
7 until he or she is employed by another certified euthanasia  
8 agency.

9 (d) A certified euthanasia technician or an instructor  
10 in an approved course does not engage in the practice of  
11 veterinary medicine when performing duties set forth in this  
12 Act.

13 Section 40. Issuance of certificate. The Department  
14 shall begin issuing certificates under this Act within one  
15 year after the effective date of this Act. The Department  
16 shall issue a certificate to an applicant who has met the  
17 requirements and has paid the required application fee.

18 Section 45. Certifications; renewal; restoration; person  
19 in military service; inactive status.

20 (a) The expiration date, renewal period, renewal fees,  
21 and procedures for renewal of each certification issued under  
22 this Act shall be set by rule.

23 (b) Any person who has permitted a certification to  
24 expire or who has a certification on inactive status may have  
25 it restored by submitting an application to the Department  
26 and filing proof of fitness, as defined by rule, to have the  
27 certification restored, including, if appropriate, evidence  
28 that is satisfactory to the Department certifying active  
29 practice in another jurisdiction and by paying the required  
30 fee.

31 (c) If the person has not maintained an active practice  
32 in another jurisdiction that is satisfactory to the

1 Department, the Department shall determine the person's  
2 fitness to resume active status.

3 (d) Any person whose license expired while on active  
4 duty with the armed forces of the United States, while called  
5 into service or training with the State Militia or in  
6 training or education under the supervision of the United  
7 States government prior to induction into the military  
8 service, however, may have his or her certification restored  
9 without paying any renewal fees if, within 2 years after the  
10 termination of that service, training, or education, except  
11 under conditions other than honorable, the Department is  
12 furnished with satisfactory evidence that the person has been  
13 so engaged and that the service, training, or education has  
14 been so terminated.

15 (e) A certificate holder may place his or her  
16 certification on inactive status and shall be excused from  
17 paying renewal fees until he or she notifies the Department  
18 in writing of the intention to resume active practice. A  
19 certificate holder who is on inactive status shall not  
20 practice while the certificate is in inactive status.

21 Section 50. Grandfathering provision. The Department  
22 may issue certification to a euthanasia technician who  
23 presents proof in a manner established by the Department that  
24 he or she has been licensed or certified by the American  
25 Humane Association, the National Animal Control Association,  
26 the Illinois Federation of Humane Societies, or the Humane  
27 Society of the United States, within the 5 years preceding  
28 the effective date of this Act.

29 Section 55. Endorsement. An applicant, who is a  
30 euthanasia technician registered or licensed under the laws  
31 of another state or territory of the United States that has  
32 requirements that are substantially similar to the

1 requirements of this Act, may be granted certification as a  
2 euthanasia technician in this State without examination, upon  
3 presenting satisfactory proof to the Department that the  
4 applicant has been engaged in the practice of euthanasia for  
5 a period of not less than one year and upon payment of the  
6 required fee.

7 Section 60. Fees; returned checks. An agency or person  
8 who delivers a check or other payment to the Department that  
9 is returned to the Department unpaid by the financial  
10 institution upon which it is drawn shall pay to the  
11 Department, in addition to the amount already owed to the  
12 Department a fine of \$50. If the check or other payment was  
13 for a renewal or issuance fee and that agency operates  
14 without paying the renewal or issuance fee and the fine due,  
15 an additional fine of \$100 shall be imposed. The fines  
16 imposed by this Section are in addition to any other  
17 discipline provided under this Act. The Director may waive  
18 the fines due under this Section in individual cases where  
19 the Director finds that the fines would be unreasonable or  
20 unnecessarily burdensome.

21 Section 65. Refused issuance, suspension or revocation  
22 of certification. The Department may refuse to issue, renew,  
23 or restore a certification or may revoke or suspend a  
24 certification, or place on probation, reprimand, impose a  
25 fine not to exceed \$1,000 for each violation, or take other  
26 disciplinary action as the Department may deem proper with  
27 regard to a certified euthanasia agency or a certified  
28 euthanasia technician for any one or combination of the  
29 following reasons:

30 (1) failing to carry out the duties of a euthanasia  
31 technician;

- 1           (2) abusing the use of any chemical substance;
- 2           (3) selling, stealing, or giving chemical substances
- 3 away;
- 4           (4) abetting anyone in the activities listed in this
- 5 subsection; or
- 6           (5) violating any provision of this Act, the Illinois
- 7 Controlled Substances Act, the rules adopted under these Acts
- 8 or any rules adopted by the Department of Professional
- 9 Regulation concerning the euthanizing of animals.

10           Section 70. Procedures for euthanasia.

11           (a) Only euthanasia drugs and commercially compressed

12 carbon monoxide, subject to the limitations imposed under

13 subsection (b) of this Section, shall be used for the purpose

14 of humanely euthanizing injured, sick, homeless, or unwanted

15 companion animals in an animal shelter or an animal control

16 facility licensed under the Illinois Animal Welfare Act.

17           (b) Commercially compressed carbon monoxide may be used

18 as a permitted method of euthanasia provided that it is

19 performed in a commercially manufactured chamber pursuant to

20 the guidelines set forth in the most recent report of the

21 AVMA Panel on Euthanasia. A chamber that is designed to

22 euthanize more than one animal at a time must be equipped

23 with independent sections or cages to separate incompatible

24 animals. The interior of the chamber must be well lit and

25 equipped with view-ports, a regulator, and a flow meter.

26 Monitoring equipment must be used at all times during the

27 operation. Animals that are under 4 months of age, old,

28 injured, or sick may not be euthanized by carbon monoxide.

29 Animals shall remain in the chamber and be exposed for a

30 minimum of 20 minutes. Staff members shall be fully notified

31 of potential health risks.

32           Section 75. Procurement and administration of drugs.



1 (a) A euthanasia agency may purchase, store, and possess  
2 drugs for the euthanasiation of animals upon obtaining from  
3 the Department an Illinois controlled substances license  
4 pursuant to the Illinois Controlled Substances Act and a  
5 controlled substance license issued by the Drug Enforcement  
6 Administration pursuant to the federal Controlled Substances  
7 Act.

8 (b) A euthanasia technician employed by a euthanasia  
9 agency may perform euthanasia by the administration of a  
10 controlled substance. A euthanasia technician may not  
11 personally possess, order, or administer a controlled  
12 substance except as an agent of the euthanasia agency.

13 Section 80. Exemption from liability. An instructor of  
14 euthanasia techniques or a veterinarian who engages in the  
15 instructing of euthanasia technicians, in a course approved  
16 by the Department, shall not incur any civil or criminal  
17 liability for any subsequent misuse or malpractice of a  
18 euthanasia technician who has attended the course.

19 Any veterinarian, who in good faith administers  
20 euthanasia drugs to an animal in an animal control facility  
21 or an animal shelter, has immunity from any liability, civil,  
22 criminal, or otherwise, that may result from his or her  
23 actions. For the purposes of any proceedings, civil or  
24 criminal, the good faith of the veterinarian shall be  
25 rebuttably presumed.

26 Section 85. Cease and desist order.

27 (a) If an agency or person violates a provision of this  
28 Act, the Director may, in the name of the People of the State  
29 of Illinois, through the Attorney General of the State of  
30 Illinois, petition for an order enjoining the violation or  
31 for an order enforcing compliance with this Act. Upon the  
32 filing of a verified petition in court, the court may issue a

1 temporary restraining order, without notice or bond, and may  
2 preliminarily and permanently enjoin the violation, and if it  
3 is established that the agency or person has violated or is  
4 violating the injunction, the court may punish the offender  
5 for contempt of court. Proceedings under this Section shall  
6 be in addition to, and not in lieu of, all other remedies and  
7 penalties provided by this Act.

8 (b) Whenever, in the opinion of the Department, an  
9 agency violates a provision of this Act, the Department may  
10 issue a rule to show cause why an order to cease and desist  
11 should not be entered against the agency. The rule shall  
12 clearly set forth the grounds relied upon by the Department  
13 and shall provide a period of 7 days from the date of the  
14 rule to file an answer to the satisfaction of the Department.  
15 Failure to answer to the satisfaction of the Department shall  
16 cause an order to cease and desist to be issued immediately.

17 Section 90. Uncertified practice; civil penalty.

18 (a) A person who practices, offers to practice, attempts  
19 to practice, or holds himself or herself out as a certified  
20 euthanasia technician or a certified euthanasia agency  
21 without being certified under this Act shall, in addition to  
22 any other penalty provided by law, pay a civil penalty to the  
23 Department in an amount not to exceed \$5,000 for each offense  
24 as determined by the Department. The civil penalty shall be  
25 assessed by the Department after a hearing is held in  
26 accordance with the provisions set forth in this Act  
27 regarding the provision of a hearing for the discipline of a  
28 certified euthanasia technician or a certified euthanasia  
29 agency. The civil penalty must be paid within 60 days after  
30 the effective date of the order imposing the civil penalty.  
31 The order shall constitute a judgment and may be filed and  
32 executed in the same manner as any judgment from any court of  
33 record.

1           (b) The Department may investigate any uncertified  
2 activity.

3           (c) Instructors teaching humane euthanasia techniques in  
4 a course approved by the Board are exempt from the  
5 certification process.

6           Section 95. Inspections. The Department may conduct  
7 random inspections upon renewal, for cause, or as necessary  
8 to assure the integrity and effectiveness of the  
9 certification process. Upon failure to pass inspection, a  
10 euthanasia agency's certificate shall be suspended or denied,  
11 as applicable, pending review by the Department. Upon the  
12 failure of an agency to pass an inspection, animal euthanasia  
13 must be performed by a licensed veterinarian or at another  
14 certified euthanasia agency. A euthanasia agency that fails  
15 to pass an inspection is subject to penalty. Upon notice of  
16 failure to pass an inspection, a euthanasia agency shall have  
17 30 days to appeal the inspection results. On appeal, the  
18 euthanasia agency shall have the right to an inspection  
19 review or to a new inspection in accordance with procedures  
20 adopted by the Department.

21           Section 100. Investigations; notice and hearing.

22           (a) The Department may investigate the actions of an  
23 applicant or an animal shelter or animal control facility  
24 holding or claiming to hold a certificate.

25           (b) Before refusing to issue or renew a certificate or  
26 disciplining a certified euthanasia agency or technician,  
27 the Department shall notify in writing the applicant, the  
28 agency, or technician of the nature of the charges and that a  
29 hearing will be held on the date designated, which shall be  
30 at least 30 days after the date of the notice. The Department  
31 shall direct the applicant, agency, or technician to file a  
32 written answer to the Department under oath within 20 days

1 after the service of the notice and inform the applicant,  
2 agency, or technician that failure to file an answer will  
3 result in default being taken against the applicant, agency,  
4 or technician and that the certificate may be suspended,  
5 revoked, placed on probationary status, or other disciplinary  
6 action may be taken, including limiting the scope, nature, or  
7 extent of business as the Director may deem proper. Written  
8 notice may be served by personal delivery or certified or  
9 registered mail sent to the respondent at the most recent  
10 address on record with the Department.

11 If the applicant, agency, or technician fails to file an  
12 answer after receiving notice, the certification may, in the  
13 discretion of the Department, be suspended, revoked, or  
14 placed on probationary status, or the Department may take  
15 whatever disciplinary action it deems proper including  
16 imposing a civil penalty, without a hearing if the act or  
17 acts charged constitute sufficient ground for such action  
18 under this Act.

19 At the time and place fixed in the notice, the Department  
20 shall proceed to hear the charges, and the parties or their  
21 counsel shall be accorded ample opportunity to present such  
22 statements, testimony, evidence, and argument as may be  
23 pertinent to the charges or to their defense. The Department  
24 may continue a hearing from time to time.

25 Section 105. Stenographer; transcript. The Department,  
26 at its expense, shall preserve a record of all proceedings at  
27 the formal hearing of any case involving the refusal to issue  
28 or renew a certificate or the discipline of a certified  
29 euthanasia technician. The notice of hearing, complaint, and  
30 all other documents in the nature of pleadings, written  
31 motions filed in the proceedings, the transcript of  
32 testimony, the report of the hearing officer, and the order  
33 of the Department shall be the record of the proceeding.

1           Section 110. Compelling testimony. A circuit court may,  
2 upon application of the Department or its designee or of the  
3 applicant, agency, or technician against whom proceedings are  
4 pending, enter an order requiring the attendance of witnesses  
5 and their testimony and the production of documents, papers,  
6 files, books, and records in connection with any hearing or  
7 investigation. The court may compel obedience to its order  
8 by proceedings for contempt.

9           Section 115. Findings and recommendations. At the  
10 conclusion of the hearing the hearing officer shall present  
11 to the Director a written report of its findings and  
12 recommendations. The report shall contain a finding of  
13 whether or not the accused applicant, agency, or technician  
14 violated this Act or failed to comply with the conditions  
15 required in this Act. The hearing officer shall specify the  
16 nature of the violation or failure to comply, and shall make  
17 its recommendations to the Director.

18           The report of the findings and recommendations of the  
19 hearing officer shall be the basis for the Department's order  
20 of refusal or for the granting of certification unless the  
21 Director determines that the hearing officer's report is  
22 contrary to the manifest weight of the evidence, in which  
23 case the Director may issue an order in contravention of the  
24 hearing officer's report. The finding is not admissible in  
25 evidence against the applicant, agency, or technician in a  
26 criminal prosecution brought for the violation of this Act,  
27 but the hearing and finding are not a bar to a criminal  
28 prosecution brought for the violation of this Act.

29           Section 120. Rehearing on motion. In a case involving  
30 the refusal to issue or renew a certificate or the discipline  
31 of a certified agency or technician, a copy of the hearing  
32 officer's report shall be served upon the respondent by the

1 Department, either personally or as provided in this Act for  
2 the service of the notice of hearing. Within 20 days after  
3 such service, the respondent may present to the Department a  
4 motion in writing for a rehearing, which shall specify the  
5 particular grounds for rehearing. If no motion for rehearing  
6 is filed, then upon the expiration of the time specified for  
7 filing the motion, or if a motion for rehearing is denied,  
8 then upon such denial the Director may enter an order in  
9 accordance with recommendations of the hearing officer except  
10 as provided in Section 125 of this Act. If the respondent  
11 shall order from the reporting service and pay for a  
12 transcript of the record with the time for filing a motion  
13 for rehearing, the 20 day period within which such a motion  
14 may be filed shall commence upon the delivery of the  
15 transcript to the respondent.

16 Section 125. Rehearing on order of Director. Whenever  
17 the Director is satisfied that substantial justice has not  
18 been done in the revocation or suspension of a certification  
19 or refusal to issue or renew a certificate, the Director may  
20 order a rehearing.

21 Section 130. Hearing Officer. The Director has the  
22 authority to appoint an attorney duly licensed to practice  
23 law in this State to serve as the hearing officer in an  
24 action for refusal to issue or renew a certificate or for the  
25 discipline of a certified euthanasia agency or technician.  
26 The hearing officer shall have full authority to conduct the  
27 hearing. The hearing officer shall report his or her  
28 findings and recommendations to the Director.

29 Section 135. Order or certified copy. An order or a  
30 certified copy of an order, over the seal of the Department  
31 and purporting to be signed by the Director, shall be prima

1 facie proof that:

2 (1) the signature is the genuine signature of the  
3 Director; and

4 (2) the Director is duly appointed and qualified;

5 This proof may be rebutted.

6 Section 140. Restoration of certificate. Any time after  
7 the suspension or revocation of a certificate the Department  
8 may restore the certificate to the accused agency upon the  
9 written recommendation of the Department unless, after an  
10 investigation and a hearing, the Department determines that  
11 restoration is not in the public interest.

12 Section 145. Surrender of certificate. Upon the  
13 revocation or suspension of a certificate, the agency or  
14 technician shall immediately surrender the certificate to the  
15 Department, and if the agency or technician fails to do so,  
16 the Department shall have the right to seize the certificate.

17 Section 150. Temporary suspension of a certificate. The  
18 Director may temporarily suspend the certificate of a  
19 euthanasia agency or euthanasia technician without a hearing,  
20 simultaneously with the institution of proceedings for a  
21 hearing, if the Director finds that evidence in his or her  
22 possession indicates that the continued practice of the  
23 certified euthanasia agency or technician would constitute  
24 cruelty or an imminent danger to the public. If the Director  
25 temporarily suspends the certificate without a hearing, a  
26 hearing by the Board must be held within 30 days of the  
27 suspension.

28 Section 155. Administrative Law Review. All final  
29 administrative decisions of the Department are subject to  
30 judicial review pursuant to the provisions of the

1 Administrative Review Law, as now or hereafter amended, and  
2 all rules adopted pursuant to that Law. The term  
3 "administrative decision" is defined as in Section 3-101 of  
4 the Code of Civil Procedure.

5 Proceedings for judicial review shall be commenced in the  
6 circuit court of the county in which the party applying for  
7 relief resides, but if the party is not a resident of this  
8 State, the venue shall be Sangamon County.

9 Section 160. Certification of record; costs. The  
10 Department shall not be required to certify any record to the  
11 court or file any answer in court or otherwise appear in a  
12 court in a judicial review proceeding, unless there is filed  
13 in the court, with the complaint, a receipt from the  
14 Department acknowledging payment of the costs of furnishing  
15 and certifying the record. Failure on the part of the  
16 plaintiff to file a receipt in court shall be grounds for  
17 dismissal of the action.

18 Section 165. Criminal penalties. An agency or  
19 technician who is found to have violated a provision of this  
20 Act is guilty of a Class A misdemeanor. On conviction of a  
21 second or subsequent offense, the violator shall be guilty of  
22 a Class 4 felony.

23 Section 170. Administrative Procedure Act. The Illinois  
24 Administrative Procedure Act is hereby expressly adopted and  
25 incorporated in this Act as if all of the provisions of that  
26 Act were included in this Act, except that the provision of  
27 subsection (d) of Section 10-65 of the Illinois  
28 Administrative Procedure Act, which provides that at hearings  
29 the license holder has the right to show compliance with all  
30 lawful requirements for retention, continuation, or renewal  
31 of a license, is specifically excluded. For the purposes of



1 this Act, the notice required under Section 10-25 of the  
2 Illinois Administrative Procedure Act is deemed sufficient  
3 when mailed to the last known address of a party.

4 Section 175. Home rule. The regulation and  
5 certification of euthanasia agencies and euthanasia  
6 technicians are exclusive powers and functions of the State.  
7 A home rule unit may not regulate or certify euthanasia  
8 agencies or euthanasia technicians. This Section is a denial  
9 and limitation of home rule powers and functions under  
10 subsection (h) of Section 6 of Article VII of the Illinois  
11 Constitution.

12 Section 180. Deposit of fees and fines. All of the fees  
13 and civil penalties collected under this Act shall be  
14 deposited into the General Professions Dedicated Fund and  
15 shall be used by the Department for the ordinary and  
16 contingent expenses of the Department.

17 Section 800. The Veterinary Medicine and Surgery  
18 Practice Act of 1994 is amended by changing Section 4 as  
19 follows:

20 (225 ILCS 115/4) (from Ch. 111, par. 7004)

21 Sec. 4. Exemptions. Nothing in this Act shall apply to  
22 any of the following:

23 (1) Veterinarians employed by the Federal Government  
24 while actually engaged in their official duties.

25 (2) Licensed veterinarians from other states who are  
26 invited to Illinois for consultation or lecturing.

27 (3) Veterinarians employed by colleges or universities  
28 or by state agencies, while engaged in the performance of  
29 their official duties.

30 (4) Veterinary students in an approved college,

1 university, department of a university or other institution  
2 of veterinary medicine and surgery while in the performance  
3 of duties assigned by their instructors.

4 (5) Any person engaged in bona fide scientific research  
5 which requires the use of animals.

6 (6) The dehorning, castration, emasculation or docking  
7 of cattle, horses, sheep, goats and swine in the course or  
8 exchange of work for which no monetary compensation is paid  
9 or to artificial insemination and the drawing of semen. Nor  
10 shall this Act be construed to prohibit any person from  
11 administering, in a humane manner, medicinal or surgical  
12 treatment to any animal belonging to such person, unless  
13 title has been transferred for the purpose of circumventing  
14 this Act. However, any such services shall comply with the  
15 Humane Care for Animals Act.

16 (7) Members of other licensed professions or any other  
17 individuals when called for consultation and assistance by a  
18 veterinarian licensed in the State of Illinois and who act  
19 under the supervision, direction, and control of the  
20 veterinarian, as further defined by rule of the Department.

21 (8) Certified euthanasia technicians.

22 (Source: P.A. 90-52, eff. 7-3-97.)

23 Section 900. The Animal Control Act is amended by  
24 changing Section 11 as follows:

25 (510 ILCS 5/11) (from Ch. 8, par. 361)

26 Sec. 11. When not redeemed by the owner, a dog that which  
27 has been impounded for failure to be inoculated and  
28 registered, if applicable, in accordance with the provisions  
29 of this Act or a cat that has been impounded shall be  
30 humanely dispatched pursuant to the Humane Euthanasia in  
31 Animal Shelters Act or, offered for adoption, ~~or otherwise~~  
32 ~~disposed of by the pound as a stray dog in accordance with~~

1 ~~laws-that-exist-or-may-hereafter-exist~~. An animal pound or  
2 animal shelter shall not release any dog or cat when not  
3 redeemed by the owner unless the animal has been surgically  
4 rendered incapable of reproduction by spaying or neutering,  
5 or the person wishing to adopt an animal prior to the  
6 surgical procedures having been performed shall have executed  
7 a written agreement promising to have such service performed  
8 within a specified period of time not to exceed 60 days.  
9 Failure to fulfill the terms of the agreement shall result in  
10 seizure and impoundment of the animal by the animal pound or  
11 shelter, and any monies which have been deposited shall be  
12 forfeited. This Act shall not prevent humane societies from  
13 engaging in activities set forth by their charters; provided,  
14 they are not inconsistent with provisions of this Act and  
15 other existing laws. Any person purchasing or adopting such  
16 dog, with or without charge or donation, must pay for the  
17 rabies inoculation of such dog and registration if  
18 applicable.

19 (Source: P.A. 83-740.)

20 Section 905. The Illinois Controlled Substances Act is  
21 amended by changing Section 102 as follows:

22 (720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

23 Sec. 102. Definitions. As used in this Act, unless the  
24 context otherwise requires:

25 (a) "Addict" means any person who habitually uses any  
26 drug, chemical, substance or dangerous drug other than  
27 alcohol so as to endanger the public morals, health, safety  
28 or welfare or who is so far addicted to the use of a  
29 dangerous drug or controlled substance other than alcohol as  
30 to have lost the power of self control with reference to his  
31 addiction.

32 (b) "Administer" means the direct application of a

1 controlled substance, whether by injection, inhalation,  
2 ingestion, or any other means, to the body of a patient or  
3 research subject by:

4 (1) a practitioner (or, in his presence, by his  
5 authorized agent), or

6 (2) the patient or research subject at the lawful  
7 direction of the practitioner.

8 (c) "Agent" means an authorized person who acts on  
9 behalf of or at the direction of a manufacturer, distributor,  
10 or dispenser. It does not include a common or contract  
11 carrier, public warehouseman or employee of the carrier or  
12 warehouseman.

13 (c-1) "Anabolic Steroids" means any drug or hormonal  
14 substance, chemically and pharmacologically related to  
15 testosterone (other than estrogens, progestins, and  
16 corticosteroids) that promotes muscle growth, and includes:

- 17 (i) boldenone,
- 18 (ii) chlorotestosterone,
- 19 (iii) chostebol,
- 20 (iv) dehydrochlormethyltestosterone,
- 21 (v) dihydrotestosterone,
- 22 (vi) drostanolone,
- 23 (vii) ethylestrenol,
- 24 (viii) fluoxymesterone,
- 25 (ix) formebulone,
- 26 (x) mesterolone,
- 27 (xi) methandienone,
- 28 (xii) methandranone,
- 29 (xiii) methandriol,
- 30 (xiv) methandrostenolone,
- 31 (xv) methenolone,
- 32 (xvi) methyltestosterone,
- 33 (xvii) mibolerone,
- 34 (xviii) nandrolone,

1                   (xix) norethandrolone,  
2                   (xx) oxandrolone,  
3                   (xxi) oxymesterone,  
4                   (xxii) oxymetholone,  
5                   (xxiii) stanolone,  
6                   (xxiv) stanozolol,  
7                   (xxv) testolactone,  
8                   (xxvi) testosterone,  
9                   (xxvii) trenbolone, and  
10                  (xxviii) any salt, ester, or isomer of a drug  
11                  or substance described or listed in this paragraph,  
12                  if that salt, ester, or isomer promotes muscle  
13                  growth.

14                  Any person who is otherwise lawfully in possession of an  
15                  anabolic steroid, or who otherwise lawfully manufactures,  
16                  distributes, dispenses, delivers, or possesses with intent to  
17                  deliver an anabolic steroid, which anabolic steroid is  
18                  expressly intended for and lawfully allowed to be  
19                  administered through implants to livestock or other nonhuman  
20                  species, and which is approved by the Secretary of Health and  
21                  Human Services for such administration, and which the person  
22                  intends to administer or have administered through such  
23                  implants, shall not be considered to be in unauthorized  
24                  possession or to unlawfully manufacture, distribute,  
25                  dispense, deliver, or possess with intent to deliver such  
26                  anabolic steroid for purposes of this Act.

27                  (d) "Administration" means the Drug Enforcement  
28                  Administration, United States Department of Justice, or its  
29                  successor agency.

30                  (e) "Control" means to add a drug or other substance, or  
31                  immediate precursor, to a Schedule under Article II of this  
32                  Act whether by transfer from another Schedule or otherwise.

33                  (f) "Controlled Substance" means a drug, substance, or  
34                  immediate precursor in the Schedules of Article II of this

1 Act.

2 (g) "Counterfeit substance" means a controlled  
3 substance, which, or the container or labeling of which,  
4 without authorization bears the trademark, trade name, or  
5 other identifying mark, imprint, number or device, or any  
6 likeness thereof, of a manufacturer, distributor, or  
7 dispenser other than the person who in fact manufactured,  
8 distributed, or dispensed the substance.

9 (h) "Deliver" or "delivery" means the actual,  
10 constructive or attempted transfer of possession of a  
11 controlled substance, with or without consideration, whether  
12 or not there is an agency relationship.

13 (i) "Department" means the Illinois Department of Human  
14 Services (as successor to the Department of Alcoholism and  
15 Substance Abuse) or its successor agency.

16 (j) "Department of State Police" means the Department of  
17 State Police of the State of Illinois or its successor  
18 agency.

19 (k) "Department of Corrections" means the Department of  
20 Corrections of the State of Illinois or its successor agency.

21 (l) "Department of Professional Regulation" means the  
22 Department of Professional Regulation of the State of  
23 Illinois or its successor agency.

24 (m) "Depressant" or "stimulant substance" means:

25 (1) a drug which contains any quantity of (i)  
26 barbituric acid or any of the salts of barbituric acid  
27 which has been designated as habit forming under section  
28 502 (d) of the Federal Food, Drug, and Cosmetic Act (21  
29 U.S.C. 352 (d)); or

30 (2) a drug which contains any quantity of (i)  
31 amphetamine or methamphetamine and any of their optical  
32 isomers; (ii) any salt of amphetamine or methamphetamine  
33 or any salt of an optical isomer of amphetamine; or (iii)  
34 any substance which the Department, after investigation,

1 has found to be, and by rule designated as, habit forming  
2 because of its depressant or stimulant effect on the  
3 central nervous system; or

4 (3) lysergic acid diethylamide; or

5 (4) any drug which contains any quantity of a  
6 substance which the Department, after investigation, has  
7 found to have, and by rule designated as having, a  
8 potential for abuse because of its depressant or  
9 stimulant effect on the central nervous system or its  
10 hallucinogenic effect.

11 (n) (Blank).

12 (o) "Director" means the Director of the Department of  
13 State Police or the Department of Professional Regulation or  
14 his designated agents.

15 (p) "Dispense" means to deliver a controlled substance  
16 to an ultimate user or research subject by or pursuant to the  
17 lawful order of a prescriber, including the prescribing,  
18 administering, packaging, labeling, or compounding necessary  
19 to prepare the substance for that delivery.

20 (q) "Dispenser" means a practitioner who dispenses.

21 (r) "Distribute" means to deliver, other than by  
22 administering or dispensing, a controlled substance.

23 (s) "Distributor" means a person who distributes.

24 (t) "Drug" means (1) substances recognized as drugs in  
25 the official United States Pharmacopoeia, Official  
26 Homeopathic Pharmacopoeia of the United States, or official  
27 National Formulary, or any supplement to any of them; (2)  
28 substances intended for use in diagnosis, cure, mitigation,  
29 treatment, or prevention of disease in man or animals; (3)  
30 substances (other than food) intended to affect the structure  
31 of any function of the body of man or animals and (4)  
32 substances intended for use as a component of any article  
33 specified in clause (1), (2), or (3) of this subsection. It  
34 does not include devices or their components, parts, or

1 accessories.

2 (t-5) "Euthanasia agency" means an entity certified by  
3 the Department of Professional Regulation for the purpose of  
4 animal euthanasia that holds an animal control facility  
5 license or animal shelter license under the Animal Welfare  
6 Act. A euthanasia agency is authorized to purchase, store,  
7 possess, and utilize Schedule II nonnarcotic and Schedule III  
8 nonnarcotic drugs for the sole purpose of animal euthanasia.

9 (u) "Good faith" means the prescribing or dispensing of  
10 a controlled substance by a practitioner in the regular  
11 course of professional treatment to or for any person who is  
12 under his treatment for a pathology or condition other than  
13 that individual's physical or psychological dependence upon  
14 or addiction to a controlled substance, except as provided  
15 herein: and application of the term to a pharmacist shall  
16 mean the dispensing of a controlled substance pursuant to the  
17 prescriber's order which in the professional judgment of the  
18 pharmacist is lawful. The pharmacist shall be guided by  
19 accepted professional standards including, but not limited to  
20 the following, in making the judgment:

21 (1) lack of consistency of doctor-patient  
22 relationship,

23 (2) frequency of prescriptions for same drug by one  
24 prescriber for large numbers of patients,

25 (3) quantities beyond those normally prescribed,

26 (4) unusual dosages,

27 (5) unusual geographic distances between patient,  
28 pharmacist and prescriber,

29 (6) consistent prescribing of habit-forming drugs.

30 (u-1) "Home infusion services" means services provided  
31 by a pharmacy in compounding solutions for direct  
32 administration to a patient in a private residence, long-term  
33 care facility, or hospice setting by means of parenteral,  
34 intravenous, intramuscular, subcutaneous, or intraspinal



1 infusion.

2 (v) "Immediate precursor" means a substance:

3 (1) which the Department has found to be and by  
4 rule designated as being a principal compound used, or  
5 produced primarily for use, in the manufacture of a  
6 controlled substance;

7 (2) which is an immediate chemical intermediary  
8 used or likely to be used in the manufacture of such  
9 controlled substance; and

10 (3) the control of which is necessary to prevent,  
11 curtail or limit the manufacture of such controlled  
12 substance.

13 (w) "Instructional activities" means the acts of  
14 teaching, educating or instructing by practitioners using  
15 controlled substances within educational facilities approved  
16 by the State Board of Education or its successor agency.

17 (x) "Local authorities" means a duly organized State,  
18 County or Municipal peace unit or police force.

19 (y) "Look-alike substance" means a substance, other than  
20 a controlled substance which (1) by overall dosage unit  
21 appearance, including shape, color, size, markings or lack  
22 thereof, taste, consistency, or any other identifying  
23 physical characteristic of the substance, would lead a  
24 reasonable person to believe that the substance is a  
25 controlled substance, or (2) is expressly or impliedly  
26 represented to be a controlled substance or is distributed  
27 under circumstances which would lead a reasonable person to  
28 believe that the substance is a controlled substance. For the  
29 purpose of determining whether the representations made or  
30 the circumstances of the distribution would lead a reasonable  
31 person to believe the substance to be a controlled substance  
32 under this clause (2) of subsection (y), the court or other  
33 authority may consider the following factors in addition to  
34 any other factor that may be relevant:

1 (a) statements made by the owner or person in  
2 control of the substance concerning its nature, use or  
3 effect;

4 (b) statements made to the buyer or recipient that  
5 the substance may be resold for profit;

6 (c) whether the substance is packaged in a manner  
7 normally used for the illegal distribution of controlled  
8 substances;

9 (d) whether the distribution or attempted  
10 distribution included an exchange of or demand for money  
11 or other property as consideration, and whether the  
12 amount of the consideration was substantially greater  
13 than the reasonable retail market value of the substance.

14 Clause (1) of this subsection (y) shall not apply to a  
15 noncontrolled substance in its finished dosage form that was  
16 initially introduced into commerce prior to the initial  
17 introduction into commerce of a controlled substance in its  
18 finished dosage form which it may substantially resemble.

19 Nothing in this subsection (y) prohibits the dispensing  
20 or distributing of noncontrolled substances by persons  
21 authorized to dispense and distribute controlled substances  
22 under this Act, provided that such action would be deemed to  
23 be carried out in good faith under subsection (u) if the  
24 substances involved were controlled substances.

25 Nothing in this subsection (y) or in this Act prohibits  
26 the manufacture, preparation, propagation, compounding,  
27 processing, packaging, advertising or distribution of a drug  
28 or drugs by any person registered pursuant to Section 510 of  
29 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

30 (y-1) "Mail-order pharmacy" means a pharmacy that is  
31 located in a state of the United States, other than Illinois,  
32 that delivers, dispenses or distributes, through the United  
33 States Postal Service or other common carrier, to Illinois  
34 residents, any substance which requires a prescription.

1           (z) "Manufacture" means the production, preparation,  
2 propagation, compounding, conversion or processing of a  
3 controlled substance, either directly or indirectly, by  
4 extraction from substances of natural origin, or  
5 independently by means of chemical synthesis, or by a  
6 combination of extraction and chemical synthesis, and  
7 includes any packaging or repackaging of the substance or  
8 labeling of its container, except that this term does not  
9 include:

10           (1) by an ultimate user, the preparation or  
11 compounding of a controlled substance for his own use; or

12           (2) by a practitioner, or his authorized agent  
13 under his supervision, the preparation, compounding,  
14 packaging, or labeling of a controlled substance:

15           (a) as an incident to his administering or  
16 dispensing of a controlled substance in the course  
17 of his professional practice; or

18           (b) as an incident to lawful research,  
19 teaching or chemical analysis and not for sale.

20           (z-1) "Methamphetamine manufacturing chemical" means any  
21 of the following chemicals or substances containing any of  
22 the following chemicals: benzyl methyl ketone, ephedrine,  
23 methyl benzyl ketone, phenylacetone, phenyl-2-propanone, or  
24 pseudoephedrine or any of the salts, optical isomers, or  
25 salts of optical isomers of the above-listed chemicals.

26           (aa) "Narcotic drug" means any of the following, whether  
27 produced directly or indirectly by extraction from substances  
28 of natural origin, or independently by means of chemical  
29 synthesis, or by a combination of extraction and chemical  
30 synthesis:

31           (1) opium and opiate, and any salt, compound,  
32 derivative, or preparation of opium or opiate;

33           (2) any salt, compound, isomer, derivative, or  
34 preparation thereof which is chemically equivalent or

1 identical with any of the substances referred to in  
2 clause (1), but not including the isoquinoline alkaloids  
3 of opium;

4 (3) opium poppy and poppy straw;

5 (4) coca leaves and any salts, compound, isomer,  
6 salt of an isomer, derivative, or preparation of coca  
7 leaves including cocaine or ecgonine, and any salt,  
8 compound, isomer, derivative, or preparation thereof  
9 which is chemically equivalent or identical with any of  
10 these substances, but not including decocainized coca  
11 leaves or extractions of coca leaves which do not contain  
12 cocaine or ecgonine (for the purpose of this paragraph,  
13 the term "isomer" includes optical, positional and  
14 geometric isomers).

15 (bb) "Nurse" means a registered nurse licensed under the  
16 Nursing and Advanced Practice Nursing Act.

17 (cc) (Blank).

18 (dd) "Opiate" means any substance having an addiction  
19 forming or addiction sustaining liability similar to morphine  
20 or being capable of conversion into a drug having addiction  
21 forming or addiction sustaining liability.

22 (ee) "Opium poppy" means the plant of the species  
23 *Papaver somniferum* L., except its seeds.

24 (ff) "Parole and Pardon Board" means the Parole and  
25 Pardon Board of the State of Illinois or its successor  
26 agency.

27 (gg) "Person" means any individual, corporation,  
28 mail-order pharmacy, government or governmental subdivision  
29 or agency, business trust, estate, trust, partnership or  
30 association, or any other entity.

31 (hh) "Pharmacist" means any person who holds a  
32 certificate of registration as a registered pharmacist, a  
33 local registered pharmacist or a registered assistant  
34 pharmacist under the Pharmacy Practice Act of 1987.

1           (ii) "Pharmacy" means any store, ship or other place in  
2 which pharmacy is authorized to be practiced under the  
3 Pharmacy Practice Act of 1987.

4           (jj) "Poppy straw" means all parts, except the seeds, of  
5 the opium poppy, after mowing.

6           (kk) "Practitioner" means a physician licensed to  
7 practice medicine in all its branches, dentist, podiatrist,  
8 veterinarian, scientific investigator, pharmacist, physician  
9 assistant, advanced practice nurse, licensed practical nurse,  
10 registered nurse, hospital, laboratory, or pharmacy, or other  
11 person licensed, registered, or otherwise lawfully permitted  
12 by the United States or this State to distribute, dispense,  
13 conduct research with respect to, administer or use in  
14 teaching or chemical analysis, a controlled substance in the  
15 course of professional practice or research.

16           (ll) "Pre-printed prescription" means a written  
17 prescription upon which the designated drug has been  
18 indicated prior to the time of issuance.

19           (mm) "Prescriber" means a physician licensed to practice  
20 medicine in all its branches, dentist, podiatrist or  
21 veterinarian who issues a prescription, a physician assistant  
22 who issues a prescription for a Schedule III, IV, or V  
23 controlled substance in accordance with Section 303.05 and  
24 the written guidelines required under Section 7.5 of the  
25 Physician Assistant Practice Act of 1987, or an advanced  
26 practice nurse with prescriptive authority in accordance with  
27 Section 303.05 and a written collaborative agreement under  
28 Sections 15-15 and 15-20 of the Nursing and Advanced Practice  
29 Nursing Act.

30           (nn) "Prescription" means a lawful written, facsimile,  
31 or verbal order of a physician licensed to practice medicine  
32 in all its branches, dentist, podiatrist or veterinarian for  
33 any controlled substance, of a physician assistant for a  
34 Schedule III, IV, or V controlled substance in accordance

1 with Section 303.05 and the written guidelines required under  
2 Section 7.5 of the Physician Assistant Practice Act of 1987,  
3 or of an advanced practice nurse who issues a prescription  
4 for a Schedule III, IV, or V controlled substance in  
5 accordance with Section 303.05 and a written collaborative  
6 agreement under Sections 15-15 and 15-20 of the Nursing and  
7 Advanced Practice Nursing Act.

8 (oo) "Production" or "produce" means manufacture,  
9 planting, cultivating, growing, or harvesting of a controlled  
10 substance.

11 (pp) "Registrant" means every person who is required to  
12 register under Section 302 of this Act.

13 (qq) "Registry number" means the number assigned to each  
14 person authorized to handle controlled substances under the  
15 laws of the United States and of this State.

16 (rr) "State" includes the State of Illinois and any  
17 state, district, commonwealth, territory, insular possession  
18 thereof, and any area subject to the legal authority of the  
19 United States of America.

20 (ss) "Ultimate user" means a person who lawfully  
21 possesses a controlled substance for his own use or for the  
22 use of a member of his household or for administering to an  
23 animal owned by him or by a member of his household.

24 (Source: P.A. 90-116, eff. 7-14-97; 90-742, eff. 8-13-98;  
25 90-818, eff. 3-23-99; 91-403, eff. 1-1-00; 91-714, eff.  
26 6-2-00.)".