

**Below are the comments received from members of the Animal Law Section regarding
HF 1735, the Minnesota Companion Animal Welfare Act.**

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Amy Draeger

I am opposed to H.F. 1735 for the following reasons:

Conflict with Federal Law

The Animal Welfare Act (AWA) requires public animal sheltering agencies and private sheltering agencies that contract with them to hold a stray animal for a minimum of five days so that the owner of the animal can redeem it. 7 U.S.C. § 2158. In numerous provisions, MN CAPA expressly permits these agencies to transfer strays to a private agency or rescue group prior to the expiration of the five-day holding period. H.F. 1735, § 3(b)(c)(d)(e). The bill's acknowledgement of rights of "owner redemption" does not render void its conflict with federal law. The AWA requires the impounding agency to hold the animal for a minimum of five days.

Due Process Concerns

The property interests of a private, nonprofit animal shelter include the animals under its care as well as its goodwill. MN CAPA interferes with shelters' lawful exercise and protection of their property rights by requiring shelters to 1) transfer animals in their custody to nonprofits not of their own choosing, H.F. 1735 § 6(b), and 2) disclose to members of the public private and arguably legally protected documents regarding dispositions of the animals they receive. §§ 3(f)(g), 7, 9(b), 11(b)(c). MN CAPA also prohibits, with few exceptions, private animal shelters from euthanizing an animal without first notifying all members of a "registry of [501c3] organizations willing to accept animals." H.F. 1735 § 6(b). In my view, these are weighty constitutional intrusions.

A nonprofit corporation has a constitutional right to select its own business partners. Federal Distillers, Inc. v. State, 229 N.W.2d 144, 157 (Minn. 1975). "The freedom to contract with respect to one's property and in the conduct of a lawful business to select the party with whom one chooses to do so is a part of the liberty protected by the due process clause of the State and Federal Constitutions." *Id.*

Not only does a private animal shelter have a right to select its own business partners, it has a duty to select its business partners and otherwise manage its affairs in ways that will not jeopardize the value of its intangible assets – its reputation in the community, its recruitment and retention of volunteers, and its partnerships with other organizations. MN CAPA allows shelters only one exercise of discretion in this regard – public and private animal shelters may refuse to include on mandatory 501c(3) registries organizations whose "directors, officers, staff or volunteers have been convicted . . . of cruelty to animals or neglect of animals . . ." H.F. 1735 § 6(a)(4). This protection presumes the extraordinary: 1) that animal cruelty and neglect is

widely and successfully prosecuted and 2) that the organization requesting to be placed on the registry will both know and verify the legal identities of all its volunteers.