

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

CHAPTER 1007

An Act to amend and reenact §§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.73, 3.1-796.96, 3.1-796.96:2, and 3.1-796.96:5 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 3.1-796.96:6 and 3.1-796.96:7, and to repeal §§ 3.1-796.96:3 and 3.1-796.96:4 of the Code of Virginia, relating to animal rescues.

[S 950]

Approved April 2, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.73, 3.1-796.96, 3.1-796.96:2, and 3.1-796.96:5 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 3.1-796.96:6 and 3.1-796.96:7 as follows:

§ 3.1-796.66. Definitions.

The following words as used in this chapter shall have the following meanings:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.1-796.68 for a period of five consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every ~~twelve~~ 12 hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or a cat, *or any other companion animal*, from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.1-796.98, animal means any species susceptible to rabies. For the purposes of § 3.1-796.122, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.1-796.104.

"Animal shelter" means a facility, *other than a private residential dwelling and its surrounding grounds*, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including, but not limited to, a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of ~~providing animals with sanctuary or for finding permanent adoptive homes for animals.~~

"Board" means the Board of Agriculture and Consumer Services.

"Boarding establishment" means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

~~"Companion animal rescue agency" means any person or organization that accepts more than six companion animals, or three companion animals and three unweaned litters of companion animals during a calendar year for the purpose of providing sanctuary or finding permanent adoptive homes for companion animals and that does not maintain an animal shelter for keeping animals, but rather houses the animals in a residential dwelling or uses a system of housing animals in foster homes or boarding establishments.~~

"Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. *The following shall not be considered dealers:* (i) any person who transports companion animals in the regular course of business as a common carrier ~~shall not be considered a dealer~~, or (ii) *any person or organization whose primary purpose is to find permanent adoptive homes for companion animals.*

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the United States Department of Agriculture.

"Facility" means a building, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

"Foster care provider" means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

~~"Foster home" means a private residential site at which, through registration with a companion animal rescue agency or animal shelter or dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.~~

"Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

~~"Housing facility" means any room, building, or area used to contain a primary enclosure or~~

enclosures.

"Home-based rescue" means any person or organization that accepts (i) more than 12 companion animals or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.1-796.106.

"Humane society" means any ~~chartered~~ *incorporated*, nonprofit organization ~~incorporated under the laws of this Commonwealth and that is~~ organized for the ~~purpose~~ *purposes* of preventing cruelty to animals and promoting humane care and treatment *or adoptions* of animals.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.1-73.6; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"Local ordinance" means any law, rule, regulation, or ordinance promulgated by the governing body of any county, city, or town.

"Locality" or "local government" means a county, city, or town, as the context may require.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.1-796.126:1, and who adopts or receives a dog or cat from a releasing agency.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any municipality, county, or incorporated town thereof, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" means any person who: (i) has a right of property in an animal, (ii) keeps or harbors an animal, (iii) has an animal in his care, or (iv) acts as a custodian of an animal.

"Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

"Pet shop" means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Pound" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any county, city, town, or incorporated society for the prevention of cruelty to animals.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Properly cleaned" means that carcasses, debris, food waste and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" *when referring to a facility* means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the ~~housing~~ facility, and observation of the ~~animal~~ animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the ~~animal facilities~~ facility; and to promote the well-being of the animals. *"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.*

"Releasing agency" means a pound, animal shelter, humane society, animal welfare organization,

society for the prevention of cruelty to animals, ~~companion animal rescue agency~~, or other similar entity ~~or home-based rescue~~, that releases a ~~dog or cat~~ *companion animals* for adoption pursuant to Article 6-1 (§ 3.1-796.126:1 et seq.) of this chapter.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

"State Veterinarian" means the veterinarian employed by the Commissioner of Agriculture and Consumer Services as provided in § 3.1-723.

"State Veterinarian's representative" means an employee of the Department of Agriculture and Consumer Services who is under the direction of the State Veterinarian.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five days.

§ 3.1-796.67:2. State Veterinarian's power to inspect premises where animals are kept; investigations and search warrants.

A. The State Veterinarian and each State Veterinarian's representative shall have the power to conduct inspections of animal shelters, ~~and companion animal rescue agencies~~; and inspect any business premises where animals are housed or kept, including any boarding establishment, kennel, pet shop, pound, or the business premises of any dealer, exhibitor or groomer, at any reasonable time, for the purposes of determining if a violation of (i) this chapter; (ii) any other state law governing the care, control or protection of animals; or (iii) any other state law governing property rights in animals has occurred. ~~The State Veterinarian shall have the authority to conduct inspections of foster homes for the same purposes only with proper cause or specific request from a pound, animal shelter, companion animal rescue agency, animal control officer, humane investigator, or any other law enforcement officer, which shall include, but not be limited to, a violation of the provisions of this chapter.~~

B. Provisions for investigation of suspected violations of this chapter and other laws pertaining to animals are provided in § 3.1-796.107. Provisions for obtaining a warrant and the power of search for violations of animal cruelty laws are provided in § 3.1-796.113.

§ 3.1-796.68. Care of animals by owner; penalty.

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;
2. Adequate water;
3. Adequate shelter that is properly cleaned;
4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
5. Adequate exercise;
6. Adequate care, treatment, and transportation; and
7. Veterinary care when needed or to prevent suffering or disease transmission.

The provisions of this section shall also apply to every ~~animal shelter, pound, companion animal rescue agency~~, *animal shelter, or other releasing agency, and every foster home care provider*, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

B. Game and wildlife species shall be cared for in accordance with regulations promulgated by the Board of Game and Inland Fisheries by January 1, 1994.

C. Violation of this section is a Class 4 misdemeanor.

§ 3.1-796.73. Abandonment of animal; penalty.

No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to an animal pound, animal shelter, humane society, or companion animal rescue or other releasing agency.

§ 3.1-796.96. County or city pounds; confinement and disposition of animals; affiliation with foster care providers; penalties; injunctive relief.

A. The governing body of each county or city shall maintain or cause to be maintained a pound and shall require dogs running at large without the tag required by § 3.1-796.92 or in violation of an ordinance passed pursuant to § 3.1-796.93 to be confined therein. *Nothing in this section shall be construed to prohibit confinement of other companion animals in such a pound.* The governing body of any county or city need not own the facility required by this section but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. The governing body shall require that:

1. The pound ~~(i)~~ shall be accessible to the public at reasonable hours during the week; ~~(ii) post in full view of the public and pursuant to §§ 3.1-796.96:2 and 3.1-796.96:3, contact information for all animal shelters and companion animal rescue agencies that are located in the same city or county as the pound or that have received animals that were found in the same city or county as the pound;~~ ~~(iii) when contacted by a person seeking a lost animal, shall advise the person that the animal may be at an animal shelter or companion animal rescue agency and shall provide the person with the contact information for the animal shelters and companion animal rescue agencies that service the locality where the pound is located;~~ ~~(iv) post the descriptions of each animal submitted to the pound by an animal shelter or companion animal rescue agency, in full view of the public for a period of not less than fourteen days from the time the description is received; and (v) maintain the description of each animal for a period of one year and make it available to the public for inspection upon request. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a pound.~~

2. The pound shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and each pound shall update such statement as changes occur;

3. If a person contacts the pound inquiring about a lost companion animal, the pound shall advise the person if the companion animal is confined at the pound or if a companion animal of similar description is confined at the pound;

4. The pound shall maintain a written record of the information on each companion animal submitted to the pound by an animal shelter in accordance with subsection D of § 3.1-796.96:2 for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by an animal shelter or allow such person inquiring about a lost animal to view the written records;

5. The pound shall maintain a written record of the information on each companion animal submitted to the pound by a releasing agency other than a pound or animal shelter in accordance with subdivision F 2 of § 3.1-796.96:5 for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records; and

6. The pound shall maintain a written record of the information on each companion animal submitted to the pound by an individual in accordance with subdivision A 2 of § 3.1-796.96:7 for a period of 30 days from the date the information is received by the pound. If a person contacts the pound inquiring about a lost companion animal, the pound shall check its records and make available to such person any information submitted by the individual or allow such person inquiring about a lost companion animal to view the written records.

B. An animal confined pursuant to this section shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof.

The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next ~~forty-eight~~ 48 hours following its confinement.

If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded.

C. If an animal confined pursuant to this section has not been claimed upon expiration of the

appropriate holding period as provided by subsection B, it shall be deemed abandoned and become the property of the pound or shelter. If such abandoned animal did not, when delivered to the pound, bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:

1. Sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;

2. Such animal may be humanely destroyed or disposed of by the methods set forth in subdivisions 1 through 5. No pound shall release more than two animals or a family of animals during any 30-day period to any one person under subdivisions 2, 3, or 4.

1. ~~Delivery~~ Release to any humane society, animal shelter, or companion animal rescue other releasing agency within the Commonwealth, provided no member of its board of that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, or employees ~~has ever~~ staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;

3 2. Adoption by any person who is a resident of the county or city for which the pound is operated and who will pay the required license fee, if any, on such animal, provided that no person may adopt an animal if the person such resident has ever read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

4 3. Adoption by a resident of an adjacent political subdivision of the Commonwealth, provided that no person may adopt an animal if the person such resident has ever read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

5 4. Adoption by any other person, provided that no person may adopt an animal if the such person has ever read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and provided that no animal may be adopted by any person who is not a resident of the county or city for which the pound or animal shelter is operated, or of an adjacent political subdivision, unless the animal is first sterilized, and the pound may require that the sterilization be done at the expense of the person adopting the animal; or

6 5. ~~Delivery~~, Release for the purposes of adoption or euthanasia only, to a humane society, an animal shelter, or a companion animal rescue any other releasing agency located in and lawfully operating under the laws of another state, provided that such humane society, animal shelter, or companion animal rescue other releasing agency: (i) maintains records that would comply with § 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; and (iii) obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has been approved by the State Veterinarian or his designee as a facility or agency that maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia provided to the pound, animal shelter, or other releasing agency within the Commonwealth a statement signed by an authorized representative specifying the entity's compliance with clauses (i) through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of this chapter.

If such abandoned animal, when delivered to the pound, bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subdivision 2, 3, 4, or 5 of this subsection.

No pound or shelter shall deliver more than two animals or a family of animals during any thirty-day period to any one person under subdivision 3, 4 or 5 of this subsection.

If an animal is required to be sterilized prior to adoption pursuant to subdivision 5 of this subsection, the pound or animal shelter may require that the sterilization be done at the expense of the person adopting the animal. For purposes of recordkeeping, release of an animal by a pound to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

D. Nothing in this section shall prohibit the immediate ~~destruction~~ euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal ~~destroyed~~ euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

E. Nothing in this section shall prohibit the immediate ~~destruction~~ euthanasia or disposal by the methods listed in subdivisions 2 1 through 6 5 of subsection C of an animal that has been ~~delivered voluntarily~~ or released to a pound, animal shelter, other releasing agency, or animal control officer, or humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered read and signed a statement (i) surrendering all property rights in such animal and has read and signed a statement (i) certifying, (ii) stating that no other person has a right of property in the animal, and (ii) (iii) acknowledging that the animal may be immediately euthanized or disposed of by the methods listed

~~in subdivisions 2 through 6 of in accordance with subdivisions 1 through 5 of subsection C.~~

F. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written ~~certification statement~~ of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The ~~certification statement~~ of the disinterested person shall be kept with the animal as required by § 3.1-796.105. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal ~~to the facility~~.

G. ~~No pound shall place a companion animal in a foster home with a foster care provider unless the foster care provider has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and each pound shall update such statement as changes occur. The pound shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the pound has an affiliation with the foster care provider.~~

H. ~~A pound that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.1-796.68.~~

I. ~~If a pound finds a direct and immediate threat to a companion animal placed with a foster care provider, it shall report its findings to the animal control agency in the locality where the foster care provider is located.~~

~~§ J.~~ For purposes of this section:

"Animal" shall not include agricultural animals.

"Humane society," when referring to an organization without the Commonwealth, means any nonprofit organization organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.

"Rightful owner" means a person with a right of property in the animal.

~~H K.~~ (For effective date - see Editor's note) The governing body shall require that the pound be operated in accordance with regulations issued by the Board. If this chapter or such regulations are violated, the locality may be assessed a civil penalty by the Board *or its designee* in an amount that does not exceed \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the amount of any civil penalty, the Board *or its designee* shall consider (i) the history of previous violations at the pound; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the locality to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

~~I L.~~ If this chapter or any laws governing animal pounds are violated, the Commissioner may bring an action to enjoin the violation or threatened violation of this chapter or the regulations pursuant thereto regarding animal pounds, in the circuit court where the animal pound is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.

§ 3.1-796.96:2. Animal shelters; confinement and disposition of animals; affiliation with foster care providers; penalties; injunctive relief.

A. An animal shelter may confine and dispose of animals in accordance with the provisions of subsections B through ~~§ F~~ of § 3.1-796.96.

B. ~~Each animal shelter shall obtain a signed statement from each of its directors, operators, staff, and animal caregivers specifying that the individual has never been convicted of animal cruelty, neglect, or abandonment, and each animal shelter shall update such statement as changes occur.~~

C. The State Veterinarian or his designee shall inspect an animal shelter prior to the animal shelter confining or disposing of animals pursuant to this section. The animal shelter shall meet the requirements of all laws with regard to confinement and disposition of animals before the animal shelter is approved to receive animals and provide a reasonable and comfortable climate appropriate for the age, species, condition, size, and type of animal.

~~C.~~ An animal shelter that confines and disposes of animals pursuant to this section shall be accessible to the public at reasonable hours; shall have its telephone number and address listed in a telephone directory; and shall post its contact information, including at least its name, address, and telephone number; in pounds in the localities it serves and update the contact information as changes occur.

D. ~~The operator of~~ An animal shelter that confines an animal that has not been received from its owner ~~or from an authorized releasing agency~~ shall, pursuant to this section, transmit a description of the animal including at least *species*, color, breed, size, sex, and other ~~identifications~~ identification or markings and where the animal was found, ~~to the pound maintained by the county or city where the animal shelter is located and~~ and its contact information, including its name, address, and telephone number, to the pound in the county or city where the animal was found within ~~twenty-four~~ 48 hours of the animal shelter receiving the animal. ~~An animal shelter that confines and disposes of animals~~

pursuant to this subsection shall be accessible to the public at reasonable hours, shall have its telephone number and address listed in a telephone directory, and shall post its contact information, including at least its name, address, and telephone number, in the pound in the locality where the animal shelter is located.

E. For purposes of recordkeeping, release of an animal by an animal shelter to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

F. No animal shelter shall place a companion animal in a foster home with a foster care provider unless the foster care provider has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and the animal shelter shall update the statement as changes occur. The animal shelter shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the animal shelter has an affiliation with the foster care provider.

G. An animal shelter that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.1-796.68.

H. If an animal shelter finds a direct and immediate threat to a companion animal placed with a foster care provider, it shall report its findings to the animal control agency in the locality where the foster care provider is located.

I. No animal shelter shall be operated in violation of any local zoning ordinance.

J. (For effective date - see Editor's note) An animal shelter that confines and disposes of animals pursuant to this section shall be operated in accordance with this chapter. If this chapter is violated, the animal shelter may be assessed a civil penalty by the ~~Department~~ Board or its designee in an amount that does not exceed \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the amount of any civil penalty, the Board or its designee shall consider (i) the history of previous violations at the animal shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the animal shelter to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

K. If this chapter or any laws governing animal shelters are violated, the Commissioner may bring an action to enjoin the violation or threatened violation of this chapter or the regulations pursuant thereto regarding animal shelters, in the circuit court where the animal shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.

§ 3.1-796.96:5. Releasing agencies other than pounds or animal shelters; confinement and disposition of companion animals; recordkeeping; affiliation with foster care providers; penalties.

A. A pound or animal shelter may place an animal in a foster home provided that:

1. The pound or animal shelter has registered the foster home with the Department. Any pound or animal shelter seeking to register a foster home shall apply on a form furnished by the Department. The applicant shall provide all information requested on the form, including, but not limited to, a valid mailing address through which the applicant can be reached, and a valid premises address where records are located. All premises, facilities, or sites where an applicant operates or keeps companion animals shall be shown on the application form. The application shall be filed with the Department and shall be accompanied by any appropriate fee required by the Department.

2. Registrations issued pursuant to this section shall not be transferable.

3. The registration shall be valid for up to one year and expire on December 31st, unless the companion animal rescue agency violates any provision of this chapter. The Department may refuse to renew a registration if a companion animal rescue agency or foster home violates any provision of this chapter.

4. The pound or animal shelter shall inspect the foster home to be used prior to the foster home accepting any companion animal, and shall verify in a report that the foster home meets the requirements set forth in subsection E of § 3.1-796.96:3. The pound or animal shelter shall maintain a copy of this inspection report and file a copy of the inspection report with the State Veterinarian upon approving a foster home.

5. A releasing agency other than a pound or animal shelter:

1. May confine and dispose of companion animals in accordance with subsections B through F of § 3.1-796.96; and

2. Shall keep accurate records of each companion animal received for two years from the date of disposition of the companion animal. Records shall (i) include a description of the companion animal including species, color, breed, sex, approximate weight, age, reason for release, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the companion animal, and (ii) be made available upon request to the Department, animal control officers, and law-enforcement officers at mutually agreeable times. A releasing agency other than a pound or animal shelter shall submit a summary of such records to the State Veterinarian

annually in a format prescribed by him, wherein a post office box may be substituted for a home address.

3. For purposes of recordkeeping, release of a companion animal by a releasing agency to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

B. Each releasing agency other than a pound or animal shelter shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and each such releasing agency shall update such statement as changes occur.

C. No releasing agency other than a pound or animal shelter shall place ~~an~~ a companion animal in a foster home if ~~any operator of~~ with a foster care provider unless the foster ~~home~~ care provider has ~~ever~~ read and signed a statement specifying that the foster care provider has never been convicted of animal cruelty, neglect, or abandonment, and such releasing agency shall update the statement as changes occur. A releasing agency other than a pound or animal shelter shall maintain the original statement and any updates to such statement for so long as the releasing agency has an affiliation with the foster care provider.

6. A pound or animal shelter shall notify the Department by mail of any change in the name, address, substantial control or ownership in the operation of the foster home, within fifteen days of the change.

~~B D.~~ A releasing agency other than a pound or animal shelter that places ~~an~~ a companion animal in a foster home with a foster care provider shall ensure that the foster ~~home~~ maintains the standards of care pursuant to subsection E of § 3.1-796.96:3 care provider complies with § 3.1-796.68. Each foster home shall complete a self-assessment at least twice a year in a format prescribed by the State Veterinarian. A copy of the self-assessment shall be maintained by the pound or animal shelter and the foster home.

~~C E.~~ If a releasing agency other than a pound or animal shelter finds a direct and immediate threat to a companion animal ~~in placed with a foster home care provider, the pound or animal shelter~~ it shall remove the companion animal from the foster home. The pound shall report its findings to the animal control officer agency in the area where the foster ~~home~~ care provider is located and the animal control officer shall investigate the allegations. The animal shelter shall report its findings to the animal control agency in the locality where the foster home is located.

F. Any releasing agency other than a pound or animal shelter that finds a companion animal or receives a companion animal that has not been released by its owner and (i) provides care or safekeeping, or (ii) takes possession of such companion animal shall, within 48 hours:

1. Make a reasonable attempt to notify the owner of the companion animal, if the owner can be ascertained from any tag, license, collar, tattoo, or other identification or markings, or if the owner of the companion animal is otherwise known to the releasing agency; and

2. Notify the pound that serves the locality where the companion animal was found and provide to the pound contact information including at least a name and a contact telephone number, a description of the companion animal including at least species, breed, sex, size, color, information from any tag, license, collar, tattoo, or other identification or markings, and the location where the companion animal was found.

G. A releasing agency other than a pound or animal shelter shall comply with the provisions of § 3.1-796.68.

H. No releasing agency other than a pound or animal shelter shall be operated in violation of any local zoning ordinance.

I. A releasing agency other than ~~If~~ a pound or animal shelter that violates any provision of this section, other than subsection G, it may be subject to a civil penalty as defined in subsection H of § 3.1-796.96 not to exceed \$250. If an animal shelter violates any provision of this section, it may be subject to a civil penalty as defined in subsection C of § 3.1-796.120.

~~D.~~ Nothing in this section shall prohibit a pound or animal shelter from placing an animal in a residential home that is not approved as a foster home as long as that home is used no more than twice a year and provided that no person residing in that home has ever been convicted of animal cruelty, neglect or abandonment.

§ 3.1-796.96:6. Requirements for foster homes; penalty.

In addition to any other requirements of this chapter, foster homes shall be subject to the following:

1. No foster home shall be operated in violation of any local zoning ordinance; and

2. No foster home shall keep more than 50 companion animals on-site at one time.

Any foster home found in violation of this section may be subject to a civil penalty not to exceed \$250.

§ 3.1-796.96:7. Notification by individuals finding companion animals; penalty.

A. Any individual who finds a companion animal and (i) provides care or safekeeping, or (ii) retains a companion animal in such a manner as to control its activities shall, within 48 hours:

1. Make a reasonable attempt to notify the owner of the companion animal, if the owner can be

ascertained from any tag, license, collar, tattoo, or other form of identification or markings, or if the owner of the animal is otherwise known to the individual; and

2. Notify the pound that serves the locality where the companion animal was found and provide to the pound contact information including at least a name and a contact telephone number, a description of the animal including information from any tag, license, collar, tattoo, or other identification or markings, and the location where the companion animal was found.

B. If an individual finds a companion animal and (i) provides care or safekeeping, or (ii) retains a companion animal in such a manner as to control its activities, the individual shall comply with the provisions of § 3.1-796.68.

C. Any individual who violates this section may be subject to a civil penalty not to exceed \$50 per companion animal.

2. That §§ 3.1-796.96:3 and 3.1-796.96:4 of the Code of Virginia are repealed.