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## HOUSE BILL NO. 1865

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on January 22, 2003)

(Patron Prior to Substitute—Delegate O'Bannon)

*A BILL to amend and reenact §§ 3.1-796.122, 18.2-403.2, and 33.1-346 of the Code of Virginia, relating to abandoning or dumping of animals; penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.1-796.122, 18.2-403.2, and 33.1-346 of the Code of Virginia are amended and reenacted as follows:**

§ 3.1-796.122. Cruelty to animals; penalty.

A. Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

B. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clause (i); or (iv) causes any of the actions described in clauses (i) through (iii), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, shall be guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Any person who abandons or dumps 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 shall be guilty of a Class 3 misdemeanor.

DC. Nothing in this section shall be construed to prohibit the dehorning of cattle.

ED. For the purposes of this section and §§ 3.1-796.111, 3.1-796.113, 3.1-796.114, 3.1-796.115, and 3.1-796.125, the word animal shall be construed to include birds and fowl.

FE. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including, but not limited to Title 29.1, or to farming activities as provided under this title or regulations promulgated thereto.

GF. In addition to the penalties provided in subsection A, the court may, in its discretion, require any person convicted of a violation of subsection A to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

HG. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a Class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a Class 6 felony.

IH. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, shall be guilty of a Class 6 felony. The provisions of this subsection shall not overrule § 3.1-796.93:1 or § 3.1-796.116.

60 § 18.2-403.2. Offenses involving animals /- Class 3 misdemeanors.

61 The following unlawful acts and offenses against animals shall constitute and be punished as a Class  
62 3 misdemeanor:

63 1. Violation of § 3.1-796.71 pertaining to the failure of a shopkeeper or pet dealer to provide  
64 adequate care to animals.

65 2. Violation of § 3.1-796.72 pertaining to the misrepresentation of an animal's condition by the  
66 shopkeeper or pet dealer.

67 3. Violation of § 3.1-796.73 ~~and subsection C of § 3.1-796.122~~ pertaining to the abandonment of  
68 animals.

69 4. Violation of § 3.1-796.70 pertaining to the sale of baby fowl.

70 5. Violation of § 3.1-796.125 pertaining to fighting cocks, dogs and other animals.

71 6. Violation of clause (iii) of subsection A of § 3.1-796.122 pertaining to soring horses.

72 7. Violation of § 3.1-796.83:2 pertaining to notice of consumer remedies required to be supplied by  
73 boarding establishments.

74 § 33.1-346. Dumping trash, companion animals, etc., on highway, right-of-way or private property;  
75 penalty.

76 A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, *a*  
77 *companion animal for the purpose of disposal*, or other unsightly matter, on public property, including a  
78 public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property  
79 without the written consent of the owner thereof or his agent. Any violation of this subsection shall  
80 constitute a misdemeanor punishable by confinement in jail for not more than twelve months and a fine  
81 of not less than \$250 or more than \$2,500, either or both.

82 B. When any person is arrested for a violation of this section, and the matter alleged to have been  
83 illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site  
84 in a motor vehicle, the arresting officer may comply with the provisions of § 46.2-936 in making such  
85 arrest.

86 When a violation of the provisions of this section has been observed by any person, and the matter  
87 illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or  
88 operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter.  
89 However, such presumption shall be rebuttable by competent evidence.

90 Any person convicted of a violation of this subsection shall be guilty of a misdemeanor punishable  
91 by confinement in jail for not more than twelve months and a fine of not less than \$250 or more than  
92 \$2,500, either or both.

93 C. The governing bodies of counties, cities and towns are hereby authorized to adopt ordinances not  
94 in conflict with the provisions of this section, and may repeal, amend or modify such ordinances.

95 D. The provisions of this section shall not apply to the lawful disposal of such matter in landfills.