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SENATE BILL NO. 1045

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 3.1-796.96, 3.1-796.96:2, 3.1-796.96:5, and 3.1-796.120 of the Code of Virginia, relating to pounds and animal shelters; penalties.

Patrons—Hanger; Delegate: Landes

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.96, 3.1-796.96:2, 3.1-796.96:5, and 3.1-796.120 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-796.96. County or city pounds; confinement and disposition of stray animals; 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. 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 the pound (i) 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~~ 14 days from the time the description is received; and (v) maintain the description of each animal for a period of ~~one~~ 1 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.

B. An animal confined pursuant to this section shall be kept for a period of not less than ~~five~~ 5 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~~ 5 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~~ 5 days;

2. Delivery to any humane society, animal shelter, or companion animal rescue agency within the Commonwealth, provided no member of its board of directors, operators, or employees has ever been convicted of animal cruelty, neglect, or abandonment;

3. 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 has ever been convicted of animal cruelty, neglect, or abandonment;

4. Adoption by a resident of an adjacent political subdivision of the Commonwealth, provided that

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59 no person may adopt an animal if the person has ever been convicted of animal cruelty, neglect, or
60 abandonment;

61 5. Adoption by any other person, provided that no person may adopt an animal if the person has
62 ever been convicted of animal cruelty, neglect, or abandonment, and provided that no animal may be
63 adopted by any person who is not a resident of the county or city for which the pound or animal shelter
64 is operated, or of an adjacent political subdivision, unless the animal is first sterilized; or

65 6. Delivery, for the purposes of adoption or euthanasia only, to a humane society, an animal shelter,
66 or a companion animal rescue agency located in and lawfully operating under the laws of another state,
67 provided that such humane society, animal shelter, or companion animal rescue agency: (i) maintains
68 records that would comply with § 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; and
69 (iii) has been approved by the State Veterinarian or his designee as a facility or agency that maintains
70 such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia.

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

74 No pound or shelter shall deliver more than ~~two~~ 2 animals or a family of animals during any
75 ~~thirty~~ 30-day period to any one person under subdivision 3, 4 or 5 of this subsection.

76 If an animal is required to be sterilized prior to adoption pursuant to subdivision 5 of this subsection,
77 the pound or animal shelter may require that the sterilization be done at the expense of the person
78 adopting the animal.

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

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

89 F. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or
90 other form of identification which, based on the written certification of a disinterested person, exhibits
91 behavior that poses a risk of physical injury to any person confining the animal, from being euthanized
92 after being kept for a period of not less than ~~three~~ 3 days, at least ~~one~~ 1 of which shall be a full
93 business day, such period to commence on the day the animal is initially confined in the facility, unless
94 sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the
95 animal as required by § 3.1-796.105. For purposes of this subsection, a disinterested person shall not
96 include a person releasing or reporting the animal to the facility.

97 G. For purposes of this section:

98 "Animal" shall not include agricultural animals.

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

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

103 H. (For effective date - see Editor's note) The governing body shall require that the pound be
104 operated in accordance with regulations issued by the Board. If this chapter or such regulations are
105 violated, the locality may be assessed a civil penalty by the Board in an amount that does not exceed
106 \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the
107 amount of any civil penalty, the Board shall consider (i) the history of previous violations at the pound;
108 (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the
109 demonstrated good faith of the locality to achieve compliance after notification of the violation. All civil
110 penalties assessed under this section shall be recovered in a civil action brought by the Attorney General
111 in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state
112 treasury to the credit of the Department to be used in carrying out the purposes of this chapter. *This*
113 *subsection shall also apply to any locality that contracts with an animal shelter for the purpose of*
114 *impounding or harboring seized, stray, homeless, abandoned, or unwanted animals.*

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

119 § 3.1-796.96:2. Animal shelters; confinement and disposition of animals; penalties; injunctive relief.

120 A. An animal shelter may confine and dispose of animals in accordance with the provisions of

subsections B through G of § 3.1-796.96.

B. The State Veterinarian or his designee shall inspect an animal shelter prior to the 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 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 color, breed, size, sex, and other identifications or markings and where the animal was found, to the pound maintained by the county or city where the animal shelter is located and to the pound in the county or city where the animal was found within ~~twenty-four~~ 24 hours of the shelter receiving the animal. No animal shelter shall be operated in violation of any local zoning ordinance.

E. (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.

F. 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. Pounds and animal shelters; foster home registration requirements; applications; conditions for registration; inspections.

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. No pound or animal shelter shall place an animal in a foster home if any operator of the foster home has ever been convicted of animal cruelty, neglect, or abandonment.

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~~ 15 days of the change.

B. A pound or animal shelter that places an animal in a foster home shall ensure that the foster home maintains the standards of care pursuant to subsection E of § 3.1-796.96:3. 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. If a pound or animal shelter finds a direct and immediate threat to a companion animal in a foster home, the pound or animal shelter shall remove the companion animal from the foster home. The pound shall report its findings to the animal control officer in the area where the foster home 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. If a pound violates any provision of this section, it may be subject to a civil penalty as defined in subsection H of § 3.1-796.96. If an animal shelter violates any provision of this section, it may be subject to a civil penalty as defined in subsection E of § 3.1-796.120 3.1-796.96:2.

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.

§ 3.1-796.120. Gift, sale, or delivery of animals from pounds or animal shelters; penalties; injunctive relief.

A. The governing body of any political subdivision shall dispose of impounded animals in accordance with the provisions of § 3.1-796.96. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

B. The following shall confine and dispose of animals in their custody in accordance with the provisions of § 3.1-796.96:

1. Any humane investigator who has custody of any animal pursuant to his official duties;
2. Any humane society; and
3. Any animal shelter.

Animals that have been confined at a county or city pound as required by § 3.1-796.96 prior to being delivered to a local humane society or animal shelter may be immediately placed for adoption, or humanely euthanized in accordance with methods approved by the State Veterinarian. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the clerk or treasurer of the humane society for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal. No part of the proceeds shall accrue to any individual except for the aforementioned purposes. Humane societies, humane investigators and animal shelters shall keep accurate records of all animals handled. Records shall include a description of the animal including color, breed, sex, approximate weight, reason for bringing in, age, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the animal. Humane societies and animal shelters shall submit a summary of such records to the State Veterinarian annually in a format prescribed by him.

C. (Effective January 1, 2003) If this chapter or any laws governing the care or protection of animals are violated by an animal shelter, the operator of the shelter may be assessed a civil penalty by the Board 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 shall consider (i) the history of previous violations at the shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the operator 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.

D. If this chapter or any laws governing animal pounds or 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 pounds or shelters, in the circuit court where the animal pound or shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.