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SENATE BILL NO. 950

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend and reenact §§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.73, 3.1-796.93, 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 a section numbered 3.1-796.96:6, and to repeal §§ 3.1-796.96:3 and 3.1-796.96:4 of the Code of Virginia, relating to animal rescues.

Patron—Quayle

Referred to Committee on Agriculture, Conservation and Natural Resources

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, 3.1-796.93, 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 a section numbered 3.1-796.96:6 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 hours, to maintain normal hydration for the age, species, condition, size and

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59 type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of
60 hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are
61 accessible to each animal and are placed so as to minimize contamination of the water by excrement and
62 pests or an alternative source of hydration consistent with generally accepted husbandry practices.

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

65 "Agricultural animals" means all livestock and poultry.

66 "Ambient temperature" means the temperature surrounding the animal.

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

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

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

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

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

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

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

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

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

98 "Dealer" means any person who in the regular course of business for compensation or profit buys,
99 sells, transfers, exchanges, or barter companion animals. ~~Any~~ *The following shall not be considered*
100 *dealers: (i) any person who transports companion animals in the regular course of business as a*
101 *common carrier shall not be considered a dealer, or (ii) any person or organization that provides*
102 *companion animals with sanctuary, or finds permanent adoptive homes for companion animals.*

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

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

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

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

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

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

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

118 "Foster home" means a residential ~~site~~ *dwelling and its surrounding property* at which ~~site~~, through
119 ~~registration an affiliation with a companion animal rescue agency or pound or animal shelter or pound,~~
120 animal care or rehabilitation is provided.

"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.

"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, nonprofit organization incorporated under the laws of this Commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment 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, *or who adopts or receives any other companion animal 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" means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the housing facility, and observation of the animal; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and 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 that releases a dog or cat for adoption pursuant to Article 6.1 (§ 3.1-796.126:1 et seq.) of this chapter, *or releases any other companion animal for adoption.*

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

185 *"Running at large" means that an animal is straying, roaming, running, or self-hunting off the*
186 *property of its owner or custodian and is not under its owner's or custodian's immediate control.*

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

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

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

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

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

207 *"Stray" means a dog that is running at large without the tag required by § 3.1-796.92, or in*
208 *violation of any ordinance passed pursuant to § 3.1-796.93, or a companion animal that has become*
209 *lost or separated from its owner or custodian, or a companion animal that has been abandoned or*
210 *dumped.*

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

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

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

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

220 § 3.1-796.67:2. State Veterinarian's power to inspect premises where animals are kept.

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

231 § 3.1-796.68. Care of animals by owner; penalty.

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

233 1. Adequate feed;

234 2. Adequate water;

235 3. Adequate shelter that is properly cleaned;

236 4. Adequate space in the primary enclosure for the particular type of animal depending upon its age,
237 size, species, and weight;

238 5. Adequate exercise;

239 6. Adequate care, treatment, and transportation; and

240 7. Veterinary care when needed or to prevent suffering or disease transmission.

241 The provisions of this section shall also apply to every animal shelter, pound, ~~companion animal~~
242 ~~rescue agency~~, foster home, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment.

243 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 shelter, pound, humane society, or companion animal rescue releasing agency, or to prohibit the release of an animal by its owner to any other person.

§ 3.1-796.93. Governing body of county, city or town may prohibit dogs from running at large.

The governing bodies of the counties, cities and towns of this Commonwealth are hereby authorized to prohibit the running at large of all or any category of dogs in all or any designated portion of such county, city or town during such months as they may designate. Governing bodies may also require that dogs be confined, restricted or penned up during such periods. For the purpose of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his dog to run at large, or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this section.

§ 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 and that have received stray animals that were found in the same city or county as where the pound is located; (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 in the locality same city or county where the pound is located that receives stray animals; (iv) post the descriptions description of each stray 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 stray animal submitted by an animal shelter for a period of one 1 year and make it available to the public for inspection upon request, and (vi) cause a duly authorized representative of the pound to provide to the State Veterinarian a statement that the representative has read and signed, certifying that none of the pound's directors, operators, staff, or animal caregivers has ever been convicted of animal cruelty, neglect, or abandonment, and update such statement as changes in personnel occur, and provide updated statements to the State Veterinarian 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 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 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

305 additional period of not less than five days;

306 2. Delivery to any ~~humane society, animal shelter, or companion animal rescue~~ releasing agency
307 within the Commonwealth, provided ~~no member of its board of that a duly authorized representative of~~
308 ~~such releasing agency has read and signed a statement certifying that no~~ directors, operators, staff, or
309 ~~employees~~ has animal caregivers of the releasing agency have ever been convicted of animal cruelty,
310 neglect, or abandonment;

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

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

318 5. Adoption by any other person, provided that ~~no person may adopt an animal if the~~ such person has
319 ~~ever~~ read and signed a statement certifying that he has never been convicted of animal cruelty, neglect,
320 or abandonment, and provided that no animal may be adopted by any person who is not a resident of
321 the county or city for which the pound or animal shelter is operated, or of an adjacent political
322 subdivision, unless the animal is first sterilized; or

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

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

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

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

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

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

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

356 G. For purposes of this section:

357 "Animal" shall not include agricultural animals.

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

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

362 H. (For effective date - see Editor's note) The governing body shall require that the pound be
363 operated in accordance with regulations issued by the Board. If this chapter or such regulations are
364 violated, the locality may be assessed a civil penalty by the Board in an amount that does not exceed
365 \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the
366 amount of any civil penalty, the Board 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. 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; penalties; injunctive relief.

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. *A duly authorized representative of the animal shelter shall provide to the State Veterinarian a statement that he has read and signed, certifying that none of the animal shelter's directors, operators, staff, or animal caregivers has ever been convicted of animal cruelty, neglect, or abandonment, and update the statement as changes in personnel occur, and provide updated statements to the State Veterinarian upon request.*

D. An animal shelter that confines and disposes of stray 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.

~~DE.~~ The operator of an animal shelter that confines ~~an a stray 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~~ species, breed, sex, size, ~~sex~~ color, 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 animal shelter receiving the animal.

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

~~EG.~~ (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 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.

~~FH.~~ 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 homes.

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

428 renew a registration if a companion animal rescue agency or foster home violates any provision of this
429 chapter.

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

435 5. No pound or animal shelter shall place an animal in a foster home if ~~any~~ unless the operator of
436 the foster home has ~~ever read and signed a statement certifying that the operator and any resident of~~
437 ~~the foster home have never~~ been convicted of animal cruelty, neglect, or abandonment. ~~The operator of~~
438 ~~the foster home shall update the statement as changes of the operator or residents occur. The pound or~~
439 ~~animal shelter shall maintain the original of such statement and any updates to such statement so long~~
440 ~~as the foster home to which the statement pertains is used.~~

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

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

449 C. If a pound or animal shelter finds a direct and immediate threat to a companion animal in a foster
450 home, the pound or animal shelter shall remove the companion animal from the foster home. The pound
451 shall report its findings to the animal control officer in the area where the foster home is located and the
452 animal control officer shall investigate the allegations. The animal shelter shall report its findings to the
453 animal control agency in the locality where the foster home is located.

454 D. If a pound violates any provision of this section, it may be subject to a civil penalty as defined in
455 subsection H of § 3.1-796.96. If an animal shelter violates any provision of this section, it may be
456 subject to a civil penalty as defined in subsection C of § 3.1-796.120.

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

461 § 3.1-796.96:6. *Disposition of stray animals by entities other than pounds and animal shelters.*

462 A. Any individual, other than an animal control officer, humane investigator, or law enforcement
463 officer, within 48 hours of finding and taking custody of a stray animal, shall:

464 1. Make a reasonable attempt to notify the owner of the animal, if the owner can be ascertained
465 from any tag, license, collar, tattoo, or other form of identification on the animal, or if the owner of the
466 animal is otherwise known to the individual; and

467 2. Notify the pound that serves the locality where the stray animal was found and provide to the
468 pound the individual's contact information including at least a telephone number, a description of the
469 animal including information from any tag, license, collar, tattoo, or other identifications or markings,
470 and the location where the animal was found. Upon receiving the notice, the pound may take possession
471 of the animal.

472 Nothing in this subsection requires an individual to take custody of a stray animal. If an individual
473 takes custody of a stray animal, the individual shall comply with the provisions of § 3.1-796.68 so long
474 as he has custody of the stray animal. Nothing in this section shall prohibit an individual from adopting
475 a stray animal in accordance with subsection C of § 3.1-796.96.

476 B. Any releasing agency, other than a pound or an animal shelter, within 48 hours of taking custody
477 of a stray animal, shall

478 1. Make a reasonable attempt to notify the owner of the animal, if the owner can be ascertained
479 from any tag, license, collar, tattoo, or other identifications or markings, or if the owner of the animal
480 is otherwise known; and

481 2. Notify the pound that serves the locality where the stray animal was found and provide to the
482 pound a description of the animal including at least species, breed, sex, size, color, information from
483 any tag, license, collar, tattoo, or other identifications or markings, and the location where the animal
484 was found. Upon receiving the notice, the pound may take possession of the animal.

485 For so long as the entity has custody of the stray animal, the entity shall comply with the provisions
486 of § 3.1-796.68.

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