

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 345

An Act to amend and reenact §§ 3.1-796.96 and 18.2-510 of the Code of Virginia, relating to companion animal fees.

[S 663]

Approved March 4, 2008

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.96 and 18.2-510 of the Code of Virginia are amended and reenacted as follows:

§ 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 shall be accessible to the public at reasonable hours during the week;

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 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. *In addition to this and any other fees that might be levied, the locality may, after a public hearing, adopt an ordinance to charge the owner of an animal a fee for impoundment and increased fees for subsequent impoundments of the same animal.*

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.

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. Release to any humane society, animal shelter, or other releasing agency within the Commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains 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 updates such statements as changes occur;

2. Adoption by 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 such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

3. Adoption by a resident of an adjacent political subdivision of the Commonwealth, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

4. Adoption by any other person, provided that such person has 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 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

5. Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency: (i) maintains records that would comply with § 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; (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 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.

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 euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal 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 euthanasia or disposal by the methods listed in subdivisions 1 through 5 of subsection C of an animal that has been released to a pound, animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement (i) surrendering all property rights in such animal, (ii) stating that no other person has a right of property in the animal, and (iii) acknowledging that the animal may be immediately euthanized or disposed 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 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 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.

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.

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

K. 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.

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

§ 18.2-510. Burial or cremation of animals or fowls which have died.

When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried; ~~and, if he or she request such service from an officer or other person designated for the purpose. If the owner fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal or fowl that is cremated or buried the actual cost of the cremation or burial, not to exceed seventy-five dollars, and of the owner of every such fowl so cremated or buried the actual cost of the cremation or burial, not to exceed five dollars, and a reasonable fee to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.~~

Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

This section shall not apply to any county until the governing body thereof shall adopt the same.