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HOUSE BILL NO. 1570

Offered January 18, 2008

A BILL to amend and reenact §§ 3.1-796.66 and 3.1-796.126:1 through 3.1-796.126:5 of the Code of Virginia, relating to companion animals.

 Patron—Hull

 Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.66, 3.1-796.126:1, 3.1-796.126:2, 3.1-796.126:3, 3.1-796.126:4, and 3.1-796.126:5 of the Code of Virginia are amended and reenacted 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 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.

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

61 "Agricultural animals" means all livestock and poultry.

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

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

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

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

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

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

77 "*Breed improver*" means a person who: (i) breeds working dogs, show dogs, and hunting dogs or
78 cats of specific breeds, not as a source of income, but to perpetuate the breed or eliminate physical
79 shortcomings and disease, or who could otherwise demonstrate a conscious and deliberate plan of breed
80 improvement; and (iii) adheres to the American Kennel Club's 22 responsible breeding steps, United
81 Kennel Club's breeders code of ethics, American Working Dog Federation's constitution and bylaws, or
82 a substantially similar code of ethics or Cat Fanciers' Association breed standards.

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

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

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

94 "Dealer" means any person who in the regular course of business for compensation or profit buys,
95 sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers:
96 (i) any person who transports companion animals in the regular course of business as a common carrier,
97 or (ii) any person or organization whose primary purpose is to find permanent adoptive homes for
98 companion animals, (iii) a breed improver, (iv) a fancier breeder, or (v) a hobby breeder.

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

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

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

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

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

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

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

114 "*Fancier breeder*" means a person who: (i) regularly shows or competes at competitions sanctioned
115 by the American Kennel Club, the United Kennel Club, the American Working Dog Federation and their
116 member clubs, or the Cat Fanciers' Association and their sanctioned competitions, or similar
117 organizations for rare breed dogs and cats; and (ii) adheres to the American Kennel Club's 22
118 responsible breeding steps, United Kennel Club's breeders code of ethics, American Working Dog
119 Federation's constitution and bylaws, or a substantially similar code of ethics or Cat Fanciers'
120 Association breed standards.

"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 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.

"Hobby breeder" means a person who wishes to breed and then will find homes for one litter, but not for profit.

"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 incorporated, nonprofit organization that is organized for the 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; capradae 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

182 hazardous chemicals or disinfectants.

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

190 "Releasing agency" means a pound, animal shelter, humane society, animal welfare organization,
191 society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that
192 releases companion animals for adoption.

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

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

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

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

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

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

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

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

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

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

225 § 3.1-796.126:1. Sterilization of adopted dogs and cats; enforcement; civil penalty.

226 A. Every new owner of a dog or cat *purchased from a dealer or* adopted from a releasing agency
227 shall cause to be sterilized the dog or cat pursuant to the agreement required by subdivision 2 of
228 subsection B of this section.

229 B. ~~A dog or cat shall not be released for adoption from a releasing agency.~~ Dealers shall not sell and
230 releasing agencies shall not release for adoption any dog or cat unless:

231 1. The animal has already been sterilized; or

232 2. The individual person purchasing or adopting the animal signs an agreement to have the animal
233 sterilized by a licensed veterinarian (i) within thirty days of the *sale or* adoption, if the animal is
234 sexually mature, or (ii) within thirty days after the animal reaches six months of age, if the animal is not
235 sexually mature at the time of *sale or* adoption.

236 C. A *dealer or* releasing agency may extend for thirty days the date by which a dog or cat must be
237 sterilized on presentation of a written report from a veterinarian stating that the life or health of the
238 ~~adopted~~ animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the
239 veterinarian and the *dealer or* releasing agency may negotiate the terms of an extension of the date by
240 which the animal must be sterilized.

241 D. Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the
242 written agreement of the veterinarian, the *dealer or* releasing agency, and the new owner.

243 E. Upon the petition of an animal control officer, humane investigator, the State Veterinarian or a

State Veterinarian's representative to the district court of the county or city where a violation of this article occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this article *or void the sale or transfer of the animal from the dealer or releasing agency*. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this article.

F. Any person who violates subsection A or B of this section shall be subject to a civil penalty not to exceed ~~fifty dollars~~ *\$150 plus costs*.

§ 3.1-796.126:2. Sterilization agreement.

Any agreement used by a *dealer or* releasing agency pursuant to subsection B of § 3.1-796.126:1 shall contain:

1. The date of the agreement;
2. The names, addresses, and signatures of the *dealer or* releasing agency and the new owner;
3. A description of the dog or cat to be *sold or* adopted;
4. The date by which the dog or cat is required to be sterilized *or, if the new owner is exempt from this article under § 3.1-796.126:5, the applicable exemption;* and

5. A statement printed in conspicuous, bold print, that sterilization of the dog or cat is required under this article; that a person who violates this article is subject to a civil penalty; *that persons fraudulently claiming exemption from this article under § 3.1-796.126:5 shall be subject to a civil penalty of \$1,000;* and that the new owner may be compelled to comply with the provisions of this article *or accept nullification of the sale or transfer of the animal*.

§ 3.1-796.126:3. Sterilization confirmation; civil penalty.

Each new owner who signs a sterilization agreement shall, within seven days of the sterilization, cause to be delivered or mailed to the *dealer or* releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed \$150.

§ 3.1-796.126:4. Notification concerning lost, stolen or dead dogs or cats; civil penalty.

If ~~an adopted~~ a dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven days of the animal's disappearance or death, notify the *dealer or* releasing agency of the animal's disappearance or death. Any person who violates this section shall be subject to a civil penalty not to exceed twenty-five dollars.

§ 3.1-796.126:5. Exemptions.

A. This article shall not apply to:

1. An owner reclaiming his dog or cat from a releasing agency;
2. A releasing agency located in a county, city, or town that has adopted a more stringent mandatory sterilization ordinance; ~~and~~
3. A local governing body which has disposed of an animal by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or licensed federal dealer having its principal place of business located within the Commonwealth;

4. A *breed improver*;

5. A *fancier breeder*; or

6. A *hobby breeder*.

B. Any person fraudulently claiming an exemption under this section shall be subject to a civil penalty not to exceed \$1,000.