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HOUSE BILL NO. 656

Offered January 9, 2008

Prefiled January 8, 2008

A BILL to amend and reenact §§ 3.1-796.113, 3.1-796.122, 3.1-796.124 and 18.2-403.2 of the Code of Virginia and to repeal § 3.1-796.125 of the Code of Virginia, relating to animal protection; penalty.

Patrons—Griffith, Amundson, Armstrong, Bouchard, Bulova, Caputo, Crockett-Stark, Dance, Ebbin, Johnson, Jones, D.C., Marsden, Mathieson, McClellan, Miller, P.J., Moran, Nichols, Peace, Plum, Scott, J.M., Shannon, Sickles, Vanderhye, Ward and Watts

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.113, 3.1-796.122, 3.1-796.124, and 18.2-403.2 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-796.113. Power of search for violations of statutes against cruelty to animals.

When a sworn complaint is made to any proper authority by any animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search the building or place. ~~No search shall be made after sunset unless specially authorized by the authority upon satisfactory cause shown.~~

§ 3.1-796.122. Cruelty to animals; penalty.

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

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

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

D. For the purposes of this section and §§ 3.1-796.111, 3.1-796.113, 3.1-796.114, 3.1-796.115, and ~~3.1-796.125~~ 3.1-796.124, the word animal shall be construed to include birds and fowl.

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

F. In addition to the penalties provided in subsection A, the court may, in its discretion, require any person convicted of a violation of subsection A to attend an anger management or other appropriate

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57 treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of
58 such a program or counseling upon the person convicted.

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

62 H. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona
63 fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog
64 or cat that is a companion animal whether belonging to him or another and (ii) as a direct result causes
65 the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the
66 recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to
67 the condition of the animal, shall be guilty of a Class 6 felony. If a dog or cat is attacked on its owner's
68 property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all
69 reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such
70 owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and
71 shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall
72 not overrule § 3.1-796.93:1 or § 3.1-796.116.

73 I. Any person convicted of violating this section may be prohibited by the court from possession or
74 ownership of companion animals.

75 § 3.1-796.124. Animal fighting; penalty.

76 A. No person shall knowingly ~~do any of the following~~:

77 1. Promote, engage in, or be employed in the fighting of ~~dogs~~animals for amusement, sport or gain;

78 2. Wager money or anything of value on the result of such fighting;

79 3. Receive money or anything of value for the admission of another person to a place for
80 ~~dogfighting~~animal fighting;

81 4. Possess, own, train, transport, or sell any ~~dog~~animal with the intent that such ~~dog~~animal engage in
82 an exhibition of fighting with another ~~dog~~animal; ~~or~~

83 5. ~~Permit~~Authorize or allow any person to undertake any act described in subdivisions 1 through 45
84 of this subsection on any premises under his charge or control, or aid or abet any such act; ~~or~~

85 6. *Possess or administer to an animal any device or substance intended to enhance an animal's*
86 *ability to fight.*

87 *Any person who violates any provision of this subsection is guilty of a Class 6 felony.*

88 B. No person shall knowingly:

89 1. Attend an exhibition of the fighting of animals; ~~or~~

90 2. Permit or cause any minor to (i) attend an exhibition of the fighting of animals or (ii) undertake
91 *or be involved in any act described in subdivisions 1 through 4 of subsection A.*

92 *Any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.*

93 C. Any animal control officer, as defined in § 3.1-796.66, shall confiscate any ~~dogs~~animals that have
94 been, are, or are intended to be used in ~~dogfighting~~animal fighting and any equipment used in training
95 such ~~dogs~~animals or used in ~~dogfighting~~animal fighting.

96 1. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for
97 a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the
98 animal. The hearing shall be a preliminary determination of whether the animal has been used or
99 intended for use in animal fighting. The court shall order the animals forfeited to the locality: (i) for
100 good cause; (ii) if there is no contest from the owner; or (iii) if the owner fails to post bond in surety
101 with the locality as provided in subdivision 2.

102 2. Any owner may contest the forfeiture at the hearing by posting bond in surety with the locality for
103 the locality's cost of caring for the animal for a period of nine months. An additional posting of bond
104 shall be required for each successive nine-month period until a final determination by the court on the
105 criminal charges.

106 3. Upon a final determination of guilty by the court on the underlying criminal charges, ownership
107 in any forfeited animals shall be transferred to the locality. Amounts realized on any posted bond shall
108 be remitted to the locality. Upon a final determination of not guilty by the court on the underlying
109 criminal charges, a forfeited animal shall be returned to his owner and any bond shall be returned to
110 him.

111 ~~CD.~~ Any person convicted of violating ~~this section~~ *may any provision of subsection A or B shall be*
112 *prohibited by the court from possession or ownership of other companion animals or cocks.*

113 ~~D.~~ Any person who violates any provision of this section shall be guilty of a Class 6 felony.

114 E. In addition to any other fines and costs, any person who is convicted of a violation of this section
115 shall pay all actual, reasonable costs incurred in housing, *caring for*, or euthanizing any confiscated
116 ~~dogs~~animals.

117 § 18.2-403.2. Offenses involving animals - Class 3 misdemeanors.

118 The following unlawful acts and offenses against animals shall constitute and be punished as a Class

3 misdemeanor:

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

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

3. Violation of § 3.1-796.73 pertaining to the abandonment of animals.

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

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

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

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

2. That § 3.1-796.125 of the Code of Virginia is repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.