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SENATE BILL NO. 172

Offered January 9, 2008

Prefiled January 7, 2008

A BILL to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 4.9 consisting of sections numbered 3.1-22.78 through 3.1-22.82, relating to the sale of horses by dealers; penalty.

Patron—Blevins

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 4.9, consisting of sections numbered 3.1-22.78 through 3.1-22.82 as follows:

CHAPTER 4.9.

EQUINE SALES BY DEALERS.

§ 3.1-22.78. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Dual agent" means a person acting as a representative for both the buyer and the seller in any sale, purchase, or transfer of an equine. Auction companies shall not be considered dual agents.

"Equine" means a horse of any breed used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, yearlings, or weanlings, or any interest therein.

§ 3.1-22.79. Written bill of sale required.

A. Any sale, purchase, or transfer of an equine over \$10,000 shall be: (i) accompanied by a written bill of sale or acknowledgment of purchase and security agreement that includes the purchase price; and (ii) signed by both the purchaser and the seller or their agent or, in a transaction solely relating to a season or fractional interest in the stallion, the syndicate manager or stallion manager.

B. If the equine is sold, purchased, or transferred at public auction, the requirements of this section may also be satisfied by the issuance of an auction receipt generated by the auction house, and signed by the purchaser or his agent. An agent who signs an auction receipt on behalf of the principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of the principal is authorized to act for the principal. For transactions at public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions.

§ 3.1-22.80. Dual agency; consent required; agency; consignor; disclosure of compensation.

A. Any person acting as a dual agent in any sale, purchase, or transfer of an equine shall acquire the prior written consent of both the buyer and the seller.

B. Any person acting as a dual agent, consignor, or agent for either a purchaser or a seller in a transaction involving the sale, purchase, or transfer of an equine who may receive compensation, in any form, with a value in excess of \$500 shall disclose the payment in writing to both the purchaser and seller; and acquire the written consent for such compensation from each principal for whom the agent is acting.

C. Any person acting as a dual agent, consignor, or agent for either a purchaser or a seller in a transaction involving the sale, purchase, or transfer of an equine shall, upon request by the principal, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction with the principal. Financial records shall not include the agent's or owner's work product used to internally evaluate the equine.

§ 3.1-22.81. Civil action for violation of chapter.

A. Any person who violates this chapter shall be civilly liable for damages in treble the amount of the damages sustained by the complaining party. The prevailing party in any litigation under this section shall be entitled to an award of costs of the suit, reasonable litigation expenses, and attorney fees. As used in this section, treble damages shall equal three times the sum of: (i) the difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and (ii) any compensation received in violation of subsection B of § 3.1-22.80. No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.

B. No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation in connection with any sale, purchase, or transfer of an equine shall be enforceable by way of a civil action or defense unless: (i) the contract or agreement is in writing and is signed by the

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59 *party against whom enforcement is sought; and (ii) the recipient of the compensation provides a written*
60 *bill of sale for the transaction.*
61 § 3.1-22.82. *Penalty.*
62 *Any person who knowingly commits a violation of this section is guilty of a Class 1 misdemeanor.*