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HOUSE BILL NO. 2195

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact § 3.2-6570 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3812.2, relating to devocalization of cats and dogs; penalty.

Patrons—Hope and Abbott

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-6570 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3812.2 as follows:

§ 3.2-6570. 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 by 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 is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

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, is 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 conducted in a reasonable and customary manner.

D. 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 Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

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

F. 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 or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's

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HB2195

59 property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all
60 reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such
61 owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and
62 shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall
63 not overrule § 3.2-6540 or 3.2-6552.

64 *G. Any person, including a licensed veterinarian, who performs a surgical devocalization on a cat or*
65 *dog when such procedure is not necessary to treat or relieve an illness, disease, or injury or to correct*
66 *a congenital abnormality that is causing or may cause the animal physical pain or harm, is guilty of a*
67 *Class 6 felony.*

68 *H. Any person convicted of violating this section may be prohibited by the court from possession or*
69 *ownership of companion animals.*

70 *§ 54.1-3812.2. Records of devocalization procedures; audit.*

71 *Any licensed veterinarian who performs a surgical devocalization on a cat or dog shall keep a*
72 *record of such procedure for a period of four years, as prescribed by the Board. Such records shall be*
73 *subject to audit by the Board.*

74 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
75 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
76 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
77 **874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to**
78 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
79 **necessary appropriation cannot be determined for periods of commitment to the custody of the**
80 **Department of Juvenile Justice.**
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