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HOUSE BILL NO. 2312

Offered January 12, 2011

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A BILL to amend and reenact §§ 3.2-6500, 3.2-6548, and 3.2-6549 of the Code of Virginia, relating to animal care; home-based rescues.

Patrons—Bell, Richard P. and Abbott

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6500, 3.2-6548, and 3.2-6549 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-6500. Definitions.

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

"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 § 3.2-6503 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 appropriate for the weather and temperature, 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

59 the water by excrement and pests or an alternative source of hydration consistent with generally
60 accepted husbandry practices.

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

63 "Agricultural animals" means all livestock and poultry.

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

65 "Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal
66 means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman
67 vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and
68 customary manner.

69 "Animal control officer" means a person appointed as an animal control officer or deputy animal
70 control officer as provided in § 3.2-6555.

71 "Animal shelter" means a facility, other than a private residential dwelling and its surrounding
72 grounds, that is used to house or contain animals and that is owned, operated, or maintained by a
73 nongovernmental entity including a humane society, animal welfare organization, society for the
74 prevention of cruelty to animals, or any other organization operating for the purpose of finding
75 permanent adoptive homes for animals.

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

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

80 "Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or
81 more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

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

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

91 "Dealer" means any person who in the regular course of business for compensation or profit buys,
92 sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers:
93 (i) any person who transports companion animals in the regular course of business as a common carrier;
94 or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

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

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

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

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

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

106 "Exhibitor" means any person who has animals for or on public display, excluding an exhibitor
107 licensed by the U.S. Department of Agriculture.

108 "Facility" means a building or portion thereof as designated by the State Veterinarian, other than a
109 private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or
110 enclosures in which animals are housed or kept.

111 "Foster care provider" means an individual who provides care or rehabilitation for companion
112 animals through an affiliation with a pound, animal shelter, or other releasing agency.

113 "Foster home" means a private residential dwelling and its surrounding grounds at which site through
114 an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided
115 for companion animals.

116 "Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats
117 for external parasites any animal.

118 "Home-based rescue" means any person that accepts: (i) more than 12 companion animals; or (ii)
119 more than nine companion animals and more than three unweaned litters of companion animals in a
120 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 § 3.2-6558.

"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; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; 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.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Ordinance" means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any locality, 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.

"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 locality 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 hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

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

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

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum,

182 agents injurious to health.

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

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

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

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

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

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

206 § 3.2-6548. Animal shelters; confinement and disposition of animals; affiliation with foster care
207 providers; penalties; injunctive relief.

208 A. An animal shelter may confine and dispose of animals in accordance with the provisions of
209 subsections B through G of § 3.2-6546.

210 B. Each animal shelter shall obtain a signed statement from each of its directors, operators, staff, and
211 animal caregivers specifying that the individual has never been convicted of animal cruelty, neglect, or
212 abandonment, and each animal shelter shall update such statement as changes occur.

213 C. The State Veterinarian or his representative shall inspect an animal shelter prior to the animal
214 shelter confining or disposing of animals pursuant to this section. The animal shelter shall meet the
215 requirements of all laws with regard to confinement and disposition of animals before the animal shelter
216 is approved to receive animals and provide a reasonable and comfortable climate appropriate for the age,
217 species, condition, size, and type of animal.

218 D. An animal shelter that confines an animal that has not been received from its owner shall,
219 pursuant to this section, transmit a description of the animal including at least species, color, breed, size,
220 sex, and other identification or markings and where the animal was found, and its contact information,
221 including its name, address, and telephone number, to the pound in the county or city where the animal
222 was found within 48 hours of the animal shelter receiving the animal. An animal shelter that confines
223 and disposes of animals pursuant to this subsection shall be accessible to the public at reasonable hours,
224 shall have its telephone number and address listed in a telephone directory, and shall post its contact
225 information, including at least its name, address, and telephone number, in the pound in the locality
226 where the animal shelter is located.

227 E. For purposes of recordkeeping, release of an animal by an animal shelter to a pound, animal
228 shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not
229 first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

230 F. No animal shelter shall place a companion animal in a foster home with a foster care provider
231 unless the foster care provider has read and signed a statement specifying that he has never been
232 convicted of animal cruelty, neglect, or abandonment, and the animal shelter shall update the statement
233 as changes occur. The animal shelter shall maintain the original statement and any updates to such
234 statement in accordance with this chapter and for at least so long as the animal shelter has an affiliation
235 with the foster care provider.

236 G. An animal shelter that places a companion animal in a foster home with a foster care provider
237 shall ensure that the foster care provider complies with § 3.2-6503.

238 H. If an animal shelter finds a direct and immediate threat to a companion animal placed with a
239 foster care provider, it shall report its findings to the animal control agency in the locality where the
240 foster care provider is located.

241 I. No animal shelter shall be operated in violation of any local zoning ordinance.

242 J. An animal shelter that confines and disposes of animals pursuant to this section shall be operated
243 in accordance with this chapter. If this chapter is violated, the animal shelter 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 is 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 animal shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the animal shelter 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.

K. *An animal shelter shall, prior to transferring animals to another releasing agency, provide such releasing agency with a signed statement from its principal officer certifying that the animal shelter: (i) annually reports intake and disposition to the State Veterinarian pursuant to § 3.2-6557; (ii) reports any animals not received from an owner pursuant to subsection D; (iii) has in its possession a signed statement from each of its foster care providers that they have never been convicted of animal cruelty, neglect, or abandonment pursuant to subsection F; and (iv) ensures that its home-based rescues provide adequate care pursuant to § 3.2-6503. Attached to this statement shall be the documentation submitted pursuant to subsection B.*

L. If this chapter or any laws governing animal shelters are violated, the Commissioner may bring an action to enjoin the violation or threatened violation of this chapter or the regulations pursuant thereto regarding animal shelters, in the circuit court where the animal shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.

§ 3.2-6549. Releasing agencies other than pounds or animal shelters; confinement and disposition of companion animals; recordkeeping; affiliation with foster care providers; penalties.

A. A releasing agency other than a pound or animal shelter:

1. May confine and dispose of companion animals in accordance with subsections B through G of § 3.2-6546; and

2. Shall keep accurate records of each companion animal received for two years from the date of disposition of the companion animal. Records shall: (i) include a description of the companion animal including species, color, breed, sex, approximate weight, age, reason for release, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the companion animal; and (ii) be made available upon request to the Department, animal control officers, and law-enforcement officers at mutually agreeable times. A releasing agency other than a pound or animal shelter shall submit a summary of such records to the State Veterinarian annually in a format prescribed by him, wherein a post office box may be substituted for a home address.

3. For purposes of recordkeeping, release of a companion animal by a releasing agency 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.

4. *Shall, prior to transferring any animal to a releasing agency, provide such releasing agency with a signed statement from its principal officer certifying that the releasing agency other than a pound or animal shelter: (i) annually reports intake and disposition to the State Veterinarian pursuant to subdivision A 2; (ii) reports any animals not received from their owner pursuant to subsection F; (iii) has in its possession a signed statement from each of its foster care providers that they have never been convicted of animal cruelty, neglect, or abandonment pursuant to subsection C; and (iv) ensures that its foster homes provide adequate care pursuant to § 3.2-6503. Attached to this statement shall be the documentation submitted pursuant to subsection B.*

B. Each releasing agency other than a pound or animal shelter 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 such releasing agency shall update such statement as changes occur.

C. No releasing agency other than a pound or animal shelter 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 the foster care provider has never been convicted of animal cruelty, neglect, or abandonment, and such releasing agency shall update the statement as changes occur. A releasing agency other than a pound or animal shelter shall maintain the original statement and any updates to such statement for so long as the releasing agency has an affiliation with the foster care provider.

D. A releasing agency other than a pound or animal shelter that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.2-6503.

E. If a releasing agency other than a pound or animal shelter 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 area where the foster care provider is located.

F. Any releasing agency other than a pound or animal shelter that finds a companion animal or

305 receives a companion animal that has not been released by its owner and: (i) provides care or
306 safekeeping; or (ii) takes possession of such companion animal shall, within 48 hours:

307 1. Make a reasonable attempt to notify the owner of the companion animal, if the owner can be
308 ascertained from any tag, license, collar, tattoo, or other identification or markings, or if the owner of
309 the companion animal is otherwise known to the releasing agency; and

310 2. Notify the pound that serves the locality where the companion animal was found and provide to
311 the pound contact information including at least a name and a contact telephone number, a description
312 of the companion animal including at least species, breed, sex, size, color, information from any tag,
313 license, collar, tattoo, or other identification or markings, and the location where the companion animal
314 was found.

315 G. A releasing agency other than a pound or animal shelter shall comply with the provisions of
316 § 3.2-6503.

317 H. No releasing agency other than a pound or animal shelter shall be operated in violation of any
318 local zoning ordinance.

319 I. A releasing agency other than a pound or animal shelter that violates any provision of this section,
320 other than subsection G, may be subject to a civil penalty not to exceed \$250.