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**HOUSE BILL NO. 2482**

Offered January 21, 2011

A *BILL to amend and reenact §§ 3.2-6500, 3.2-6511, 3.2-6557, 3.2-6569, and 3.2-6570 of the Code of Virginia and to repeal § 3.2-6570.1 of the Code of Virginia, relating to animal care; enforcement procedures and standards related to animal cruelty.*

Patron—Ware, R.L.

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6500, 3.2-6511, 3.2-6557, 3.2-6569, and 3.2-6570 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

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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, *or* prevent further disease transmission, ~~or prevent further of a serious disease~~  
102 ~~progression.~~

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

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

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

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

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

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

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

119 "Home-based rescue" means any person that accepts: (i) more than 12 companion animals; or (ii)  
120 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 § 3.2-6558.

"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 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.

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

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

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

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

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

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

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

207 § 3.2-6511. Failure of dealer or pet shop to provide adequate care; penalty.

208 Any dealer or pet shop that fails to adequately house, feed, water, exercise or care for animals in his  
209 or its possession or custody as provided for under this chapter is guilty of a Class 3 misdemeanor. Such  
210 animals shall be subject to seizure and impoundment; ~~and upon~~ *by such dealer or pet shop pursuant to*  
211 *any directive or under any supervision as may be provided by the investigating official, animal control*  
212 *officer, or State Veterinarian's representative. Animals are subject to seizure if (i) under a direct and*  
213 *immediate threat or (ii) the owner or custodian is unable to or does not provide adequate impoundment.*  
214 *Upon conviction of such person the, impounded or seized animals may be forfeited or returned to the*  
215 *owner or custodian at the discretion of the court. Forfeited animals may be sold, euthanized, or*  
216 *disposed of as provided by § 3.2-6546 for licensed, tagged, or tattooed animals. Such failure is also*  
217 *grounds for revocation of a permit or certificate of registration after public hearing. Any funds that*  
218 *result from such sale shall be used first to pay the costs of the local jurisdiction for the impoundment*  
219 *and disposition of the animals, and any funds remaining shall be paid to the owner, if known. If the*  
220 *owner is not found, the remaining funds shall be paid into the Literary Fund.*

221 § 3.2-6557. Animal control officers and humane investigators; limitations; records; penalties.

222 A. No animal control officer, humane investigator, humane society or custodian of any pound or  
223 animal shelter shall: (i) obtain the release or transfer of an animal by the animal's owner to such animal  
224 control officer, humane investigator, humane society or custodian for personal gain; ~~or~~ (ii) *obtain the*  
225 *release or transfer of an animal by the animal's owner to a humane society, animal shelter, or other*  
226 *releasing agency of which he is an officer unless such organization is the sole provider of pound*  
227 *services under a contract with the locality; or (iii) give or sell or negotiate for the gift or sale to any*  
228 *individual, pet shop, dealer, or research facility of any animal that may come into his custody in the*  
229 *course of carrying out his official assignments. No animal control officer, humane investigator or*  
230 *custodian of any pound or animal shelter shall be granted a dealer's license. Violation of this subsection*  
231 *is a Class 1 misdemeanor. Nothing in this section shall preclude any animal control officer or humane*  
232 *investigator from lawfully impounding any animal pursuant to § 3.2-6569.*

233 B. An animal control officer, law-enforcement officer, humane investigator or custodian of any  
234 pound or animal shelter, upon taking custody of any animal in the course of his official duties, or any  
235 representative of a humane society, upon obtaining custody of any animal on behalf of the society, shall  
236 immediately make a record of the matter. Such record shall include:

- 237 1. The date on which the animal was taken into custody;
- 238 2. The date of the making of the record;
- 239 3. A description of the animal including the animal's species, color, breed, sex, approximate age and  
240 approximate weight;
- 241 4. The reason for taking custody of the animal and the location where custody was taken;
- 242 5. The name and address of the animal's owner, if known;
- 243 6. Any license or rabies tag, tattoo, collar or other identification number carried by or appearing on

the animal; and

7. The disposition of the animal.

Records required by this subsection shall be maintained for at least five years, and shall be available for public inspection upon request. A summary of such records shall be submitted annually to the State Veterinarian in a format prescribed by him.

C. Any animal control officer or custodian of any pound who violates any provision of this chapter that relates to the seizure, impoundment and custody of animals by an animal control officer may be subject to suspension or dismissal from his position.

D. Custodians and animal control officers engaged in the operation of a pound shall be required to have knowledge of the laws of the Commonwealth governing animals, including this chapter, as well as basic animal care.

§ 3.2-6569. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. Before seizing or impounding any agricultural animal, such humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal. The seizure or impoundment of an equine resulting from a violation of *clause (iii) of subsection A* ~~(iii)~~ or *clause (ii) subsection B* ~~(ii)~~ of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses equivalent to that required by 9 C.F.R. Part 11.7 and that is approved by the State Veterinarian. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, and any other information required by the State Veterinarian.

Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

B. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

C. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. ~~Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the~~

305 amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine  
306 months.

307 In any locality that has not adopted such an ordinance, a court may order the owner of an animal  
308 held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the  
309 amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond  
310 shall not be forfeited if the owner is found to be not guilty of the violation.

311 If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of  
312 adequate care, the animal shall be returned to the owner. *If the court determines that the animal has*  
313 *been deprived of adequate care, as that term is defined in § 3.2-6500, then the court may order that the*  
314 *animal be returned to the owner or forfeited.* If the court determines that the animal has been (i)  
315 abandoned or cruelly treated; (ii) ~~deprived of adequate care, as that term is defined in § 3.2-6500, or~~  
316 ~~(iii)(ii)~~ raised as a dog that has been, is, or is intended to be used in dogfighting in violation of  
317 § 3.2-6571, then the court shall order that the animal be *forfeited. An animal that the court orders to be*  
318 *forfeited shall be thereafter:* (a) sold by a local governing body; (b) humanely destroyed, or disposed of  
319 by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of  
320 another state, or a licensed federal dealer having its principal place of business located within the  
321 Commonwealth; (c) delivered to any local humane society or shelter, or to any person who is a resident  
322 of the county or city where the animal is seized or an adjacent county or city in the Commonwealth and  
323 who will pay the required license fee, if any, on such animal; or (d) delivered to the person with a right  
324 of property in the animal as provided in subsection E.

325 E. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the  
326 court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care *has*  
327 *ordered forfeiture of such animal.* The court shall direct that the animal be delivered to the person with  
328 a right of property in the animal, upon his request, if the court finds that the abandonment, cruel  
329 treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

330 F. The court ~~shall~~ *may* order the owner of any animal determined to have been abandoned, cruelly  
331 treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for  
332 such animal from the time the animal is seized until such time that the animal is disposed of in  
333 accordance with the provisions of this section, to the provider of such care.

334 G. The court may prohibit *or restrict* the possession or ownership of other companion animals by the  
335 owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate  
336 care *for a period not exceeding two years following the first misdemeanor conviction of such owner. The*  
337 *court may prohibit or restrict the possession or ownership of other companion animals by the owner of*  
338 *any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care for*  
339 *a period not exceeding 10 years following a subsequent or felony conviction of such owner.* In making a  
340 determination to prohibit *or restrict* the possession or ownership of companion animals, the court ~~may~~  
341 *shall* take into consideration the owner's past record of convictions under this chapter or other laws  
342 prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental  
343 and physical condition. *Any owner required by the court to dispose of animals in his care shall be*  
344 *permitted no less than 90 days to transfer the ownership and possession of such animals.*

345 H. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may  
346 prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural  
347 animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as  
348 evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to  
349 prohibit the possession or ownership of agricultural animals, the court may take into consideration the  
350 owner's mental and physical condition.

351 I. Any person who is prohibited *or restricted* from owning or possessing animals pursuant to  
352 subsection G or H may petition the court to repeal the prohibition after two years have elapsed from the  
353 date of entry of the court's order. The court ~~may, in its discretion, shall~~ repeal the prohibition if the  
354 ~~person can prove to the satisfaction of the court that~~ *or restriction unless there is reason to believe* the  
355 cause for the prohibition ~~has ceased or restriction continues~~ to exist.

356 J. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the  
357 unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any,  
358 shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds  
359 remaining shall be paid into the Literary Fund.

360 K. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured  
361 or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer,  
362 animal control officer, or licensed veterinarian. *The owner shall have the right to provide for a*  
363 *veterinarian of his choice to examine such dead animal. The impounding humane investigator,*  
364 *law-enforcement officer, animal control officer, or licensed veterinarian shall: (i) notify the owner of his*  
365 *right under this subsection within 72 hours of the destruction of such animal and (ii) retain such dead*  
366 *animal for the earlier of 48 hours after notification of the owner of his rights under this subsection or*

transfer such dead animal to the veterinarian chosen by the owner for examination.

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

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

H. It shall be an affirmative defense to a charge of a violation of this section based upon the deprivation of emergency veterinary treatment for any animal if: (i) such animal is under the ongoing care of a veterinarian for the condition giving rise to the illness or injury requiring treatment and (ii) the owner is adhering to the instructions for care provided by the veterinarian.

2. That § 3.2-6570.1 of the Code of Virginia is repealed.