

20103252D

## HOUSE BILL NO. 1727

Offered January 17, 2020

A BILL to amend and reenact §§ 3.2-6500, 3.2-6524, and 3.2-6551 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.2-6579.1, relating to feral cats; trap, neuter, and return programs.

Patron—Reid

Referred to Committee on Agriculture, Chesapeake and Natural Resources

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

1. That §§ 3.2-6500, 3.2-6524, and 3.2-6551 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.2-6579.1 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 four consecutive days. "Abandon" shall not include the return of a feral cat by a TNR program volunteer.

"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; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; 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 that the tether to which the animal is attached 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 that is 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; is at least ten feet in length or three times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line; does not, by its material, size, or weight or any other characteristic, cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and does not have weights or other heavy objects attached to it. The walking of an animal on a leash by its owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom of movement would endanger the animal, temporarily and

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59 appropriately restricting movement of the animal according to professionally accepted standards for the  
60 species is considered provision of adequate space. The provisions of this definition that relate to  
61 tethering shall not apply to agricultural animals.

62 "Adequate water" means provision of and access to clean, fresh, potable water of a drinkable  
63 temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals  
64 appropriate for the weather and temperature, to maintain normal hydration for the age, species,  
65 condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by  
66 naturally occurring states of hibernation or fasting normal for the species; and is provided in clean,  
67 durable receptacles that are accessible to each animal and are placed so as to minimize contamination of  
68 the water by excrement and pests or an alternative source of hydration consistent with generally  
69 accepted husbandry practices.

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

72 "Agricultural animals" means all livestock and poultry.

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

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

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

80 "Boarding establishment" means a place or establishment other than a public or private animal shelter  
81 where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a  
82 fee. "Boarding establishment" shall not include any private residential dwelling that shelters, feeds, and  
83 waters fewer than five companion animals not owned by the proprietor.

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

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

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

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

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

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

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

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

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

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

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

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

117 "Farming activity" means, consistent with standard animal husbandry practices, the raising,  
118 management, and use of agricultural animals to provide food, fiber, or transportation and the breeding,  
119 exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals  
120 pursuant to such purposes.

"Feral cat" means an outdoor, free-roaming cat that is (i) unowned or (ii) lost or abandoned and whose owner cannot be ascertained from a microchip, tag, license, collar, tattoo, or other visible form of identification.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

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

"Home-based rescue" means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of 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.

"Incorporated" means organized and maintained as a legal entity in the Commonwealth.

"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; capradae animals; animals of the genus Lama or Vicugna; 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 a retail 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.

"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.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"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

182 inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to  
183 provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout  
184 the facility; and to promote the well-being of the animals.

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

189 "Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the  
190 purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered  
191 animals or a facility operated for the same purpose under a contract with any locality.

192 "Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society,  
193 animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or  
194 home-based rescue that releases companion animals for adoption.

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

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

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

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

214 "TNR program" means a program, otherwise known as trap, neuter, and return (TNR), for the  
215 temporary capture, provision of treatment, and return to the same approximate location as capture of  
216 any feral cat. Such program may include procedures for sterilization, vaccination, or provision of urgent  
217 veterinary treatment as necessary so long as (i) all vaccines are administered in accordance with a  
218 protocol approved by a licensed veterinarian and (ii) rabies vaccines are administered by a licensed  
219 veterinarian or licensed veterinary technician under the immediate direction and supervision of a  
220 licensed veterinarian in accordance with § 3.2-6521.

221 "TNR program volunteer" means any person who temporarily captures and returns to the same  
222 approximate location a feral cat in accordance with a TNR program.

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

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

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

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

232 **§ 3.2-6524. Unlicensed dogs prohibited; ordinances for licensing cats.**

233 A. It shall be unlawful for any person other than a releasing agency that has registered as such  
234 annually with local animal control to own a dog four months old or older in the Commonwealth unless  
235 such dog is licensed, as required by the provisions of this article.

236 B. The governing body of any locality may, by ordinance, prohibit any person other than a releasing  
237 agency that has registered as such annually with local animal control from owning a cat four months old  
238 or older within such locality unless such cat is licensed as provided by this article.

239 C. The provisions of this section shall not apply to the temporary capture and return of a feral cat  
240 by a TNR program volunteer.

241 **§ 3.2-6551. Notification by individuals finding companion animals; penalty.**

242 A. Any individual who finds a companion animal and (i) provides care or safekeeping or (ii) retains  
243 the companion animal in such a manner as to control its activities shall within 48 hours:

244 1. Make a reasonable attempt to notify the owner of the companion animal if the owner can be  
245 ascertained from any tag, license, collar, tattoo, or other form of identification or markings or if the  
246 owner of the animal is otherwise known to the individual; and

247 2. Notify the public animal shelter that serves the locality where the companion animal was found  
248 and provide to the shelter contact information, including at least a name and a contact telephone  
249 number, a description of the animal, including information from any tag, license, collar, tattoo, or other  
250 identification or markings, and the location where the companion animal was found.

251 B. If an individual finds a companion animal and (i) provides care or safekeeping or (ii) retains the  
252 companion animal in such a manner as to control its activities, the individual shall comply with the  
253 provisions of § 3.2-6503.

254 C. *The provisions of this section shall not apply to the temporary capture and return of a feral cat*  
255 *by a TNR program volunteer.*

256 D. Any individual who violates this section may be subject to a civil penalty not to exceed \$50 per  
257 companion animal.

258 **§ 3.2-6579.1. Trap, neuter, and return programs.**

259 *Notwithstanding the provisions of §§ 3.2-6546, 3.2-6548, and 3.2-6549, any public or private animal*  
260 *shelter, releasing agency, or hospital or clinic that is operated under the immediate supervision of a*  
261 *duly licensed veterinarian may operate a TNR program.*