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HOUSE BILL NO. 373

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 3.2-6546 of the Code of Virginia, relating to county or city public animal shelters; return of animals after expiration of stray hold period.

Patron—Williams Graves

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-6546 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-6546. County or city public animal shelters; confinement and disposition of animals; affiliation with foster care providers; penalties; injunctive relief.

A. For purposes of this section:

"Animal" shall not include agricultural animals.

"Eartipping" means the surgical removal of the distal one-quarter of a cat's left ear, approximately one centimeter in an adult and proportionately small in a kitten, performed by a licensed veterinarian under sterile conditions while the cat is under anesthesia and in compliance with any applicable state or federal laws.

"Rightful owner" means a person with a right of property in the animal.

B. The governing body of each county or city shall maintain or cause to be maintained a public animal shelter and shall require dogs running at large without the tag required by § 3.2-6531 or in violation of an ordinance passed pursuant to § 3.2-6538 to be confined therein. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a shelter. The governing body of any county or city need not own the facility required by this section but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. The governing body shall require that:

1. The public animal shelter shall be accessible to the public at reasonable hours during the week;

2. The public 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 shelter shall update such statement as changes occur;

3. If a person contacts the public animal shelter inquiring about a lost companion animal, the shelter shall advise the person if the companion animal is confined at the shelter or if a companion animal of similar description is confined at the shelter;

4. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a private animal shelter in accordance with subsection D of § 3.2-6548 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by a private animal shelter or allow such person inquiring about a lost animal to view the written records;

5. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a releasing agency other than a public or private animal shelter in accordance with subdivision F 2 of § 3.2-6549 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records; and

6. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by an individual in accordance with subdivision A 2 of § 3.2-6551 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by the individual or allow such person inquiring about a lost companion animal to view the written records.

C. An animal confined pursuant to this section shall be kept for a period of not less than five days, such stray hold period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof.

The operator or custodian of the public animal shelter shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification

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is found on the animal, the animal shall be held for an additional five-day stray hold period, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the shelter shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

During the stray hold period that an animal is confined pursuant to this subsection, the operator or custodian of the public animal shelter may vaccinate the animal to prevent the risk of communicable diseases, provided that (i) all vaccines are administered in accordance with a protocol approved by a licensed veterinarian and (ii) rabies vaccines are administered by a licensed veterinarian or licensed veterinary technician under the immediate direction and supervision of a licensed veterinarian in accordance with § 3.2-6521. Indoor enclosures used to confine the animal during the applicable stray hold period shall be constructed of materials that are durable, nonporous, impervious to moisture, and able to be thoroughly cleaned and disinfected. During the applicable stray hold period, the operator or custodian shall provide the animal with adequate care, including reasonable access to outdoor areas to ensure that the animal has adequate exercise and adequate space.

If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded. In addition to this and any other fees that might be levied, the locality may, after a public hearing, adopt an ordinance to charge the owner of an animal a fee for impoundment and increased fees for subsequent impoundments of the same animal.

D. If an animal confined pursuant to this section has not been claimed upon expiration of the applicable stray hold period as provided by subsection C, it shall be deemed abandoned and become the property of the public animal shelter.

For any animal not subject to a stray hold period, including an animal for whom the stray hold period has ended, the operator or custodian of the public animal shelter shall confine the animal in an enclosure that can safely house and allow for adequate separation of animals of different species, sexes, ages, and temperaments. Such enclosure may have both an outdoor area and an indoor area. If the facility has an outdoor area, the facility shall ensure that the outdoor areas do not present conditions that would be detrimental to the health of the animal. Indoor areas shall have a solid floor. Each operator or custodian shall ensure adequate access to water, food, and a resting platform, bedding, or perch as appropriate to the animal's species, age, and condition. Any regulation by the Board that applies to an animal not subject to a stray hold period shall not be so restrictive as to fail to allow for adequate care, adequate exercise, and adequate space, including meaningful indoor and outdoor recreation for the animal.

Such animal may be euthanized in accordance with the methods approved by the State Veterinarian or disposed of by the methods set forth in subdivisions 1 through ~~5~~ *6*. No shelter shall release more than two animals or a family of animals during any 30-day period to any one person under subdivision 2, 3, or 4.

1. Release to any humane society, public or private animal shelter, or other releasing agency within the Commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains 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 updates such statements as changes occur;

2. Adoption by a resident of the county or city where the shelter is operated and who will pay the required license fee, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

3. Adoption by a resident of an adjacent political subdivision of the Commonwealth, if the resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

4. Adoption by any other person, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment and provided that no dog or cat may be adopted by any person who is not a resident of the county or city where the shelter is operated, or of an adjacent political subdivision, unless the dog or cat is first sterilized, and the shelter may require that the sterilization be done at the expense of the person adopting the dog or cat; ~~or~~

5. *In the case of a cat, return to the location from which the cat was taken, after ensuring that the cat was vaccinated for rabies, spayed or neutered, and eartipped; or*

6. Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency: (i) maintains records that would comply with § 3.2-6557; (ii) requires that adopted dogs and cats be sterilized; (iii) obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has provided to the public or private animal shelter or other releasing agency within the Commonwealth a

statement signed by an authorized representative specifying the entity's compliance with clauses (i) through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of this chapter.

For purposes of recordkeeping, release of an animal by a public animal shelter to a public or private 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.

Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the treasurer of the locality. Any proceeds deriving from the gift, sale, or delivery of such animals by a public or private animal shelter or other releasing agency shall be paid directly to the clerk or treasurer of the animal shelter or other releasing agency for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal. No part of the proceeds shall accrue to any individual except for the aforementioned purposes.

E. Nothing in this section shall prohibit the immediate euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

F. Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subdivisions D 1 through ~~5~~ *6* of an animal that has been released to a public or private animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement: (i) surrendering all property rights in such animal; (ii) stating that no other person has a right of property in the animal; and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subdivisions D 1 through ~~5~~ *6*.

G. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification that, based on the written statement of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The statement of the disinterested person shall be kept with the animal as required by § 3.2-6557. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal.

H. No public 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 he has never been convicted of animal cruelty, neglect, or abandonment, and each shelter shall update such statement as changes occur. The shelter shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the shelter has an affiliation with the foster care provider.

I. A public 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.

J. If a public 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 locality where the foster care provider is located.

K. The governing body shall require that the public animal shelter be operated in accordance with regulations issued by the Board. If this chapter or such regulations are violated, the locality 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 shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the locality 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.

L. If this chapter or any laws governing public 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 public animal shelters, in the circuit court where the shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.