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SENATE BILL NO. 604

Senate Amendments in [] - February 14, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 3.2-6500 and 3.2-6570 of the Code of Virginia, relating to animal cruelty; companion animals; penalty.

Patrons Prior to Engrossment—Senators Stanley and Boysko; Delegate: Kory

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That §§ 3.2-6500 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 four 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; 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 hay, 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. The outdoor tethering of an animal shall not constitute the provision of adequate shelter (a) unless the animal is safe from predators and well suited and well equipped to tolerate its environment; (b) during the effective period for a hurricane warning or tropical storm warning issued for the area by the National Weather Service; or (c)(1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning, unless an animal control officer, having inspected an animal's individual circumstances in clause (c)(1), (2), or (3), has determined the animal to be safe from predators and well suited and well equipped to tolerate its environment.

"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

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59 the strangulation or injury of the animal; is at least 15 feet in length or four times the length of the
60 animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the
61 animal is being walked on a leash or is attached by a tether to a lead line or when an animal control
62 officer, having inspected an animal's individual circumstances, has determined that in such an individual
63 case, a tether of at least 10 feet or three times the length of the animal, but shorter than 15 feet or four
64 times the length of the animal, makes the animal more safe, more suited, and better equipped to tolerate
65 its environment than a longer tether; does not, by its material, size, or weight or any other characteristic,
66 cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and
67 does not have weights or other heavy objects attached to it. The walking of an animal on a leash by its
68 owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom
69 of movement would endanger the animal, temporarily and appropriately restricting movement of the
70 animal according to professionally accepted standards for the species is considered provision of adequate
71 space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.

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

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

82 "Agricultural animals" means all livestock and poultry.

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

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

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

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

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

96 "Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or
97 more adult female dogs for the primary purpose of the sale of their offspring provided that a person
98 who breeds an animal regulated under federal law as a research animal shall not be deemed to be a
99 commercial dog breeder.

100 "Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate,
101 guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or
102 native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any
103 animal that is bought, sold, traded, or bartered by any person. No agricultural animal, or game species;
104 ~~or shall be considered a companion animal for the purposes of this chapter.~~ No animal regulated under
105 federal law as a research animal shall be considered a companion animal for the purposes of this
106 chapter, *except that a dog or cat in the possession of a person who or an entity that breeds dogs or cats*
107 *for the sale or transfer to a research facility shall be considered a companion animal for the purposes*
108 *of Article 2 (§ 3.2-6503 et seq.) and Article 9 (§ 3.2-6570 et seq.).*

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

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

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

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

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

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

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

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

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

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

"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.

"Inspector" means a State Animal Welfare Inspector employed pursuant to § 3.2-5901.1 or his representative.

"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 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.

182 "Primary enclosure" means any structure used to immediately restrict an animal or animals to a
183 limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the
184 term includes the shelter and the area within reach of the tether.

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

189 "Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the
190 primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned
191 contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the
192 hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein
193 from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to
194 hazardous chemicals or disinfectants.

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

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

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

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

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

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

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

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

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

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

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

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

237 **§ 3.2-6570. Cruelty to animals; penalty.**

238 A. Any person who (i) overrides, overdrives, overloads, ill-treats, or abandons any animal, whether
239 belonging to himself or another; (ii) tortures any animal, willfully inflicts inhumane injury or pain not
240 connected with bona fide scientific or medical experimentation on any animal, or cruelly or
241 unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (iii)
242 deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment; (iv) sores any
243 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; (v) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vii) 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 (viii) 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) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), 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 serious bodily injury to such dog or cat that is a companion animal, 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, 3.2-6540.1, or 3.2-6552.

For the purposes of this subsection, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

G. For the purposes of this section, "bona fide scientific or medical experimentation" shall not include breeding dogs or cats for the sale or transfer to a research facility, including when breeding occurs within a research facility.

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

2. That the provisions of this act may result in a net increase in periods of imprisonment or

305 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
306 necessary appropriation cannot be determined for periods of imprisonment in state adult
307 correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I,
308 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
309 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
310 appropriation cannot be determined for periods of commitment to the custody of the Department
311 of Juvenile Justice.

312 [3. That the provisions of this act shall not become effective unless reenacted by the 2023 Session
313 of the General Assembly.

314 4. That the provisions of this act shall not become effective unless an appropriation effectuating
315 the purposes of this act is included in a general appropriation act passed in 2022 by the General
316 Assembly that becomes law.]