

# VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

## CHAPTER 817

*An Act to amend and reenact §§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.72, 3.1-796.83:2, 3.1-796.92, 3.1-796.93:1, 3.1-796.94, 3.1-796.96, 3.1-796.97:1, 3.1-796.101, 3.1-796.102, 3.1-796.104 through 3.1-796.108, 3.1-796.110 through 3.1-796.119, 3.1-796.121, 3.1-796.122, 3.1-796.124, 3.1-796.126:1, 3.1-796.126:7, 3.1-796.126:8, 3.1-796.126:10, 3.1-796.126:11, 3.1-796.127 and 3.1-796.128 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 3.1-796.104:1, 3.1-796.106:1, and 3.1-796.106:2; and to repeal § 3.1-796.109 of the Code of Virginia, relating to the Comprehensive Animal Laws; penalties.*

[H 232]

Approved April 22, 1998

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

**1. That §§ 3.1-796.66, 3.1-796.67:2, 3.1-796.68, 3.1-796.72, 3.1-796.83:2, 3.1-796.92, 3.1-796.93:1, 3.1-796.94, 3.1-796.96, 3.1-796.97:1, 3.1-796.101, 3.1-796.102, 3.1-796.104 through 3.1-796.108, 3.1-796.110 through 3.1-796.119, 3.1-796.121, 3.1-796.122, 3.1-796.124, 3.1-796.126:1, 3.1-796.126:7, 3.1-796.126:8, 3.1-796.126:10, 3.1-796.126:11, 3.1-796.127 and 3.1-796.128 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.1-796.104:1, 3.1-796.106:1, and 3.1-796.106:2 as follows:**

§ 3.1-796.66. Definitions.

The following words as used in this chapter shall have the following meanings:

"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 § 3.1-796.68 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 which 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, floor mat, 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 which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve hours, 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 which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or cat from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.1-796.98, animal means any species susceptible to rabies. For the purposes of § 3.1-796.122, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

*"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.1-796.104.*

"Animal shelter" means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, *animal rescue group*, or any other ~~nonprofit~~ organization devoted to the welfare, protection, and humane treatment of animals.

~~"Animal warden" means any person employed, contracted, or appointed by the Commonwealth or any political subdivision for the purpose of aiding in the enforcement of this law or any other law or ordinance relating to the licensing of dogs, control of dogs and cats, cruelty to animals, or seizure and impoundment of companion animals and includes any state or municipal police officer, animal control officer, sheriff, constable, or other employee whose duties in whole or in part include assignments which involve seizure or taking into custody of any dog or other animal.~~

"Board" means the Board of Agriculture and Consumer Services.

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

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

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

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

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. Any person who transports companion animals in the regular course of business as a common carrier shall not be considered a dealer.

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

"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 which 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 United States Department of Agriculture.

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

"Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

"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 § 3.1-796.106.*

"Humane society" means any chartered, nonprofit organization incorporated under the laws of this Commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.

"Investigator" or "humane investigator" means a natural person who is authorized to investigate

complaints of alleged violations of this chapter and who is either (i) employed by the Virginia Department of Agriculture and Consumer Services and is under the direction of the State Veterinarian or (ii) has met the training requirements and qualifications required by regulations promulgated pursuant to § 3.1-796.106 and who has a valid court order of appointment as a humane investigator for the jurisdiction in which official actions are being taken and which was issued in accordance with the provisions of §§ 3.1-796.109 and 3.1-796.110.

"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 which 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 § 3.1-73.6; 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.

"Local ordinance" means any law, rule, regulation, or ordinance promulgated by the governing body of any county, city, or town.

"Locality" or "local government" means a county, city, or town, as the context may require.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.1-796.126:1, and who adopts or receives a dog or cat from a releasing agency.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any municipality, county, or incorporated town thereof, 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.

"Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

"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 political subdivision 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 county, city, town, 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" means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the ~~shelter~~ housing facility, and observation of the animal; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities; and to promote the well-being of the animals.

"Releasing agency" means a pound, animal shelter, humane society, animal welfare society, society for the prevention of cruelty to animals, or other similar entity that releases a dog or cat for adoption pursuant to Article 6.1 (§ 3.1-796.126:1 et seq.) of this chapter.

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

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

"State Veterinarian" means the veterinarian employed by the Commissioner of Agriculture and Consumer Services as provided in § 3.1-723.

"State Veterinarian's representative" means an employee of the Department of Agriculture and Consumer Services who is under the direction of the State Veterinarian.

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

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

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

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

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

§ 3.1-796.67:2. State Veterinarian's power to inspect premises where animals are kept.

The State Veterinarian ~~or his~~ *and each State Veterinarian's* representative shall have the power to conduct inspections of animal shelters *and inspect any business premises where animals are housed or kept, including any boarding establishment, kennel, pet shop, pound, or the business premises of any dealer, exhibitor or groomer,* at any reasonable time, for the purposes of determining if a violation of ~~§ 3.1-796.68 (i) this chapter; (ii) any other state law governing the care, control or protection of animals; or (iii) any other state law governing property rights in animals~~ has occurred.

§ 3.1-796.68. Care of animals by owner; penalty.

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;
2. Adequate water;
3. Adequate shelter that is properly cleaned;
4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
5. Adequate exercise;
6. Adequate care, treatment, and transportation; and
7. Veterinary care when needed or to prevent suffering or disease transmission.

The provisions of this section shall also apply to every animal shelter, pound, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized. ~~For the purposes of this section and § 3.1-796.83:1, "groomer" means a person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites an animal.~~

B. Game and wildlife species shall be cared for in accordance with regulations promulgated by the Board of Game and Inland Fisheries by January 1, 1994.

C. Violation of this section is a Class 4 misdemeanor.

§ 3.1-796.72. Misrepresentation of animal's condition; penalties.

No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery, or other method of transfer. For the purpose of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. *However, sale of an agricultural animal that has external or internal parasites that are not made known to the person receiving the animal shall not be a violation of this section unless the animal is clinically ill or debilitated due to such parasites at the time of sale, trade, delivery or transfer of the animal.* Violation of this section shall be punishable as a Class 3 misdemeanor.

§ 3.1-796.83:2. Written notice of consumer remedies required to be supplied by boarding establishments; penalty.

A. A boarding establishment shall give the notice hereinafter set forth in writing to a consumer prior to the consumer's delivery of the animal to the boarding establishment. Such notice shall be embodied in a written document and shall state in ten-point bold-faced type the following:

#### NOTICE

**The boarding of animals is subject to Article 3.1 (§ 3.1-796.83:1 et seq.) of Chapter 27.4 of Title 3.1. If your animal becomes ill or injured while in the custody of the boarding establishment, the boarding establishment shall provide the animal with emergency veterinary treatment for the illness or injury.**

**The consumer shall bear the reasonable and necessary costs of emergency veterinary treatment for any illness or injury occurring while the animal is in the custody of the boarding establishment. The boarding establishment shall bear the expenses of veterinary treatment for any injury the animal sustains while at the boarding establishment if the injury resulted from the establishment's failure, whether accidental or intentional, to provide the care required by § 3.1-796.68; however, boarding establishments shall not be required to bear the cost of veterinary treatment for injuries resulting from the animal's self-mutilation.**

B. In addition, the boarding establishment shall display the following notice, in ten-point bold-faced

type, on a sign placed in a conspicuous location and manner at the boarding establishment's intake area:

**PUBLIC NOTICE**

**THE BOARDING OF ANIMALS BY A BOARDING ESTABLISHMENT IS SUBJECT TO ARTICLE 3.1 (§ 3.1-796.83:1 et seq.) OF CHAPTER 27.4 OF TITLE 3.1 OF THE CODE OF VIRGINIA. YOU HAVE SPECIFIC REMEDIES WHEN BOARDING ANIMALS IN THIS OR ANY OTHER BOARDING ESTABLISHMENT IN VIRGINIA. A COPY IS AVAILABLE IMMEDIATELY UPON REQUEST AND IS TO BE PRESENTED TO YOU AT THE TIME OF INTAKE IN THE FORM OF A WRITTEN DOCUMENT. IF YOU HAVE A COMPLAINT, YOU MAY CONTACT YOUR LOCAL LAW-ENFORCEMENT OFFICIAL OFFICER OR THE VIRGINIA DIVISION OF ANIMAL HEALTH DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, RICHMOND, VIRGINIA.**

C. Failure to display or provide the consumer with the written notice as required by this section is punishable as a Class 3 misdemeanor.

§ 3.1-796.92. Displaying receipts; dogs to wear tags.

Dog and cat license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal ~~warden~~ *control officer* or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when (i) the dog is engaged in lawful hunting, (ii) the dog is competing in a dog show, (iii) the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) the dog is confined, or (v) the dog is under the immediate control of its owner.

§ 3.1-796.93:1. Authority to control dangerous or vicious dogs.

A. The governing body of any county, city or town may enact an ordinance regulating dangerous dogs and vicious dogs.

B. As used in this section, "dangerous dogs" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, and "vicious dog" means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

C. Any ordinance enacted pursuant to this section shall prescribe the following provisions:

1. Any animal ~~warden~~ *control officer* who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal ~~warden~~ *control officer* or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1-796.119.

2. No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

3. The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the *local animal* ~~warden~~ *control officer* for a fee of fifty dollars in addition to other fees that may be authorized by law. The local animal ~~warden~~ *control officer* shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

4. All certificates or renewals thereof required to be obtained under this section shall only be issued

to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

5. While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

6. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

7. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

8. The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

9. All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.1-796.105.

D. Any ordinance enacted pursuant to this section may prescribe the following provisions:

1. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

2. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$50,000, that covers animal bites.

E. Notwithstanding the provisions of subdivision C 1, any ordinance enacted pursuant to this section may provide that an animal ~~warden~~ control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal ~~warden~~ control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal ~~warden's~~ control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

§ 3.1-796.94. Governing body of county, city, or town may adopt certain ordinances.

A. The governing bodies of counties, cities, and towns of the Commonwealth are hereby authorized to adopt, in their discretion, ordinances which parallel §§ 3.1-796.84 through 3.1-796.93, 3.1-796.95 through 3.1-796.104, 3.1-796.115 through 3.1-796.119, 3.1-796.121, 3.1-796.122, 3.1-796.126:1 through 3.1-796.126:7, and 3.1-796.127 through 3.1-796.129 of this chapter.

Any funds collected pursuant to the enforcement of ordinances adopted pursuant to the provisions of this section may be used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of cats and dogs.

Nothing in this section shall be construed so as to prevent or restrict any local governing body from adopting local animal control ordinances which are more stringent than §§ 3.1-796.84 through 3.1-796.93, 3.1-796.95 through 3.1-796.104, 3.1-796.115 through 3.1-796.119, 3.1-796.121, 3.1-796.122, 3.1-796.126:1 through 3.1-796.126:7, and 3.1-796.127 through 3.1-796.129 of this chapter.

B. The governing bodies of counties, cities or towns of the Commonwealth are hereby authorized to adopt, in their discretion, ordinances establishing uniform schedules of civil penalties for violations of specific provisions of ordinances adopted pursuant to this section. However, civil penalties may not be imposed for violations of ordinances which parallel § 3.1-796.122. Designation of a particular violation for a civil penalty shall be in lieu of criminal sanctions and preclude prosecution of such violation as a criminal misdemeanor. The schedule for civil penalties shall be uniform for each type of specified violation and the penalty for any one violation shall not be more than \$150. Imposition of civil penalties shall not preclude an action for injunctive, declaratory or other equitable relief. Moneys raised pursuant to this subsection shall be placed in the locality's general fund.

An animal ~~warden, deputy warden, humane investigator~~ or animal control officer or law-enforcement officer may issue a summons for a violation. Any person summoned or issued a ticket for a scheduled

violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the county, city or town issuing the summons or ticket prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

§ 3.1-796.96. County or city pounds; confinement and disposition of stray animals.

A. The governing body of each county or city shall maintain or cause to be maintained a pound in accordance with guidelines issued by the Department of Agriculture and Consumer Services and shall require dogs running at large without the tag required by § 3.1-796.92 or in violation of an ordinance passed pursuant to § 3.1-796.93 to be confined therein. 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 the pound be accessible to the public at reasonable hours during the week. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a pound.

B. An animal confined pursuant to this section shall be kept for a period of not less than five days, such 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 pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next forty-eight hours following its confinement.

If any animal confined pursuant to this section is claimed by its rightful owner, such owner shall be charged with the actual expenses incurred in keeping the animal impounded.

C. If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection B, it shall be deemed abandoned and become the property of the pound or shelter. If such abandoned animal did not when delivered to the pound bear a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by:

1. Sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;
2. Delivery to any humane society or animal shelter within the Commonwealth;
3. Adoption by any person who is a resident of the county or city for which the pound is operated and who will pay the required license fee, if any, on such animal;
4. Adoption by a resident of an adjacent political subdivision of the Commonwealth; or
5. Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter: (i) maintains records which would comply with § 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; and (iii) has been approved by the State Veterinarian or his designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and provides adequate care and euthanasia.

If such abandoned animal when delivered to the pound bore a collar, tag, license, tattoo, or other form of identification, it may be humanely destroyed or disposed of by the methods described in subdivision 2, 3 or 4 of this subsection.

No pound or shelter shall deliver more than two animals or a family of animals during any thirty-day period to any one person under subdivision 3 or 4 of this subsection.

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

E. Nothing in this section shall prohibit the immediate destruction or disposal by the methods listed in subdivisions 2 through 5 of subsection C of an animal that has been delivered voluntarily or released to a pound, animal shelter, animal ~~warden~~ control officer, or humane society by the animal's rightful owner after the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed a statement (i) certifying that no other person has a right of property in the animal and (ii) acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in subdivisions 2 through 5 of subsection C.

F. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written certification 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 certification of the disinterested person shall be kept with the animal

as required by § 3.1-796.105. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal to the facility.

G. For purposes of this section:

"Animal" shall not include agricultural animals.

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

"Humane society," when referring to an organization without the Commonwealth, means any nonprofit organization organized for the purpose of preventing cruelty to animals and promoting humane care and treatment or adoption of animals.

§ 3.1-796.97:1. Rabies inoculation of dogs and domesticated cats; availability of certificate.

The owner or custodian of all dogs and domesticated cats four months of age and older shall have them currently vaccinated for rabies by a licensed veterinarian or licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The supervising veterinarian on the premises shall provide the owner of the dog or the custodian of the domesticated cat with a certificate of vaccination. The owner of the dog or the custodian of the domesticated cat shall furnish within a reasonable period of time, upon the request of an animal ~~warden~~ control officer, humane investigator, law-enforcement officer, *State Veterinarian's representative*, or official of the Department of Health, the certificate of vaccination for such dog or cat. The vaccine used shall be licensed by the United States Department of Agriculture for use in that species.

§ 3.1-796.101. Disposition of funds.

Unless otherwise provided by ordinance of the local governing body, the treasurer of each ~~local jurisdiction~~ *locality* shall keep all ~~money moneys~~ collected by him for dog and cat license taxes in a separate account from all other funds collected by him. The ~~local jurisdiction~~ *locality* shall use the funds for the following purposes:

1. The salary and expenses of the animal ~~warden~~ control officer and necessary staff;
2. The care and maintenance of a ~~dog~~ pound;
3. The maintenance of a rabies control program;
4. Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of the license tax as provided by ordinance;
5. Payments for compensation as provided in § 3.1-796.118; and
6. Efforts to promote sterilization of dogs and cats.

Any part or all of any surplus remaining in such account on December 31 of any year may be transferred by the governing body of such ~~county or city~~ *locality* into the general fund of such ~~county or city~~ *locality*.

§ 3.1-796.102. Supplemental funds.

~~The local jurisdictions~~ *Localities* may supplement the dog and cat license tax fund with other funds as they consider appropriate. However, ~~local jurisdictions~~ *localities* shall supplement the dog and cat license tax fund to the extent necessary to provide for the salary and expenses of the animal ~~warden~~ control officer and staff and the care and maintenance of a ~~dog~~ pound as provided in subdivisions 1 and 2 of § 3.1-796.101.

§ 3.1-796.104. Position of animal control officer created.

The governing body of each county or city shall, or each town may, appoint an officer to be known as the animal ~~warden~~ control officer who shall have the power to enforce this chapter, all ordinances enacted pursuant to this chapter and all laws for the protection of domestic animals. The governing body may also appoint one or more deputy animal ~~wardens~~ control officers to assist the animal ~~warden~~ control officer in ~~dog inspection activities and in dog law enforcement~~. Such animal ~~wardens~~ the performance of his duties. Animal control officers and deputy animal ~~wardens~~ control officers shall have a knowledge of the animal control and protection laws of Virginia which they are required to enforce. When in uniform or upon displaying a badge or other credentials of office, animal ~~wardens~~ control officers and deputy animal ~~wardens~~ control officers shall have the power to issue a summons to any person found in the act of violating any such law or any ordinance enacted pursuant to such law of the locality in which the ~~warden~~ control officer or deputy ~~warden~~ animal control officer is appointed. The animal ~~warden~~ control officer and the deputy animal ~~wardens~~ control officers shall be paid as the governing body of each locality shall prescribe.

~~The governing body of any local jurisdiction~~ Any locality in which an animal ~~warden~~ control officer or deputy animal ~~wardens~~ control officers have been appointed may contract with one or more additional ~~local jurisdictions~~ *localities* for enforcement of the dog laws in the ~~local jurisdictions~~ *animal protection and control laws* by the animal ~~warden~~ control officers or deputy animal ~~wardens~~ control officers. Any such contract may provide that the ~~local jurisdiction~~ *locality* employing the animal ~~warden~~ control officer or deputy animal ~~wardens~~ control officers shall be reimbursed a portion of the salary and expenses of the animal ~~warden~~ control officer or deputy animal ~~wardens~~ control officers.

*Every locality employing an animal control officer shall submit to the Department of Criminal Justice Services, on a form provided by it, information concerning the employment and training status of the animal control officers employed by the locality. The Department may require that the locality notify the Department of any change in such information.*



§ 3.1-796.104:1. *Training of animal control officers.*

A. After April 1, 1999, every locality appointing animal control officers shall require that every animal control officer and deputy animal control officer completes the following training:

1. Within two years after appointment, a basic animal control course that has been approved by the Department of Criminal Justice Services and the State Veterinarian; and

2. Every three years, additional training approved by the Department of Criminal Justice Services and the State Veterinarian, fifteen hours of which shall be training in animal control and protection.

The Department of Criminal Justice Services and the State Veterinarian shall develop criteria to be used in approving training courses and shall provide an opportunity for public comment on proposed criteria before the final criteria are adopted.

Subdivision 1 of this subsection shall not apply to animal control officers or deputy animal control officers appointed before July 1, 1998. The State Veterinarian may grant exemptions from the requirements of subdivision 1 to animal control officers appointed on or after July 1, 1998, based on the animal control officer's previous training.

B. Upon cause shown by a locality, the State Veterinarian may grant additional time during which the training required by subsection A may be completed by an animal control officer in such locality.

C. Any animal control officer that fails to complete the training required by subsection A shall be removed from office, unless the State Veterinarian has granted additional time as provided in subsection B.

§ 3.1-796.105. Animal control officers and humane investigators; limitations; records; penalties.

A. No animal ~~warden~~ control officer, humane investigator, humane society or custodian of any pound or animal shelter shall (i) obtain the release or transfer of an animal by the animal's owner to such animal control officer, humane investigator, humane society or custodian for personal gain or (ii) give or sell or negotiate for the gift or sale to a any individual, pet shop, dealer, or research facility of any animal which may come into his custody in the course of carrying out his official assignments. No animal ~~warden~~ control officer, humane investigator or custodian of any pound or animal shelter shall be granted a dealer's license; and each application for such license shall include a statement made under oath that neither the applicant nor any member or employee of the firm, partnership, or corporation making application is an animal warden within the meaning of the definition herein. Violation of this subsection shall be a Class 1 misdemeanor. Nothing in this section shall preclude any animal control officer or humane investigator from lawfully impounding any animal pursuant to § 3.1-796.115.

B. An animal ~~warden~~ control officer, law-enforcement officer, humane investigator or the custodian of any pound or animal shelter, upon taking custody of any animal in the course of his official duties, or any representative of a humane society, upon obtaining custody of any animal on behalf of the society, shall immediately make a record of the matter in the manner prescribed by local ordinance, and the. Such record shall include a:

1. The date on which the animal was taken into custody;
2. The date of the making of the record;
3. A description of the animal including the animal's species, color, breed, sex, approximate age and approximate weight;
4. The reason for seizure, taking custody of the animal and the location of seizure, the owner's where custody was taken;
5. The name and address of the animal's owner, if known and all;
6. Any license or rabies tag, tattoo, collar or other identification numbers 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; and. A summary of such records shall be submitted annually to the State Veterinarian in a format prescribed by him.

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

D. Animal wardens, Custodians or and animal control officers engaged in the operation of a pound shall be required to have a knowledge of the laws of Virginia governing animals, including this chapter, as well as basic animal care. They shall avail themselves of at least one training course offered by the Commonwealth for law-enforcement officers or for humane investigators, or any animal warden, humane officer, or law officer workshop approved by the State Veterinarian. The Commonwealth shall bear the expenses associated with any required attendance of such a training course, and the State Veterinarian shall approve the training course prior to any expenditure of state funds for the course.

§ 3.1-796.106. Humane investigators; qualifications; appointment; term; penalty.

A. The Board shall establish by rule or regulation reasonable qualifications for approved humane investigators. The State Veterinarian shall maintain a current list of all approved humane investigators which shall be available for public inspection. Circuit court judges, in making appointments pursuant to § 3.1-796.109, shall make such appointments from such list. Such qualifications for approved humane

investigators shall include a knowledge of the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and satisfaction of the requirements of §§ 3.1-796.109 and 3.1-796.110. The State Veterinarian shall maintain a current list of persons who have demonstrated that they meet such qualifications and shall make the list available for public inspection.

B. A circuit court may appoint any person as a humane investigator for any locality within its jurisdiction if the person:

1. Is listed by the State Veterinarian as provided in subsection A as being qualified to be a humane investigator; and

2. Has never been convicted of animal cruelty or neglect, any felony, or any crime of moral turpitude according to a criminal background check which shall be performed by the attorney for the Commonwealth at the expense of the person seeking the appointment.

A person residing outside the Commonwealth may be appointed as a humane investigator only if he is employed by a humane society located within the locality for which he is seeking appointment.

C. On July 1, 2001, the appointment of every humane investigator who was appointed before July 1, 1998, shall expire. Any humane investigator whose appointment has so expired may be reappointed if he certifies to the appointing court that he has within the preceding three years completed fifteen hours of training in animal care and protection approved by the State Veterinarian.

D. Except as provided in subsection C, appointments of humane investigators shall be for terms of three years. Each humane investigator shall, during each term for which he is appointed, complete fifteen hours of training in animal care and protection approved by the State Veterinarian. If a humane investigator is appointed to a succeeding term before or within thirty days after his current term expires, a criminal background check shall not be required. If a humane investigator's term expires and he is not appointed to a succeeding term before or within thirty days after his current term expires, the circuit court that appointed him shall notify the State Veterinarian of the expiration of his term.

E. Approval of a training course by the State Veterinarian as required by this section shall remain in effect for one year from the approval date, unless the State Veterinarian establishes an earlier date.

F. The State Veterinarian shall remove from the list required by subsection A any person:

1. Who has not been appointed as a humane investigator within three years of having been placed on the list;

2. Whose appointment as a humane investigator has been revoked as provided in § 3.1-796.106:1; or

3. Whose term as a humane investigator has expired, if such person has not been appointed to a succeeding term by the circuit court before or within thirty days after the term expired.

§ 3.1-796.106:1. Revocation of appointment of humane investigators; State Veterinarian may investigate allegations.

A. Upon a motion by the attorney for the Commonwealth, the circuit court that appointed a humane investigator may revoke his appointment if he is no longer able to perform the duties of a humane investigator or has been convicted of any felony, Class 1 misdemeanor, or a violation of any provision of this chapter or any other law regarding animals. The court shall notify the State Veterinarian of each such revocation.

B. The State Veterinarian may investigate any allegation that a humane investigator has violated this chapter and report his findings and recommendations to the attorney for the Commonwealth. The State Veterinarian may authorize a State Veterinarian's representative to conduct such investigation. The report shall be held confidential except that the substance of the allegation against the humane investigator shall be disclosed to the humane investigator upon his written request.

§ 3.1-796.106:2. Powers and duties of humane investigators.

A. Any humane investigator may, within the locality for which he has been appointed, investigate violations of laws and ordinances regarding care and treatment of animals and disposal of dead animals.

B. Each humane investigator shall carry during the performance of his powers and duties under this chapter an identification card issued by the State Veterinarian. The identification card shall include the following information regarding the humane investigator:

1. His full name;

2. The locality for which he has been appointed;

3. The name of the circuit court that appointed him;

4. The signature of the circuit court judge that appointed him;

5. A photograph of his face; and

6. The date of expiration of his appointment.

C. Each humane investigator shall record on a form approved by the State Veterinarian every investigation he performs, maintain such record for five years, and make such record available upon request to any law-enforcement officer, animal control officer or State Veterinarian's representative. Each humane investigator shall file quarterly a report summarizing such records with the State Veterinarian on a form approved by him. A humane investigator's appointment may be revoked as provided in § 3.1-796.106:1 if he fails to file such report.

§ 3.1-796.107. Complaint of suspected violation; investigation.

A. Upon receiving a complaint of a suspected violation of this chapter, *any ordinance enacted pursuant to this chapter or any law for the protection of domestic animals*, any animal ~~warden control officer, court-appointed humane investigator, Division of Animal Health compliance officer, or other~~ law-enforcement official officer, or State Veterinarian's representative may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment. *Upon receiving a complaint of a suspected violation of any law or ordinance regarding care or treatment of animals or disposal of dead animals, any humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment.*

Upon obtaining a warrant as provided for in § 3.1-796.113, the law-enforcement officer, ~~compliance officer, animal warden, or court-appointed control officer~~, State Veterinarian's representative, or humane investigator may enter upon any other premises where the animal or animals described in the complaint are housed or kept. Attorneys for the Commonwealth and law-enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

B. If the investigation discloses that a violation of § 3.1-796.68 has occurred, the investigating official shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter.

§ 3.1-796.108. Impoundment; expenses; lien; disposition of animal.

When a ~~an animal control officer~~, humane investigator, ~~any law-enforcement official, or animal warden officer or State Veterinarian's representative~~ finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health which the owner or custodian has failed or refuses to remedy, such ~~animal control officer, humane investigator, animal warden, or law-enforcement official officer or State Veterinarian's representative~~ may impound the animal pursuant to § 3.1-796.115 in a facility which will provide the elements of good care as set forth in § 3.1-796.68 and shall then proceed to take such steps as are required to dispose of the animal pursuant to § 3.1-796.115.

§ 3.1-796.110. Expenses of humane investigators.

Each humane investigator appointed pursuant to ~~§ 3.1-796.109~~ shall give bond with surety in the circuit court of the county, or city, in which the court appointing him is located, in the penalty of \$500, with security conditioned according to law that the humane investigator will not knowingly make a false or improper arrest. The bond shall be effective and operative in any county or corporation for which such agent may be subsequently appointed. The State Veterinarian shall provide a certificate that the humane investigator is qualified as required by § 3.1-796.106. The certificate shall also bear the written approval by the circuit court of the appointment, as provided for in ~~§ 3.1-796.109~~. If requested, the humane investigator shall show his certificate when acting officially.

~~In no case shall~~ Neither the appointment of the ~~any humane investigators, or investigator, nor the performance of any services performed service or duty by them, entail him, shall require any locality or the Commonwealth to pay any cost or expense upon the county or municipal corporation or upon the Commonwealth incurred by or on behalf of a humane investigator. Any locality may reimburse any humane investigator appointed for that locality for reasonable expenses incurred as the result of a specific request for services from the locality.~~

§ 3.1-796.111. Preventing cruelty to animals; interference; penalty.

~~Any~~ Each animal control officer, humane investigator whose appointment shall have been approved as provided in ~~§ 3.1-796.109~~ or State Veterinarian's representative shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct or resist any ~~animal control officer, humane investigator or State Veterinarian's representative~~ in the discharge of his rights, powers, and duties as authorized and prescribed by law shall be deemed guilty of a Class 4 misdemeanor.

§ 3.1-796.112. Enforcement authority.

All law-enforcement officers in the Commonwealth of Virginia and ~~compliance officers under the direction of the State Veterinarian~~ Veterinarian's representatives shall enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced.

§ 3.1-796.113. Power of search for violations of statutes against cruelty to animals.

When a sworn complaint is made to any proper authority by any ~~animal control officer, humane investigator, law-enforcement official or animal warden officer or State Veterinarian's representative~~ that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search the building or place. No search shall be made after sunset unless specially authorized by the authority upon satisfactory cause shown.

§ 3.1-796.114. When animals to be destroyed; procedure.

Any humane investigator may lawfully ~~destroy, or~~ cause to be destroyed, any animal in his charge or

found abandoned or not properly cared for, when, in the judgment of the humane investigator and two reputable citizens called to view the same in his presence, and who shall give their written certificate, the animal appears to be injured, disabled or diseased, past recovery, or the injury, disease or disability; is such that a reasonable owner would cause the animal to be destroyed.

Any humane investigator shall make every reasonable effort immediately to notify the owner of the animal that the humane investigator intends for the animal to be destroyed. The owner shall have a right to select one of the two reputable citizens called to view the animal and give written certificate of the animal's condition. In no event shall the determination as to disposition of the animal be delayed beyond forty-eight hours after such humane investigator first decides the animal should be destroyed. In the event that the two citizens called to give such certificate are unable to agree, they shall select a third reputable citizen and his decision shall be final.

§ 3.1-796.115. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement ~~official, or animal warden,~~ 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 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 ~~the an animal, such person~~ the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county wherein the animal is seized for a hearing. The hearing shall be not more than ten 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 ~~official~~ officer, or animal ~~warden~~ 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 ~~official~~ officer, or animal ~~warden~~ 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 ~~official~~ officer, or animal ~~warden~~ control officer shall provide for such animal until the court has concluded the hearing. If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care, then the court shall order that the animal be: (i) sold by a local governing body; (ii) humanely destroyed, or disposed of by sale or gift to a federal agency, ~~state supported~~ state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth; (iii) delivered to any local humane society or shelter, or to any person who is a resident of the county or city where the animal is seized or an adjacent county or city in the Commonwealth and who will pay the required

license fee, if any, on such animal; or (iv) delivered to the person with a right of property in the animal as provided in subsection E.

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

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

G. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

H. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.1-796.73 or § 3.1-796.122. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

I. Any person who is prohibited from owning or possessing animals pursuant to ~~subsections~~ *subsection* G or H may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

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

K. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement ~~official~~ *officer*, animal ~~warden~~ *control officer*, or licensed veterinarian.

L. The provisions of this section which address whether an animal has been provided with or deprived of adequate care shall apply only with respect to companion animals.

§ 3.1-796.116. Dogs killing, injuring or chasing livestock or poultry.

It shall be the duty of any animal ~~warden~~ *control officer* or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal ~~warden~~ *control officer* or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the dog to produce the dog.

Any animal ~~warden~~ *control officer* who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any animal ~~warden~~ *control officer* or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be (i) killed immediately by the animal ~~warden~~ *control officer* or other officer designated by the court or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any dog ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

§ 3.1-796.117. Dog killing other domestic animals other than livestock or poultry.

The governing body of any county, city or town, which has not adopted an ordinance pursuant to § 3.1-796.93:1, may adopt an ordinance to provide for the confinement of dogs which kill other dogs or domestic animals other than livestock or poultry. The ordinance shall provide that any animal ~~warden~~ *control officer* who has reason to believe that any dog is killing other dogs or domestic animals other

than livestock or poultry shall apply to a magistrate of the county, city or town wherein the dog may be located for the issuance of a warrant requiring the owner or custodian, if known, to appear before a general district court at a specified time. The animal ~~warden~~ *control officer* or owner shall confine the dog until such time as evidence shall be heard and a verdict rendered. If it appears from the evidence that the dog has habitually killed other dogs or domestic animals, the court may order the dog killed in accordance with the provisions of § 3.1-796.119.

§ 3.1-796.118. Compensation for livestock and poultry killed by dogs.

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400 per animal or \$10 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; (ii) the animal ~~warden~~ *control officer* or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

Local jurisdictions may by ordinance waive the requirements of (ii) or (iii) or both provided that the ordinance adopted requires that the animal ~~warden~~ *control officer* has conducted an investigation and that his investigation supports the claim. Upon payment under this section the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

§ 3.1-796.119. Capturing, confining, and euthanizing companion animals by animal control officers; approval of drugs, etc., used.

It shall be the duty of the animal ~~warden~~ *control officer* or any other officer to capture and confine any companion animal of unknown ownership found running at large on which the license fee has not been paid. Following the expiration of the holding period prescribed in § 3.1-796.96, the animal ~~warden~~ *control officer* or other officer may deliver such companion animal to any person in his jurisdiction who will pay the required license fee on such companion animal. Prior to disposition by euthanasia or otherwise, all the provisions of § 3.1-796.96 shall have been complied with. For all companion animals not otherwise disposed of as provided for in this chapter, it shall be the duty of the animal ~~warden~~ *control officer* or any other officer to euthanize such companion animals. Any person, animal ~~warden~~ *control officer*, or other officer euthanizing a companion animal under this chapter shall cremate, bury, or sanitarily dispose of the same.

All drugs and drug administering equipment used by animal ~~wardens~~ *control officers* or other officers to capture companion animals pursuant to this chapter shall have been approved by the State Veterinarian.

§ 3.1-796.121. Disposal of dead companion animals.

The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury, or sanitarily dispose of the same. If, after notice, any owner fails to do so, the animal ~~warden~~ *control officer* or other officer shall bury or cremate the companion animal, and he may recover on behalf of the local jurisdiction from the owner his cost for this service.

§ 3.1-796.122. 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; or (ii) deprives any animal of necessary ~~sustenance~~, food, drink ~~or~~, shelter *or emergency veterinary treatment*; or (iii) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor. Prosecution for violations of this subsection shall commence within five years after commission of the offense. Prosecutions of this subsection regarding agricultural animals, as defined in § 3.1-796.66, shall commence within one year after commission of the offense.

B. Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a Class 3 misdemeanor.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle.

D. For the purposes of this section and §§ ~~3.1-796.109~~, 3.1-796.111, 3.1-796.113 ~~through~~, 3.1-796.114, 3.1-796.115, and 3.1-796.125, the word animal shall be construed to include birds and fowl.

§ 3.1-796.124. Organized dogfighting; penalty.

A. No person shall knowingly do any of the following:

1. Promote, engage in, or be employed in the organized fighting of dogs;

2. Wager money or anything of value on the result of such organized fighting;
3. Receive money for the admission of another person to a place kept for organized dogfighting.

B. Any animal ~~warden~~ *control officer*, as defined in § 3.1-796.66, shall confiscate any dogs that have been, are, or are intended to be used in organized dogfighting and any equipment used in training such dogs or as part of organized dogfights.

Any person who violates any provision of this section shall be guilty of a Class 6 felony.

§ 3.1-796.126:1. Sterilization of adopted dogs and cats; enforcement; civil penalty.

A. Every new owner of a dog or cat adopted from a releasing agency shall cause to be sterilized the dog or cat pursuant to the agreement required by subdivision 2 of subsection B of this section.

B. A dog or cat shall not be released for adoption from a releasing agency unless:

1. The animal has already been sterilized; or
2. The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian (i) within thirty days of the adoption, if the animal is sexually mature, or (ii) within thirty days after the animal reaches six months of age, if the animal is not sexually mature at the time of adoption.

C. A releasing agency may extend for thirty days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian and the releasing agency may negotiate the terms of an extension of the date by which the animal must be sterilized.

D. Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency, and the new owner.

E. Upon the petition of an animal ~~warden~~ *control officer*, humane investigator, or the State Veterinarian or his designee a State Veterinarian's representative to the district court of the county or city where a violation of this article occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this article. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this article.

F. Any person who violates subsection A or B of this section shall be subject to a civil penalty not to exceed fifty dollars.

§ 3.1-796.126:7. Civil penalties.

Any animal ~~warden~~ *control officer*, humane investigator, or the State Veterinarian or his designee State Veterinarian's representative shall be entitled to bring a civil action for any violation of this article which is subject to a civil penalty. Any civil penalty assessed pursuant to this article shall be paid into the treasury of the city or county in which such civil action is brought and used for the purpose of defraying the costs of local animal control, including efforts to promote sterilization of cats and dogs.

§ 3.1-796.126:8. Definitions.

As used in this article:

"Adequate confinement" means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to § 3.1-796.93:1, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine, and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

"Hybrid canine" means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal ~~warden~~ *control officer*, humane investigator, official of the Department of Health, or compliance officer who is under the direction of the State Veterinarian Veterinarian's representative.

"Responsible ownership" means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

§ 3.1-796.126:10. Hybrid canines killing, injuring or chasing livestock.

It shall be the duty of any animal ~~warden~~ *control officer* or other officer who may find a hybrid canine in the act of killing or injuring livestock or poultry to kill such hybrid canine forthwith, whether such hybrid canine bears a tag or not. Any person finding a hybrid canine committing any of the depredations mentioned in this section shall have the right to kill such hybrid canine on sight as shall any owner of livestock or his agent finding a hybrid canine chasing livestock on land lawfully utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal ~~warden~~ *control officer* or other officer to kill any hybrid canine known to be a confirmed livestock or poultry killer, and any hybrid canine killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the hybrid canine to produce the hybrid canine.

Any animal ~~warden~~ *control officer* who has reason to believe that any hybrid canine is killing livestock or poultry shall be empowered to seize such hybrid canine solely for the purpose of examining such hybrid canine in order to determine whether it committed any of the depredations mentioned herein. Any animal ~~warden~~ *control officer* or other person who has reason to believe that any hybrid canine is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate for the county, city or town wherein such hybrid canine may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it appears that the hybrid canine is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the hybrid canine be (i) killed immediately by the animal ~~warden~~ *control officer* or other officer designated by the court or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any hybrid canine ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

§ 3.1-796.126:11. Compensation for livestock and poultry killed by hybrid canines.

Any person who has any livestock or poultry killed or injured by any hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400 per animal or \$10 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a hybrid canine; (ii) the animal ~~warden~~ *control officer* or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the hybrid canine upon which an execution has been returned unsatisfied.

Local jurisdictions may by ordinance waive the requirements of (ii) or (iii) or both provided that the ordinance adopted requires that the animal ~~warden~~ *control officer* has conducted an investigation and that his investigation supports the claim. Upon payment under this section the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the hybrid canine and may enforce the same in an appropriate action at law.

§ 3.1-796.127. Dogs and cats deemed personal property; rights relating thereto.

All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners, as defined in § 3.1-796.66, may maintain any action for the killing of any such animals, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person.

An animal ~~warden~~ *control officer* or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal ~~warden~~ *control officer* or other officer shall deliver the dog or cat to its owner.

The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the animal ~~warden~~ *control officer* may take such animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay a reasonable charge as the local governing body by ordinance shall establish for the keep of such animal while in the possession of the animal ~~warden~~ *control officer*.

§ 3.1-796.128. Unlawful acts; penalties.

A. The following shall be unlawful acts and constitute Class 4 misdemeanors:

1. License application. - For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.

2. License tax. - For any dog or cat owner to fail to pay any license tax required by this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.

3. Leash ordinance. - For any dog owner to allow a dog to run at large in violation of an ordinance passed pursuant to § 3.1-796.95.

4. Rabies regulations. - For any person to fail to obey an ordinance passed pursuant to §§ 3.1-796.98 and 3.1-796.100.

5. Dead companion animals. - For any owner to fail to dispose of the body of his companion animals in accordance with § 3.1-796.121.

6. Diseased dogs and cats. - For the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his premises if such disease is known to the owner.

7. Concealing a dog or cat. - For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

8. Removing collar and tag. - For any person, except the owner or custodian, to remove a legally



acquired license tag from a dog or cat without the permission of the owner or custodian.

9. Other violations. - Any other violation of this chapter for which a specific penalty is not provided.

B. ~~For any person to~~ *It shall be a Class 1 misdemeanor for any person to:*

1. Present a false claim or to receive any money on a false claim under the provisions of § 3.1-796.118 ~~shall constitute a~~; or

2. *Impersonate a humane investigator.*

**2. That § 3.1-796.109 of the Code of Virginia is repealed.**