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SENATE BILL NO. 935

Offered January 18, 1999

A *BILL to amend and reenact §§ 3.1-796.68, 3.1-796.96, 3.1-796.122 through 3.1-796.126, and 3.1-796.126:3 of the Code of Virginia, relating to animal welfare; penalties.*

Patron—Lucas

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.68, 3.1-796.96, 3.1-796.122 through 3.1-796.126, and 3.1-796.126:3 of the Code of Virginia are amended and reenacted as follows:

§ 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.

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, *and, in addition, the court shall require the violator to pay any costs incurred by a pound or shelter for boarding the animal upon which the violation was committed and the cost of any veterinary care provided to the animal. Such boarding costs shall not exceed five dollars per day.*

§ 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

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60 additional period of not less than five days;

61 2. Delivery to any humane society or animal shelter within the Commonwealth;

62 3. Adoption by any person who is a resident of the county or city for which the pound is operated
63 and who will pay the required license fee, if any, on such animal;

64 4. Adoption by a *person who (i) is a resident of an adjacent political subdivision of the*
65 *Commonwealth or (ii) lives in the Commonwealth and within 50 miles of the pound;* or

66 5. Delivery, for the purposes of adoption or euthanasia only, to a humane society or an animal
67 shelter located in and lawfully operating under the laws of another state, provided that such humane
68 society or animal shelter: (i) maintains records which would comply with § 3.1-796.105; (ii) requires
69 that adopted dogs and cats be sterilized; and (iii) has been approved by the State Veterinarian or his
70 designee as a facility which maintains such records, requires adopted dogs and cats to be sterilized, and
71 provides adequate care and euthanasia.

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

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

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

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

87 F. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or
88 other form of identification which, based on the written certification of a disinterested person, exhibits
89 behavior that poses a risk of physical injury to any person confining the animal, from being euthanized
90 after being kept for a period of not less than three days, at least one of which shall be a full business
91 day, such period to commence on the day the animal is initially confined in the facility, unless sooner
92 claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal
93 as required by § 3.1-796.105. For purposes of this subsection, a disinterested person shall not include a
94 person releasing or reporting the animal to the facility.

95 G. For purposes of this section:

96 "Animal" shall not include agricultural animals.

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

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

101 § 3.1-796.122. Cruelty to animals; penalty.

102 A. Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts
103 inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly
104 or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another;
105 or (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; or (iii)
106 willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or
107 (iv) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel,
108 brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (v) causes any of the
109 above things, or, being the owner of such animal, permits such acts to be done by another, shall be
110 guilty of a Class 1 misdemeanor, *and, in addition, the court shall require the violator to pay any costs*
111 *incurred by a pound or shelter for boarding the animal upon which the violation was committed and the*
112 *cost of any veterinary care provided to the animal. Such boarding costs shall not exceed five dollars per*
113 *day. Prosecution for violations of this subsection shall commence within five years after commission of*
114 *the offense. Prosecutions of this subsection regarding agricultural animals, as defined in § 3.1-796.66,*
115 *shall commence within one year after commission of the offense.*

116 B. Any person who abandons any dog, cat or other domesticated animal in any public place
117 including the right-of-way of any public highway, road or street or on the property of another shall be
118 guilty of a Class 3 misdemeanor, *and, in addition, the court shall require the violator to pay any costs*
119 *incurred by a pound or shelter for boarding the animal and the cost of any veterinary care provided to*
120 *the animal. Such boarding costs shall not exceed five dollars per day.*

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

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

§ 3.1-796.123. Soring horses; penalty.

For the purposes of this section, a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, including, but not limited to, chains or boots, which may reasonably be expected currently (i) to result in physical pain to the horse when walking, trotting, or otherwise moving, or (ii) to cause extreme fear or distress to the horse.

It shall be unlawful for any person to deliver or receive into this Commonwealth, for the purpose of showing or exhibiting, any horse which such person has reason to believe is suffering from the effects of being sored. It shall also be unlawful to show or exhibit or enter in any horse show or exhibition for the purpose of showing any horse which such person has reason to believe is sored. No one shall participate in or conduct any horse show or exhibition in which there is shown or exhibited a horse which such person has reason to believe is sored.

Any person who violates any provision of this section shall be guilty of a Class 3 misdemeanor, *and, in addition, the court shall require the violator to pay any costs incurred by a pound or shelter for boarding the sored horse and the cost of any veterinary care provided to the horse. Such boarding costs shall not exceed five dollars per day.*

§ 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; *or*
3. Receive money for the admission of another person to a place kept for organized dogfighting.

B. Any animal 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, *and, in addition, the court shall require the violator to pay any costs incurred by a pound or shelter for boarding any dog involved in the violation and the cost of any veterinary care provided to the dog. Such boarding costs shall not exceed five dollars per day.*

§ 3.1-796.125. Fighting cocks or other animals; attendance at fighting; penalty.

Any person engaging in the fighting of cocks or other animals, except dogs, for money, prize or anything of value, or betting or wagering money or anything of value on the result of such fight, shall be guilty of a Class 3 misdemeanor, *and, in addition, the court shall require the violator to pay any costs incurred by a pound or shelter for boarding any animal involved in the violation and the cost of any veterinary care provided to the animal. Such boarding costs shall not exceed five dollars per day.* Attendance at the fighting of cocks, dogs or other animals where an admission fee is charged, directly or indirectly, shall also constitute a Class 3 misdemeanor.

§ 3.1-796.126. Shooting pigeons, etc., for amusement, and renting premises for such purposes; penalty.

Live pigeons or other birds or fowl shall not be kept or used for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship. It shall be a Class 4 misdemeanor to shoot at a bird kept or used as aforesaid, or to be a party to such shooting, *and, in addition, the court shall require the violator to pay any costs incurred by a pound or shelter for boarding any bird involved and the cost of any veterinary care provided to the bird. Such boarding costs shall not exceed five dollars per day.* Any person who lets any building, room, field or premises, or knowingly permits the use thereof, for the purpose of such shooting shall be guilty of a Class 4 misdemeanor.

Nothing contained herein shall apply to the shooting of wild game.

§ 3.1-796.126:3. Sterilization confirmation; civil penalty.

Each new owner who signs a sterilization agreement shall, within seven days of the sterilization, cause to be delivered or mailed to the releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat; include the new owner's name and address; certify that the sterilization was performed; and specify the date of the procedure. Any person who violates this section shall be subject to a civil penalty not to exceed fifty dollars \$250.