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HOUSE BILL NO. 941

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact §§ 3.1-796.96, 3.1-796.96:2, and 3.1-796.120 of the Code of Virginia and to amend and reenact the second enactment of Chapter 1010 of the Acts of Assembly of 2000, as amended by Chapter 407 of the Acts of Assembly of 2001, relating to animal pounds and shelters.

Patron—Morgan

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.96, 3.1-796.96:2, and 3.1-796.120 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-796.96. (Effective January 1, ~~2002~~ 2003) County or city pounds; confinement and disposition of stray animals; penalties.

A. The governing body of each county or city shall maintain or cause to be maintained a pound 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;

5. Adoption by any other person, provided that no animal may be adopted by any person who is not a resident of the county or city for which the pound or animal shelter is operated, or of an adjacent political subdivision, unless the animal is first sterilized; or

6. 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, 4, or 5 of this subsection.

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HB941

59 No pound or shelter shall deliver more than two animals or a family of animals during any thirty-day
60 period to any one person under subdivision 3, 4 or 5 of this subsection.

61 If an animal is required to be sterilized prior to adoption pursuant to subdivision 5 of this subsection,
62 the pound or animal shelter may require that the sterilization be done at the expense of the person
63 adopting the animal.

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

67 E. Nothing in this section shall prohibit the immediate destruction or disposal by the methods listed
68 in subdivisions 2 through 6 of subsection C of an animal that has been delivered voluntarily or released
69 to a pound, animal shelter, animal control officer, or humane society by the animal's rightful owner after
70 the rightful owner has, in writing, surrendered all property rights in such animal and has read and signed
71 a statement (i) certifying that no other person has a right of property in the animal and (ii)
72 acknowledging that the animal may be immediately euthanized or disposed of by the methods listed in
73 subdivisions 2 through 6 of subsection C.

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

82 G. For purposes of this section:

83 "Animal" shall not include agricultural animals.

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

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

88 H. The governing body shall require that the pound be operated in accordance with regulations
89 issued by the Board. If this chapter or such regulations are violated, the locality may be assessed a civil
90 penalty by the ~~Board~~ Department in an amount that does not exceed \$1,000 per violation. Each day of
91 the violation shall constitute a separate offense. In determining the amount of any civil penalty, the
92 ~~Board~~ Department shall consider (i) the history of previous violations at the pound; (ii) whether the
93 violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of
94 the locality to achieve compliance after notification of the violation. All civil penalties assessed under
95 this section shall be recovered in a civil action brought by the Attorney General in the name of the
96 Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit
97 of the Department to be used in carrying out the purposes of this chapter.

98 *I. If this chapter or any laws governing pounds are violated, the Commissioner may bring an action*
99 *to enjoin the violation of this chapter or the regulations pursuant thereto regarding pounds in the circuit*
100 *court where the pound is located. The Commissioner may request either the attorney for the*
101 *Commonwealth or the Attorney General to bring such an action, when appropriate.*

102 § 3.1-796.96:2. (Effective January 1, ~~2002~~ 2003) Animal shelters; confinement and disposition of
103 animals; penalties.

104 A. An animal shelter may in accordance with the provisions of § 3.1-796.96 confine and dispose of
105 (i) dogs running at large without the tag required by § 3.1-796.92 or in violation of an ordinance
106 adopted pursuant to § 3.1-796.93 or § 3.1-796.94:1, (ii) dogs four months old or older not licensed in
107 violation of § 3.1-796.85, or (iii) cats in violation of an ordinance adopted pursuant to § 3.1-796.85 or
108 § 3.1-796.94:1.

109 B. The State Veterinarian or his designee shall inspect an animal shelter prior to the shelter confining
110 or disposing of animals pursuant to this section.

111 C. An animal shelter that confines and disposes of animals pursuant to this section shall be open to
112 the public during reasonable business hours and shall have its telephone number and address listed in a
113 telephone directory. No animal shelter that confines or disposes of an animal pursuant to this section
114 shall be operated in a residential dwelling or in violation of any local zoning ordinance.

115 D. The operator of an animal shelter that confines an animal pursuant to this section shall, within
116 twenty-four hours of the shelter receiving the animal, transmit the records required by § 3.1-796.120 and
117 a photograph of the animal to the pound maintained by the county or city where the animal shelter is
118 located and to the pound in the county or city where the animal was found.

119 E. An animal shelter that confines and disposes of animals pursuant to this section shall be operated
120 in accordance with regulations issued by the Board. If this chapter or such regulations are violated, the

animal shelter may be assessed a civil penalty by the ~~Board~~ *Department* or its designee in an amount that does not exceed \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the amount of any civil penalty, the ~~Board or its designee~~ *Department* shall consider (i) the history of previous violations at the animal shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the animal shelter to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

F. If this chapter or any laws governing the care and protection of animals are violated by an animal shelter, the Commissioner may bring an action to enjoin the violation of this chapter or the regulations pursuant thereto regarding animal shelters in the circuit court where the animal shelter is located. The Commissioner may request either the attorney for the Commonwealth or the Attorney General to bring such an action, when appropriate.

§ 3.1-796.120. (Effective January 1, ~~2002~~ 2003) Gift, sale, or delivery of animals from pounds or animal shelters; penalties.

A. The governing body of any political subdivision shall dispose of impounded animals in accordance with the provisions of § 3.1-796.96. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

B. The following shall confine and dispose of animals in their custody in accordance with the provisions of § 3.1-796.96:

1. Any humane investigator who has custody of any animal pursuant to his official duties;
2. Any humane society; and
3. Any animal shelter.

Animals ~~which~~ *that* have been confined at a county or city pound as required by § 3.1-796.96 prior to being delivered to a local humane society or animal shelter may be immediately placed for adoption, or humanely euthanized in accordance with methods approved by the State Veterinarian. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the clerk or treasurer of the humane society for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal. No part of the proceeds shall accrue to any individual except for the aforementioned purposes. Humane societies, humane investigators and animal shelters shall keep accurate records of all animals handled. Records shall include a description of the animal including color, breed, sex, approximate weight, reason for bringing in, age, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the animal. Humane societies and animal shelters shall submit a summary of such records to the State Veterinarian annually in a format prescribed by him.

C. If this chapter or any laws governing the care or protection of animals are violated by an animal shelter, the operator of the shelter may be assessed a civil penalty by the ~~Board~~ *Department* in an amount that does not exceed \$1,000 per violation. Each day of the violation shall constitute a separate offense. In determining the amount of any civil penalty, the ~~Board~~ *Department* shall consider (i) the history of previous violations at the shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the operator to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

D. If this chapter or any laws governing the care and protection of animals are violated by an animal shelter, the Commissioner may bring an action to enjoin the violation of this chapter or the regulations pursuant thereto regarding animal shelters in the circuit court where the animal shelter is located. The Commissioner may request either the attorney for the Commonwealth or the Attorney General to bring such an action, when appropriate.

2. That the second enactment of Chapter 1010 of the Acts of Assembly of 2000, as amended by Chapter 407 of the Acts of Assembly of 2001, is amended and reenacted as follows:

2. That the provisions of this act shall become effective on January 1, 2003.

3. That the first enactment of this act shall become effective on January 1, 2003.

4. That the provisions of the second enactment of this act shall be retroactively effective beginning January 1, 2002.

5. That an emergency exists and this act is in force from its passage.