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HOUSE BILL NO. 2098

Offered January 10, 2007

Prefiled January 8, 2007

A BILL to amend and reenact § 3.1-796.66 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.1-796.68:1 and 3.1-796.68:2, relating to the tethering of animals; penalty.

Patron—Alexander

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-796.66 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.1-796.68:1 and 3.1-796.68:2 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 that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; 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 (a) permits the above actions and is appropriate to the age and size of the animal; (b) is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury *with enough room between the collar and the animal's throat through which two fingers may fit*, and prevent the animal or tether from becoming entangled with other objects or animals, or from *gaining access to public thoroughfares, or from extending over an object or edge that could result in the strangulation or injury of the animal*; and (c) is *at least 10 feet in length or at least three times the length of the animal, whichever is longer*, 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 that is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every 12 hours, to maintain normal hydration for the age, species, condition, size and type of

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59 each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of
60 hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are
61 accessible to each animal and are placed so as to minimize contamination of the water by excrement and
62 pests or an alternative source of hydration consistent with generally accepted husbandry practices.

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

65 "Agricultural animals" means all livestock and poultry.

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

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

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

73 "Animal shelter" means a facility, other than a private residential dwelling and its surrounding
74 grounds, that is used to house or contain animals and that is owned, operated, or maintained by a
75 nongovernmental entity including, but not limited to, a humane society, animal welfare organization,
76 society for the prevention of cruelty to animals, or any other organization operating for the purpose of
77 finding permanent adoptive homes for animals.

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

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

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

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

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

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

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

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

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

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

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

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

110 "Facility" means a building, other than a private residential dwelling and its surrounding grounds,
111 that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

112 "Foster care provider" means an individual who provides care or rehabilitation for companion
113 animals through an affiliation with a pound, animal shelter, or other releasing agency.

114 "Foster home" means a private residential dwelling and its surrounding grounds at which site through
115 an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided
116 for companion animals.

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

119 "Home-based rescue" means any person or organization that accepts (i) more than 12 companion
120 animals or (ii) more than nine companion animals and more than three unweaned litters of companion

animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.1-796.106.

"Humane society" means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; 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 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" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals. "Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Releasing agency" means a pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that releases companion animals for adoption.

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

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

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

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

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

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

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

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

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

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

214 § 3.1-796.68:1. *Prohibitions on tethering; penalty.*

215 A. *It is unlawful for any person to tether any animal:*

216 1. *That is less than six months of age, except briefly in case of emergency;*

217 2. *That is not spayed or neutered, except briefly in case of emergency;*

218 3. *Using a tether weighing more than the animal's weight can reasonably bear in the opinion of an*
219 *animal control officer or third party expert;*

220 4. *Without adequate space, shelter and other care as defined in § 3.1-796.66;*

221 5. *When temperatures are greater than 85 degrees, or lower than 25 degrees Fahrenheit;*

222 6. *In wet weather unless a fully enclosed and ventilated dry shelter is available; or*

223 7. *If space is inadequate to establish separate areas for eating or sleeping and defecation or*
224 *urination.*

225 B. *Any person who violates any provision of this section is guilty of a Class 3 misdemeanor.*

226 § 3.1-796.68:2. *Localities may adopt tethering ordinance; penalty.*

227 A. *Beginning January 1, 2008, any locality may by ordinance regulate the tethering of animals. If*
228 *adopted, such an ordinance may be more restrictive than the provisions of subsection A of*
229 *§ 3.1-796.68:1. In addition, the ordinance may prescribe the hours during which tethering is prohibited*
230 *and may prohibit tethering as the primary means of confinement.*

231 B. *The governing body may provide that any person who violates the provisions of such ordinance is*
232 *guilty of a Class 3 misdemeanor.*