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HOUSE BILL NO. 1057

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 3.1-796.122 and 18.2-403.2 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 3.1-796.124:1, and to repeal § 3.1-796.125 of the Code of Virginia, relating to fighting of cocks and other animals; penalty.

Patrons—Scott, J.M., Amundson and Englin

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.122 and 18.2-403.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 3.1-796.124:1 as follows:

§ 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; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) 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 (vi) 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.

B. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, shall be guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

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

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~~ 3.1-796.124:1, the word animal shall be construed to include birds and fowl.

E. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including, but not limited to Title 29.1, or to farming activities as provided under this title or regulations promulgated thereto.

F. In addition to the penalties provided in subsection A, the court may, in its discretion, require any person convicted of a violation of subsection A to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

G. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a Class 1 misdemeanor. A second or subsequent violation of this subsection shall constitute a Class 6 felony.

H. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the

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59 recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to
60 the condition of the animal, shall be guilty of a Class 6 felony. If a dog or cat is attacked on its owner's
61 property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all
62 reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such
63 owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and
64 shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall
65 not overrule § 3.1-796.93:1 or § 3.1-796.116.

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

68 § 3.1-796.124:1. *Fighting cocks or other animals; penalty.*

69 A. Any person who knowingly engages in any of the following actions in connection with an animal
70 fighting venture in which two or more cocks or other animals, except dogs, fight or are baited to fight,
71 is guilty of a Class 6 felony:

72 1. Organizes, sponsors, conducts, stages, promotes, or supports an animal fighting venture in any
73 way;

74 2. Bets or wagers any money or other valuable consideration on the outcome of an animal fighting
75 venture;

76 3. Attends an animal fighting venture;

77 4. Possesses, owns, trains, buys, sells, offers to buy or sell, steals, or transports any animal involved
78 in an animal fighting venture;

79 5. Permits an animal used or intended to be used in the venture to be kept, boarded, housed, trained
80 on, or transported in any property owned or controlled by him;

81 6. Allows a facility owned, managed or operated by him to be kept or used in connection with an
82 animal fighting venture;

83 7. Possesses any device or substance intended to enhance an animal's ability to fight.

84 8. Permits any act described in this subsection to be done on any premises under his ownership or
85 control; or

86 9. Permits any minor under the age of 18 to undertake or otherwise be involved in any act described
87 in subdivisions A 1 through A 8.

88 For the purposes of this section, the term "bait" means to provoke or harass an animal with one or
89 more animals for the purpose of training or causing an animal to fight with or attack other animals.

90 B. Any person convicted of violating any provisions of this section may be prohibited by the court
91 from the possession or ownership of cocks.

92 § 18.2-403.2. Offenses involving animals - Class 3 misdemeanors.

93 The following unlawful acts and offenses against animals shall constitute and be punished as a Class
94 3 misdemeanor:

95 1. Violation of § 3.1-796.71 pertaining to the failure of a shopkeeper or pet dealer to provide
96 adequate care to animals.

97 2. Violation of § 3.1-796.72 pertaining to the misrepresentation of an animal's condition by the
98 shopkeeper or pet dealer.

99 3. Violation of § 3.1-796.73 pertaining to the abandonment of animals.

100 4. Violation of § 3.1-796.70 pertaining to the sale of baby fowl.

101 5. Violation of § 3.1-796.125 pertaining to fighting cocks, dogs and other animals.

102 6. Violation of clause (iii) of subsection A of § 3.1-796.122 pertaining to soring horses.

103 7. Violation of § 3.1-796.83:2 pertaining to notice of consumer remedies required to be supplied by
104 boarding establishments.

105 2. That § 3.1-796.125 of the Code of Virginia is repealed.

106 3. That the provisions of this act may result in a net increase in periods of imprisonment or
107 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot
108 be determined for periods of imprisonment in state adult correctional facilities and cannot be
109 determined for periods of commitment to the custody of the Department of Juvenile Justice.