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HOUSE BILL NO. 1626

House Amendments in [] — January 23, 2019

A *BILL to amend and reenact § 3.2-6571 of the Code of Virginia, relating to animal fighting; presumption where [~~fowl~~ cocks] tethered.*

Patron Prior to Engrossment—Delegate Orrock

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 3.2-6571 of the Code of Virginia is amended and reenacted as follows:****§ 3.2-6571. Animal fighting; penalty.**

A. No person shall knowingly:

1. Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport, or gain;

2. Attend an exhibition of the fighting of animals;

3. Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or

4. Aid or abet any such acts.

Except as provided in subsection B, any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of subsection A in combination with one or more of the following is guilty of a Class 6 felony:

1. When a dog is one of the animals;

2. When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;

3. When money or anything of value is wagered on the result of such fighting;

4. When money or anything of value is paid or received for the admission of a person to a place for animal fighting;

5. When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or

6. When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.

C. 1. Any animal control officer, as defined in § 3.2-6500, shall confiscate any animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting. *The presence of one or more tethered [~~fowl~~ cocks] shall [~~create a rebuttable presumption be probable cause~~] that such [~~fowl~~ cocks] have been, are, or are intended to be used in animal fighting.*

2. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used, and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to ~~subsections~~ subsection A or B.

3. Upon a final determination of guilt by the trial court on criminal charges brought pursuant to ~~subsections~~ subsection A or B, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

D. Any person convicted of violating any provision of subsection A or B shall be prohibited by the court from possession or ownership of companion animals or [~~cocks~~ ~~fowl~~].

E. In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

F. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting,

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59 fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto
60 or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated
61 thereto.