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## SENATE BILL NO. 114

Offered January 8, 2020

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A *BILL to amend and reenact §§ 3.2-6509, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6519, and 59.1-200 of the Code of Virginia, relating to comprehensive animal care; enforceable under Virginia Consumer Protection Act.*

Patrons—Marsden; Delegate: Kory

Referred to Committee on Agriculture, Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6509, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6519, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-6509. Misrepresentation of animal's condition; penalties.**

No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery, or other method of transfer. For the purpose of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. The sale of an agricultural animal that has external or internal parasites that are not made known to the person receiving the animal shall not be a violation of this section unless the animal is clinically ill or debilitated due to such parasites at the time of sale, trade, delivery or transfer of the animal. Violation of this section is a Class 3 misdemeanor.

Any violation of this section by a ~~pet dealer~~ shall also constitute a prohibited practice under § 59.1-200 and shall be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

**§ 3.2-6513.1. Pet shops; posting of information about dogs.**

A. Any pet shop that sells dogs shall place a clear and conspicuous sign near the cages in the public sales area stating: "USDA APHIS Inspection Reports Available Prior to Purchase." The sign shall be no smaller than eight and one-half inches high by 11 inches wide, and the print shall be no smaller than one-half inch.

B. Any pet shop that sells dogs shall maintain for each dog in its possession a written record that includes the following information:

1. The breed, age, and date of birth of the dog, if known;
2. The sex, color, and any identifying markings of the dog;
3. Any additional identifying information, including a tag, tattoo, collar number, or microchip;
4. Documentation of all inoculations, worming treatments, and other medical treatments, if known, including the date of the medical treatment, the diagnosis, and the name and title of the treatment provider;

5. For a dog obtained from a breeder or dealer, (i) the state in which the breeder and, if applicable, the dealer are located; (ii) the U.S. Department of Agriculture license number of the breeder and, if applicable, the dealer; (iii) the final inspection reports for the breeder and, if applicable, the dealer, issued by the U.S. Department of Agriculture from the two years immediately before the date the pet store received the dog; and (iv) the facility where the dog was born and the transporter or carrier of the dog, if any;

6. For a dog obtained from a public animal shelter, the name of the shelter; and

7. For a dog obtained from a private animal shelter or humane society, the name of the shelter or organization and the locality in which it is located.

C. Any pet shop that sells dogs shall maintain a copy of the written record required by subsection B for at least two years after the date of sale of the dog and shall make such record available to the Office of the State Veterinarian upon reasonable notice, to any bona fide prospective purchaser upon request, and to the purchaser at the time of sale. Any such pet shop shall transmit the information required by subdivisions B 5, 6, and 7 to the local animal control officer upon request.

D. Any violation of this section, except for a violation of the requirement of subsection C to make records available to the Office of the State Veterinarian or transmit information to the local animal control officer, shall also constitute a prohibited practice under § 59.1-200 and shall be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

**§ 3.2-6514. Consumer remedies for receipt of diseased animal upon certification by veterinarian.**

A. If, at any time within 10 days following receipt of an animal, a licensed veterinarian certifies such

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59 animal to be unfit for purchase due to illness, a congenital defect deleterious to the health of the animal,  
60 or the presence of symptoms of a contagious or infectious disease other than parvovirus, or if at any  
61 time within 14 days following the receipt of an animal a licensed veterinarian certifies such animal to be  
62 unfit for purchase due to being infected with parvovirus, the pet dealer shall afford the consumer the  
63 right to choose one of the following options:

64 1. The right to return the animal or, in the case of an animal that has died, to present the veterinary  
65 certification, within three business days of certification and receive a refund of the purchase price  
66 including sales tax; or

67 2. The right to return the animal or, in the case of an animal that has died, to present the veterinary  
68 certification, within three business days of certification and to receive an exchange animal of equivalent  
69 value from the dealer, subject to the choice of the consumer; or

70 3. In the case of an animal purchased from a pet shop or a USDA licensed dealer, the right to retain  
71 the animal and to receive the reimbursement of veterinary fees in an amount up to the purchase price of  
72 the animal, including sales tax and the cost of the veterinary certification, incurred up to the time the  
73 consumer notifies the pet dealer of the intent to keep the animal. Such notification shall occur within  
74 three business days of certification. Veterinary costs incurred by the consumer after such notification  
75 shall be the responsibility of the consumer.

76 B. The refund or reimbursement required by subsection A shall be made by the pet dealer not later  
77 than 10 business days following receipt of a signed veterinary certification as provided in § 3.2-6515.

78 C. Any violation of this section shall also constitute a prohibited practice under § 59.1-200 and shall  
79 be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

80 **§ 3.2-6515. Written notice of consumer remedies required to be supplied by pet dealers.**

81 A. A pet dealer shall give the notice hereinafter set forth in writing to a consumer prior to the  
82 delivery of a dog or cat. Such notice shall be embodied in a written contract, the pet dealer's animal  
83 history certificate, or a separate document and shall state in ten-point boldface type the following:

84 "NOTICE

85 The sale of dogs and cats is subject to the provisions of the Virginia Consumer Protection Act  
86 (§ 59.1-196 et seq.). In the event that a licensed veterinarian certifies your animal to be unfit for  
87 purchase within 10 days following receipt of your animal, or within 14 days following receipt if the  
88 animal is infected with parvovirus, you may choose: (i) to return your animal, or in the case of an  
89 animal that has died, the veterinary certification, and receive a refund of the purchase price including  
90 sales tax; or (ii) to return the animal and receive an exchange animal of your choice of equivalent value.  
91 In the case of an animal purchased from a pet shop or a USDA licensed dealer, you also may choose to  
92 retain the animal and receive reimbursement of the cost of veterinary certification and veterinary fees in  
93 an amount up to the purchase price of the animal.

94 In order to exercise these rights you must present a written veterinary certification that the animal is  
95 unfit to the pet dealer within three business days after receiving such certification.

96 If the pet dealer has promised to register your animal or to provide the papers necessary therefor and  
97 fails to do so within 120 days following the date of contract, you are entitled to return the animal and  
98 receive a refund of the purchase price or to retain the animal and receive a refund of an amount not to  
99 exceed 50 percent of the purchase price."

100 B. Any violation of this section shall also constitute a prohibited practice under § 59.1-200 and shall  
101 be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

102 **§ 3.2-6519. Written notice of consumer remedies required to be supplied by boarding**  
103 **establishments; penalty.**

104 A. A boarding establishment shall give the notice hereinafter set forth in writing to a consumer prior  
105 to the consumer's delivery of the animal to the boarding establishment. Such notice shall be embodied in  
106 a written document and shall state in ten-point boldfaced type the following:

107 NOTICE

108 The boarding of animals is subject to Article 4 (§ 3.2-6518 et seq.) of Chapter 65 of Title 3.2. If  
109 your animal becomes ill or injured while in the custody of the boarding establishment, the boarding  
110 establishment shall provide the animal with emergency veterinary treatment for the illness or injury.

111 The consumer shall bear the reasonable and necessary costs of emergency veterinary treatment for  
112 any illness or injury occurring while the animal is in the custody of the boarding establishment. The  
113 boarding establishment shall bear the expenses of veterinary treatment for any injury the animal sustains  
114 while at the boarding establishment if the injury resulted from the establishment's failure, whether  
115 accidental or intentional, to provide the care required by § 3.2-6503. Boarding establishments shall not  
116 be required to bear the cost of veterinary treatment for injuries resulting from the animal's  
117 self-mutilation.

118 B. In addition, the boarding establishment shall display the following notice, in ten-point boldfaced  
119 type, on a sign placed in a conspicuous location and manner at the boarding establishment's intake area:

120 PUBLIC NOTICE

THE BOARDING OF ANIMALS BY A BOARDING ESTABLISHMENT IS SUBJECT TO ARTICLE 4 (§ 3.2-6518 et seq.) OF CHAPTER 65 OF TITLE 3.2 OF THE CODE OF VIRGINIA. YOU HAVE SPECIFIC REMEDIES WHEN BOARDING ANIMALS IN THIS OR ANY OTHER BOARDING ESTABLISHMENT IN VIRGINIA. A COPY IS AVAILABLE IMMEDIATELY UPON REQUEST AND IS TO BE PRESENTED TO YOU AT THE TIME OF INTAKE IN THE FORM OF A WRITTEN DOCUMENT. IF YOU HAVE A COMPLAINT, YOU MAY CONTACT YOUR LOCAL LAW-ENFORCEMENT OFFICER OR THE VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, RICHMOND, VIRGINIA.

C. Failure to display or provide the consumer with the written notice as required by this section is a Class 3 misdemeanor.

*D. Any violation of this section shall also constitute a prohibited practice under § 59.1-200 and shall be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).*

**§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, ~~or 3.2-6513.1~~, 3.2-6514, 3.2-6515, 3.2-6516, ~~relating to the sale of certain animals by pet dealers which is described in such sections~~, or 3.2-6519 is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46

244 (§ 59.1-525 et seq.);  
 245 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);  
 246 43. Violating any provision of § 59.1-443.2;  
 247 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);  
 248 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;  
 249 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;  
 250 47. Violating any provision of § 18.2-239;  
 251 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);  
 252 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has  
 253 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable  
 254 presumption that a supplier has reason to know a children's product was recalled if notice of the recall  
 255 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale  
 256 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to  
 257 children's products that are used, secondhand or "seconds";  
 258 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);  
 259 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;  
 260 52. Violating any provision of § 8.2-317.1;  
 261 53. Violating subsection A of § 9.1-149.1;  
 262 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential  
 263 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective  
 264 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in  
 265 which defective drywall has been permanently installed or affixed;  
 266 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while  
 267 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in  
 268 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of  
 269 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant  
 270 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;  
 271 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);  
 272 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;  
 273 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);  
 274 59. Violating any provision of subsection E of § 32.1-126; and  
 275 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed  
 276 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.  
 277 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or  
 278 lease solely by reason of the failure of such contract or lease to comply with any other law of the  
 279 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation  
 280 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable  
 281 such contract or lease.