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SENATE BILL NO. 114

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources on January 21, 2020)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend and reenact §§ 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.

Be it enacted by the General Assembly of Virginia:

1. That §§ 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:

§ 3.2-6513.1. 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 animal to be unfit for purchase due to illness, a congenital defect deleterious to the health of the animal, or the presence of symptoms of a contagious or infectious disease other than parvovirus, or if at any time within 14 days following the receipt of an animal a licensed veterinarian certifies such animal to be unfit for purchase due to being infected with parvovirus, the pet dealer shall afford the consumer the right to choose one of the following options:

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

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

3. In the case of an animal purchased from a pet shop or a USDA licensed dealer, the right to retain the animal and to receive the reimbursement of veterinary fees in an amount up to the purchase price of the animal, including sales tax and the cost of the veterinary certification, incurred up to the time the consumer notifies the pet dealer of the intent to keep the animal. Such notification shall occur within

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60 three business days of certification. Veterinary costs incurred by the consumer after such notification
61 shall be the responsibility of the consumer.

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

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

66 **§ 3.2-6515. Written notice of consumer remedies required to be supplied by pet dealers.**

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

70 "NOTICE

71 The sale of dogs and cats is subject to the provisions of the Virginia Consumer Protection Act
72 (§ 59.1-196 et seq.). In the event that a licensed veterinarian certifies your animal to be unfit for
73 purchase within 10 days following receipt of your animal, or within 14 days following receipt if the
74 animal is infected with parvovirus, you may choose: (i) to return your animal, or in the case of an
75 animal that has died, the veterinary certification, and receive a refund of the purchase price including
76 sales tax; or (ii) to return the animal and receive an exchange animal of your choice of equivalent value.
77 In the case of an animal purchased from a pet shop or a USDA licensed dealer, you also may choose to
78 retain the animal and receive reimbursement of the cost of veterinary certification and veterinary fees in
79 an amount up to the purchase price of the animal.

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

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

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

88 **§ 3.2-6519. Written notice of consumer remedies required to be supplied by boarding**
89 **establishments; penalty.**

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

93 NOTICE

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

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

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

106 PUBLIC NOTICE

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

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

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

119 **§ 59.1-200. Prohibited practices.**

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

- 122 1. Misrepresenting goods or services as those of another;
- 123 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 124 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
- 125 services, with another;
- 126 4. Misrepresenting geographic origin in connection with goods or services;
- 127 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
- 128 benefits;
- 129 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 130 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
- 131 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first
- 132 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods
- 133 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"
- 134 irregulars, imperfects or "not first class";
- 135 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
- 136 at the price or upon the terms advertised.
- 137 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or
- 138 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
- 139 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph
- 140 shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such
- 141 goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or
- 142 amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement
- 143 or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;
- 144 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts
- 145 of price reductions;
- 146 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
- 147 installed;
- 148 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
- 149 or bill for merchandise or services previously ordered;
- 150 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
- 151 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the
- 152 supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in
- 153 manufacturing the goods or services advertised or offered for sale;
- 154 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
- 155 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
- 156 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth,
- 157 or under federal statutes or regulations;
- 158 13a. Failing to provide to a consumer, or failing to use or include in any written document or
- 159 material provided to or executed by a consumer, in connection with a consumer transaction any
- 160 statement, disclosure, notice, or other information however characterized when the supplier is required
- 161 by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other
- 162 information in connection with the consumer transaction;
- 163 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
- 164 with a consumer transaction;
- 165 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,
- 166 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, or
- 167 3.2-6519 is a violation of this chapter;
- 168 16. Failing to disclose all conditions, charges, or fees relating to:
- 169 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
- 170 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
- 171 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
- 172 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
- 173 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
- 174 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
- 175 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
- 176 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
- 177 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
- 178 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise
- 179 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
- 180 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
- 181 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
- 182 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in

- 183 § 46.2-100;
- 184 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
- 185 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
- 186 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
- 187 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
- 188 the agreement;
- 189 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
- 190 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
- 191 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
- 192 receiving overpayments. If the credit balance information is incorporated into statements of account
- 193 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 194 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
- 195 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
- 196 agreement;
- 197 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 198 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
- 199 seq.);
- 200 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
- 201 seq.);
- 202 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
- 203 (§ 59.1-207.17 et seq.);
- 204 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 205 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
- 206 (§ 59.1-424 et seq.);
- 207 24. Violating any provision of § 54.1-1505;
- 208 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
- 209 17.6 (§ 59.1-207.34 et seq.);
- 210 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 211 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 212 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 213 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
- 214 seq.);
- 215 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
- 216 seq.);
- 217 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 218 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 219 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 220 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 221 35. Using the consumer's social security number as the consumer's account number with the supplier,
- 222 if the consumer has requested in writing that the supplier use an alternate number not associated with
- 223 the consumer's social security number;
- 224 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 225 37. Violating any provision of § 8.01-40.2;
- 226 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 227 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 228 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 229 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
- 230 (§ 59.1-525 et seq.);
- 231 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 232 43. Violating any provision of § 59.1-443.2;
- 233 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 234 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 235 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 236 47. Violating any provision of § 18.2-239;
- 237 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 238 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 239 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 240 presumption that a supplier has reason to know a children's product was recalled if notice of the recall
- 241 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
- 242 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
- 243 children's products that are used, secondhand or "seconds";
- 244 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);

- 245 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
246 52. Violating any provision of § 8.2-317.1;
247 53. Violating subsection A of § 9.1-149.1;
248 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
249 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
250 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
251 which defective drywall has been permanently installed or affixed;
252 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
253 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
254 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
255 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
256 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
257 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
258 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
259 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
260 59. Violating any provision of subsection E of § 32.1-126; and
261 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed
262 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.
263 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
264 lease solely by reason of the failure of such contract or lease to comply with any other law of the
265 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
266 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable
267 such contract or lease.