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SENATE BILL NO. 304

Offered January 8, 2020

Prefiled January 5, 2020

A *BILL to amend and reenact §§ 3.2-6546 and 54.1-3423 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 59 of Title 3.2 a section numbered 3.2-5906, relating to animal shelter euthanasia rate.*

Patron—Stanley

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6546 and 54.1-3423 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 59 of Title 3.2 a section numbered 3.2-5906 as follows:

§ 3.2-5906. Certification of animal shelter euthanasia rate.

Each releasing agency as defined in § 3.2-6500 that euthanizes dogs or cats shall report to the State Veterinarian on an annual basis the number of animals that have become the property of the shelter and the number of animals euthanized by the shelter in the previous calendar year. If during the previous calendar year a releasing agency has a euthanasia rate greater than 50 percent, the State Veterinarian shall notify the Board of Pharmacy that the releasing agency shall not be registered to purchase, possess, or administer Schedule II through VI controlled substances for the purpose of euthanizing animals pursuant to § 54.1-3423.

§ 3.2-6546. County or city public animal shelters; confinement and disposition of animals; affiliation with foster care providers; reporting requirements; penalties; injunctive relief.

A. For purposes of this section:

"Animal" shall not include agricultural animals.

"Rightful owner" means a person with a right of property in the animal.

B. The governing body of each county or city shall maintain or cause to be maintained a public animal shelter and shall require dogs running at large without the tag required by § 3.2-6531 or in violation of an ordinance passed pursuant to § 3.2-6538 to be confined therein. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a shelter. The governing body of any county or city need not own the facility required by this section but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. The governing body shall require that:

1. The public animal shelter shall be accessible to the public at reasonable hours during the week;

2. The public animal shelter shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and each shelter shall update such statement as changes occur;

3. If a person contacts the public animal shelter inquiring about a lost companion animal, the shelter shall advise the person if the companion animal is confined at the shelter or if a companion animal of similar description is confined at the shelter;

4. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a private animal shelter in accordance with subsection D of § 3.2-6548 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by a private animal shelter or allow such person inquiring about a lost animal to view the written records;

5. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a releasing agency other than a public or private animal shelter in accordance with subdivision F 2 of § 3.2-6549 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records; and

6. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by an individual in accordance with subdivision A 2 of § 3.2-6551 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to

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59 such person any information submitted by the individual or allow such person inquiring about a lost
60 companion animal to view the written records.

61 C. An animal confined pursuant to this section shall be kept for a period of not less than five days,
62 such period to commence on the day immediately following the day the animal is initially confined in
63 the facility, unless sooner claimed by the rightful owner thereof.

64 The operator or custodian of the public animal shelter shall make a reasonable effort to ascertain
65 whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification
66 is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by
67 the rightful owner. If the rightful owner of the animal can be readily identified, the operator or
68 custodian of the shelter shall make a reasonable effort to notify the owner of the animal's confinement
69 within the next 48 hours following its confinement.

70 During the time that an animal is confined pursuant to this subsection, the operator or custodian of
71 the public animal shelter may vaccinate the animal to prevent the risk of communicable diseases,
72 provided that (i) all vaccines are administered in accordance with a protocol approved by a licensed
73 veterinarian and (ii) rabies vaccines are administered by a licensed veterinarian or licensed veterinary
74 technician under the immediate direction and supervision of a licensed veterinarian in accordance with
75 § 3.2-6521.

76 If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be
77 charged with the actual expenses incurred in keeping the animal impounded. In addition to this and any
78 other fees that might be levied, the locality may, after a public hearing, adopt an ordinance to charge the
79 owner of an animal a fee for impoundment and increased fees for subsequent impoundments of the same
80 animal.

81 D. If an animal confined pursuant to this section has not been claimed upon expiration of the
82 appropriate holding period as provided by subsection C, it shall be deemed abandoned and become the
83 property of the public animal shelter.

84 Such animal may be euthanized in accordance with the methods approved by the State Veterinarian
85 or disposed of by the methods set forth in subdivisions 1 through 5. No shelter shall release more than
86 two animals or a family of animals during any 30-day period to any one person under subdivisions
87 subdivision 2, 3, or 4. *Pursuant to § 3.2-5906, each public animal shelter shall report to the State*
88 *Veterinarian on an annual basis the number of animals that have become the property of the shelter*
89 *and the number of animals euthanized by the shelter in the previous calendar year.*

90 1. Release to any humane society, public or private animal shelter, or other releasing agency within
91 the Commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains
92 a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each
93 individual has never been convicted of animal cruelty, neglect, or abandonment and updates such
94 statements as changes occur;

95 2. Adoption by a resident of the county or city where the shelter is operated and who will pay the
96 required license fee, if any, on such animal, provided that such resident has read and signed a statement
97 specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

98 3. Adoption by a resident of an adjacent political subdivision of the Commonwealth, if the resident
99 has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect,
100 or abandonment;

101 4. Adoption by any other person, provided that such person has read and signed a statement
102 specifying that he has never been convicted of animal cruelty, neglect, or abandonment and provided
103 that no dog or cat may be adopted by any person who is not a resident of the county or city where the
104 shelter is operated, or of an adjacent political subdivision, unless the dog or cat is first sterilized, and the
105 shelter may require that the sterilization be done at the expense of the person adopting the dog or cat; or

106 5. Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other
107 releasing agency located in and lawfully operating under the laws of another state, provided that such
108 animal shelter, or other releasing agency: (i) maintains records that would comply with § 3.2-6557; (ii)
109 requires that adopted dogs and cats be sterilized; (iii) obtains a signed statement from each of its
110 directors, operators, staff, and animal caregivers specifying that each individual has never been convicted
111 of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has
112 provided to the public or private animal shelter or other releasing agency within the Commonwealth a
113 statement signed by an authorized representative specifying the entity's compliance with clauses (i)
114 through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in
115 accordance with the provisions of this chapter.

116 For purposes of recordkeeping, release of an animal by a public animal shelter to a public or private
117 animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal
118 is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

119 Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the
120 treasurer of the locality. Any proceeds deriving from the gift, sale, or delivery of such animals by a

public or private animal shelter or other releasing agency shall be paid directly to the clerk or treasurer of the animal shelter or other releasing agency for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal. No part of the proceeds shall accrue to any individual except for the aforementioned purposes.

E. Nothing in this section shall prohibit the immediate euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

F. Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subdivisions 1 through 5 of subsection D of an animal that has been released to a public or private animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement: (i) surrendering all property rights in such animal; (ii) stating that no other person has a right of property in the animal; and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subdivisions 1 through 5 of subsection D.

G. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification that, based on the written statement of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The statement of the disinterested person shall be kept with the animal as required by § 3.2-6557. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal.

H. No public animal shelter shall place a companion animal in a foster home with a foster care provider unless the foster care provider has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and each shelter shall update such statement as changes occur. The shelter shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the shelter has an affiliation with the foster care provider.

I. A public animal shelter that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.2-6503.

J. If a public animal shelter finds a direct and immediate threat to a companion animal placed with a foster care provider, it shall report its findings to the animal control agency in the locality where the foster care provider is located.

K. The governing body shall require that the public animal shelter be operated in accordance with regulations issued by the Board. If this chapter or such regulations are violated, the locality may be assessed a civil penalty by the Board or its designee in an amount that does not exceed \$1,000 per violation. Each day of the violation is a separate offense. In determining the amount of any civil penalty, the Board or its designee shall consider: (i) the history of previous violations at the shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the locality to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

L. If this chapter or any laws governing public animal shelters are violated, the Commissioner may bring an action to enjoin the violation or threatened violation of this chapter or the regulations pursuant thereto regarding public animal shelters, in the circuit court where the shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.

§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

2. Compliance with applicable state and local law;

3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;

4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

5. Furnishing by the applicant of false or fraudulent material in any application filed under this

chapter;

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II through VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals, *unless notified by the State Veterinarian pursuant to § 3.2-5906*, and to purchase, possess, and administer certain Schedule VI drugs and biological products for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter. Controlled substances used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs and biological products used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs and biological products shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs and biological products, written protocols for administering, and training records of those persons administering drugs and biological products on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if

244 applicable, name the new responsible party or supervising practitioner.