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HOUSE BILL NO. 2331

Offered January 12, 2023

A BILL to amend and reenact §§ 3.2-6500 and 3.2-6569 of the Code of Virginia, relating to animal care; seizure of animals; zoos.

Patron—Campbell, E. H.

Unanimous consent to introduce

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That §§ 3.2-6500 and 3.2-6569 of the Code of Virginia are amended and reenacted as follows:****§ 3.2-6500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of four consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter. The outdoor tethering of an animal shall not constitute the provision of adequate shelter (a) unless the animal is safe from predators and well suited and well equipped to tolerate its environment; (b) during the effective period for a hurricane warning or tropical storm warning issued for the area by the National Weather Service; or (c) (1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning, unless an animal control officer, having inspected an animal's individual circumstances in clause (c) (1), (2), or (3), has determined the animal to be safe from predators and well suited and well equipped to tolerate its environment.

"Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means that the tether to which the animal is attached permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness that is configured so as to protect the animal from injury and prevent the animal or tether from becoming

59 entangled with other objects or animals, or from extending over an object or edge that could result in
60 the strangulation or injury of the animal; is at least 15 feet in length or four times the length of the
61 animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the
62 animal is being walked on a leash or is attached by a tether to a lead line or when an animal control
63 officer, having inspected an animal's individual circumstances, has determined that in such an individual
64 case, a tether of at least 10 feet or three times the length of the animal, but shorter than 15 feet or four
65 times the length of the animal, makes the animal more safe, more suited, and better equipped to tolerate
66 its environment than a longer tether; does not, by its material, size, or weight or any other characteristic,
67 cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and
68 does not have weights or other heavy objects attached to it. The walking of an animal on a leash by its
69 owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom
70 of movement would endanger the animal, temporarily and appropriately restricting movement of the
71 animal according to professionally accepted standards for the species is considered provision of adequate
72 space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.

73 "Adequate water" means provision of and access to clean, fresh, potable water of a drinkable
74 temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals
75 appropriate for the weather and temperature, to maintain normal hydration for the age, species,
76 condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by
77 naturally occurring states of hibernation or fasting normal for the species; and is provided in clean,
78 durable receptacles that are accessible to each animal and are placed so as to minimize contamination of
79 the water by excrement and pests or an alternative source of hydration consistent with generally
80 accepted husbandry practices.

81 "Adoption" means the transfer of ownership of a dog or a cat, or any other companion animal, from
82 a releasing agency to an individual.

83 "Agricultural animals" means all livestock and poultry.

84 "Ambient temperature" means the temperature surrounding the animal.

85 "Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal
86 means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman
87 vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and
88 customary manner.

89 "Animal control officer" means a person appointed as an animal control officer or deputy animal
90 control officer as provided in § 3.2-6555.

91 "Boarding establishment" means a place or establishment other than a public or private animal shelter
92 where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a
93 fee. "Boarding establishment" shall not include any private residential dwelling that shelters, feeds, and
94 waters fewer than five companion animals not owned by the proprietor.

95 "Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the
96 animal's neck in such a way as to prevent trauma or injury to the animal.

97 "Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or
98 more adult female dogs for the primary purpose of the sale of their offspring provided that a person
99 who breeds an animal regulated under federal law as a research animal shall not be deemed to be a
100 commercial dog breeder.

101 "Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate,
102 guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or
103 native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any
104 animal that is bought, sold, traded, or bartered by any person. No agricultural animal, game species, or
105 animal regulated under federal law as a research animal shall be considered a companion animal for the
106 purposes of this chapter.

107 "Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the
108 services of a boarding establishment. The term "consumer" shall not include a business or corporation
109 engaged in sales or services.

110 "Dealer" means any person who in the regular course of business for compensation or profit buys,
111 sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers:
112 (i) any person who transports companion animals in the regular course of business as a common carrier
113 or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

114 "Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or
115 life.

116 "Dump" means to knowingly desert, forsake, or absolutely give up without having secured another
117 owner or custodian any dog, cat, or other companion animal in any public place including the
118 right-of-way of any public highway, road or street or on the property of another.

119 "Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition,
120 alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

"Facility" means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

"Farming activity" means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

"Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

"Home-based rescue" means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

"Humane society" means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

"Incorporated" means organized and maintained as a legal entity in the Commonwealth.

"Inspector" means a State Animal Welfare Inspector employed pursuant to § 3.2-5901.1 or his representative.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama or Vicugna; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Ordinance" means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

"Pet shop" means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the

term includes the shelter and the area within reach of the tether.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

"Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five days.

"Zoo" means a facility or establishment, including a petting zoo, that is licensed by the U.S. Department of Agriculture and the Department of Wildlife Resources and houses animals and exhibits them to the public.

§ 3.2-6569. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer, or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety, or health. The seizure or impoundment of an equine

resulting from a violation of clause (iv) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal *or animal located at a zoo*, the humane investigator, law-enforcement officer, or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer, or animal control officer shall notify the owner of ~~the agricultural~~ *such* animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer, or animal control officer may impound ~~the agricultural~~ *such* animal on the land where ~~the agricultural~~ *such* animal is located if:

1. The owner or tenant of the land where the ~~agricultural~~ animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the ~~agricultural~~ animal is located cannot be immediately located, and it is in the best interest of the ~~agricultural~~ animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal *or an animal located at a zoo*, the humane investigator, law-enforcement officer, or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer, or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer, or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal ~~or~~, an agricultural animal, *or a zoo animal*; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The

305 court shall direct that the animal be delivered to the person with a right of property in the animal, upon
306 his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is
307 not attributable to the actions or inactions of such person.

308 H. The court shall order the owner of any animal determined to have been abandoned, cruelly
309 treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for
310 such animal from the time the animal is seized until such time that the animal is disposed of in
311 accordance with the provisions of this section, to the provider of such care.

312 I. The court may prohibit the possession or ownership of other companion animals by the owner of
313 any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In
314 making a determination to prohibit the possession or ownership of companion animals, the court may
315 take into consideration the owner's past record of convictions under this chapter or other laws
316 prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental
317 and physical condition.

318 J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may
319 prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural
320 animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as
321 evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to
322 prohibit the possession or ownership of agricultural animals, the court may take into consideration the
323 owner's mental and physical condition.

324 K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J
325 may petition the court to repeal the prohibition after two years have elapsed from the date of entry of
326 the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the
327 satisfaction of the court that the cause for the prohibition has ceased to exist.

328 L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the
329 unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any,
330 shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds
331 remaining shall be paid into the Literary Fund.

332 M. Nothing in this section shall be construed to prohibit the humane destruction of a critically
333 injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement
334 officer, animal control officer, or licensed veterinarian.