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SENATE BILL NO. 604

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on/for _____
on _____)

(Patron Prior to Substitute--Senator Stanley)

A BILL to amend and reenact § 3.2-6500 of the Code of Virginia, relating to animal cruelty; companion animals; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6500 of the Code of Virginia is 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,

26 except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting
27 normal for the species.

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

49 "Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about,
50 and make all other normal body movements in a comfortable, normal position for the animal and (ii)
51 interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means
52 that the tether to which the animal is attached permits the above actions and is appropriate to the age and

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

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

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

78 "Agricultural animals" means all livestock and poultry.

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

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

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

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

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

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

96 "Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate,
97 guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or
98 native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any
99 animal that is bought, sold, traded, or bartered by any person. No agricultural animal, or game species, or
100 ~~animal regulated under federal law as a research animal~~ dog or cat actively involved in bona fide scientific
101 or medical experimentation shall be considered a companion animal for the purposes of this chapter.

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

105 "Dealer" means any person who in the regular course of business for compensation or profit buys,
106 sells, transfers, exchanges, or barters companion animals. The following shall not be considered dealers:

107 (i) any person who transports companion animals in the regular course of business as a common carrier
108 or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

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

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

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

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

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

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

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

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

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

132 "Foster home" means a private residential dwelling and its surrounding grounds, or any facility
133 other than a public or private animal shelter, at which site through an affiliation with a public or private

134 animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or
135 rehabilitation is provided for companion animals.

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

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

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

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

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

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

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

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

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

158 "Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals;
159 porcine animals; cervidae animals; capradae animals; animals of the genus Lama or Vicugna; ratites; fish
160 or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised

161 for human food or fiber; or any other individual animal specifically raised for food or fiber, except
162 companion animals.

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

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

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

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

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

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

174 "Primary enclosure" means any structure used to immediately restrict an animal or animals to a
175 limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term
176 includes the shelter and the area within reach of the tether.

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

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

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

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

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

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

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

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

206 "Sore" means, when referring to an equine, that an irritating or blistering agent has been applied,
207 internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has
208 been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that
209 has been injected by a person into or used by a person on any limb or foot of an equine; any other substance
210 or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a
211 practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such
212 equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or
213 lameness when walking, trotting, or otherwise moving, except that such term does not include such an

214 application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine
215 by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the
216 contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9
217 C.F.R. Part 11.2.

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

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

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

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

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

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