

**REPORT OF THE
ANIMAL WELFARE STUDY COMMITTEE**

**TO
THE HOUSE AGRICULTURE COMMITTEE,
THE SENATE AGRICULTURE, CONSERVATION AND
NATURAL RESOURCES COMMITTEE
AND THE GENERAL ASSEMBLY OF VIRGINIA**



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**REPORT OF THE
ANIMAL WELFARE STUDY COMMITTEE
TO
THE GOVERNOR
AND THE GENERAL ASSEMBLY OF VIRGINIA
Richmond, Virginia
December 1975**

TO: Honorable Mills E. Godwin, Jr., Governor of Virginia
and

The General Assembly of Virginia

I. INTRODUCTION

This report is a result of the study directive contained in House Joint Resolution No. 200 passed by the 1975 Session of the General Assembly as follows:

H.J.R. No. 200

Directing the House Agriculture Committee and the Senate Agriculture, Conservation and Natural Resources Committee to study animal welfare laws and related subjects.

WHEREAS, there is concern that the handling of animals in commerce is not done under conditions which assure the prevention of disease; and

WHEREAS, there is evidence that animals are kept in unhealthy and unsanitary conditions; and

WHEREAS, there is evidence that animals are soiled, battered and beaten by unscrupulous owners and sellers; and

WHEREAS, there is evidence that there have been misrepresentations as to the health of animals sold in commerce; and

WHEREAS, there is fragmentation of responsibility in assuring that animals are healthy and are treated humanely, are kept under sanitary conditions, and are not misrepresented when sold; now,

therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the House Agriculture Committee and the Senate Agriculture, Conservation and Natural Resources Committee are here hereby directed to make a study of the laws of the Commonwealth relating to the treatment of agricultural animals, the practices surrounding the sale of agricultural animals, the matter of warranties and guarantees in the sale of animals, the conditions of health and sanitation of the premises where animals are sold, the practices surrounding the storing, corralling, and breeding of animals, the extent of animal disease, the extent of cruelty to animals, the general responsibility of those persons making a business of animal sales, and the feeding and housing of animals kept for sale.

The Committees shall call upon any other State department or agency that may have an interest in these matters for assistance and advice, and may also utilize the services of private persons or any organizations having knowledge, expertise, and interest in these matters.

The Committees shall make their report to the General Assembly of Virginia, which shall include the results of such study, along with its recommendations, if any, regarding needed legislation or regulation providing for the proper handling, health, welfare, breeding, conditions of keeping, and conditions of sale of agricultural animals, and whatever measures are deemed necessary for the protection of animals, buyers, sellers, and the general public.

Members of the Committees shall receive compensation as authorized by law for members of the General Assembly and be reimbursed for their actual expenses incurred during the conduct of the study.

The Committees shall complete their study and make their report not later than November one, nineteen hundred seventy-five.

Pursuant to the study directive, the House Agriculture Committee and the Senate Agriculture, Conservation and Natural Resources appointed the following Joint Committee : Mr. G. H. Bennett, Richmond; Senator John C. Buchanan, Wise; Delegate Raymond R. Guest, Jr., Front Royal; Delegate Joseph A. Johnson, Abingdon; Senator Frank W. Nolen, New Hope; and Senator William A. Truban, Woodstock. Mr. Guest was elected Chairman, and Senator Buchanan was elected Vice-Chairman.

The Division of Legislative Services made staff and facilities available to carry out the study; Jonathan Murdoch-Kitt and Joanne S. Palmore served as staff to the Committee.

II. SURVEY

In order to gather information and citizen input, the Committee held a public hearing which was well attended by representatives from private veterinary practices, animal protection societies, animal clubs and breeder associations, the State Veterinarian's Office and the Attorney General's Office.

The testimony presented indicated that the animal welfare problems covered a broad spectrum: animal abuse and cruelty, overpopulation of pets, control of disease, pollution, theft, law enforcement and consumer fraud. The testimony presented suggested that the current animal welfare laws in Virginia are in need of amendment and consolidation.

Although the original study directive focused primarily on agricultural animals, the Committee found that the abuses brought to their attention were common to companion animals and birds as well. The Committee decided that a comprehensive animal welfare act that would apply to all such animals could address and resolve best the problems associated with animal welfare.

III. RECOMMENDATIONS AND REASONS FOR RECOMMENDATIONS

As a result of its deliberations and findings, the Committee offers the following recommendations:

1. That legislation be enacted to create the Virginia Animal Welfare Act (See Appendix I).

The Committee recommends that a strong Animal Welfare Act should be enacted to insure that animals are provided humane care and treatment. Public health, safety, and welfare would be enhanced by providing certain safeguards against diseased animals, fraudulent selling practices and inhumane treatment of animals. The most effective method of providing the public this protection is by controlling the sale of animals, including the conditions under which animals are transported, housed and kept while for sale.

2. That the proposed legislation concerning dog laws in Virginia be studied further (See Appendix II).

Much of the testimony presented to the Committee dealt with dogs. Problems peculiar to dogs require special attention and separate legislation in order to improve the existing laws. In conjunction with the work on general animal welfare laws, the draft legislation on dog laws was prepared. There was not enough time to review this draft legislation fully and therefore the Committee recommends that it be studied next year or referred to the Virginia Advisory Legislative Council's study on Dog Laws.

3. That the Division of Game and Inland Fisheries be directed to make a study of the iron jaw leghold trap, and to devise new ways to enforce current laws concerning the use of traps.

In the course of its study, the Committee heard a great deal of testimony concerning the use of the iron jaw leghold trap and its relation to the welfare of animals. Some insisted that it was unusually cruel and that its use should be prohibited in Virginia. In the event the iron jaw leghold trap is not banned, stricter enforcement concerning the identification and emptying of traps is necessary. Section 29-143 (h) and (j) of the Code of Virginia requires that traps be marked with the trappers name and address and that traps must be visited at least once each day. These laws must be strictly enforced. The Committee recommends that this issue be studied further and that the Division of Game and Inland Fisheries would be the most appropriate body to conduct the study and to adopt rules and regulations as their study might suggest.

4. That law enforcement officers should be made familiar with the animal welfare laws and educated on their role in enforcing them. Enforcement of animal welfare laws could be improved with greater knowledge and assistance on the part of law enforcement officers.

IV. CONCLUSION

The Committee recommends that an Animal Welfare Act be enacted, that law enforcement personnel be trained in the animal welfare laws, that the dog laws be studied further and that the use of the iron jaw leghold trap and trapping laws be studied further by the Commission on Game and Inland Fisheries.

Respectively submitted,

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Raymond R. Guest, Jr., Chairman

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*John C. Buchanan, Vice-Chairman

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G. H. Bennett

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Joseph A. Johnson

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*Frank W. Nolen

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William A. Truban

*See following Comment and Dissent.

COMMENT

Senator John C. Buchanan

1. I concur with the recommendation for the creation of a Virginia Animal Welfare Act. Although I understand that this recommendation, and the vehicle (Appendix I) for its implementation relate primarily to animals in commerce, humane considerations should apply without regard to commercial factors.

2. I concur also with the recommendation that the dog laws be further studied. I suggest, however, that this is a function appropriate to the Virginia Advisory Legislative Council Committee provided by S.J.R. No. 100, the reporting date of which falls shortly before the convening of the 1977 session.

At the time of the appointment of Senate members of this Joint Committee, Senator Rawlings and I were in agreement that the S.J.R. No. 100 Committee would not get down to serious work until after the 1976 session, when it is determined what is left to be done after the H.J.R. No. 200 Joint Committee has completed its legislative program.

In case the Joint Committee decides to proceed to introduction of the dog law bill (Appendix II), I would offer several amendments:

(a) § 29-213.11. Amount of License. I fear that the increase in license costs would result in a much greater rate of abandonment of dogs. I would suggest that the male dog license be left at two dollars, or leave it to the discretion of the governing body. I have read reams of arguments that it is just as important to neuter male dogs as female dogs, but that argument is not convincing. If all female dogs are either neutered or kept confined, there will be no wild puppies. I would therefore increase the license fee for female dogs to \$15 (unneutered) or \$1 neutered, and increase the penalty for allowing an unneutered female dog to roam at large, or for abandonment.

(b) § 29-213.19. Dog Pounds. Without objection to the requirement for Health Department approval of dog pounds, I believe there should also be a requirement that they meet humane specifications.

With further regard to this same section, I believe the period of retention of a stray dog before its destruction should be seven instead of five days, in order that a notice could be carried in the weekly newspaper's Lost-and-Found columns. Owners who have lost a dog frequently advertise in such papers. I would suggest that the dog wardens might be required to read such notices, and even publish a weekly list of dogs being held. Some weekly papers will carry such notices as a public service. Reading this section in connection with § 3.1-796.54 (B), I wonder if it would not be reasonable to require the dog warden to keep a book in which he

records descriptions of lost dogs, as well as descriptions of dogs that have come into his official charge. Such a listing would be helpful in the cases in which a lost dog is reported immediately, but comes to the warden's attention perhaps weeks later. These lost-and-found services could be made self-supporting through the charging of a reasonable fee.

(c) § 29-213.24. Dogs killing or injuring livestock or poultry. I would like to suggest that there be provision for appeal to a higher court.

(d) § 29-213.26. Killing unlicensed dogs. It seems rather hasty to declare it the "duty of the dog warden or any other officer to capture and euthanize any dog of unknown ownership found running at large on which license has not been paid..." For, if the owner is not known, how can it be known that a license has not been paid, when theft of license tags is so common. It would be particularly distressing to have an "unlicensed" dog killed and then to find that the dog had been "engaged in lawful hunting, in the open season", even though "accompanied by the owner" who was just out of sight.

I would repeat in this context the remarks that I made under § 29-213.19 above, with reference to keeping the dog for seven days and advertising in the lost-and-found columns.

(e) § 29-213.27. Disposal of dead dogs. Some provision should be made whereby some responsibility for disposal is placed upon the person who kills a dog in traffic and leaves it to decay in the street. Perhaps this could be tied in with § 29-213.7, wherein dogs are declared to be personal property.

3. If the Joint Committee feels that further study of the Leghold Trap is necessary, I would suggest that such a study is within the province of the S.J.R. No. 100 Virginia Advisory Legislative Council study. The Division of Game and Inland Fisheries would naturally be expected to present their views on the subject. But I do not feel that they should conduct the study.

Actually, I feel that we could go ahead with recommendations for a bill on this subject, and hold a hearing when the bill comes to the appropriate standing committee. I anticipate that hundreds of hunters would like to be represented in favor of outlawing such traps.

DISSENT

Former Senator Frank W. Nolen dissented from the report.

APPENDIX I

A Bill to amend and reenact §§ 18.2-144 and 18.2-397 of the Code of Virginia and to amend the Code of Virginia by adding in Title 3.1 a Chapter numbered 27.3 consisting of sections 3.1-796.39 through 3.1-796.63 and to repeal §§ 3.1-776 and 15.1-29.1, the amended, added, and repealed sections relating to the animal welfare laws, penalties provided.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-144 and 18.2-397 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 27.3 consisting of sections numbered 3.1-796.39 through 3.1-796.63 as follows:

§ 18.2-144. Maiming, killing or poisoning animals, fowl, etc.—If any person maliciously shoot, stab, wound or otherwise cause bodily injury to, or administer poison to or expose poison with intent that it be taken by, any horse, mule, pony, cattle, swine or other livestock, *or other domestic animal* of another, with intent to maim, disfigure, disable or kill the same, or if he do any of the foregoing acts to any ~~such~~ animal of his own with intent to defraud any insurer thereof, he shall be guilty of a Class 5 felony. ~~And if any person do any of the foregoing acts to any fowl or to any dog under six months old or if over six months old and has been licensed as required by law with any of the aforesaid intents, he shall be guilty of a Class 1 misdemeanor.~~

§ 18.2-397. Officers and agents of societies for prevention of cruelty to animals may arrest offenders.—Any officer or agent of any society duly incorporated under the laws of this State for the prevention of cruelty to animals, whose appointment shall have been approved as hereinafter provided, shall have power to arrest, without without warrant, any person found violating in his presence any of the provisions of law concerning cruelty to animals, and upon making such arrest shall forthwith convey the person arrested before some court or magistrate having jurisdiction of the offense and there make complaint against him. Any any such officer or agent shall have power to execute any warrant issued by a magistrate for the violation of any of such provisions, whether the offense was committed in his presence or not.

But such officers and agents shall not be authorized to make such arrests within any political subdivision, unless their appointment has been approved by the judge of the circuit court thereof. *Circuit court judges shall make appointments of officers and agents from a list of approved humane investigators provided by the State Veterinarian pursuant to § 3.1-796.59 of the Code of Virginia.*

CHAPTER 27.3.

ANIMAL WELFARE ACT.

§ 3.1-796.39. Title.—*This act shall be known as the Virginia Animal Welfare Act and is cited herein as the act.*

§ 3.1-796.40. Legislative declaration of policy and purpose.—*A. The General Assembly declares that it is the policy and purpose of this act to insure that animals are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of animals. It is the purpose of this act to insure that all animals, wherever found, and especially animals confined in pet shops, kennels, animal shelters, auction markets, pounds, research facilities, transportation facilities and vehicles and in other similar places are provided humane care and treatment. It is also the purpose of this act to protect the owners and purchasers of animals from misleading or fraudulent warranties regarding animals and from theft of their animals; to prevent the sale or use of stolen animals; and to insure that only animals that appear to be free of infection, communicable disease and abnormalities are released for sale, trade or adoption unless subsequent veterinary care is assured.*

B. The General Assembly declares that it is the intent of this act to protect the public health, safety and welfare by controlling animals as items of commerce to prevent disease, fraudulent practices and inhumane treatment and conditions.

§ 3.1-796.41. Definitions.—*The following words as used in this chapter shall have the following meanings:*

A. “Adequate feed” means the provision, at suitable intervals, not to exceed 24 hours, of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal.

B. “Adequate water” means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species and not to exceed 24 hours at any interval.

C. “Agricultural animals” mean cattle, horses, swine, sheep, goats and poultry.

D. “Ambient temperature” means the temperature surrounding the animal.

E. “Animal” means domestic animals, including both agricultural and companion animals, if not specified otherwise.

F. “Animal shelter” means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other non-profit organization devoted to the welfare, protection and humane treatment of animals.

G. “Board” means the Board of Agriculture and Commerce.

H. “Companion animals” mean dogs both domestic and feral, cats both domestic and feral, monkeys and all members of the monkey family, guinea pigs, hamsters, rabbits, exotic and native birds.

I. “Dealer” means any person who in the regular course of business for compensation or profit buys, sells, transfers, except as a common carrier, exchanges or barter, companion animals. Dealer shall not include any person who breeds or raises agricultural animals in the regular course of an agricultural operation.

J. *“Animal warden” means any person employed, contracted or appointed by the State or any political subdivision for the purpose of aiding in the enforcement of this law or any other law or ordinance relating to the licensing of dogs, control of dogs, or seizure and impoundment of dogs and includes any State or municipal police officer, animal control officer, sheriff, constable or other employee whose duties in whole or in part include assignments which involve seizure or taking into custody of any dog.*

K. *“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 which causes painless loss of consciousness, and death during such loss of consciousness.*

L. *“Exotic birds” mean any bird that is not a species native to the United States.*

M. *“Housing facility” means any room, building, or area used to contain a primary enclosure or enclosures.*

N. *“Humane society” means any chartered, not for profit organization incorporated under the laws of this State and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.*

O. *“Investigator” or “approved humane investigator” means a person employed or approved by the State Veterinarian to determine whether there has been a violation of this chapter.*

P. *“Kennel” means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed and watered in exchange for a fee, but shall not include training or show kennels.*

Q. *“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 custodian of an animal.*

R. *“Person” means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.*

S. *“Pet shop” means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.*

T. *“Pound” means a facility operated by a State, or any political subdivision, for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted animals; or a facility operated for the same purpose under a contract with any county, city or town or incorporated society for the prevention of cruelty to animals.*

U. *“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.*

V. *“Research facility” means any place, laboratory or institution at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.*

W. *“Sanitize” means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.*

X. *“State Veterinarian” means a veterinarian employed by the Board as provided in § 3.1-723, or his duly appointed representative.*

§ 3.1-796.42. Duties of owner.—Each owner shall have the duty to provide for each of his animals:

A. Adequate feed and adequate water;

B. Adequate shelter and protection from the weather;

C. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight;

D. Veterinary care when needed and to prevent suffering; and

E. Humane care and treatment.

§ 3.1-796.43. Transporting animals; requirements; lien for expenses.—No owner, railroad or other common carrier when transporting any animal shall allow that animal to be confined in any type of conveyance more than twenty-eight consecutive hours without being exercised, properly rested, fed and watered as necessary for that particular type and species of animal. Provided, however, that a reasonable extension of this time shall be permitted when an accident, storm or other act of God causes a delay. Adequate space in the primary enclosure within any type of conveyance shall be provided each animal depending upon the particular type and species of animal.

§ 3.1-796.44. Pound; animal shelter; research facility; certificate of registration.—No county or city shall operate a pound and no person shall operate an animal shelter or research facility unless a certificate of registration for the pound, animal shelter or research facility has been granted by the State Veterinarian. No fee shall be required for the application or certificate. Certificates of registration shall be valid for a period of one calendar year or until revoked and may be renewed annually upon application in the manner provided.

§ 3.1-796.45. Pet shops; kennels; permit; fees; records.—A. No person shall operate a pet shop or kennel unless a permit to operate such establishment has been granted by the State Veterinarian. Application for the permit shall be made in the manner provided by the State Veterinarian. The permit shall be valid for a period of one calendar year or until revoked and the permit fee shall be one hundred fifty dollars for each permit period or part thereof beginning with the first day of the calendar year. Permits fees shall be deposited into the State treasury in a special fund to be used by the State Veterinarian for the administration of this chapter.

B. Every owner or operator of a petshop or kennel shall make and retain records of the previous ownership and purchase of any companion animal or forms and in a manner prescribed by the Board. Each record entry shall be kept for a period of at least two years. Such records shall be open for inspection during regular business hours to the State Veterinarian, State investigator, approved humane investigator or law enforcement personnel.

§ 3.1-796.46. Dealer; permit; fee; records.—A. No person shall operate as a dealer unless a permit to deal has been granted by the State Veterinarian. Application for the permit shall be made in the manner provided by the State Veterinarian. The permit shall be valid for a period of one calendar year or until revoked and the permit fee shall be one hundred fifty dollars for each permit period or part thereof beginning with the first day of the calendar year. Permit fees shall be deposited into the State treasury in a special fund to be used by the State Veterinarian for the administration of this chapter.

B. Every dealer shall make and retain records of the previous ownership and

purchase of any companion animal on forms and in a manner prescribed by the Board. Each record entry shall be kept for a period of at least two years. Such records shall be open for inspection during regular business hours to the State Veterinarian, State investigator, approved humane investigator or law enforcement personnel.

§ 3.1-796.47. Failure to keep records, penalty.—Any owner or operator of a pet shop or kennel, or any dealer who fails to keep accurate records as required in §§ 3.1-796.45 and 3.1-796.46 shall have his permit to operate or deal temporarily revoked by the State Veterinarian. A public hearing shall be held by the State Veterinarian not later than three calendar days immediately following such revocation. If such person is found to be in violation of this section then his permit to operate or deal shall be revoked by the State Veterinarian for a period of not less than fourteen days from the original revocation.

§ 3.1-796.48. Certificate of registration, permit to operate or deal; denial; revocation; power of State Veterinarian. — A. A certificate of registration may be denied to any pound, animal shelter or research facility and a permit to operate or deal may be denied to any pet shop, kennel, or dealer or, if granted, the certificate or permit may be revoked by the State Veterinarian if, after public hearing, it is determined that the operating conditions or practices at any pound, animal shelter, research facility, pet shop, kennel, or dealer's place of business is not consistent with the requirements and intent of § 3.1-796.42 and the intent of this chapter or with the intent of rules and regulations which may be promulgated pursuant to the authority of this chapter.

B. The State Veterinarian shall have the authority to immediately and temporarily revoke any certificate or permit if, in the opinion of the State Veterinarian, serious harm or damage may result to either the public or the animals in question if immediate action is not taken. A public hearing shall be held by the State Veterinarian not later than three calendar days immediately following such revocation.

§ 3.1-796.49. Operation of pet shop, etc. without a permit; penalty.—Operation of a pet shop or kennel without a current and valid permit shall constitute a Class 3 misdemeanor, and each day of such operation shall constitute a separate offense. Animals found in the possession or custody of any operator of a pet shop or kennel who does not have a current and valid permit shall be subject to immediate seizure and impoundment and, upon conviction of such operator, shall become subject to sale or euthanasia at the discretion of the State Veterinarian. Any funds that result from such sale shall be used first to pay the costs of the State Veterinarian for the impoundment and disposition of the animals and any funds remaining shall be paid into The Literary Fund.

§ 3.1-796.50. Dealing in animals without a permit; penalty.—Dealing in animals without a current and valid permit shall constitute a Class 2 misdemeanor, and each day of such dealing shall constitute a separate offense. Animals found in the possession or custody of any dealer who does not have a current and valid permit shall be subject to immediate seizure and impoundment and, upon conviction of such dealer, shall become subject to sale or euthanasia at the discretion of the State Veterinarian. Any funds that result from such sale shall be used first to pay the costs of the State Veterinarian for the impoundment and disposition of the animals and any funds remaining shall be paid into The Literary Fund.

§ 3.1-796.51. Sale, etc., of baby chicks prohibited.—No person shall sell, offer for sale, rent, barter or give away as pets or novelties any living baby chicks, ducklings, or other fowl under two months old.

§ 3.1-796.52. Failure to provide adequate care, etc., penalty.—Any person who has a certificate of registration or permit to operate or to deal under this chapter who fails to adequately house, feed, water, exercise and care for animals in his possession or custody

as provided for under this chapter, shall upon conviction, be guilty of a Class 3 misdemeanor. Such animals shall be subject to seizure and impoundment and upon conviction of such person the animals may be sold or euthanized at the discretion of the State Veterinarian. Such failure shall also constitute grounds for revocation of permit or certificate of registration after public hearing. Any funds that result from such sale shall be used first to pay the costs of the State Veterinarian for the impoundment and disposition of the animals and any funds remaining shall be paid into The Literary Fund.

§ 3.1-796.53. Sale of animals from pounds; animal shelters, regulation.—A. The governing body of the political subdivision regulating the operation of a pound shall determine the method of disposition of animals released by such pound subject to rules and regulations promulgated by the Board. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the treasurer of the political subdivision and no part of such proceeds shall accrue to any individual.

B. The board of directors of an incorporated humane society shall determine the method of disposition of animals released by its animal shelter subject to rules and regulations promulgated by the Board. Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the clerk or treasurer of the humane society and no part of such proceeds shall accrue to any individual.

§ 3.1-796.54. Animal wardens; limitations; records; penalties.—A. No animal warden shall give or sell or negotiate for the gift or sale to a pet shop, dealer, or research facility of any animal which may come into his custody in the course of carrying out his official assignments. No animal warden shall be granted a dealer's license and each application for such license shall include a statement made under oath, that neither the applicant or any member or employee of the firm, partnership, or corporation making application is an animal warden within the meaning of the definition herein.

B. An animal warden, upon taking custody of any animal in the course of his official duties, shall immediately make a record of the matter in the manner prescribed by the State Veterinarian and the record shall include a description of the animal including color, breed, sex, approximate weight, reason for seizure, location of seizure, the owner's name and address if known and all license or other identification numbers if any. Complete information relating to the disposition of the dog shall be added in the manner provided by the State Veterinarian immediately after disposition.

C. Any animal warden who violates any provision of this chapter which relates to the seizure, impoundment and custody of animals by an animal warden shall upon conviction, be guilty of a Class 4 misdemeanor.

§ 3.1-796.55. Misrepresentation of animal's condition; penalties.—No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery, or other method of transfer. For the purpose of this section misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, abnormality or other physical defect that is not made known to the person receiving the animal. Violation of this section shall be punishable upon conviction, as a Class 3 misdemeanor.

§ 3.1-796.56. Abandonment of an animal; penalty.—No person shall abandon any animals. Abandonment for the purposes of this section is defined as deserting, forsaking, or intending to absolutely give up an animal without securing another owner or without providing the necessities set out in § 3.1-796.42. Violation of this section shall be punishable upon conviction as a Class 3 misdemeanor.

§ 3.1-796.57. Rules and regulations.—The Board in conjunction with the State

Veterinarian shall promulgate rules and regulations consistent with the objectives and intent of this chapter for the purpose of carrying out such objectives and intent. Such rules and regulations shall include, but are not limited to provisions relating to humane transportation to and from registered or permitted premises, records of purchase and sale, identification of animals handled, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, adequate veterinary medical care and representations of the physical condition of animals. The Board may also promulgate rules and regulations on the sale of animals to research facilities. In formulating rules and regulations pursuant to this chapter, the Board may seek the advise and recommendations of humane societies in the State.

§ 3.1-796.58. Exceptions regarding veterinarians.—This chapter shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding kennel where animals are harbored, boarded and cared for incident to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine or animals boarded under the immediate supervision of a duly licensed veterinarian.

§ 3.1-796.59. Investigators; qualification.—The Board shall establish by rule or regulation reasonable qualifications for State employed investigators and for approved humane investigators. The State Veterinarian shall maintain a current list of all approved humane investigators which shall be available for public inspection; circuit court judges in making appointments pursuant to § 18.2-397 of the Code of Virginia shall make such appointments from such list. Qualifications for approved humane investigators shall include a knowledge of the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and satisfaction of the requirements of § 18.2-397 et seq. of the Code of Virginia.

§ 3.1-796.60. Complaint; investigation; notification.—A. Upon receiving a complaint of a suspected violation of this chapter, an investigator from the State Veterinarian's office, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon any premises where the animal or animals described in the complaint are housed or kept. Commonwealth's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the State Veterinarian.

B. If the investigation discloses that a violation of this chapter has been committed, the investigator shall notify the violator what action is necessary to comply with this chapter and that a maximum of forty-eight hours may be granted in which to take corrective action. If, at the end of that period, corrective action has not been taken, legal action shall be instituted.

§ 3.1-796.61. Impoundment; expenses; lien; disposition of the animal.—A. When an approved humane investigator, an investigator from the State Veterinarian's office, any law enforcement official or a licensed veterinarian finds that a violation of this chapter has rendered an animal in such a condition that in the opinion of the investigator, or law enforcement official or veterinarian no remedy or corrective action by the owner is possible, the State Veterinarian may authorize a humane society to impound the animal in a facility which will provide the elements of good care as set forth in § 3.1-796.42. The humane society shall immediately forward the State Veterinarian a copy of the order of impoundment.

B. Any expense incurred in such impoundment becomes a lien on the animal impounded and must be discharged before the animal is released from the facility. When the animal is not claimed by its owner and all impoundment costs satisfied within seven

days, it may be sold at public or private sale for fair consideration to a person capable of providing care consistent with this chapter, with the proceeds of that sale applied first to discharge the lien and any balance to be paid over to the owner. If no purchaser is found, the animal may be offered for adoption or euthanized. If the owner cannot be found within the next ensuing thirty days, the balance shall be paid into the State treasury.

§ 3.1-796.62. Procedure for animals left unclaimed with a veterinarian; lien; sale.— Any animal not claimed by its owner from a licensed veterinarian within thirty days after a certified letter of notice has been sent to the owner, if found, by the veterinarian, may be sold by the veterinarian. The animal may be sold at public or private sale for fair compensation to a person capable of providing care consistent with this chapter. Any expense incurred by the veterinarian becomes a lien on the animal and the proceeds of the sale shall first discharge this lien. Any balance of the proceeds shall be paid over to the owner; provided, however, that if the owner cannot be found within the next ensuing thirty days, the balance shall be paid to the State treasury. If no purchaser is found, the animal may be offered for adoption or euthanized.

§ 3.1-796.63. Injured or sick animal; action by veterinarian.—If a licensed veterinarian is called or by his own action comes upon an animal that is sick or injured and the owner of such animal cannot be immediately located, then the licensed veterinarian, in his professional judgement, may treat, hospitalize or euthanize the animal without the permission of the owner. In no event shall a licensed veterinarian who has properly exercised professional judgement regarding such an animal be subject to liability for his actions.

2. That §§ 3.1-776 and 15.1-29.1 of the Code of Virginia are repealed.

APPENDIX II

A Bill to amend the Code of Virginia by adding a chapter numbered 9.2 consisting of sections numbered 29-213.5 through 29-213.34, and to repeal Chapter 9 of Title 29, consisting of §§ 29-183 through 29-213, as severally amended, the added and repealed sections relating to the dog laws; penalties for violations.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 29 a chapter numbered 9.2, consisting of sections numbered 29-213.5 through 29-213.34, as follows:

Chapter 9.2.

Dog Laws.

§ 29-213.5. *Short title.*—This chapter may be cited as *The Virginia Dog Law of 1976*.

§ 29-213.6. *Definitions.*—A. “Livestock” includes cattle, sheep, goats, swine and enclosed domesticated rabbits or hares.

B. “Poultry” includes all domestic fowl, and game birds raised in captivity.

C. “Own” and “owner” include any person having a right of property in a dog, and any person who keeps or harbors a dog or has it in his care, or who acts as its custodian, and any person who permits a dog to remain on or about any premises occupied by him.

D. “Other officer” includes all other persons employed or elected by the people of Virginia, or by any municipality, county or incorporated town thereof, whose duty it is to preserve the peace, to make arrests or to enforce the law.

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

§ 29-213.7. *Dogs deemed personal property; rights relating thereto.*—All dogs shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of any such dogs, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. A dog warden or other officer finding a stolen dog, or a dog held or detained contrary to law, shall have authority to seize and hold such dog pending action before a general district court or other court. If no such action is instituted within five days, the dog warden or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of such premises but it shall be his duty to notify the dog warden thereof and the dog warden shall take such dog in charge and notify its legal owner to remove him. The legal owner of the dog shall pay a reasonable charge as the local governing body by ordinance shall establish, for the keep of

such dog while in the possession of the dog warden.

§ 29-213.8. Position of dog warden corrected.—*The governing body of each local jurisdiction shall appoint an officer to be known as the dog warden who shall have the power to enforce this chapter and all ordinances enacted pursuant to it. The governing body may also appoint one or more deputy dog wardens to assist the dog warden in dog inspection activities and in dog law enforcement. He shall further have all the powers vested in the game wardens of the State. The dog warden and his deputies shall be paid as the governing body of each locality shall prescribe.*

The governing body of any county in which a dog warden or deputy dog wardens have been appointed may contract with one or more additional counties for enforcement of the dog laws in such counties by such dog warden or deputy dog wardens. Any such contract may provide that the county employing such dog warden or deputy dog wardens shall be reimbursed a portion of the salary and expenses of such dog warden or deputy dog wardens.

§ 29-213.9. Unlicensed dogs prohibited.—*It shall be unlawful for any person to own a dog four months or over in this State unless such dog is licensed, as required by the provisions of this chapter.*

§ 29-213.10. How to obtain license.—*Any person may obtain a dog license by making oral or written application to the treasurer of the county, city, or town in which such person resides, accompanied by the amount of license tax and certificate of vaccination as required by this chapter. The treasurer or other officer charged with the duty of issuing dog licenses shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of his county, city, or town and may require information to this effect from any applicant. Upon receipt of proper application and certificate of vaccination as required by this chapter, the treasurer or other officer charged with the duty of issuing dog licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether male, unsexed female, female or kennel, and deliver the metal license tags or plates provided for herein. The treasurer may establish substations in convenient locations in the county or city and appoint agents for the collection of the license tax and issuance of such licenses.*

§ 29-213.11. Amount of license.—*The governing body of each local jurisdiction shall impose by ordinance an annual license tax on the ownership of dogs within their jurisdiction. Such tax for each dog shall be not less than five dollars and not more than fifteen dollars, provided however, if the dog has been spayed or neutered, or is otherwise incapable of conceiving or producing offspring, the tax shall be not less than two dollars and not more than ten dollars.*

§ 29-213.12. When license tax payable.—*License tax on dogs shall be due and payable as follows:*

A. On January first and not later than January thirty-first of each year, the owner of any dog four months old or older shall pay a license tax as prescribed in the preceding section.

B. If a dog shall become four months of age or come into the possession of any person between January first and November first of any year, the license tax for the current calendar year shall be paid forthwith by the owner.

C. If a dog shall become four months of age or come into the possession of any person between October thirty-first and December thirty-first of any year, the license tax

for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect such dog from the date of purchase.

§ 29-213.13. Effect of dog not wearing collar as evidence.—Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and in any proceedings under this chapter the burden of proof of the fact that such dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

§ 29-213.14. What dog license shall consist of.—A dog license shall consist of a license receipt and a metal tag. The tag shall be stamped or otherwise permanently marked to show the jurisdiction issuing the license, the sex of dog, the calendar year for which issued and bear a serial number.

§ 29-213.15. Duplicate license tags.—If a dog license shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the same for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag which the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog shall be one dollar.

§ 29-213.16. Displaying receipts; dogs to wear tags.—Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any dog warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog, and it shall be unlawful for the owner to permit any licensed dog four months old or over to run or roam at large at any time without a license tag, except that when engaged in lawful hunting, in the open season and accompanied by the owner or custodian, the collar and tag may be temporarily removed.

§ 29-213.17. Governing body of county, city or town may prohibit dogs from running at large.—The governing bodies of the counties, cities and towns of this State are hereby authorized, in their discretion, to prohibit the running at large of dogs in all or any designated portion of such county, city or town during such months as they may designate, or such governing bodies may require that dogs be confined or restricted or penned up during such periods. For the purpose of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his dog to run at large, or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this section.

§ 29-213.18. Referendum on ordinance requiring dogs to be kept on leash, etc.—The governing body of any city, having the power to adopt regulations or ordinances requiring the dogs within the confines of any such city to be kept on leash or otherwise restrained, may, by resolution directed to the circuit court of such city request the judge of such court to order a referendum as to whether any such ordinance so adopted shall become effective in the city. Such referendum shall be held and conducted and the results thereof ascertained and certified in accordance with § 24.1-165 of the Code. The court shall require such governing body to give appropriate notice of the time, place and subject matter of such referendum.

The results of such referendum shall not be binding upon the governing body of any such city but may be used in ascertaining the sense of the voters.

§ 29-213.19. County, city or town dog pounds; confinement and disposition of stray dogs.—The governing body of each county, city or town shall cause to be maintained a pound or enclosure of a type to be approved by the county, city or town health department and to require dogs running at large without the tag required by § 29-213.10 or in violation of an ordinance passed pursuant to § 29-213.17 to be confined therein. The governing body of any county, city or town 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. Such governing body may require that any dog which has been so confined for a period of five days and has not been claimed by the owner thereof shall be destroyed or disposed of by the dog warden of such county, city or town in a manner consistent with existing animal welfare laws.

§ 29-213.20. Evidence showing inoculation for rabies prerequisite to obtaining dog license.—No license tag shall be issued for any dog unless there is presented, to the treasurer or other officer of the county, city or town charged by law with the duty of issuing license tags for dogs at the time application for license is made, evidence satisfactory to him showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

§ 29-213.21. Rabid dogs.—Upon proof that a rabid dog is at large, an emergency shall exist and the governing body of any county, city or town shall have the power to pass an ordinance which shall become effective immediately upon passage, requiring owners of all dogs therein to keep the same confined on their premises unless leashed under restraint of the owner in such a manner that persons or animals will not be subject to the danger of being bitten thereby. The governing body of any county, city or town shall also have the power and authority to pass ordinances restricting the running at large in their respective jurisdiction of dogs which have not been inoculated or vaccinated against rabies and to provide penalties for the violation thereof.

Dogs showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog shall be destroyed.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

Any dog bitten by an animal known to be afflicted with rabies shall be destroyed immediately or confined in a pound, kennel or enclosure approved by the health department for a period of six months at the expense of the owner; provided that if the bitten dog has been vaccinated against rabies within one year, the dog shall be revaccinated and confined to the premises of the owner for thirty days.

At the discretion of the director of a local health department, any animal which has bitten a person shall be confined under competent observation for ten days, unless the animal develops active symptoms of rabies or expires before that time.

§ 29-213.22. Regulations to prevent spread of rabies and running at large of vicious dogs.—The governing body of any county, city or town may adopt such ordinances, regulations or other measures as may reasonably be deemed necessary to prevent the spread within its boundaries of the disease of rabies, and to regulate and control the running at large within its boundaries of vicious or destructive dogs, and may provide penalties for the violation of any such ordinances. Any such ordinance may declare the existence of an emergency whereupon it shall be in force upon passage.

§ 29-213.23. Treatment of persons bitten by or exposed to rabid animal.—Any person bitten by a rabid animal shall be paid the costs of necessary treatment by the local jurisdiction where the bite occurred, not to exceed five hundred dollars; provided that any county or city having a health officer may require him to treat any such case of rabies, and no person shall be entitled to recover the cost of necessary treatment herein provided unless he first applies to such officer for treatment and such officer refuses or fails to treat the case.

§ 29-213.24. Dogs killing or injuring livestock or poultry.—It shall be the duty of any dog warden or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not, and any person finding a dog committing any of the depredations mentioned in this section, shall have the right to kill such dog on sight. The governing body of any county, or any court, shall have the power to order the dog warden or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing livestock or poultry for the third time shall be considered a confirmed killer. Any warden or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a district court at a time and place named therein, at which time evidence shall be heard, and if it shall appear that such a dog is a livestock or poultry killer, or has committed any of the depredations mentioned in this section, the dog shall be ordered killed immediately, which the warden, or other officer designated by the judge of the district court to act, shall do.

§ 29-213.25. Compensation for livestock and poultry killed by dogs.—Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; (ii) the dog warden or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

Local jurisdictions may by ordinance waive the requirements of (ii) or (iii) or both provided that the ordinance adopted requires that the dog warden has conducted an investigation and that his investigation supports the claim. If there are not sufficient moneys in the dog fund to pay these claims, they shall be paid in the order they are received when moneys become available. Upon payment under this section the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.

§ 29-213.26. Killing unlicensed dogs.—It shall be the duty of the dog warden or any other officer to capture and euthanize any dog of unknown ownership found running at large on which license has not been paid; provided, that the dog warden or other officer may deliver such dog to any person in his county or city who will pay the required license fee on such dog, with the understanding that should the legal owner thereafter claim the dog and prove his ownership, he may recover such dog by paying to the person to whom it was delivered by the dog warden, the amount of the license fee paid by him and a reasonable charge for the keep of the dog while in his possession. Any person, dog warden or other officer euthanizing a dog under this chapter shall cremate or bury the same.

§ 29-213.27. Disposal of dead dogs.—The owner of any dog which has died from

disease or other cause shall forthwith cremate or bury the same. If, after notice, any owner fails to do so, the dog warden or other officer shall bury or cremate the dog and he may recover on behalf of the local jurisdiction the sum of twenty-five dollars from the owner as cost for this service.

§ 29-213.28. *Permits for field trials.*—The Commission of Game and Inland Fisheries is authorized to grant permits in its discretion to bona fide field trial clubs and associations to hold field trials with dogs at such times and under such regulations as it may deem proper, any provision of paragraphs (b) through (k) inclusive of § 29-143 to the contrary notwithstanding, and it shall be unlawful to hold such trials without the permit herein authorized during the closed season for game. If wild game is to be shot over or in front of dogs engaged in such field trials, the person actually doing the shooting must have a license permitting him to do so.

Captive birds of any species released and immediately shot or recovered during such trials shall not be considered to be wild birds under this chapter or § 29-143 (a).

§ 29-213.29. *Permits for night trials.*—Permits may be granted by the Commission to individuals for trials with dogs used and trained, or to be trained, for hunting at night, between September tenth and October first of any year; provided, however, that no person accompanying such dogs on trial shall carry or have with him any firearm or axe.

§ 29-213.30. *Permits to allow foxhounds to run at large.*—The Commission is authorized to issue permits to residents of this State who are bona fide owners of foxhounds, actually used for fox hunting, allowing such owners to permit such foxhounds to run at large at any time, whether or not accompanied by the owner or his agent; and it shall be lawful for such foxhounds, to the owners of which such permits have been issued, to run at large at any time, whether accompanied by the owner or his agent or not. The Commission may limit the number of foxhounds allowed to run at large under one permit and shall stipulate the geographic area to which the permit applies. Provided, however, that the Commission shall not issue any permit under this section for areas in which the local jurisdiction by ordinance forbids it.

§ 29-213.31. *Disposition of funds.*—The treasurer of each local jurisdiction shall keep all money collected by him for dog license taxes in a separate account from all other funds collected by him. The local jurisdiction shall use the funds for the following purposes:

- A. The salary and expenses of the dog warden and deputy warden;
- B. The care and maintenance of a dog pound;
- C. Payments for the treatment of any person bitten by a rabid animal as provided in § 29-213.23;
- D. The maintenance of a rabies control program;
- E. Payments as a bounty to any person neutering or spaying a dog up to the amount of one year of license fee as provided by ordinance; and
- F. Payments for compensation as provided in § 29-213.25.

§ 29-213.32. *Supplemental funds.*—The local jurisdictions may supplement the dog fund with other funds as they consider appropriate but they shall do so to the extent necessary to provide for A., B., and C. of § 29-213.31.

§ 29-213.33. *Unlawful acts; penalties.*—A. The following shall be unlawful acts and

constitute Class 4 misdemeanors:

1. *License application.*—For any person to make a false statement in order to secure a dog license to which he is not entitled.

2. *Exhibition of tags.*—For any dog owner to fail to exhibit on his dog the tag required by this chapter.

3. *License tax.*—For any dog owner to fail to pay the license tax required by this chapter before February first for the year in which it is due.

4. *Leash ordinance.*—For any dog owner to allow a dog to run at large in violation of an ordinance passed pursuant to § 29-213.18.

5. *Rabies regulations.*—For any person to fail to obey an ordinance passed pursuant to § 29-213.21 and § 29-213.22.

6. *Dead dogs.*—For any owner to fail to dispose of the body of his dog in violation of § 29-213.27.

7. *Permits.*—For any person to fail to secure and exhibit the permits required by §§ 29-213.28, 29-213.29, and 29-213.30.

8. *Diseased dogs.*—For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.

9. *Female dog in season.*—For the owner of any female dog to permit such dog to stray from his premises while such dog is known to such owner to be in season.

10. *Removing collar and tag.*—For any person, except the owner or custodian, to remove a legally acquired license tag from a dog.

11. *Concealing a dog.*—For any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep the same from being killed.

12. *Any other violation of this chapter for which specific penalty is not provided.*

B. *The following act shall be punished as a Class 1 misdemeanor: False claim.*—For any person to present a false claim or to receive any money on a false claim under the provisions of § 29-213.25.

§ 29-213.34. *Payment of license tax subsequent to summons.*—Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided.

2. *That §§ 29-183 through 29-213, as severally amended, of the Code of Virginia are repealed.*

