

**REPORT OF THE
VIRGINIA CODE COMMISSION
ON**

Consolidation of Certain Animal Laws

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 40

**COMMONWEALTH OF VIRGINIA
RICHMOND
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**Report of the Virginia Code Commission on the
Consolidation of Certain Animal Laws
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
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To: The Honorable Charles S. Robb, Governor of Virginia,
and

The General Assembly of Virginia

House Joint Resolution No. 43 of the 1983 Acts of Assembly directed the Virginia Code Commission to study the possible consolidation of Chapter 27.3 of Title 3.1, Article 7 of Chapter 8 of Title 18.2 and Chapter 9.2 of Title 29 of the Code of Virginia pertaining to the Virginia Animal Welfare Act of 1977, Cruelty to Animals and the Virginia Dog Laws of 1977. In accordance with the mandate of House Joint Resolution 43, the Code Commission conducted a study on the consolidation of animal welfare, cruelty to animals and dog laws which resulted in the legislation contained in this report.

The revisor's comments following each section in this report explain the source of the section and the changes made in that section. The Commission did not attempt to rewrite the laws since the resolution authorizing the study mandated a consolidation of the laws.

It is the policy, purpose and intent of this consolidation to ensure that all animals wherever found and confined (animal shelters, pet shops, boarding kennels, auction markets, pounds, research facilities, transportation facilities, vehicles, etc.) are provided humane care and treatment through the regulation of the transportation, sale, purchase, housing, care, handling and treatment of animals. Owners and purchasers of animals are to be protected from misleading or fraudulent warranties regarding animals and from theft of their animals. Only animals that appear to be free of infection, communicable disease and abnormalities are to be released for sale, trade or adoption, unless subsequent veterinary care is assured. It is the intent of this consolidation to protect the public health, safety and welfare and to prevent disease, fraudulent practices and inhumane treatment and conditions through the control of animals.

Respectfully submitted,

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OUTLINE OF CHAPTER 9.4 OF TITLE 29

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Title 29
Chapter 9.4.
COMPREHENSIVE ANIMAL LAWS.

Article 1.
General Provisions.

§ ~~21-796.41~~, § 29-213.36. 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 twenty-four hours at least once daily~~, 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 twenty-four hours at least once daily~~ at any interval.

~~B.1.~~ "Adequate shelter" means shelter that may reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

C. "Agricultural animals" means 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 nonprofit organization devoted to the welfare, protection and humane treatment of animals.

J. "Animal warden" means any person employed, contracted or appointed by the Commonwealth 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, cruelty to animals, 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 or other animal.

G. "Board" means the Board of Agriculture and Consumer Services.

P. "Boarding 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.

H. "Companion animals" means ~~dogs both domestic and feral dogs~~, ~~eats both domestic and feral cats~~, monkeys ~~and all members of the monkey family~~, guinea pigs, hamsters, rabbits, exotic animals and exotic and native birds. Game species shall not be considered companion animals for the purposes of this chapter.

"Consumer" means any natural person purchasing from a pet dealer a dog or cat described as being registered with any animal pedigree organization.

I. "Dealer" means any person who in the regular course of business for compensation ~~of~~ or profit buys, sells, transfers, ~~except as a common carrier~~, exchanges or barter companion animals. *Any person who transfers companion animals in the regular course of business as a common carrier shall not be considered a dealer.*

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

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" means 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 Commonwealth 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.

"Livestock" includes cattle, horses, sheep, goats, swine and enclosed domesticated rabbits or hares.

Y. "Local ordinance" means any law, rule, regulation or ordinance promulgated by the governing body of any county, city or town.

"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.

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 a custodian of an animal. *Any person who knowingly permits a dog to remain on or about any premises occupied by him shall be considered the owner of the dog.*

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

"Pet dealer" means any person engaging in the ordinary course of business in the sale to the public for profit of cats or dogs described as being registered or capable of being registered with any animal pedigree organization.

S. "Pet shop" means an 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.

T. "Pound" means a facility operated by the Commonwealth, 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.

"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.

Source: §§ 3.1-796.41, 3.1-796.59 and 29-213.6.

Comment: Consolidates the definitions currently found in §§ 3.1-796.41, 3.1-796.59 and 29-213.6.

~~§ 3.1-796.51.~~ § 29-213.37 . Rules, regulations, and guidelines. - The Board may promulgate rules and regulations or guidelines consistent with the objectives and intent of this chapter concerning the care and transportation of animals.

Source: § 3.1-796.51.

~~Comment: No change.~~

Article 2.

Animal Welfare.

~~§ 3.1-796.42.~~ § 29-213.38 . Duties of owner. - Each owner shall have the duty to provide for each of his companion animals . pursuant to regulations adopted by the Board:

- ~~A.~~ (i) Adequate feed and adequate water;
- ~~B.~~ (ii) Adequate shelter;
- ~~C.~~ (iii) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight;
- ~~D.~~ (iv) Veterinary care when needed and to prevent suffering; and
- ~~E.~~ (v) Humane care and treatment.

The provisions of this section shall also apply to every animal shelter with respect to animals contained therein.

Source: § 3.1-796.42.

Comment: No substantive changes.

~~§ 3.1-796.43.~~ § 29-213.39 . Transporting animals; requirements; *penalty* . - 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~~ *four* 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. No person shall import into ~~this State~~ *the Commonwealth* , nor export from ~~this State~~ *the Commonwealth* , for the purpose of sale or offering for sale any dog under the age of eight weeks without its dam. Violation of this section shall be punishable ~~upon conviction~~ as a Class 1 misdemeanor.

Source § 3.1-796.43.

Comment: No substantive changes.

~~§ 3.1-796.45.~~ § 29-213.40. Sale, etc., of baby fowl in certain quantities prohibited ; *penalty* . - No person shall sell, or offer for sale as pets or novelties, in quantities of less than six, any living baby chicks, ducklings, or other fowl under two months old. Violation of this section shall

be punishable ~~upon conviction~~ as a Class 3 misdemeanor.

Source: 3.1-796.45.

Comment: No substantive changes.

~~§ 3.1-796.46.~~ § 29-213.41 . Failure of dealer or pet shop to provide adequate care, etc.; penalty. - Any *pet* dealer *who* or pet shop which fails to adequately house, feed, water, exercise and care for animals in his *or its* 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 as provided by ~~§ 29-213.19~~ § 29-213.66 of this Code. 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 local jurisdiction for the impoundment and disposition of the animals and any funds remaining shall be paid to the owner, if known. In the event that the owner is not found, the remaining funds shall be paid into the Literary Fund.

Source: § 3.1-796.46.

Comment: No substantive changes.

~~§ 3.1-796.49.~~ § 29-213.42. 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, parasitic infestation, 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.

Source: § 3.1-796.49.

Comment: No substantive changes.

~~§ 3.1-796.50.~~ § 29-213.43. Abandonment of animal; penalty. - No person shall abandon any animal. 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.~~ § 29-213.38. Violation of this section shall be punishable ~~upon conviction~~ as a Class 3 misdemeanor.

Source: § 3.1-796.50.

Comment: No substantive changes.

~~§ 3.1-796.52~~ § 29-213.44 . Exceptions regarding veterinarians. - ~~This chapter Sections 29-213.38 through 29.213.43, 29-213.48 through 29-213.54, 29-213.74 through 29-213.77 and 29-213.89~~ shall not apply to : (i) 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 (ii) animals boarded under the immediate supervision of a duly licensed veterinarian.

Source: § 3.1-796.52.

Comment: No substantive changes.

~~§ 3.1-796.56~~ § 29-213.45 . Procedure for animals left unclaimed with veterinarian or boarding kennel after public notice; lien; sale. - Any animal not claimed by its owner from a licensed veterinarian or boarding kennel within fourteen days after a letter of notice has been sent to the owner, ~~if found~~, by the veterinarian or boarding kennel, may be sold by the veterinarian or boarding kennel. 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 or boarding kennel 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.

Source: § 3.1-796.56.

Comment: No substantive changes.

~~§ 3.1-796.57~~ § 29-213.46 . 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 judgment, 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 judgment regarding such an animal be subject to liability for his actions.

Source: § 3.1-796.57.

Comment: No change.

~~§ 3.1-796.58~~ § 29-213.47 . Disposal of animals by means of decompression chamber prohibited. - ~~On and after January 1, 1981,~~ No animal shall be euthanized pursuant to the provisions of this chapter ~~or the Virginia Dog Laws of 1977 (§ 29-213.5 et seq.)~~ by means of a high altitude decompression chamber.

Source: § 3.1-796.58.

Comment: No substantive changes.

Article 3.

Sale of Dogs and Cats by Dealers.

~~§ 3.1-796.60~~ § 29-213.48 . Sale without pet dealer's animal history certificate violation of Consumer Protection Act; contents of certificate. - It shall be a violation of the Virginia Consumer Protection Act ~~of 1977~~ (§ 59.1-196 et seq.) for any pet dealer to sell a dog or cat within the Commonwealth stating, promising or representing that the animal is registered or capable of being registered with any animal pedigree registry organization, without providing the consumer with a pet dealer's animal history certificate at the time the consumer takes possession of the dog or cat. The pet dealer's animal history certificate shall be signed by the pet dealer, his agent or employee, and shall contain the following information:

~~A. (i)~~ The animal's breed, sex, age, color, and birth date;

~~B. (ii)~~ The name and address of the person from whom the pet dealer purchased the animal;

~~C. (iii)~~ The breeder's name and address;

~~D. (iv)~~ The name and registration number of the animal's sire and dam;

~~E. (v)~~ If the animal has been so examined, the date on which the animal has been examined by a licensed veterinarian, the name and address of such veterinarian, and a brief statement of any findings made; and

~~F. (vi)~~ A statement of all vaccinations administered to the animal, including the identity and quantity of the vaccine, the name and address of the person or licensed veterinarian administering the vaccinations.

The information contained in the pet dealer's animal history certificate required herein shall be informative only and the pet dealer shall not be responsible in any manner for the accuracy

of such information unless he knows or has reason to know that such information is erroneous.

A copy of the pet dealer's animal history certificate signed by the consumer shall be maintained by the pet dealer for a period of one year following the date of sale.

Source § 3.1-796.60.

Comment: No substantive changes.

~~§ 3.1-796.61~~ § 29-213.49 . Inclusion of false or misleading statements in certificate violation of Consumer Protection Act. - It shall be a violation of the Virginia Consumer Protection Act of 1977 (§ 59.1-196 et seq.) for a pet dealer to include in the pet dealer's animal history certificate provided for in § ~~3.1-796.60~~ 29-213.48 any false or misleading statement regarding the information to be contained therein.

Source: § 3.1-796.61.

Comment: No substantive changes.

§ ~~3.1-796.62~~ 29-213.50 . Consumer remedies for receipt of diseased animal upon certification by veterinarian. - A. If, at any time within ten days following receipt of an animal described as being registered or capable of being registered with any animal pedigree organization and subject to this ~~article~~ chapter , a licensed veterinarian certifies such animal to be unfit for purchase due to illness, a congenital defect deleterious to the health of the animal or the presence of symptoms of a contagious or infectious disease, the pet dealer shall afford the consumer the right to choose one of the following options:

1. (i) The right to return the animal and receive a refund of the purchase price including sales tax; or

2. (ii) The right to return the animal and to receive an exchange animal of equivalent value from the dealer, subject to the choice of the consumer.

The refund or reimbursement required by this section shall be made by the pet dealer not later than ten business days following receipt of a signed veterinary certification as hereinafter provided.

Source: § 3.1-796.62.

Comment: No substantive changes.

§ ~~3.1-796.63~~ 29-213.51 . Written notice of consumer remedies required to be supplied by pet dealers. A pet dealer shall give the notice hereinafter set forth in writing to a consumer prior to the delivery of a dog or cat. Such notice shall be embodied in either a written contract, the pet dealer's animal history certificate or a separate document and shall state in ten point bold face type the following:

NOTICE

The sale of certain dogs and cats described as being registered or capable of being registered with any animal pedigree organization is subject to the provisions of the Virginia Consumer Protection Act of 1977 (§ 59.1-196 et seq.). In the event that a licensed veterinarian certifies your animal to be unfit for purchase within ten days following receipt of your animal, you may choose: (i) to return your animal and receive a refund of the purchase price, or (ii) to return the animal and receive an exchange animal of your choice of equivalent value.

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

If the pet dealer has promised to register your animal or to provide the papers necessary therefor and fails to do so within 120 days following the date of contract, you are entitled to

return the animal and receive a refund of the purchase price or to retain the animal and receive a refund of an amount not to exceed ~~50 per centum~~ *fifty percent* of the purchase price.

Source: § 3.1-796.63.

Comment: No substantive changes.

~~§ 3.1-796.64~~ *29-213.52* . Failure of pet dealer to effect registration after promise violation of Consumer Protection Act; remedies; veterinary certification; finding of intestinal parasites; illness subsequent to sale. - A. It shall be a violation of the Virginia Consumer Protection Act of ~~1977~~ (§ 59.1-196 et seq.) for a pet dealer to state, promise, or represent that a dog or cat is registered or capable of being registered with any animal pedigree registry organization if the pet dealer shall then fail to either effect such registration or provide the consumer with the documents necessary therefor within 120 days following the date of sale of such animal. In the event that a ~~pet dealer~~ fails to effect registration or to provide the necessary documents therefor within 120 days following the date of sale, the consumer shall be entitled to choose one of the following options:

- ~~1-~~ (i) To return the animal and to receive a refund of the purchase price plus sales tax; or
- ~~2-~~ (ii) To retain the animal and to receive a refund of an amount not to exceed ~~fifty per centum~~ *fifty percent* of the purchase price and sales tax.

B. The veterinary certification and statement required herein shall be presented to the pet dealer not later than three business days following receipt thereof by the consumer and shall contain the following information:

- ~~1-~~ (i) The name of the owner;
- ~~2-~~ (ii) The date or dates of the examination;
- ~~3-~~ (iii) The breed, color, sex, and age of the animal;
- ~~4-~~ (iv) A description of the veterinarian's findings;
- ~~5-~~ (v) A statement that the veterinarian certifies the animal to be unfit for purchase; and
- ~~6-~~ (vi) The name and address of the certifying veterinarian and the date of the certification.

C. A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for purchase unless the animal is clinically ill due to such condition. An animal may not be found unfit for purchase on account of an injury sustained or illness contracted subsequent to the consumer taking possession thereof.

Source: § 3.1-796.64.

Comment: No substantive changes.

~~§ 3.1-796.65~~ *29-213.53* . Remedies cumulative. - The remedies provided for pursuant to this article are cumulative and not exclusive and shall be in addition to any other remedy provided for by law.

Source: § 3.1-796.65.

Comment: No change.

Article 4.

Authority of Local Governing Bodies

and Licensing of Dogs.

§ ~~3-1-796.44~~ 29-213.54 . Local ordinances; penalties. - A. The governing body of any county, city or town may, by local ordinance, require a ~~permit to operate for any~~ person operating a pet shop or *operating* as a dealer in companion animals as ~~herein defined to obtain a permit~~ . Such local governing body may charge no more than fifty dollars per year for such permit. The revenues derived therefrom shall be used for the administration and enforcement of such ordinance.

B. The aforementioned local ordinance may ~~require such~~ provide: (i) that records be kept by the permittees as are deemed necessary : ;

C. ~~Such local ordinance may provide~~ (ii) for public hearing prior to issuance, renewal or revocation of any such permit : ; or

D. ~~Such local ordinance may provide~~ (iii) for the denial of issuance, denial of renewal or for the revocation of such permit for fraudulent practices or inhumane treatment of the animals dealt with by the permittee.

E. ~~Such~~ The local ordinance may also provide penalties ~~upon conviction for violation of the ordinance~~ not to exceed those of a Class 3 misdemeanor.

Source: § 3.1-796.44

Comment: No substantive changes.

§ ~~29-213.9~~ 29-213.55 . Unlicensed dogs prohibited. - It shall be unlawful for any person to own a dog six months old or ~~over~~ older in this ~~State~~ Commonwealth unless such dog is licensed, as required by the provisions of this ~~chapter~~ article .

Source: § 29-213.9.

Comment: No substantive changes.

§ ~~29-213.10~~ 29-213.56 . How to obtain license. - Any person may obtain a dog license by making oral or written application to the treasurer of the county or city in which such person resides, accompanied by the amount of license tax and certificate of vaccination as required by this ~~chapter~~ article . 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 or city and may require information to this effect from any applicant. Upon receipt of proper application and certificate of vaccination as required by this ~~chapter~~ article , 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 information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. 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.

Source: § 29-213.10.

Comment: No substantive changes.

§ ~~29-213.11~~ § 29-213.57. Amount of license tax.—The governing body of each county or city shall impose by ordinance an annual license tax on the ownership of dogs within their jurisdiction and may establish different rates of taxation for ownership of female dogs, male dogs, and spayed or neutered dogs. The tax for each dog shall not be less than one dollar and not more than ten dollars ; ~~however,~~ . If the dog has been spayed, the tax shall not exceed the tax provided for a male dog. Any ordinance may provide for an annual license tax for kennels of ten, twenty, thirty, forty or fifty dogs not to exceed fifty dollars for any one such block of kennels.

No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing impaired person.

As used in this section, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

Source: § 29-213.11.

Comment: No substantive changes.

§ ~~29-213.12~~ 29-213.58 . When license tax payable. - A. On January ~~first~~ 1 and not later than January ~~thirty first~~ 31 of each year, the owner of any dog six months old or older shall pay a license tax as prescribed in the preceding section.

B. If a dog shall become six months of age or come into the possession of any person between January ~~first~~ 1 and November ~~first~~ 1 of any year, the license tax for the current calendar year shall be paid forthwith by the owner.

C. If a dog shall become six months of age or come into the possession of any person between October ~~thirty-first~~ 31 and December ~~thirty-first~~ 31 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.

Source: § 29-213.12.

Comment: No substantive changes.

§ ~~29-213.13~~ 29-213.59 . 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.

Source: § 29-213.13.

Comment: No change.

§ ~~29-213.14~~ 29-213.60 . 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.

Source: § 29-213.14.

Comment: ~~No change.~~

§ ~~29-213.15~~ 29-213.61 . Duplicate license tags. - If a dog license *tag* shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the ~~same~~ *original license* 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.

Source: § 29-213.15.

Comment: No substantive changes.

§ ~~29-213.16~~ 29-213.62 . 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

animal 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 six months old or ~~over~~ *older* to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section (i) when the dog is engaged in lawful hunting, (ii) when the dog is competing in a dog show, (iii) when the dog has a skin condition which would be exacerbated by the wearing of a collar, (iv) when the dog is confined, or (v) when the dog is under the immediate control of its owner.

Source: § 29-213.64.

Comment: No substantive changes.

§ ~~29-213.17~~ 29-213.63 . 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~~ *Commonwealth* are hereby authorized ; ~~in their discretion,~~ to prohibit the running at large of all or any category 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 *also* 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.

Source: § 29-213.17.

Comment: No substantive changes.

§ ~~29-213.17:1~~ 29-213.64 . Governing body of county, city, or town may adopt certain ordinances. - ~~A.~~ The governing bodies of counties, cities, and towns of ~~this State~~ *the Commonwealth* are hereby authorized to adopt, in their discretion, ordinances which parallel ~~the Virginia Dog Laws of 1977 §§ 29-213.55 through 29-213.73, 29-213.85 through 29-213.88, 29-213.90 and 29-213.95 through 29-213.99 of this chapter .~~

~~B.~~ Any funds collected pursuant to the enforcement of ordinances adopted pursuant to the provisions of ~~paragraph A~~ of this section may be used for the purpose of defraying the costs of local animal control.

~~C.~~ Nothing in this section shall be construed so as to prevent or restrict any local governing body from adopting local animal control ordinances which are more stringent than ~~the Virginia Dog Laws of 1977 §§ 29-213.55 through 29-213.73, 29-213.85 through 29-213.88, 29-213.90, and 29-213.95 through 29-213.99 of this chapter .~~

Source: § 29-213.17:1.

Comment: No substantive changes.

§ ~~29-213.18~~ 29-213.65 . Referendum on ordinance requiring dogs to be kept on leash, etc. - The governing body of any city may adopt regulations or ordinances requiring that dogs within the confines of any such city be kept on *a* leash or otherwise restrained and 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~~ *the* governing body to give appropriate notice of the time, place and subject matter of such referendum.

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

Source: § 29-213.18.

Comment: No substantive charges.

§ ~~29-213.19~~ 29-213.66 . County or city dog pounds; confinement and disposition of stray animals. - The governing body of each county or city shall maintain or cause to be maintained a pound or enclosure in accordance with guidelines issued by the Department of Agriculture and Consumer Services and shall require dogs running at large without the tag required by § ~~29-213.10~~ 29-213.56 or in violation of an ordinance passed pursuant to § ~~29-213.17~~ 29-213.63 to be confined therein. The governing body of any county or city need not own the facility required by this section but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. Such governing body shall require that any animal which has been so confined must be kept for a period of not less than five days, such period to commence on the day immediately following the day the dog is initially confined in the facility, unless sooner claimed by the owner thereof.

A custodian of a dog or individual who has found a dog may qualify as owner and may claim the dog by expressing his desire in writing to claim the dog at the expiration of the five-day period set out herein after payment of the required license fee. In the event that any dog confined pursuant to this section is claimed by its rightful owner, such owner shall only be charged with the actual expenses incurred in keeping the dog impounded. ~~Provided, however,~~ In the event the rightful owner shall claim such dog at any time, the custodian or finder shall relinquish possession of such dog to the rightful owner. If the animal has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or ~~State~~ state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth, or by delivery to any local humane society, shelter, or to any person who is a resident of the county or city for which the pound is operated and who will pay the required license fee, if any, on such animal. If the rightful owner of any dog confined may be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of such dog of the dog's confinement within forty-eight hours next following its confinement. Such animal may also be delivered to any person who proposes to adopt such animal ~~it~~ as a pet and who will pay the required license fee, if any, on such animal; ~~provided that~~ however, no more than two animals or a family of animals shall be delivered during any thirty-day period to any one such person.

No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes. Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian. Such governing body shall require that the pound be accessible to the public at reasonable hours during the week. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a pound or enclosure.

Source: § 29-213.19.

Comment: No substantive changes.

§ ~~29-213.20~~ 29-213.67 . Evidence showing inoculation for rabies prerequisite to obtaining dog license; rabies clinics. - ~~A.~~ No license tag shall be issued for any dog unless there is presented, to the treasurer or other officer of the county or city 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.

~~B.~~ Rabies clinics, approved by the appropriate health department and governing body, shall be held at least once per year in each county in which the governing body finds that the number of resident veterinarians is otherwise inadequate to meet the need.

Source: § 29-213.20.

Comment: No substantive changes.

§ ~~29-213.21~~ 29-213.68 . Rabid dogs. - When there is sufficient reason to believe that a rabid animal is at large, the governing body of any county, city or town shall have the power to pass an emergency 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. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed thirty days unless renewed by the governing body of such county, city or town. 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 believed 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 not to exceed six months at the expense of the owner ; ~~provided that~~ . However, 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 ; ~~provided that~~ . A seriously injured or sick animal may be humanely euthanized and its head sent to the Health Department for evaluation.

Source: § 29-213.21.

Comment: No substantive changes.

§ ~~29 213.22~~ 29-213.69 . 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 *may be provided* for the violation of any such ordinances. ~~Any such~~ *If the ordinance may declare* declares the existence of an emergency ~~whereupon it~~ , *then the ordinance* shall be in force upon passage.

Source: § 29-213.22.

Comment: No substantive changes.

§ ~~29 213.31~~ 29-213.70 . Disposition of funds. - Unless otherwise provided by ordinance of the local governing body, 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.~~ (i) The salary and expenses of the animal warden and necessary staff;
- ~~B.~~ (ii) 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.~~ (iii) The maintenance of a rabies control program;
- ~~E.~~ (iv) 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.~~ (v) Payments for compensation as provided in § ~~29-213.25;~~ 29-213.87.

G. Any part or all of any surplus remaining in such account on December ~~thirty-one~~ 31 of any year may be transferred by the governing body of such county or city into the general fund of such county or city.

Source: § 29-213.31.

Comment: No substantive changes.

§ ~~29-213.32~~ 29-213.71 . Supplemental funds. - The local jurisdictions may supplement the dog fund with other funds as they consider appropriate ~~but they~~ . However, local jurisdictions shall ~~do so~~ supplement the dog fund to the extent necessary to provide for A, B, and C of § ~~29-213.31~~ the salary and expenses of the animal warden and staff and the care and maintenance of a dog pound as provided in § 29-213.70 (i) and (ii) .

Source: § 29-213.32.

Comment: No substantive changes.

§ ~~29-213.34~~ 29-213.72 . 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~~ pay the license tax within the time required shall not operate to relieve such owner from the penalties provided.

Source: § 29-213.34.

Comment: No substantive change.

Article 5.

Animal Wardens and Humane Investigators.

§ ~~29-213.8~~ 29-213.73 . Position of animal warden created. - The governing body of each county or city shall appoint an officer to be known as the animal warden who shall have the power to enforce this chapter, all ordinances enacted pursuant to *this chapter* and all laws for the protection of domestic animals. The governing body may also appoint one or more deputy animal wardens to assist the animal warden in dog inspection activities and in dog law enforcement. The animal warden and his deputies shall be paid as the governing body of each locality shall prescribe.

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

Source: § 29-213.8.

Comment: No substantive changes.

§ ~~3-1-796.48~~ 29-213.74 . Animal wardens; limitations; records; penalties; training courses. - 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 nor 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 or the custodian of any pound, 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 local ordinance 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 and the disposition of the animal.

C. Any animal warden or custodian of any pound who violates any provision of this chapter which relates to the seizure, impoundment and custody of animals by an animal warden may be subject to suspension or dismissal from his position.

D. Animal wardens, custodians or animal control officers engaged in the operation of a pound shall be required to have a knowledge of the laws of Virginia governing animals, including the Animal Welfare Act, and the laws on Cruelty to Animals (~~§ 18-2-302 et seq.~~), and the Virginia Dog Laws of 1977 (~~§ 29-213.5 et seq.~~), this chapter, as well as basic animal care. They may avail themselves of any training course offered by the Commonwealth for law-enforcement officers or for humane investigators, or any animal warden, humane officer, or law officer workshop offered by the Virginia Federation of Humane Societies in conjunction with the State Animal Welfare Officer.

Source: § 3.1-796.48.

Comment: No substantive changes.

~~§ 3.1-796.53~~ 29-213.75 . Investigators; qualifications. - The Board shall establish by rule or regulation reasonable qualifications 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~~ 29-213.78 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~~ §§ 29-213.78 and 29-213.79 of the Code of Virginia.

Source: § 3.1-796.53.

Comment: No substantive changes.

~~§ 3.1-796.54~~ 29-213.76 . Complaint *against pet shop or dealer* ; investigation; notification; general penalty. - A. Upon receiving a complaint of a suspected violation of this chapter, any law-enforcement official, or ~~an~~ approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon any premises of any pet shop or *pet dealer* in companion animals ~~and~~ . Upon obtaining a warrant as provided for in § 18.2-400 of this Code, *the law enforcement officer or humane investigator may enter* upon any other 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.

B. If the investigation discloses that a violation of § ~~3.1-796.42~~ § 29-213.38 has occurred, the investigator shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter. The owner or custodian shall have a maximum of forty-eight hours in which to take corrective action. If, at the end of that period, corrective action has not been taken, legal action shall be instituted.

C. ~~The penalty for any violation of this chapter for which no specific penalty is provided shall be the same as that described in § 29-213.33.~~

Source: § 3.1-796.54.

Comment: No substantive changes.

~~§ 3.1-796.55~~ 29-213.77 . Impoundment; expenses; lien; disposition of animal. - ~~A.~~ *Except for complaints against a pet shop or a pet dealer as provided for in § 29-213.76.* when an approved humane investigator, any law-enforcement official, animal warden or a licensed veterinarian

finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health which the owner or custodian has failed or refuses to remedy, such approved humane investigator, animal warden, law-enforcement official or licensed veterinarian may impound the animal pursuant to § ~~18-2-402~~ 29-213.84 in a facility which will provide the elements of good care as set forth in § ~~3-1-796.42~~ 29-213.38 and shall then proceed to take such steps as are required to dispose of the animal pursuant to § ~~18-2-402~~ 29-213.84 .

~~B. [Repealed.]~~

Source: § 3.1-796.55.

Comment: No substantive changes.

§ ~~18-2-397~~ 29-213.78 . 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~~ Commonwealth for the prevention of cruelty to animals, whose appointment shall have been approved as hereinafter provided, shall have power to arrest, after obtaining a 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~~ the officer or agent shall convey the person arrested before ~~some~~ the court or magistrate having jurisdiction of the offense and there make complaint against him. ~~And~~ 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.

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, but may perform any of the acts in § ~~18-2-402~~ 29-213.84 in any jurisdiction in the Commonwealth. Circuit ~~court~~ ~~judges~~ courts , upon the recommendation of the local Commonwealth's attorney, may make appointments of officers and agents from a list of approved humane investigators provided by the State Veterinarian pursuant to § ~~3-1-796.53~~ 29-213.75 of the Code of Virginia and may remove such officers and agents for cause upon complaint by the local Commonwealth's attorney.

Source: § 18.2-397.

Comment: No substantive changes.

§ ~~18-2-398~~ 29-213.79 . Bonds and certificates of ~~such~~ agents and officers ; expenses.—Each ~~such~~ officer and agent appointed pursuant to § 29-213.78 shall give bond with surety in the circuit court of the county, or city, in which the principal office of the society appointing him is located, in the penalty of \$500 , with security conditioned according to law that ~~such~~ the officer or agent will not knowingly make a false or improper arrest. Such bond shall be effective and operative in any county or corporation for which such agent may be subsequently appointed. Such officers and agents shall be provided with a certificate by the society appointing them that they are such officers or agents, in such form as the directors of the society may choose. ~~Such~~ The certificate shall also bear the written approval by the circuit ~~judge~~ court of ~~such~~ the appointment, as provided for in § ~~18-2-397~~ 29-213.78 . ~~And such officers and agents~~ If requested, an officer or agent shall ; if requested, show ~~such~~ his certificate when acting officially.

In no case shall the appointment of such officers or agents, or any services performed by them, entail any cost or expense upon such county or municipal corporation or upon the State Commonwealth .

Source: § 18.2-398.

Comment: No substantive changes.

§ ~~18-2-399~~ 29-213.80 . Such agents shall prevent cruelty to animals; interference with such agents : *penalty* .—Any such officer or agent whose appointment shall have been approved as provided in § ~~18-2-397~~ 29-213.78 shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence ; ~~and every~~ . Any person who shall interfere with or obstruct

or resist any such officer or agent in the discharge of his rights, powers, and duties as authorized and prescribed by law shall be deemed guilty of a Class 4 misdemeanor.

Source: § 18.2-399.

Comment: No substantive changes.

~~§ 18.2-399.1~~ 29-213.81 . Authority of law-enforcement officers.—All law-enforcement officers in the Commonwealth of Virginia shall enforce the provisions of this ~~article~~ *chapter* to the same extent other laws in the Commonwealth are enforced.

Source: § 18.2-399.1.

Comment: No substantive changes.

~~§ 18.2 400~~ 29-213.82 . Power of search for violations of statutes against cruelty to animals.—When a sworn complaint is made to any proper authority by any ~~such~~ agent or officer *appointed pursuant to § 29-213.78* that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search such building or place ; ~~but~~ . No such search shall be made after sunset unless specially authorized by ~~such~~ *the* authority upon satisfactory cause shown.

Source: § 18.2-400.

Comment: No substantive changes.

~~§ 18.2-401~~ 29-213.83 . When animals to be destroyed; procedure.—Any such officer or agent may lawfully destroy, or cause to be destroyed, any animal in his charge or found abandoned or not properly cared for, when, in the judgment of such officer or agent and two reputable citizens called to view the same in his presence, and who shall give their written certificate thereto, such animal appears to be injured, disabled or diseased, past recovery, or the injury, disease or disability, is such that a reasonable owner would cause the animal to be destroyed.

Any such officer or agent shall make every reasonable effort immediately to notify the owner of ~~such~~ *the* animal that such officer or agent intends the animal to be destroyed ; ~~and such~~ . *The* owner shall have a right to select one of the two reputable citizens called to view the animal and give written certificate ~~thereto~~; ~~but~~ *of the animal's condition* . In no event shall the determination as to disposition of the animal be delayed beyond forty-eight hours after such officer or agent first decides the animal should be destroyed. In the event that the two citizens called to give such certificate are unable to agree, they shall select a third reputable citizen and his decision shall be final.

Source: § 18.2-401.

Comment: No substantive changes.

~~§ 18.2-402~~ 29-213.84 . When agent or officer may take charge of animals; notice and hearing to determine whether owner is fit person to care for animal; disposition of animal; disposition of proceeds upon sale.—Any such officer or agent, or any animal warden as defined in § ~~3-1-706.41~~ 29-213.36 of this Code, may lawfully take charge of any animal found abandoned, neglected, or cruelly treated or unfit for use, and shall forthwith petition any ~~judge~~ of a general district court in any city or county, wherein such animal is found, for a hearing which shall be in the nature of a criminal proceeding ; ~~to~~ . *The hearing shall* be set not more than ten days from the date of the seizure of such animal to determine whether the owner, if known, is able to adequately provide for such animal and is a fit person to own such animal ; . The officer or agent, or animal warden, shall cause to be served upon the owner, if known and residing within the jurisdiction wherein such animal is found, written notice at least five days prior to said hearing of the time and place of such hearing ; . If the owner is known but residing out of the jurisdiction where such animal is found, written notice by any method or service of process as is provided by the Code of Virginia, shall be given ; . If the owner is not known, the officer or

agent shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is found notice of the ~~said~~ hearing at least one time prior to ~~said the~~ hearing and shall further cause notice of ~~said the~~ hearing to be posted at least five days prior to ~~said the~~ hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be ~~had~~; *held*.

The officer or agent, or animal warden, may provide for such animal until the owner is adjudged by the court able to adequately provide for such animal and a fit person to own such animal, in which case the animal shall be forthwith returned to such owner ; ~~but~~ . If the owner is adjudged by the court unable to adequately provide for such animal or not a fit person to own such animal then the court shall order that such animal : (i) be sold by the officer or agent, or animal warden, at public auction, (ii) placed for adoption in a suitable home , or (iii) humanely destroyed as deemed proper by the court ; ~~but~~ . In no case shall the person adjudged unable to adequately provide for such animal or adjudged an unfit person to own such animal be allowed to purchase ~~such the~~ animal at ~~said the~~ sale ; .

The court in determining whether the owner is able to adequately provide for such animal or is a fit person to own such animal may take into consideration among other things the owner's past record of convictions under this ~~article~~ *chapter* or one similar thereto prohibiting cruelty to animals and the owner's mental and physical condition ; ~~and~~ . In case of sale , the proceeds shall first be applied to the costs of the sale then next to the expenses for the care and provision of such animal and the remaining proceeds, if any, shall be paid over to the owner of such animal ; ~~and~~ . If the owner of ~~such the~~ animal cannot be found the proceeds remaining shall be paid into the Literary Fund of the State Treasury.

Nothing in this section shall be construed to prohibit the destruction of a critically injured or ill animal for humane purposes.

Source: § 18.2-402.

Comment: No substantive changes.

§ ~~29-213.24~~ *29-213.85* . Dogs killing or injuring livestock or poultry. - It shall be the duty of any animal 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. Any court shall have the power to order the animal warden or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer.

Any animal warden who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any animal 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 *general* district court at a time and place named therein, at which time evidence shall be heard ; ~~and~~ . If it shall appear that ~~such a the~~ dog is a livestock killer, or has committed any of the depredations mentioned in this section, *the general district court shall order that the dog shall be ordered killed immediately, which the by the animal warden ;* or other officer designated by the ~~judge of the district court to act, shall do~~ .

Source: § 29-213.24

Comment: No substantive changes.

§ ~~29-213.24+1~~ *29-213.86* . Dog killing other domestic animals other than livestock or poultry. - The governing body of any county, city or town may adopt an ordinance to provide for the confinement of dogs which kill other dogs or domestic animals other than livestock or poultry. The ordinance shall provide that any animal warden who has reason to believe that any dog is killing other dogs or domestic animals other than livestock or poultry shall apply to a magistrate of the county, city or town wherein the dog may be located for the issuance of a warrant

requiring the owner or custodian, if known, to appear before a *general* district court at a specified time. The animal warden or owner shall confine the dog until such time as evidence shall be heard and a verdict rendered. If it appears from the evidence that the dog has habitually killed other dogs or domestic animals, the *judge court* may order the dog killed in accordance with the provisions of § ~~29-213.26~~ 29-213.88 of this Code.

Source: § 29-213.24:1.

Comment: No substantive changes.

§ ~~29-213.25~~ 29-213.87 . 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 animal 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 animal warden has conducted an investigation and that his investigation supports the claim. 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.

Source: § 29-213.25.

Comment: No change.

§ ~~29-213.26~~ 29-213.88 . Capturing and euthanizing dogs by animal wardens; approval of drugs, etc., used. - It shall be the duty of the animal 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 animal warden or other officer may deliver such dog to any person in his jurisdiction 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 animal 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, animal warden or other officer euthanizing a dog under this chapter shall cremate, bury or sanitarily dispose of the same. ~~Provided, however, that~~ Prior to disposition by euthanasia or otherwise, all the provisions of § ~~29-213.19~~ 29-213.66 shall have been complied with.

All drugs and drug administering equipment used by animal wardens or other officers to capture dogs pursuant to this chapter shall have been approved by the State Veterinarian.

Source: § 29-213.26.

Comment: No substantive change.

§ ~~3-1-706.47~~ 29-213.89 . Gift, sale, or delivery of animals from pounds or animal shelters. - A. The governing body of any political subdivision regulating the operation of a pound shall determine the method of disposition of animals released by such pound in accordance with the provisions of § ~~29-213.19~~ 29-213.66 of this Code. 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 in accordance with the provisions of § ~~29-213.19~~ 29-213.66 of this Code. 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 for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal ~~and~~ . No part of ~~such~~ *the* proceeds shall accrue to any individual except for ~~such~~ *the* *aforementioned* purposes. Humane societies shall keep accurate records of all animals handled. Records shall include a description of the animal including color, breed, sex, approximate weight, reason for bringing in, age, owner's or finder's name, address and telephone number, license number or other identifying tags or markings, as well as disposition of the animal.

Source: § 3.1-796.47.

Comment: No substantive changes.

§ ~~29-213.27~~ 29-213.90 . 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 animal warden or other officer shall bury or cremate the dog and he may recover on behalf of the local jurisdiction from the owner his cost for this service.

Source: § 29-213.27.

Comment: No change.

Article 6.

Cruelty to Animals.

§ ~~18-2-392~~ 29-213.91 . Cruelty to animals a ~~misdemeanor~~ : *penalty* . Any person who ~~(1)~~ (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation ~~to~~ , or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another ; ; or (ii) deprives any animal of necessary sustenance, food, drink or shelter ; ~~or causes any of the above things, or being the owner of such animal permits such acts to be done by another~~ ; or ~~(2)~~ (iii) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; or ~~(3)~~ ~~shall carry~~ (iv) *carries* or ~~cause~~ *causes* to be carried in or upon any vehicle ~~or~~ . vessel or otherwise any animal in a cruel, brutal, or inhuman manner, so as to produce torture or unnecessary suffering ; ; or (v) *causes any of the above things, or being the owner of such animal permits such acts to be done by another,* shall be guilty of a Class 1 misdemeanor ; ~~and~~ .

Any person who ~~shall abandon~~ *abandons* any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a Class 3 misdemeanor; ~~but~~ .

Nothing in this section shall be construed to prohibit the dehorning of cattle.

For the purposes of this section and §§ 29-213.78, 29-213.80, 29-213.82 through 29-213.84, 29-213.93, 29-213.94 and 29-213.100, the word animal shall be construed to include birds and fowl.

Source: §§ 18.2-392 and 18.2-396.

Comment: No substantive changes.

§ ~~18-2-393~~ 29-213.92 . Soring horses. - For the purposes of this section, a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, including, but not limited to chains or boots, which may reasonably be expected currently ~~(1)~~ (i) to result in physical pain to the horse when walking, trotting, or otherwise moving, or ~~(2)~~ (ii) to cause extreme fear or distress to the horse.

It shall be unlawful for any person to deliver or receive into this ~~State~~ *Commonwealth* for the purpose of showing or exhibiting, any horse which such person has reason to believe is suffering from the effects of being sored ; ~~or who shows or exhibits~~ . *It shall also be unlawful to show or exhibit or enters enter in any horse show or exhibition for the purpose of showing or entering in any horse show or exhibition;* any horse which such person has reason to believe is sored, ~~or to show or to exhibit or to enter~~ . *No one shall participate in or conduct any horse show or exhibition in which there is shown or exhibited a horse which such person has reason to believe is sored.*

Any person who violates any provision of this section shall be guilty of a Class 3 misdemeanor.

Source: § 18.2-393.

Comment: No substantive changes.

~~§ 18.2-394 29-213.93~~ . Fighting cocks, dogs, ~~ete or other animals;~~*penalty*. - If Any person ~~engage engaging~~ in the fighting of cocks, dogs or other animals, for money, prize or anything of value, or ~~upon the result of which any money or other thing of value is bet or wagered, or to which an admission fee is charged, directly or indirectly, he betting or wagering money or anything of value on the result of such fight,~~ shall be guilty of a Class 3 misdemeanor. *Attendance at the fighting of cocks, dogs or other animals where an admission fee is charged, directly or indirectly, shall also constitute a Class 3 misdemeanor.*

Source: § 18.2-394.

Comment: No substantive changes.

~~§ 18.2-395 29-213.94~~ . Shooting pigeons, etc., for amusement, and renting premises for such purposes.- ~~Whoever keeps or uses a live pigeon or other bird or fowl Live pigeons or other birds or fowl shall not be kept or used~~ for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship ; ~~or shoots~~ . *It shall be a Class 4 misdemeanor to shoot at a bird kept or used as aforesaid, or is to be a party to such shooting ; or . Any person who lets any building, room, field, or premises, or knowingly permits the use thereof for the purpose of such shooting ; shall be guilty of a Class 4 misdemeanor.*

Nothing herein contained shall apply to the shooting of wild game.

Source: § 18.2-395.

Comment: No substantive changes.

Article 7.

Miscellaneous Provisions.

~~§ 29-213.7 29-213.95~~ . 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.

An animal 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 seven days, the animal 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 and the animal warden may 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 animal warden.

Source: § 29-213.7.

Comment: No substantive changes.

§ ~~29-213.28~~ 29-213.96 . Permits for field trials. - *Notwithstanding any provision of paragraphs (b) through (k) of § 29-143 to the contrary,* the Commission of Game and Inland Fisheries is authorized to grant permits to bona fide field trial clubs and associations to hold field trials with dogs under such regulations as it may deem proper, beginning with the second weekend in August through the third weekend of May, and at such other times in its discretion ; ~~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).

Source: § 29-213.28.

Comment: No substantive changes.

§ ~~29-213.29~~ 29-213.97 . Permits for night trials. - Permits may be granted by the Commission of Game and Inland Fisheries to individuals for trials with dogs used and trained, or to be trained, for hunting at night, between September ~~tenth~~ 10 and October ~~first~~ 1 of any year ; ~~provided, however, that~~ . No person accompanying such dogs on trial shall carry or have with him any firearm or axe.

Source: § 29-213.29.

Comment: No substantive changes.

§ ~~29-213.30~~ 29-213.98 . Permits to allow foxhounds to run at large. - The Commission of Game and Inland Fisheries is authorized to issue permits to residents of this *State Commonwealth* who are bona fide owners of foxhounds, actually used for fox hunting, allowing such owners to permit such foxhounds to run at large 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 if the owner has been issued such a permit~~ . 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.

Source: § 29-213.30.

Comment: No substantive changes.

§ ~~29-213.33~~ 29-213.99 . 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. License tax. - For any dog owner to fail to pay the license tax required by this chapter before February ~~first~~ 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.

3. 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~~ 29-213.65 .

4. Rabies regulations. - For any person to fail to obey an ordinance passed pursuant to §§ ~~29-213.21~~ 29-213.68 and ~~29-213.22~~ 29-213.69 .

5. Dead dogs. - For any owner to fail to dispose of the body of his dog in violation of § ~~29-213.27~~ 29-213.90 .

6. Permits. - For any person to fail to secure and exhibit the permits required by §§ ~~29-213.28~~ 29-213.96 , ~~29-213.29~~ 29-213.97 , and ~~29-213.30~~ 29-213.98 .

7. 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.

8. 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 .~~

9. Removing collar and tag. - For any person, except the owner or custodian, to remove a legally acquired license tag from a dog *without the permission of the owner or custodian.*

10. 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~~ 29-213.87 .

Source: § 29-213.33.

Comment: No substantive changes.

§ ~~18.2 403~~ 29-213.100 . Jurisdiction of ~~judges of~~ general district courts; right of appeal.—*Unless otherwise provided,* the provisions of this article may be enforced by any ~~judge of the~~ general district court in cities or counties wherein the offense is committed, or the offender or owner may be found ; ~~and~~ . Every such offender shall have the right of appeal to the appropriate circuit court.

Source: § 18.2-403.

Comment: No substantive changes.

Title 18.2.

Chapter 8.

Article 8.

Offenses Involving Animals.

§ 18.2-403.1. *Offenses involving animals; Class 1 misdemeanors.—The following unlawful acts and offenses against animals shall constitute and be punished as a Class 1 misdemeanor upon conviction:*

1. *Violation of § 29-213.92 pertaining to cruelty to animals.*

2. *Violation of § 29-213.40 pertaining to transporting animals under certain conditions.*

3. *Making a false claim or receiving money on a false claim under § 29-213.88 pertaining to compensation for livestock and poultry killed by dogs.*

§ 18.2-403.2. Offenses involving animals: Class 3 misdemeanors.—The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor upon conviction: of agents charged with preventing cruelty to animals.

2. Violation of § 29-213.95 pertaining to shooting pigeons.

3. Violation of § 29-213.91 pertaining to disposing of the body of a dead dogs.

4. Violation of ordinances passed pursuant to §§ 29-213.69 and 29-213.70 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.

5. Violation of an ordinance passed pursuant to § 29-213.66 requiring dogs to be on a leash.

6. Failure by any person to secure and exhibit the permits required by §§ 29-213.97 through 29-213.99 pertaining to field trails, night trials and foxhounds.

7. 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.

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

9. License tax. - For any dog owner to fail to pay the license tax required by this chapter before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog.

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.

Comment: Consolidated listing of all offenses.

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