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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-105
VAC Chapter title(s)	Regulations for the Inspection of Pet Shops Selling Dogs or Cats
Action title	Promulgate regulation required by Chapter 1284 of the 2020 Acts of Assembly
Date this document prepared	December 11, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

This regulatory action will result in the promulgation of the new regulation required by Chapter 1284 of the 2020 Acts of Assembly. Chapter 1284 of the 2020 Acts of Assembly requires the Board of Agriculture and Consumer Services (Board) to adopt a regulation governing the keeping of dogs and cats by a pet shop and establishes specific provisions this regulation must include. Chapter 1284 requires that the regulation require a regulated person or facility to register with the Department of Agriculture and Consumer Services (Department). The regulation must also establish standards of adequate care, exercise, feed, shelter, space, treatment, water, proper cleaning, and lighting. The regulation must require at least one unannounced inspection by the State Animal Welfare Inspector annually. Finally, the regulations must establish remedies for each finding in a given inspection.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

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

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

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

This regulatory action will result in the promulgation of the regulation required by Chapter 1284 of the 2020 Acts of Assembly.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 3.2-109 of the Code of Virginia (Code) establishes the Board as a policy board.

Section 3.2-6501.1 of the Code, which was established by Chapter 1284 of the 2020 Acts of Assembly, requires the Board to adopt a regulation for the keeping of dogs and cats by a pet shop.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

Chapter 1284 of the 2020 Acts of Assembly requires the Board to adopt a regulation for the keeping of dogs and cats by a pet shop. The general welfare of the public is protected when regulations are promulgated in compliance with statutory requirements.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Chapter 1284 of the 2020 Acts of Assembly requires the Board to adopt a regulation governing the keeping of dogs and cats by a pet shop and establishes specific provisions this regulation must include. Chapter 1284 requires that the regulation require a regulated person or facility to register with the Department. The regulation must also establish standards of adequate care, exercise, feed, shelter, space, treatment, water, proper cleaning, and lighting. The regulation must require at least one unannounced inspection by the State Animal Welfare Inspector annually. Finally, the regulations must establish remedies for each finding in a given inspection.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no alternatives for this regulation, as it is mandated by the Code of Virginia.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board is providing an opportunity for comments on this regulatory proposal, including (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Dr.Carolynn Bissett, 102 Governor Street, Richmond, VA 23219; phone: (804) 786-2483; fax: (804) 371-2380; e-mail: carolynn.bissett@vdacs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website

(<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.