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SENATE BILL NO. 440

Offered January 21, 2000

A *BILL to amend and reenact § 3.1-796.93:1 of the Code of Virginia, relating to local animal ordinances.*

Patrons—Rerras, Hanger and Ticer; Delegates: Drake, Jones, J.C., Moss, Robinson and Williams

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 3.1-796.93:1 of the Code of Virginia is amended and reenacted as follows:

§ 3.1-796.93:1. Authority to control dangerous or vicious dogs.

A. The governing body of any county, city or town may enact an ordinance regulating dangerous dogs and vicious dogs.

B. As used in this section, "dangerous dog" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, and "vicious dog" means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

C. Any ordinance enacted pursuant to this section shall prescribe the following provisions:

1. Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer ~~or owner~~ shall confine the animal until such time as evidence shall be heard and a verdict rendered. *If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.* The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1-796.119.

2. No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

3. The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of fifty dollars in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

4. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for

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60 certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof
61 unless they present satisfactory evidence that (i) their residence is and will continue to be posted with
62 clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property
63 and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by
64 electronic implantation.

65 5. While on the property of its owner, an animal found to be a dangerous dog shall be confined
66 indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its
67 escape or direct contact with or entry by minors, adults, or other animals. The structure shall be
68 designed to provide the animal with shelter from the elements of nature. When off its owner's property,
69 an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to
70 cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it
71 from biting a person or another animal.

72 6. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal
73 guardian shall be responsible for complying with all requirements of this section.

74 7. After an animal has been found to be a dangerous dog, the animal's owner shall immediately,
75 upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined;
76 (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to
77 a different address.

78 8. The owner of any animal which has been found to be a dangerous dog who willfully fails to
79 comply with the requirements of the ordinance shall be guilty of a Class 1 misdemeanor.

80 9. All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority
81 in producing and distributing the certificates and tags required by the ordinance, shall be paid into a
82 special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any
83 training course required under § 3.1-796.105.

84 D. Any ordinance enacted pursuant to this section may prescribe the following provisions:

85 1. All certificates or renewals thereof required to be obtained under this section shall only be issued
86 to persons eighteen years of age or older who present satisfactory evidence that the animal has been
87 neutered or spayed.

88 2. All certificates or renewals thereof required to be obtained under this section shall only be issued
89 to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value
90 of at least \$50,000, that covers animal bites.

91 E. Notwithstanding the provisions of subdivision C 1, any ordinance enacted pursuant to this section
92 may provide that an animal control officer may determine, after investigation, whether a dog is a
93 dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the
94 animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the
95 animal control officer's determination, he may appeal the determination to the general district court for a
96 trial on the merits.