

031433856

HOUSE BILL NO. 1831

House Amendments in [] — January 24, 2003

A *BILL to amend and reenact § 3.1-796.93:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.1-796.127:1, relating to dogs injuring or killing other companion animals.*

Patron Prior to Engrossment—Delegate Morgan

Referred to Committee on Agriculture, Chesapeake 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, and that the Code of Virginia is amended by adding a section numbered 3.1-796.127:1 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~~ *that* has bitten, attacked, or inflicted injury on a person or companion animal, ~~other than a dog,~~ or killed a companion animal; ~~and; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury [occurs as determined by a licensed veterinarian has occurred] to the other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in [a field trial authorized by the Department of Game and Inland Fisheries an organized, lawful dog handling event] .~~

"Vicious dog" means a canine or canine crossbreed ~~which~~ *that* 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 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~~ *that* 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~~ 10 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of ~~five~~ ~~dollars~~ \$50 in addition to other fees that may be authorized by law. The local animal control officer

ENGROSSED

HB1831E

59 shall also provide the owner with a uniformly designed tag ~~which~~ *that* identifies the animal as a
60 dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the
61 collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed
62 annually for the same fee and in the same manner as the initial certificate was obtained.

63 4. All certificates or renewals thereof required to be obtained under this section shall only be issued
64 to persons ~~eighteen~~ 18 years of age or older who present satisfactory evidence (i) of the animal's current
65 rabies vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure or
66 is and will be confined inside the owner's residence or is and will be muzzled and confined in the
67 owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for
68 certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof
69 unless they present satisfactory evidence that (i) their residence is and will continue to be posted with
70 clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property
71 and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by
72 electronic implantation.

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

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

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

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

88 9. All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority
89 in producing and distributing the certificates and tags required by the ordinance, shall be paid into a
90 special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any
91 training course required under § 3.1-796.104:1.

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

93 1. All certificates or renewals thereof required to be obtained under this section shall only be issued
94 to persons ~~eighteen~~ 18 years of age or older who present satisfactory evidence that the animal has been
95 neutered or spayed.

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

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

105 § 3.1-796.127:1. Dog injuring or killing other companion animals.

106 *The owner of any companion animal that is injured or killed by a dog shall be entitled to recover [*
107 *the veterinary costs incurred from such injury or the costs of disposal and replacement of the*
108 *companion animal, or both, plus costs damages consistent with the provisions of § 3.1-796.127] from*
109 *the owner of such dog in an appropriate action at law if (i) the injury occurred on the premises of the*
110 *companion animal's owner, and (ii) the owner of the offending dog did not have the permission of the*
111 *companion animal's owner for the dog to be on the premises at the time of the attack.*