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HOUSE BILL NO. 1192

Offered January 14, 2004

Prefiled January 14, 2004

A *BILL to amend and reenact § 3.1-796.93:1 of the Code of Virginia, relating to potentially dangerous dogs.*

Patrons—Scott, J.M., Amundson, Hull and Plum; Senator: Ticer

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 as follows:

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

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

B. As used in this section:

"Dangerous dog" means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; 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 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 an organized, lawful dog handling event.

"Potentially dangerous dog" means any canine or canine crossbreed that has, when unprovoked, endangered a person by exhibiting dangerously threatening behavior normally associated with an attack.

"Vicious dog" means a canine or canine crossbreed 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 that resulted in a previous finding by a court or an animal control officer as authorized by local ordinance pursuant to the provisions of subsection E, 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 *potentially dangerous dog*, 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 *potentially dangerous dog* or 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 *potentially dangerous dog*, 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 *potentially dangerous dog*, 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 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 *potentially dangerous dog*, dangerous dog, or a vicious dog. No animal ~~which~~ *that*, 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 *potentially dangerous dog*, dangerous dog, or a vicious dog.

3. The owner of any animal found to be a *potentially dangerous dog* or dangerous dog shall, within

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59 10 days of such finding, obtain a *potentially dangerous dog or* dangerous dog registration certificate
60 from the local animal control officer for a fee of \$50 or an amount as set by local ordinance but not to
61 exceed the costs incurred by the locality to administer this program, in addition to other fees that may
62 be authorized by law. The local animal control officer shall also provide the owner with a uniformly
63 designed tag that identifies the animal as a *potentially dangerous dog or* dangerous dog. The owner
64 shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times.
65 All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in
66 the same manner as the initial certificate was obtained.

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

76 5. *While on the property of its owner, an animal found to be a potentially dangerous dog shall be*
77 *confined in a securely enclosed structure to prevent its escape or direct contact with or entry by minors,*
78 *adults, or other animals. The structure shall be designed to provide the animal with shelter from the*
79 *elements of nature. When off its owner's property, an animal found to be a potentially dangerous dog*
80 *shall be kept on a leash.*

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

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

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

95 8. The owner of any animal that has been found to be a *potentially dangerous dog or* dangerous dog
96 who willfully fails to comply with the requirements of the ordinance shall be guilty of a Class 1
97 misdemeanor.

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

102 10. *Any dog determined to be a potentially dangerous dog shall no longer be subject to the*
103 *requirements of this section if after 36 months from the date of the determination the dog has not again*
104 *violated this section; provided, however, that same dog may again be determined to be a potentially*
105 *dangerous dog for any subsequent violation of this section.*

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

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

110 2. All certificates or renewals thereof required to be obtained under this section shall only be issued
111 to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value
112 of at least \$100,000, that covers animal bites.

113 E. Notwithstanding the provisions of subdivision C 1, any ordinance enacted pursuant to this section
114 may provide that an animal control officer may determine, after investigation, whether a dog is a
115 *potentially dangerous dog or* a dangerous dog. If the animal control officer determines that a dog is a
116 *potentially dangerous dog or* a dangerous dog, he may order the animal's owner to comply with the
117 provisions of the ordinance. If the animal's owner disagrees with the animal control officer's
118 determination, he may appeal the determination to the general district court for a trial on the merits.