

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 864

An Act 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 3.1-796.93:3, and to repeal § 3.1-796.117 of the Code of Virginia, relating to the control of dangerous and vicious dogs; penalties.

[H 1039]

Approved April 19, 2006

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 3.1-796.93:3 as follows:

§ 3.1-796.93:1. Control of dangerous or vicious dogs; penalties.

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

~~B. A. 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 that is a dog or cat, or killed a companion animal; that is a dog or cat. However, when a dog attacks or bites another dog a companion animal that is a dog or cat, 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 dog or cat as a result of the attack or bite, or (ii) if both dogs animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on another dog a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.~~

~~"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, on or before July 1, 2006, by 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 B. Any law-enforcement officer or 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. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. 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 this section. 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. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.~~

~~2 C. 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 is the ownership of a particular breed of canine or canine crossbreed prohibited. 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 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~~ *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~~ *a person*, or its owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

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

3 E. The owner of any animal found to be a dangerous dog shall, within 10 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$50 or an amount as set by local ordinance but not to exceed the costs incurred by the locality to administer this program, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that 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 subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. The animal control officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State Veterinarian.

4 F. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that the animal has been neutered or spayed, and (iii) 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 certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

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

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

H. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry, as established under § 3.1-796.93:3, within 45 days of such a finding by a court of competent jurisdiction.

The owner shall also cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) tattoo or chip identification information or both; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

7 I. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, ~~notify~~ cause the local animal control authority to be notified if the animal (i) is loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies; or (iv) has been moved to a different address. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

J. Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

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

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

M. The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous and vicious dogs; provided, however, that no locality may impose a felony penalty for violation of such local ordinances.

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

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

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

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

§ 3.1-796.93:3. Establishment of Dangerous Dog Registry.

The Commissioner shall establish the Commonwealth of Virginia Dangerous Dog Registry to be maintained by the Virginia Department of Agriculture and Consumer Services, Office of Veterinary Services. Each owner of any canine or canine crossbreed found by any court of competent jurisdiction to be a dangerous dog shall be required to register the animal as a dangerous dog within 45 days of such finding. The State Veterinarian shall receive, post, and maintain the information provided by the owner, animal control officers, and other such officials statewide on a website. All information collected for the Dangerous Dog Registry shall be available to animal control officers via the website. Registration shall include the name of the animal, a photograph, sex, age, weight, primary breed, secondary breed, color and markings, whether spayed or neutered, the acts that resulted in the dog being designated as dangerous and associated trial docket information, microchip or tattoo number, address where the animal is maintained, name of the owner, address of the owner, telephone numbers of the owner, and a statement that the owner has complied with the provisions of the dangerous dog order. The address of the owner along with the name and breed of the dangerous dog, the acts that resulted in the dog being deemed dangerous, and information necessary to access court records of the adjudication shall be available to the general public. By January 31 of each year, until such time as the dangerous dog is deceased, the owner shall submit a renewal registration that shall include all information contained in the original registration and any updates. The owner shall verify the information is accurate by annual resubmissions. The owner shall submit to the State Veterinarian a \$100 initial registration fee and a \$35 renewal registration fee. In the event that the dangerous dog is moved to a different location, or contact information for the owner changes in any way at any time, the owner shall submit a renewal containing the address of the new location or other updated information within 10 days of such move or change. There shall be no charge for any updated information provided between renewals. Any funds collected pursuant to this section shall be used by the State Veterinarian to maintain the registry and website. The website list shall be known as the Virginia Dangerous Dog Registry.

Actions of the Department relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

2. That § 3.1-796.117 of the Code of Virginia is repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

4. The State Veterinarian shall provide to the General Assembly report of the progress in development of the Commonwealth of Virginia Dangerous Dog Registry on or before November 1, 2006, and shall have the Commonwealth of Virginia Dangerous Dog Registry operational on or before July 1, 2007.