

060018134

SENATE BILL NO. 491

Offered January 11, 2006

Prefiled January 11, 2006

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 18.2-54.3, relating to punishment for vicious dog attacks; issuance of summonses; penalty.

Patrons—Quayle, Houck, Norment and Stolle; Delegates: Kilgore, Melvin and Moran

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 and that the Code of Virginia is amended by adding a section numbered 18.2-54.3 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 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.

"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 or law-enforcement 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. 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 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

INTRODUCED

SB491

59 dangerous dog or a vicious dog.

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

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

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

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

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

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

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

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

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

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

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

109 § 18.2-54.3. *Certain conduct with animals punishable as felony.*

110 A. Any owner or custodian whose willful act or omission in the care, control, or containment of a
111 dog or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life,
112 and is the proximate cause of such dog or other animal attacking and severely injuring any person,
113 shall be guilty of a Class 6 felony. The fact that such dog or other animal has previously inflicted
114 serious bodily injury or death on a person, and at the time of the attack was roaming at large
115 unsupervised, shall be prima facie evidence of the owner's or custodian's reckless disregard for human
116 life.

117 B. The provisions of this section shall not apply when the victim of the attack was: (i) committing, at
118 the time, a crime other than trespass upon the premises occupied by the animal's owner or custodian;
119 (ii) an adult and was committing, at the time, a willful trespass or other tort upon the premises
120 occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the

121 animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at
122 other times. However, in the event the animal responsible for the death is a dog that has previously
123 been declared dangerous or vicious, pursuant to an ordinance enacted in accordance with
124 § 3.1-796.93:1, the provisions set forth in subdivisions (i), (ii), and (iii) of this subsection shall not
125 apply unless, at the time of the attack, the dog is securely confined indoors in a manner consistent with
126 subdivisions 4 and 5 of subsection B of § 3.1-796.93:1.

127 C. The provisions of this section shall not apply when the animal is a police dog that is engaged in
128 the performance of its duties at the time of the attack.

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