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HOUSE BILL NO. 508

Offered January 8, 2020

Prefiled January 4, 2020

A BILL to amend and reenact §§ 3.2-6540 and 3.2-6570 of the Code of Virginia, relating to animal care; cruelty; dangerous dogs.

Patron—Willett

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6540 and 3.2-6570 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-6540. Control of dangerous dogs; penalties.

A. As used in this section;

"dangerous Dangerous dog" means:

1. A canine or canine crossbreed that has bitten, attacked, or inflicted *serious* injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. ~~A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (i) no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or~~

2. A canine or canine crossbreed that has bitten, attacked, or inflicted *physical* injury on a person. ~~A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury requiring medical intervention or repair, including a laceration, tear, broken bone, or substantial puncture of skin by teeth.~~

"*Serious injury*" means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

B. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on 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. No dog shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

C. B. 1. 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 ~~may~~ shall apply to a magistrate serving 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.

2. Upon written notice by an animal control officer or law-enforcement officer of the intent to secure a summons for a dangerous dog, the owner, custodian, or harbinger of the dog shall be prohibited from disposing of the animal other than by surrender to the animal control authority for a period of 20 business days. Upon being served with a summons for a dangerous dog, the owner, custodian, or harbinger shall be prohibited from disposing of the animal until the case has been adjudicated.

3. 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.

4. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered.

5. 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. *If an owner or custodian is permitted to confine the animal until such time as evidence is heard, the owner shall, within 72 hours of notice by the law-enforcement officer or animal control officer, cause the animal to be implanted with electronic identification registered to the owner or custodian and shall provide the registration information to the animal control authority.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

6. *The hearing pursuant to the dangerous dog summons shall be held not more than 20 business*

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59 *days from the issuance of the summons.*

60 ~~D. C.~~ If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court
61 shall order the animal's owner to comply with the provisions of this section. The court, upon finding the
62 animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for
63 actual damages to any person injured by the animal or whose companion animal was injured or killed
64 by the animal. *Such order shall not preclude the injured person from seeking restitution for damages*
65 *that continue to accrue after the original finding of dangerous dog.* The court, in its discretion, may also
66 order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog
67 from the time the animal is taken into custody until such time as the animal is disposed of or returned
68 to the owner.

69 ~~E. D.~~ If, after hearing the evidence, the court decides to defer further proceedings without entering an
70 adjudication that the animal is a dangerous dog, it may do so, notwithstanding any other provision of
71 this section. A court that defers further proceedings shall place specific conditions upon the owner of the
72 dog. *Such conditions shall include the requirement that the owner or custodian, within 72 hours, cause*
73 *the dog to be implanted with electronic identification registered to the owner or custodian and the*
74 *registration information provided to the animal control authority.* If the owner violates any of the
75 conditions, the court may enter an adjudication that the animal is a dangerous dog and proceed as
76 otherwise provided in this section. Upon fulfillment of the conditions, the court shall dismiss the
77 proceedings against the animal and the owner without an adjudication that the animal is a dangerous
78 dog.

79 ~~F. E.~~ The procedure for appeal and trial shall be the same as provided by law for misdemeanors.
80 Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The
81 Commonwealth shall be required to prove its case beyond a reasonable doubt. *Appeal of a dangerous*
82 *dog finding shall be heard within 30 days.*

83 ~~G. No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a~~
84 ~~particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.~~

85 ~~H. F.~~ No animal shall be found to be a dangerous dog if:

86 1. *As a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner*
87 *or custodian as part of lawful hunting or participating in an organized, lawful dog handling event;*

88 2. *If the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a*
89 *crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a*
90 *willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking,*
91 *tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented,*
92 *abused, or assaulted the animal at other times. No;*

93 3. *If such animal is a police dog that was engaged in the performance of its duties as such at the*
94 *time of the acts complained of shall be found to be a dangerous dog. No;*

95 4. *Such animal that was, at the time of the acts complained of, was responding to pain or injury, or*
96 *was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property; shall be*
97 *found to be a dangerous dog;*

98 5. *Solely because it is a particular breed. The ownership of a particular breed of canine or canine*
99 *crossbreed is not prohibited;*

100 6. *If, upon investigation, in the case of a dog that has bitten, attacked, or inflicted serious injury on*
101 *a companion animal that is a dog or cat or killed a companion animal that is a dog or cat, a*
102 *law-enforcement officer or animal control officer finds that (i) both animals are owned by the same*
103 *person or (ii) such attack originated on the property of the attacking or biting dog's owner or*
104 *custodian; or*

105 7. *If, upon investigation, a law-enforcement officer or animal control officer finds that the injury*
106 *inflicted by a canine or canine crossbreed upon a person consists solely of a scratch, abrasion, single*
107 *nip, bite, or, other minor injury that does not require medical attention. Following such investigation,*
108 *such officer shall cause a record to be made of the incident. Such record shall be maintained by the*
109 *animal control authority for a period of five years.*

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

112 ~~J. H.~~ The owner of any animal found to be a dangerous dog shall, within 30 10 days of such
113 finding, obtain a dangerous dog registration certificate county or city license from the local animal
114 control officer or treasurer for a fee of \$150, in addition to other fees that may be authorized by law.
115 The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag
116 that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and
117 ensure that the animal wears the collar and tag at all times.

118 *The owner of any animal found to be a dangerous dog shall, within 30 days of such finding:*

119 1. *Cause the animal to be neutered or spayed, if not already done;*

120 2. *Cause the dog to be implanted with electronic identification registered to the owner or custodian*

and provide the registration information to the animal control authority;

3. Obtain and present satisfactory evidence to the animal control authority of liability insurance coverage that covers animal bites, to the value of at least \$100,000. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000;

4. Post at the residence where the dog is housed clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property. Such signs shall remain posted at all points of entry to the home and yard as long as the dog remains on the property;

5. For any dangerous dog that will be out of doors beyond the immediate physical presence of its owner or custodian, cause to be constructed a secure, locked enclosure of sufficient height and design to prevent escape by the dog and entry by or direct physical contact with persons or other animals. While so confined within the structure, the animal shall be provided for according to § 3.2-6503; any dangerous dog not confined inside such locked enclosure shall be confined inside the owner's residence, or if out of doors, securely 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, and shall be controlled on a leash by the responsible adult owner or custodian; and

6. Pay to the local governing body a fee of \$150 and, under the direction of the animal control officer, complete a dangerous dog registration certificate issued by the Department of Agriculture and Consumer Affairs. Such dangerous dog registration certificate shall only be issued to a person 18 years of age or older.

Any dangerous dog not redeemed from the animal control agency within 10 days of notice to do so by the animal control authority shall be considered abandoned and may be disposed of according to the provisions of § 3.2-6546.

I. The owner of any animal found to be a dangerous dog shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of any other owner of the dog; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack or bite by the dog upon any person or cat or dog; (iv) any claim made or lawsuit brought as a result of any attack; (v) any instance where the animal is loose or unconfined; (vi) any transfer of ownership of the dog to a new owner and the name and address of the new owner; and (vii) the escape, loss, or death of the dog.

Within 10 days of relocation to a new address, the owner of any animal found to be a dangerous dog shall provide written notice of the old address from which the animal has moved and the new address to which the animal has been moved to the appropriate local animal control authority.

J. Upon the disposition by gift, sale, transfer, trade, or surrender to a releasing agency of a canine or canine crossbreed that has been found to be a dangerous dog, the owner shall notify the receiver that the animal has been so adjudicated. Violation of this subsection is a Class 1 misdemeanor.

K. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. However, if the dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal shall be included in the initial registration at no additional charge to the owner. No certificate of renewal shall be issued without an inspection of the dangerous dog and the premises on which it is kept. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

~~K. No certificate of renewal shall be issued without an inspection of the dangerous dog and the premises on which it is kept. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry. 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 compliance with the provisions of subsections D and J and (ii) of the animal's current rabies vaccination, if applicable; (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 (a) 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 (b) the animal has been permanently identified by means of 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, and current county or city dangerous dog license.~~

~~L. 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. While so confined within the structure, the animal shall be provided for according to § 3.2-6503. 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.

M. The owner shall 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 eat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

N. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. 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.

O. L. 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 court in its discretion may determine that any person convicted under this subsection may be prohibited from owning, possessing, or residing on the same property with a canine or canine crossbreed.

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.

P. M. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. *Such hearing shall be held within 10 business days of the issuance of the summons.* The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 or (ii) grant the owner up to 30 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

Q. N. All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, 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 § 3.2-6556.

O. Any exposure report involving a dog bite to a human shall be maintained with the Department of Health through state-mandated retention periods and made available to the local animal control authority.

R. P. The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous dogs. No locality may impose a felony penalty for violation of such ordinances.

§ 3.2-6570. Cruelty to animals; penalty.

A. Any person who (i) overrides, overdrives, overloads, ill-treats, or abandons any animal, whether belonging to himself or another; (ii) tortures any animal, willfully inflicts inhumane injury or pain not

connected with bona fide scientific or medical experimentation on any animal, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (iii) deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment; (iv) sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (v) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vii) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (viii) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates, or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a ~~Class 4 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.~~

F. Any person who (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, or mutilates any dog or cat that is a companion animal whether belonging to him or another and (ii) as a direct result causes serious bodily injury to such dog or cat that is a companion animal, the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540, 3.2-6540.1, or 3.2-6552.

For the purposes of this subsection, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

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