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HOUSE BILL NO. 320

Offered January 19, 1994

A BILL to amend and reenact §§ 3.1-796.93:1 and 3.1-796.94 of the Code of Virginia, relating to authority to control dangerous or vicious dogs.

Patrons—Reynolds and Armstrong; Senator: Goode

Referred to Committee on Agriculture

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.93:1 and 3.1-796.94 of the Code of Virginia are amended and reenacted as follows:

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

A. The governing body of (i) any county having adopted the urban county executive form of government, (ii) any county contiguous thereto, (iii) any county having adopted the county manager form of government, (iv) any town located, wholly or partly, in such counties, (v) any city contiguous to a county having adopted the urban county executive form of government or surrounded by a county contiguous thereto, (vi) any city having a population of more than 100,000, ~~and~~ (vii) any city or county adjacent to a city having a population of more than 100,000, *and (viii) Patrick County* may enact an ordinance regulating dangerous dogs and vicious dogs.

B. As used in this section, "dangerous dogs" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, and "vicious dog" means a canine or canine crossbreed which 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 warden 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 warden or owner shall 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 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 by a court to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal warden for a fee of fifty dollars in addition to other fees that may be authorized by law. The local animal warden shall also provide the owner with a uniformly designed tag which 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 subsection shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

4. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current

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

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

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

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

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

83 9. All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority
84 in producing and distributing the certificates and tags required by the ordinance, shall be paid into a
85 special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any
86 training course required under § 3.1-796.105.

87 § 3.1-796.94. Governing body of county, city, or town may adopt certain ordinances.

88 The governing bodies of counties, cities, and towns of the Commonwealth are hereby authorized to
89 adopt, in their discretion, ordinances which parallel §§ 3.1-796.84 through 3.1-796.93, 3.1-796.95
90 through 3.1-796.104, 3.1-796.115 through 3.1-796.119, 3.1-796.121, 3.1-796.127 through 3.1-796.129,
91 and 3.1-796.126:1 through 3.1-796.126:7 of this chapter.

92 Any funds collected pursuant to the enforcement of ordinances adopted pursuant to the provisions of
93 this section may be used for the purpose of defraying the costs of local animal control, including efforts
94 to promote sterilization of cats and dogs.

95 Nothing in this section shall be construed so as to prevent or restrict any local governing body from
96 adopting local animal control ordinances which are more stringent than §§ 3.1-796.84 through
97 3.1-796.104, 3.1-796.115 through 3.1-796.119, 3.1-796.121, 3.1-796.127 through 3.1-796.129, and
98 3.1-796.126:1 through 3.1-796.126:7 of this chapter.