

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 918

An Act to amend the Code of Virginia by adding in Chapter 27.4 of Title 3.1 an article numbered 6.2, consisting of sections numbered 3.1-796.126:8 through 3.1-796.126:11, relating to hybrid canines; penalties.

[S 1027]

Approved April 19, 1997

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 27.4 of Title 3.1 an article numbered 6.2, consisting of sections numbered 3.1-796.126:8 through 3.1-796.126:11, as follows:

Article 6.2.

Hybrid Canines.

§ 3.1-796.126:8. Definitions.

As used in this article:

"Adequate confinement" means that, while on the property of its owner and not under the direct supervision and control of the owner or custodian, a hybrid canine shall be confined in a humane manner in a securely enclosed and locked structure of sufficient height and design to (i) prevent the animal's escape; or if the hybrid canine is determined to be a dangerous dog pursuant to § 3.1-796.93:1, the structure shall prevent direct contact with any person or animal not authorized by the owner to be in direct contact with the hybrid canine and (ii) provide a minimum of 100 square feet of floor space for each adult animal. Tethering of a hybrid canine not under the direct supervision and control of the owner or custodian shall not be considered adequate confinement.

"Hybrid canine" means any animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine, wolf or coyote by its owner to a licensed veterinarian, law-enforcement officer, animal warden, humane investigator, official of the Department of Health, or compliance officer who is under the direction of the State Veterinarian.

"Responsible ownership" means the ownership and humane care of a hybrid canine in such a manner as to comply with all laws and ordinances regarding hybrid canines and prevent endangerment by the animal to public health and safety.

§ 3.1-796.126:9. Hybrid canine ordinance; penalty.

A. Any county, city or town may, by ordinance, establish a permit system to ensure the adequate confinement and responsible ownership of hybrid canines. Such ordinance may include requirements pertaining to: (i) the term and expiration date of the permit, (ii) the number of hybrid canines that may be owned by a permittee, (iii) identification tags or tattooing of the animal, (iv) where the animal may be kept, (v) handling of the animal while not on the property of the owner, and (vi) information required to be provided when applying for a permit, such as the sex, color, height, vaccination records, length, or identifying marks of the hybrid canine. The ordinance shall not require that hybrid canines be disposed of by the owner unless the owner fails or refuses to obtain or renew any required permit or violates a provision of the ordinance or any other law pertaining to the responsible ownership of the hybrid canine. The locality may impose a permit fee to cover the cost of the permitting system.

B. Violation of an ordinance enacted pursuant to this section shall be a Class 3 misdemeanor for the first violation and a Class 1 misdemeanor for a second or a subsequent violation. The ordinance may require a violator to surrender the hybrid canine for euthanasia in accordance with § 3.1-796.119.

C. The provisions of this section shall not affect any ordinance adopted prior to the effective date of this section.

§ 3.1-796.126:10. Hybrid canines killing, injuring or chasing livestock.

It shall be the duty of any animal warden or other officer who may find a hybrid canine in the act of killing or injuring livestock or poultry to kill such hybrid canine forthwith, whether such hybrid canine bears a tag or not. Any person finding a hybrid canine committing any of the depredations mentioned in this section shall have the right to kill such hybrid canine on sight as shall any owner of livestock or his agent finding a hybrid canine chasing livestock on land lawfully utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal warden or other officer to kill any hybrid canine known to be a confirmed livestock or poultry killer, and any hybrid canine killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the hybrid canine to produce the hybrid canine.

Any animal warden who has reason to believe that any hybrid canine is killing livestock or poultry shall be empowered to seize such hybrid canine solely for the purpose of examining such hybrid canine in order to determine whether it committed any of the depredations mentioned herein. Any animal

warden or other person who has reason to believe that any hybrid canine is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate for the county, city or town wherein such hybrid canine may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named therein, at which time evidence shall be heard. If it appears that the hybrid canine is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the hybrid canine be (i) killed immediately by the animal warden or other officer designated by the court or (ii) removed to another state which does not border on the Commonwealth and prohibited from returning to the Commonwealth. Any hybrid canine ordered removed from the Commonwealth which is later found in the Commonwealth shall be ordered by a court to be killed immediately.

§ 3.1-796.126:11. Compensation for livestock and poultry killed by hybrid canines.

Any person who has any livestock or poultry killed or injured by any hybrid canine not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400 per animal or \$10 per fowl, provided that: (i) the claimant has furnished evidence within sixty days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a hybrid canine; (ii) the animal warden or other officer shall have been notified of the incident within seventy-two hours of its discovery; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the hybrid canine doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the hybrid canine upon which an execution has been returned unsatisfied.

Local jurisdictions may, by ordinance, waive the requirements of (ii) or (iii) or both provided that the ordinance adopted requires that the animal warden has conducted an investigation and that his investigation supports the claim. Upon payment under this section, the local governing body shall be subrogated to the extent of compensation paid to the right of action to the owner of the livestock or poultry against the owner of the hybrid canine and may enforce the same in an appropriate action at law.