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HOUSE BILL NO. 1562

Offered January 9, 2013

Prefiled January 4, 2013

A *BILL to amend and reenact §§ 3.2-6540 and 3.2-6570 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 3.2-6540.1, relating to the control of dangerous dogs; penalties.*

Patrons—Orrock and Kory

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 and that the Code of Virginia is amended by adding a section numbered 3.2-6540.1 as follows:

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

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. When a dog attacks or bites 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 dog or cat as a result of the attack or bite; (ii) if both 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 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 that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

"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 ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

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 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. 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 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 § 3.2-6562. The court, upon finding the animal to be a dangerous or vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. *The court, in its discretion, may also 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 as the animal is disposed of or returned to the owner.* 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.

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 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

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59 damage was sustained by a person who was: (i) committing, at the time, a crime upon the premises
60 occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the
61 premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically
62 abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the
63 animal at other times. No police dog that was engaged in the performance of its duties as such at the
64 time of the acts complained of shall be found to be a dangerous dog ~~or a vicious dog~~. No animal that,
65 at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its
66 kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous
67 dog ~~or a vicious dog~~.

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

70 E. The owner of any animal found to be a dangerous dog shall, within 45 days of such finding,
71 obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee
72 of \$150, in addition to other fees that may be authorized by law. The local animal control officer or
73 treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a
74 dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the
75 collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is
76 deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of
77 \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post
78 registration information on the Virginia Dangerous Dog Registry.

79 F. All dangerous dog registration certificates or renewals thereof required to be obtained under this
80 section shall only be issued to persons 18 years of age or older who present satisfactory evidence: (i) of
81 the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed;
82 and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside
83 the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the
84 proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under
85 this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence
86 that: (i) their residence is and will continue to be posted with clearly visible signs warning both minors
87 and adults of the presence of a dangerous dog on the property; and (ii) the animal has been permanently
88 identified by means of a ~~tattoo on the inside thigh~~ ~~or by~~ electronic implantation. All certificates or
89 renewals thereof required to be obtained under this section shall only be issued to persons who present
90 satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000,
91 that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability
92 insurance, to the value of at least \$100,000.

93 G. While on the property of its owner, an animal found to be a dangerous dog shall be confined
94 indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its
95 escape or direct contact with or entry by minors, adults, or other animals. ~~The structure shall be~~
96 ~~designed to provide the animal with shelter from the elements of nature. While so confined within the~~
97 ~~structure, the animal shall be provided for according to § 3.2-6503.~~ When off its owner's property, an
98 animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to
99 cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it
100 from biting a person or another animal.

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

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

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

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

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

119 3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or
120 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.

K. 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.

Any law-enforcement officer or animal control officer who has reason to believe that the owner or custodian of an animal found to be a dangerous dog has willfully failed to comply with the requirements of this section shall apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian 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 dangerous dog and the relevant facts pertaining to his belief that the owner or custodian has failed to comply with the provisions of this section. The animal control officer shall confine the dangerous dog 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.

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 45 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.

L. 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.

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

§ 3.2-6540.1. Vicious dogs; penalties.

A. As used in this section:

"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.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, 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 ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

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 vicious dog 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. 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 vicious. The animal control officer 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 vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.2-6562. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. 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

182 *reasonable doubt.*

183 *C. No canine or canine crossbreed shall be found to be a vicious dog solely because it is a*
184 *particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.*
185 *No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person*
186 *who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or*
187 *custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's*
188 *owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown*
189 *to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog*
190 *that was engaged in the performance of its duties as such at the time of the acts complained of shall be*
191 *found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to*
192 *pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's*
193 *property, shall be found to be a vicious dog.*

194 *D. Any owner or custodian of a canine or canine crossbreed or other animal whose willful act or*
195 *omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so*
196 *gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause*
197 *of such dog or other animal attacking and causing serious injury to any person is guilty of a Class 6*
198 *felony. The provisions of this subsection shall not apply to any animal that, at the time of the acts*
199 *complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a*
200 *person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the*
201 *performance of its duties at the time of the attack.*

202 *E. The governing body of any locality may enact an ordinance parallel to this statute regulating*
203 *vicious dogs. No locality may impose a felony penalty for violation of such ordinances.*

204 **§ 3.2-6570. Cruelty to animals; penalty.**

205 *A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully*
206 *inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or*
207 *cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or*
208 *another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;*
209 *(iii) sores any equine for any purpose or administers drugs or medications to alter or mask such soring*
210 *for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or*
211 *medications is within the context of a veterinary client-patient relationship and solely for therapeutic*
212 *purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to*
213 *any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel,*
214 *brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the*
215 *above things, or being the owner of such animal permits such acts to be done by another is guilty of a*
216 *Class 1 misdemeanor.*

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

221 *B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona*
222 *fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills*
223 *any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers*
224 *drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibit of any kind,*
225 *unless such administration of drugs or medications is under the supervision of a licensed veterinarian*
226 *and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food,*
227 *drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any*
228 *act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions*
229 *described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by*
230 *another; and has been within five years convicted of a violation of this subsection or subsection A, is*
231 *guilty of a Class 6 felony if the current violation or any previous violation of this subsection or*
232 *subsection A resulted in the death of an animal or the euthanasia of an animal based on the*
233 *recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to*
234 *the condition of the animal, and such condition was a direct result of a violation of this subsection or*
235 *subsection A.*

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

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

241 *E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide,*
242 *fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or*
243 *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 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.

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