

CHAPTER 31
FORMERLY
HOUSE BILL NO. 13

AN ACT TO AMEND TITLES 11, 16, AND 22 OF THE DELAWARE CODE RELATING TO DOGS.

WHEREAS, the State of Delaware Office of Animal Welfare has created Delaware Animal Services, an animal control enforcement unit charged with enforcing all animal control laws in the State; and

WHEREAS, the Delaware Code provides a uniform definition for determining whether a dog should be considered a "dangerous animal" based on behavior; and

WHEREAS, the public welfare is best served by consistent application of the law throughout the State of Delaware;

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 1327, Title 11 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and redesignating accordingly:

§ 1327. Maintaining a dangerous animal; class E felony; class F felony; class A misdemeanor.

(a) A person is guilty of maintaining a dangerous animal when such person knowingly or recklessly owns, controls or has custody over any dangerous animal which causes death, serious physical injury or physical injury to another person or which causes death or serious injury to another animal.

(b) For the purposes of this section, "dangerous animal" means any dog or other animal which:

(1) Had been declared dangerous or potentially dangerous ~~by the Dog Control Panel pursuant to subchapter III of Chapter 17 of Title 7 by a Justice of the Peace Court pursuant to subchapter V of Chapter 30F of Title 16;~~

(2) Had been trained for animal fighting, or that has been used primarily or occasionally for animal fighting;

(3) Had been intentionally trained so as to increase its viciousness, dangerousness or potential for unprovoked attacks upon human beings or other animals; or

(4) Has an individualized and known propensity, tendency or disposition, specific to the individual dog, for viciousness, dangerousness or unprovoked attacks upon human beings or other animals.

~~(c) No dog shall be considered dangerous or potentially dangerous solely because of the dog's breed or perceived breed.~~

~~(f)~~(g) In any prosecution under this section it shall be an affirmative defense that at the time of the attack during which physical injury or death was inflicted upon an animal:

(1) The animal which was injured or killed had entered onto the real property of the owner or custodian of the dangerous animal without permission;

(2) The animal which was injured or killed had provoked the attack by menacing, biting or attacking the dangerous animal or its owner or custodian; or

(3) The owner or custodian of the dangerous animal was in full compliance with the applicable provisions of ~~subchapter III of Chapter 17 of Title 7~~ subchapter V of Chapter 30F of Title 16, including the requirements pertaining to confinement, restraint and muzzling.

Section 2. Amend § 3077F, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and redesignating accordingly:

§ 3077F. Finding to declare a dog potentially dangerous; duties of owner.

(a) The Justice of the Peace Court may declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog has done any of the following:

(1) Attacked or inflicted physical injury upon a human being.

(2) Attacked or inflicted serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner.

(3) Chased or pursued a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack on 2 separate occasions within a 12-month period.

(b) No dog may be declared potentially dangerous based solely on the dog's breed or perceived breed.

Section 3. Amend Chapter 1, Title 22 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 116. Dogs.

The municipal governments shall enact no law, ordinance, or regulation relating to dogs, or restrictions on dogs, based on a dog's breed or perceived breed.

Approved June 2, 2017