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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 269

AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO DOGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1327, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1327. Maintaining a dangerous animal; class E felony; class F felony; class A misdemeanor.

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

5 (1) Had been declared dangerous or potentially dangerous by the Justice of the Peace Court or by voluntary
6 acceptance of the dog owner pursuant to ~~under~~ subchapter V of Chapter 30F of Title 16;

7 Section 2. Amend § 3041F, Title 16 of the Delaware Code by making deletions as shown by strike through and
8 insertions as shown by underline as follows and redesignating accordingly:

9 § 3041F. Definitions.

10 As used in this subchapter:

11 (6) “Domestic animal” means any dog, cat, poultry, or livestock.

12 Section 3. Amend § 3048F, Title 16 of the Delaware Code by making deletions as shown by strike through and
13 insertions as shown by underline as follows:

14 § 3048F. Dogs running at large.

15 (a) (1) ~~No dog, unless~~ Unless exempted under this section, ~~shall be permitted to~~ a dog may not run at large outside
16 at any ~~time, and time.~~ A dog must be secured by means of a leash that is capable of physically restraining the movement of
17 the dog. A dog is not at large if it is within the real property limits of its owner, or on private property with permission, or
18 within a vehicle being driven or parked.

19 (3) Allowing a dog to run at large is a ~~violation.~~ violation of this section and carries the following penalties:
20 ~~Any owner or custodian who violates this subsection shall be fined not less than \$25 or more than \$50 for a first~~

21 violation. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less
22 than \$50 or more than \$100. The minimum fine for a subsequent offense is not subject to suspension.

23 a. For a first violation, a civil penalty of \$50.

24 b. For a subsequent violation within 12 months of a prior violation, a civil penalty of \$200. The minimum
25 civil penalty for a subsequent violation may not be suspended.

26 ~~(e) Whoever, being the owner, custodian, possessor, or harbinger of any female dog, allows such dog to run or~~
27 ~~remain at large in this State while in heat shall be fined not less than \$50 nor more than \$100. For each subsequent offense~~
28 ~~occurring within 12 months of a prior offense, the owner, custodian, possessor, or harbinger shall be fined not less than \$100~~
29 ~~or more than \$200. The minimum fine for a subsequent offense shall not be subject to suspension. Allowing a female dog~~
30 ~~to run at large while in heat is a violation.~~

31 (d) Whoever, being the owner, custodian, possessor, or harbinger of any dog that while running at large and without
32 provocation, bites a person, shall be fined not less than \$100 nor more than \$500. For each subsequent offense involving
33 the same dog, such owner, custodian, possessor, or harbinger shall be fined not less than \$750 or more than \$1,500. The
34 minimum fines provided for in this subsection, \$100 for the first offense and \$750 for each subsequent offense, shall not be
35 subject to suspension. human being or domestic animal, provided the domestic animal was on the property of its owner or
36 under the immediate control of its owner, will be penalized as follows:

37 (1) For a first violation, a civil penalty of \$500.

38 (2) For a subsequent violation, a civil penalty of \$1,000. The minimum civil penalty for a subsequent violation
39 may not be suspended.

40 ~~(e) Upon conviction in any court of an offense under subsection (d) of this section, the court shall cause a report to~~
41 ~~be forwarded to the Department. Said report shall contain the name of the defendant, the name of the dog, the license~~
42 ~~number of the dog, the date of the offense, and the date of conviction. The Department shall maintain these reports for a~~
43 ~~period of 3 years.~~

44 Section 4. Amend § 3050F, Title 16 of the Delaware Code by making deletions as shown by strike through and
45 insertions as shown by underline as follows:

46 § 3050F. Dogs deemed personal property; theft; penalty.

47 (c) No person shall may confine any dog which is not that person's own lawful property without contacting the
48 Department within 48 24 hours of confining such dog and providing the Department with a complete description of the dog,
49 the exact location of the premises on which such dog is to be detained, and the name of the owner or tenant of such
50 property.

51 Section 5. Amend § 3054F, Title 16 of the Delaware Code by making deletions as shown by strike through and
52 insertions as shown by underline as follows:

53 § 3054F. Impounding of ~~dog~~ dogs running at large.

54 Any dog found running at large contrary to any of the provisions of this chapter may be impounded and disposed
55 of ~~under such rules and regulations as the Department adopts. as provided for in subchapter I of this chapter and any~~
56 additional rules and regulations the Department may adopt. Any ~~No~~ impounded dog ~~shall not~~ may be disposed of through
57 humane euthanasia without 5 days' ~~written~~ notification to the owner of the dog, if ownership can be determined, unless
58 earlier disposal through humane euthanasia is recommended by a doctor of veterinary medicine.

59 Section 6. Amend § 3071F, Title 16 of the Delaware Code by making deletions as shown by strike through and
60 insertions as shown by underline as follows:

61 § 3071F. Definitions.

62 For the purposes of this subchapter:

63 (11) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes
64 serious and prolonged disfigurement, serious or prolonged impairment of health, or serious or prolonged loss or
65 impairment of the function of any bodily organ.

66 Section 7. Amend § 3073F, Title 16 of the Delaware Code by making deletions as shown by strike through and
67 insertions as shown by underline as follows:

68 § 3073F. Seizure and impoundment of dangerous or potentially dangerous dogs; notification of dog owner;
69 hearing procedures.

70 (c) The owner of any seized and impounded dog has a right to a hearing to determine whether the dog is dangerous
71 or potentially dangerous.

72 (2) Unless the dog owner agrees to the proposed conditions, the Department shall file a civil action with the
73 Justice of the Peace Court within § 15 business days after impoundment of the dog and identification of the dog's
74 owner and notice to the dog owner.

75 Section 8. Amend § 3074F, Title 16 of the Delaware Code by making deletions as shown by strike through and
76 insertions as shown by underline as follows:

77 § 3074F. Exceptions.

78 (a) Notwithstanding ~~§ 3073F of this title, any provision of this chapter,~~ no dog ~~shall~~ may be considered dangerous
79 or potentially dangerous if a physical injury or serious physical injury was sustained by any of the following:

80 (1) A human being who, at the time the injury was sustained, was committing criminal trespass or other tort
81 upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing, or assaulting the dog, its
82 offspring, or its owner, or was committing or attempting to commit a crime.

83 (2) A domestic animal which, at the time the injury was sustained, was teasing, tormenting, abusing, or
84 assaulting the ~~dog~~ dog, its offspring, or its owner.

85 (b) Notwithstanding ~~§ 3073F of this title, any provision of this chapter~~, no dog ~~shall~~ may be considered dangerous
86 or potentially dangerous if the dog was protecting or defending its offspring or a person human being within the immediate
87 vicinity of the dog from an attack or assault.

88 (c) Notwithstanding ~~§ 3073F of this title, any provision of this chapter~~, no military, correctional, or police-owned
89 dogs ~~shall~~ may be considered dangerous or potentially dangerous if the attack or injury to a ~~person~~ human being or
90 domestic animal occurs while the dog is performing duties as expected.

91 Section 9. Amend § 3076F, Title 16 of the Delaware Code by making deletions as shown by strike through and
92 insertions as shown by underline as follows:

93 § 3076F. Finding to declare a dog dangerous; duties of dog owner.

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

96 (1) Killed or inflicted ~~physical injury or~~ serious physical injury upon a human being.

97 (3) Inflicted physical injury upon a human being or a domestic animal after the dog has been declared
98 potentially dangerous under § 3077F of this title.

99 (b) If the Justice of the Peace Court declares a dog to be dangerous, or a dog's owner voluntarily agrees to the
100 designation of dangerous, it ~~shall be~~ is unlawful for any person to keep or maintain such dog unless all of the following
101 occur:

102 (1) The dog is spayed or neutered.

103 (2) The dog owner procures and maintains liability insurance in the amount of at least \$100,000, covering any
104 damage or injury which may be caused by such dog.

105 (3) The dog is confined by its owner within a proper ~~enclosure, and whenever enclosure or, when~~ enclosure or, when outside of
106 the proper ~~enclosure enclosure~~, the dog is all of the following:

107 a. securely ~~Securely muzzled muzzled, and restrained~~

108 b. Restrained by a substantial ~~chain or leash, not exceeding 6 feet, leash that is not retractable and does~~
109 not exceed 6 feet, and

110 ~~c. under~~ Under the physical control of a responsible adult, or caged adult.

111 (4) The dog owner displays, in a conspicuous manner, a sign on the dog owner's premises warning that a
112 dangerous dog is on the premises. The sign ~~shall~~ must be visible and legible from the public highway or 100 feet,
113 whichever is less.

114 (5) The dog owner immediately notifies the Department when the dog is loose, unconfined, has attacked a
115 human being or ~~another~~ a domestic animal, has been moved to another address, or dies.

116 (6) The dog is licensed.

117 (7) The dog is vaccinated for rabies.

118 (8) The dog is microchipped, and the microchip is registered to the owner.

119 ~~(6)~~ (9) The dog owner meets any other condition that the Justice of the Peace Court has deemed reasonable,
120 given the circumstances of the case.

121 Section 10. Amend § 3077F, Title 16 of the Delaware Code by making deletions as shown by strike through and
122 insertions as shown by underline as follows:

123 § 3077F. Finding to declare a dog potentially dangerous; duties of owner.

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

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

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

129 ~~(3) Chased or pursued a person, including a person on a bicycle, upon the streets, sidewalks, or any public or~~
130 ~~private property, other than the dog owner's property, in an apparent attitude of attack on 2 separate occasions within a~~
131 ~~12-month period.~~

132 (3) On more than one occasion, chased or pursued a human being, in an apparent attitude of attack, upon the
133 streets, sidewalks, or any public or private property, other than on the dog owner's property.

134 ~~(4) Caused physical injury to a domestic animal on more than one occasion in a 12-month period, provided~~
135 ~~the domestic animal was on the property of its owner or under the immediate control of its owner.~~

136 (4) On more than one occasion, caused unprovoked physical injury to a domestic animal, if the domestic
137 animal was on the property of its owner or under the immediate control of its owner.

138 (5) On more than one occasion, behaved in a manner which a reasonable person would believe poses a serious
139 and unjustified imminent threat of serious physical injury or death to one or more human beings, companion animals,
140 farm animals, or domestic animals.

141 (c) If the Justice of the Peace Court declares a dog to be potentially dangerous, or a dog's owner voluntarily agrees
142 to the designation of potentially dangerous, it shall be is unlawful for any person to keep or maintain the dog unless all of
143 the following occur:

144 (1) The dog is spayed or neutered, provided the Justice of the Peace Court ordered the spaying or neutering as
145 part of its decision in declaring the dog to be potentially dangerous. neutered.

146 (2) While on the dog owner's property, the dog is kept indoors or within a securely fenced yard or enclosure
147 from which it cannot escape.

148 (3) When off the owner's premises, the dog is all of the following:

149 a. Securely muzzled.

150 b. restrained Restrained by a substantial chain or leash, not exceeding 6 feet, leash that is not retractable
151 and does not exceed 6 feet. and is

152 c. under Under the physical control of a responsible adult.

153 (4) The dog owner displays, in a conspicuous manner, a sign on the dog owner's premises warning that a
154 potentially dangerous dog is on the premises. The sign must be visible and legible from the public highway or 100 feet,
155 whichever is less.

156 (5) The dog owner immediately notifies the Department when the dog is loose, unconfined, has attacked a
157 human being or domestic animal, has been moved to another address, or dies.

158 (6) The dog is licensed.

159 (7) The dog is vaccinated for rabies.

160 (8) The dog is microchipped, and the microchip is registered to the owner.

161 (4) (9) The dog owner meets any other condition that the Justice of the Peace Court has deemed reasonable,
162 given the circumstances of the case.

163 (d) ~~If there are no additional instances of the behavior described in subsection (a) of this section within a 24-month~~
164 ~~period from the date the dog is declared potentially dangerous, the dog shall no longer be deemed a potentially dangerous~~
165 ~~dog.~~

166 Section 11. Amend § 3079F, Title 16 of the Delaware Code by making deletions as shown by strike through and
167 insertions as shown by underline as follows:

168 § 3079F. Violations by owners of dangerous or potentially dangerous dogs; penalties.

169 (a) For a violation of ~~§ 3076F(b)(4) or (b)(6) or § 3077F(c)(1), (c)(2), (c)(3) or (c)(4)~~ of this title, the owner of the
170 dangerous dog or potentially dangerous dog shall be fined not less than \$50 nor more than \$100. For a subsequent offense
171 within 3 years of the original court ruling or acceptance of conditions concerning dangerous or potentially dangerous dogs,
172 the owner shall be fined not less than \$100 or more than \$200.

173 (b) For a violation of ~~§ 3076F(b)(1) or (b)(5)~~ of this title, the owner of the dangerous dog shall be fined not less
174 than \$100 or more than \$250. For a subsequent offense within 3 years of the original court ruling or acceptance of
175 conditions concerning dangerous or potentially dangerous dogs, the owner shall be fined not less than \$250 or more than
176 \$500.

177 (c) For a violation of ~~§ 3076F(b)(2), (b)(3), or (c)~~ of this title, the owner of the dangerous dog shall be fined not
178 less than \$250 or more than \$1,000. For a subsequent offense within 3 years of the original court ruling or acceptance of
179 conditions concerning dangerous or potentially dangerous dogs, the owner shall be fined not less than \$500 or more than
180 \$2,000.

181 (a) Possessing a dangerous dog in violation of § 3076F(b) of this title or a potentially dangerous dog in violation of
182 § 3077F(c) of this title is punishable as follows:

183 (1) For a first violation, a civil penalty of \$500.

184 (2) For a subsequent violation, a civil penalty of \$1,000.

185 (d) (b) After a dog has been declared dangerous under § 3076F(a) of this title, only a dog that, without
186 provocation, kills, attacks, or inflicts physical injury or serious physical injury upon a human being or domestic animal
187 shall must be seized and impounded by the Department and disposed of by euthanasia in accordance with subchapter I of
188 this chapter. For purposes of this subsection, “provocation” means any of the exceptions to finding a dog dangerous or
189 potentially dangerous contained in ~~3074F(a)~~ § 3074F(a) or (b) of this title.

190 (e) (c) After a dog has been declared potentially dangerous under § 3077F of this title, a dog that ~~inflicts physical~~
191 ~~injury upon a domestic animal, or a dog that chases or pursues a person, including a person on a bicycle, upon the streets,~~
192 ~~sidewalks, or any public or private property, other than on the dog owner’s property, in an apparent attitude of attack, the~~
193 ~~dog shall~~ commits any of the acts listed under § 3077F(a) of this title must be seized and impounded by the Department and
194 the Department may file a civil action for a hearing to determine whether the dog is ~~dangerous.~~ dangerous or the dog owner
195 may voluntarily accept the designation of dangerous.

196 ~~(f)~~ (d) Any ~~fine~~ civil penalty imposed for a violation of this subchapter may not be suspended to any amount less
197 than the minimum prescribed ~~fine~~. civil penalty. The Justice of the Peace Court shall remit all ~~fin~~es civil penalties imposed
198 ~~following a conviction~~ for violation of this subchapter to the Department.

199 Section 12. Amend § 3081F, Title 16 of the Delaware Code by making deletions as shown by strike through and
200 insertions as shown by underline as follows:

201 § 3081F. Disposition of dogs determined to be dangerous or potentially dangerous or nondangerous; appeal.

202 (a) If the Justice of the Peace Court determines that a dog is dangerous, the Court may direct the Department to
203 dispose of the dog by euthanasia in accordance with subchapter I of this chapter. If the Justice of the Peace Court
204 determines the dog is dangerous but does not order euthanasia, or the dog owner voluntarily accepts the designation of
205 dangerous, the dog owner shall must comply with all conditions that the Court orders under ~~§ 3076F(b)(6)~~ § 3076F(b) of
206 this title, within 30 days from the date of the order. The Justice of the Peace Court may order the dog to remain in the
207 custody of the State until all conditions have been met.

208 (b) If the Justice of the Peace Court determines that a dog is potentially dangerous, or the dog owner voluntarily
209 accepts the designation of potentially dangerous, the dog owner shall must comply with all conditions that the Court orders
210 under ~~§ 3077F(e)(4)~~ § 3077F(c) of this title, within 30 days from the date of the order. The Justice of the Peace Court may
211 order the dog to remain in the custody of the State until all conditions have been met.

SYNOPSIS

This Act simplifies and in some cases increases the civil penalties for violations of laws related to dogs that run at large, dogs that bite a human being or domestic animal while running at large, and dogs that are designated as dangerous or potentially dangerous. It also expands the requirements for keeping or maintaining a dangerous or potentially dangerous dog to include provisions related to licensing, vaccination, microchipping, and leashing.

The Act also makes changes to procedures of the Department of Health and Social Services (“the Department”) relating to dogs, including the following:

- (1) It removes an unused provision requiring that notification of the impoundment of a running at large dog be made to the dog owner in writing.
- (2) It gives the Department 15 days, rather than 5 days, to file a civil action after impounding a dog and identifying and informing the dog owner.
- (3) It changes from 48 to 24 the number of hours that an individual can confine a dog that is not the individual’s own before contacting the Department to report the dog.

Senate Substitute No. 1 for Senate Bill No. 269 differs from Senate Bill No. 269 as follows:

- (1) It removes a provision that would have increased the amount of liability insurance that a dangerous dog owner must carry.
- (2) It expands the definition of “serious physical injury” to include injuries that pose serious or prolonged impairment to health and serious or prolonged loss or impairment of the function of any bodily organ.
- (3) It removes inaccurate cross-references from § 3074F and replaces them with references to the entire chapter.
- (4) It provides that a dog will not be considered dangerous or potentially dangerous if it injures a human being who is teasing, tormenting, abusing, or assaulting the dog’s owner or its offspring, in addition to the dog. The current § 3074F only allows this exception for torment, abuse, or assault of the dog itself.

- (5) It changes one of the criteria for declaring a dog dangerous to provide that the injury to the human being must be a serious physical injury.
- (6) It adds the definition of “domestic animal” that appears in § 3071F to § 3041F.
- (7) Throughout the bill, it changes “person” to “human being” when needed for accuracy and consistency.

Senate Substitute No. 1 for Senate Bill No. 269 Act also corrects minor technical errors in Senate Bill No. 269 and makes additional technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Townsend