



SPONSOR: Rep. Morrison & Rep. Minor-Brown & Sen. Gay
Reps. Baumbach, Gray, Ramone, Wilson-Anton; Sen.
Hocker

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 124
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 7 AND TITLE 16 OF THE DELAWARE CODE RELATING TO NOISE CONTROL AND ENFORCEMENT OF LAWS FOR PROTECTION AND CONTROL OF ANIMALS AND BARKING DOGS.

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

Section 1. Amend §7105, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 71. Noise Control and Abatement

Subchapter I. Nonvehicle Provisions

§ 7105. Administration of chapter; applicability of subchapter.

(a) The Secretary of the Department of Natural Resources and Environmental Control or the Secretary's duly authorized designee shall exercise general supervision over the administration of this chapter and, in conjunction with the various law-enforcement agencies of this State, the enforcement of this chapter, and shall have jurisdiction over noise emanating from motor vehicles to the extent of approving standards, codes and regulations proposed by the Secretary of the Department of Safety and Homeland Security.

(b) The Secretary of the Department of Safety and Homeland Security shall exercise general supervision over the administration and enforcement of this chapter with regard to noise emanating from motor vehicles.

(c) This subchapter shall not apply to noise caused or created by the work of any public service company incident to the repair or maintenance of its equipment or facilities which may have been damaged or destroyed as the result of any emergency situation including but not limited to acts of God, accidents and explosions.

(d) This subchapter shall not apply to any noise or noise disturbance caused or created by a dog or any other animal.

Section 2. Amend Subchapter III, Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter III. Enforcement of Animal Welfare Laws

§ 3031F. Powers, duties, and functions of animal welfare officers of the Department of Health and Social Services and the Department of Agriculture.

(a) The Office of Animal Welfare within the Department of Health and Social Services shall enforce all animal cruelty laws in the State, except in cases of domestic agricultural animals specified in § 101(8) of Title 3, where the Department of Agriculture shall have primary enforcement authority. In cases of imminent danger, the Office of Animal Welfare and the Department of Agriculture shall have concurrent jurisdiction to seize and impound an animal and take any other necessary step to alleviate the imminent danger or preserve evidence.

(b) The Office of Animal Welfare within the Department of Health and Social Services shall enforce all dog control, dog barking laws, dangerous dog and animal fighting laws, and laws concerning the maintenance of a dangerous animal in the State.

(c) The Office of Animal Welfare is a “law-enforcement agency” for purposes of § 8901B of Title 11 and any other purpose relating to communication and access to criminal justice information.

(d) Animal welfare officers of the Office of Animal Welfare or Department of Agriculture shall be trained and certified pursuant to § 122(3)bb. of this title.

(e) Animal welfare officers of the Office of Animal Welfare shall have the power to investigate, search, seize, detain and arrest when investigating and enforcing animal cruelty and fighting, dog control, dog barking, or dangerous animal laws.

(f) The Department of Agriculture shall have the power to investigate, search, seize and issue criminal summons when investigating and enforcing animal cruelty laws.

(g) Animal welfare officers of the Office of Animal Welfare and the Department of Agriculture shall have no police powers to investigate or enforce laws other than those related to animal cruelty or fighting, dog control, dog barking, or dangerous animal laws.

(h) Animal welfare officers of the Office of Animal Welfare or the Department of Agriculture shall not be permitted to carry firearms while on duty as such.

§ 3032F. Enforcement of laws for protection and control of animals.

~~The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture in the enforcement of all laws which are enacted for the protection of animals. All police~~

officers shall, as occasion requires, assist the Office of Animal Welfare and the Department of Agriculture, in the enforcement of all laws which are enacted for the protection and control of animals.

§ 3033F. Fines and penalties in certain cases; disposition penalties.

All fines, penalties and forfeitures, imposed and collected in ~~any county~~ of the State under every act relating to or affecting cruelty to animals, animal fighting, dog control, dog barking, or dangerous animals, shall be remitted to the enforcing agency.

Section 3. Amend Subchapter IV, Chapter 30F, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter IV. General Provisions Concerning Dogs

§3057F. Barking Dogs.

(a) No person who owns, possesses, harbors, or controls a dog may allow the dog to cause a noise disturbance by barking, whining, or howling for an extended period. An extended period means continuously for a period of 15 minutes or, intermittently, for 30 minutes or more.

(b) No violation under subsection (a) exists if the dog is making a noise disturbance during the following events:

- (1) A person is trespassing or threatening to trespass upon private property where the dog is located,
- (2) An animal is intruding upon private property where the dog is located.
- (3) The dog is being teased or provoked.

(c) No violation under subsection (a) exists if, at the time the dog is making a noise disturbance, the dog is in any of the following locations:

- (1) Animal shelter.
- (2) Pet store.
- (3) Dog grooming facility
- (4) Veterinarian office.
- (5) Animal clinic.

(d) No violation under subsection (a) exists if, at the time the dog is making a noise disturbance, the dog is engaged in any of the following activities:

- (1) Dog training.
- (2) Dog exhibition.
- (3) Lawful performance competitions.
- (4) Hunting.

(5) Herding.

(6) Performing its duties as a service dog.

(7) Livestock guarding.

(8) Attending dog day care facilities.”

“(9) Attending dog boarding facilities.

(e) A person who violates subsection (a) shall be subject to the following penalties:

(1) For a first violation a written warning.

(2) For a second violation, only if it occurs 7 days or more after the first violation, a civil penalty of \$50.

(3) For a third violation a civil penalty of \$100.

(4) For each subsequent violation a civil penalty of \$150.

~~§ 3057F.~~ §3058F. State dog law management.

(a) In order to enforce this subchapter, the Department or a municipality shall authorize the hiring of, or contract for, sufficient animal welfare officers to accomplish the purposes of this subchapter.

(b) All animal welfare officers shall be uniformed and shall be adequately trained, certified, and equipped to enforce the dog control laws and ordinances of the State or any of its political subdivisions, including municipalities.

(c) ~~In addition to animal welfare officers, all police officers may enforce the dog control laws and ordinances of the State or any of its political subdivisions.~~ All police officers shall, as occasion requires, assist the animal welfare officers in the enforcement of the dog control laws and ordinances of the State or any of its political subdivisions.

~~§ 3058F.~~ §3059F. Rules and regulations.

The Department may adopt, amend, modify, or repeal ordinances, rules, and regulations to effectuate the policy and purposes of this chapter.

Section 4. This Act takes effect 1 year after its enactment.