



SPONSOR: Sen. McBride & Rep. Maier
Sens. Blevins, Marshall, Sokola &
Simpson; Reps. Spence & Oberle

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 355

AN ACT TO AMEND CHAPTER 17 OF TITLE 7 OF THE DELAWARE CODE RELATING TO DANGEROUS
AND POTENTIALLY DANGEROUS DOGS.

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

1 Section 1. Amend § 1730(3), Title 7, Delaware Code, by inserting the phrase “or any potentially
2 dangerous dog kept or maintained in violation of § 1736(b) of this title” between the word “title” and the
3 period “.”.

4 Section 2. Amend § 1730, Title 7, Delaware Code, by redesignating paragraph (10) as paragraph
5 (11), and by adding thereto a new paragraph (10) to read as follows:

6 “(10) ‘Proper enclosure’ shall mean securely confined indoors or a securely enclosed and locked
7 pen or structure, suitable to prevent the entry of young children and designed to prevent the dog from
8 escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection
9 from the elements for the animal. If the pen or structure has no bottom secured to the sides, the sides
10 must be embedded at least 2 feet into the ground.”

11 Section 3. Amend § 1731(2), Title 7, Delaware Code, by striking paragraph (2) in its entirety and
12 substituting in lieu thereof the following:

13 “(2) A member of 1 or more American Kennel Club licensed or member dog clubs for at least 5
14 years;”

15 Section 4. Amend § 1731(3), Title 7, Delaware Code, by striking the phrase “American Pet Dog
16 Trainers Association” and substituting in lieu thereof the phrase “Association of Pet Dog Trainers”, and
17 by striking the word “and” as it appears after the semicolon.

18 Section 5. Amend § 1731, Title 7, Delaware Code, by redesignating paragraph (4) as paragraph
19 (5), and by adding thereto a new paragraph (4) to read as follows:

20 “(4) A police officer who is a member of the Delaware State Police, a member of the New Castle
21 County Police, or a member of the police department, bureau, or force of any incorporated city or town;
22 and”

23 Section 6. Amend § 1731(b), Title 7, Delaware Code, by striking the phrase “, appointed pursuant
24 to 3 out of the 4 paragraphs in subsection (a) of this section,”.

25 Section 7. Amend § 1732(d), Title 7, Delaware Code, by inserting the phrase “, unless a delay is
26 requested by the owner and approved by the Panel” between the word “dismissed” and the period.

27 Section 8. Amend § 1734(a), Title 7, Delaware Code, by striking the second sentence and
28 substituting in lieu thereof the following:

29 “At such hearing, the owner shall have the right to appear either personally or by counsel or both,
30 to produce witnesses and evidence on his/her own behalf and to cross-examine witnesses.”

31 Section 9. Amend § 1734, Title 7, Delaware Code, by striking subsections (b) and (c) in their
32 entirety and substituting in lieu thereof the following:

33 “(b) All hearings shall be informal and open to the public, and need not conform to standard rules
34 of evidence. Hearsay evidence shall be allowed but may not be relied upon as the sole evidence in the
35 Panel’s determination. Deliberations of the Panel may be conducted in executive session. The Panel
36 shall determine whether the dog in question should be declared dangerous or potentially dangerous, and
37 shall announce its decision at the conclusion of the hearing. After announcing its decision, the Panel shall
38 provide the owner with written notice of the action taken. The decision of the Panel is final.

39 (c) If a dog is determined to be dangerous, the Panel may direct the animal control agency to
40 dispose of the dog by euthanasia in accordance with Chapter 80 of Title 3. If euthanasia is not ordered,
41 the owner shall comply with § 1735(b) of this title, except that the animal control agency may grant said

owner up to 30 days from the date of the determination to comply with § 1735(b)(1) through (3) of this title. If a dog is determined to be potentially dangerous, the owner shall comply with § 1736(b) of this title, except that the animal control agency may grant said owner up to 30 days from the date of the determination to comply with § 1736(b)(1) of this title.

(d) Notwithstanding subsection (b) of this section, if a dog is determined to be dangerous and the Panel directs the animal control agency to dispose of the dog by euthanasia, the owner may appeal the Panel's decision to the Court of Common Pleas within 10 days of the receipt of the Panel's decision. The appeal and review shall be conducted according to the provisions governing judicial review of case decisions under the Administrative Procedures Act (Chapter 101 of Title 29) that are not inconsistent with this subsection. The filing of an appeal shall act as a stay of the Panel's decision, pending final disposition of the appeal."

Section 10. Amend § 1735(a)(1), Title 7, Delaware Code, by inserting the word "or" after the semicolon.

Section 11. Amend § 1735(b), Title 7, Delaware Code, by striking the phrase "and no appeal is made of this ruling pursuant to § 1734(c) of this title,".

Section 12. Amend § 1735(b)(3), Title 7, Delaware Code, by striking the phrase "an enclosure that satisfies the enclosure requirements adopted by the Department of Agriculture pursuant to Chapter 72 of Title 3, and whenever off the premises of its owner" and substituting in lieu thereof the phrase "a proper enclosure, and whenever outside of the proper enclosure".

Section 13. Amend § 1735(b)(4), Title 7, Delaware Code, by inserting the word "and" after the semicolon.

Section 14. Amend § 1735(b), Title 7, Delaware Code, by striking paragraphs (5) and (6) in their entirety and substituting in lieu thereof the following:

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

Section 15. Amend § 1735, Title 7, Delaware Code, by adding thereto a new subsection to read as follows:

“(c) It shall be unlawful for the owner of a dangerous dog to sell, offer for sale or give away said dog to any other person or entity other than an animal control agency. If a dangerous dog is given to an animal control agency, the dog shall be disposed of by euthanasia in accordance with Chapter 80 of Title 3.”

Section 16. Amend § 1736(b), Title 7, Delaware Code, by striking the phrase “and no appeal is made of this ruling pursuant to § 1734(c) of this title,”.

Section 17. Amend § 1736(b), Title 7, Delaware Code, by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding thereto a new paragraph (1) to read as follows:

“(1) The dog is spayed or neutered, provided the Panel ordered the spaying or neutering as part of its decision in declaring the dog to be potentially dangerous;”

Section 18. Amend § 1739(a), Title 7, Delaware Code, by striking the phrase “or (b)(2)” and substituting in lieu thereof the phrase “, (b)(2) or (b)(3)”.

Section 19. Amend § 1739(b), Title 7, Delaware Code, by striking the phrase “, (b)(5) or (b)(6)” and substituting in lieu thereof the phrase “or (b)(5)”.

Section 20. Amend § 1739(c), Title 7, Delaware Code, by striking phrase “or (b)(3)” and substituting in lieu thereof the phrase “, (b)(3) or (c)”.

Section 21. Amend § 1739(d), Title 7, Delaware Code, by striking the phrase “, except that no dog may be destroyed during the pendency of an appeal”.

Section 22. Amend Chapter 17, Title 7, Delaware Code, by adding thereto a new section to read as follows:

“§ 1740. Local ordinances.

Nothing in this subchapter shall be construed to prevent a county or municipality from adopting or enforcing its own program for the control of dangerous or potentially dangerous dogs.”

Section 23. Amend § 1737, Title 7, Delaware Code, by striking the phrase “and no appeal has been made or all appeals have been exhausted,”.

SYNOPSIS

The State's "dangerous dog law" authorizes an animal control agency (i.e., Delaware SPCA and Kent County SPCA) to seize and impound a dog for behavior that makes it a candidate for a "dangerous" or "potentially dangerous" designation. After the dog is seized and impounded, the owner is notified of his or her right to a hearing before the "Dog Control Panel." The 5-member panel is made up of experts on dog handling and control (e.g., a veterinarian, a professional dog obedience trainer, etc.), appointed by the Secretary of the Department of Natural Resources and Environmental Control. If the dog owner disagrees with the decision made by the panel, the decision may be appealed to the Court of Common Pleas.

This Act reflects lessons learned from panel hearings, the appeal of a panel's decision to the Court of Common Pleas, and the implementation of the law by the animal control agencies. This Act adjusts the composition of the panel to include a police officer; allows the panel to meet in executive session; authorizes the panel to order the spaying/neutering of a potentially dangerous dog; and makes panel decisions. This Act also prohibits the owner of a dangerous dog from selling or giving away said dog; defines the term "dangerous dog" to include a potentially dangerous dog that is not being controlled as required; and permits a county or municipality to adopt its own "dangerous dog law."

Author: Sen. McBride