SPONSOR: Sen. Blevins & Rep. Jaques & Sen. Peterson
Sens. Bushweller, Ennis, Henry; Reps. Bentz, Bolden, Heffernan, Mulrooney, Osienski, M. Smith, Wilson, Baumbach

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 217

AN ACT TO AMEND TITLES 3, 9, 10, AND 16 OF THE DELAWARE CODE AND CHAPTERS 375, VOLUME 79 OF THE LAWS OF DELAWARE RELATING TO STRAY LIVESTOCK, DOGS, DANGEROUS DOGS AND ANIMAL CONTROL.

WHEREAS, the 148th General Assembly directed the State Office of Animal Welfare, under the Department of Health and Social Services, to consolidate animal control enforcement activities at the state level; and

WHEREAS, the Office of Animal Welfare created Delaware Animal Services, an animal control enforcement unit, for the purposes of enforcing all animal control and rabies control laws; and

WHEREAS, the Office of Animal Welfare is currently enforcing all dog control and dangerous dog laws, and the Department of Agriculture has jurisdiction concerning stray livestock.

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 Chapter 77, Title 3 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7704 Sale of Strays.

(b) At the time fixed in the advertisement, the person having the livestock in charge shall proceed to sell the livestock, but may postpone the sale for good and sufficient cause. The proceeds of the sale, after deducting all legal charges, shall be deposited with the clerk of the peace of the county in which the proceedings took place. The clerk shall hold the proceeds for 6 months, unless sooner claimed by some person proving himself or herself to be the real owner of the livestock. If not so claimed, the proceeds shall be turned over to the ~~S.P.C.A. of the county in which the proceedings took place.~~ Department of Agriculture.

§ 7707. Enforcement; disposition of fines.

The Delaware State Police, local police officers of the community in which the offense took ~~place~~ place, and agents of the ~~Delaware S.P.C.A.~~ Department of Agriculture shall enforce this chapter prohibiting livestock running at large. All fines imposed for violations of the stray livestock laws shall be paid to the ~~State Treasurer for deposit into the State~~

~~General Fund.~~ Department of Agriculture. The Department of Health and Social Services' animal welfare officers shall assist the Department of Agriculture, at the request of the Department of Agriculture.

Section 2. Amend § 8202, Title 3 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8202. Definitions.

(b) The term ~~"animal control officer"~~ "animal welfare officer" shall mean a person employed by the ~~state, county, city or an animal control agency~~ Department of Health and Social Services or Department of Agriculture as an enforcement officer.

Section 3. Amend § 8204, Title 3 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8204. Rabies vaccination required for dogs and cats; antirabies clinics.

(a) *Vaccination of dogs.* —

(2) Upon request by an animal ~~control~~ welfare officer, the Department of ~~Agriculture~~ Agriculture, or the Division of Public Health, all owners of kennels, excluding licensed boarding kennels, shall present immediately a valid rabies vaccination certificate, signed by ~~the~~ a veterinarian, for each dog 6 months of age or older owned by the kennel. Kennel owners will be specifically responsible for keeping all vaccination certificates for all dogs owned or kept at their premise until at least 12 months after the effective expiration date of the vaccination. If a dog is sold or traded, then the valid vaccination certificate shall be given to the new owner of the dog. If no valid certificate is given to the new owner, the new owner shall have the dog vaccinated and be issued a valid vaccination certificate.

(b) *Vaccination of cats.* — Any person owning a cat 6 months of age or older in this State shall have the cat vaccinated against rabies by a veterinarian. The owner of the cat will be responsible for keeping a valid rabies vaccination certificate in his possession for inspection by an animal ~~control~~ welfare officer, the Department of Natural Resources and Environmental Control, the Department of ~~Agriculture~~ Agriculture, or the Division of Public Health.

(c) *Vaccination of ferrets.* — Any person owning a ferret 6 months of age or older in this State shall have the ferret vaccinated against rabies by a veterinarian. The owner of the ferret is responsible for keeping a valid rabies vaccination certificate in that owner's possession for inspection by an animal ~~control~~ welfare officer, the Department of Natural Resources and Environmental Control, the Department of Agriculture, or the Division of Public Health.

Section 4. Amend Section 1, Chapter 375, Volume 79 of the Laws of Delaware by striking said Section in its entirety.

Section 5. Amend Title 9 and Title 16 of the Delaware Code by transferring Subchapter I, Chapter 9 of Title 9 to Title 16, redesignating present §§ 901 through 919 of Title 9 as §§ 3041F through 3059F of Chapter 30F of Title 16 and then by making deletions as shown by strike through and insertions as shown by underline as follows:

SUBCHAPTER IV. GENERAL PROVISIONS CONCERNING DOGS.

§ 3041F. Definitions.

~~The following words and phrases shall have the meaning ascribed to them in this chapter unless the context clearly indicates otherwise:~~ As used in this subchapter:

(1) "Animal shelter" ~~shall mean a facility which is used to house or contain animals and which is owned, operated or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other not-for-profit organization devoted to the welfare, protection and humane treatment of such animals.~~ means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and is operated, owned, or maintained by an incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. "Animal shelter" does not mean individuals providing temporary foster care to animals in their home or animal rescue groups sheltering animals on an individual's private property.

~~(2) "County" shall mean New Castle, Kent and Sussex Counties as these territorial political subdivisions within the State are delineated respectively in Chapter 1 of this title.~~

(3) ~~"Dog control agent" shall mean~~ "Animal welfare officer means an individual employed by ~~a county,~~ the Department or employed by an independent contractor of ~~a county,~~ the Department for the purpose of enforcing dog control laws, rules, ~~regulations~~ regulations, and ordinances.

(4) "Department" means the Department of Health and Social Services.

(5) "Dog" means any dog or dog hybrid.

(6) "Owner" means any person who owns, keeps, harbors, or is the custodian of a dog.

(7) "Primary enclosure" ~~shall mean~~ means any structure used or designed for use to restrict a dog to a limited amount of space, ~~including, but not limited to,~~ including a room, pen, cage, ~~compartment~~ compartment, or hutch.

(8) "Retail dog outlet" ~~shall mean~~ means any premises where dogs are sold, or offered or maintained for sale, on a retail basis. ~~The term shall not include:~~ "Retail dog outlet" does not mean any of the following:

a. Dogs which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such ~~premises;~~ premises.

b. The selling of a single litter of puppies or any part thereof during a calendar ~~year; or~~ year.

c. Any publicly operated or private, ~~charitable~~ charitable, or nonprofit animal shelter, pound, humane society, or animal rescue organization.

§ 3042F. Fees for dog ~~and kennel~~ licenses; terms.

(a) *Dog licenses.* — ~~Each county~~ The Department shall issue dog licenses and may, under § 3045F of this title, authorize agents to issue dog licenses. ~~Every dog owner shall obtain said dog license in the county in which the dog owner resides or where the retail dog outlet is located. Any dog license purchased from the Department of Natural Resources and Environmental Control shall remain valid through the expiration date noted, at which time a license must be purchased from the county. The counties, in their~~ The Department, in its discretion, shall set ~~the~~ approximate, reasonable and necessary license fees and provide applications for the following dog licenses:

(1) *Individual dog owner licenses.* — ~~Except for persons residing within the corporate limits of the City of Wilmington, the~~ The owner of any ~~dog,~~ dog 6 months of age or ~~older, on or before March 1,~~ older shall apply to the ~~county~~ Department or its duly authorized agents on a form prescribed by the ~~county~~ Department for an individual dog owner license for such dog. All individual dog owner licenses shall be valid ~~through December 31, and the valid period of the license is to be determined by the county but may not exceed 3 years. The counties may, in their discretion, charge up to $10, on an annual basis, for an individual dog owner license for a spayed or neutered dog and up to $15, on an annual basis, for an individual dog owner license for an unspayed or unneutered dog.~~ from the date of purchase for a period of time which the Department shall determine. The Department shall set approximate, reasonable and necessary fees for dog licenses for spayed or neutered dogs and unneutered dogs.

(2) *Retail dog outlet licenses.* — Each owner of a retail dog outlet in the State must apply to the ~~county~~ Department for a retail dog outlet license on ~~or before March 1~~ an annual basis. A retail dog outlet license shall be valid ~~through December 31 but may not exceed 1 year~~ for 1 year from the date of purchase.

(3) *Kennel licenses.* — Any person who maintains a kennel wherein more than 4 dogs are kept for show, trial, sale, ~~breeding~~ breeding, or other purposes may apply to the ~~county in which the kennel owner resides~~ Department, or its ~~duly authorized~~ agents authorized under § 3045F of this title, on a form prescribed by the ~~county~~ Department for a kennel license in lieu of an individual dog owner license for each dog. Kennel licenses shall be valid ~~through December 31, and shall not be valid for more than 1 calendar year~~ for 1 year from the date of purchase.

(4) ~~*Lost or stolen dog licenses or tags*~~ *Replacement dog licenses or tags.* — ~~Each county~~ The Department shall adopt a policy to issue a replacement individual dog owner license, retail dog outlet ~~license~~ license, or kennel license, or the tags accompanying such license, and shall set the fees for such replacement licenses or tags.

~~(5) The license fee limitations of $10 for a spayed or neutered dog and $15 for an unspayed or unneutered dog as set forth in paragraph (a)(1) of this section shall expire July 22, 2011, unless otherwise provided by a subsequent act of the General Assembly.~~

(b) Upon application and payment of the fee for an individual dog owner license, retail dog outlet license, or kennel license, the applicant shall be entitled to receive a license, provided proof of a currently valid rabies vaccination or other documentation required by the Department can be presented for each dog for which the license is sought. Each individual dog owner license, retail dog outlet ~~license~~ license, and kennel license shall show the date on which the license fee is paid. The ~~county~~ Department, or its ~~duly authorized~~ agent authorized under § 3045F of this title, shall issue each license showing the year for which the license is paid and the serial number of the license. Each issued license ~~will~~ must be accompanied by either a metal tag or an alternative method of identification, such ~~as, but not limited to,~~ as a microchip or tattoo. In the event a dog tag is issued, the tag shall be of a design to be adopted by the ~~county~~ Department, and shall be affixed to the collar by the owner of such dog. Dog collars with associated ~~county~~ state tags may be removed and need not be worn at all times when the dog is licensed ~~as [sic]~~ under a kennel or retail dog outlet and is housed in an enclosure or a pen. If the collar has been removed, a valid dog tag and license must be readily available for review by ~~a dog control agent~~ an animal welfare officer as proof that the individual dog is licensed. Dogs engaged in the act of hunting are exempted from wearing ~~county~~ tags while they are in the act of hunting, but individuals hunting with dogs must have some means of valid identification on the dog, and a valid dog tag and license must be available for review by ~~a dog license agent~~ an animal welfare officer while the dog is in the act of hunting.

(c) Whoever fails to secure a valid dog license, retail dog ~~dealer's license~~ outlet's license, or kennel license ~~for the calendar year on or before March 1, or when otherwise~~ when required by this section shall be fined not less than $50. The ~~county~~ Department may impose fines in excess of $50. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than $100. The ~~county~~ Department may impose fines in excess of $100 for subsequent offenses. The minimum fine for a subsequent offense shall not be subject to suspension. Conviction for the failure to pay the license tax is a violation.

(d) ~~Each county~~ The Department may revoke any individual dog owner license, retail dog outlet ~~license~~ license, or kennel license previously issued ~~by said county~~, and may deny any person the right to secure any such license for a period of time within the Department's discretion, if the licensee or person has been convicted of animal cruelty under the laws of Delaware or any state or federal law.

(e) The license fee set by the ~~county~~ Department pursuant to subsection (a) of this section shall not be required to be paid when the dog is one which qualifies as a seeing eye, ~~lead~~ lead, or guide dog or as a dog which has previously served

in a branch of the United States armed forces. The ~~county~~ Department shall issue either a metal license tag or an alternative method for identification in accordance with subsection (b) of this section ~~to such persons~~ for such dogs without the necessity of the payment of the dog license fee.

(f) Individual, retail, or kennel licenses previously issued by a county or the City of Wilmington remain valid until their predetermined expiration dates.

§ 3043F. Inspections of facilities and premises; suspension of kennel or retail dog ~~dealer~~ outlet license.

(a) ~~Dog control agents~~ Animal welfare officers are hereby authorized to inspect the facilities for which a kennel or retail dog outlet license is sought or obtained during normal business hours or by appointment for the purpose of ascertaining whether the facilities satisfy the requirements specified in § 3044F of this title for the humane handling, care and treatment of dogs ~~specified in § 3044F of this title. It shall be unlawful for any person to refuse~~ No person may refuse admittance to ~~a dog control agent~~ an animal welfare officer for the purpose of making inspections.

(b) Any ~~dog control agent~~ animal welfare officer having probable cause to believe a violation of § 3044F of this title has or is taking place may enter upon the premises of the owner or custodian of any dog subject to such violation for purposes of investigating whether a violation of § 3044F of this title has ~~occurred;~~ occurred, provided that the investigation can be conducted without the animal welfare officer having to enter a dwelling house or other structure used in connection therewith. ~~A dog control agent~~ An animal welfare officer may enter into a dwelling house or other structure only under either of the following circumstances:

~~with~~ (1) With the permission of the owner or occupant ~~thereof or~~ of the dwelling house or other structure.

~~pursuant~~ (2) Pursuant to a legally obtained search ~~warrant, and is~~ warrant and while accompanied by a police ~~officer or is~~ officer. The animal welfare officer is not required to be accompanied by a police officer under this subsection if the animal welfare office is also a police officer as that term is defined in § 1911 of Title 11.

(c) If, upon inspection or investigation, the premises or facilities are found not to satisfy the requirements specified in § 3044F of this title for the humane handling, ~~care~~ care, and treatment of dogs ~~specified in § 3044F of this title~~, the operator of such premises or facilities shall be issued a warning identifying the deficiencies. Such operator shall have a warning period of a minimum of 10 business days to bring the premises or facility into compliance with § 3044F of this ~~title; provided, that this time period may be extended by the county, at its discretion, for~~ title, but the Department may extend the warning period by up to 60 days. If, upon expiration of the warning period, such premises or facilities have not been brought into compliance, the operator shall be fined in accordance with the terms specified in ~~[former] § 714 of Title 7 [repealed]~~ § 107(a) of Title 16. The ~~county~~ Department may also issue an order suspending the kennel license or retail dog outlet license, if any, until the cited deficiencies are remedied. The licensee ~~shall be~~ is entitled to an administrative review

of such order as established by the ~~county~~ Department in accordance with the Administrative Procedures Act [§ 10101 et seq. of Title 29].

(d) Whenever the ~~county~~ Department suspends a license in accordance with this section, ~~a dog control agent~~ an animal welfare officer may seize and impound any dog in possession, ~~custody~~ custody, or care of the person whose license is suspended if there are reasonable grounds to believe that the dog's health, ~~safety~~ safety, or welfare is endangered.

§ 3044F. Specifications for the humane handling, ~~care~~ care, and treatment of dogs.

(a) *General facilities.* —

(2) *Storage.* — Supplies of food and bedding shall be stored in a manner that protects the supplies from spoilage, ~~contamination~~ contamination, and vermin infestation. Foods requiring refrigeration shall be stored accordingly.

(3) *Drainage and waste disposal.* — Provision shall be made for the regular collection, ~~removal~~ removal, and disposal of animal and food wastes, bedding, ~~debris~~ debris, and dead animals in a manner that minimizes contamination and disease risks. If housing facilities are equipped with disposal facilities and drainage systems, they shall be constructed and operated so that animal wastes and water are rapidly eliminated and the dogs stay dry. All drains shall be properly constructed, ~~installed~~ installed, and maintained. If closed drainage systems are used, they shall be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor.

(b) *Indoor housing facilities.* —

(1) *Heating, ~~cooling~~ cooling, and temperature.* — Indoor housing facilities for dogs shall be sufficiently heated and cooled when necessary to protect the dogs from temperature extremes and to provide for their health and well-being. When dogs are present, the ambient temperature in the facility shall not be allowed to fall below 50°F (10°C) for dogs not acclimated to lower temperatures and for those breeds that cannot tolerate lower temperatures without stress or discomfort ~~(such as short-haired breeds)~~ , such as short-haired breeds. Dry bedding or other methods of conserving body heat shall be provided when temperatures are below 50°F (10°C). The ambient temperature shall not fall below 45°F (7.2°C) for more than 4 consecutive hours when dogs are present, and shall not rise above 85°F (29.5°C) for more than 4 consecutive hours when dogs are present.

(2) *Ventilation.* — Indoor housing facilities for dogs shall be sufficiently ventilated when dogs are present to provide for their health and well-being, and to minimize odors, drafts, ammonia ~~levels~~ levels, and moisture condensation. Ventilation shall be provided by windows, vents, ~~fans~~ fans, or air conditioning.

(c) *Outdoor housing facilities.* —

(1) *Restrictions.* — Dogs that are not acclimated to the outdoor temperatures prevalent in the area or region where they are maintained and breeds of dogs that cannot tolerate the prevalent outdoor temperatures without stress or discomfort ~~(such as short-haired breeds in cold climates)~~ , such as short-haired breeds in cold climates, may not be kept in outdoor facilities unless the practice is specifically approved by a licensed veterinarian. Dogs may not be kept outdoors during a hazardous weather warning issued by the National Weather Service for the local area.

(2) *Shelter from the elements.* — Dogs shall be provided with proper shelter to protect them against inclement weather, preserve their body heat, and allow them to remain dry during rain or snow. Sufficient clean and moisture-resistant bedding material or other means of protection from the weather shall be provided when the ambient temperature falls below the temperature to which the dog is acclimated. Additional bedding material or other means of protection shall be provided when the temperature is 35°F (1.7°C) or lower.

(d) *Primary enclosures.* —

(1) *Space requirements.* — Primary enclosures shall be constructed and maintained to provide sufficient space to allow each dog to turn about freely and to stand erect, ~~sit~~ sit, and lie down in a comfortable, normal position. Each dog housed in a primary enclosure shall be provided with a minimum amount of floor space, which shall be calculated according to the procedure prescribed in 9 C.F.R. § 3.6(c)(1).

(2) *Space requirements when nursing puppies.* — Each bitch with nursing puppies shall be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing puppy is less than 5% of the minimum requirement for the bitch, the housing shall be approved by a licensed veterinarian.

(6) *Exceptions.* — Paragraphs (d)(1) through (5) of this section ~~shall~~ do not apply to licensed retail dog ~~dealers~~ outlets if all of the following conditions are met:

a. The primary enclosure is constructed and maintained to provide sufficient space to allow the dog to turn about freely and to stand erect, ~~sit~~ sit, and lie down in a comfortable, normal ~~position;~~ position.

b. The dog is being offered for sale on a retail basis, or has been sold and is awaiting physical transfer to its new ~~owner; and~~ owner.

(e) *Animal health and husbandry standards.* —

(2) *Feeding.* — Dogs shall be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, ~~palatable~~ palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the dog. The diet shall be appropriate for the individual dog's age and condition.

(3) *Food receptacles.* — Food receptacles shall be readily accessible to all dogs and shall be located so as to minimize contamination by excreta. The receptacles shall be durable and shall be kept clean. The food receptacles shall be sanitized at least once per week. Disposable food receptacles may be used but shall be discarded after each feeding. Self-feeders may be used for the feeding of dry food but shall be sanitized regularly to prevent molding, ~~deterioration~~ deterioration, or caking of feed.

(5) *Cleaning of primary enclosure.* — Excreta and food waste shall be removed from a primary enclosure, including any floor area or ground surface beneath the primary enclosure, on a daily basis. When steam or water is used to clean the primary enclosure, whether by hosing, ~~flushing~~ flushing, or other methods, dogs shall be removed, unless the enclosure is large enough to ensure that the dogs will not be harmed, ~~wetted~~ wetted, or distressed in the process. Standing water shall be removed from the primary enclosure and dogs in other primary enclosures shall be protected from being contaminated with water and other wastes during the cleaning.

§ 3045F. Licensing agents; bond requirements; service charge; negotiations.

(a) ~~Each county~~ The Department may authorize as many qualified persons or companies as licensing agents as it deems necessary to effectuate the efficient distribution of dog licenses established under § 3042F of this title.

(b) The Department may determine the bond requirement ~~may be determined by the county~~.

(c) Licensing agents may add ~~a~~ an approximate, reasonable and necessary service charge to the required fee for a license. ~~This fee shall be set by each county in its discretion.~~ The Department shall set the fee at its discretion.

(d) ~~Each county~~ The Department may adopt, amend, ~~modify~~ modify, or repeal rules and regulations to effectuate the policy and purpose of this section.

§ 3046F. Reciprocity of dog license.

~~(a) Each county shall establish a licensing system which identifies the county in which the dog's owner maintains that owner's primary residence.~~

~~(b) When by or pursuant to the authority under this chapter a dog is licensed by its owner within the county then such dog shall not need an additional license within the other counties of this State.~~

~~(c) When~~ If, by or pursuant to the laws of the state of the owner's primary residence, ~~a person~~ an owner licenses in that ~~person's~~ owner's own state of residence, then such dog shall not need an additional license in this State.

~~§ 3047F. Rules and regulations.~~

~~Each county shall have the authority to enact all rules and regulations, including the authority to set the amount of license fees to license dogs or kennels, in furtherance of the provisions of this chapter.~~

§ 3048F. Dogs running at large.

(a) No dog shall be permitted to run at large at any time, unless the dog is accompanied by the owner or custodian and under the owner's or custodian's reasonable control and is licensed in accordance with ~~county ordinances~~ state laws, except that a person who is an occupant of a farm or property containing 20 acres or more on which there are no more than 3 resident dwelling units may permit a dog to run at large between October 1 and the last day of the following February~~, next following~~. Any owner or custodian who violates this subsection shall be fined not less than $25 or more than $50. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than $50 or more than $100. The minimum fine for a subsequent offense shall not be subject to suspension. For the purposes of this section, the term "dog" shall mean any dog or dog hybrid. Allowing a dog to run at large is a violation.

(b) The owner or custodian of every dog shall, at all times between the hours of sunset and sunrise of each day, keep such dog ~~either~~ in one of the following manners:

(1) Confined within an enclosure from which it cannot ~~escape; or~~ escape.

(2) Firmly secured by means of a collar or chain or other device so that it cannot stray from the premises on which it is ~~secured; or~~ secured.

(3) Under the reasonable control of some person or when engaged in lawful hunting accompanied by the owner or custodian.

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

(d) Whoever, being the owner, custodian, ~~possessor~~ possessor, or harborer of any dog that while running at large and without provocation, bites a person, shall be fined not less than $100 nor more than $500. For each subsequent offense involving the same dog, such owner, custodian, ~~possessor~~ possessor, or harborer shall be fined not less than $750 or more than $1,500. The minimum fines provided for in this subsection, $100 for the first offense and $750 for each subsequent offense, shall not be subject to suspension.

(e) Upon conviction in any court of an offense under subsection (d) of this section, the court shall cause a report to be forwarded to the ~~county in which the offense occurred or to the dog control authority in each county as designated by the county~~ Department. Said report shall contain the name of the defendant, the name of the dog, the license number of the dog, the date of the ~~offense~~ offense, and the date of conviction. The ~~county~~ Department shall maintain these reports for a period of 3 years.

§ 3049F. Destruction of muskrat dens, ~~poultry~~ poultry, or livestock.

No owner or custodian of any dog shall permit such dog to injure, ~~destroy~~ destroy, or disturb any muskrat den, trap, ~~lead~~ lead, or ~~house~~ house, or any poultry or livestock.

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

(a) All dogs shall be deemed personal property and may be the subject of theft pursuant to Chapter 5 of Title 11. Any warrant of arrest or other process issued under or by virtue of the several laws in relation to the theft of such property may be directed to and executed by any police officer, constable, or ~~dog warden~~ animal welfare officer.

(c) No person shall confine any dog which is not that person's own lawful property without contacting the ~~county, an animal control constable, dog warden or other officer~~ Department within 48 hours of confining such dog and providing the ~~county, animal control constable, dog warden or other officer~~ Department with a complete description of the dog, the exact location of the premises on which such dog is to be ~~detained~~ detained, and the name of the owner or tenant of such property.

§ 3051F. Injuring or killing dogs for certain acts.

(a) Any police officer, ~~animal control constable or dog warden~~ animal welfare officer who finds a dog running at large and deems such dog to be an immediate threat to the public health and welfare may kill such dog.

(b) Any person may injure or kill a dog in self-defense or to protect livestock, ~~poultry~~ poultry, or another human being at the time such dog is attacking such livestock, ~~poultry~~ poultry, or human being.

§ 3052F. Poisoning of dogs.

No person ~~except a law enforcement officer, animal control constable or dog warden~~ shall place any poison of any description in any place on the person's premises, or elsewhere, where it may be easily found and eaten by dogs.

§ 3053F. Liability of dog owner for damages.

The owner of a dog is liable in damages for any injury, ~~death~~ death, or loss to person or property that is caused by such dog, unless the injury, ~~death~~ death, or loss was caused to the body or property of a person who, at the time, was committing or attempting to commit a trespass or other criminal offense on the property of the owner, or was committing or attempting to commit a criminal offense against any person, or was teasing, ~~tormenting~~ tormenting, or abusing the dog.

§ 3054F. Impounding of dog running at large.

Any dog found running at large contrary to any of the provisions of this chapter may be impounded and disposed of under such rules and regulations as the ~~county~~ Department adopts. Any impounded dog shall not be disposed of without 5 days' written notification to the owner of the dog, if ownership can be determined, unless earlier disposal is recommended by a doctor of veterinary medicine.

§ 3055F. Penalties; fines.

~~Whoever violates this chapter, unless otherwise specifically provided,~~ Unless otherwise specifically provided in this subchapter, whoever violates this subchapter shall be subject to the fines provided for in ~~§ 1708 of Title 7~~ § 107(a) of Title 16 and such fines ~~shall be payable as provided therein~~ are payable to the Department.

§ 3056F. Unauthorized acts against a service dog; penalties.

(a) ~~"Service dog"~~ For the purposes of this section, "service dog" means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, ~~including, but not limited to,~~ including guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

(b) No person shall intentionally interfere with the use of a service dog by obstructing, ~~intimidating~~ intimidating, or otherwise jeopardizing the safety of the user or animal. Whoever violates this subsection shall be guilty of a class B misdemeanor.

(c) No person shall intentionally injure or disable a service dog that is being used by its owner or the officer teamed with the dog. Whoever violates this subsection shall be guilty of a class A misdemeanor.

(d) No person shall intentionally kill a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class D felony. This subsection, however, does not apply to a law-enforcement officer as defined by § 222 of Title 11 who is forced to take such action pursuant to the lawful performance of the officer's duties.

(e) No person shall intentionally steal, ~~take~~ take, or wrongfully obtain a service dog owned by a private person or agency. Whoever violates this subsection shall be guilty of a class E felony.

(f) In any case where a person is convicted under subsection (b), (c), (d) or (e) of this section, that person shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the service, ~~guide~~ guide, or seeing eye dog owner and the dog which arise out of or are related to the criminal offense.

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

(a) In order to enforce this ~~chapter the county~~ subchapter, the Department shall authorize the hiring of, or contract for, sufficient ~~animal control constables or dog wardens~~ animal welfare officers to accomplish the purposes of this ~~chapter~~ subchapter.

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

(c) ~~For the purposes of this chapter, the term "animal control constable" shall have the meaning ascribed in Chapter 29 of Title 10. The term "dog warden" shall mean a person employed by the county or an animal control agency to enforce the dog control laws and ordinances of this State or county and any of its political subdivisions.~~ In addition to animal welfare officers, all police officers may enforce the dog control laws and ordinances of the ~~county, this~~ State ~~and~~ or any of its political subdivisions.

§ 3058F. Rules and regulations.

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

§ 3059F. [Reserved].

Section 6. Amend Title 9 and Title 16 of the Delaware Code by transferring Subchapter II, Chapter 9 of Title 9 to Title 16, redesignating present §§ 920 through 928 of Title 9 as §§ 3071F through 3079F of Chapter 30F of Title 16 and then by making deletions as shown by strike through and insertions as shown by underline as follows:

SUBCHAPTER V. DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

§ 3071F. Definitions.

For the purposes of this subchapter:

~~(1) "Animal control agency" shall mean the entity acting alone or in concert with other governmental units and legally authorized to enforce the dog control laws and regulations of the State, a county or any municipality.~~

(1) "Animal welfare officer" means an individual employed by the Department or employed by an independent contractor of the Department for the purpose of enforcing dog control laws, rules, regulations, and ordinances.

(2) "Attack" ~~shall mean~~ means the deliberate action of a dog, whether or not in response to a command by its owner, to bite, seize with its ~~teeth~~ teeth, or pursue any human being or domestic animal with the obvious intent to kill, wound, ~~injure~~ injure, or otherwise harm the human being or domestic animal.

(3) "Dangerous dog" ~~shall mean~~ means any dog that the Justice of the Peace Court has declared to be dangerous by the ~~Panel pursuant to~~ under § 3076F of this title or any potentially dangerous dog kept or maintained in violation of § 3076F(b) of this title.

(4) "Dog" ~~shall mean~~ means any dog or dog hybrid.

(5) "Domestic animal" ~~shall mean~~ means any dog, cat, ~~poultry~~ poultry, or livestock.

(6) "Owner" ~~shall mean~~ means any person who owns, keeps, ~~harbors~~ harbors, or is the custodian of a dog.

(7) “Non-dangerous dog” means any dog that the Justice of the Peace Court has declared to be non-dangerous under § 3080F of this title.

~~(7) "Panel" shall mean the Dog Control Panel.~~

(8) "Physical injury" ~~shall mean~~ means impairment of physical condition or substantial pain.

(9) "Potentially dangerous dog" ~~shall mean~~ means any dog that the Justice of the Peace Court has declared to be potentially dangerous ~~by the Panel pursuant to~~ under § 3077F of this title.

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

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

~~§ 3072F. Dog Control Panel; establishment; organization.~~

~~(a) The Dog Control Panel created pursuant to the former subchapter III of Chapter 17 of Title 7 shall continue to have all authority and responsibility conferred on it by that chapter and the current Panel members shall serve out their terms. The Dog Control Panel shall consist of 5 members, all of whom shall be residents of the State. Each county shall select a representative to serve for purposes of electing members of the Panel as seats on the Panel become open by resignation, expiration of a member's term, death, or other reason which may disqualify a member from serving. Each member of the Panel shall be elected by a majority vote of the 3 county representatives and each candidate for the Panel shall be voted upon separately. All new Panel members shall serve for a term of 2 years commencing on the date of their election and shall be eligible for reappointment. The composition of the Panel shall be as follows:~~

~~(1) A licensed veterinarian who possesses at least 5 years of experience in the treatment of canines;~~

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

~~(3) An animal behaviorist specializing in the treatment of canine behavior disorders, a member of the Association of Pet Dog Trainers or a professional dog obedience trainer, each of whom possess no less than 5 years' experience in the handling of canines;~~

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

~~(5) A representative from the Delaware Society for the Prevention of Cruelty to Animals or the Kent County Society for the Prevention of Cruelty to Animals.~~

~~(b) For purposes of conducting business, 3 members of the Panel shall constitute a quorum. A majority vote of the members present at a meeting at which a quorum is present shall be required on any action or matter before the Panel. Members of the Panel shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incurred incident to their duties as members of the Panel.~~

~~(c) A chairperson of the Panel shall be chosen by the members of the Panel from among its members and shall serve in that capacity for a term of 1 year and shall be eligible for reelection.~~

~~(d) Each Panel member may submit the names of up to 2 alternates to the county representatives for approval, provided the alternates meet or exceed the criteria for appointment met by the Panel member who they will represent. Upon the approval of the county representatives, an alternate may act in a Panel member's place and stead, with authority to attend all meetings of the Panel and with power to vote in the absence of the member.~~

~~(e) The county representatives shall elect a new member to fill any vacancy that has been created by the resignation, death, or other inability to serve of a Panel member. Said member shall serve for the remainder of the term of the member who has resigned, died, or who is otherwise unable to serve.~~

~~(f) Members of the Panel and alternates shall not be subject to, and shall be immune from, claims, suits, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or authority under this subchapter, so long as such person acted in good faith and without malice in carrying out their responsibilities, authority, duties, powers and privileges of the offices conferred by this law upon them or by any other provisions of Delaware law, federal law or regulations or any duly adopted ordinances, rules, or regulations of a county. Complainants shall bear the burden of proving malice or a lack of good faith to defeat the immunity provided herein.~~

~~(g) Any member of the Panel or alternate with a direct or indirect interest in a matter before the Panel shall recuse himself or herself from the consideration of such matter. In situations in which a Panel member or alternate does not vote by reason of a direct or indirect interest in a matter before the Panel, the presence of the Panel member or alternate shall not be counted for purposes of establishing a quorum. The fact that a Panel member or alternate has not voted by reason of a direct or indirect interest in a matter before the Panel shall in no way affect the validity of an act or actions taken regarding the matter before the Panel.~~

~~(h) Failure to attend or to be represented at 2 consecutive regular meetings of the Panel, in the absence of mitigating circumstances, shall be construed as a request by that member to resign from the Panel and a replacement may thereafter be selected by the county representatives in that member's stead.~~

§ 3073F. Seizure and impoundment of dangerous or potentially dangerous dogs; notification of dog owner~~; request for hearing~~ hearing procedures.

(a) An ~~animal control constable or dog warden~~ animal welfare officer shall seize and impound a dog suspected of being dangerous or potentially dangerous when the ~~warden~~ officer has reasonable cause to believe that the dog has engaged in 1 or more of the following:

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

(2) Killed 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; or~~ owner.

(3) Chased or pursued a person, including ~~but not limited to~~ a person on a bicycle, upon the streets, ~~sidewalks~~ 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.

(4) [Repealed.]

(b) Any dog seized pursuant to this section shall be impounded until a final disposition as to whether the dog is dangerous or potentially dangerous. The ~~animal control agency~~ Department shall take all reasonable action to determine the identity of the owner of the impounded dog. If the owner cannot be identified within 5 days of the dog's impoundment, unless earlier disposal is recommended by a doctor of veterinary services, the ~~animal control agency~~ Department may dispose of the dog in accordance with ~~Chapter 80 of Title 3~~ this subchapter.

(c) The owner of any seized and impounded dog ~~shall be notified by the animal control agency by certified mail, return receipt requested, of the owner's~~ has a right to a hearing ~~before the Panel~~ to determine whether the dog is dangerous or potentially dangerous. ~~This notice shall require that the owner return within 7 days of receiving such notice, by certified mail or personal delivery, a signed statement indicating whether the owner wishes the hearing to be conducted or, if not, that the owner waives that owner's right to such hearing and agrees to abide by the findings and conclusions of the animal control agency or agrees to relinquish ownership of such dog, in which case the animal control agency shall dispose of the impounded dog in accordance with Chapter 80 of Title 3. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within 7 days of receipt, the animal control agency shall dispose of the dog in accordance with Chapter 80 of Title 3.~~

(1) The Justice of the Peace Court is the court of original and exclusive jurisdiction for hearings under this subsection.

(2) The Department shall file a civil action with the Justice of the Peace Court within 72 hours of the identification of the dog's owner and notice to the owner unless the owner agrees to proposed conditions.

(d) ~~Within 20 business days of an animal control agency's receipt of a request for a hearing pursuant to subsection (c) of this section, a hearing shall be held by the Panel. If a hearing is not held within that time frame, the dog shall be released to its owner and the charges made pursuant to subsection (a) of this section shall be dismissed, unless a delay is requested by the owner and approved by the Panel.~~ The Justice of the Peace Court shall hold a hearing under this subsection within 30 days of the Department filing of a civil action.

(1) All Justice of the Peace Court civil rules apply to proceedings under this subchapter, except where otherwise stated.

(2) The Justice of the Peace Court shall keep a record, sufficient for judicial review, of all evidence taken at hearings under this subchapter, according to the Court's rules regarding the recording of proceedings.

(3) A hearing shall be held within 30 days of the Department filing a civil action. The dog may be released to its owner and the charges made under subsection (a) of this section may be dismissed, unless a delay is requested by the owner and approved by the Department for good cause at the Court's discretion.

(e) If the dog owner fails to appear for the hearing, the Justice of the Peace Court shall enter a default judgment. A motion to vacate a default judgment may be filed within 10 days of the entry of the default judgment. If no motion is filed, the Department shall dispose of the dog in accordance with this chapter.

~~(e)~~ (f) Nothing in this subchapter shall be construed to interfere with the provisions for protecting human health from rabies in Chapter 82 of Title 3.

§ 3074F. Exceptions.

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

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

(2) A domestic animal which, at the time the injury was sustained, was teasing, tormenting, ~~abusing~~ abusing, or assaulting the ~~dog; or~~ dog.

(3) A domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

(b) Notwithstanding § 3073F of this title, no dog shall be considered dangerous or potentially dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.

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

~~§ 3075F. Hearing procedures; appeal.~~

~~(a) Upon the receipt of a request for a hearing by the Panel, the animal control agency shall fix the time and place for the hearing and notify the owner of the impounded dog by certified mail, return receipt requested, of such time and place. At such hearing, the owner shall have the right to appear either personally or by counsel or both, to produce witnesses and evidence on the owner's own behalf and to cross-examine witnesses.~~

~~(b) All hearings shall be informal and open to the public, and need not conform to standard rules of evidence. Hearsay evidence shall be allowed but may not be relied upon as the sole evidence in the Panel's determination. Deliberations of the Panel may be conducted in executive session. All proceedings of the Panel, except those held in executive session, shall be recorded and transcribed by a registered court reporter. The Panel shall determine whether the dog in question should be declared dangerous or potentially dangerous, and shall articulate on the record the reasons for its decision. The Panel shall announce its decision at the conclusion of the hearing. After announcing its decision, the Panel shall provide the owner with written notice of the action taken and the reasons therefor. The decision of the Panel is final.~~

~~(c) If a dog is determined to be dangerous, the Panel may direct the animal control agency to dispose of the dog by euthanasia in accordance with Chapter 80 of Title 3. If euthanasia is not ordered, the owner shall comply with § 925(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 §§ 925(b)(1) through (3) of this title. If a dog is determined to be potentially dangerous, the owner shall comply with § 926(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 § 926(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.~~

~~(e) The county shall be responsible for the costs of proceedings, including but not limited to court stenographer fees, before the Panel that arise from incidents within that county.~~

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

(a) The ~~Panel~~ Justice of the Peace Court may declare a dog to be dangerous if it finds by ~~a preponderance of the~~ evidence that the dog has done any of the following:

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

(2) Killed 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; or~~ owner.

~~(3) Was subject to, or was used to facilitate animal cruelty or animal fighting as alleged in a criminal complaint or charge.~~

(b) If the ~~Panel~~ Justice of the Peace Court declares a dog to be dangerous, it shall be unlawful for any person to keep or maintain such dog unless all of the following occur:

(1) The dog is spayed or ~~neutered;~~ neutered.

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

(3) The dog is confined by its owner within a proper enclosure, and whenever outside of the proper enclosure the dog is securely muzzled and restrained by a substantial chain or leash, not exceeding 6 feet, and under the control of a responsible adult, or ~~caged;~~ caged.

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

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

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

(c) It shall be unlawful for the owner of a dangerous dog to sell, offer for ~~sale~~ sale, or give away said dog to any other person ~~or entity~~ other than ~~an animal control agency~~ the Department. If a dangerous dog is given to ~~an animal control~~

~~agency~~ the Department, the dog shall be disposed of by euthanasia in accordance with ~~Chapter 80 of Title 3~~ Subchapter I of this chapter.

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

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

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

(3) Chased or pursued a person, ~~including, but not limited to~~ including a person on a bicycle, upon the streets, ~~sidewalks~~ 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) If the ~~Panel~~ Justice of the Peace Court declares a dog to be potentially dangerous, it shall be unlawful for any person to keep or maintain the dog unless all of the following occur:

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

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

(3) When off the owner's premises, the dog is restrained by a substantial chain or leash, not exceeding 6 feet, and is under the physical control of a responsible adult.

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

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

§ 3078F. Liability of owner for costs of impoundment.

If ~~a~~ the Justice of the Peace Court declares a dog ~~is declared~~ dangerous or potentially ~~dangerous the owner of the dog shall, prior to reclaiming the dog, reimburse the animal control agency its regular standard fees charged for the care of the dogs while in the animal control agency's custody plus any reasonable veterinary fees incurred for the dog during the period of impoundment.~~ dangerous, the Court shall include in its judgment the costs associated with the care of the dog while in the Department's custody. Prior to reclaiming the dog, the owner must reimburse the Department the amount

indicated in the judgment or establish a payment plan approved by the Court. ~~Failure of the dog's owner to pay such fees within 5 days after a final determination of whether the dog is dangerous or potentially dangerous shall result in the ownership of the dog reverting to the animal control agency The animal control agency shall then dispose of the dog in accordance with Chapter 80 of Title 3~~. If a dog is determined to be ~~neither dangerous nor potentially dangerous~~ non-dangerous under § 3080F of this title, the owner shall not be liable for the costs of impoundment.

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

(a) For a violation of ~~§ 3076F(b)(4),~~ § 3076F(b)(4) or (b)(6) or § 3077F(b)(1), ~~(b)(2)~~ (b)(2), ~~or (b)(3)~~ (b)(3) or (b)(4) of this title, the owner of the dangerous dog or potentially dangerous dog shall be fined not less than $50 nor more than $100. For a subsequent offense, the ~~person~~ owner shall be fined not less than $100 or more than $200.

(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 than $100 or more than $250. For a subsequent offense, the ~~person~~ owner shall be fined not less than $250 or more than $500.

(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 less than $250 or more than $1,000. For a subsequent offense, the ~~person~~ owner shall be fined not less than $500 or more than $2,000.

(d) ~~Any dog~~ After a dog has been declared dangerous ~~pursuant to~~ under § 3076F(a) of this title, ~~which, after having been declared dangerous,~~ only a dog that, without provocation, kills, ~~attacks~~ attacks, or inflicts physical injury or serious physical ~~injury, without provocation~~ injury upon a human being or domestic ~~animal,~~ animal shall be seized and impounded by the ~~animal control agency~~ Department and disposed of by euthanasia in accordance with ~~Chapter 80 of Title 3.~~ Subchapter I of this chapter. For purposes of this subsection, "without provocation" means any of the exceptions to finding a dog dangerous or potentially dangerous contained in § 3074F(a) or (b) of this title.

(e) Any fine imposed for a violation of this subchapter ~~shall~~ may not be suspended to any amount less than the minimum prescribed fine ~~and no such fine shall be payable by mail~~. ~~All~~ The Justice of the Peace Court shall remit all fines imposed following a conviction for violation of this subchapter ~~shall be remitted by the sentencing court to the county in which the offence occurred~~ to the Department.

§ 3080F. Finding to declare a dog non-dangerous.

If the Department fails to demonstrate by clear and convincing evidence that a dog is dangerous pursuant to § 3076F of this title or potentially dangerous pursuant to § 3077F of this title, the Justice of the Peace Court shall declare the dog to be non-dangerous. Despite a finding that the dog is non-dangerous, the Justice of the Peace Court may impose any condition deemed reasonable, given the circumstances of the case.

§ 3081F. Disposition of dogs determined to be dangerous or potentially dangerous or non-dangerous; appeal.

(a) If the Justice of the Peace Court determines that a dog is dangerous, the Court may direct the Department to dispose of the dog by euthanasia in accordance with Subchapter I of this chapter. If the Justice of the Peace Court does not order euthanasia, the owner shall comply with all conditions that the Court orders under § 3076F(b)(6) of this title, within 30 days from the date of the order.

(b) If the Justice of the Peace Court determines that a dog is potentially dangerous, the owner shall comply with all conditions that the Court orders under § 3077F(b)(4) of this title, within 30 days from the date of the order.

(c) If another incident occurs within the period of time allowed for compliance under subsections (a) or (b) of this section, the Department shall immediately seize the dog and dispose of it in accordance with Subchapter I of this chapter.

(d) If the Justice of the Peace Court determines a dog to be non-dangerous, the dog shall be released to its owner, subject to any conditions imposed under § 3080F of this title.

(e) The Department or the owner, if the Justice of the Peace orders the dog to be euthanized, may appeal the Justice of the Peace Court's decision to the Court of Common Pleas within 15 days of the entry of the decision. The Court of Common Pleas shall review the appeal on the record. The filing of an appeal acts as a stay of the Justice of the Peace Court's decision, pending final disposition of the appeal. The appellant shall pay the cost of transcribing the Justice of the Peace Court recording.

Section 7. Amend § 2901, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2901. Appointment.

The chief executive officer of any county or municipal corporation, or the Housing Director, in the case of the enforcement of the State Housing Code contained in Chapter 41 of Title 31, may appoint and employ such numbers of code enforcement ~~and animal control~~ constables as shall be necessary to enforce all ordinances pertaining to building, housing, sanitation, ~~animal control~~ or public health codes.

Section 8. Amend § 2902, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2902. Duties; limited authority.

(a) The code enforcement ~~and animal control~~ constables appointed pursuant to this chapter may enforce only those codes and ordinances pertaining to building, housing, sanitation, zoning, ~~animal control~~ or public health.

(b) Notwithstanding any other law, a code enforcement ~~and animal control~~ constable appointed pursuant to this chapter shall not have jurisdiction outside the limits of the county or municipal corporation employing such constable.

Provided, however, that a code enforcement constable appointed by the Housing Director shall have jurisdiction throughout the State to enforce the provisions of the State Housing Code in a county or municipality which has not adopted and/or undertaken to enforce the State Housing Code after July 12, 1988. In addition to the other powers set forth herein, such housing code enforcement constables may impose a voluntary assessment of $100 in cases involving first offenders of the State Housing Code.

(c) Code enforcement ~~and animal control~~ constables appointed pursuant to this chapter shall not be permitted to carry firearms while on duty as such.

(d) Notwithstanding any other law, a code enforcement ~~or animal control~~ constable may lawfully issue a summons to any person the constable has reasonable grounds to believe has committed an offense against any ordinance pertaining to building, housing, sanitation, animal control, zoning, or public health code of the county or municipal corporation by whom the constable is employed, directing the person to appear before a court having jurisdiction over such offense whether or not the offense was committed in the constable's presence.

Section 8. Amend § 122, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Powers and duties of the Department of Health and Social [Effective upon final publication of the regulations pursuant to 79 Del. Laws, c. 375, § 5].

The Department shall have the following general powers and duties:

(3) Adopt, promulgate, amend, and repeal regulations consistent with law, which regulations shall not extend, ~~modify~~ modify, or conflict with any law of this State or the reasonable implications thereof, and which shall be enforced by all state and local public health officials, to:

bb. Regulate the training and educational qualifications for the certification of ~~animal control constables, animal control officers, animal cruelty agents, dog control agents, and dog wardens~~ animal welfare officers. The Department shall:

2. Develop criteria and standards for evaluating educational programs preparing a person for training and certification; including in conjunction with the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control concerning livestock, poultry, and wildlife for animal ~~cruelty agents~~ welfare officers;

6. Keep current a registry of all persons certified as ~~animal control constables, animal control officers, animal cruelty agents, dog control agents, and dog wardens~~ animal welfare officers in the State;

Section 9. Amend § 139, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 139. Certification and procedures for ~~animal control constables, animal control officers, animal cruelty agents, dog control agents, and dog wardens~~ animal welfare officers [Effective upon final publication of the regulations pursuant to 79 Del. Laws, c. 375, § 5].

(a) A person who acts as a certified ~~animal control constable, animal control officer, animal cruelty agent, dog control agent, or dog warden~~ animal welfare officer without certification from the Department is subject to penalties pursuant to § 107 of this title. For purposes of this subchapter, ~~"animal cruelty agent"~~ "animal welfare officer" means any person qualified to act pursuant to § 1325 of Title 11~~.~~ and §3041F of Title 16.

(b) The Department may, by ~~endorsement,~~ endorsement and without written examination, certify an ~~animal control constable, animal control officer, animal cruelty agent, dog control agent, or dog warden~~ animal welfare officer who has completed a training program that meets the educational requirements for certification defined by the Department and if, in the opinion of the Department or its designee, the applicant meets the qualifications specified by this chapter for an ~~animal control constable, animal control officer, dog control agent animal cruelty, or dog warden~~ animal welfare officer.

(c) *Dog control and animal cruelty educational programs. —*

(1) Any organization or institution desiring to conduct ~~a dog control or animal cruelty~~ an animal welfare officer education program shall apply to the Department and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying ~~animal control constables, dog control agents, animal control officers, animal cruelty agents, or dog wardens~~ animal welfare officers and that it is prepared to meet other standards which may be established by the Department.

(d) The Department may impose sanctions defined in this chapter singly or in combination when it finds a certified or former certified ~~animal control constable, animal control officer, animal cruelty agent, dog control agent, or dog warden~~ animal welfare officer committed any offense described below:

(4) Has had a certification or license to serve as ~~a dog control or animal cruelty agent~~ an animal welfare officer suspended or revoked in any jurisdiction; or

(e) The Department shall establish procedures for documenting all ~~complaints,~~ complaints and conducting investigations of complaints filed against ~~animal control constables, animal control officers, animal cruelty agents, dog control agents, or dog wardens~~ animal welfare officers that may result in sanctions.

(f) Disciplinary sanctions are as follows:

(1) Permanently revoke a certification or license to be an ~~animal control constable, animal control officer, dog control animal cruelty agent, or dog warden~~ animal welfare officer;

SYNOPSIS

This bill reassigns the responsibility of dog control and dangerous dog management from the counties of this state to the Delaware Division of Public Health Office of Animal Welfare, and updates procedures for handling dangerous and potentially dangerous dog hearings for a more fair and equitable process. The bill also reassigns the responsibility for stray livestock response from the Delaware SPCA to the Delaware Department of Agriculture, with support from animal welfare officers of the Department of Health and Social Services. The bill replaces the variety of terms used for persons enforcing dog control, rabies, and dangerous dog laws throughout the Delaware Code to one consistent term, animal welfare officer, and provides clarity on provisions to protect outdoor dogs from severe cold or hazardous weather. Finally, the bill removes animal control constable from the roles that can be appointed by the county under Title 10. This Act also makes technical corrections to conform existing law to the guidelines of the Delaware Legislative Drafting Manual, especially with regard to adding serial commas throughout.

Author: Senator Blevins