

No. 1986-59

AN ACT

HB 180

Amending the act of December 7, 1982 (P.L.784, No.225), entitled "An act relating to dogs, regulating the keeping of dogs; providing for the licensing of dogs and kennels; providing for the protection of dogs and the detention and destruction of dogs in certain cases; regulating the sale and transportation of dogs; declaring dogs to be personal property and the subject of theft; providing for the assessment of damages done to livestock, poultry and domestic game birds; providing for payment of damages by the Commonwealth in certain cases and the liability of the owner or keeper of dogs for such damages; imposing powers and duties on certain State and local officers and employees; providing penalties; and creating a Dog Law Restricted Account," authorizing actions for damages in certain cases; further providing for the use of surplus funds; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 701, 703, 704 and 1002(b) of the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law, are amended to read:

Section 701. Damages; complaints; examination of claims; liability; quarantines.

(a) General rule.—Whenever any person sustains any loss by dogs to livestock or poultry or to game birds raised in captivity, and while confined within an enclosure, or if any person sustains loss of livestock from rabies, or if any livestock or poultry or game bird raised in captivity, and while confined within an enclosure, is necessarily destroyed because of having been bitten by a dog, except when such loss, destruction or damage, with the exception of loss by rabies, shall have been caused by a dog harbored by the owner of such livestock or poultry or domestic game bird, such person or his agent or attorney may, immediately after the damage was done, complain to a State dog warden or employee of the department and may make application to the department for reimbursement of such loss or damage. Such complaint shall be in writing, shall be signed by the person making such complaint, and shall state when, where and how such damage was done, and by whose dog or dogs, if known, or when the animal died from rabies or was killed because of rabies. Claims covering damage due to rabies shall be made immediately following the death of the animal, and shall be supported by a certificate from a licensed and duly qualified veterinarian and a report from any laboratory approved by the department, to the effect that such animal was affected with rabies. It shall not be necessary to prove that an animal dying from or killed because of rabies was actually bitten by a dog. The presumption shall exist that such animal was so bitten. Upon receipt of such notice, the State dog warden shall at once examine the place where the alleged loss or damage was sustained and the livestock or poultry or domestic game bird injured or killed, or in case of rabies where it died or was killed.

The State dog warden may examine under oath or affirmation any witness called before him. After making diligent inquiry in relation to such claim, such investigating officer shall determine whether any damage has been sustained and the amount thereof, and, if possible, who was the owner of the dog or dogs by which such damage was done. After making diligent inquiry in relation to such claim, such appraiser shall determine whether any damage has been sustained and the amount thereof, and, if possible, who was the owner of the dog or dogs by which such damage was done. If the owner of the dog or the owner of the livestock or poultry does not agree as to the amount of damage allowed by the appraiser, the owner requesting the appraisal and the appraiser may appoint a disinterested qualified citizen to assist in determining the amount of damage sustained. For such services, the said disinterested citizens shall receive appropriate compensation which shall be paid by the owner requesting the appraisal. Any owner or keeper of such dog or dogs, except in the case of rabies, shall be liable to the Commonwealth *for the damages paid by the Commonwealth and the costs incurred* as hereinafter provided. There shall be a maximum allowable claim loss on each occurrence of \$10,000 per animal; however, in no instance shall the payment exceed 90% of the appraised value. The secretary shall promulgate rules and regulations to enforce the provisions of this section. All claims shall be paid from the Dog Law Restricted Account.

(b) Excess damages.—If the owner of the livestock or poultry or domestic game bird feels that he has sustained damages, including consequential and future damages, beyond the amount of damage as finally appraised or paid by the Commonwealth, he may commence a civil action for the excess amount against the owner or keeper of the dog by which such damage was done. The receipt of payment from the owner of the dog of the appraised amount or the receipt of payment from the Commonwealth shall not preclude such an action, but shall be considered in determining the total amount of damages sustained and recoverable.

Section 703. Payments of claims out of Dog Law Restricted Account; rights against dog owners inuring to the Commonwealth.

The owner of any dog or dogs known to have caused any damage to livestock, poultry or domestic game birds shall be liable for all damages and costs. If the owner cannot be found or is unknown, then the secretary shall issue a requisition for the payment of the amount of the allowable claim. All such payments shall be from funds in the Dog Law Restricted Account. No payment shall be made for any item which has already been paid by the claimant's insurance carrier. The claimant shall certify to the department that he has not received payment for any damages under section 701(a) by any person. Upon payment by the State of damages under section 701(a), the rights of the owner of such livestock, poultry or domestic game bird against the owner of the dog or dogs causing the damages shall, *to the extent of the damages so paid*, inure to the benefit of the Commonwealth.

Section 704. Killing of dogs causing damages.

If the identity of the owner of the dog or dogs has been established under sections 701 and 703, the secretary may notify the owner or keeper of such

dog or dogs to immediately kill it or them. It shall be unlawful and a violation of this act for the owner or keeper, after notification by the secretary, to allow to leave or to remove such dog or dogs from the premises, while they are alive, except a State dog warden to a veterinarian or animal shelter for euthanasia purposes. The killing of such dogs does not remove the liability of the owner for damages caused by the dog or dogs. Upon failure, however, of such owner to comply with such order within a period of ten days, the secretary may authorize the killing of such dog or dogs wherever found. *In addition, upon failure of such owner or keeper to comply with such order within a period of ten days, the owner or keeper shall, upon summary conviction, be sentenced to pay a fine of not less than \$100 and not more than \$500.*

Section 1002. County dog law programs.

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(b) Surplus funds.—The secretary may declare that there is a surplus of money in the Dog Law Restricted Account. The secretary may authorize additional payments to the counties, except to counties of the first class, and to incorporated humane organizations from any amount declared to be surplus. *The secretary may also authorize such payments to any municipality within a county, except counties of the first class, which has been designated by the county to act as its agent in requesting the funds, provided that the municipality agrees to accept all obligations imposed upon the county by the guidelines and conditions of the department and the applicable regulations.* Such payments shall be based on the secretary's evaluation pursuant to rules and regulations promulgated under this act.

Section 2. This act shall take effect in 60 days.

APPROVED—The 16th day of May, A. D. 1986.

DICK THORNBURGH