

No. 1990-46

AN ACT

HB 820

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," providing for the control of dangerous dogs; further providing for violations of the act; further providing for inspections; and providing penalties.

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

Section 1. Section 501(d) of the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law, is repealed.

Section 2. The act is amended by adding an article to read:

ARTICLE V-A
DANGEROUS DOGS

Section 501-A. Definitions.

The following words and phrases when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Attack." *The deliberate action of a dog, whether or not in response to a command by its owner, to bite, to seize with its teeth or to pursue any human, animate or inanimate object, with the obvious intent to destroy, kill, wound, injure or otherwise harm the object of its action.*

"Dangerous dog." *A dog determined to be a dangerous dog under section 502-A.*

"Domestic animal." *Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.*

"Proper enclosure of a dangerous dog." *The secure confinement of a dangerous dog either indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the dog. If the pen or structure has no bottom secured to the sides, the sides must be embedded at least two feet into the ground.*

"Severe injury." *Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.*

Section 502-A. Registration.

(a) *Determination.*—Any person who has been attacked by a dog, or anyone on behalf of such person, a person whose domestic animal has been killed or injured without provocation, the State dog warden or the local police officer may make a complaint before a district justice, charging the owner or keeper of such a dog with harboring a dangerous dog. The determination of a dog as a dangerous dog shall be made by the district justice upon evidence of a dog's history or propensity to attack without provocation based upon an incident in which the dog has done one or more of the following:

- (1) *Inflicted severe injury on a human being without provocation on public or private property.*
- (2) *Killed or inflicted severe injury on a domestic animal without provocation while off the owner's property.*
- (3) *Attacked a human being without provocation.*
- (4) *Been used in the commission of a crime.*

(b) *Report of determination.*—The district justice shall make a report of a determination under subsection (a) to the Bureau of Dog Law Enforcement.

(c) *Certificate required.*—It is unlawful for an owner to have a dangerous dog without a certificate of registration issued under this article. This article shall not apply to dogs used by law enforcement officials for police work, certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for the handicapped.

Section 503-A. Requirements.

(a) *Enclosure and insurance.*—The department shall issue, upon payment of all fees under subsection (b), a certificate of registration to the owner of such animal within 30 days of notification, in writing, by the department that the dog has been determined to be dangerous and that the owner presents sufficient evidence of:

(1) *A proper enclosure to confine a dangerous dog and the posting of a premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.*

(2) (i) *A surety bond in the amount of \$50,000 issued by an insurer authorized to do business within this Commonwealth, payable to any person injured by the dangerous dog; or*

(ii) *a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business within this Commonwealth in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The policy shall contain a provision requiring the secretary to be named as additional insured for the sole purpose of being notified by the insurance company of cancellation, termination or expiration of the liability insurance policy.*

(b) *Fee.*—The registration fee for a dangerous dog certificate shall be \$25 or such amount set by the department as may be necessary to cover the costs

of issuing this registration and enforcing this section. This registration fee shall be in addition to any other fees collectable under this act and shall be credited to the Dog Law Restricted Account for the purpose of administering and enforcing this act.

(c) Uniform identifiable symbol.—The department shall have the authority to establish a uniform identifiable symbol for visual recognition of dangerous dogs. The “Ugh Dog” symbol developed by Animal-Vues may be adopted as the standard symbol to identify dangerous dogs.

(d) Other requirements.—The owner shall sign a statement attesting that:

(1) The owner shall maintain and not voluntarily cancel the liability insurance required by this section during the period for which licensing is sought unless the owner ceases to own the dangerous dog prior to expiration of the license.

(2) The owner shall notify the Bureau of Dog Law Enforcement, the State dog warden and the local police department within 24 hours if a dangerous dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died or has been sold or donated. If the dangerous dog has been sold or donated, the owner shall also provide the Bureau of Dog Law Enforcement and the State dog warden with the name, address and telephone number of the new owner of the dangerous dog.

Section 504-A. Control of dangerous dogs.

It is unlawful for an owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal or from destroying property with its teeth.

Section 505-A. Public safety and penalties.

(a) Failure to register and restrain.—A dangerous dog shall be immediately confiscated by a State dog warden or a police officer upon the occurrence of any of the following:

(1) The dog is not validly registered under this act.

(2) The owner does not secure and maintain the liability insurance coverage required under section 503-A.

(3) The dog is not maintained in the proper enclosure.

(4) The dog is outside of the dwelling of the owner or outside of the proper enclosure and not under physical restraint of the responsible person.

In addition, an owner violating this subsection commits a misdemeanor of the third degree.

(b) Attacks upon persons or animals.—If a dangerous dog, through the intentional, reckless or negligent conduct of the dog’s owner, attacks a person or another domestic animal, the dog’s owner is guilty of a misdemeanor of the second degree. In addition, the dangerous dog shall be immediately confiscated, placed in quarantine for the proper length of time and thereafter destroyed in an expeditious and humane manner, with costs of quarantine and destruction to be borne by the dog’s owner.

(c) *Attacks causing severe injury or death.*—The owner of any dog that, through the intentional, reckless or negligent conduct of the dog's owner, aggressively attacks and causes severe injury or death of any human shall be guilty of a misdemeanor of the first degree. In addition, the dog shall be immediately confiscated by a State dog warden or a police officer, placed in quarantine for the proper length of time and thereafter destroyed in an expeditious and humane manner, with costs of quarantine and destruction to be borne by the dog's owner.

(d) *Dog owned by a minor.*—If the owner of the dangerous dog is a minor, the parent or guardian of the minor shall be liable for injuries and property damages caused by an unprovoked attack by the dangerous dog under section 4 of the act of July 27, 1967 (P.L.186, No.58), entitled "An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the willful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery."

(e) *Mandatory reporting.*—All known incidents of dog attacks shall be reported to the State dog warden, who shall investigate each incident and notify the department if a dog has been determined to be dangerous.

Section 506-A. State registry.

The department shall promulgate regulations for the establishment of a State registry for dangerous dogs.

Section 507-A. Construction of article.

(a) *Enforcement.*—This article shall be enforced by all municipalities except counties.

(b) *Abusive or unlawful conduct of victim.*—This article shall not apply if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the dog or has, in the past, been observed or reported to have tormented, abused or assaulted the dog, or was committing or attempting to commit a crime.

(c) *Local ordinances.*— Those provisions of local ordinances relating to dangerous dogs are hereby abrogated. A local ordinance otherwise dealing with dogs may not prohibit or otherwise limit a specific breed of dog.

(d) *Insurance coverage discrimination.*—No liability policy or surety bond issued pursuant to this act or any other act may prohibit coverage from any specific breed of dog.

(e) *Farm dogs.*—No farmer who owns a dog kept on the farm shall be guilty of keeping a dangerous dog if:

(1) the dog does not leave the farm property to attack; and

(2) the farm is conspicuously posted alerting visitors to the presence of a watch or guard dog at all points of ingress and egress.

(f) *Procedure in certain cities.*—In cities of the first class, second class and second class A, the following procedure shall apply:

(1) A person who has been attacked by a dog, or anyone on behalf of such person, or a person whose domestic animal has been killed or injured without provocation while the attacking dog was off the owner's property

or a police officer or an animal control officer employed by or under contract with the city may make a complaint before a district justice, charging the owner or keeper of such a dog with harboring a dangerous dog. The district justice shall make a report of the determination under section 502-A(a) to the police or an animal control officer employed by or under contract with the city and to the Bureau of Dog Law Enforcement. The Bureau of Dog Law Enforcement shall give notice of this determination to the respective city treasurer.

(2) All fees and fines shall be paid to and retained by the city treasurers, who shall issue the certificate of registration.

(3) Enforcement of this article in these cities will be under the jurisdiction of the local police or an animal control officer employed by or under contract with the city with notification requirements in section 503-A(d)(2) to be made to the licensing authority and the local police or an animal control officer employed by or under contract with the city.

(4) Copies of all dangerous dog determinations, certificates and reports on the status of the dangerous dog shall be sent to the Bureau of Dog Law Enforcement.

(5) All known incidents of dog attacks shall be reported to the department for the purpose of keeping bite statistic records and possible rabies exposure.

Section 3. Section 901(a) of the act is amended to read:

Section 901. Enforcement of this act by the Secretary of Agriculture; provisions for inspections.

(a) General rule.—The secretary, through State dog wardens, employees of the department and police officers, shall be charged with the general enforcement of this law. The secretary may employ all proper means for the enforcement of this act and may enter into agreements with local agencies and organizations for the purpose of dog control. State dog wardens and employees of the department are hereby authorized to enter upon the premises of any persons for the purpose of investigation **[upon displaying his badge of identification furnished by the department]**. *A dog warden may enter into a home or other building only with the permission of the occupant or with a duly issued search warrant.*

* * *

Section 4. Section 903 of the act is amended to read:

Section 903. Violations.

Unless heretofore provided, any person found in violation of any provision of Article II through Article VIII of this act shall be guilty of a summary offense for the first and second violation and for a third and subsequent violation *which occurs within one year of the first violation* shall be guilty of a misdemeanor of the third degree.

Section 5. This act shall take effect in 60 days.

APPROVED—The 31st day of May, A. D. 1990.

ROBERT P. CASEY