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CHAPTER 135

FORMERLY

SENATE BILL NO. 134

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO PENALTIES FOR CERTAIN DOG LAW VIOLATIONS.

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 §1701(d), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(d) Whoever fails to pay the license tax on or before March 1 of each year 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 shall be fined not less than \$100 nor more than \$200. The minimum fine for a subsequent offense shall not be subject to suspension. Failure to pay the license tax is a violation."

Section 2. Amend §1702(c), Title 7, Delaware Code, by striking the last sentence of said subsection.

Section 3. Amend § 1704(a), Title 7, Delaware Code, by adding to the end of said subsection the following:

"Any owner or custodian who violates this subsection shall be fined not less than \$25 nor more than \$50. For each subsequent offense occurring within 12 months of a prior offense, the person shall be fined not less than \$50 nor 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."

Section 4. Amend §1704(c), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) Whoever, being the owner, custodian, possessor or harbinger 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 shall be fined not less than \$100 nor 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."

Section 5. Amend § 1707, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§1707. 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 sheriff, police officer, constable or Dog Warden.

(b) The presence of any dog, regardless of age, not confined on the premises of a person other than the lawful owner of such dog shall raise no presumption of theft against the owner or tenant of such premises.

(c) No person shall confine any dog, not his or her lawful property, without contacting the Department, a Dog Warden or other officer within 48 hours of confining such dog and providing the Department, Dog Warden or other officer with a complete description of the dog, the exact location of the premises on which such dog is to be detained and the name of the owner or tenant of such property."

Section 6. Amend §1708, Title 7, Delaware Code, by striking the phrase "of an unlicensed dog" from the Title of said section and by inserting "dogs" in lieu thereof.

Section 7. Amend §1708(a), Title 7, Delaware Code, by inserting the phrase "licensed or" in between the words "Any" and "unlicensed".

Section 8. Amend §1708(c), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following..

"(c) Any licensed or unlicensed dog that is attacking a human being, attacking livestock, or wounding a dog or household pet may be injured or killed by any person without liability or responsibility of any nature for such injury or killing."

Section 9. Amend § 1709, Title 7, Delaware Code, by striking said section in its entirety.

Section 10. Amend §1714, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§1714. Penalties.

(a) Whoever violates this subchapter, unless otherwise specifically provided, shall be fined not less than \$50 nor more than \$100 for each offense. For each subsequent offense, the person shall be fined not less than \$100 nor more than \$250.

(b) Whoever violates this Subchapter and fails to comply with the payment provisions in §1311 of this Title, after having elected the option of accepting a voluntary assessment, shall be fined not less than \$25 nor more than \$50. For each subsequent offense, the person shall be fined not less than \$50 nor more than \$100."

Section 11. Amend §1715, Title 7, Delaware Code, by striking said section and substituting in lieu thereof the following:

"§1715. Dogs on state coastal beaches.

Whoever, being the owner, possessor, harbinger or custodian of any dog, allows such dog to be upon the designated swimming or sunbathing area of a state coastal beach strand at anytime between May 1 and September 30, inclusive, of any year, except when such dog is on said property on behalf of a law enforcement agency or a blind person, as defined in §2101 of Title 31, is guilty of a violation and shall be fined not less than \$25 nor more than \$50. For each subsequent offense, the person shall be fined not less than \$50 nor more than \$100. 'Coastal beach strand' shall mean all that coastal real property between the western base of the dunes and the low water mark."

Section 12. Amend § 1716, Title 7, Delaware Code, by striking said section in its entirety.

Section 13. Amend §1721, Title 7, Delaware Code, by striking the phrase ", nor shall permits be issued for more than 4 special dog training areas in any one county".

Section 14. Amend § 1723(b), Title 7, Delaware Code, by inserting the phrase "is guilty of a violation and" between the words "warning" and "shall", and by striking the phrase ", or in default of payment thereof shall be imprisoned not more than 10 days".

Section 15. Amend §1724, Title 7, Delaware Code, by inserting the phrase "is guilty of a violation and" between the words "section" and "shall", and by striking the phrase ", or in default of payment thereof shall be imprisoned for not more than 5 days".

Section 16. Amend Chapter 17, Title 7, Delaware Code, by striking the phrase "Fish and Wildlife Agent" wherever such phrase may appear and substituting in lieu thereof the phrase "Dog Warden".

Section 17. Amend §1725(a), Title 7, Delaware Code, by striking the phrase "dog control officers or dog wardens" and substituting in lieu thereof the phrase "Dog Wardens".

Section 18. Amend §1725(b), Title 7, Delaware Code, by striking the phrase "dog control officers or dog wardens" and substituting in lieu thereof the phrase "Dog Wardens", and by striking the phrase "dog control officer" and substituting in lieu thereof the phrase "Dog Wardens". Further amend § 1725(b) by striking the phrase "dog control officers" as it appears in the third sentence and substituting in lieu thereof the phrase "Dog Wardens", and by inserting the phrase "of the state" in between the word "laws" and the period ".".

Section 19. Amend §1725, Title 7, Delaware Code, by adding thereto a new subsection to read as follows:

"(c) For the purposes of this chapter, the term 'Dog Warden' shall mean a person employed by the Department or an animal control agency to enforce the dog control laws of this State. Fish and Wildlife Agents and all other peace officers shall be ex-officio Dog Wardens."

Section 20. This Act shall become effective 90 days after the date of enactment.

Approved July 3, 1997



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