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CHAPTER 411

FORMERLY

HOUSE BILL NO. 614

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES.

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 § 1326(a) of Title 11 of the Delaware Code by inserting between the phrases “possesses, keeps” and “or uses any bull, bear, dog” as they appear in said subsection the following:

“, trains”.

Section 2. Amend § 1327 of the Title 11 of the Delaware Code by redesignating said Section as “§ 1330”, and by adding a new “§ 1327” to said Title, to read as follows:

“§ 1327. Maintaining a dangerous animal, class E felony, class F felony, class A misdemeanor.

(a) A person is guilty of maintaining a dangerous animal when such person knowingly or recklessly owns, controls or has custody over any dangerous animal which causes death, serious physical injury or physical injury to another person, or which causes death or serious injury to another animal.

(b) For the purposes of this Section, ‘dangerous animal’ means any dog or other animal which:

- (1) had been declared dangerous or potentially dangerous by the Dog Control Panel pursuant to Subchapter III of Chapter 17 of Title 7 of the Delaware Code;
- (2) had been trained for animal fighting, or that has been used primarily or occasionally for animal fighting; or
- (3) had been intentionally trained so as to increase its viciousness, dangerousness or potential for unprovoked attacks upon human beings or other animals.
- (4) has an individualized and known propensity, tendency or disposition, specific to the individual dog, for viciousness, dangerousness or unprovoked attacks upon human beings or other animals.

(c) Maintaining a dangerous animal shall be punished as follows:

- (1) When a dangerous animal causes the death of a person, maintaining a dangerous animal is a class E felony;

- (2) When a dangerous animal causes serious physical injury to a person, maintaining a dangerous animal is a class F felony;
- (3) When a dangerous animal causes physical injury to a person, or when a dangerous animal causes death or physical injury to another animal, maintaining a dangerous animal is a class A misdemeanor.
- (d) This Section shall not apply to any dog or other animal trained or owned or used by any law enforcement agency or any person, company, agency entity licensed pursuant to Chapter 13 of Title 24 of the Delaware Code.
- (e) In any prosecution under this Section it shall be an affirmative defense that, at the time of the attack during which physical injury, serious physical injury or death was inflicted upon a person:
- (1) the victim of the attack was in the course of the committing criminal trespass or any violent felony as set forth in this Title, or was attempting to commit criminal trespass or said violent felony;
 - (2) the victim had provoked the attack by committing Cruelty to Animals as defined in § 1325 of this Title upon said dangerous animal, or by inflicting physical injury upon said dangerous animal; or
 - (3) the owner or custodian of the dangerous animal was in full compliance with the applicable provisions of Subchapter III of Chapter 17 of Title 7 of the Delaware Code, including the requirements pertaining to confinement, restraint and muzzling.
- (f) In any prosecution under this Section it shall be an affirmative defense that, at the time of the attack during which physical injury or death was inflicted upon an animal:
- (1) the animal which was injured or killed had entered onto the real property of the owner or custodian of the dangerous animal without permission;
 - (2) the animal which was injured or killed had provoked the attack by menacing, biting or attacking the dangerous animal or its owner or custodian; or
 - (3) the owner or custodian of the dangerous animal was in full compliance with the applicable provisions of Subchapter III of Chapter 17 of Title 7 of the Delaware Code, including the requirements pertaining to confinement, restraint and muzzling.”.

Approved July 10, 2002



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