

§ 21.4. Penalties.

The act establishes penalties for violations of the various articles of the act and this part. The Department may impose the following penalties individually or in combination. Section 903 of the act (3 P. S. § 459-903) provides the penalty for illegal or unlawful activities enumerated in the act or violations of the act for which specific criminal penalty provisions have not been enumerated. It may be applied in addition to civil penalties provided for in the act.

(1) *Article II penalty provisions.* Article II of the act (3 P. S. § § 459-200—459-219) contains provisions regarding licensure of dogs and kennels and provides the following penalties:

(i) *Agent violation.* Consistent with section 200(j) of the act (3 P. S. § 459-200(j)), an agent who violates section 200 of the act commits a summary offense and upon conviction shall be sentenced to pay a fine of not less than \$300 nor more than \$500 and in addition may have his agency recalled at the discretion of the Secretary. Each day of violation or each illegal act constitutes a separate offense.

(ii) *Failure of an individual to comply with licensure provisions.* Consistent with section 201(c) of the act (3 P. S. § 459-201(c)), an individual who violates section 201 of the act commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not less than \$25 nor more than \$300 for each unlicensed dog.

(iii) *Failure of a kennel to comply with licensure provisions.* Consistent with section 207(a.1) of the act (3 P. S. § 459-207(a.1)), it is unlawful for a kennel to operate without first obtaining a license. The Secretary may file suit in Commonwealth Court to enjoin the operation of a kennel that violates any of the provisions of the act or this part and may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations.

(iv) *Revocation, suspension or denial of a kennel license.* Consistent with section 211 of the act (3 P. S. § 459-211), the Secretary may revoke, suspend or refuse to issue a kennel license or an out-of-State dealer license if the person holding or applying for a license has done any of the following:

(A) Made a material misstatement or misrepresentation in the license application.

(B) Made a material misstatement or misrepresentation to the Department or its personnel regarding a matter relevant to the license.

(C) Been convicted of any violation of the act.

(D) Failed to comply with any regulation promulgated under the act.

(E) Been convicted of any law relating to cruelty to animals.

(v) *Seizure of dogs.* Consistent with section 211(c) of the act (3 P. S. § 459-211(c)), the Department may seize and impound, and direct forfeiture of ownership of a dog for the following reasons:

(A) Upon revocation, suspension or denial of a kennel license or an out-of-State dealer license, the Department may seize and impound any dog in the possession, custody or care of the person whose license is revoked, suspended or denied if there are reasonable grounds to believe that the dog's health, safety or welfare is endangered. The person from whom the dog was seized and impounded shall pay for reasonable costs of transportation, care and feeding of the dog.

(B) The Department will not take physical possession or custody of the dog when there are no reasonable grounds to support the belief that the health, safety or welfare of the dog is endangered or when the person whose license is revoked, suspended or denied has provided satisfactory evidence or assurances the dog will receive adequate care.

(C) Upon proper notice and opportunity for an administrative hearing, as set forth in section 211(c)(5) of the act (3 P. S. § 459-211(c)(5)), the Secretary may direct the forfeiture of ownership of a dog which has been seized and impounded.

(2) Article V and V-A penalty provisions. Articles V and V-A of the act (3 P. S. § 459-501—459-507-A) contains provisions regarding offenses of dogs and provides the following penalties:

(i) Harboring a dangerous dog. A person found guilty of harboring a dangerous dog, as set forth in section 502-A of the act (3 P. S. § 459-502-A), shall be guilty of a summary offense.

(ii) Control of dog during dangerous dog court proceedings. A person that violates section 502-A(d) of the act, regarding disposition of a dog during court proceedings, shall be guilty of a summary offense and shall pay a fine of at least \$200.

(iii) Failure to register and restrain a dangerous dog. Consistent with section 505-A(a) of the act (3 P. S. § 459-505-A(a)), a person that fails to properly register a dangerous dog, secure and maintain the liability insurance coverage required under section 503-A of the act (3 P. S. § 450-503-A), maintain the dog in the proper enclosure or fails to have the dog under proper physical restraint when the dog is outside the enclosure or dwelling of the owner shall be guilty of a misdemeanor of the third degree. In addition, a State dog warden or a police officer shall immediately confiscate a dangerous dog upon the occurrence of any of these violations.

(iv) Attacks by a dangerous dog. Consistent with section 505-A(b) of the act, when it is found that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, attacked a human or a domestic animal, the dog's owner shall be guilty of a misdemeanor of the second degree and the dangerous dog shall be immediately confiscated by a State dog warden or police officer, placed in quarantine for the proper length of time and thereafter humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

(v) Attacks by a dangerous dog causing severe injury or death. Consistent with section 505-A(c) of the act, when it is found that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, aggressively attacked and caused severe injury to or death of a human, the dog's owner shall be guilty of a misdemeanor of the first degree. The dangerous 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 humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

(3) Article VI penalty provisions. Article VI of the act (3 P. S. § 459-601—459-603) contains provisions regarding injury to dogs and provides the following penalties:

(i) Poisoning of a dog. Consistent with section 601(b) of the act (3 P. S. § 459-601(b)), a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, where it may be easily found and eaten by a dog, shall be guilty of a summary offense.

(ii) Intentional poisoning of a dog. Consistent with section 601(b.1) of the act, a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, with the intent that the poison or substance be eaten by a dog, shall be guilty of a misdemeanor of the second degree and shall be sentenced to pay a fine of not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 2 years, or both. A subsequent conviction under this subsection shall constitute a felony of the third degree.

(iii) Abandonment of a dog. Consistent with section 601(c) of the act, a person convicted of abandoning or attempting to abandon a dog within this Commonwealth shall pay a fine of not less than \$300 dollars and not more than \$1,000, plus costs.

(iv) Taunting law enforcement dogs. Consistent with section 602(a) of the act (3 P. S. § 459-602(a)), it is unlawful for a person to willfully and maliciously taunt, torment, tease, beat, kick or strike any dog, including a search and rescue or accelerant detection dog, used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions

or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

(v) *Torturing certain dogs.* Consistent with section 602(b) of the act, it is unlawful for a person to willfully and maliciously torture, mutilate, injure, disable, poison or kill any dog, including a search and rescue or accelerant detection dog used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

(vi) *Denial of facilities or service due to police dog use.* Consistent with section 602(c) of the act, it is unlawful for the proprietor, manager or employee of a theatre, hotel, motel, restaurant or other place of entertainment, amusement or accommodation to, either directly or indirectly, refuse, withhold from or deny, any of the accommodations, advantages, facilities or privileges of those places to a person due to the use of a working police dog used by any State or county or municipal police or sheriff's department or agency. A person convicted of violating any of the provisions of this subsection shall be guilty of a misdemeanor of the third degree.

(4) *Article VII penalty provisions.* Article VII of the act (3 P. S. § § 459-701—459-706) contains provisions regarding dog caused damages. Section 704 of the act (3 P. S. § 459-704) provides that the owner or keeper of a dog found to be causing damages and which is the subject of an order from the Secretary shall have 10 days to comply with the order. Failure of the owner or keeper to comply with the order, upon summary conviction, shall result in a fine of not less than \$100 and not more than \$500.

(5) *Article IX penalty provisions.* Article IX of the act (3 P. S. § § 459-901—459-907) contains general enforcement and penalty provisions and provides the following penalties:

(i) *Catch all criminal penalty provision.* Consistent with section 903 of the act (3 P. S. § 459-903), unless specifically provided for, a person found to be in violation of any provision of Article II—Article VIII of the act (3 P. S. § § 459-201—459-802), or this chapter shall be guilty of a summary offense for the first violation and for a second and subsequent violation, of any provision, which occurs within 1 year of sentencing for the first violation shall be guilty of a misdemeanor of the third degree.

(ii) *Alteration of permanent identification.* Consistent with section 904 of the act (3 P. S. § 904), a person convicted of defacing or altering any form of permanent identification of a dog shall be guilty of a summary offense and upon conviction thereof shall be sentenced to pay a fine of \$300 or to imprisonment for not less than 90 days, or both.

(b) *Article IX-A penalty provisions.* Article IX-A of the act (3 P. S. § § 459-901-A—459-911-A) relates to the sterilization of dogs and cats. Failure to comply with Article IX-A or the related regulations shall, consistent with section 911-A of the act (3 P. S. § 459-911-A), constitute a summary offense.

Authority

The provisions of this § 21.4 amended under section 201 of the Dog Law (3 P. S. § 459-201); and Articles II—IX-A of the Dog Law (3 P. S. § § 459-201—459-219, 459-301—459-305, 459-401, 459-402, 459-501, 459-502, 459-501-A—459-507-A, 459-601—459-603, 459-701—459-706, 459-801, 459-802, 459-901—459-907 and 459-901-A—459-911-A).

Source

The provisions of this § 21.4 amended March 14, 2003, effective March 15, 2003, 33 Pa.B. 1329. Immediately preceding text appears at serial page (209434).

Grabzt