

CHAPTER 274

98-S 2370A
Enacted 7/9/98

A N A C T

RELATING TO VICIOUS DOGS

Introduced By: Senators Perry, Walton, Nygaard, Gibbs, Izzo, et al.

Date Introduced : February 3, 1998

It is enacted by the General Assembly as follows:

SECTION 1. Sections 4-13.1-2, 4-13.1-3, 4-13.1-7, 4-13.1-8, 4-13.1-9 and 4-13.1-12 of the General Laws in Chapter 4-13.1 entitled "Regulation of Vicious Dogs" are hereby amended to read as follows:

4-13.1-2. Definitions. -- As used in sections 4-13.1-1 -- ~~{DEL 4-13.1-10 DEL}~~ {ADD 4-13.1-14 ADD}, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Vicious Dog" means:

(1) Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; {ADD and which has been determined to be vicious according to section 4-13.1-12 of this chapter; ADD} or

(2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; {ADD and which has been determined to be vicious according to section 4-13.1-12 of this chapter; ADD} or

(3) Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; {ADD and which has been determined to be vicious according to section 4-13.1-12 of this chapter; ADD} or

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting; or

~~{DEL (5) Any dog not licensed according to state, city or town law. DEL}~~

Notwithstanding the definition of a vicious dog above, no dog may be declared vicious {ADD in accordance with section 4-13.1-12 ADD} of this chapter if an injury or damage is sustained by a person who, at the time that injury or damage was sustained, was committing a ~~{DEL willful DEL}~~ trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, {ADD provoking; ADD} abusing or assaulting the dog or was committing or attempting to commit a crime.

No dog may be declared vicious if an injury or damage was sustained by a domestic animal which at the time that injury or damage was sustained was teasing, tormenting, {ADD provoking; ADD} abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(b) "Enclosure" means a fence or structure of at least six feet (6') in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the vicious dog. The enclosure shall be securely

enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.

(c) "Dog Officer" means any person defined by the provisions of chapter 19 of this title, entitled "Animal Care".

(d) "Impounded" means taken into the custody of the public pound in the city or town where the vicious dog is found.

(e) "Person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

{ADD (f) "Domestic Animals" shall mean animals, which through extremely long association with humans, have been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them unique and distinguishable from wild individuals of their species. Such animals may include but are not limited to: ADD}

{ADD Domestic dog (Canis familiaris) ADD}

{ADD Domestic cat (Felis Catus) ADD}

{ADD Domestic horse (Equus caballus) ADD}

{ADD Domestic ass, burro, and donkey (Equus asinus) ADD}

{ADD Domestic cattle (Bos taurus and Bos indicus) ADD}

{ADD Domestic sheep (Ovi aries) ADD}

{ADD Domestic goat (Capra hircus) ADD}

{ADD Domestic swine (Sus scrofa domestica) ADD}

{ADD Llama (lama alama) ADD}

{ADD Alpaca (lama pacos) ADD}

{ADD Camels (Camelus bactrianus and Camel dromedarius) ADD}

{ADD Domestic races of European rabbit (Oryctolagus cuniculus) ADD}

{ADD Domestic races of chickens (Callus gallus) ADD}

{ADD Domestic races of duck and geese (Anatidae) morphologically distinguishable from wild birds ADD}

{ADD Domestic races of guinea fowl (Numida meleagris) ADD}

{ADD Domestic races of peafowl (Pavo scristatus). ADD}

4-13.1-3. Requirements for registration. -- (a) No vicious dog shall be licensed by any city or town for any licensing period commencing after April 1986, unless the owner or keeper of that vicious dog shall meet the following requirements:

(1) ~~{DEL The DEL}~~ {ADD A panel convened pursuant to section 4-13.1-12 of this chapter and/or a judge of the district court may require the ADD} owner or keeper ~~{DEL shall DEL}~~ {ADD to ADD} present to the city or town clerk or other licensing authority, proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by the vicious dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city or town to be named as additional insured for the sole purpose of the city or town clerk or other licensing authority where that dog is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

(2) The owner or keeper shall, at his own expense, have the licensing number assigned to the vicious dog, or such other identification number as the city or town clerk or other licensing authority shall determine, tattooed upon the

vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by any state, city or town police department. The tattoo shall be placed either on the upper inner lip or upper left rear thigh of the vicious dog. The dog officer may, in his discretion, designate the particular location of the tattoo. The licensing number shall be noted on the city or town licensing files for the vicious dog, if it is different from the license number of the vicious dog. For the purposes of this section, "tattoo" shall be defined as any permanent numbering of a vicious dog by means of indelible or permanent ink with the number designated by the licensing authority, or any other permanent, acceptable method of tattooing. Each city or town shall affix a two (2) letter prefix to the identification number in order to identify the particular city or town where the dog was initially licensed.

(3) The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway.

(4) The owner or keeper shall sign a statement attesting that:

(i) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of the license.

(ii) The owner or keeper shall, on or prior to the effective date of the license for which application is being made, have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.

(iii) The owner or keeper shall notify the licensing authority and the dog officer within twenty-four (24) hours if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has been sold or given away. If the vicious dog has been sold or given away, the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new owner of the vicious dog.

(b) A dog officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such dog officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

In the event that the owner or keeper of the dog refuses to surrender the animal to the dog officer, the dog officer may request a police officer to obtain a search warrant from a justice of the district court and to seize the dog upon execution of the warrant.

4-13.1-7. Action for damages -- Destruction of offending vicious dog. -- (a) If any ~~{DEL-vicious-DEL}~~ dog ~~{ADD declared vicious under section 4-13.1-12 ADD}~~ shall, when unprovoked, kill or wound, or assist in killing or wounding any ~~{DEL-sheep, lamb, cattle, horse, hog, swine, fowl or other-DEL}~~ domestic animal, belonging to or in the possession of any person, or shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of the vicious dog, or while otherwise, on or off the property of the owner or keeper whether or not the vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of the dog ~~{DEL-shall-DEL}~~ ~~{ADD may ADD}~~ be liable to the person aggrieved as aforesaid, for all damage sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious dog in violation of this chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of the vicious dog knew that the vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon the attack or assault, the dog officer in the city or town where the attack or assault occurred is hereby empowered to confiscate ~~{DEL-and-destroy-DEL}~~ the vicious dog, ~~{ADD and ADD}~~ if the conduct of the vicious dog or its owner or keeper constituted a violation of the provisions of this chapter, ~~{ADD the attack or assault may be ADD}~~ punishable by the ~~{DEL-confiscation and-DEL}~~ destruction of the animal.

4-13.1-8. Exemptions. -- (a) Sections 4-13.1-3 -- 4-13.1-7 inclusive of this chapter shall not apply to kennels licensed in accordance with the provisions of this chapter or chapter 19 of this title.

~~{DEL-(b) If a dog is ruled to be vicious for violation of section 4-13.1-2(a)(5) solely, that vicious dog ruling shall be repealed upon compliance with the penalty clause contained in section 4-13.1-9(d) dealing with fines for unlicensed dogs. All other provisions of this chapter dealing with vicious dogs shall not apply to that animal.-DEL}~~

(c) The provisions of this chapter shall not apply to K-9 or other dogs owned by any police department or any law enforcement officer which are used in the performance of police work.

4-13.1-9. Penalties for violation -- Licensing ordinances and fees. -- (a) (i) Any ~~{DEL-vicious-DEL}~~ dog ~~{ADD declared vicious under section 4-13.1-12 ADD}~~, ~~{DEL-except those ruled vicious for violation of section 4-13.1-2(a) (5) solely, which does not have a valid license in accordance with the provisions of this chapter, or-DEL}~~

(ii) whose owner or keeper does not secure the liability insurance coverage required in accordance with section 4-13.1-3, or

(iii) which is not maintained on property with an enclosure, or

(iv) which shall be outside of the dwelling of the owner or keeper, or outside of an enclosure except as provided in section 4-13.1-4, or

(v) which is not tattooed, ~~{ADD or microchipped. ADD}~~ ~~{DEL-shall-DEL}~~ ~~{ADD may ADD}~~ be confiscated by a dog officer and destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period exclusive of Sundays and holidays ~~{ADD which shall not include any day or part thereof that the public pound is not open for a specified period of time, not to be less than one half (1/2) the normal hours of business, for the purpose of reclaiming any such dog by its rightful owner ADD}~~. In addition, the owner or keeper shall pay a ~~{DEL-two hundred fifty dollar (\$250)-DEL}~~ ~~{ADD five hundred fifty dollar (\$550) ADD}~~ fine.

(b) If any ~~{DEL-vicious-DEL}~~ dog ~~{ADD declared vicious under section 4-13.1-12 ADD}~~ shall, when unprovoked, kill, wound or worry or assist in killing or wounding any animal described in section 4-13.1-7, the owner or keeper of the dog shall pay a ~~{DEL-two hundred fifty dollar (\$250)-DEL}~~ ~~{ADD five hundred fifty dollar (\$550) ADD}~~ fine and the dog officer is empowered to confiscate and, after the expiration of a five (5) day waiting period exclusive of Sundays and holidays, ~~{ADD which shall not include any day or part thereof that the public pound is not open for a specified period of time, not to be less than one half (1/2) the normal hours of business, for the purpose of reclaiming any such dog by its rightful owner ADD}~~ ~~{DEL-shall-DEL}~~ ~~{ADD may ADD}~~ destroy the vicious dog. For each subsequent violation, the owner or keeper of the dog shall pay a fine of ~~{DEL-five hundred dollars (\$500)-DEL}~~ ~~{ADD one thousand dollars (\$1,000) ADD}~~.

(c) If any ~~{DEL-vicious-DEL}~~ dog ~~{ADD declared vicious under section 4-13.1-12 ADD}~~ shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or keeper shall pay a ~~{DEL-five hundred dollar (\$500) fine-DEL}~~ ~~{ADD one thousand dollar (\$1,000) fine and the dog officer is empowered to confiscate and, after the expiration of a five (5) day waiting period, which shall not include any day or part thereof that the public pound is not open for a specified period of time, not to be less than one half (1/2) the normal hours of business, for the purpose of reclaiming any such dog by its rightful owner, may destroy the dog. ADD}~~ For each subsequent violation, the owner or keeper shall pay a fine of one thousand dollars (\$1,000), for owning or keeping a vicious dog which so attacks, assaults, wounds, bites or otherwise injures or kills a human being.

No person shall be charged under subsections (a), (b) or (c) above, unless the dog, prior to the offense alleged, shall have been declared vicious pursuant to the provisions of this chapter.

(d) (1) Every city or town shall enact an ordinance requiring the licensing of dogs within their jurisdiction at a fee not to exceed ten dollars (\$10.00). In addition, each city or town shall charge an additional fee of two dollars (\$2.00) for each license, that fee to be used exclusively by the cities and towns for enforcement of laws pertaining to animals.

(2) Every owner or keeper of any dog found to be in violation of any city or town ordinance governing the licensing of dogs shall for the first offense be fined twenty-five dollars (\$25.00) and for a second violation of the ordinance shall be fined two hundred dollars (\$200.00) and shall be required at his own expense, to have the dog tattooed in a manner prescribed by the provisions of this chapter, and for a third or subsequent offense shall be fined five hundred dollars (\$500.00), and shall be required at his own expense, to have the dog tattooed in a manner prescribed by the provisions of this chapter.

~~{DEL-In addition, any owner or keeper convicted of a third or subsequent violation shall present to the city or town clerk or other licensing authority proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by the dog, which policy shall contain a provision requiring the city or town to be named as additional insured for the sole purpose of the city or town clerk or other licensing authority where the dog is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy and the owner or keeper shall comply with the provisions of section 4-13.1-3 (a)(4)-DEL}~~

No fine and/or tattooing requirement shall be suspended by any court of competent jurisdiction.

{ADD If the owner or keeper of a dog impounded for an alleged violation of sections 4-13.1-4 to 4-13.1-5, inclusive, of this chapter, shall believe that there shall not have been a violation of the sections hereof, such owner or keeper may petition the district court which has jurisdiction in the city or town where the dog is impounded praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of the owner's or keeper's petition of the petition shall have been filed within five (5) days of impoundment of the dog and notice shall have been served within five (5) days of the impoundment of the dog upon the dog officer or keeper of the dog pound. The hearing shall be conducted within fourteen (14) days from serving of the notice. The decision of the district court may be appealed to the superior court by any aggrieved party within forty eight (48) hours of the decision. The dog shall remain impounded pending the appeal. A hearing de novo, without a jury, shall be conducted within fourteen (14) days of the appeal. The decision of the superior court shall be final and conclusive upon all parties thereto. However, the dog officer or any law enforcement officer shall have the right to convene a hearing under section 4-13.1-3 for any actions of the dog subsequent to the date of violation. If the court shall find that there shall not have been a violation of sections 4-13.1-4 through 4-13.1-5, inclusive, of this chapter, the dog may be released to the custody of the owner or keeper upon payment to the pound keeper or dog officer of the expense of keeping the dog. The city or town councils may establish by ordinance a schedule of those costs. ADD}

(e) One-half (1/2) of all fines paid pursuant to this section shall be paid to the city or town in which the violation occurred for the purpose of defraying the cost of the implementation of the provisions of this chapter.

(f) No dog shall be destroyed within five (5) days of being impounded, exclusive of Sundays and holidays ~~{DEL-DEL}~~ {ADD, and which shall not include any day or part thereof that the public pound is not open for a specified period of time, not to be less than one half (1/2) the normal hours of business, for the purpose of reclaiming any such dog by its rightful owner. ADD}

(g) If the owner or keeper of a dog impounded for an alleged violation of sections 4-13.1-3 -- ~~{DEL 4-13.1-9-DEL}~~ {ADD 4-13.1-5 ADD}, inclusive, of this chapter, shall believe that there shall not have been a violation of the sections hereof, such owner or keeper may petition the district court which has jurisdiction in the city or town where the dog is impounded praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of the owner's or keeper's petition if the petition shall have been filed within five (5) days of impoundment of the dog and notice shall have been served within five (5) days of the impoundment of the dog upon the dog officer or keeper of the dog pound. The hearing shall be conducted within ~~{DEL seven (7)-DEL}~~ {ADD fourteen (14) ADD} days from serving of the notice. The decision of the district court may be appealed to the superior court by any aggrieved party within forty-eight (48) hours of the decision. The dog shall remain impounded pending the appeal. A hearing de novo, without a jury, shall be conducted within ~~{DEL seven (7)-DEL}~~ {ADD fourteen (14) ADD} days of the appeal. The decision of the superior court shall be final and conclusive upon all the parties thereto. However, the dog officer or any law enforcement officer shall have the right to ~~{DEL declare a dog to be vicious-DEL}~~ {ADD convene a hearing under section 4-13.1-12 ADD} for any actions of the dog subsequent to the date of the violation. If the court shall find that there shall not have been a violation of sections 4-13.1-3 -- ~~{DEL 4-13.1-9-DEL}~~ {ADD 4-13.1-5 ADD}, inclusive, of this chapter, the dog may be released to the custody of the owner or keeper upon payment to the poundkeeper or dog officer of the expense of keeping the dog. The city or town councils may establish by ordinance a schedule of those costs.

~~{DEL (h) If the owner or keeper of the dog violates any of the terms and conditions of section 4-13.1-3 (a)(4), the owner or keeper shall be fined one hundred dollars (\$100.00) for the first such violation and two hundred fifty dollars (\$250.00) for each subsequent violation.-DEL}~~

{ADD (i) The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway. ADD}

{ADD (j) The owner or keeper shall sign a statement attesting that the owner or keeper shall maintain and not voluntarily cancel any liability insurance required pursuant to this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to the expiration of the license. ADD}

{ADD (k) The owner or keeper shall notify the licensing authority and the dog officer within twenty four (24) hours if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being or has died. ADD}

{ADD (l) It shall be unlawful for any owner to sell or give away a vicious dog within the state of Rhode Island. ADD}

{ADD (m) A dog officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such dog officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof. ADD}

4-13.1-12. Determination of a vicious dog. -- In the event that the dog officer or law enforcement officer has probable cause to believe that a dog is vicious, the chief dog officer or his or her immediate supervisor or the chief of police, or his or her designee, shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The dog officer or chief of police shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared vicious. The hearing shall be held promptly within no less than five (5) nor more than ten days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public. The hearing shall be conducted by a panel of three (3) persons which shall consist of the chief of police or his or her designee, the executive director of the Society for the Prevention of Cruelty to Animals (S.P.C.A.) or his or her designee, and a person chosen by the chief of police and the executive director of the S.P.C.A. All members of the panel shall have one (1) vote in making a determination whether or not the dog in question is vicious.

After the hearing, the owner or keeper of the dog shall be notified in writing of the determination. If a determination is made that the dog is vicious, the owner or keeper shall comply with the provisions of this chapter in accordance with a time schedule established by the dog officer or chief of police, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or keeper of the dog contests the determination, he or she may, within five (5) days of that determination, bring a petition in the district court within the judicial district wherein the dog is owned or kept, praying that the court conduct its own hearing on whether or not the dog should be declared vicious. After service of notice upon the dog officer, the court shall conduct a hearing de novo and make its own determination as to viciousness. The hearing shall be conducted within seven (7) days of the service of the notice upon the dog officer or law enforcement officer involved. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be vicious, the court may establish a time schedule to insure compliance with this chapter, but in no case more than thirty (30) days subsequent to the date of the court's determination.

The court may decide all issues for or against the owner or keeper of the dog regardless of the fact that the owner or keeper fails to appear at the hearing.

The determination of the district court shall be final and conclusive upon all parties thereto. However, the dog officer or any law enforcement officer shall have the right to ~~{DEL declare a dog to be vicious DEL}~~ {ADD convene a hearing under this section ADD} for any subsequent actions of the dog.

In the event that the dog officer or law enforcement officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the dog officer or law enforcement officer may seize and impound the dog pending the aforesaid hearings. The owner or keeper of the dog shall be liable to the city or town where the dog is impounded for the costs and expenses of keeping the dog. The city or town council may establish by ordinance a schedule of those costs and expenses.

SECTION 2. This act shall take effect upon passage.

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[Back](#)