

**Chapter 308**  
**2007 -- H 5727 SUBSTITUTE A**  
**Enacted 07/06/07**

**A N A C T**  
**RELATING TO ANIMALS AND ANIMAL HUSBANDRY -- REGULATION OF VICIOUS DOGS**

**Introduced By:** Representatives Lima, Lewiss, Gallison, and Mattiello

**Date Introduced:** February 28, 2007

It is enacted by the General Assembly as follows:

SECTION 1. Sections 4-13.1-2, 4-13.1-3 4-13.1-9 and 4-13.1-11 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 -- 4-13.1-14, the following words and terms shall have the following meanings, unless the context indicates another or different meaning or intent:

(1) "Dog officer" means any person defined by the provisions of chapter 19 of this title.

(2) "Domestic animals" means 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:

(i) Domestic dog (*Canis familiaris*);

(ii) Domestic cat (*Felis catus*);

(iii) Domestic horse (*Equus caballus*);

(iv) Domestic ass, burro, and donkey (*Equus asinus*);

(v) Domestic cattle (*Bos taurus* and *Bos indicus*);

(vi) Domestic sheep (*Ovi aries*);

(vii) Domestic goat (*Capra hircus*);

(viii) Domestic swine (*Sus scrofa domestica*);

(ix) Llama (*Lama lama*);

(x) Alpaca (*Lama pacos*);

(xi) Camels (*Camelus bactrianus* and *Camel dromedarius*);

(xii) Domestic races of European rabbit (*Oryctolagus cuniculus*);

(xiii) Domestic races of chickens (*Callus gallus*);

(xiv) Domestic races of duck and geese (*Anatidae*) morphologically distinguishable from wild birds;

(xv) Domestic races of guinea fowl (*Numida meleagris*);

(xvi) Domestic races of peafowl (*Pavo scristatus*).

(3) "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.

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

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

(6) "Vicious dog" means:

(i) Any dog that, 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;

(ii) 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;

(iii) Any dog that bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal without provocation on public or private property; or

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

Notwithstanding the definition of a vicious dog in subsection (6), no dog may be declared vicious in accordance with section 4-13.1-11 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

trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, provoking, 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, provoking, 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.

(7) "Guardian" shall mean a person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal's safety and well-being.

(8) "Muzzle" means a device which shall not cause injury to the dog or interfere with its vision or respiration but shall prevent the dog from biting a person or animal.

(9) "Serious injury" means any physical injury consisting of a broken bone(s) or permanently disfiguring lacerations requiring stitches, multiple stitches or sutures, or cosmetic surgery.

(10) "Enclosed area" means an area surrounded by a fence that will prevent the dog from leaving the owner's property.

(11) "Tie-out" means a cable, rope, light weight chain, or other means attached to the dog that will prevent the dog from leaving the owner's property.

(12) "Leash" means a rope, cable, nylon strap, or other means attached to the dog that will provide the owner with control of the dog.

**4-13.1-3. Requirements for registration.** -- (a) No dog that has been declared vicious shall be licensed by any city or town for any licensing period commencing after April 1986, unless the owner or keeper of that dog that has been declared vicious meets any or all of the following requirements as may be imposed by the hearing panel:

(1) A panel convened pursuant to section 4-13.1-11 of this chapter and/or a judge of the district court may require the owner or keeper to 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), 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 contains 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 or her own expense, have the licensing number assigned to the vicious dog, or any other identification number that the city or town clerk or other licensing authority determines, tattooed upon the vicious dog by a licensed veterinarian or person trained as a tattooist and authorized a licensed veterinarian or tattooist by any state, city or town police department. The tattoo shall be placed on the upper inner left rear thigh of the vicious dog. The dog officer may, in his or her 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. A microchip may be used in lieu of a tattoo. 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 ceases to own or keep the vicious dog prior to expiration of the license.

(ii) The owner or keeper shall 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 police department or the dog officer within two (2) hours if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died.

(5) When the dog is off the owner's property, it shall be on a leash and/or muzzled.

(6) When the dog is outdoors on the owner's property, it must be on a leash and/or

muzzled, or tie-out, or in an enclosed area which prevents its escape.

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

(c) 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.

(d) A dog must be spayed or neutered unless a licensed veterinarian states in writing that the procedure would threaten the life of the dog.

(e) If an owner or keeper moves, he or she shall notify the dog officer of the city or town in which he/she resides and the dog officer of the city or town in which he or she is to reside.

(f) An owner or keeper may leave a dog under the care and control of someone over the age of sixteen (16) years.

(g) It shall be unlawful for the owner or keeper to sell or give away any dog declared vicious.

**4-13.1-9. Penalties for violation -- Licensing ordinances and fees.** -- (a) Any dog declared vicious under section 4-13.1-11:

(1) Whose owner or keeper does not secure the liability insurance coverage required in accordance with section 4-13.1-3;

(2) Which is not maintained on property with an enclosure;

(3) Which is outside of the dwelling of the owner or keeper, or outside of an enclosure except as provided in section 4-13.1-4; or

(4) Which is not tattooed or microchipped, may be confiscated by a dog officer or may be destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period exclusive of Sundays and holidays 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. In addition, the owner or keeper shall pay a five hundred fifty dollar (\$550) fine.

(5) Provided, further, that in addition to the violations listed herein, if any section of this chapter does not specifically provide a penalty for a violation, the penalty shall be five hundred fifty dollars (\$550) for the first offense and one thousand dollars (\$1000) for any subsequent violation.

(b) If any dog declared vicious under section 4-13.1-11, when unprovoked, kills, wounds, or worries or assists in killing or wounding any animal described in section 4-13.1-7, the owner or keeper of the dog shall pay a five hundred fifty dollar (\$550) fine. The dog officer is empowered to confiscate the dog. After the expiration of a five (5) day waiting period, excluding Sundays and holidays, 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 the rightful owner's reclaiming the dog, the dog officer may destroy the vicious dog. For each subsequent violation, the owner or keeper of the dog shall pay a fine of one thousand dollars (\$1,000).

(c) (1) If any dog declared vicious under section 4-13.1-11, when unprovoked, attacks, assaults, wounds, bites, or otherwise injures, kills or seriously injures a human being, the owner or keeper shall pay a fine of one thousand dollars (\$1,000) 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 vicious dog. 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 attacks, assaults, wounds, bites or otherwise injures or kills a human being. In the event a dog kills a person, the dog shall be humanely euthanized.

(2) The dog officer may confiscate a dog for any violation of this section. If the owner or keeper does not contact the dog officer, or if the dog officer cannot, with a reasonable effort, contact the owner or keeper, the dog may be euthanized under section 4-13-15. If the owner or keeper is found, the dog officer may give the owner or keeper up to ten (10) days to meet the previously imposed requirements. If the requirements are not met in the allotted time, the dog may be euthanized. The owner or keeper will be responsible for the kennel and euthanizing cost.

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

(4) If any dog declared vicious under section 4-13.1-11, seriously injures a person as that term is defined in section 4-13.1-2 or kills or seriously injures a domestic animal, the dog may be humanely euthanized, at the owner's expense, upon a unanimous vote of the hearing panel.

(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) and shall be required at his or her own expense, to have the dog tattooed in a manner prescribed this chapter, and for a third or subsequent offense shall be fined five hundred dollars (\$500), and shall be required at his or her own expense, to have the dog tattooed or microchipped in a manner prescribed by this chapter.

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

(e) (1) If the owner or keeper of a dog impounded for an alleged violation of sections ~~4-13.1-3, 4-13.1-4, to or~~ 4-13.1-5 believes that there has not been a violation of those sections, the 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.

(2) The petition shall be filed within five (5) days of impoundment of the dog. Notice shall be 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.

(3) 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.

(4) 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 finds that there has not been a violation of sections ~~4-13.1-4 4-13.1-3~~ through 4-13.1-5, 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.

(f) 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.

(g) No dog shall be destroyed within five (5) days of being impounded, exclusive of Sundays and holidays, and which shall not include any day or part of a day 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.

~~(h) If the owner or keeper of a dog impounded for an alleged violation of sections 4-13.1-3 — 4-13.1-5 believes that there has not been a violation of the sections, the 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 has been filed within five (5) days of impoundment of the dog and notice has 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 the parties. The dog officer or any law enforcement officer shall have the right to convene a hearing under section 4-13.1-11 for any actions of the dog subsequent to the date of the violation. If the court shall find that there has not been a violation of sections 4-13.1-3 — 4-13.1-5 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.~~

(i) (h) If a dog has been declared vicious pursuant to section 4-13.1-11, 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.

(j) (i) If a dog has been declared vicious pursuant to section 4-13.1-11, 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.

(k) (j) The owner or keeper shall notify the local police or animal control officer within

two (2) hours if a dog that has been declared vicious is on the loose, is unconfined, has attacked another animal or has attacked a human being or has died.

~~(j)~~ (k) It shall be unlawful for any owner to sell or give away a dog that has been declared vicious within the state.

~~(m)~~ (l) 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 dog that has been declared vicious whose owner or keeper fails to comply with these provisions.

**4-13.1-11. Determination of a vicious dog.** -- (a) 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, is 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 (10) days after service of notice upon the owner or keeper of the dog while said notice shall be served upon the owner. 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 vote in making a determination whether or not the dog in question is vicious. Hearing officers shall have immunity.

(b) 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 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 where 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. If the owner has not complied with the provisions of this chapter at the end of thirty (30) days from the written notification that the dog is vicious, the dog ~~may shall~~ be euthanized.

(c) 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.

(d) The determination of the district court shall be final and conclusive upon all parties. The dog officer or any law enforcement officer shall have the right to convene a hearing under this section for any subsequent actions of the dog.

(e) 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 hearings. The owner or keeper of the dog is 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.