

CHAPTER 2016-16

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 91

An act relating to severe injuries caused by dogs; providing a directive to the Division of Law Revision and Information; amending s. 767.12, F.S.; providing for discretionary, rather than mandatory, quarantine or impoundment of dogs that cause severe injuries to humans; revising the hearing and final order procedures, and related confinement requirements, for dangerous dog actions; specifying circumstances under which a dog that has caused severe injury to a human may be euthanized; transferring, renumbering, and amending s. 767.13(2), F.S.; repealing automatic euthanasia requirement for dogs that cause severe injury to humans; deleting a criminal penalty related to severe injury or death caused by a dog; creating s. 767.136, F.S.; re-creating an existing criminal penalty related to severe injury or death caused by a dog in a new statutory section; amending s. 767.14, F.S.; authorizing local governments to adopt certain ordinances pertaining to dogs that have bitten or attacked persons or domestic animals; amending s. 767.16, F.S.; exempting law enforcement dogs from regulation under Part II of chapter 767, F.S.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Division of Law Revision and Information is directed to designate ss. 767.01-767.07, Florida Statutes, as part I of chapter 767, Florida Statutes, entitled “Damage by Dogs,” and ss. 767.10-767.16, Florida Statutes, as part II of that chapter, entitled “Dangerous Dogs.”

Section 2. Section 767.12, Florida Statutes, is amended to read:

767.12 Classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts.—

(1)(a) An animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, shall ~~shall~~ interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.

(a) An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held. The animal may be held pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If the dog is to be destroyed, the dog may not be destroyed while an

appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal pending any hearing or appeal.

(b) An any animal that is the subject of a dangerous dog investigation which, that is not impounded with the animal control authority ~~must, shall~~ be humanely and safely confined by the owner in a securely fenced or enclosed area. The animal shall be confined in such manner pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The address at which of where the animal resides shall be provided to the animal control authority. A no dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the an investigation and or any hearings or appeals related to the determination of a dangerous dog classification or any penalty imposed under this section. If In the event that a dog is to be destroyed, the dog may shall not be relocated or its ownership transferred.

(2)(b) A dog may shall not be declared dangerous if:

(a) The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member.

(b) No dog may be declared dangerous if The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(3)(e) After the investigation, the animal control authority shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and, if sufficient cause is found, as to the appropriate penalty under subsection (5). The animal control authority shall afford the owner an opportunity for a hearing prior to making a final determination regarding the classification or penalty. The animal control authority shall provide written notification of the sufficient cause finding and proposed penalty, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of chapter 48 relating to service of process. The owner may file a written request for a hearing regarding the dangerous dog classification, penalty, or both, within 7 calendar days after from the date of receipt of the notification of the sufficient cause finding and proposed penalty, if the owner requests a hearing requested, the hearing shall be held as soon as possible, but not later more than 21 calendar days and not no sooner than 5 days after receipt of the request from the owner. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the animal control authority as to such matter shall become final. Each applicable local governing authority shall establish hearing procedures that conform to this subsection paragraph.

~~(4)(d) Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (3) Once a dog is classified as a dangerous dog, the animal control authority shall provide a written final order notification to the owner by registered mail, certified hand delivery or service, and The owner may file a written request for a hearing in the county court to appeal the classification, penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure within 10 business days after receipt of the final order. If the dog is not held by the animal control authority, the owner a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this subsection paragraph.~~

~~(5)(a) Except as otherwise provided in paragraph (b), the owner of a dog classified as a dangerous dog shall:~~

~~1.(2) Within 14 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order a dog has been classified as dangerous by the animal control authority or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and renew the certificate shall be renewed annually. Animal control authorities are authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:~~

~~a.(a) A current certificate of rabies vaccination for the dog.~~

~~b.(b) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points which that informs both children and adults of the presence of a dangerous dog on the property.~~

~~c.(c) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.~~

The appropriate governmental unit may impose an annual fee for the issuance of certificates of registration required by this section.

~~2.(3) The owner shall Immediately notify the appropriate animal control authority when the a dog that has been classified as dangerous:~~

~~a.(a) Is loose or unconfined.~~

~~b.(b) Has bitten a human being or attacked another animal.~~

~~c.(c) Is sold, given away, or dies.~~

~~d.(d) Is moved to another address.~~

~~Before~~ ~~Prior to~~ a dangerous dog is ~~dog~~ being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The new owner must comply with all of the requirements of this section ~~act~~ and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state. The animal control officer must be notified by the owner of a dog classified as dangerous that the dog is in his or her jurisdiction.

~~3.~~(4) ~~Not~~ ~~It is unlawful for the owner of a dangerous dog to~~ permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting a ~~any~~ person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

(b) If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner.

~~(6)~~(5) Hunting dogs are exempt from ~~the provisions of this section~~ act when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from ~~the provisions of this section~~ act when engaged in any legal procedures. However, such dogs at all other times in all other respects are ~~shall be~~ subject to this and local laws. Dogs that have been classified as dangerous may ~~shall~~ not be used for hunting purposes.

~~(6) This section does not apply to dogs used by law enforcement officials for law enforcement work.~~

(7) A ~~Any~~ person who violates any provision of this section commits ~~is guilty of~~ a noncriminal infraction, punishable by a fine not to exceed ~~exceeding~~ \$500.

Section 3. Subsection (2) of section 767.13, Florida Statutes, is transferred, renumbered as section 767.135, Florida Statutes, and amended, to read:

767.135 ~~767.13~~ Attack or bite by unclassified dangerous dog that causes death; penalties; confiscation; destruction.—

~~(2) If a dog that has not been declared dangerous attacks and causes the severe injury to or death of a any human, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under s. 767.12. If the owner files a written appeal under s. 767.12 or this section, the dog must be held and may not be destroyed while the appeal is pending. The owner is shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure. In addition, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 4. Section 767.136, Florida Statutes, is created to read:

767.136 Attack or bite by unclassified dog that causes severe injury or death; penalties.—

(1) If a dog that has not been declared dangerous attacks and causes severe injury to, or the death of, a human, and the owner of the dog had knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) If the dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner of the dog is not guilty of any crime under this section.

Section 5. Section 767.14, Florida Statutes, is amended to read:

767.14 Additional local restrictions authorized.—Nothing in This act does not shall limit any local government from adopting an ordinance to address the safety and welfare concerns caused by attacks on persons or domestic animals, placing further restrictions or additional requirements on owners of dangerous dogs that have bitten or attacked persons or domestic animals, or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. This section does shall not apply to any local ordinance adopted prior to October 1, 1990.

Section 6. Section 767.16, Florida Statutes, is amended to read:

767.16 Bite by a Police or service dog; exemption from quarantine.—

(1) Any dog that is owned, or the service of which is employed, by a law enforcement agency, is exempt from this part.

(2) ~~or~~ Any dog ~~that is~~ used as a service dog for blind, hearing impaired, or disabled persons, ~~and that bites another animal or a human is exempt from any quarantine requirement following such bite if the dog has a current rabies vaccination that was administered by a licensed veterinarian.~~

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor March 8, 2016.

Filed in Office Secretary of State March 8, 2016.