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2016 Legislature

1
2 An act relating to severe injuries caused by dogs;
3 providing a directive to the Division of Law Revision
4 and Information; amending s. 767.12, F.S.; providing
5 for discretionary, rather than mandatory, quarantine
6 or impoundment of dogs that cause severe injuries to
7 humans; revising the hearing and final order
8 procedures, and related confinement requirements, for
9 dangerous dog actions; specifying circumstances under
10 which a dog that has caused severe injury to a human
11 may be euthanized; transferring, renumbering, and
12 amending s. 767.13(2), F.S.; repealing automatic
13 euthanasia requirement for dogs that cause severe
14 injury to humans; deleting a criminal penalty related
15 to severe injury or death caused by a dog; creating s.
16 767.136, F.S.; re-creating an existing criminal
17 penalty related to severe injury or death caused by a
18 dog in a new statutory section; amending s. 767.14,
19 F.S.; authorizing local governments to adopt certain
20 ordinances pertaining to dogs that have bitten or
21 attacked persons or domestic animals; amending s.
22 767.16, F.S.; exempting law enforcement dogs from
23 regulation under Part II of chapter 767, F.S.;

24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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

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

35 767.12 Classification of dogs as dangerous; certification
36 of registration; notice and hearing requirements; confinement of
37 animal; exemption; appeals; unlawful acts.—

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

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

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53 for payment of all boarding costs and other fees as may be
 54 required to humanely and safely keep the animal pending any
 55 hearing or appeal.

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

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

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

77 (b) ~~No dog may be declared dangerous if~~ The dog was
 78 protecting or defending a human being within the immediate

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79 vicinity of the dog from an unjustified attack or assault.

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

104 (4)(d) Upon a dangerous dog classification and penalty

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

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

121 1.(2) Within 14 days after issuance of the final order
 122 classifying the dog as dangerous or the conclusion of any appeal
 123 that affirms such final order ~~a dog has been classified as~~
 124 ~~dangerous by the animal control authority or a dangerous dog~~
 125 ~~classification is upheld by the county court on appeal, the~~
 126 ~~owner of the dog must~~ obtain a certificate of registration for
 127 the dog from the animal control authority serving the area in
 128 which he or she resides, and renew the certificate ~~shall be~~
 129 ~~renewed~~ annually. Animal control authorities are authorized to
 130 issue such certificates of registration, and renewals thereof,

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131 only to persons who are at least 18 years of age and who present
 132 to the animal control authority sufficient evidence of:

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

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

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

141
 142 The appropriate governmental unit may impose an annual fee for
 143 the issuance of certificates of registration required by this
 144 section.

145 2.~~(3)~~ ~~The owner shall~~ Immediately notify the appropriate
 146 animal control authority when the a dog ~~that has been classified~~
 147 ~~as dangerous~~:

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

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

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

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

152
 153 Before ~~Prior to~~ a dangerous dog is ~~dog being~~ sold or given away,
 154 the owner shall provide the name, address, and telephone number
 155 of the new owner to the animal control authority. The new owner
 156 must comply with all of the requirements of this section ~~act~~ and

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157 implementing local ordinances, even if the animal is moved from
 158 one local jurisdiction to another within the state. The animal
 159 control officer must be notified by the owner of a dog
 160 classified as dangerous that the dog is in his or her
 161 jurisdiction.

162 3.~~(4)~~ Not ~~It is unlawful for the owner of a dangerous dog~~
 163 ~~to~~ permit the dog to be outside a proper enclosure unless the
 164 dog is muzzled and restrained by a substantial chain or leash
 165 and under control of a competent person. The muzzle must be made
 166 in a manner that will not cause injury to the dog or interfere
 167 with its vision or respiration but will prevent it from biting a
 168 ~~any~~ person or animal. The owner may exercise the dog in a
 169 securely fenced or enclosed area that does not have a top,
 170 without a muzzle or leash, if the dog remains within his or her
 171 sight and only members of the immediate household or persons 18
 172 years of age or older are allowed in the enclosure when the dog
 173 is present. When being transported, such dogs must be safely and
 174 securely restrained within a vehicle.

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

180 (6)~~(5)~~ Hunting dogs are exempt from ~~the provisions of this~~
 181 section ~~act~~ when engaged in any legal hunt or training
 182 procedure. Dogs engaged in training or exhibiting in legal

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183 sports such as obedience trials, conformation shows, field
 184 trials, hunting/retrieving trials, and herding trials are exempt
 185 from ~~the provisions of this section act~~ when engaged in any
 186 legal procedures. However, such dogs at all other times in all
 187 other respects are ~~shall be~~ subject to this and local laws. Dogs
 188 that have been classified as dangerous may ~~shall~~ not be used for
 189 hunting purposes.

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

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

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

198 767.135 ~~767.13~~ Attack or bite by unclassified ~~dangerous~~
 199 dog that causes death; penalties; ~~confiscation; destruction.-~~

200 ~~(2)~~ If a dog that has not been declared dangerous attacks
 201 and causes the ~~severe injury to or~~ death of a ~~any~~ human, the dog
 202 shall be immediately confiscated by an animal control authority,
 203 placed in quarantine, if necessary, for the proper length of
 204 time or held for 10 business days after the owner is given
 205 written notification under s. 767.12, and thereafter destroyed
 206 in an expeditious and humane manner. This 10-day time period
 207 shall allow the owner to request a hearing under s. 767.12. If
 208 the owner files a written appeal under s. 767.12 or this

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209 section, the dog must be held and may not be destroyed while the
 210 appeal is pending. The owner is ~~shall be~~ responsible for payment
 211 of all boarding costs and other fees as may be required to
 212 humanely and safely keep the animal during any appeal procedure.
 213 ~~In addition, if the owner of the dog had prior knowledge of the~~
 214 ~~dog's dangerous propensities, yet demonstrated a reckless~~
 215 ~~disregard for such propensities under the circumstances, the~~
 216 ~~owner of the dog is guilty of a misdemeanor of the second~~
 217 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

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

220 767.136 Attack or bite by unclassified dog that causes
 221 severe injury or death; penalties.—

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

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

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

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235 767.14 Additional local restrictions authorized. ~~Nothing~~
 236 ~~in~~ This act does not shall limit any local government from
 237 adopting an ordinance to address the safety and welfare concerns
 238 caused by attacks on persons or domestic animals, placing
 239 further restrictions or additional requirements on owners of
 240 ~~dangerous~~ dogs that have bitten or attacked persons or domestic
 241 animals, or developing procedures and criteria for the
 242 implementation of this act, provided that no such regulation is
 243 specific to breed and that the provisions of this act are not
 244 lessened by such additional regulations or requirements. This
 245 section does shall not apply to any local ordinance adopted
 246 prior to October 1, 1990.

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

249 767.16 ~~Bite by a~~ Police or service dog; exemption ~~from~~
 250 ~~quarantine.~~

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

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

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