

permitting agency from the Department of Business and Professional Regulation (DBPR) to the Department of Health.

The bill revises euthanasia procedures and authorizes chemical immobilization procedures and applies them to all animals, not just cats and dogs. It sets forth certification and continuing education requirements for persons performing these procedures.

The bill requires that investigative agents, appointed after July 1, 2001, meet certain training and continuing education requirements. It authorizes municipal law enforcement officers and agents to perform the same duties as their county counterparts. It also sets forth certain training and education requirements that an animal control officer must meet in to carry a legal firearm.

This bill substantially amends the following sections of the Florida Statutes: 767.012, 767.13, 767.14, 828.03, 828.055, 828.058, 828.073.

II. Present Situation:

Chapter 90-180, L.O.F., imposed uniform requirements for the owners of dangerous dogs, provided procedures for certain dogs to be classified as dangerous, established requirements for control and confinement of dangerous dogs, and provided for the imposition of fines and penalties for violations of this act.

Under the provisions of the act, a “dangerous dog” is defined under s.767.11, F.S., as a dog that according to the records of the appropriate authority:

- Has aggressively bitten, attacked, or endangered, or has inflicted severe injury on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner’s property;
- Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

Section 767.12, F.S., provides that an animal control authority is to investigate reported incidents involving a suspected dangerous dog. A dog that is the subject of such an investigation is to be kept confined by the owner and may not be relocated or have its ownership transferred pending the outcome of the investigation. A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who was unlawfully on the property, harassing the dog or its owner, or if the dog was protecting a human from an unjustified attack.

After investigation, the animal control authority is to make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing before making a final determination. The hearing procedures are to be established by the local governing authority. After the hearing, if the dog is classified as a dangerous dog, the animal control authority must provide written notice to the owner, and the owner may appeal the classification to the county court. The President of the Florida Animal Control Association (FACA) testified that these procedures have caused confusion and raised jurisdiction questions about the role of the county court to hear appeals.

Within 14 days after the classification as a dangerous dog by the animal control authority or the classification is upheld by the county court on appeal, the owner must register the dog and renew the certificate annually. Vaccination, enclosure, warning sign and identification requirements must then be followed, along with notice requirements if the dog is loose, bites or attacks a person or another animal, or there is any other change in status. A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash.

Any violation of this section is a noncriminal infraction, punishable by a fine of not more than \$500. Exemptions are provided for: hunting dogs, 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; and dogs used for law enforcement work.

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

- Misdemeanor of the first degree, punishable under s. 775.082 or s. 775.083, if his dog has previously been declared “dangerous” and it attacks or bites a person or domestic animal without provocation.
- Misdemeanor of the second degree, punishable under s. 775.082 or s. 775.083, if the dog has not previously been declared “dangerous” and causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog’s dangerous propensities.
- Felony of the third degree, punishable under s. 775.082, s.775.083, or 775.084, if the dog has previously been declared “dangerous” and it attacks and causes severe injury to or death of any human.

If circumstances exist that warrant a criminal charge, the dog is to be immediately confiscated by an animal control authority, placed in quarantine, if necessary, or impounded for 10 business days after the owner is given written notification, during which time the owner may request a hearing under s. 767.12, F.S. A dog may not be destroyed while an appeal is pending. However, the owner must pay for all boarding costs and other fees to maintain the dog during any appeal process.

Section 767.13, F.S., further provides that, if a 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 is not guilty of any crime under this section.

Pursuant to section 767.14, F.S., local governments are authorized to place further restrictions and additional requirements relating to dangerous dogs. However, no local regulation may be breed-specific, or lessen the provisions of chapter unless adopted prior to October 1, 1990.

Chapter 828, F.S., authorizes sodium pentobarbital, a sodium pentobarbital derivative, or other agent the BVM approves for use in euthanasia of cats and dogs and humane substances for tranquilizing them. Permits to handle these drugs must now be obtained from the DBPR. FACA, which represents 175 animal control shelters throughout the state, reports that legend drugs are an integral part of stray animal control programs that are necessary to an effective rabies program directed by the Department of Health. Legend drugs have been approved for use by the BVM but it is difficult for animal control shelters to obtain the required legend drugs. FACA asserts that the statute should be changed to place responsibility with the permittee and remove control over daily use of legend drugs from the veterinarians.

Certification and training is required for persons euthanizing and tranquilizing dogs and cats. These requirements do not apply to chemical immobilization and to animals other than cats and dogs.

County law enforcement officers or agents are authorized to take certain actions regarding animals found in distress. This same authority is not extended to their municipal counterparts.

Presently an animal control officer is not authorized to bear arms in the performance of his duties.

III. Effect of Proposed Changes:

Section 1. Amends procedures contained in 767.12, F.S., for classifying dogs as dangerous and revises some of the duties and rights arising from such classification as follows:

- Eliminates a dog owner's right to a prior hearing and authorizes the animal control authority to make an initial determination as to whether sufficient cause exists to classify the dog as dangerous after reviewing data collected during a dangerous dog investigation. The authority may also make a final determination declaring the dog dangerous.
- Changes one of the ways to notify the owner of the sufficient-cause finding from registered to certified mail.
- Provides that the dog owner may file a request for an evidentiary hearing in county court or a request for an administrative hearing, as determined by local ordinance, within 7 calendar days after receiving notice of the sufficient-cause finding.
- Clarifies that, if requested, a hearing shall be held within 21 calendar days, or as soon thereafter as practical, but no sooner than five days after receipt of the owner's request.

- Provides that, if no hearing is requested within the 7 day period, the dog shall automatically be declared dangerous.
- Provides that the animal control authority, after notifying the dog owner of a finding of sufficient-cause but before final resolution of the matter, may not impose restrictions on the dog except for confinement, impoundment, or prohibition of relocation or transfer.
- Requires the dog owner to obtain certificate of registration for the dog within 14 days of being classified as dangerous by the animal control authority or within 14 days of a sufficient-cause finding being upheld.
- Eliminates the right of local governments to establish hearing procedures or appeal procedures to handle these matters but does authorize them to impose more stringent requirements.
- Adds requirement that the owner of an animal brought from another state, where it was subjected to restrictions similar to Florida's dangerous dog law, must comply with Florida's law.

Section 2. Amends s. 767.13 as follows

- Provides that the animal control authority may euthanize an animal and obtain reimbursement from the owner when the owner does not pay required boarding costs in those circumstances where an animal has been legitimately confiscated and quarantined because it has committed acts which would subject the owner to criminal charges.
- Limits the right to destroy a dog while a hearing or appeal is pending to those instances provided in the act.

Section 3. Amends s. 767.14, F.S., to eliminate the provision that permits local governments to have dangerous dog regulations that are specific to a certain breed if the ordinance was adopted prior to October 1, 1990.

Section 4. Amends s. 828.055, F.S., as follows:

- The list of drugs that are permitted for use in chemical capture and euthanasia of animals is expanded to consist of legend drugs (veterinary legend drugs are defined in Chapter 499, F.S.), including controlled substances listed in Chapter 893, F.S., as recommended by the BVM to the Board of Pharmacy.
- Adds state agencies with animal related duties and humane societies with government contracts for animal control as entities that can acquire and use permitted legend drugs for the same purposes as county or municipal animal control agencies. The purposes for which the drugs can be used are expanded to include chemical immobilization of animals.

- Allows humane societies without government contracts for animal control to acquire and use permitted legend drugs only for the purpose of tranquilizing or sedating and euthanizing injured, sick, abandoned, or otherwise unclaimed animals that are in their lawful possession.
- The Department of Health replaces the DBPR as the agency to handle applications for a permit to acquire and use legend drugs.

Section 5. Amends s. 828.058, F.S., by revising euthanasia procedures and adding procedures for the chemical immobilization of animals as follows:

- Makes provisions applicable to all animals, not just cats and dogs.
- Directs that only agents recommended to the Board of Pharmacy by the BVM can be used:
 - To euthanize an animal in addition to sodium pentobarbital and a derivative.
 - To immobilize animals to facilitate capture and control.
- Prohibits public or private agencies, animal shelters, or other facilities that are operated for the collection and care of stray, neglected, abandoned or unwanted animals from using neuromuscular blocking agents for any purpose.
- Deletes an outdated requirement that persons performing euthanasia at the time the act was passed had to obtain certification by October 1, 1994.
- Establishes the following chemical immobilization procedures:
 - Can be performed only by veterinarian, certified veterinary technician, employee of a state agency with animal related responsibilities, animal control personnel, or personnel from a humane society that is registered with the Secretary of State and has a government contract for animal control.
 - Requires all persons performing chemical immobilization, except veterinarians and certified veterinary technicians, to complete 16-hour certification course approved by the BVM.
 - Prohibits leaving an animal unattended between the time of chemical immobilization and return to sternal recumbency.

Section 6. Amends s. 828.03, F.S., to add a requirement that agents appointed after July 1, 2001 to investigate violations of the act must complete a 40 hour minimum standards training course required by s. 828.27(4)(a)1, F.S. All such agents that utilize devices to chemically immobilize an animal must complete the training required by s. 828.27(1)(b) and meet the continuing education requirements contained in s. 828.27 (4)(a)3.

Section 7. Amends s. 828.073, F.S., to allow municipal law enforcement officers and agents to perform the same functions relating to animals found in distress as can be performed by their county counterparts.

Section 8. Amends regulations regarding local animal control ordinances contained in s. 828.27, F.S., as follows:

- Directs that chemical immobilization training shall be in accordance with s. 828.058(4), F.S.
- Sets forth criteria and training that an animal control officer must meet in order to carry a legal firearm.
- Doubles the requirement for continuing education from 4 to 8 hours for certified county-employed animal control officers.

Section 9. Provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There should not be any need for hearings before the animal control authority as the animal control authority can make a sufficient-cause finding or a dangerous dog declaration without prior notice.

At the local government level, the bill would eliminate time being spent to enforce any specific breed ordinances as they would no longer be valid.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
