

of any of these heightened duties may result in a fine not to exceed \$300 for a first offense and \$500 for a second offense. *See* D.C.Code § 1021.6(a). In addition, “[a]n owner of a dangerous dog that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined up to \$10,000.” D.C.Code § 6–1021.6(b).

This statutory framework was temporarily amended on an emergency basis in 1996 by the Pit Bull Act, pursuant to which McNeely was convicted.⁹ In relevant part, the Act added the pit bull breed—as defined by either the American Kennel Club or the United Kennel Club—to the definition of a dangerous dog.¹⁰ *See* sec. 2(a), 43 D.C.Reg. at 2156. It further excepted all pit bulls from the provisions of D.C.Code §§ 6–1021.2 and 6–1021.3, thus removing the need for an administrative hearing in order to classify any particular pit bull as a dangerous dog. *See* sec. 2(b), 43 D.C.Reg. at 2156. A new provision was added to allow the Mayor to impound and humanely destroy any pit bull found within the District which had not been licensed and specially registered under D.C.Code § 6–1021.4, unless the owner provided sufficient evidence to prove in an administrative hearing either that the dog was in fact not a pit bull, or that the pit bull would be permanently removed from the District of Columbia. *See* sec. 2(c), 43 D.C.Reg. at 2157. Most pivotal to this case is the Act’s amendment of the penalty provisions of

D.C.Code § 6–1021.6. While excepting all owners of pit bulls from civil fines arising from technical violations of the special registration provisions,¹¹ *see* sec. 2(f)(1), 43 D.C.Reg. at 2158, the Pit Bull Act substantially augmented the penalty imposed upon an owner when a pit bull causes injury to another person or domestic animal:

[a] pit bull or a Rottweiler that causes injury to or kills a human being or a domestic animal without provocation shall be humanly [sic] destroyed and the owner of such dog shall be fined up to \$20,000 and may be sentenced to not more than 2 years of imprisonment.

43 D.C.Reg. at 2158. It was under this particular provision that McNeely was convicted and sentenced.

III.

McNeely asserts that the Pit Bull Act denies due process of law because it fails to provide “fair warning” of the conduct it proscribes and because it constitutes an impermissible strict liability felony. The government disagrees with the former claim because the Act’s penalty provision expressly provides constitutionally adequate notice of the conditions under which criminal liability may attach. The government responds to the second claim by arguing that strict liability statutes imposing criminal sanctions are, as a constitutional matter, permissible, and, that as a matter of statutory interpretation, the common

9. The Pit Bull Act was effective for only ninety days, and has not been re-enacted. *See* D.C.Code § 1–229(a) (1999) (defining the permissible term of emergency legislation). Given its emergency and temporary status, the Act is unaccompanied by legislative history, and the present case appears to be the only prosecution brought under it. In addition, we have not heretofore considered an appeal concerning the penalty provision of the dangerous dog law, either as it exists today or as it stood temporarily amended.

10. Although the Act applies equally to Rottweilers, we refer primarily to pit bulls throughout this opinion as that is the breed involved in this case.

11. It appears that such civil fines were supplanted by the Mayor’s new authority under the Pit Bull Act to humanely destroy or deport any pit bull found without proper registration.