

2 **ESHB 1462** - S COMM AMD

3 By Committee on Agriculture & Water Resources

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 16.08.070 and 1987 c 94 s 1 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout RCW 16.08.070 through 16.08.100 and
11 sections 2 through 5 of this act.

12 (1) "Potentially dangerous dog" means any dog that when unprovoked:

13 (a) Inflicts bites on a human or a domestic animal either on public or
14 private property, or (b) chases or approaches a person upon the
15 streets, sidewalks, or any public grounds in a menacing fashion or
16 apparent attitude of attack, or any dog with a known propensity,
17 tendency, or disposition to attack unprovoked, to cause injury, or to
18 cause injury or otherwise to threaten the safety of humans or domestic
19 animals.

20 (2) "Dangerous dog" means any dog that according to the records of
21 the appropriate authority, (a) has inflicted severe injury on a human
22 being without provocation on public or private property, (b) has killed
23 a domestic animal without provocation while off the owner's property,
24 or (c) has been previously found to be potentially dangerous, the owner
25 having received notice of such and the dog again aggressively bites,
26 attacks, or endangers the safety of humans or domestic animals.

1 (3) "Severe injury" means any physical injury that results in
2 broken bones or disfiguring lacerations requiring multiple sutures or
3 cosmetic surgery.

4 (4) "Proper enclosure of a dangerous dog" means, while on the
5 owner's property, a dangerous dog shall be securely confined indoors or
6 in a securely enclosed and locked pen or structure, suitable to prevent
7 the entry of young children and designed to prevent the animal from
8 escaping. Such pen or structure shall have secure sides and a secure
9 top, and shall also provide protection from the elements for the dog.

10 (5) "Animal control authority" means an entity acting alone or in
11 concert with other local governmental units for enforcement of the
12 animal control laws of the city, county, and state and the shelter and
13 welfare of animals.

14 (6) "Animal control officer" means any individual employed,
15 contracted with, or appointed by the animal control authority for the
16 purpose of aiding in the enforcement of this chapter or any other law
17 or ordinance relating to the licensure of animals, control of animals,
18 or seizure and impoundment of animals, and includes any state or local
19 law enforcement officer or other employee whose duties in whole or in
20 part include assignments that involve the seizure and impoundment of
21 any animal.

22 (7) "Owner" means any person, firm, corporation, organization, or
23 department possessing, harboring, keeping, having an interest in, or
24 having control or custody of an animal.

25 (8) "Pet animal" means any animal species that is customarily kept
26 as a household pet, and capable of inflicting severe injury, damage, or
27 death to persons, other pet animals, or property. "Pet animal" does
28 not include: (a) Species that are customarily kept in separate
29 physical confinement; (b) livestock raised for commercial purposes; or

1 (c) private sector cultured aquatic products, as defined in RCW
2 15.85.020."

3 "NEW SECTION. Sec. 2. The animal control authority shall
4 classify potentially dangerous dogs and dangerous dogs. The authority
5 may determine a dog to be potentially dangerous or dangerous if an
6 animal control officer has probable cause to believe that the dog falls
7 within the definitions set forth in RCW 16.08.070.

8 If the owner or keeper of the dog objects to the determination that
9 the dog is potentially dangerous or dangerous, the owner or keeper may
10 petition the municipal or district court within the judicial district
11 where the dog is owned or kept for a hearing for the purpose of
12 determining whether or not the dog in question should be declared a
13 potentially dangerous dog or a dangerous dog. A city or county may
14 establish an administrative hearing procedure to hear and dispose of
15 petitions filed pursuant to this chapter. Whenever possible, any
16 complaint received from a member of the public that serves as the
17 evidentiary basis for the animal control officer to find probable cause
18 shall be sworn to and verified by the complainant and shall be attached
19 to the petition. The chief officer of the animal control authority or
20 head of the local law enforcement agency shall notify the owner or
21 keeper of the dog that a hearing will be held by the municipal or
22 district court or the hearing entity, as the case may be, at which time
23 he or she may present evidence as to why the dog should not be declared
24 a potentially dangerous dog or a dangerous dog. The owner or keeper of
25 the dog shall be served with notice of the hearing and a copy of the
26 petition, either personally or by first-class mail with return receipt
27 requested. The hearing shall be held promptly within no less than
28 fifteen working days nor more than forty-five working days after
29 service of notice upon the owner or keeper of the dog. The hearing

1 shall be open to the public. A jury shall not be available. The court
2 may find, upon a preponderance of the evidence, that the dog is a
3 potentially dangerous dog or a dangerous dog and make other orders
4 authorized by this chapter."

5 "NEW SECTION. Sec. 3. After the hearing conducted pursuant to
6 section 2 of this act, the owner or keeper of the dog shall be notified
7 in writing of the determination and orders issued, either personally or
8 by first-class mail postage prepaid by the court or hearing entity. If
9 a determination is made that the dog is a potentially dangerous dog or
10 a dangerous dog, the owner or keeper shall comply with RCW 16.08.080
11 through 16.08.100 in accordance with a time schedule established by the
12 chief officer of the animal control authority or the head of the local
13 law enforcement agency, but in no case more than thirty days after the
14 date of the determination or thirty-five days if notice of the
15 determination is mailed to the owner or keeper of the dog."

16 "NEW SECTION. Sec. 4. (1) If upon investigation it is
17 determined by the animal control officer that probable cause exists to
18 believe the dog in question poses an immediate threat to public safety,
19 the animal control officer may seize and impound the dog pending the
20 hearings to be held pursuant to sections 2 and 3 of this act. The
21 owner or keeper of the dog shall be liable to the city or county where
22 the dog is impounded for the costs and expenses of keeping the dog.

23 (2) When a dog has been impounded pursuant to subsection (1) of
24 this section and it is not contrary to public safety, the chief animal
25 control officer shall permit the animal to be confined at the owner's
26 expense in an approved kennel or veterinary facility."

1 "NEW SECTION. Sec. 5. The state of Washington fully occupies
2 and preempts the entire field of the regulation of potentially
3 dangerous dogs and dangerous dogs. Cities, towns, and counties or
4 other municipalities may enact only those laws and ordinances relating
5 to potentially dangerous dogs and dangerous dogs that are consistent
6 with this chapter, and may not adopt an ordinance regulating the
7 keeping, transporting, or breeding of dogs or potentially dangerous
8 dogs based solely on the specific breed of dog. Such local ordinances
9 shall have the same penalties as provided for by state law. Such local
10 ordinances may contain provisions imposing monetary penalties and costs
11 against the owner of any dog confiscated under this chapter. Local
12 laws and ordinances that are inconsistent with the requirements of
13 state law shall not be enacted and are preempted and repealed,
14 regardless of the nature of the code, charter, or home rule status of
15 the city, town, county, or municipality. No local ordinance may, on
16 the basis of dangerousness or potential dangerousness, restrict the
17 transporting of any dog through the local jurisdiction so long as the
18 dog is safely confined within a vehicle while traveling through the
19 jurisdiction."

20 **"Sec. 6.** RCW 16.08.090 and 1987 c 94 s 3 are each amended to read
21 as follows:

22 (1) It is unlawful for an owner of a dangerous dog to permit the
23 dog to be outside the proper enclosure unless the dog is muzzled and
24 restrained by a substantial chain or leash and under physical restraint
25 of a responsible person. The muzzle shall be made in a manner that
26 will not cause injury to the dog or interfere with its vision or
27 respiration but shall prevent it from biting any person or animal.

28 (2) ~~((Potentially dangerous dogs shall be regulated only by local,~~
29 ~~municipal, and county ordinances.— Nothing in this section limits~~

1 ~~restrictions local jurisdictions may place on owners of potentially~~
2 ~~dangerous dogs.))~~ It is unlawful for an owner of any pet animal to
3 permit the pet animal to be outside of the owner's property except when
4 (a) the pet animal is under physical restraint of a responsible person,
5 or (b) the person and the pet animal are jointly engaged in an activity
6 for which the state has issued a license, stamp, or permit, such as for
7 hunting, pursuant to RCW 77.32.350 or for purposes of training, trials,
8 or exhibition regardless of the frequency of conducting such training,
9 trials, or exhibitions. Cities, towns, and counties shall enact
10 ordinances for the purposes of enforcing this subsection. Such
11 ordinances may include the imposition of charges for catching,
12 transporting, maintaining, and disposal of such pet animals regardless
13 of whether the animal's owner reclaims the animal.

14 (3) Dogs shall not be declared potentially dangerous or dangerous
15 if the threat, injury, or damage was sustained by a person who, at the
16 time, was committing a willful trespass or other tort upon the premises
17 occupied by the owner of the dog, or was tormenting, abusing, or
18 assaulting the dog or has, in the past, been observed or reported to
19 have tormented, abused, or assaulted the dog or was committing or
20 attempting to commit a crime."

21 "Sec. 7. RCW 16.08.100 and 1987 c 94 s 4 are each amended to read
22 as follows:

23 " (1) Any dangerous dog shall be immediately confiscated by an animal
24 control authority if the: (a) Dog is not validly registered under RCW
25 16.08.080; (b) owner does not secure the liability insurance coverage
26 required under RCW 16.08.080; (c) dog is not maintained in the proper
27 enclosure; (d) dog is outside of the dwelling of the owner, or outside
28 of the proper enclosure and not under physical restraint of the

1 responsible person. In addition, the owner shall be guilty of a gross
2 misdemeanor punishable in accordance with RCW 9A.20.021.

3 (2) If a dangerous dog of an owner with a prior conviction under
4 this chapter attacks or bites a person or another domestic animal, the
5 dog's owner is guilty of a class C felony, punishable in accordance
6 with RCW 9A.20.021. In addition, the dangerous dog shall be
7 immediately confiscated by an animal control authority, placed in
8 quarantine for the proper length of time, and thereafter destroyed in
9 an expeditious and humane manner.

10 (3) The owner of any dog that aggressively attacks and causes
11 severe injury or death of any human, whether the dog has previously
12 been declared potentially dangerous or dangerous, shall be guilty of a
13 class C felony punishable in accordance with RCW 9A.20.021. In
14 addition, the dog shall be immediately confiscated by an animal control
15 authority, placed in quarantine for the proper length of time, and
16 thereafter destroyed in an expeditious and humane manner.

17 (4) Any person entering a dog in a dog fight is guilty of a class
18 C felony punishable in accordance with RCW 9A.20.021."

19 (5) The owner of any dangerous or potentially dangerous dog outside
20 of the owner's property and not under physical restraint of the
21 responsible person as required by RCW 16.08.090(2) is guilty of a
22 misdemeanor. In addition, the dog shall be immediately confiscated by
23 the animal control authority.

24 "NEW SECTION. Sec. 8. Sections 2 through 5 of this act are
25 each added to chapter 16.08 RCW."

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4 On page 1, line 1 of the title, after "Relating to" strike the
5 remainder of the title and insert "domestic animals; amending RCW
6 16.08.070, 16.08.090, and 16.08.100; adding new sections to chapter
7 16.08 RCW; and prescribing penalties."