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**SUBSTITUTE SENATE BILL 6087**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Skratek, Barr, Madsen, Oke, Rasmussen and Nelson)

Read first time 02/07/92.

1 AN ACT Relating to domestic animals; amending RCW 16.08.070,  
2 16.08.090, and 16.08.100; adding new sections to chapter 16.08 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 16.08.070 and 1987 c 94 s 1 are each amended to read  
6 as follows:

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

10 (1) "Potentially dangerous dog" means any dog that when unprovoked:  
11 (a) Inflicts bites on a human or a domestic animal either on public or  
12 private property, or (b) chases or approaches a person upon the  
13 streets, sidewalks, or any public grounds in a menacing fashion or  
14 apparent attitude of attack, or any dog with a known propensity,

1 tendency, or disposition to attack unprovoked, to cause injury, or to  
2 cause injury or otherwise to threaten the safety of humans or domestic  
3 animals.

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

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

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

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

24 (6) "Animal control officer" means any individual employed,  
25 contracted with, or appointed by the animal control authority for the  
26 purpose of aiding in the enforcement of this chapter or any other law  
27 or ordinance relating to the licensure of animals, control of animals,  
28 or seizure and impoundment of animals, and includes any state or local  
29 law enforcement officer or other employee whose duties in whole or in

1 part include assignments that involve the seizure and impoundment of  
2 any animal.

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

6 (8) "Pet animal" means any animal species that is customarily kept  
7 as a household pet, and capable of inflicting severe injury, damage, or  
8 death to persons, other pet animals, or property. "Pet animal" does  
9 not include: (a) Species that are customarily kept in separate  
10 physical confinement; (b) livestock raised for commercial purposes; or  
11 (c) private sector cultured aquatic products, as defined in RCW  
12 15.85.020.

13 NEW SECTION. Sec. 2. The animal control authority shall  
14 classify potentially dangerous dogs and dangerous dogs. The authority  
15 may determine a dog to be potentially dangerous or dangerous if an  
16 animal control officer has probable cause to believe that the dog falls  
17 within the definitions set forth in RCW 16.08.070.

18 If the owner or keeper of the dog objects to the determination that  
19 the dog is potentially dangerous or dangerous, the owner or keeper may  
20 petition the municipal or district court within the judicial district  
21 where the dog is owned or kept for a hearing for the purpose of  
22 determining whether or not the dog in question should be declared a  
23 potentially dangerous dog or a dangerous dog. A city or county may  
24 establish an administrative hearing procedure to hear and dispose of  
25 petitions filed pursuant to this chapter. Whenever possible, any  
26 complaint received from a member of the public that serves as the  
27 evidentiary basis for the animal control officer to find probable cause  
28 shall be sworn to and verified by the complainant and shall be attached  
29 to the petition. The chief officer of the animal control authority or

1 head of the local law enforcement agency shall notify the owner or  
2 keeper of the dog that a hearing will be held by the municipal or  
3 district court or the hearing entity, as the case may be, at which time  
4 he or she may present evidence as to why the dog should not be declared  
5 a potentially dangerous dog or a dangerous dog. The owner or keeper of  
6 the dog shall be served with notice of the hearing and a copy of the  
7 petition, either personally or by first-class mail with return receipt  
8 requested. The hearing shall be held promptly within no less than  
9 fifteen working days nor more than forty-five working days after  
10 service of notice upon the owner or keeper of the dog. The hearing  
11 shall be open to the public. A jury shall not be available. The court  
12 may find, upon a preponderance of the evidence, that the dog is a  
13 potentially dangerous dog or a dangerous dog and make other orders  
14 authorized by this chapter.

15 NEW SECTION. **Sec. 3.** After the hearing conducted pursuant to  
16 section 2 of this act, the owner or keeper of the dog shall be notified  
17 in writing of the determination and orders issued, either personally or  
18 by first-class mail postage prepaid by the court or hearing entity. If  
19 a determination is made that the dog is a potentially dangerous dog or  
20 a dangerous dog, the owner or keeper shall comply with RCW 16.08.080  
21 through 16.08.100 in accordance with a time schedule established by the  
22 chief officer of the animal control authority or the head of the local  
23 law enforcement agency, but in no case more than thirty days after the  
24 date of the determination or thirty-five days if notice of the  
25 determination is mailed to the owner or keeper of the dog.

26 NEW SECTION. **Sec. 4.** (1) If upon investigation it is  
27 determined by the animal control officer that probable cause exists to  
28 believe the dog in question poses an immediate threat to public safety,

1 the animal control officer may seize and impound the dog pending the  
2 hearings to be held pursuant to sections 2 and 3 of this act. The  
3 owner or keeper of the dog shall be liable to the city or county where  
4 the dog is impounded for the costs and expenses of keeping the dog.

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

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

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

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

9       (2) ~~((Potentially dangerous dogs shall be regulated only by local,~~  
10 ~~municipal, and county ordinances. Nothing in this section limits~~  
11 ~~restrictions local jurisdictions may place on owners of potentially~~  
12 ~~dangerous dogs.))~~ It is unlawful for an owner of any pet animal to  
13 permit the pet animal to be outside of the owner's property except when  
14 (a) the pet animal is under physical restraint of a responsible person,  
15 or (b) the person and the pet animal are jointly engaged in an activity  
16 for which the state has issued a license, stamp, or permit, such as for  
17 hunting, pursuant to RCW 77.32.350 or for purposes of training, trials,  
18 or exhibition regardless of the frequency of conducting such training,  
19 trials, or exhibitions. Cities, towns, and counties shall enact  
20 ordinances for the purposes of enforcing this subsection. Such  
21 ordinances may include the imposition of charges for catching,  
22 transporting, maintaining, and disposal of such pet animals regardless  
23 of whether the animal's owner reclaims the animal.

24       (3) Dogs shall not be declared potentially dangerous or dangerous  
25 if the threat, injury, or damage was sustained by a person who, at the  
26 time, was committing a willful trespass or other tort upon the premises  
27 occupied by the owner of the dog, or was tormenting, abusing, or  
28 assaulting the dog or has, in the past, been observed or reported to  
29 have tormented, abused, or assaulted the dog or was committing or  
30 attempting to commit a crime.

1       **Sec. 7.** RCW 16.08.100 and 1987 c 94 s 4 are each amended to read  
2 as follows:

3       (1) Any dangerous dog shall be immediately confiscated by an animal  
4 control authority if the: (a) Dog is not validly registered under RCW  
5 16.08.080; (b) owner does not secure the liability insurance coverage  
6 required under RCW 16.08.080; (c) dog is not maintained in the proper  
7 enclosure; (d) dog is outside of the dwelling of the owner, or outside  
8 of the proper enclosure and not under physical restraint of the  
9 responsible person. In addition, the owner shall be guilty of a gross  
10 misdemeanor punishable in accordance with RCW 9A.20.021.

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

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

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

27       (5) The owner of any dangerous or potentially dangerous dog outside  
28 of the owner's property and not under physical restraint of the  
29 responsible person as required by RCW 16.08.090(2) is guilty of a

1 misdemeanor. In addition, the dog shall be immediately confiscated by  
2 the animal control authority.

3 NEW SECTION. Sec. 8. Sections 2 through 5 of this act are  
4 each added to chapter 16.08 RCW.