

HOUSE BILL REPORT

SSB 5027

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to dangerous dogs.

Brief Description: Providing for control of dangerous dogs.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Goings and Swecker).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/31/99, 4/2/99 [DP].

Brief Summary of Substitute Bill

- Changes the definition of "dangerous dog" to mean a dog that inflicts severe injury on a human, kills a domestic animal, or that has previously been declared potentially dangerous because of injury inflicted on a human.
- Creates a state notice and appeal process.
- Increases the amount of either the surety bond or liability insurance policy required to obtain a certificate of registration for a "dangerous dog" from \$50,000 to \$250,000.
- Replaces "whether" with "whether or not" the dog has previously been declared potentially dangerous or dangerous; and requires the state to prove that the owner of the dog either knew or should have known that the dog was potentially dangerous.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Dianne Ramerman (786-7172).

Background:

In 1987, the Legislature enacted a number of statutes dealing with dog ownership. The statutes define "dangerous" and "potentially dangerous" dogs, set forth requirements regarding ownership of dangerous dogs, and establish criminal liability under some circumstances.

"Dangerous" and "Potentially Dangerous:"

A "dangerous dog" is defined as a dog that, according to the records of the appropriate authority has inflicted severe injury on a person without provocation; has killed a domestic animal while off the owner's property without provocation; or has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of a person or a domestic animal.

A "potentially dangerous dog" is defined as a dog that, when unprovoked, bites a person or domestic animal, chases or approaches a person in a menacing fashion or in an apparent attitude of attack; or any dog with a known propensity to attack unprovoked, to cause injury, or to threaten the safety of people or domestic animals.

Notice and Appeal:

The statutes do not specify either a notice or an appeal process for determining if a dog is "dangerous."

Certificates of Registration:

The owner of a "dangerous dog" must obtain a certificate of registration from the appropriate city or county regulating animal control authority. To obtain a certificate, the owner must demonstrate that he or she has the following: (1) a proper enclosure to confine the dog; (2) a clearly visible posted sign warning of the presence of the dangerous dog; (3) a conspicuously displayed sign with a warning symbol to inform children of the dog; and (4) either a surety bond or liability insurance in the amount of \$50,000 to compensate anyone injured by the dog.

Penalties for Dog Owners:

If a dog is not validly registered, if the owner does not secure the liability insurance coverage required, if a dog is not maintained in the proper enclosure, if a dog is outside the enclosure of the owner's home and not under the physical restraint of a responsible

person, the owner of the dangerous dog is guilty of a gross misdemeanor; and the dangerous dog is immediately confiscated by an animal control authority.

If a dangerous dog of an owner with a prior conviction under this statute, attacks or bites a person or domestic animal, the dog's owner is guilty of a class C felony; and the dog is immediately confiscated by an animal control authority, placed in quarantine for a certain period, and then humanely destroyed.

If a dog aggressively attacks and causes the severe injury or death of a person, whether the dog has previously been declared potentially dangerous or dangerous, the dog's owner is guilty of a class C felony; and the dog is immediately confiscated by an animal control authority, placed in quarantine for a certain period, and then humanely destroyed.

Summary of Bill:

"Dangerous" and "Potentially Dangerous:"

Irrespective of whether the records show that a dog has inflicted injury or killed a domestic animal, a dog is defined as "dangerous" if it inflicts severe injury on a human being without provocation; or if it kills a domestic animal without provocation while off the owner's property. A dog is also "dangerous" if it has been previously found to be potentially dangerous because of injury inflicted on a human, rather than a domestic animal.

Notice and Appeal:

A notice and appeal process for declaring a dog "dangerous" is created. To declare a dog dangerous, a city or county animal control authority must serve notice upon the dog owner. The notice must include: (1) the statutory basis for the proposed action; (2) the reasons the authority considers the animal dangerous; (3) a statement that the dog is subject to registration and controls; and (4) an explanation of the owner's rights and an explanation of the proper procedure for appealing a decision finding the dog dangerous.

The animal control authority must make a final determination within 30 days of the date of delivering or mailing notice. Before the final determination, the owner of the dog can request to meet with the authority, and at that time the owner can present reasons why the dog should not be declared dangerous. The meeting must be scheduled within the 20-day period following service of the notice. The final determination must be in the form of a written order that includes the statutory basis for the action, a brief statement of supporting facts, and the signature of the person making the determination.

The dog owner has 20 days after receiving the final determination to make an administrative appeal. The owner may appeal a municipal animal control authority's final determination to the municipal court, and may appeal a county animal control authority's or county sheriff's final determination to the district court. While the appeal

is pending, the local authority may confine or control the dog; and if the dog is ultimately determined to be dangerous, the owner is liable for all costs of confinement and control.

Nevertheless, if a local jurisdiction has, upon the effective date of this act, a notification and appeal process already in place, the local jurisdiction can continue to utilize that process; and if the local jurisdiction has provided for an administrative appeal of the final determination, the dog owner must follow those appeal procedures.

Certificates of Registration:

To obtain a certificate of registration, the amount of the surety bond or liability insurance policy that the owner is required to obtain is increased from \$50,000 to \$250,000. However, this provision does not mean that a local authority must allow dangerous dogs within its jurisdiction or that the city, county, or local sheriff is required to issue a certificate of registration.

A city or county can have code requirements that are more restrictive than state statutes.

Penalties for Dog Owners:

In the subsection establishing when the owner of a dangerous dog commits a gross misdemeanor, the word "or" is added to clarify the requirement that only certain, rather than all, deficiencies listed need be occurring for an owner to be found guilty. Additionally, under the same section of the chapter, the animal control authority is now required to serve notice upon the dog owner. The notice must specify the reasons for the confiscation of the dog, that the owner is responsible for the costs of confinement and control, and that the dog will be destroyed in a humane manner if the dog's deficiencies are not corrected within 20 days of notification.

Finally, changes are made to the portion of the chapter dealing with "any dog that aggressively attacks and causes the severe injury or death of a person." Instead, of saying "whether" the statute now reads: "whether or not the dog has previously been declared potentially dangerous or dangerous, the dog's owner is guilty of a class C felony." Additionally, the following provision is added: "in such a prosecution, the state must prove the owner of the dog either knew or should have known that the dog was potentially dangerous."

Appropriation: None.

Fiscal Note: Requested on March 25, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The vast majority of what is in the bill is already in the statutes. The bill has nothing to do with the dog's breed, but it does have to do with dogs that have bitten and attacked people. A Division I Court of Appeals case in 1996 ruled that the majority of these statutes were invalid and not enforceable because there was no due process for the dog or the dog owner. This bill just adds an appeal process to make the rest of the statutes enforceable. The amount of the required \$50,000 liability bond is increased to \$250,000. If, after the owner both brings an attorney in and argues before the Humane Society, the dog is deemed dangerous, then the owner must get a bond. To the class C felony, the bill adds "whether or not" the dog has previously been declared dangerous or potentially dangerous and that the state has the burden of proof in showing from a previous run-in with the Humane Society that the dog is dangerous. If prosecutors can prove the owner knew or should have known, authorities can go forward with a class C felony.

It is important that owners be accountable and responsible for their dogs when they aggressively attack people. The problem is that people buy dogs and make them mean. Owners do know what their dogs are like. The dogs attack kids, but the dogs are not put to sleep, rather they are given away or released back into the neighborhood. We are not living in the 1920's at a time when many of these laws were written and livestock were important. We need to give prosecutors a leg to stand on. Those who are attacked by dogs have to pay hospital bills out of their own pocket. Prosecutors try to prosecute these dog attack cases, but because of the "whether" wording in the statutes, the charges do not stick. To put dogs to sleep, the owner's permission sometimes has to be obtained and this should not be the case.

In essence, the notice and appeal procedures in this bill are the notice and appeal procedures that the city of Seattle has in place. The cities feel strongly that owners should have a notice and appeal process in place, but also feel strongly that people should be protected. Since the tense has been changed, you can start the process with the "first bite." The process starts when someone wants the dog declared dangerous. This bill will put a notice and appeal process in place for cities and counties that do not already have a process in place.

Testimony Against: None.

Testified: Senator Goings, prime sponsor; Amy Asplund, constituent; Jean Christopherson, constituent; Jim Seesz, constituent; and Kathy Gerke, Association of Washington Cities.