

# HOUSE BILL REPORT

## SSB 6635

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### As Passed House - Amended:

March 6, 2002

**Title:** An act relating to a notice and appeal process for animal control authorities.

**Brief Description:** Creating a notice and appeal process for animal control authorities.

**Sponsors:** By Senate Committee on Judiciary (originally sponsored by Senators Kastama, Kline and Rasmussen).

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/27/02 [DP].

#### Floor Activity:

Passed House - Amended: 3/6/02, 84-9.

### Brief Summary of Substitute Bill (As Amended by House)

- Changes the definition of dangerous dog.
- Increases the bond and insurance requirements for registering a dangerous dog.
- Provides notification and appeal procedures for dangerous dog determinations.
- Provides notice and destruction requirements for certain dangerous dog confiscations.
- Requires the prosecution to prove knowledge in certain dangerous dog prosecutions.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

**Staff:** Jim Morishima (786-7191).

### Background:

A dangerous dog is defined as any dog that, according to local records, has:

- Inflicted severe injury on a human being without provocation;
- Killed a domestic animal without provocation while off the owner's property; or
- Been found to be potentially dangerous and again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

It is unlawful under state law to own a dangerous dog without a certificate of registration. The owner of a dangerous dog may obtain a certificate of registration if he or she presents evidence that he or she:

- Has a proper enclosure for the dog accompanied by warning signs;
- Has obtained a surety bond in the amount of \$50,000; or
- Has obtained insurance in the amount of at least \$50,000 against injuries inflicted by the dangerous dog.

An owner is guilty of a misdemeanor if he or she fails to properly register a dangerous dog, fails to obtain the required surety bond or insurance, fails to keep the dog in the proper enclosure, or if the dog is found outside the owner's residence without proper physical restraint. An owner is guilty of a class C felony (unranked) if he or she has a previous dangerous dog conviction and the dog attacks or bites another person or domestic animal. An owner is also guilty of a class C felony (unranked) if the dog aggressively attacks and causes severe injury or death to any human, regardless of whether the dog was previously declared dangerous.

Under circumstances that would result in the owner being convicted of a misdemeanor, the dog must be immediately confiscated. Under circumstances that would result in the owner being convicted of a felony, the dog must be confiscated, placed in quarantine, and then destroyed in an expeditious and humane manner.

Local governments also regulate dangerous dogs. According to a recent Washington Supreme Court ruling, the state law on dangerous dogs does not pre-empt such local regulations. Rabon v. City of Seattle, 135 Wn.2d 278 (1998). Such laws may even be more restrictive than the state law. For example, a local jurisdiction is not required to register dangerous dogs and may completely bar such dogs from its borders.

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### **Summary of Substitute Bill:**

The requirement that local records show a dog to have previously engaged in aggressive behavior before being declared a "dangerous dog" is removed. A dog can be found to be dangerous if it has been found to be potentially dangerous due to an injury inflicted on a human and again aggressively bites, attacks, or endangers the safety of humans (instead of humans and domestic animals).

A city or county that has notification and appeal procedures in place with respect to

determining whether a dog is dangerous may continue to use or amend its procedure. A city or county that does not have a notification and appeal procedure in place, which wishes to declare a dog dangerous, must serve notice upon the owner in person or by regular and certified mail. The city or county must provide the owner with an opportunity to be heard and must issue a final ruling within 15 days. The final ruling may be appealed using the administrative appeal process provided by the city or county. If no administrative appeal process is provided, the final ruling may be appealed to district or municipal court. If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.

It is clarified that a city or county is not required to issue certificates of registration for dangerous dogs if it has more restrictive regulations. Local authorities may place additional restrictions upon owners of dangerous dogs and do not have to allow dangerous dogs within their jurisdictions. The amount of the surety bond and insurance for purposes of registering a dangerous dog is increased to \$250,000.

When a dog is confiscated under circumstances for which the owner may be convicted of a misdemeanor, the owner must pay for the costs of confinement and control. The owner must be notified in person or by regular and certified mail. If the deficiencies that caused the confiscation are not corrected by the owner within 20 days, the dog must be destroyed in an expeditious and humane manner.

In a prosecution for a felony offense relating to a dog inflicting severe injury or death, the prosecution must prove that the owner knew or should have known that the dog was potentially dangerous. This burden cannot be met solely by showing that the dog was of a particular breed. Upon a conviction, the dog must be destroyed in an expeditious and humane manner.

When a dog whose owner has a previous dangerous dog conviction attacks another person or animal, it is an affirmative defense that the owner is in compliance with the ownership requirements for dangerous dogs and the person or animal attacked by the dog trespassed on the defendant's real or personal property or provoked the dog without justification or excuse.

When a dog causes severe injury or death, it is an affirmative defense that the person injured or killed: (1) Trespassed on the defendant's real or personal property, which was marked with warning signs and enclosed by fencing suitable to prevent young children from entering and designed to prevent the dog from escaping, or (2) provoked the defendant's dog without justification or excuse on the defendant's real or personal property, which was marked with warning signs and enclosed by fencing suitable to prevent young children from entering and designed to prevent the dog from escaping.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** There are many shortcomings in the current law regarding dangerous dogs. Procedures and laws in local jurisdictions can be inconsistent. This bill will protect both victims and dog owners. The increased bond requirement will help cover damages caused by dangerous dogs. The bill also helps preserve the local appeals process for jurisdictions that already have such a process in place.

**Testimony Against:** None.

**Testified:** Senator Kastama, prime sponsor; and Gordon Walgren, Federation of Animal Control Agencies.