
SENATE BILL 6635

State of Washington 57th Legislature

2002 Regular Session

By Senators Kastama, Kline and Rasmussen

Read first time 01/23/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to a notice and appeal process for animal control
2 authorities; amending RCW 4.24.410, 16.08.070, 16.08.080, and
3 16.08.100; and prescribing penalties.

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

5 **Sec. 1.** RCW 4.24.410 and 1993 c 180 s 1 are each amended to read
6 as follows:

7 (1) As used in this section:

8 (a) "Police dog" means a dog used by a law enforcement agency
9 specially trained for law enforcement or correctional agency work and
10 under the control of a dog handler.

11 (b) "Accelerant detection dog" means a dog used exclusively for
12 accelerant detection by the state fire marshal or a fire department and
13 under the control of the state fire marshal or his or her designee or
14 a fire department handler.

15 (c) "Dog handler" means a (~~law enforcement officer who has~~
16 ~~successfully completed training as prescribed by the Washington state~~
17 ~~criminal justice training commission in police dog handling,~~) person
18 who is responsible for the routine care, control, and utilization of a
19 police service dog for law enforcement purposes and is:

1 (i) Any commissioned law enforcement officer of an agency,
2 including a state, county, city, municipality, or a combination thereof
3 or an employee of the Washington state department of corrections;

4 (ii) A person contracted to provide law enforcement services;

5 (iii) An employee of a local correctional facility; or

6 (iv) In the case of an accelerant detection dog, the state fire
7 marshal's designee or an employee of the fire department, city, or
8 county authorized by the fire chief to be the dog's handler.

9 (2) Any dog handler who uses a police dog in the line of duty in
10 good faith is immune from civil action for damages arising out of such
11 use of the police dog or accelerant detection dog.

12 **Sec. 2.** RCW 16.08.070 and 1987 c 94 s 1 are each amended to read
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout RCW 16.08.070 through 16.08.100.

16 (1) "Potentially dangerous dog" means any dog that when unprovoked:
17 (a) Inflicts bites on a human or a domestic animal either on public or
18 private property, or (b) chases or approaches a person upon the
19 streets, sidewalks, or any public grounds in a menacing fashion or
20 apparent attitude of attack, or any dog with a known propensity,
21 tendency, or disposition to attack unprovoked, to cause injury, or to
22 cause injury or otherwise to threaten the safety of humans or domestic
23 animals.

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

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

36 (4) "Proper enclosure of a dangerous dog" means, while on the
37 owner's property, a dangerous dog shall be securely confined indoors or
38 in a securely enclosed and locked pen or structure, suitable to prevent

1 the entry of young children and designed to prevent the animal from
2 escaping. Such pen or structure shall have secure sides and a secure
3 top, and shall also provide protection from the elements for the dog.

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

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

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

19 **Sec. 3.** RCW 16.08.080 and 1989 c 26 s 3 are each amended to read
20 as follows:

21 (1) Any city or county that has a notification and appeal procedure
22 with regard to determining a dog within its jurisdiction to be
23 dangerous may continue to utilize or amend its procedure. A city or
24 county animal control authority that does not have a notification and
25 appeal procedure in place as of the effective date of this act, and
26 seeks to declare a dog within its jurisdiction, as defined in
27 subsection (7) of this section, to be dangerous must serve notice upon
28 the dog owner in person or by regular and certified mail, return
29 receipt requested.

30 (2) The notice must state: The statutory basis for the proposed
31 action; the reasons the authority considers the animal dangerous; a
32 statement that the dog is subject to registration and controls required
33 by this chapter, including a recitation of the controls in subsection
34 (6) of this section; and an explanation of the owner's rights and of
35 the proper procedure for appealing a decision finding the dog
36 dangerous.

37 (3) Prior to the authority issuing its final determination, the
38 authority shall notify the owner in writing that he or she is entitled

1 to an opportunity to meet with the authority, at which meeting the
2 owner may give, orally or in writing, any reasons or information as to
3 why the dog should not be declared dangerous. The notice shall state
4 the date, time, and location of the meeting, which must occur prior to
5 expiration of fifteen calendar days following delivery of the notice.
6 The owner may propose an alternative meeting date and time, but such
7 meeting must occur within the fifteen-day time period set forth in this
8 section. After such meeting, the authority must issue its final
9 determination, in the form of a written order, within fifteen calendar
10 days. In the event the authority declares a dog to be dangerous, the
11 order shall include a recital of the authority for the action, a brief
12 concise statement of the facts that support the determination, and the
13 signature of the person who made the determination. The order shall be
14 sent by regular and certified mail, return receipt requested, or
15 delivered in person to the owner at the owner's last address known to
16 the authority.

17 (4) If the local jurisdiction has provided for an administrative
18 appeal of the final determination, the owner must follow the appeal
19 procedure set forth by that jurisdiction. If the local jurisdiction
20 has not provided for an administrative appeal, the owner may appeal a
21 municipal authority's final determination that the dog is dangerous to
22 the municipal court, and may appeal a county animal control authority's
23 or county sheriff's final determination that the dog is dangerous to
24 the district court. The owner must make such appeal within twenty days
25 of receiving the final determination. While the appeal is pending, the
26 authority may order that the dog be confined or controlled in
27 compliance with RCW 16.08.090. If the dog is determined to be
28 dangerous, the owner must pay all costs of confinement and control.

29 (5) It is unlawful for an owner to have a dangerous dog in the
30 state without a certificate of registration issued under this section.
31 This section and RCW 16.08.090 and 16.08.100 shall not apply to police
32 dogs as defined in RCW 4.24.410.

33 ~~((+2))~~ (6) Unless a city or county has a more restrictive code
34 requirement, the animal control authority of the city or county in
35 which an owner has a dangerous dog shall issue a certificate of
36 registration to the owner of such animal if the owner presents to the
37 animal control unit sufficient evidence of:

38 (a) A proper enclosure to confine a dangerous dog and the posting
39 of the premises with a clearly visible warning sign that there is a

1 dangerous dog on the property. In addition, the owner shall
2 conspicuously display a sign with a warning symbol that informs
3 children of the presence of a dangerous dog;

4 (b) A surety bond issued by a surety insurer qualified under
5 chapter 48.28 RCW in a form acceptable to the animal control authority
6 in the sum of at least two hundred fifty thousand dollars, payable to
7 any person injured by the (~~vicious~~) dangerous dog; or

8 (c) A policy of liability insurance, such as homeowner's insurance,
9 issued by an insurer qualified under Title 48 RCW in the amount of at
10 least two hundred fifty thousand dollars, insuring the owner for any
11 personal injuries inflicted by the dangerous dog.

12 (~~(3)~~) (7)(a)(i) If an owner has the dangerous dog in an
13 incorporated area that is serviced by both a city and a county animal
14 control authority, the owner shall obtain a certificate of registration
15 from the city authority;

16 (~~(b)~~) (ii) If an owner has the dangerous dog in an incorporated
17 or unincorporated area served only by a county animal control
18 authority, the owner shall obtain a certificate of registration from
19 the county authority;

20 (~~(e)~~) (iii) If an owner has the dangerous dog in an incorporated
21 or unincorporated area that is not served by an animal control
22 authority, the owner shall obtain a certificate of registration from
23 the office of the local sheriff.

24 (~~(4)~~) (b) This subsection does not apply if a city or county does
25 not allow dangerous dogs within its jurisdiction.

26 (8) Cities and counties may charge an annual fee, in addition to
27 regular dog licensing fees, to register dangerous dogs.

28 (9) Nothing in this section limits a local authority in placing
29 additional restrictions upon owners of dangerous dogs. This section
30 does not require a local authority to allow a dangerous dog within its
31 jurisdiction.

32 **Sec. 4.** RCW 16.08.100 and 1987 c 94 s 4 are each amended to read
33 as follows:

34 (1) Any dangerous dog shall be immediately confiscated by an animal
35 control authority if the: (a) Dog is not validly registered under RCW
36 16.08.080; (b) owner does not secure the liability insurance coverage
37 required under RCW 16.08.080; (c) dog is not maintained in the proper
38 enclosure; or (d) dog is outside of the dwelling of the owner, or

1 outside of the proper enclosure and not under physical restraint of the
2 responsible person. The owner must pay the costs of confinement and
3 control. The animal control authority must serve notice upon the dog
4 owner in person or by regular and certified mail, return receipt
5 requested, specifying the reason for the confiscation of the dangerous
6 dog, that the owner is responsible for payment of the costs of
7 confinement and control, and that the dog will be destroyed in an
8 expeditious and humane manner if the deficiencies for which the dog was
9 confiscated are not corrected within twenty days. The animal control
10 authority shall destroy the confiscated dangerous dog in an expeditious
11 and humane manner if any deficiencies required by this subsection are
12 not corrected within twenty days of notification. In addition, the
13 owner shall be guilty of a gross misdemeanor punishable in accordance
14 with RCW 9A.20.021.

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

22 (3) The owner of any dog that aggressively attacks and causes
23 severe injury or death of any human, whether or not the dog has
24 previously been declared potentially dangerous or dangerous, shall,
25 upon conviction, be guilty of a class C felony punishable in accordance
26 with RCW 9A.20.021. In such a prosecution, the state has the burden of
27 showing that the owner of the dog either knew or should have known that
28 the dog was potentially dangerous as defined in this chapter. The
29 state may not meet its burden of proof that the owner should have known
30 the dog was potentially dangerous solely by showing the dog to be a
31 particular breed or breeds. In addition, the dog shall be immediately
32 confiscated by an animal control authority, (~~placed in quarantine for~~
33 ~~the proper length of time~~)) quarantined, and (~~thereafter~~)) upon
34 conviction of the owner destroyed in an expeditious and humane manner.

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

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