

HOUSE BILL ANALYSIS

SSB 5027

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).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

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:

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 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.—

Fiscal Note: Requested on March 25, 1999.

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

Office of Program Research