

# SENATE BILL REPORT

## SSB 6635

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As Passed Senate, February 14, 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:** Senate Committee on Judiciary (originally sponsored by Senators Kastama, Kline and Rasmussen).

**Brief History:**

**Committee Activity:** Judiciary: 2/5/02, 2/6/02 [DPS].

Passed Senate: 2/14/02, 44-2.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6635 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Johnson, Long, McCaslin, Poulsen, Thibaudeau and Zarelli.

**Staff:** Lidia Mori (786-7755)

**Background:** A Division 1 Court of Appeals case in October 1996 analyzed the conflict between a city ordinance prohibiting ownership of a vicious animal and a state statute requiring the owner of a dangerous dog to obtain a certificate of registration. An owner of a dangerous dog would not be able to comply with the state statute to obtain a certificate of registration because the city would never find a dog to be dangerous. The concurring opinion in the case concluded "... the city's scheme cannot be harmonized with the Legislature's scheme." In order to remedy this conflict, it is suggested that local jurisdictions be granted the authority in statute to enact additional restrictions upon owners of dangerous dogs or bar the ownership of such dogs.

Concern exists that the statute governing dangerous dogs does not set out a notice and appeal process for determinations of dangerous dog status.

**Summary of Bill:** The definition of dangerous dog includes any dog that inflicts severe injury on a human being without provocation, kills a domestic animal without provocation while the dog is off the owner's property, or has been previously found to be potentially dangerous because of injury inflicted on a human. Notice and appeal procedures are created for situations when an animal control authority seeks to declare a dog to be dangerous. If a city or county has a notification and appeal process already in place, they may continue to utilize its process. A local authority is not required to allow dangerous dogs within its jurisdiction.

Unless a city or county has a more restrictive code requirement, the animal control authority must issue a certificate of registration to the owner of a dangerous dog if the owner complies with all the requirements for ownership and control of a dangerous dog. The requirements include a proper enclosure and securement of a surety bond or liability insurance in the amount of \$250,000. If an animal control authority must confiscate a dangerous dog because the owner has failed to meet the requirements pertaining to ownership of a dangerous dog, notice of the deficiency and that the dog will be destroyed in 20 days if the deficiency is not corrected must be served on the owner. The owner must pay the costs of confinement while the dog is confiscated.

The owner of a dog that causes severe injury or death of a human, whether or not the dog has previously been declared potentially dangerous or dangerous, is, upon conviction, guilty of a class C felony. The state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in law. The state may not meet its burden of proof solely by showing that the dog is a particular breed or breeds.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Every year, 17 Americans die from dog bites. They account for \$165 million increase to medical costs. Dog bites are the number one reason kids go to emergency. There are four and a half million dog bites every year and 80 percent of them are on children. Let's lower these statistics!

**Testimony Against:** None.

**Testified:** PRO: Senator Kastama, prime sponsor; Jean Christopherson; Don Jordan, City of Seattle; Kathy Gerke, Assoc. of WA Cities.

**House Amendment(s):** In a situation where a dangerous dog attacks or bites a person or domestic animal and the dog's owner has a prior conviction, it is an affirmative defense for the dog's owner if he or she can prove compliance with the requirements for ownership of a dangerous dog by a preponderance of the evidence. In addition the owner must prove that the person or animal attacked or bitten trespassed on the owner's property or provoked the dog without justification or excuse.

The owner of any dog that causes severe injury or death of a human may be charged with a class C felony if the state can prove the owner knew or should have known the dog was potentially dangerous. In such a prosecution, it is an affirmative defense that the person injured or killed trespassed on the defendant's property, which was properly fenced and marked with warning signs, or provoked the dog on the defendant's fenced and marked property.