

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6635

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 42 NAYS 0

President of the Senate

Passed by the House March 6, 2002
YEAS 84 NAYS 9

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6635** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6635

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature

2002 Regular Session

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

READ FIRST TIME 02/08/2002.

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

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

5 **Sec. 1.** RCW 16.08.070 and 1987 c 94 s 1 are each amended to read
6 as follows:

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

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

17 (2) "Dangerous dog" means any dog that (~~according to the records~~
18 ~~of the appropriate authority,~~) (a) (~~has inflicted~~) inflicts severe
19 injury on a human being without provocation on public or private

1 property, (b) (~~has killed~~) kills a domestic animal without
2 provocation while the dog is off the owner's property, or (c) has been
3 previously found to be potentially dangerous because of injury
4 inflicted on a human, the owner having received notice of such and the
5 dog again aggressively bites, attacks, or endangers the safety of
6 humans (~~or domestic animals~~).

7 (3) "Severe injury" means any physical injury that results in
8 broken bones or disfiguring lacerations requiring multiple sutures or
9 cosmetic surgery.

10 (4) "Proper enclosure of a dangerous dog" means, while on the
11 owner's property, a dangerous dog shall be securely confined indoors or
12 in a securely enclosed and locked pen or structure, suitable to prevent
13 the entry of young children and designed to prevent the animal from
14 escaping. Such pen or structure shall have secure sides and a secure
15 top, and shall also provide protection from the elements for the dog.

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

20 (6) "Animal control officer" means any individual employed,
21 contracted with, or appointed by the animal control authority for the
22 purpose of aiding in the enforcement of this chapter or any other law
23 or ordinance relating to the licensure of animals, control of animals,
24 or seizure and impoundment of animals, and includes any state or local
25 law enforcement officer or other employee whose duties in whole or in
26 part include assignments that involve the seizure and impoundment of
27 any animal.

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

31 **Sec. 2.** RCW 16.08.080 and 1989 c 26 s 3 are each amended to read
32 as follows:

33 (1) Any city or county that has a notification and appeal procedure
34 with regard to determining a dog within its jurisdiction to be
35 dangerous may continue to utilize or amend its procedure. A city or
36 county animal control authority that does not have a notification and
37 appeal procedure in place as of the effective date of this act, and
38 seeks to declare a dog within its jurisdiction, as defined in

1 subsection (7) of this section, to be dangerous must serve notice upon
2 the dog owner in person or by regular and certified mail, return
3 receipt requested.

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

11 (3) Prior to the authority issuing its final determination, the
12 authority shall notify the owner in writing that he or she is entitled
13 to an opportunity to meet with the authority, at which meeting the
14 owner may give, orally or in writing, any reasons or information as to
15 why the dog should not be declared dangerous. The notice shall state
16 the date, time, and location of the meeting, which must occur prior to
17 expiration of fifteen calendar days following delivery of the notice.
18 The owner may propose an alternative meeting date and time, but such
19 meeting must occur within the fifteen-day time period set forth in this
20 section. After such meeting, the authority must issue its final
21 determination, in the form of a written order, within fifteen calendar
22 days. In the event the authority declares a dog to be dangerous, the
23 order shall include a recital of the authority for the action, a brief
24 concise statement of the facts that support the determination, and the
25 signature of the person who made the determination. The order shall be
26 sent by regular and certified mail, return receipt requested, or
27 delivered in person to the owner at the owner's last address known to
28 the authority.

29 (4) If the local jurisdiction has provided for an administrative
30 appeal of the final determination, the owner must follow the appeal
31 procedure set forth by that jurisdiction. If the local jurisdiction
32 has not provided for an administrative appeal, the owner may appeal a
33 municipal authority's final determination that the dog is dangerous to
34 the municipal court, and may appeal a county animal control authority's
35 or county sheriff's final determination that the dog is dangerous to
36 the district court. The owner must make such appeal within twenty days
37 of receiving the final determination. While the appeal is pending, the
38 authority may order that the dog be confined or controlled in

1 compliance with RCW 16.08.090. If the dog is determined to be
2 dangerous, the owner must pay all costs of confinement and control.

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

7 ~~((2))~~ (6) Unless a city or county has a more restrictive code
8 requirement, the animal control authority of the city or county in
9 which an owner has a dangerous dog shall issue a certificate of
10 registration to the owner of such animal if the owner presents to the
11 animal control unit sufficient evidence of:

12 (a) A proper enclosure to confine a dangerous dog and the posting
13 of the premises with a clearly visible warning sign that there is a
14 dangerous dog on the property. In addition, the owner shall
15 conspicuously display a sign with a warning symbol that informs
16 children of the presence of a dangerous dog;

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

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

25 ~~((3))~~ (7)(a)(i) If an owner has the dangerous dog in an
26 incorporated area that is serviced by both a city and a county animal
27 control authority, the owner shall obtain a certificate of registration
28 from the city authority;

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

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

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

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

3 (9) Nothing in this section limits a local authority in placing
4 additional restrictions upon owners of dangerous dogs. This section
5 does not require a local authority to allow a dangerous dog within its
6 jurisdiction.

7 **Sec. 3.** RCW 16.08.100 and 1987 c 94 s 4 are each amended to read
8 as follows:

9 (1) Any dangerous dog shall be immediately confiscated by an animal
10 control authority if the: (a) Dog is not validly registered under RCW
11 16.08.080; (b) owner does not secure the liability insurance coverage
12 required under RCW 16.08.080; (c) dog is not maintained in the proper
13 enclosure; or (d) dog is outside of the dwelling of the owner, or
14 outside of the proper enclosure and not under physical restraint of the
15 responsible person. The owner must pay the costs of confinement and
16 control. The animal control authority must serve notice upon the dog
17 owner in person or by regular and certified mail, return receipt
18 requested, specifying the reason for the confiscation of the dangerous
19 dog, that the owner is responsible for payment of the costs of
20 confinement and control, and that the dog will be destroyed in an
21 expeditious and humane manner if the deficiencies for which the dog was
22 confiscated are not corrected within twenty days. The animal control
23 authority shall destroy the confiscated dangerous dog in an expeditious
24 and humane manner if any deficiencies required by this subsection are
25 not corrected within twenty days of notification. In addition, the
26 owner shall be guilty of a gross misdemeanor punishable in accordance
27 with RCW 9A.20.021.

28 (2) If a dangerous dog of an owner with a prior conviction under
29 this chapter attacks or bites a person or another domestic animal, the
30 dog's owner is guilty of a class C felony, punishable in accordance
31 with RCW 9A.20.021. It is an affirmative defense that the defendant
32 must prove by a preponderance of the evidence that he or she was in
33 compliance with the requirements for ownership of a dangerous dog
34 pursuant to this chapter and the person or domestic animal attacked or
35 bitten by the defendant's dog trespassed on the defendant's real or
36 personal property or provoked the defendant's dog without justification
37 or excuse. In addition, the dangerous dog shall be immediately
38 confiscated by an animal control authority, placed in quarantine for

1 the proper length of time, and thereafter destroyed in an expeditious
2 and humane manner.

3 (3) The owner of any dog that aggressively attacks and causes
4 severe injury or death of any human, whether or not the dog has
5 previously been declared potentially dangerous or dangerous, shall,
6 upon conviction, be guilty of a class C felony punishable in accordance
7 with RCW 9A.20.021. It is an affirmative defense that the defendant
8 must prove by a preponderance of the evidence that the human severely
9 injured or killed by the defendant's dog: (a) Trespassed on the
10 defendant's real or personal property which was enclosed by fencing
11 suitable to prevent the entry of young children and designed to prevent
12 the dog from escaping and marked with clearly visible signs warning
13 people, including children, not to trespass and to beware of dog; or
14 (b) provoked the defendant's dog without justification or excuse on the
15 defendant's real or personal property which was enclosed by fencing
16 suitable to prevent the entry of young children and designed to prevent
17 the dog from escaping and marked with clearly visible signs warning
18 people, including children, not to trespass and to beware of dog. In
19 such a prosecution, the state has the burden of showing that the owner
20 of the dog either knew or should have known that the dog was
21 potentially dangerous as defined in this chapter. The state may not
22 meet its burden of proof that the owner should have known the dog was
23 potentially dangerous solely by showing the dog to be a particular
24 breed or breeds. In addition, the dog shall be immediately confiscated
25 by an animal control authority, (~~placed in quarantine for the proper~~
26 length of time)) quarantined, and (~~thereafter~~) upon conviction of the
27 owner destroyed in an expeditious and humane manner.

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

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