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SENATE BILL 5094

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Palumbo, Fain, and Wilson

Read first time 01/12/17. Referred to Committee on Local Government.

1            AN ACT Relating to preventing breed-based dog regulations;  
2 amending RCW 16.08.070, 16.08.080, 16.08.090, and 16.08.100; and  
3 creating a new section.

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

5            NEW SECTION.    **Sec. 1.**    (1) A number of local jurisdictions have  
6 enacted ordinances prohibiting or placing additional restrictions on  
7 specific breeds of dogs. While the legislature recognizes that local  
8 jurisdictions have a valid public safety interest in protecting  
9 citizens from dog attacks, the legislature finds that a dog's breed  
10 is not inherently indicative of whether or not the dog is dangerous  
11 and that the criteria for determining whether or not a dog is  
12 dangerous or potentially dangerous should be focused on the dog's  
13 behavior.

14            (2) The legislature further finds that breed-specific ordinances  
15 fail to address any of the factors that cause dogs to become  
16 aggressive and place an undue hardship on responsible dog owners who  
17 provide proper socialization and training. The legislature intends to  
18 redirect the focus away from particular breeds and to instead  
19 encourage local jurisdictions to employ more effective and data-  
20 driven prevention models to control dangerous dogs and enhance public  
21 safety.

1       **Sec. 2.** RCW 16.08.070 and 2002 c 244 s 1 are each amended to  
2 read as follows:

3       (~~Unless the context clearly requires otherwise,~~) The  
4 definitions in this section apply throughout RCW 16.08.070 through  
5 16.08.100 unless the context clearly requires otherwise.

6       (1) "Potentially dangerous dog" means any dog, without regard to  
7 the breed of the dog, that when unprovoked: (a) Inflicts bites on a  
8 human or a domestic animal either on public or private property, or  
9 (b) chases or approaches a person upon the streets, sidewalks, or any  
10 public grounds in a menacing fashion or apparent attitude of attack,  
11 or any dog, without regard to the breed of the dog, with a known  
12 propensity, tendency, or disposition to attack unprovoked, to cause  
13 injury, or to cause injury or otherwise to threaten the safety of  
14 humans or domestic animals.

15       (2) "Dangerous dog" means any dog, without regard to the breed of  
16 the dog, that (a) inflicts severe injury on a human being without  
17 provocation on public or private property, (b) kills a domestic  
18 animal without provocation while the dog is off the owner's property,  
19 or (c) has been previously found to be potentially dangerous because  
20 of injury inflicted on a human, the owner having received notice of  
21 such and the dog again aggressively bites, attacks, or endangers the  
22 safety of humans.

23       (3) "Severe injury" means any physical injury that results in  
24 broken bones or disfiguring lacerations requiring multiple sutures or  
25 cosmetic surgery.

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

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

37       (6) "Animal control officer" means any individual employed,  
38 contracted with, or appointed by the animal control authority for the  
39 purpose of aiding in the enforcement of this chapter or any other law  
40 or ordinance relating to the licensure of animals, control of

1 animals, or seizure and impoundment of animals, and includes any  
2 state or local law enforcement officer or other employee whose duties  
3 in whole or in part include assignments that involve the seizure and  
4 impoundment of any animal.

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

8 **Sec. 3.** RCW 16.08.080 and 2002 c 244 s 2 are each amended to  
9 read as follows:

10 (1) Any city or county that has a notification and appeal  
11 procedure with regard to determining a dog within its jurisdiction to  
12 be dangerous may continue to utilize or amend its procedure. A city  
13 or county animal control authority that does not have a notification  
14 and appeal procedure in place as of June 13, 2002, and seeks to  
15 declare a dog within its jurisdiction, as defined in subsection (7)  
16 of this section, to be dangerous must serve notice upon the dog owner  
17 in person or by regular and certified mail, return receipt requested.

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

25 (3) Prior to the authority issuing its final determination, the  
26 authority shall notify the owner in writing that he or she is  
27 entitled to an opportunity to meet with the authority, at which  
28 meeting the owner may give, orally or in writing, any reasons or  
29 information as to why the dog should not be declared dangerous. The  
30 notice shall state the date, time, and location of the meeting, which  
31 must occur prior to expiration of fifteen calendar days following  
32 delivery of the notice. The owner may propose an alternative meeting  
33 date and time, but such meeting must occur within the fifteen-day  
34 time period set forth in this section. After such meeting, the  
35 authority must issue its final determination, in the form of a  
36 written order, within fifteen calendar days. In the event the  
37 authority declares a dog to be dangerous, the order shall include a  
38 recital of the authority for the action, a brief concise statement of  
39 the facts that support the determination, and the signature of the

1 person who made the determination. The order shall be sent by regular  
2 and certified mail, return receipt requested, or delivered in person  
3 to the owner at the owner's last address known to the authority.

4 (4) If the local jurisdiction has provided for an administrative  
5 appeal of the final determination, the owner must follow the appeal  
6 procedure set forth by that jurisdiction. If the local jurisdiction  
7 has not provided for an administrative appeal, the owner may appeal a  
8 municipal authority's final determination that the dog is dangerous  
9 to the municipal court, and may appeal a county animal control  
10 authority's or county sheriff's final determination that the dog is  
11 dangerous to the district court. The owner must make such appeal  
12 within twenty days of receiving the final determination. While the  
13 appeal is pending, the authority may order that the dog be confined  
14 or controlled in compliance with RCW 16.08.090. If the dog is  
15 determined to be dangerous, the owner must pay all costs of  
16 confinement and control.

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

21 (6) Unless a city or county has a more restrictive code  
22 requirement, the animal control authority of the city or county in  
23 which an owner has a dangerous dog shall issue a certificate of  
24 registration to the owner of such animal if the owner presents to the  
25 animal control unit sufficient evidence of:

26 (a) A proper enclosure to confine a dangerous dog and the posting  
27 of the premises with a clearly visible warning sign that there is a  
28 dangerous dog on the property. In addition, the owner shall  
29 conspicuously display a sign with a warning symbol that informs  
30 children of the presence of a dangerous dog;

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

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

39 (7)(a)(i) If an owner has the dangerous dog in an incorporated  
40 area that is serviced by both a city and a county animal control

1 authority, the owner shall obtain a certificate of registration from  
2 the city authority;

3 (ii) If an owner has the dangerous dog in an incorporated or  
4 unincorporated area served only by a county animal control authority,  
5 the owner shall obtain a certificate of registration from the county  
6 authority;

7 (iii) If an owner has the dangerous dog in an incorporated or  
8 unincorporated area that is not served by an animal control  
9 authority, the owner shall obtain a certificate of registration from  
10 the office of the local sheriff.

11 (b) This subsection does not apply if a city or county does not  
12 allow dangerous dogs within its jurisdiction.

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

15 (9) Except as provided in RCW 16.08.090(4), nothing in this  
16 section limits a local authority in placing additional restrictions  
17 upon owners of dangerous dogs. This section does not require a local  
18 authority to allow a dangerous dog within its jurisdiction.

19 **Sec. 4.** RCW 16.08.090 and 1987 c 94 s 3 are each amended to read  
20 as follows:

21 (1) It is unlawful for an owner of a dangerous dog to permit the  
22 dog to be outside the proper enclosure unless the dog is muzzled and  
23 restrained by a substantial chain or leash and under physical  
24 restraint of a responsible person. The muzzle shall be made in a  
25 manner that will not cause injury to the dog or interfere with its  
26 vision or respiration but shall prevent it from biting any person or  
27 animal.

28 (2) Except as provided in subsection (4) of this section,  
29 potentially dangerous dogs shall be regulated only by local,  
30 municipal, and county ordinances. Nothing in this section limits  
31 restrictions local jurisdictions may place on owners of potentially  
32 dangerous dogs.

33 (3) Dogs shall not be declared dangerous if the threat, injury,  
34 or damage was sustained by a person who, at the time, was committing  
35 a ((~~wilful~~)) willful trespass or other tort upon the premises  
36 occupied by the owner of the dog, or was tormenting, abusing, or  
37 assaulting the dog or has, in the past, been observed or reported to  
38 have tormented, abused, or assaulted the dog or was committing or  
39 attempting to commit a crime.

1       (4) The breed of dog may not be considered when declaring a dog  
2 dangerous or potentially dangerous. A local jurisdiction may not  
3 prohibit possession of a particular breed of dog or declare a breed  
4 of dog to be dangerous or potentially dangerous.

5       **Sec. 5.** RCW 16.08.100 and 2002 c 244 s 3 are each amended to  
6 read as follows:

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

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

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

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

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