

# HOUSE BILL ANALYSIS

## SSB 5027

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**Brief Description:** Providing for control of dangerous dogs.

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**Sponsors:** Senators Goings and Swecker.

**Hearing:** February 16, 2000.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

#### **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.

Definitions: 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 without provocation while off the owner's property, or has been previously found to be potentially dangerous and again attacks a person or domestic animal.

A "potentially dangerous dog" is defined as one that, when unprovoked, bites a person or domestic animal, chases or approaches a person in a menacing fashion, or has a known propensity to attack unprovoked, to cause injury, or to threaten the safety of people or domestic animals.

Notice and Appeal Procedures: The statutes do not specify a notice or appeal process for a determination that a dog is "dangerous."

Certificate 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

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get a certificate, the owner must demonstrate that he or she has a proper enclosure to confine the dog, a posted sign warning of the presence of the dog, a conspicuously displayed sign with a warning symbol to inform children of the dog, and either a surety bond or liability insurance in the amount of \$50,000 to compensate anyone injured by the dog.

Penalties: The owner of a dangerous dog is guilty of a gross misdemeanor and the dog immediately confiscated if the dog is not validly registered, the owner does not secure the liability insurance coverage required, the dog is not maintained in the proper enclosure, or the dog is outside the enclosure or the owner's home and not under the physical restraint of a responsible person. If a dangerous dog of an owner with a prior conviction under this statute attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony and the dog is immediately confiscated, placed in quarantine for a certain period, and then humanely destroyed.

The owner of a dog that aggressively attacks and causes severe injury or death of another person, whether the dog has previously been declared potentially dangerous or dangerous, is also guilty of a class C felony. The Washington Supreme Court has interpreted this provision to mean that criminal liability will arise only if the dog had previously been classified as either a potentially dangerous dog or a dangerous dog. *State v. Bash*, 130 Wn. 2d 594, 925 P.2d 978 (Wash. 1996). The dog is also confiscated, quarantined for a period, and then destroyed.

#### **SUMMARY OF BILL:**

Definitions: A dog is defined as dangerous if it inflicts injury on a person, or kills a domestic animal without provocation while off the owner's property, irrespective of whether records show that it has previously inflicted injury or killed a domestic animal. A dog is also "dangerous" if it has been previously found to be potentially dangerous because of injury inflicted on a human.

Notice and Appeal Procedures: Any city or county that has a notice and appeal process in place for determining if a dog is dangerous may continue to use this process. Otherwise, the animal control authority must use the process that is created in the bill. 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 the proper procedure for appealing a decision finding the 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 present reasons why the dog should not be declared dangerous. The final determination must be made in writing and include a citation of the statutory basis for the action, a brief statement of the supporting facts, and the signature of the person making the determination.

The dog owner then has 20 days to make an administrative appeal of the decision. Again, if the local jurisdiction has provided for an administrative appeal process, the owner must follow that process. If not, the owner may appeal the decision to the municipal court if the decision was made by a municipal animal control authority, or to the district court if the decision was made by a county animal control authority or the county sheriff. 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.

Certificate of Registration: To obtain a certificate of registration, the amount of the surety bond or liability insurance that the owner is required to obtain is increased from \$50,000 to \$250,000. A city or county is not required to allow dangerous dogs within its jurisdiction. If dangerous dogs are not allowed, the registration provisions do not apply. In addition, local authorities are not limited in their authority to place restrictions on owners of dangerous dogs that are in addition to those required by state statute.

Penalties: If a dangerous dog is confiscated because the owner is in violation of the registration or confinement provisions of the statute, the animal control authority must provide notice to the owner. The notice must specify the reasons for the confiscation of the dog and notify the owner that he or she is responsible for the costs of confinement and that the dog will be destroyed in a humane manner if the dog's deficiencies are not corrected within 20 days of notification.

The owner of any dog that aggressively attacks and causes the severe injury or death of a person is guilty of a class C felony whether or not the dog has previously been declared potentially dangerous or dangerous. However, the state must show that the owner knew or should have known that the dog was potentially dangerous.

**FISCAL NOTE:** Available.

**EFFECTIVE DATE:** Ninety days after adjournment of a session in which bill is passed.