

SENATE BILL REPORT

ESHB 1462

AS REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES,
FEBRUARY 28, 1992

Brief Description: Regulating dangerous and potentially dangerous dogs.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Nealey, Haugen, Ferguson, Dorn, May, Tate, Ludwig, Neher, Anderson, Rasmussen, Silver, Mielke, Grant, Rayburn, Fuhrman, Bray and Morton).

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, and W. Hansen.

Staff: Ben Barnes (786-7465)

Hearing Dates: February 27, 1992; February 28, 1992

BACKGROUND:

A variety of statutes address attacks by or mistreatment of dogs. Generally, the statutes impose strict civil liability on the owner of a dog which attacks someone. Under Washington law, an owner is strictly liable for harm done by a dog whether or not the dog had ever previously exhibited any dangerous tendencies.

However, statutory immunity from liability is provided in some instances. A dog owner is not liable for injury inflicted on a trespasser on the owner's property, for injury inflicted on a person who provokes the attack, or for injury inflicted by a police dog in the line of duty.

Owners of dogs are also generally liable for damage done by their dogs to livestock or other property. In some instances, a statutory duty is placed on dog owners or law enforcement officers to kill dogs running at large. In addition, criminal sanctions may be imposed on persons who mistreat dogs or use them or train them for fighting.

In 1987, in response to increasing concern over attacks by dogs, the Legislature enacted laws to deal specifically with dangerous dogs. The owner of a "dangerous dog" is required to register the dog with an animal control agency. Registration includes providing proof of a \$50,000 bond or insurance policy to cover potential liability for injuries inflicted by the dog, and also includes providing a proper enclosure for the

dog. The law authorizes confiscation and destruction of dangerous dogs when they attack humans or animals. In addition, various criminal penalties attach for violations of these provisions. Violations involving severe injury or death, or repeat violations are generally class C felonies.

Dangerous dogs are defined as those that have inflicted severe injury on a human, or killed a domestic animal, or, after having been found to be "potentially dangerous," have bitten or attacked a human or a domestic animal. A potentially dangerous dog is one that has a known propensity for unprovoked attacks on humans or domestic animals. Local ordinances may regulate potentially dangerous dogs. Some local jurisdictions have adopted ordinances regulating specific breeds of dogs.

SUMMARY:

If there is probable cause to believe that a dog poses an immediate threat to public safety, an animal control officer must seize and impound the dog pending a hearing.

Limitations are placed on local regulation of dangerous or potentially dangerous dogs. Ordinances may not restrict transportation of a dog through a jurisdiction so long as the dog is safely confined within a vehicle. No local ordinance may declare a breed of dog to be dangerous or potentially dangerous.

Appropriation: none

Revenue: none

Fiscal Note: none requested

SUMMARY OF PROPOSED SENATE AMENDMENT:

The state of Washington preempts the field with respect to the regulation of potentially dangerous or dangerous dogs. Local jurisdictions may enact only those ordinances and penalties relating to potentially dangerous or dangerous dogs that are consistent with state law. Local laws and ordinances that are inconsistent with state law are preempted and repealed.

A local ordinance cannot, on the basis of the dangerousness or potential dangerousness of a dog, restrict the transporting of any dog through the local jurisdiction if the dog is safely confined within a vehicle while traveling through the jurisdiction.

The animal control authority is required to classify potentially dangerous dogs and dangerous dogs. The authority may determine a dog to be potentially dangerous or dangerous if an animal control officer has probable cause to believe that the dog falls within the definitions set forth under the existing dangerous dog statute. If the owner or keeper of the dog objects to the determination that the dog is potentially dangerous or dangerous, the owner or keeper may petition the

municipal or district court for a hearing to determine whether the dog is potentially dangerous or dangerous.

The hearing to determine whether a dog is potentially dangerous or dangerous must be held within no less than 15 working days nor more than 45 working days after service of notice upon the owner or keeper of the dog.

The owner or keeper of a dog which is believed to be potentially dangerous or dangerous is liable to the city or county where the dog is impounded for the costs and expenses of keeping the dog.

It is illegal for an owner of a "pet animal" to permit the animal to be outside of the owner's property except under the following circumstances: (1) the pet animal is physically restrained by a responsible person; or (2) such person and the pet animal are jointly engaged in an activity for which the state has issued a license, stamp, or permit. The phrase "pet animal" is defined. Local jurisdictions are required to enact ordinances to enforce this prohibition. Such ordinances may impose charges for catching, transporting, maintaining, and disposing of pet animals. The owner of any dangerous or potentially dangerous dog who violates this prohibition shall be guilty of a misdemeanor, and the dog shall be immediately confiscated by the animal control authority.

TESTIMONY FOR:

A hearing procedure should be adopted in order to provide a fair process for determining whether a dog is potentially dangerous or dangerous. The state should also preempt the field with respect to the regulation of potentially dangerous or dangerous breed-specific dog bans. Breed-specific ordinances can be very arbitrary, as an entire breed may be banned because of the actions of a single dog. These ordinances are hard to enforce because many breeds are difficult to distinguish, especially when crossed with other breeds. When a dog is classified as dangerous because of its breed, vicious dogs of other breeds are often allowed relative immunity. Breed-specific ordinances fail to address the most important issue -- owner responsibility.

TESTIMONY AGAINST:

Over the last several years, a number of jurisdictions have passed ordinances banning pit bull terriers as there is evidence that injuries sustained by persons and domestic animals as a result of pit bull terrier attacks are much more severe than those inflicted by other breeds. A local jurisdiction's authority to enact ordinances that ban specific dog breeds was upheld by a recent Supreme Court decision. Local jurisdictions should be able to retain this authority so that a community can address any significant problems associated with a particular breed.

TESTIFIED: Susan Trout, Responsible Dog Owners of the Western States, Washington Chapter (pro); Mary C. Desmond, Cat

Fanciers Association, American Cat Fanciers, National Pet Alliance (pro); Greg Hanon, Washington State Veterinary Medicine Association (pro); Tammie Sommerson, Jeff Helsdon, Shirley Landa, Sally Bishop, We're Accountable Guardians (pro); Michael Weight, City of Everett (con); Jim Jurtin, AWC (con); Larry Mathews, Citizens for Accountable and Responsible Government (con)