

**SENATE BILL REPORT**

**SB 5038**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 4, 1991**

**Brief Description:** Regulating dangerous and potentially dangerous dogs.

**SPONSORS:** Senators Barr and Nelson.

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5038 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Madsen, and Rasmussen.

**Staff:** Jon Carlson (786-7459)

**Hearing Dates:** February 13, 1991; February 19, 1991; March 4, 1991

**BACKGROUND:**

In 1987, the Legislature enacted provisions that regulate dangerous dogs and allow local jurisdictions to regulate potentially dangerous dogs. Local animal control authorities are the entities that decide whether a dog is potentially dangerous or dangerous. At present, there is no hearing process which allows the dog owner to challenge the determination of the animal control authority.

Classification of a dog as potentially dangerous or dangerous is based on the animal's behavior, not the breed. However, in 1989 the State Supreme Court upheld a Yakima ordinance which banned pit bull terriers within the city limits. Yakima also required licensing for those pit bull dogs within the city limits prior to the effective date of the ordinance.

Other municipalities in this state have also adopted ordinances that ban pit bull terriers. Some dog owners feel that the bull terrier and Staffordshire terrier breeds are being unfairly maligned and singled out by these breed-specific laws. In addition, there is a concern that other dog breeds may eventually be prohibited by local ordinances.

**SUMMARY:**

A hearing process is established to determine whether or not a dog is potentially dangerous or dangerous.

The animal control authority must petition municipal or district court whenever there is probable cause to believe that a dog is potentially dangerous or dangerous. Notice of the hearing must be served upon the owner or keeper of the

dog, either personally or by first class mail. The court may find, by a preponderance of the evidence, that the dog is potentially dangerous or dangerous. A city or county may establish an administrative hearing procedure to dispose of these petitions.

If a determination is made that the dog is potentially dangerous or dangerous, the owner or keeper is required to comply with the current statutory provisions concerning the regulation of dangerous dogs. The animal control officer may seize and impound the dog pending the hearing if, upon investigation, it is believed that the dog in question poses an immediate threat to public safety.

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.

**EFFECT OF PROPOSED SUBSTITUTE:**

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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 7, 1991

**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:** Senator Barr, prime sponsor (pro); Cherie Graves, Responsible Dog Owners of Washington (pro); Andrea Ramey, Puget Sound Pug Dog Club (pro); Susan Trout, Boston Terrier Club of Western Washington (pro); Penny Breemond, Responsible Dog Owners of Washington (pro); D. Mycki Fulda, Responsible Dog Owners of Washington (pro); William Holbrook, American Kennel Club (pro); John Vanek, City of Yakima (con); Michael Weight, City of Everett (con); Larry Matthews, drafter of Yakima ordinance; Wallace Hall, Tacoma-Pierce County Humane Society (con)