

SENATE BILL 5038

State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr and Nelson.

Read first time January 16, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to dogs; amending RCW 16.08.070 and 16.08.090;
2 adding new sections to chapter 16.08 RCW; and prescribing penalties.

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

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

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout RCW 16.08.070 through 16.08.100 and
8 sections 2 through 5 of this 1991 act.

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

1 cause injury or otherwise to threaten the safety of humans or domestic
2 animals.

3 (2) "Dangerous dog" means any dog that according to the records of
4 the appropriate authority, (a) has inflicted severe injury on a human
5 being without provocation on public or private property, (b) has killed
6 a domestic animal without provocation while off the owner's property,
7 or (c) has been previously found to be potentially dangerous, the owner
8 having received notice of such and the dog again aggressively bites,
9 attacks, or endangers the safety of humans or domestic animals.

10 (3) "Severe injury" means any physical injury that results in
11 broken bones or disfiguring lacerations requiring multiple sutures or
12 cosmetic surgery.

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

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

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

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

4 NEW SECTION. **Sec. 2.** If an animal control officer has
5 investigated and determined that there exists probable cause to believe
6 that a dog is a potentially dangerous dog or a dangerous dog, the chief
7 officer of the animal control authority or his or her immediate
8 supervisor or the head of the local law enforcement agency, or his or
9 her designee, shall petition the municipal or district court within the
10 judicial district where the dog is owned or kept for a hearing for the
11 purpose of determining whether or not the dog in question should be
12 declared a potentially dangerous dog or a dangerous dog. A city or
13 county may establish an administrative hearing procedure to hear and
14 dispose of petitions filed pursuant to this chapter. Whenever possible,
15 any complaint received from a member of the public that serves as the
16 evidentiary basis for the animal control officer to find probable cause
17 shall be sworn to and verified by the complainant and shall be attached
18 to the petition. The chief officer of the animal control authority or
19 head of the local law enforcement agency shall notify the owner or
20 keeper of the dog that a hearing will be held by the municipal or
21 district court or the hearing entity, as the case may be, at which time
22 he or she may present evidence as to why the dog should not be declared
23 a potentially dangerous dog or a dangerous dog. The owner or keeper of
24 the dog shall be served with notice of the hearing and a copy of the
25 petition, either personally or by first- class mail with return receipt
26 requested. The hearing shall be held promptly within no less than
27 fifteen working days nor more than thirty working days after service of
28 notice upon the owner or keeper of the dog. The hearing shall be open
29 to the public. A jury shall not be available. The court may find,

1 upon a preponderance of the evidence, that the dog is a potentially
2 dangerous dog or a dangerous dog and make other orders authorized by
3 this chapter.

4 NEW SECTION. **Sec. 3.** After the hearing conducted pursuant to
5 section 2 of this act, the owner or keeper of the dog shall be notified
6 in writing of the determination and orders issued, either personally or
7 by first-class mail postage prepaid by the court or hearing entity. If
8 a determination is made that the dog is a potentially dangerous dog or
9 a dangerous dog, the owner or keeper shall comply with RCW 16.08.080
10 through 16.08.100 in accordance with a time schedule established by the
11 chief officer of the animal control authority or the head of the local
12 law enforcement agency, but in no case more than thirty days after the
13 date of the determination or thirty- five days if notice of the
14 determination is mailed to the owner or keeper of the dog.

15 NEW SECTION. **Sec. 4.** (1) If upon investigation it is determined
16 by the animal control officer that probable cause exists to believe the
17 dog in question poses an immediate threat to public safety, the animal
18 control officer may seize and impound the dog pending the hearings to
19 be held pursuant to sections 2 and 3 of this act. The owner or keeper
20 of the dog shall be liable to the city or county where the dog is
21 impounded for the costs and expenses of keeping the dog, if the dog is
22 later adjudicated to be a potentially dangerous dog or a dangerous dog.

23 (2) When a dog has been impounded pursuant to subsection (1) of
24 this section and it is not contrary to public safety, the chief animal
25 control officer shall permit the animal to be confined at the owner's
26 expense in an approved kennel or veterinary facility.

1 NEW SECTION. **Sec. 5.** The state of Washington fully occupies and
2 preempts the entire field of the regulation of potentially dangerous
3 dogs and dangerous dogs. Cities, towns, and counties or other
4 municipalities may enact only those laws and ordinances relating to
5 potentially dangerous dogs and dangerous dogs that are consistent with
6 this chapter, and may not adopt an ordinance regulating dogs or
7 potentially dangerous dogs based solely on the specific breed of dog.
8 Such local ordinances shall have the same penalties as provided for by
9 state law. Local laws and ordinances that are inconsistent with the
10 requirements of state law shall not be enacted and are preempted and
11 repealed, regardless of the nature of the code, charter, or home rule
12 status of the city, town, county, or municipality.

13 **Sec. 6.** RCW 16.08.090 and 1987 c 94 s 3 are each amended to read
14 as follows:

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

21 (2) ~~((Potentially dangerous dogs shall be regulated only by local,~~
22 ~~municipal, and county ordinances. Nothing in this section limits~~
23 ~~restrictions local jurisdictions may place on owners of potentially~~
24 ~~dangerous dogs.~~

25 ~~(3))~~ Dogs shall not be declared dangerous if the threat, injury,
26 or damage was sustained by a person who, at the time, was committing a
27 willful trespass or other tort upon the premises occupied by the owner
28 of the dog, or was tormenting, abusing, or assaulting the dog or has,

1 in the past, been observed or reported to have tormented, abused, or
2 assaulted the dog or was committing or attempting to commit a crime.

3 NEW SECTION. **Sec. 7.** Sections 2 through 5 of this act are each
4 added to chapter 16.08 RCW.