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**SENATE BILL 5533**

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**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** Senators M. Rasmussen, Roach, Amondson, Barr and Winsley

Read first time 02/02/93. Referred to Committee on Agriculture.

1            AN ACT Relating to dangerous animals; amending RCW 16.04.010,  
2 16.08.010, 16.08.020, 16.08.040, 16.08.070, 16.08.090, and 16.10.040;  
3 adding new sections to chapter 16.08 RCW; creating a new section;  
4 repealing RCW 16.08.030; and prescribing penalties.

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

6            NEW SECTION. **Sec. 1.** The state of Washington recognizes the right  
7 of the people to own animals and to obtain the full use and enjoyment  
8 of those animals. The state recognizes that commensurate with this  
9 right is the burden of responsibility for the care and well-being of  
10 those animals imposed upon their owners. The state further imposes  
11 liability on animal owners for any harm, injury, damage, or trespass by  
12 the animals upon the person or property of another.

13            NEW SECTION. **Sec. 2.** A city, county, town, or municipality shall  
14 not pass any law or ordinance that prevents the rightful ownership of  
15 animals or their full use and enjoyment.

16            **Sec. 3.** RCW 16.04.010 and 1989 c 286 s 1 are each amended to read  
17 as follows:

1 Any person suffering damage done by any horses, mules, donkeys,  
2 cattle, goats, sheep, swine, canids or canid-hybrids, or any such  
3 animals, which shall either trespass upon any land enclosed by lawful  
4 fence as provided in chapter 16.60 RCW (~~(or)~~), trespass while running  
5 at large in violation of chapter 16.24 RCW, or in any way damage such  
6 person's property, including livestock, may retain and keep in custody  
7 such offending animals until the owner or person having possession of  
8 such animals shall pay such damage and costs, or until good and  
9 sufficient security be given for the same.

10 **Sec. 4.** RCW 16.08.010 and 1985 c 415 s 14 are each amended to read  
11 as follows:

12 The owner or keeper of any (~~dog~~) canid or canid-hybrid shall be  
13 liable to the owner of any animal killed or injured by such (~~dog~~)  
14 canid or canid-hybrid for the amount of damages sustained and costs of  
15 collection, to be recovered in a civil action.

16 **Sec. 5.** RCW 16.08.020 and 1929 c 198 s 6 are each amended to read  
17 as follows:

18 It shall be lawful for any person who shall see any (~~dog or dogs~~)  
19 canids or canid-hybrids chasing, stalking, biting, injuring or killing  
20 any sheep, swine or other domestic animal, including poultry, belonging  
21 to such person, on any real property owned or leased by, or under the  
22 control of, such person, or on any public highway, or on open grazing  
23 land, to kill such (~~dog or dogs~~) canids or canid-hybrids, and it  
24 shall be the duty of the owner or keeper of any (~~dog or dogs~~) canids  
25 or canid-hybrids so found chasing, stalking, biting or injuring any  
26 domestic animal, including cattle and poultry, upon being notified of  
27 that fact by the owner of such domestic animals, cattle, or poultry, to  
28 thereafter keep such (~~dog or dogs~~) canids or canid-hybrids in leash  
29 or confined upon the premises of the owner or keeper thereof, and in  
30 case any such owner or keeper of a (~~dog or dogs~~) canids or canid-  
31 hybrids shall fail or neglect to comply with the provisions of this  
32 section, it shall be lawful for the owner of such domestic animals,  
33 cattle, or poultry to kill such (~~dog or dogs~~) canids or canid-hybrids  
34 found running at large.

35 **Sec. 6.** RCW 16.08.040 and 1941 c 77 s 1 are each amended to read  
36 as follows:

1       (1) The owner of any ((~~dog~~)) canid or canid-hybrid which shall bite  
2 any person while such person is in or on a public place or lawfully in  
3 or on a private place including the property of the owner of such  
4 ((~~dog~~)) canid or canid-hybrid, shall be liable for such damages as may  
5 be suffered by the person bitten, regardless of the former viciousness  
6 of such ((~~dog~~)) canid or canid-hybrid or the owner's knowledge of such  
7 viciousness.

8       (2) Evidence of the canid's or canid-hybrid's particular breed  
9 shall not be admissible for the purpose of attempting to show that the  
10 owner of the canid or canid-hybrid had knowledge of a trait or  
11 propensity of the animal that would be likely to cause such injury, or  
12 for any purpose.

13       **Sec. 7.** RCW 16.08.070 and 1987 c 94 s 1 are each amended to read  
14 as follows:

15       Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout RCW 16.08.040, 16.08.070 through  
17 16.08.100, and sections 8 through 11 of this act.

18       (1) "Potentially dangerous ((~~dog~~)) canid or canid-hybrid" means any  
19 ((~~dog~~)) canid or canid-hybrid that when unprovoked: (a) Inflicts bites  
20 on a human or a domestic animal either on public or private property,  
21 or (b) chases or approaches a person upon the streets, sidewalks, or  
22 any public grounds in a menacing fashion or apparent attitude of  
23 attack, or any ((~~dog~~)) canid or canid-hybrid with a known propensity,  
24 tendency, or disposition to attack unprovoked, to cause injury, or to  
25 cause injury or otherwise to threaten the safety of humans or domestic  
26 animals.

27       (2) "Dangerous ((~~dog~~)) canid or canid-hybrid" means any ((~~dog~~))  
28 canid or canid-hybrid that according to the records of the appropriate  
29 authority, (a) has inflicted severe injury on a human being without  
30 provocation on public or private property, (b) has killed a domestic  
31 animal without provocation while off the owner's property, or (c) has  
32 been previously found to be potentially dangerous, the owner having  
33 received notice of such and the ((~~dog~~)) canid or canid-hybrid again  
34 aggressively bites, attacks, or endangers the safety of humans or  
35 domestic animals.

36       (3) "Severe injury" means any physical injury that results in  
37 broken bones or disfiguring lacerations requiring multiple sutures or  
38 cosmetic surgery.

1 (4) "Proper enclosure of a dangerous ((~~dog~~)) canid or canid-hybrid"  
2 means, while on the owner's property, a dangerous ((~~dog~~)) canid or  
3 canid-hybrid shall be securely confined indoors or in a securely  
4 enclosed and locked pen or structure, suitable to prevent the entry of  
5 young children and designed to prevent the animal from escaping. Such  
6 pen or structure shall have secure sides and a secure top, and shall  
7 also provide protection from the elements for the ((~~dog~~)) canid or  
8 canid-hybrid.

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

13 (6) "Animal control officer" means any individual employed,  
14 contracted with, or appointed by the animal control authority for the  
15 purpose of aiding in the enforcement of this chapter or any other law  
16 or ordinance relating to the licensure of animals, control of animals,  
17 or seizure and impoundment of animals, and includes any state or local  
18 law enforcement officer or other employee whose duties in whole or in  
19 part include assignments that involve the seizure and impoundment of  
20 any animal.

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

24 NEW SECTION. **Sec. 8.** If an animal control officer has  
25 investigated and determined that there exists probable cause to believe  
26 that a canid or canid-hybrid is a potentially dangerous canid or canid-  
27 hybrid or a dangerous canid or canid-hybrid, the chief officer of the  
28 animal control authority or his or her immediate supervisor or the head  
29 of the local law enforcement agency, or his or her designee, may  
30 petition the municipal or district court within the judicial district  
31 where the canid or canid-hybrid is owned or kept for a hearing for the  
32 purpose of determining whether or not the canid or canid-hybrid in  
33 question should be declared a potentially dangerous canid or canid-  
34 hybrid or a dangerous canid or canid-hybrid. A city or county may  
35 establish an administrative hearing procedure to hear and dispose of  
36 petitions filed under this chapter. Whenever possible, any complaint  
37 received from a member of the public that serves as the evidentiary  
38 basis for the animal control officer to find probable cause shall be

1 sworn to and verified by the complainant and shall be attached to the  
2 petition. The chief officer of the animal control authority or head of  
3 the local law enforcement agency shall notify the owner or keeper of  
4 the canid or canid-hybrid that a hearing will be held by the municipal  
5 or district court or the hearing entity, as the case may be, at which  
6 time he or she may present evidence as to why the canid or canid-hybrid  
7 should not be declared a potentially dangerous canid or canid-hybrid or  
8 a dangerous canid or canid-hybrid. The owner or keeper of the canid or  
9 canid-hybrid shall be served with notice of the hearing and a copy of  
10 the petition, either personally or by first-class mail with return  
11 receipt requested. The hearing shall be held promptly within no less  
12 than fifteen working days nor more than thirty working days after  
13 service of notice upon the owner or keeper of the canid or canid-  
14 hybrid. The hearing shall be open to the public. A jury shall not be  
15 available. The court may find, upon a preponderance of the evidence,  
16 that the canid or canid-hybrid is a potentially dangerous canid or  
17 canid-hybrid or a dangerous canid or canid-hybrid and make other orders  
18 authorized by this chapter.

19 NEW SECTION. **Sec. 9.** After the hearing conducted under section 8  
20 of this act, the owner or keeper of the canid or canid-hybrid shall be  
21 notified in writing of the determination and orders issued, either  
22 personally or by first-class mail postage prepaid by the court of  
23 hearing entity. If a determination is made that the canid or canid-  
24 hybrid is a potentially dangerous canid or canid-hybrid or a dangerous  
25 canid or canid-hybrid, the owner or keeper shall comply with RCW  
26 16.08.080 through 16.08.100 in accordance with a time schedule  
27 established by the chief officer of the animal control authority or the  
28 head of the local law enforcement agency, but in no case more than  
29 thirty days after the date of the determination or thirty-five days if  
30 notice of the determination is mailed to the owner or keeper of the  
31 canid or canid-hybrid.

32 NEW SECTION. **Sec. 10.** (1) If upon investigation it is determined  
33 by the animal control officer that probable cause exists to believe the  
34 canid or canid-hybrid in question poses an immediate threat to public  
35 safety, the animal control officer may seize and impound the canid or  
36 canid-hybrid pending the hearings to be held pursuant to sections 8 and  
37 9 of this act. The owner or keeper of the canid or canid-hybrid shall

1 be liable to the city or county where the canid or canid-hybrid is  
2 impounded for the costs and expenses of keeping the canid or canid-  
3 hybrid, if the canid or canid-hybrid is later adjudicated to be a  
4 potentially dangerous canid or canid-hybrid or dangerous canid or  
5 canid-hybrid.

6 (2) When a canid or canid-hybrid has been impounded pursuant to  
7 subsection (1) of this section and it is not contrary to public safety,  
8 the chief animal control officer shall permit the canid or canid-hybrid  
9 to be confined at the owner's expense in an approved kennel or  
10 veterinary facility.

11 NEW SECTION. **Sec. 11.** The state occupies and preempts the entire  
12 field of the regulation of potentially dangerous canids or canid-  
13 hybrids and dangerous canids or canid-hybrids. Cities, towns, and  
14 counties or other municipalities may enact only those laws and  
15 ordinances relating to potentially dangerous canids or canid-hybrids  
16 and dangerous canids or canid-hybrids that are consistent with this  
17 chapter, and may not adopt an ordinance regulating dangerous canids or  
18 canid-hybrids or potentially dangerous canids or canid-hybrids based  
19 solely on the specific breed of canid or canid-hybrid. Such local  
20 ordinances shall have the same penalties as provided for by state law.  
21 Local laws and ordinances that are inconsistent with the requirements  
22 of state law are preempted.

23 **Sec. 12.** RCW 16.08.090 and 1987 c 94 s 3 are each amended to read  
24 as follows:

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

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

1       ~~(3) Dogs~~) Canids or canid-hybrids shall not be declared dangerous  
2 if the threat, injury, or damage was sustained by a person who, at the  
3 time, was committing a willful trespass or other tort upon the premises  
4 occupied by the owner of the ~~((dog))~~ canid or canid-hybrid, or was  
5 tormenting, abusing, or assaulting the ~~((dog))~~ canid or canid-hybrid or  
6 has, in the past, been observed or reported to have tormented, abused,  
7 or assaulted the ~~((dog))~~ canid or canid-hybrid or was committing or  
8 attempting to commit a crime.

9       **Sec. 13.** RCW 16.10.040 and 1969 c 72 s 4 are each amended to read  
10 as follows:

11       (1) The county commissioners shall by ordinance promulgate ~~((the))~~  
12 only those regulations to be enforced within ~~((a dog))~~ an animal  
13 control zone that have been authorized by the department of  
14 agriculture. These shall include provisions for the control of  
15 unlicensed ~~((dogs))~~ animals and the establishment of license fees. The  
16 county sheriff and/or other agencies designated by the ~~((county~~  
17 ~~commissioners))~~ local governmental authority shall be responsible for  
18 the enforcement of the act, including the collection of license fees.  
19 Fees collected shall be transferred to the current expense fund of each  
20 county. The local governmental authority may not adopt any regulations  
21 restricting the breeding of dogs and cats within a dog control zone.

22       (2) The department of agriculture shall impose upon humane  
23 societies and animal control agencies holding the contract with any  
24 county for enforcement of ordinances and regulations within a dog  
25 control zone the cost to the department of agriculture of adopting and  
26 enforcing regulations necessary for the humane society or animal  
27 control agency to carry out its functions.

28       NEW SECTION. **Sec. 14.** RCW 16.08.030 and 1929 c 198 s 7 are each  
29 repealed.

30       NEW SECTION. **Sec. 15.** Sections 2 and 8 through 11 of this act are  
31 each added to chapter 16.08 RCW.

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