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**SUBSTITUTE SENATE BILL 5094**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Local Government (originally sponsored by Senators Palumbo, Fain, and Wilson)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to preventing breed-based dog regulations;  
2 amending RCW 16.08.080 and 16.08.100; adding a new section to chapter  
3 16.08 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) A number of local jurisdictions have  
6 enacted ordinances prohibiting or placing additional restrictions on  
7 specific breeds of dogs. While the legislature recognizes that local  
8 jurisdictions have a valid public safety interest in protecting  
9 citizens from dog attacks, the legislature finds that a dog's breed  
10 is not inherently indicative of whether or not the dog is dangerous  
11 and that the criteria for determining whether or not a dog is  
12 dangerous or potentially dangerous should be focused on the dog's  
13 behavior.

14 (2) The legislature further finds that breed-specific ordinances  
15 fail to address any of the factors that cause dogs to become  
16 aggressive and place an undue hardship on responsible dog owners who  
17 provide proper socialization and training. The legislature intends to  
18 redirect the focus away from particular breeds and to instead  
19 encourage local jurisdictions to employ more effective and data-  
20 driven prevention models to control dangerous dogs and enhance public  
21 safety.

1       **Sec. 2.** RCW 16.08.080 and 2002 c 244 s 2 are each amended to  
2 read as follows:

3       (1) Any city or county that has a notification and appeal  
4 procedure with regard to determining a dog within its jurisdiction to  
5 be dangerous may continue to utilize or amend its procedure. A city  
6 or county animal control authority that does not have a notification  
7 and appeal procedure in place as of June 13, 2002, and seeks to  
8 declare a dog within its jurisdiction, as defined in subsection (7)  
9 of this section, to be dangerous must serve notice upon the dog owner  
10 in person or by regular and certified mail, return receipt requested.

11       (2) The notice must state: The statutory basis for the proposed  
12 action; the reasons the authority considers the animal dangerous; a  
13 statement that the dog is subject to registration and controls  
14 required by this chapter, including a recitation of the controls in  
15 subsection (6) of this section; and an explanation of the owner's  
16 rights and of the proper procedure for appealing a decision finding  
17 the dog dangerous.

18       (3) Prior to the authority issuing its final determination, the  
19 authority shall notify the owner in writing that he or she is  
20 entitled to an opportunity to meet with the authority, at which  
21 meeting the owner may give, orally or in writing, any reasons or  
22 information as to why the dog should not be declared dangerous. The  
23 notice shall state the date, time, and location of the meeting, which  
24 must occur prior to expiration of fifteen calendar days following  
25 delivery of the notice. The owner may propose an alternative meeting  
26 date and time, but such meeting must occur within the fifteen-day  
27 time period set forth in this section. After such meeting, the  
28 authority must issue its final determination, in the form of a  
29 written order, within fifteen calendar days. In the event the  
30 authority declares a dog to be dangerous, the order shall include a  
31 recital of the authority for the action, a brief concise statement of  
32 the facts that support the determination, and the signature of the  
33 person who made the determination. The order shall be sent by regular  
34 and certified mail, return receipt requested, or delivered in person  
35 to the owner at the owner's last address known to the authority.

36       (4) If the local jurisdiction has provided for an administrative  
37 appeal of the final determination, the owner must follow the appeal  
38 procedure set forth by that jurisdiction. If the local jurisdiction  
39 has not provided for an administrative appeal, the owner may appeal a  
40 municipal authority's final determination that the dog is dangerous

1 to the municipal court, and may appeal a county animal control  
2 authority's or county sheriff's final determination that the dog is  
3 dangerous to the district court. The owner must make such appeal  
4 within twenty days of receiving the final determination. While the  
5 appeal is pending, the authority may order that the dog be confined  
6 or controlled in compliance with RCW 16.08.090. If the dog is  
7 determined to be dangerous, the owner must pay all costs of  
8 confinement and control.

9 (5) It is unlawful for an owner to have a dangerous dog in the  
10 state without a certificate of registration issued under this  
11 section. This section and RCW 16.08.090 and 16.08.100 shall not apply  
12 to police dogs as defined in RCW 4.24.410.

13 (6) Unless a city or county has a more restrictive code  
14 requirement, the animal control authority of the city or county in  
15 which an owner has a dangerous dog shall issue a certificate of  
16 registration to the owner of such animal if the owner presents to the  
17 animal control unit sufficient evidence of:

18 (a) A proper enclosure to confine a dangerous dog and the posting  
19 of the premises with a clearly visible warning sign that there is a  
20 dangerous dog on the property. In addition, the owner shall  
21 conspicuously display a sign with a warning symbol that informs  
22 children of the presence of a dangerous dog;

23 (b) A surety bond issued by a surety insurer qualified under  
24 chapter 48.28 RCW in a form acceptable to the animal control  
25 authority in the sum of at least two hundred fifty thousand dollars,  
26 payable to any person injured by the dangerous dog; or

27 (c) A policy of liability insurance, such as homeowner's  
28 insurance, issued by an insurer qualified under Title 48 RCW in the  
29 amount of at least two hundred fifty thousand dollars, insuring the  
30 owner for any personal injuries inflicted by the dangerous dog.

31 (7)(a)(i) If an owner has the dangerous dog in an incorporated  
32 area that is serviced by both a city and a county animal control  
33 authority, the owner shall obtain a certificate of registration from  
34 the city authority;

35 (ii) If an owner has the dangerous dog in an incorporated or  
36 unincorporated area served only by a county animal control authority,  
37 the owner shall obtain a certificate of registration from the county  
38 authority;

39 (iii) If an owner has the dangerous dog in an incorporated or  
40 unincorporated area that is not served by an animal control

1 authority, the owner shall obtain a certificate of registration from  
2 the office of the local sheriff.

3 (b) This subsection does not apply if a city or county does not  
4 allow dangerous dogs within its jurisdiction.

5 (8) Cities and counties may charge an annual fee, in addition to  
6 regular dog licensing fees, to register dangerous dogs.

7 (9) Except as provided in section 4 of this act, nothing in this  
8 section limits a local authority in placing additional restrictions  
9 upon owners of dangerous dogs. This section does not require a local  
10 authority to allow a dangerous dog within its jurisdiction.

11 **Sec. 3.** RCW 16.08.100 and 2002 c 244 s 3 are each amended to  
12 read as follows:

13 (1) Any dangerous dog shall be immediately confiscated by an  
14 animal control authority if the: (a) Dog is not validly registered  
15 under RCW 16.08.080; (b) owner does not secure the liability  
16 insurance coverage required under RCW 16.08.080; (c) dog is not  
17 maintained in the proper enclosure; or (d) dog is outside of the  
18 dwelling of the owner, or outside of the proper enclosure and not  
19 under physical restraint of the responsible person. The owner must  
20 pay the costs of confinement and control. The animal control  
21 authority must serve notice upon the dog owner in person or by  
22 regular and certified mail, return receipt requested, specifying the  
23 reason for the confiscation of the dangerous dog, that the owner is  
24 responsible for payment of the costs of confinement and control, and  
25 that the dog will be destroyed in an expeditious and humane manner if  
26 the deficiencies for which the dog was confiscated are not corrected  
27 within twenty days. The animal control authority shall destroy the  
28 confiscated dangerous dog in an expeditious and humane manner if any  
29 deficiencies required by this subsection are not corrected within  
30 twenty days of notification. In addition, the owner shall be guilty  
31 of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

32 (2) If a dangerous dog of an owner with a prior conviction under  
33 this chapter attacks or bites a person or another domestic animal,  
34 the dog's owner is guilty of a class C felony, punishable in  
35 accordance with RCW 9A.20.021. It is an affirmative defense that the  
36 defendant must prove by a preponderance of the evidence that he or  
37 she was in compliance with the requirements for ownership of a  
38 dangerous dog pursuant to this chapter and the person or domestic  
39 animal attacked or bitten by the defendant's dog trespassed on the

1 defendant's real or personal property or provoked the defendant's dog  
2 without justification or excuse. In addition, the dangerous dog shall  
3 be immediately confiscated by an animal control authority, placed in  
4 quarantine for the proper length of time, and thereafter destroyed in  
5 an expeditious and humane manner.

6 (3) The owner of any dog that aggressively attacks and causes  
7 severe injury or death of any human, whether or not the dog has  
8 previously been declared potentially dangerous or dangerous, shall,  
9 upon conviction, be guilty of a class C felony punishable in  
10 accordance with RCW 9A.20.021. It is an affirmative defense that the  
11 defendant must prove by a preponderance of the evidence that the  
12 human severely injured or killed by the defendant's dog: (a)  
13 Trespassed on the defendant's real or personal property which was  
14 enclosed by fencing suitable to prevent the entry of young children  
15 and designed to prevent the dog from escaping and marked with clearly  
16 visible signs warning people, including children, not to trespass and  
17 to beware of dog; or (b) provoked the defendant's dog without  
18 justification or excuse on the defendant's real or personal property  
19 which was enclosed by fencing suitable to prevent the entry of young  
20 children and designed to prevent the dog from escaping and marked  
21 with clearly visible signs warning people, including children, not to  
22 trespass and to beware of dog. In such a prosecution, the state has  
23 the burden of showing that the owner of the dog either knew or should  
24 have known that the dog was potentially dangerous as defined in this  
25 chapter. The state may not meet its burden of proof that the owner  
26 should have known the dog was potentially dangerous ((solely)) by  
27 showing the dog to be a particular breed or breeds. In addition, the  
28 dog shall be immediately confiscated by an animal control authority,  
29 quarantined, and upon conviction of the owner destroyed in an  
30 expeditious and humane manner.

31 (4) Any person entering a dog in a dog fight is guilty of a class  
32 C felony punishable in accordance with RCW 9A.20.021.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 16.08  
34 RCW to read as follows:

35 (1) A city or county may not prohibit the possession of a dog  
36 based upon its breed, impose requirements specific to possession of a  
37 dog based upon its breed, or declare a dog dangerous or potentially  
38 dangerous based upon its breed unless all of the following conditions  
39 are met:

1 (a) The city or county has established and maintains a reasonable  
2 process for exempting any dog from breed-based regulations or a breed  
3 ban if the dog passes the American kennel club canine good citizen  
4 test or a reasonably equivalent canine behavioral test as determined  
5 by the city or county;

6 (b) Dogs that pass the American kennel club canine good citizen  
7 test or a reasonably equivalent canine behavioral test are exempt  
8 from breed-based regulations for a period of at least two years;

9 (c) Dogs that pass the American kennel club canine good citizen  
10 test or a reasonably equivalent canine behavioral test are given the  
11 opportunity to retest to maintain their exemption from breed-based  
12 regulations; and

13 (d) Dogs that fail the American kennel club canine good citizen  
14 test or a reasonably equivalent canine behavioral test are given the  
15 opportunity to retest within a reasonable period of time, as  
16 determined by the city or county.

17 (2) This section does not apply to the act of documenting either  
18 a dog's breed or its physical appearance, or both, solely for  
19 identification purposes when declaring a dog dangerous or potentially  
20 dangerous.

21 (3) For the purpose of this section, "dog" means a domesticated  
22 member of the family canidae, specifically species *Canus lupus*  
23 *familiaris*, and excludes nondomesticated members of the family  
24 canidae and any hybrids thereof, including but not limited to wolves,  
25 coyotes, wolf-dog hybrids, and coyote-dog hybrids.

26 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2018.

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