

HOUSE BILL 89

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 44, relative to animals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1363, is amended by deleting the section in its entirety and by substituting instead the following language:

39-17-1363.

(a) For purposes of this section:

(1) "Animal" means a domesticated living creature or a wild creature;

(2)

(A) Except as provided in subdivision (2)(B), "dangerous animal"

means:

(i) Any domesticated animal that, without provocation, bites, attacks, or endangers the safety of a human or other animal on public or private property;

(ii) Any domesticated animal which because of its physical nature and vicious propensity is capable of causing serious bodily injury, as defined by § 39-11-106, or death to humans or other animals and would constitute a danger to human life or property;
or

(iii) Any domesticated animal which behaves in such a manner that the owner knows or should reasonably know that the animal is possessed of tendencies to attack humans or other animals;

(B) "Dangerous animal" does not include:

(i) Any police animal that bites, attacks, or endangers the safety of a human when the animal is being used by a law enforcement officer to carry out official duties;

(ii) Any animal that attacks a human in an enclosure in which the animal is being kept, if such enclosure is designed to prevent with reasonable certainty the animal from leaving the enclosure on its own; or

(iii) Any animal that bites, attacks, or endangers the safety of a human while a human is committing or attempting to commit a trespass or other criminal offense on the property of the owner of the animal;

(3) "Domesticated animal" means any non-livestock animal of a tamable disposition that normally lives in or about the household of its owner; contributes to the support of the owner or the owner's family; or is by custom devoted to the service of humans at the time and in the place in which it is kept;

(4) "Enclosure" means an area for keeping a dangerous, vicious, or wild animal securely confined indoors or in a securely enclosed and locked pen, fence, or structure while on the owner's property that is suitable to prevent the entry of young children and the escape of the animal. A pen or structure is designed to prevent with reasonable certainty an animal's escape if it has secure sides and a secure top, and, if the animal is enclosed within a fence, all sides of the fence are of sufficient height and the bottom of the fence is constructed or secured in such a manner as to prevent the animal's escape either over or under the fence;

(5) "Owner" means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust who is vested with legal ownership or title to an animal and regularly keeps, harbors, possesses, or exercises custody or control of such animal within this state;

(6) "Police animal" means an animal that has been trained, and may be used, to assist a law enforcement officer in the performance of official duties;

(7)

(A) Except as provided in subdivision (7)(B), "vicious animal" means:

(i) An animal that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:

(a) When unprovoked and off the property of the owner of the animal, inflicts a bite causing bodily injury, as defined in § 39-11-106, to a person or domesticated animal; or

(b) When unprovoked and off the property of the owner of the animal, on two (2) or more separate occasions, chases, menaces or approaches a person or domesticated animal in an aggressive manner or apparent attitude of attack;

(ii) An animal that without provocation and off the property of the owner of the animal, has attacked a person causing death or serious bodily injury, as defined by § 39-11-106, to such person; and

(B) "Vicious animal" does not include any of the following:

(i) Any police animal that causes serious bodily injury, as defined by § 39-11-106, or death to a human when the animal is being used by a law enforcement officer to carry out the law enforcement officer's official duties;

(ii) Any animal that attacks a human or other animal in an enclosure in which the animal is being kept, if such enclosure is designed to prevent with reasonable certainty the animal from leaving the enclosure on its own; or

(iii) Any animal that causes serious bodily injury, as defined by § 39-11-106, or death for justifiable self-defense of the animal's owner;

(10) "Wild animal" means any animal of an untamable disposition that was taken from a state of nature, possessed by a human and placed in captivity, and that constitutes a danger to human life and property;

(11) "Without provocation" means that an animal is not teased, tormented, hit, kicked, or abused by a person with any object or part of a person's body;

(12) "Vicious Dog" means a dog that meets the definition of a dangerous or vicious animal; and

(13) "Violent felony" means:

(A) Any felony involving the use or attempted use of force, violence or a deadly weapon;

(B) A violation of § 39-17-417, § 39-17-433 or § 39-17-435; or

(C) A violation of § 39-14-203(a)(1)-(3), § 39-14-205, § 39-14-212 or § 39-14-214.

(b)

(1) It is an offense for any person convicted of a violent felony to knowingly own, possess, have custody or control of a dangerous, vicious, or wild animal for a period of ten (10) years after such person has been released from custody following completion of sentence or is no longer under active probation, community correction or parole supervision for such violent felony, whichever date is later.

(2) A violation of this subsection is a Class A misdemeanor.

(c)

(1) It is an offense for any person convicted of a violent felony to own, possess, or have custody or control of a vicious dog that:

(A) Is not micro chipped for permanent identification; and

(B) Is not spayed or neutered and is older than twelve (12) weeks of age.

(2) A violation of this subsection is a Class A misdemeanor.

(3)

(A) It is an affirmative defense to prosecution under this subsection, which must be proven by a preponderance of the evidence, that the vicious dog in question is microchipped and neutered or spayed, or that the vicious dog in question was microchipped and neutered or spayed within thirty (30) days of the defendant being charged with a violation of this subsection.

(B) Medical records from, or a certificate by, a person who is licensed by the person's state of residence as a doctor of veterinary medicine, whose license is in good standing and who has personally examined, inserted a microchip in, or operated upon the vicious dog, indicating that the vicious dog in question has been microchipped or spayed or neutered, shall be sufficient evidence that the vicious dog in question has been microchipped or spayed or neutered.

(C) If the vicious dog in question is microchipped by a different doctor than the doctor who spayed or neutered the vicious dog, medical records or a certificate indicating that both procedures have been performed are required for purposes of this defense.

(d) The provisions of this section shall only apply if a person's conviction for a violent felony occurs on or after July 1, 2011.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.