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HOUSE BILL 2117

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State of Washington

63rd Legislature

2014 Regular Session

By Representative Appleton

Prefiled 12/10/13.

1 AN ACT Relating to preventing breed-based dog regulations; amending  
2 RCW 16.08.070, 16.08.080, 16.08.090, and 16.08.100; and creating a new  
3 section.

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 is  
10 not inherently indicative of whether or not the dog is dangerous and  
11 that the criteria for determining whether or not a dog is dangerous or  
12 potentially dangerous should be focused on the dog's behavior.

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

1           **Sec. 2.** RCW 16.08.070 and 2002 c 244 s 1 are each amended to read  
2 as follows:

3           (~~Unless the context clearly requires otherwise,~~) The definitions  
4 in this section apply throughout RCW 16.08.070 through 16.08.100 unless  
5 the context clearly requires otherwise.

6           (1) "Potentially dangerous dog" means any dog, without regard to  
7 the breed of the dog, that when unprovoked: (a) Inflicts bites on a  
8 human or a domestic animal either on public or private property, or (b)  
9 chases or approaches a person upon the streets, sidewalks, or any  
10 public grounds in a menacing fashion or apparent attitude of attack, or  
11 any dog, without regard to the breed of the dog, with a known  
12 propensity, tendency, or disposition to attack unprovoked, to cause  
13 injury, or to cause injury or otherwise to threaten the safety of  
14 humans or domestic animals.

15           (2) "Dangerous dog" means any dog, without regard to the breed of  
16 the dog, that (a) inflicts severe injury on a human being without  
17 provocation on public or private property, (b) kills a domestic animal  
18 without provocation while the dog is off the owner's property, or (c)  
19 has been previously found to be potentially dangerous because of injury  
20 inflicted on a human, the owner having received notice of such and the  
21 dog again aggressively bites, attacks, or endangers the safety of  
22 humans.

23           (3) "Severe injury" means any physical injury that results in  
24 broken bones or disfiguring lacerations requiring multiple sutures or  
25 cosmetic surgery.

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

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

36           (6) "Animal control officer" means any individual employed,  
37 contracted with, or appointed by the animal control authority for the  
38 purpose of aiding in the enforcement of this chapter or any other law

1 or ordinance relating to the licensure of animals, control of animals,  
2 or seizure and impoundment of animals, and includes any state or local  
3 law enforcement officer or other employee whose duties in whole or in  
4 part include assignments that involve the seizure and impoundment of  
5 any animal.

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

9 **Sec. 3.** RCW 16.08.080 and 2002 c 244 s 2 are each amended to read  
10 as follows:

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

19 (2) The notice must state: The statutory basis for the proposed  
20 action; the reasons the authority considers the animal dangerous; a  
21 statement that the dog is subject to registration and controls required  
22 by this chapter, including a recitation of the controls in subsection  
23 (6) of this section; and an explanation of the owner's rights and of  
24 the proper procedure for appealing a decision finding the dog  
25 dangerous.

26 (3) Prior to the authority issuing its final determination, the  
27 authority shall notify the owner in writing that he or she is entitled  
28 to an opportunity to meet with the authority, at which meeting the  
29 owner may give, orally or in writing, any reasons or information as to  
30 why the dog should not be declared dangerous. The notice shall state  
31 the date, time, and location of the meeting, which must occur prior to  
32 expiration of fifteen calendar days following delivery of the notice.  
33 The owner may propose an alternative meeting date and time, but such  
34 meeting must occur within the fifteen-day time period set forth in this  
35 section. After such meeting, the authority must issue its final  
36 determination, in the form of a written order, within fifteen calendar  
37 days. In the event the authority declares a dog to be dangerous, the

1 order shall include a recital of the authority for the action, a brief  
2 concise statement of the facts that support the determination, and the  
3 signature of the person who made the determination. The order shall be  
4 sent by regular and certified mail, return receipt requested, or  
5 delivered in person to the owner at the owner's last address known to  
6 the authority.

7 (4) If the local jurisdiction has provided for an administrative  
8 appeal of the final determination, the owner must follow the appeal  
9 procedure set forth by that jurisdiction. If the local jurisdiction  
10 has not provided for an administrative appeal, the owner may appeal a  
11 municipal authority's final determination that the dog is dangerous to  
12 the municipal court, and may appeal a county animal control authority's  
13 or county sheriff's final determination that the dog is dangerous to  
14 the district court. The owner must make such appeal within twenty days  
15 of receiving the final determination. While the appeal is pending, the  
16 authority may order that the dog be confined or controlled in  
17 compliance with RCW 16.08.090. If the dog is determined to be  
18 dangerous, the owner must pay all costs of confinement and control.

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

23 (6) Unless a city or county has a more restrictive code  
24 requirement, the animal control authority of the city or county in  
25 which an owner has a dangerous dog shall issue a certificate of  
26 registration to the owner of such animal if the owner presents to the  
27 animal control unit sufficient evidence of:

28 (a) A proper enclosure to confine a dangerous dog and the posting  
29 of the premises with a clearly visible warning sign that there is a  
30 dangerous dog on the property. In addition, the owner shall  
31 conspicuously display a sign with a warning symbol that informs  
32 children of the presence of a dangerous dog;

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

37 (c) A policy of liability insurance, such as homeowner's insurance,

1 issued by an insurer qualified under Title 48 RCW in the amount of at  
2 least two hundred fifty thousand dollars, insuring the owner for any  
3 personal injuries inflicted by the dangerous dog.

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

8 (ii) If an owner has the dangerous dog in an incorporated or  
9 unincorporated area served only by a county animal control authority,  
10 the owner shall obtain a certificate of registration from the county  
11 authority;

12 (iii) If an owner has the dangerous dog in an incorporated or  
13 unincorporated area that is not served by an animal control authority,  
14 the owner shall obtain a certificate of registration from the office of  
15 the local sheriff.

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

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

20 (9) Except as provided in RCW 16.08.090(4), nothing in this section  
21 limits a local authority in placing additional restrictions upon owners  
22 of dangerous dogs. This section does not require a local authority to  
23 allow a dangerous dog within its jurisdiction.

24 **Sec. 4.** RCW 16.08.090 and 1987 c 94 s 3 are each amended to read  
25 as follows:

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

32 (2) Except as provided in subsection (4) of this section,  
33 potentially dangerous dogs shall be regulated only by local, municipal,  
34 and county ordinances. Nothing in this section limits restrictions  
35 local jurisdictions may place on owners of potentially dangerous dogs.

36 (3) Dogs shall not be declared dangerous if the threat, injury, or  
37 damage was sustained by a person who, at the time, was committing a

1 (~~willful~~) willful trespass or other tort upon the premises occupied by  
2 the owner of the dog, or was tormenting, abusing, or assaulting the dog  
3 or has, in the past, been observed or reported to have tormented,  
4 abused, or assaulted the dog or was committing or attempting to commit  
5 a crime.

6 (4) The breed of dog may not be considered when declaring a dog  
7 dangerous or potentially dangerous. A local jurisdiction may not  
8 prohibit possession of a particular breed of dog or declare a breed of  
9 dog to be dangerous or potentially dangerous.

10 **Sec. 5.** RCW 16.08.100 and 2002 c 244 s 3 are each amended to read  
11 as follows:

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

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

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

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

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