

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 472

By: Shurden

AS INTRODUCED

An Act relating to animals; amending 4 O.S. 1991, Sections 44, 45, 46 and 47, which relate to dangerous dogs; modifying definition; authorizing the county sheriff to issue certain certificate; authorizing the county sheriff to regulate potentially dangerous or dangerous dogs; requiring the county sheriff to confiscate dangerous dogs under certain conditions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 4 O.S. 1991, Section 44, is amended to read as follows:

Section 44. As used in this act:

1. "Potentially dangerous dog" means any dog that when unprovoked inflicts bites on a human or domestic animal either on public or private property;

2. "Dangerous dog" means any dog that:

- a. has inflicted severe injury on a human being or domestic animal without provocation on public property or private property not owned by the owner of the dog, or
- b. has been previously found to be potentially dangerous, the owner having received notice of such by the animal control authority in writing and the dog thereafter aggressively bites, attacks, or endangers the safety of humans;

3. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;

4. "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure with at least one hundred fifty (150) square feet of space for each dog kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog;

5. "Animal control authority" means an entity, including, but not limited to the county sheriff, acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals;

6. "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding the enforcement ~~of~~ pursuant to this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee, including but not limited to the county sheriff, whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal; and

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

SECTION 2. AMENDATORY 4 O.S. 1991, Section 45, is amended to read as follows:

Section 45. A. It is unlawful for an owner to have a dangerous dog in the state without certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

B. The animal control authority, including, but not limited to the county sheriff, of the city or county, in which an owner has a dangerous dog shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control unit sufficient evidence of:

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

2. A policy of liability insurance, such as homeowner's insurance, or surety bond, issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of not less than Fifty Thousand Dollars (\$50,000.00) insuring the owner for any personal injuries inflicted by the dangerous dog.

C. If an owner has the dangerous dog in an incorporated area that is serviced by both a city and county animal control authority, the owner shall obtain a certificate of registration from the city authority.

D. Cities and/or counties may charge an annual fee not to exceed Ten Dollars (\$10.00), in addition to regular dog licensing fees, if any are charged, not to exceed Ten Dollars (\$10.00), to register dangerous dogs. Fees shall be retained by the city or county issuing license.

SECTION 3. AMENDATORY 4 O.S. 1991, Section 46, is amended to read as follows:

Section 46. A. It is unlawful for an owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog

is muzzled and restrained by a substantial chain or leash and under physical restraining of a responsible person over sixteen (16) years of age. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

B. Potentially dangerous or dangerous dogs may be regulated through local, municipal and county authorities, including, but not limited to the county sheriff, provided, the regulations are not breed specific. Nothing in this act shall prohibit such local governments from enforcing penalties for violation of such local laws.

C. Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

SECTION 4. AMENDATORY 4 O.S. 1991, Section 47, is amended to read as follows:

Section 47. Any dangerous dog shall be immediately confiscated by an animal control authority, including, but not limited to the county sheriff if:

1. The dog is not validly registered ~~under~~ pursuant to Section ~~2~~ 45 of this ~~act~~ title;

2. The owner does not secure the liability insurance coverage or surety bond required pursuant to Section ~~2~~ 45 of this ~~act~~ title;

3. The dog is not maintained in the proper enclosure; and

4. The dog is outside of the dwelling of the owner, or outside the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county

jail for not more than one (1) year or by the imposition of a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Any such fine, at the discretion of the court, may be offset by payments made by the dog owner to any victim of an attack by the dog. However, insurance payments may not be considered as an offset.

It is the purpose of this act to provide additional and cumulative remedies to control dangerous and potentially dangerous dogs in this state. Nothing in this act shall be construed to abridge or alter rights of action or remedies of victims under the common law or statutory law, criminal or civil.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-1-11

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