

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE  
BILL NO. 2813

By: Denney, Worthen, Smithson,  
Jackson, Sullivan, Nance,  
McMullen and Auffet of the  
House

and

Shurden of the Senate

An Act relating to animals; amending 4 O.S. 2001, Sections 44 and 47, which relate to dangerous dogs; expanding and modifying scope of certain definitions; adding definition; modifying penalties; providing for strict liability of damages under certain circumstances; providing an exception; making certain action unlawful; providing penalty; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to animals; creating criminal offense for owners of certain dogs that behave in certain manner; making owners of certain dogs liable for certain damages; creating criminal offense for owners of dangerous dogs that kill persons; making unlawful the release of any dog on certain officers; setting penalties for certain violations; providing affirmative defense to certain prosecutions; amending 4 O.S. 2001, Sections 42.2, 46, and 47, which relate to dangerous dogs; expanding certain definition; clarifying language; providing certain references; setting certain penalties for certain violations; authorizing community service penalty; stating maximum hours of community service; and providing an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 42.4 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. It is unlawful for the owner of any dog that previously has:

1. When unprovoked inflicted bites on any person or severely injured any person either on public or private property;

2. When unprovoked killed or severely injured any livestock either on public or private property; or

3. When unprovoked created an imminent threat of injury or death to any person,

to permit such dog to run at large or aggressively bite or attack any person while such person is lawfully upon public or private property. Upon conviction, the violator shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year, or by imposition of a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. In addition, the owner shall be liable for damages as provided in Section 42.1 of Title 4 of the Oklahoma Statutes.

B. The owner of any dangerous dog as defined by Section 44 of Title 4 of the Oklahoma Statutes, or any dog that is described in subsection A of this section, that attacks any person causing the death of such person shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years, or by the imposition of a fine not to exceed Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

C. It is unlawful for any person to release any dog upon a law enforcement officer while the officer is in the performance of official duties. Upon conviction, the violator shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years, or imprisonment in the county jail for not more than one (1) year, or by imposition of a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. It shall be an affirmative defense to a prosecution pursuant to subsection A or B of this section that the injury or death was sustained by a person who, at the time, was committing a willful

criminal act upon the premises of the owner of the dog or was assaulting the owner of the dog.

SECTION 2. AMENDATORY 4 O.S. 2001, Section 42.2, is amended to read as follows:

Section 42.2 For the purpose of Sections 42.1 through 42.3 of this title and Section 1 of this act a person shall be considered to be lawfully upon the private property of the owner of a dog when he or she is on ~~such~~ the property in the performance of any duty imposed upon ~~him~~ the person by the laws of this state, or its political subdivision, or by the laws of the United States, or the postal regulations of the United States, or when reading meters, or making repairs to any public utility or service located on ~~said~~ the premises, or when working on ~~said~~ the property at the request of the owner or any tenant having a lease upon any portion of ~~said~~ the property, or when on ~~such~~ the property upon the invitation, either expressed or implied, of the owner or lessee of such property, or when on the property for any other lawful purpose. The term "public place" shall, for the purpose of Sections 42.1 through 42.3 of this title and Section 1 of this act, mean and include any and all public streets, sidewalks, alleyways, easements, buildings, parks, playgrounds and recreational facilities, and any and all places of business, amusement or entertainment which are privately owned, wherein merchandise, property, services, entertainment or facilities are offered for sale, hire, lease, or use.

SECTION 3. AMENDATORY 4 O.S. 2001, 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 as defined by Section 44 of this title, unless the dog is muzzled and restrained by a substantial chain or leash and remains under the physical ~~restraining~~ restraint 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~~ Dangerous dogs may be regulated through local, municipal and county authorities, 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. 2001, Section 47, is amended to read as follows:

Section 47. A. Any dangerous dog shall be immediately confiscated by an animal control authority if:

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

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

3. The dog is not maintained in the proper enclosure as defined by Section 44 of this title; 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 as required by Section 46 of this title. ~~In addition, the~~

B. The owner of a dangerous dog 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 for any violation of the laws relating to dangerous dogs resulting in the confiscation of such dog pursuant to any provision of subsection A of this section. Any such

C. The owner of a dangerous dog shall 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 for any personal injury caused by such dangerous dog. The fine, at the discretion of the court, may be offset by payments made by the dog owner to any victim of an injury or attack by the dog. However, insurance payments may not be considered as an offset. In addition, the court may require the owner to perform forty (40) hours of community service. The court may suspend any portion of the community service requirement set forth in this section. It shall be an affirmative defense to a prosecution pursuant to this subsection that the injury was sustained by a person who, at the time, was committing a willful criminal act upon the premises occupied by the owner of the dog or was assaulting the owner of the dog.

D. It is the purpose of Sections 44 through 47 of this act ~~title~~ 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."

Passed the Senate the 19th day of April, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2006.

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Presiding Officer of the House  
of Representatives