

CS for EHB 2813

THE STATE SENATE
Tuesday, April 11, 2006

Committee Substitute for
ENGROSSED
House Bill No. 2813

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2813 - By: DENNEY,
WORTHEN, SMITHSON, JACKSON, SULLIVAN, NANCE, McMULLEN and AUFFET of
the House and SHURDEN of the Senate.

[animals - dangerous dogs - modifying penalties -
emergency]

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

SECTION 1. AMENDATORY 4 O.S. 2001, Section 44, is
amended to read as follows:

Section 44. As used in Section 44 et seq. of this title:

1. "Potentially dangerous dog" means any dog that:

a. when unprovoked inflicts bites on a human either on
public or private property, ~~or~~

b. when unprovoked kills or severely injures a domestic
animal either on public or private property, or

c. behaves in a manner that a reasonable person would
believe poses an unjustified imminent threat of severe
or serious physical injury or death to a person;

2. "Dangerous dog" means any dog that:

a. has inflicted severe injury on a human being without
provocation on public or private property,

1 b. has been previously found to be potentially dangerous,
2 the owner having received notice of such by the animal
3 control authority in writing and the dog thereafter
4 aggressively bites, attacks, or endangers the safety
5 of humans, or

6 c. has been previously found to be potentially dangerous,
7 the owner having received notice of such by the animal
8 control authority in writing and the dog thereafter
9 kills or severely injures a domestic animal;

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

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

22 5. "Animal control authority" means an entity acting alone or
23 in concert with other local governmental units for enforcement of

1 the animal control laws of the city, county and state and the
2 shelter and welfare of animals;

3 6. "Animal control officer" means any individual employed,
4 contracted with, or appointed by the animal control authority for
5 the purpose of aiding the enforcement of this act or any other law
6 or ordinance relating to the licensure of animals, control of
7 animals, or seizure and impoundment of animals, and includes any
8 state or local law enforcement officer or other employee whose
9 duties in whole or in part include assignments that involve the
10 seizure and impoundment of any animal; and

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

14 SECTION 2. AMENDATORY 4 O.S. 2001, Section 47, is
15 amended to read as follows:

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

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

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

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

1 4. The dog is outside of the dwelling of the owner, or outside
2 the proper enclosure and not under physical restraint of the
3 responsible person. In addition, the owner shall be guilty of a
4 misdemeanor punishable by imprisonment in the county jail for not
5 more than one (1) year or by the imposition of a fine not to exceed
6 Five Thousand Dollars (\$5,000.00), or by both such fine and
7 imprisonment. Any such fine, at the discretion of the court, may be
8 offset by payments made by the dog owner to any victim of an attack
9 by the dog. However, insurance payments may not be considered as an
10 offset.

11 B. If any dog causes the death of a human being, the owner
12 shall, upon conviction, be guilty of a felony punishable by
13 imprisonment in the custody of the Department of Corrections for not
14 more than five (5) years, or by a fine not to exceed Twenty-five
15 Thousand Dollars (\$25,000.00), or by both such fine and
16 imprisonment. In addition, the court shall require the person to
17 perform forty (40) hours of community service. The court shall not
18 suspend any portion of the community service requirement set forth
19 in this section.

20 C. If a dog causes physical injury to a person or damages real
21 or personal property of another, the owner of the dog is liable to
22 the injured person or property owner for any economic damages
23 resulting from the physical injury or property damage. The

1 provisions of this subsection shall not apply where a physical
2 injury to a person is caused by the person assaulting the owner of
3 the dog.

4 D. It shall be unlawful for the owner of a dog to release such
5 dog upon a law enforcement officer while the officer is in the
6 performance of his or her official duties. Any owner convicted of
7 violating the provisions of this subsection shall be guilty of a
8 felony punishable by imprisonment in the custody of the Department
9 of Corrections for not more than five (5) years or county jail for a
10 period not to exceed one (1) year, or by a fine not exceeding Five
11 Hundred Dollars (\$500.00), or by both such fine and imprisonment, in
12 addition to any other penalties as prescribed by law.

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

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-5-06 - DO
23 PASS, As Amended.