STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2076 By: Smithson

AS INTRODUCED

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

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 that may or may not cause a severe injury 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. when not muzzled, unleashed, or unattended by its owner or custodian in any place other than upon the property of the owner or custodian from which the owner or custodian may lawfully exclude others, behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious physical injury or death to a person or a companion animal;

2. "Dangerous dog" means any dog that:

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

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, or

c. 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 kills or severely injures a domestic animal;

3. "Serious injury" means a physical injury that creates a substantial risk of death or that causes death, serious or protracted disfigurement, protracted impairment of health, or impairment of the function of any bodily organ;

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

~~4.~~ 5. "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.~~ 6. "Animal control authority" means an entity 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.~~ 7. "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding the enforcement of 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 whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal; and

~~7.~~ 8. "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. 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; 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 a fine not to exceed One Thousand Dollars ($1,000.00) for the first offense, and for any second or subsequent offense 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. If the dangerous dog has caused the death of another human being the owner 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 a fine not to

exceed Twenty-five Thousand Dollars ($25,000.00), 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.

B. If a court has determined that a dog is a potentially dangerous dog and subsequent to that determination the dog causes physical injury to a person or damages real or personal property of another, the owner of the potentially dangerous dog is liable to the injured person or property owner for any economic damages resulting from the physical injury or property damage. The provisions of this subsection shall not apply where a physical injury to a person is caused by the person provoking the dog, assaulting the owner of the dog, or willfully trespassing upon the premises occupied by the owner of the dog.

C. 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 3. This act shall become effective November 1, 2006.

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