

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2657

By: Wesselhoft

AS INTRODUCED

An Act relating to animals; creating Cody's Law; amending 4 O.S. 2001, Sections 44, 45, 46 and 47, which relate to dangerous dogs; modifying certain definitions; adding definitions; modifying scope of prohibited act; expanding certificate of registration requirements; increasing annual fee; requiring assignment of registration number upon issuance of certificate; requiring certain entity to implant, tattoo or mark dog with registration number; requiring entity to maintain registration numbers; requiring notification of change of address; requiring issuance of certain collar; restricting sale or transfer of dog; requiring notification to animal control authority of certain occurrences; modifying prohibited act; removing prohibition of breed-specific regulations; modifying exemptions; providing penalty; establishing fine for certain occurrence; modifying confiscation requirements; allowing for housing or disposal of confiscated dogs; requiring reimbursement of certain costs; permitting owners to dispute classification of confiscated dog; providing procedures for written petition disputing classification; providing hearing procedures; permitting destruction of dog upon certain classification; providing an exception; allowing for return of dog upon certain determination; requiring appeals of final determination be made to district court; directing State Department of Health to adopt rules for the collection of certain data; specifying information to be collected; stating entities that data shall be collected from; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the "Cody's Law".

SECTION 2. 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~~ a dog or breed of 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,
- c. is characterized by physical strength, a muscular body, and powerful jaws, or
- d. has a history or demonstrates a pattern of biting, the severity of which is of such a nature that a domestic animal or a human digit, limb, or life is in jeopardy from trauma or loss of blood;

2. "Dangerous dog" means any dog that:

- a. has inflicted severe injury on a human being or domestic animal 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. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery;

4. ~~"Proper Secure 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~~ indoor confinement or confinement in an enclosure which meets the following requirements:

- a. the enclosure must have secure sides and a secure top, or all sides must be at least eight (8) feet high,
- b. the enclosure must have a bottom permanently attached to the sides or sides embedded into the ground at a depth of not less than one (1) foot,
- c. the enclosure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own,
- d. the enclosure must be suitable to prevent the entry of young children or any part of their bodies, and
- e. the enclosure must provide protection from the elements for the dog;

5. "Secure temporary enclosure" means a secure enclosure used for purposes of transporting a potentially dangerous dog or dangerous dog and which includes a top and bottom permanently attached to the sides except for a door for removal of the dog. The enclosure shall be constructed in such a manner that the dog cannot exit the enclosure on its own;

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, or 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;

9. "Impound" means taken into the custody of the animal control authority; and

10. "Warning sign" means a sign that is conspicuously posted at each possible entrance to the property of the owner where the potentially dangerous dog or dangerous dog is kept. The sign must be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall contain the words "POTENTIALLY DANGEROUS DOG" or "DANGEROUS DOG" in lettering not less than two (2) inches in height. The sign shall also include a symbol sufficient to convey without words the message that there is a dog on the premises which presents a danger to human beings.

SECTION 3. AMENDATORY 4 O.S. 2001, Section 45, is amended to read as follows:

Section 45. A. ~~It is~~ Upon the effective date of this act, it shall be unlawful for an owner any person to have own, possess, harbor, keep, have an interest in, or have control or custody of a potentially dangerous dog or dangerous dog in the state without a 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 of the city or county in which an owner has a potentially dangerous dog or dangerous dog shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control ~~unit~~ authority sufficient evidence of:

1. Current rabies vaccination;

2. A state-issued driver license or identification card showing that the owner is at least twenty-one (21) years of age;

3. A ~~proper~~ photograph that demonstrates that there is a secure enclosure to confine a potentially dangerous dog or dangerous dog and the ~~posting of the premises with a clearly;~~

4. Clearly visible warning ~~sign~~ signs posted on the premises that there is a potentially dangerous dog or 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.~~ 5. 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)~~ One Hundred Thousand Dollars (\$100,000.00) insuring the owner for any personal injuries inflicted by the potentially dangerous dog or dangerous dog; and

6. Written permission of the property owner and, if applicable, the homeowners' association where the potentially dangerous dog or dangerous dog will be confined.

C. If an owner has the potentially dangerous dog or 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)~~ Fifty Dollars (\$50.00), in addition to regular dog licensing fees, if any are charged, ~~not to exceed Ten Dollars (\$10.00),~~ to register potentially dangerous dogs or dangerous dogs. Fees shall be retained by the city or county issuing ~~license~~ the certificate of registration.

E. Upon issuance of a certificate of registration, the animal control authority of the city or county in which an owner has a

potentially dangerous dog or dangerous dog shall cause a registration number assigned by the animal control authority to be implanted via a microchip, tattooed, or otherwise marked on the dog. The animal control authority shall maintain a file containing the registration number, name of the dog, and name and address of the owner. The owner of the dog shall notify the animal control authority of the city or county in which the owner has the dog within seven (7) business days of any change of address.

F. Upon issuance of a certificate of registration, the animal control authority shall issue a fluorescent green collar for the potentially dangerous or dangerous dog that shall be worn by the dog at all times.

G. If the owner of a potentially dangerous dog or dangerous dog shall sell or otherwise transfer the dog to any person, the new owner shall be subject to all of the registration requirements set forth in subsection B of this section.

H. The owner of a potentially dangerous dog or dangerous dog shall notify the animal control authority in person or by telephone within twenty-four (24) hours of the occurrence of any one of the following events:

1. The dog has escaped or has otherwise ceased to be in the custody of the owner for any reason;

2. The dog has attacked a human being;

3. The dog has been transferred to new ownership. The owner shall provide the animal control authority with the name, address, and telephone number of the new owner of the dog;

4. The dog has died; or

5. The dog is leaving the county in which it is currently confined and will be transferred to another county within the state. The owner shall provide the animal control authority with the address and telephone number of the new location of the dog.

SECTION 4. AMENDATORY 4 O.S. 2001, Section 46, is amended to read as follows:

Section 46. A. It ~~is~~ shall be unlawful for an owner of to:

1. Permit a potentially dangerous dog or dangerous dog to ~~permit the dog to~~ be outside ~~the proper~~ a secure 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;
or

2. Abandon a potentially dangerous dog or dangerous dog by either depositing it along any private or public roadway or in any private or public place with the intention of abandoning the dog.

B. Potentially dangerous or 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 potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was ~~committing~~:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog, ~~or was tormenting;~~

2. 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

3. Committing or attempting to commit a crime.

D. An owner of a potentially dangerous dog or dangerous dog who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than ninety (90) days,

or by a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

E. Any owner of a potentially dangerous dog or dangerous dog that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined not less than One Thousand Dollars (\$1,000.00) and not more than Ten Thousand Dollars (\$10,000.00).

SECTION 5. AMENDATORY 4 O.S. 2001, Section 47, is amended to read as follows:

Section 47. A. Any potentially dangerous dog or 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~~ a secure enclosure, as defined in Section 44 of this title; ~~and or~~

4. The dog is outside of the dwelling of the owner, or outside the ~~proper~~ secure enclosure and not under physical restraint of the responsible person. ~~In addition, the owner 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. 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. Except as provided for in subsection C of this section, the animal control authority may house or dispose of any confiscated potentially dangerous dog or dangerous dog in such manner as the animal control authority may deem appropriate. The owner of the dog

shall be responsible for reimbursing the animal control authority for all costs associated with the confinement and control of the dog.

C. The owner of a dog that has been confiscated by the animal control authority may dispute the classification of such dog as a potentially dangerous or dangerous dog. The owner of the dog may submit a written petition to the animal control authority for a hearing concerning such classification no later than seven (7) days after confiscation. The petition shall include the name and address, including mailing address, of the petitioner. Upon receipt of a written petition disputing said classification, the animal control authority shall issue a notice of hearing date by mailing a copy of the notice to the petitioner no later than ten (10) days prior to the date of the hearing. If the animal control authority does not receive a written petition for hearing from the owner of the dog within seven (7) days of confiscation, the dog may be destroyed.

D. The hearing to determine classification shall be held before a hearing officer designated by the animal control authority. Any facts presented by the petitioner for consideration by the hearing officer shall be submitted under oath or affirmation either in writing or orally at the hearing. The hearing officer shall make a final determination as to classification of the dog as a potentially dangerous or dangerous dog. The final determination shall be considered a final order of the hearing officer. If the dog is classified as a potentially dangerous dog or dangerous dog, the dog may be destroyed, unless the owner produces evidence deemed sufficient by the animal control authority that the dog is to be permanently taken out of the state. If the dog is found not to be a potentially dangerous dog or dangerous dog, the dog shall be released to the owner.

E. All appeals of the final determination made by the hearing officer shall be made to the district court only.

F. 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 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-508.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Board of Health shall adopt such rules as it deems necessary for the collection of information on the number of animal attacks on humans. The information shall include the type or breed of animal, whether the animal is domesticated, feral, or wild, and the seriousness of the attack. The State Board of Health shall collect data from county health departments, hospitals, and law enforcement agencies.

SECTION 7. This act shall become effective November 1, 2006.

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