

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2658

By: Wesselhoft

AS INTRODUCED

An Act relating to animals; creating Cody's Law; amending 4 O.S. 2001, Section 46, which relates to local regulation of dangerous dogs; removing prohibition of breed-specific regulations; defining terms; prohibiting ownership of certain dog without certificate of registration; providing for issuance of certificate of registration under certain circumstances; allowing city authority to issue certificate of registration under certain circumstances; permitting entities to charge annual fees; establishing maximum fee amount; requiring assignment of registration number upon issuance of certificate; requiring certain entity to tattoo or mark dog with registration number; requiring entity to maintain registration numbers; requiring issuance of certain collar; establishing registration requirements for current owners; restricting sale or transfer of dog; requiring notification to animal control authority for certain occurrences; providing for immediate confiscation of dog under certain circumstances; allowing for the 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 for hearing procedures; directing destruction of dog upon certain classification; providing an exception; allowing for return of dog to owner upon certain determination; requiring appeals of certain determination to district courts; prohibiting certain acts; providing penalty; establishing fine for certain occurrence; directing State Board 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 7 of this act shall be known and may be cited as "Cody's Law".

SECTION 2. 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 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, ~~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 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48 of Title 4, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Animal control authority" means any 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;

2. "Confiscate" means taken into the custody of the animal control authority;

3. "Owner" means any person owning, possessing, harboring, keeping, transporting, having an interest in, or having control or custody over a pit bull. Any adult at whose residence a pit bull is kept or found shall be presumed to be an owner of such dog and shall have the burden of rebutting such presumption. If a pit bull has more than one owner within the meaning of this section, any one of such owners may be prosecuted for violations set forth in Section 6 of this act whether or not any other owners are also prosecuted;

4. "Pit bull" means any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds;

5. "Secure enclosure" means 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 pit bull 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 appropriate protection from the elements for the pit bull;

6. "Secure temporary enclosure" means a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a door for

removal of the pit bull. The enclosure shall be constructed in such a manner that the pit bull cannot exit the enclosure on its own; and

7. "Warning sign" means a sign that is conspicuously posted at each possible entrance to the property of the owner where the pit bull is kept. The sign must be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall contain the words "PIT BULL 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48.1 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. Upon the effective date of this act, it shall be unlawful for any person to own, possess, harbor, keep, have an interest in, or have control or custody of a pit bull in the state without a certificate of registration issued under this section.

B. The animal control authority of the city or county in which an owner has a pit bull shall issue a certificate of registration to the owner of the pit bull if the owner presents to the animal control 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 secure enclosure to confine the pit bull;
4. Clearly visible warning signs posted on the premises that a pit bull is on the property;
5. A policy of liability insurance or surety bond issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of not less than One Hundred Thousand Dollars (\$100,000.00) insuring the owner for any personal injuries inflicted by the pit bull;

6. Written permission of the property owner and, if applicable, the homeowners' association where the pit bull will be confined; and

7. Documentary proof that the pit bull has been spayed or neutered by a licensed veterinarian.

C. If an owner has the pit bull 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 counties may charge an annual fee not to exceed Fifty Dollars (\$50.00), in addition to regular dog licensing fees, if any are charged, to register a pit bull. Fees shall be retained by the city or county issuing 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 pit bull shall cause a registration number assigned by the animal control authority to be tattooed or otherwise marked on the pit bull. The animal control authority shall maintain a file containing the registration number, name of the pit bull, and name and address of the owner. The owner of the pit bull shall notify the animal control authority of the city or county in which the owner has a pit bull 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 pit bull that shall be worn by the dog at all times.

G. Any person who owns, possesses, harbors, keeps, has an interest in, or has control or custody of a pit bull in this state, prior to the effective date of this act, shall be required to obtain a certificate of registration from the animal control authority of the city or county in which the owner has a pit bull. The animal control authority shall issue a certificate of registration to the owner of the pit bull if the owner presents to the animal control authority sufficient evidence of:

1. Current rabies vaccination; and

2. Documentary proof that the pit bull has been spayed or neutered by a licensed veterinarian.

H. The owner of a pit bull shall not sell or otherwise transfer the pit bull to any person except a member of the immediate family of the owner, whereupon the new owner will be subject to all of the registration requirements set forth in subsection B of this section.

I. The owner of a pit bull 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 pit bull has escaped or has otherwise ceased to be in the custody of the owner for any reason;

2. The pit bull has attacked a human being;

3. The pit bull has been transferred to the ownership or possession of a member of the immediate family of the owner. The owner shall provide the animal control authority with the name, address, and telephone number of the new owner of the pit bull;

4. The pit bull has died; and

5. The pit bull 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 pit bull.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48.2 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. Any pit bull shall be immediately confiscated by an animal control authority if:

1. The pit bull is not validly registered pursuant to the provisions set forth in Section 4 of this act;

2. The owner does not secure the liability insurance coverage or surety bond required under Section 4 of this act;

3. The pit bull is not confined in a secure enclosure, as defined in Section 3 of this act; or

4. The pit bull is outside of the dwelling of the owner, or outside the secure enclosure and not under physical restraint of the responsible person.

B. Except as provided for in subsection C of this section, the animal control authority may house or dispose of any confiscated pit bull in such manner as the animal control authority may deem appropriate. The owner of the pit bull shall be responsible for reimbursing the animal control authority for all costs associated with the confinement and control of the pit bull.

C. The owner of a dog that has been confiscated by the animal control authority may dispute the classification of such dog as a pit bull. 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 pit bull within seven (7) days of confiscation, the pit bull shall 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 pit bull. The final determination shall be considered a final order of the hearing officer. If the dog is classified as a pit bull, the pit

bull shall be destroyed, unless the owner produces evidence deemed sufficient by the animal control authority that the pit bull is to be permanently taken out of the state. If the dog is found not to be a pit bull, 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.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48.3 of Title 4, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful to:

1. Permit a pit bull to be outside a secure enclosure unless the pit bull is under the control of the owner, muzzled, and restrained by a lead not exceeding four (4) feet in length. The muzzle shall be made in a manner that will not cause injury to the pit bull or interfere with its vision or respiration but shall prevent it from biting any person or animal; and

2. Abandon a pit bull by either depositing it along any private or public roadway or in any other private or public place with the intention of abandoning the pit bull.

B. An owner of a pit bull who violates the provisions 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 more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

C. Any owner of a pit bull that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined up to Ten Thousand Dollars (\$10,000.00).

SECTION 7. 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 8. This act shall become effective November 1, 2006.

50-2-9135 GRS 01/18/06