

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1711

By: Shurden

AS INTRODUCED

An Act relating to crimes and punishments; amending 4 O.S. 2001, Sections 44 and 47, which relate to definition of dangerous dog and confiscation of certain dogs; modifying definitions; setting criminal penalties for certain violations; requiring restitution for dog attack; construing effects of certain provisions of law; making act cumulative and controlling over other provisions of law; providing for codification; providing an effective date; and declaring an 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~~ any place other than upon the property of the owner or custodian from which such person may lawfully exclude others, and when unmuzzled, unleashed or unattended by such person behaves in a manner that a reasonable person believes poses a serious unjustified and imminent threat of serious physical injury or death to a person or a person's companion animal, or
- b. when unprovoked kills or severely injures a domestic animal either on public or private property; or
- c. when without justification, and in a public place, bites a person causing physical injury that is not severe;

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

4. "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. "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. "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. "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 of this act;

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

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~~

B. Any person violating any provision of subsection A of Section 46 of this title, upon conviction, shall be guilty of a misdemeanor punishable by a fine in an amount of Five Hundred Dollars (\$500.00) for a first offense. Any second of subsequent violation, upon conviction shall be punishable by imprisonment in the county jail for a term 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 person in violation of any provision of subsection A of Section 46 of this title, whose dog kills any person shall, upon

conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than five (5) years, or by a fine in an amount not exceeding One Hundred Twenty-five Thousand Dollars (\$125,000.00), or by both such fine and imprisonment. In addition, the owner of a dangerous dog that is convicted of any violation of subsection A of Section 46 of this title shall make restitution to any victim of an attack by the dog. However, insurance payments may not be considered as an offset.

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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1692.10 of Title 21, unless there is created a duplication in numbering, reads as follows:

Nothing in any provision of Sections 1692.1 et seq. of Title 21 of the Oklahoma Statutes shall be construed to prohibit, limit, restrict or prevent the ownership, possession, breeding, feeding or keeping, transporting, or training of any bird, fowl, domesticated fowl, game fowl, chicken, chick, cock, gamecock, rooster or hen for purposes of production for human consumption, sale, show, breeding or preservation of any breed or species, or the possession or use of any equipment in the breeding, feeding, keeping, transportation or training of any bird, fowl, domesticated fowl, game fowl, chicken, chick, cock, gamecock, rooster or hen, provided there is no criminal intent to violate the laws of this state.

It is hereby expressly provided that the provisions of this article shall be cumulative to all existing laws of the State of Oklahoma and where the provisions of this article conflict with any other laws of the State of Oklahoma or any municipal ordinance, the provisions of this article shall prevail.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1699.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who is the owner of a dangerous dog as defined by Section 44 of Title 4 of the Oklahoma Statutes who willfully fails to register such dog according to the provisions of Section 45 of Title 4 of the Oklahoma Statutes shall be guilty of a misdemeanor on a first offense punishable by a fine in an amount not exceeding Five Hundred Dollars (\$500.00). Any person convicted as provided in this section for any second or subsequent violation shall be guilty of a misdemeanor punishable by a fine in an amount not exceeding One Thousand Dollars (\$1,000.00), imprisonment in the county jail for a term not more than sixty (60) days, or by both such fine and imprisonment.

SECTION 5. This act shall become effective July 1, 2006.

SECTION 6. 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.

50-2-2815

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