

SENATE BILL 156

Introduced by Jergeson

1/14	Introduced
1/14	Referred to Local Government
1/14	First Reading
1/28	Hearing
2/11	Tabled in Committee

1 Senate BILL NO. 156
2 INTRODUCED BY Jurgeson
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN OPTIONAL
5 METHOD FOR THE CONTROL OF DANGEROUS AND POTENTIALLY
6 DANGEROUS DOGS BY COUNTIES AND MUNICIPALITIES; AND AMENDING
7 SECTION 7-23-2109, MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. **Section 1.** Regulation of dangerous or
11 potentially dangerous dogs. A county or a municipality may
12 adopt by ordinance the provisions of [sections 2 through 7]
13 for the regulation of dangerous or potentially dangerous
14 dogs.

15 NEW SECTION. **Section 2.** Definitions. Unless the
16 context requires otherwise, in [sections 1 through 7], the
17 following definitions apply:

18 (1) "Animal control authority" means an agency of the
19 county or municipality responsible for animal control
20 operations in its jurisdiction.

21 (2) "Dangerous dog" means a dog that has:

22 (a) without provocation inflicted bodily harm on public
23 or private property;

24 (b) killed a domestic animal without provocation while
25 off the dog owner's property; or

1 (c) been found to be potentially dangerous and that,
2 after the owner knows that the dog is potentially dangerous,
3 aggressively bites, attacks, or endangers the safety of
4 humans or domestic animals.

5 (3) "Owner" means any person, firm, corporation,
6 organization, or department possessing, harboring, keeping,
7 having an interest in, or having care, custody, or control
8 of a dog.

9 (4) "Potentially dangerous dog" means any dog that:

10 (a) when unprovoked, bites a human or domestic animal
11 on public or private property;

12 (b) when unprovoked, chases or approaches a person upon
13 the streets, sidewalks, or any public property in an
14 apparent attitude of attack; or

15 (c) has a known propensity, tendency, or disposition to
16 attack unprovoked, causing injury or otherwise threatening
17 the safety of humans or domestic animals.

18 (5) "Proper enclosure" means a securely confined area
19 indoors or a securely enclosed and locked pen or structure
20 that is suitable to prevent the dog from escaping and that
21 provides protection from the elements for the dog. A proper
22 enclosure does not include a porch, patio, or any part of a
23 house, garage, or other structure that would allow the dog
24 to exit of its own volition or any house, garage, or
25 structure in which the windows are open or in which door or

1 window screens are the only obstacles that prevent the dog
2 from exiting.

3 NEW SECTION. Section 3. Dangerous dogs --
4 registration. (1) A person may not own a dangerous dog
5 unless the dog is registered as provided in this section.

6 (2) A county or municipality shall issue a certificate
7 of registration to the owner of a dangerous dog if the owner
8 presents sufficient evidence that:

9 (a) a proper enclosure exists for the dangerous dog;
10 (b) there is posted on the owner's premises a clearly
11 visible warning sign, including a warning symbol for
12 children, that there is a dangerous dog on the premises; and

13 (c) the owner has a surety bond issued by a surety
14 company authorized to do business in this state, in a form
15 acceptable to the county or municipality, in the sum of at
16 least \$50,000, payable to any person injured by the
17 dangerous dog or a liability insurance policy issued by an
18 insurance company authorized to do business in this state in
19 the amount of at least \$50,000, insuring the owner for any
20 injuries inflicted by the dangerous dog.

21 (3) The county or municipality may charge the owner an
22 annual fee, in addition to any regular dog licensing fees,
23 to obtain a certificate of registration for a dangerous dog
24 under this section.

25 (4) The provisions of this section do not apply to dogs

1 used by law enforcement officials for police work.

2 (5) A dog may not be declared dangerous if the threat,
3 injury, or damage was sustained by a person who:

4 (a) was committing, at the time, a willful trespass or
5 other tort upon the premises occupied by the owner;

6 (b) was provoking, tormenting, abusing, or assaulting
7 the dog or can be shown to have in the past provoked,
8 tormented, abused, or assaulted the dog; or

9 (c) was committing or attempting to commit a crime.

10 (6) A dangerous dog registered under this section must
11 have a standardized, easily identifiable tag identifying the
12 dog as dangerous affixed to the dog's collar at all times.

13 NEW SECTION. Section 4. Dangerous dogs -- restraint
14 requirements. An owner of a dangerous dog shall keep the
15 dog, while on the owner's property, in a proper enclosure.
16 If the dog is outside the proper enclosure, the dog must be
17 muzzled and restrained by a substantial chain or leash and
18 must be under the physical restraint of a responsible
19 person. The muzzle must be made in a manner that will
20 prevent the dog from biting any person or domestic animal
21 but that will not cause injury to the dog or interfere with
22 its vision or respiration.

23 NEW SECTION. Section 5. Potentially dangerous dogs. A
24 county or municipality may regulate potentially dangerous
25 dogs, and the provisions of [sections 2 through 4] do not

limit the restrictions that the county or municipality may place on owners of potentially dangerous dogs.

NEW SECTION. Section 6. Confiscation. (1) The animal control authority having jurisdiction shall immediately seize a dangerous dog if:

(a) the owner knows that the dog is dangerous and the dog is not validly registered under [section 3];

(b) the owner knows that the dog is dangerous and the owner does not secure the proper liability insurance or surety coverage as required under [section 3]; or

(c) the dog is not maintained in a proper enclosure or is outside the proper enclosure and not under physical restraint as required under [section 4].

(2) After notification by the animal control authority, a dangerous dog seized pursuant to subsection (1) may be reclaimed by the owner upon payment of impounding and boarding fees and the presentation of proof to the animal control authority that the reasons for the seizure of the dog have been or will be cured. A dog not reclaimed under this subsection within 7 days after notification may be humanely destroyed and the owner is liable to the animal control authority for costs incurred in confining and destroying the dog.

(3) If an owner of a dog is convicted of a crime for which the dog was originally seized, a court may order that

the dog be confiscated and humanely destroyed and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

(4) (a) If an owner of a dog has been convicted of a misdemeanor for violating a provision of [section 3 or 4] and the owner is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority, and if the owner is convicted of the subsequent violation, the court shall order that the dog be humanely destroyed and that the owner pay the cost of confiscating, confining, and destroying the dog.

(b) If the owner is not convicted of the subsequent violation, the owner may reclaim the dog upon payment of impounding and boarding fees. If the dog is not reclaimed by the owner within 7 days after the owner has been notified that the dog may be reclaimed, the dog may be humanely destroyed and the owner is liable to the animal control authority for the costs incurred in confining and destroying the dog.

NEW SECTION. Section 7. Penalty. A person violating any provision of [sections 3 or 4] is guilty of a misdemeanor.

Section 8. Section 7-23-2109, MCA, is amended to read:

"7-23-2109. Vicious dog control. (1) The A county may adopt [sections 1 through 7] for the control of dangerous

1 and potentially dangerous dogs or the county governing body
2 may regulate, restrain, control, kill, or quarantine any
3 vicious dog, whether ~~such~~ the dog is licensed or unlicensed,
4 by the adoption of an ordinance which substantially complies
5 with the provisions of 7-5-103 through 7-5-107.

6 (2) A violation of any ordinance established as
7 provided in subsection (1) is a misdemeanor.

8 (3) For purposes of this section, a "vicious dog" is
9 defined as one ~~which~~ that bites or attempts to bite any
10 human being without provocation or ~~which~~ that harasses,
11 chases, bites, or attempts to bite any other animal. The
12 term "animal" includes all livestock and any domestic pet."

13 NEW SECTION. **Section 9. Codification** instruction.
14 [Sections 1 through 7] are intended to be codified as an
15 integral part of Title 7, chapter 23, and the provisions of
16 Title 7, chapter 23, apply to [sections 1 through 7].

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