

By the Committee on Agriculture and Senator Kurth

303-2046A-98

1 A bill to be entitled
2 An act relating to dogs; amending s. 767.11,
3 F.S.; redefining the term "dangerous dog";
4 amending s. 767.13, F.S.; providing penalties
5 for a dog owner that disregards the dog's
6 dangerous propensities; amending s. 828.12,
7 F.S.; providing restrictions on persons who
8 have been adjudicated guilty of or had
9 adjudication withheld for cruelty to animals;
10 amending s. 767.12, F.S.; amending procedures
11 relating to imposing restrictions upon dogs
12 classified as dangerous; including dogs that
13 are subject to similar restrictions imposed by
14 jurisdictions outside this state; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (1) of section 767.11, Florida
20 Statutes, is amended to read:

21 767.11 Definitions.--As used in this act, unless the
22 context clearly requires otherwise:

23 (1) "Dangerous dog" means any dog that according to
24 the records of the appropriate authority:

25 (a) Has aggressively bitten, attacked, or endangered
26 or has inflicted severe injury on a human being on public or
27 private property;

28 (b) Has without provocation, ~~more than once~~ severely
29 injured or killed a domestic animal while off the owner's
30 property;

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1 (c) Has been used primarily or in part for the purpose
2 of dog fighting or is a dog trained for dog fighting; or

3 (d) Has, when unprovoked, chased or approached a
4 person upon the streets, sidewalks, or any public grounds in a
5 menacing fashion or apparent attitude of attack, provided that
6 such actions are attested to in a sworn statement by one or
7 more persons and dutifully investigated by the appropriate
8 authority.

9 Section 2. Subsection (2) of section 767.13, Florida
10 Statutes, is amended to read:

11 767.13 Attack or bite by dangerous dog; penalties;
12 confiscation; destruction.--

13 (2) If a dog that has not been declared dangerous
14 attacks and causes severe injury to or death of any human, the
15 dog shall be immediately confiscated by an animal control
16 authority, placed in quarantine, if necessary, for the proper
17 length of time or held for 10 business days after the owner is
18 given written notification under s. 767.12, and thereafter
19 destroyed in an expeditious and humane manner. This 10-day
20 time period shall allow the owner to request a hearing under
21 s. 767.12. The owner shall be responsible for payment of all
22 boarding costs and other fees as may be required to humanely
23 and safely keep the animal pending final resolution ~~during any~~
24 ~~appeal procedure~~. In addition, if the owner of the dog had
25 prior knowledge of the dog's dangerous propensities, yet
26 demonstrated a reckless disregard for such propensities under
27 the circumstances, the owner of the dog is guilty of a
28 misdemeanor of the second degree, punishable as provided in s.
29 775.082 or s. 775.083.

30 Section 3. Subsection (4) is added to section 828.12,
31 Florida Statutes, to read:

1 828.12 Cruelty to animals.--

2 (4)(a) If a person receives a withholding of
3 adjudication or an adjudication of guilt for a violation of
4 this section, all domestic animals that were the subject of
5 the violation shall be forfeited, as determined by the
6 arresting officer or state attorney, to the municipal, county,
7 or local humane society for adoption or euthanasia as
8 appropriate, without any order of forfeiture or additional
9 proceeding being necessary.

10 (b) A person who possesses a domestic animal after
11 having received a withholding of adjudication or an
12 adjudication of guilt for a violation of this section is
13 guilty of a misdemeanor of the first degree, punishable as
14 provided in s. 775.082 or s. 775.083. However, this paragraph
15 does not apply if:

16 1. The person had received an order allowing
17 possession of a domestic animal. A court may issue an order
18 allowing possession of domestic animals upon a showing that
19 the domestic animals will be well treated; or

20 2. The person possesses domestic animals for sale,
21 resale, or sale of a product thereof and has all necessary
22 licenses and receives at least 30 percent of his or her annual
23 gross income from such sale or resale. This paragraph does not
24 prohibit a court from ordering a person not to possess a
25 domestic animal as a condition of probation.

26 (c) If a person receives a withholding adjudication or
27 an adjudication of guilt for a violation of this section, all
28 wildlife that were the subject of the violation shall be
29 forfeited to the Florida Game and Fresh Water Fish Commission
30 for adoption or euthanasia, as appropriate, without any order
31 of forfeiture or additional proceedings. The authorization of

1 such person to possess wildlife shall be determined by the
2 Florida Game and Fresh Water Fish Commission pursuant to
3 chapter 372, Florida Statutes, and the rules of the
4 commission.

5 Section 4. Section 767.12, Florida Statutes, is
6 amended to read:

7 767.12 Classification of dogs as dangerous;
8 certification of registration; notice and hearing
9 requirements; confinement of animal; exemption; appeals;
10 unlawful acts.--

11 (1)(a) An animal control authority shall investigate
12 reported incidents involving any dog that may be dangerous and
13 shall, if possible, interview the owner and require a sworn
14 affidavit from any person, including any animal control
15 officer or enforcement officer, desiring to have a dog
16 classified as dangerous. Any animal that is the subject of a
17 dangerous dog investigation, that is not impounded with the
18 animal control authority, shall be humanely and safely
19 confined by the owner in a securely fenced or enclosed area
20 pending the outcome of the investigation and resolution of any
21 hearings related to the dangerous dog classification. The
22 address of where the animal resides shall be provided to the
23 animal control authority. No dog that is the subject of a
24 dangerous dog investigation may be relocated or ownership
25 transferred pending the outcome of an investigation or any
26 hearings related to the determination of a dangerous dog
27 classification. In the event that a dog is to be destroyed,
28 the dog shall not be relocated or ownership transferred.

29 (b) A dog shall not be declared dangerous if the
30 threat, injury, or damage was sustained by a person who, at
31 the time, was unlawfully on the property or, while lawfully on

1 the property, was tormenting, abusing, or assaulting the dog
2 or its owner or a family member. No dog may be declared
3 dangerous if the dog was protecting or defending a human being
4 within the immediate vicinity of the dog from an unjustified
5 attack or assault.

6 ~~(c) After the investigation, the animal control~~
7 ~~authority shall make an initial determination as to whether~~
8 ~~there is sufficient cause to classify the dog as dangerous and~~
9 ~~shall afford the owner an opportunity for a hearing prior to~~
10 ~~making a final determination. The animal control authority~~
11 ~~shall provide written notification of the sufficient cause~~
12 ~~finding, to the owner, by registered mail, certified hand~~
13 ~~delivery, or service in conformance with the provisions of~~
14 ~~chapter 48 relating to service of process. The owner may file~~
15 ~~a written request for a hearing within 7 calendar days from~~
16 ~~the date of receipt of the notification of the sufficient~~
17 ~~cause finding and, if requested, the hearing shall be held as~~
18 ~~soon as possible, but not more than 21 calendar days and no~~
19 ~~sooner than 5 days after receipt of the request from the~~
20 ~~owner. Each applicable local governing authority shall~~
21 ~~establish hearing procedures that conform to this paragraph.~~

22 (c)(d) Once a dog is classified as a dangerous dog,
23 the animal control authority shall provide written
24 notification to the owner by registered mail, certified hand
25 delivery or service, and the owner may file a written request
26 for a hearing in the county court to challenge ~~appeal~~ the
27 classification within 10 business days after receipt of a
28 written determination of dangerous dog classification. This
29 hearing must be held within 21 days after the request is
30 received or as soon thereafter as is practical. The owner and
31 must confine the dog in a securely fenced or enclosed area

1 pending the final ~~a~~ resolution of the matter ~~appeal~~. Except
2 for requiring a securely fenced or enclosed area, the animal
3 control authority may not impose any of the dangerous dog
4 requirements as provided in s. 767.12(2) or (4) until the
5 county court case is resolved.~~Each applicable local governing~~
6 ~~authority must establish appeal procedures that conform to~~
7 ~~this paragraph.~~

8 (2) Within 14 days after a dog has been classified as
9 dangerous by the animal control authority or a dangerous dog
10 classification is upheld by the county court ~~on appeal~~, the
11 owner of the dog must obtain a certificate of registration for
12 the dog from the animal control authority serving the area in
13 which he or she resides. This,~~and the~~ certificate shall be
14 renewed annually. Animal control authorities are authorized to
15 issue such certificates of registration, and renewals thereof,
16 only to persons who are at least 18 years of age and who
17 present to the animal control authority sufficient evidence
18 of:

19 (a) A current certificate of rabies vaccination for
20 the dog.

21 (b) A proper enclosure to confine a dangerous dog and
22 the posting of the premises with a clearly visible warning
23 sign at all entry points that informs both children and adults
24 of the presence of a dangerous dog on the property.

25 (c) Permanent identification of the dog, such as a
26 tattoo on the inside thigh or electronic implantation.

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28 The appropriate governmental unit may impose an annual fee for
29 the issuance of certificates of registration required by this
30 section.

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1 (3) The owner shall immediately notify the appropriate
2 animal control authority when a dog that has been classified
3 as dangerous:

4 (a) Is loose or unconfined.

5 (b) Has bitten a human being or attacked another
6 animal.

7 (c) Is sold, given away, or dies.

8 (d) Is moved to another address.

9
10 Prior to a dangerous dog being sold or given away, the owner
11 shall provide the name, address, and telephone number of the
12 new owner to the animal control authority. The new owner must
13 comply with all of the requirements of this act and applicable
14 ~~implementing~~ local ordinances, even if the animal is moved
15 from one ~~local~~ jurisdiction to another within the state. The
16 owner of an animal that is classified as dangerous or one that
17 is subject to similar restrictions imposed by a jurisdiction
18 outside this state must comply with this act and applicable
19 local ordinances.The animal control authority officer must be
20 notified by the owner of a dog classified as dangerous within
21 this state or one that is subject to similar restrictions
22 imposed by a jurisdiction outside this state that the dog is
23 in its ~~his or her~~ jurisdiction.

24 (4) It is unlawful for the owner of a dangerous dog to
25 permit the dog to be outside a proper enclosure unless the dog
26 is muzzled and restrained by a substantial chain or leash and
27 under control of a competent person. The muzzle must be made
28 in a manner that will not cause injury to the dog or interfere
29 with its vision or respiration but will prevent it from biting
30 any person or animal. The owner may exercise the dog in a
31 securely fenced or enclosed area that does not have a top,

1 without a muzzle or leash, if the dog remains within his or
2 her sight and only members of the immediate household or
3 persons 18 years of age or older are allowed in the enclosure
4 when the dog is present. When being transported, such dogs
5 must be safely and securely restrained within a vehicle.

6 (5) Hunting dogs are exempt from the provisions of
7 this act when engaged in any legal hunt or training procedure.

8 A dog is exempt from this section when engaged in any legal
9 herding of cows or hogs, when protecting its young, or when
10 protecting its food.Dogs engaged in training or exhibiting in
11 legal sports such as obedience trials, conformation shows,
12 field trials, hunting/retrieving trials, and herding trials
13 are exempt from the provisions of this act when engaged in any
14 legal procedures. However, such dogs at all other times in all
15 other respects shall be subject to this and local laws. Dogs
16 that have been classified as dangerous shall not be used for
17 hunting purposes.

18 (6) This section does not apply to dogs used by law
19 enforcement officials for law enforcement work.

20 (7) Any person who violates any provision of this
21 section is guilty of a noncriminal infraction, punishable by a
22 fine not exceeding \$500.

23 Section 5. Subsection (5) is added to section 784.05,
24 Florida Statutes, to read:

25 784.05 Culpable negligence.--

26 (5) A person who violates subsection (1) by knowingly
27 permitting a dog or dogs owned by that person to run at large
28 as a pack of dogs commits:

29 (a) If that pack of dogs inflicts significant injury
30 on any person, a misdemeanor of the first degree, punishable
31 as provided in s. 775.082 or s. 775.083; or

1 (b) If death of any person occurs from injury
2 inflicted by the pack of dogs, a felony of the third degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

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6 As used in this subsection, the term "pack of dogs" means more
7 than two dogs engaged in the same activity.

8 Section 6. This act shall take effect July 1, 1998.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2104

4 The Committee Substitute:

- 5 1. Restores the original language to s. 767.13, F.S.,
6 providing that if a dog not previously declared dangerous
7 attacks and causes severe injury to or death of any human
8 that the dog will be immediately confiscated, and if the
9 owner had knowledge of the dog's dangerous propensities
10 but demonstrated a reckless disregard for those
11 propensities, the owner is guilty of a first degree
12 misdemeanor.
- 13 2. Provides that domestic animals that are the subject of a
14 cruelty to animals violation be forfeited to appropriate
15 local animal control authority, and that a person
16 violating the cruelty to animals statute is not to
17 possess domestic animals unless under a court order or if
18 the person receives at least 30 percent of their annual
19 gross income from domestic animals.
- 20 3. Provides that wildlife that are the subject of a cruelty
21 to animals violation be forfeited to the Florida Game and
22 Fresh Water Fish Commission, and that the authorization
23 of the violating person to possess wildlife will be
24 determined by the Commission.
- 25 4. Amends the hearing and appeal process regarding the
26 classification of dangerous dogs by providing a hearing
27 in county court on such a classification and prohibits
28 the imposition of dangerous dog requirements until the
29 county court case is resolved.
- 30 5. Requires when a dangerous dog is transferred to a new
31 owner, the new owner must comply with all dangerous dog
requirements, that dogs classified as dangerous in a
jurisdiction outside the state must also comply, and that
an owner of a dangerous dog notify the local animal
control authority when moving into that authority's
jurisdiction.
6. Exempts dogs from application of the dangerous dog
statute when the dog is engaged in legal herding of cows
or hogs, when protecting its young, or when the dog is
protecting its food.
7. Appends to the culpable negligence statute criminal
liability for the owner of a dog or dogs that permits
such dogs to run at large as a pack of dogs in two
circumstances:
 - if the pack of dogs inflicts significant injury on a
person, the owner is guilty of a first degree
misdemeanor
 - if the pack of dogs inflicts an injury resulting in
the death of a person, the owner is guilty of a
third degree felony

1 Defines "pack of dogs" as more than two dogs engaged in
2 the same activity.
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