

By the Committees on Judiciary, Agriculture and Senator Kurth

308-2228-98

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. 767.12,
7 F.S.; amending procedures relating to imposing
8 restrictions upon dogs classified as dangerous;
9 including dogs that are subject to similar
10 restrictions imposed by jurisdictions outside
11 this state; amending s. 784.05, F.S.; providing
12 that a person commits the offense of exposing
13 another to personal injury through culpable
14 negligence when such person knowingly has
15 permitted the person's dog to run at large as a
16 "pack of dogs," as defined, and the pack of
17 dogs inflicts significant personal injury;
18 providing penalties; providing that a person
19 commits the offense of exposing another to
20 personal injury through culpable negligence
21 when such person knowingly has permitted the
22 person's dog to run at large as a pack of dogs
23 and the death of any person occurs from injury
24 inflicted by the pack of dogs; providing
25 penalties; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (1) of section 767.11, Florida
30 Statutes, is amended to read:

31

1 767.11 Definitions.--As used in this act, unless the
2 context clearly requires otherwise:

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

5 (a) Has aggressively bitten, attacked, or endangered
6 or has inflicted severe injury on a human being on public or
7 private property;

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

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

13 (d) Has, when unprovoked, chased or approached a
14 person upon the streets, sidewalks, or any public grounds in a
15 menacing fashion or apparent attitude of attack, provided that
16 such actions are attested to in a sworn statement by one or
17 more persons and dutifully investigated by the appropriate
18 authority.

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

21 767.13 Attack or bite by dangerous dog; penalties;
22 confiscation; destruction.--

23 (2) If a dog that has not been declared dangerous
24 attacks and causes severe injury to or death of any human, the
25 dog shall be immediately confiscated by an animal control
26 authority, placed in quarantine, if necessary, for the proper
27 length of time or held for 10 business days after the owner is
28 given written notification under s. 767.12, and thereafter
29 destroyed in an expeditious and humane manner. This 10-day
30 time period shall allow the owner to request a hearing under
31 s. 767.12. The owner shall be responsible for payment of all

1 boarding costs and other fees as may be required to humanely
2 and safely keep the animal pending final resolution ~~during any~~
3 ~~appeal procedure~~. In addition, if the owner of the dog had
4 prior knowledge of the dog's dangerous propensities, yet
5 demonstrated a reckless disregard for such propensities under
6 the circumstances, the owner of the dog is guilty of a
7 misdemeanor of the second degree, punishable as provided in s.
8 775.082 or s. 775.083.

9 Section 3. Section 767.12, Florida Statutes, is
10 amended to read:

11 767.12 Classification of dogs as dangerous;
12 certification of registration; notice and hearing
13 requirements; confinement of animal; exemption; appeals;
14 unlawful acts.--

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

1 a dangerous dog classification. In the event that a dog is to
2 be destroyed, the dog shall not be relocated or ownership
3 transferred.

4 (b) A dog shall not be declared dangerous if the
5 threat, injury, or damage was sustained by a person who, at
6 the time, was unlawfully on the property or, while lawfully on
7 the property, was tormenting, abusing, or assaulting the dog
8 or its owner or a family member. No dog may be declared
9 dangerous if the dog was protecting or defending a human being
10 within the immediate vicinity of the dog from an unjustified
11 attack or assault.

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

28 (c)(d) Once a dog is classified as a dangerous dog,
29 the animal control authority shall provide written
30 notification to the owner by registered mail, certified hand
31 delivery or service, and the owner may file a written request

1 for a hearing in the county court to challenge ~~appeal~~ the
2 classification within 10 business days after receipt of a
3 written determination of dangerous dog classification. This
4 hearing must be held within 21 days after the request is
5 received or as soon thereafter as is practical. The owner ~~and~~
6 must confine the dog in a securely fenced or enclosed area
7 pending the final ~~a~~ resolution of the matter ~~appeal~~. Except
8 for requiring a securely fenced or enclosed area or impounding
9 the animal, the animal control authority may not impose any of
10 the dangerous dog requirements as provided in s. 767.12(2) or
11 (4) until the county court case is resolved. ~~Each applicable~~
12 ~~local governing authority must establish appeal procedures~~
13 ~~that conform to this paragraph.~~

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

25 (a) A current certificate of rabies vaccination for
26 the dog.

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

31

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

3
4 The appropriate governmental unit may impose an annual fee for
5 the issuance of certificates of registration required by this
6 section.

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

10 (a) Is loose or unconfined.

11 (b) Has bitten a human being or attacked another
12 animal.

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

14 (d) Is moved to another address.

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

30 (4) It is unlawful for the owner of a dangerous dog to
31 permit the dog to be outside a proper enclosure unless the dog

1 is muzzled and restrained by a substantial chain or leash and
2 under control of a competent person. The muzzle must be made
3 in a manner that will not cause injury to the dog or interfere
4 with its vision or respiration but will prevent it from biting
5 any person or animal. The owner may exercise the dog in a
6 securely fenced or enclosed area that does not have a top,
7 without a muzzle or leash, if the dog remains within his or
8 her sight and only members of the immediate household or
9 persons 18 years of age or older are allowed in the enclosure
10 when the dog is present. When being transported, such dogs
11 must be safely and securely restrained within a vehicle.

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

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

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

29 Section 4. Subsection (5) is added to section 784.05,
30 Florida Statutes, to read:

31 784.05 Culpable negligence.--

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

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

7 (b) If death of any person occurs from injury
8 inflicted by the pack of dogs, a felony of the third degree,
9 punishable as provided in s. 775.082, s. 775.083, or s.
10 775.084.

11
12 As used in this subsection, the term "pack of dogs" means more
13 than two individuals employed to lobby the issue of civil
14 litigation reform, either by the Academy of Florida Trial
15 Lawyers or the Tort Reform United Effort, engaged in the same
16 activity.

17 Section 5. This act shall take effect July 1, 1998.

18
19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 CS for SB 2104

22 The Committee Substitute for Senate Bill 2104:

- 23 - Deletes the section of the bill relating to animal
24 cruelty.
25 - Revises the definition of the term "pack of dogs."