

STORAGE NAME: h0839a.lgva.doc
DATE: March 20, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 839
RELATING TO: Broward County/Control of Dogs
SPONSOR(S): Representative Ritter
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 6 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill allows municipalities, located in Broward County, to adopt an ordinance regulating the control and confinement of dogs in public places, including those that are breed specific.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. The bill does not support less government. By removing the prohibition that any local ordinances/restrictions may not be breed specific, municipalities within Broward County may now authorize additional ordinances and/or criteria for implementation of chapter 767, F.S. This may result in owners of specific breeds of dangerous dogs being more restricted in activities connected with their dogs.

B. PRESENT SITUATION:

Animal control authorities are entities acting alone or with local governments to enforce local animal control ordinances or laws of the state. Most counties and municipalities have established animal control agencies, but some counties in Florida do not have an animal control agency. However, in some counties without an agency, there is an animal control director or officer in charge of animal control issues. In those areas without an agency, the sheriff carries out the duties of the animal control agency.

Prior to 1990, animal control was generally regulated on a local basis, as the Florida Statutes did not specifically provide for regulating dangerous dogs. However, in 1990, the Legislature passed HB 1345 which provided a procedure for certain dogs to be classified as dangerous and required that such dogs be registered. The bill also established requirements for control and confinement of dangerous dogs, as well as an appeals procedure.

Chapter 767, F.S., relates to damage by dogs. Owners of dogs are liable for any damage done by their dogs to a person or any animal as defined in section 585.01, F.S. Owners are liable for damages suffered by persons bitten regardless of the former viciousness of the dog or the owner's knowledge of viciousness. This includes liability arising from bites both on or in a public place or in a private place, including the property of the owner of the dog. In determining liability, contributory negligence can be shown to reduce the owner's liability. In addition, the owner is not liable, unless the person is under the age of 6, if at the time of such injury, the owner had a sign with the language of "bad dog" prominently displayed on the premises. Also, the chapter provides that satisfactory proof that a dog killed any animal included in the definitions of domestic animal and livestock as provided by section 585.01, F.S., shall constitute a good defense for killing or injuring a dog.

A dangerous dog is any dog that according to the appropriate records has:

- aggressively bitten, attacked, endangered, or severely injured a human being on private or public property;
- severely injured or killed a domestic animal while off the owner's property;
- been used primarily or in part for dog fighting or has been trained for dog fighting; or
- when unprovoked, chased or approached a person on the street or other public place in a menacing fashion or apparent attitude of attack (such actions must be attested to).

Section 767.12, F.S., requires animal control authorities to investigate reported incidents involving dogs that may be dangerous. During the time of investigation, dogs are impounded with the authorities or securely confined by the owner pending the outcome. After an investigation, the animal control authority makes an initial determination regarding whether there is enough information (sufficient cause) to classify the dog as dangerous. If so, the owner is afforded a hearing before final determination of the dog's status. The owner has seven days to request a hearing with the animal control authority. If the dog is classified as dangerous after the hearing, the owner may file a written request for a hearing in the county court to appeal the classification within 10 days after receipt of a written determination of the dangerous dog classification. Pending resolution of the appeal, the dog must be confined in a securely fenced or enclosed area.

An owner has 14 days to obtain a certificate of registration after a dog has been classified as dangerous. This certificate must be renewed annually and can only be issued to persons at least 18 years old who have presented evidence of the following:

- current rabies vaccination;
- the dog is confined in a proper enclosure and the premises has warning signs at all entry points; and
- the dog has permanent identification, such as a tattoo.

An annual fee is authorized to be imposed for the issuance of registration certificates.

If a dog is classified as a dangerous dog, the owner must immediately notify the authorities when the dog:

- is loose or unconfined;
- has bitten a human or attacked an animal;
- has been sold, given away or dies; or
- is moved to a new location.

Prior to a dangerous dog being sold or given away, several things must first occur. The owner must give the animal control authority information regarding the new owner. Second, the new owner must comply with all statutory and local provisions relating to dangerous dogs, even if the dog is being moved to another jurisdiction within the state. The new owner must also notify the local animal control authority that a dangerous dog is now in his jurisdiction.

A dangerous dog is not permitted to be outside its proper enclosure unless it is muzzled, restrained by a substantial chain or leash, and under control of a competent person. The dog may be exercised in an enclosure or area without a top, only if the dog is never out of the owner's sight. When being transported, the dog must be securely restrained in the vehicle.

Hunting dogs are exempt from the provisions of section 767.12, F.S., while engaged in any legal hunt or training exercise. However, at all other times, hunting dogs are subject to section 767.12, F.S. Dangerous dogs may not be used for hunting purposes. In addition, this section is not applicable to law enforcement dogs.

A person who violates any provision relating to the certification, confinement of the dog, or unlawful acts, is guilty of a noncriminal infraction and may be fined up to \$500.

The classification of a dog as a dangerous dog is serious as it may mean life or death for the dog if the dog ever bites a human or animal. If a dog that has been classified as a dangerous dog bites a person or domestic animal without provocation, then the dog is immediately confiscated and placed in quarantine or impounded. The dog is held for 10 business days from notification to its owner, and then destroyed. The 10 days allows the owner to request a hearing. If an appeal is filed, then the dog may not be destroyed pending the appeal. In addition, the owner is guilty of a misdemeanor of the first degree and is liable for boarding costs and fees arising from the holding of the dog during any appeal procedure. A similar scenario occurs when a dog that has not been classified as a dangerous dog, attacks and causes severe injury to or death of any human. A dog that has not been classified as dangerous, will not be destroyed if it causes harm to a domestic animal. However, the attack may lead to the classification of the dog as a dangerous dog.

Local governments are authorized to adopt additional ordinances/restrictions relating to dangerous dogs pursuant to section 767.014, F.S. *However, these restrictions may not be breed specific.* In addition, these restrictions may not lessen the provisions of chapter 767, F.S. Finally, the breed specific restriction does not apply to any ordinance adopted prior to October 1, 1990.

HB 355 (2000 Legislative Session)

During the 2000 Legislative Session, HB 355, a general bill, was filed which removed the current statutory restriction that regulations may not be specific to breed when a local government places further restrictions or additional requirements on owners of dangerous dogs or when that local government develops procedures and criteria for the implementation of state law governing dangerous dogs. This bill failed to pass the Legislature.

C. EFFECT OF PROPOSED CHANGES:

This bill allows municipalities within Broward County to place further restrictions on specific breeds of dangerous dogs in public places. This appears to be a problem as there were 115 pit bull and pit-mix bites in Broward County in 1999. Since 1990, local governments have been restricted in their authority to place further restrictions or additional requirements on owners of dangerous dogs or to develop procedures and criteria for the implementation of state law governing dangerous dogs. Under current law, the restrictions cannot be breed specific. The bill removes this restriction for municipalities within Broward County.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section allows municipalities within Broward County to adopt ordinances regulating the control and confinement of dogs in public places. These regulations may be breed specific and may include mixed breeds.

Section 2: The act becomes effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 28, 2001

WHERE?

Sun-Sentinel; Fort Lauderdale, Broward County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Humane Society of the United States, Southeast Regional Office, (Society) does not support the bill in its current form. Although it supports the bill's intent to enhance public safety, the Society does not feel allowing local governments to enact ordinances that could place restrictions regarding ownership of certain dog breeds is the answer. According to the Society, the problem the bill is addressing may not be a "breed of dog" problem but rather a pet ownership and enforcement issue. The Society also states breed specific ordinances will unfairly penalize responsible dog owners, and it is these responsible dog owners, whose dogs do not pose a threat, who will make an effort to comply with any new ordinances. In addition, it appears as though the bill does not provide any restrictions on what breed of dogs local governments can further restrict.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

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