

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4075 Dangerous Dogs

SPONSOR(S): Garcia, and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 722

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N	Cunningham	Blalock
2) Community & Military Affairs Subcommittee	13 Y, 0 N	Nelson	Hoagland
3) State Affairs Committee			

SUMMARY ANALYSIS

Under current Florida law, a “dangerous dog” is defined as any dog that has:

- aggressively bitten, attacked, endangered, or severely injured a human being on private or public property;
- more than once 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.

HB 4075 repeals the language classifying any dog used or trained for fighting within the definition of “dangerous dog.” This revision will allow a dog seized by animal control authorities in a dog fighting raid to be evaluated on a case-by-case basis to determine whether the dog is adoptable or can be rehabilitated.

This bill has an effective date of upon becoming law, and will not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 767, F.S., Damage by Dogs

In 1990, the Florida Legislature determined that dangerous dogs were an increasingly serious threat to the safety and welfare of the people of this state because of unprovoked attacks which caused injury to persons and domestic animals; that such attacks were in part attributable to the failure of owners to confine and properly train and control their dogs; that existing laws inadequately addressed this problem; and that it was appropriate and necessary to impose uniform requirements for the owners of these dogs.

Section 767.11, F.S., currently defines a "dangerous dog" as any dog that, according to the records of the appropriate authority, has:

- aggressively bitten, attacked, endangered or severely injured a human being on private or public property;
- has more than once 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, has chased or approached a person on the streets, sidewalks, or any other public place in a menacing fashion or apparent attitude of attack.

Section 767.12, F.S., requires animal control authorities to investigate reported incidents involving dogs that may be dangerous. During the investigation and resolution of any hearings, the dogs are impounded with the authorities or confined by the owner in a securely fenced or enclosed area. If the animal control authority makes an initial finding that sufficient cause exists to classify a dog as dangerous, the owner has seven days to request a hearing before final determination of the dog's status. If the dog is classified as dangerous, the owner may file a written request for a hearing in county court to appeal the classification within 10 days.

Once a dog is classified as dangerous, its owner is subject to a series of requirements, including the following:

- The owner has 14 days to obtain a certificate of registration from the local animal control authority. An annual fee may be imposed for the issuance of a registration certificate. A 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;
 - a proper enclosure to confine the dog and the posting of the premises with a warning signs at all entry points; and
 - permanent identification, such as a tattoo or electronic implantation.
- The owner must immediately notify the authorities if the dog:
 - is loose or unconfined;
 - bites a human or attacks another animal;
 - is sold, given away or dies; or
 - is moved to a new location.
- Prior to selling or giving away a dangerous dog, the owner must provide the animal control authority with the name, address and telephone number of the new owner. The new owner must comply with all statutory provisions and local ordinances relating to dangerous dogs,

even if the dog is being moved to another jurisdiction within the state. The new owner also must notify the local animal control officer that a dangerous dog is now in his or her 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 owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons 18 years of age or older are present. When being transported, the dog must be securely restrained within a vehicle.
- Dangerous dogs cannot be used for hunting purposes.

A person who violates any of these provisions is guilty of a noncriminal infraction and may be fined up to \$500.

The classification of “dangerous” may mean life or death for a dog if the dog ever bites a human or animal without provocation. The dog is immediately confiscated by an animal control authority, placed in quarantine or impounded, held for 10 business days from notification of its owner, and then destroyed. During this 10-day period, an owner may request a hearing. The dog is not destroyed pending an appeal, and the owner is held liable for all boarding costs and fees. A similar scenario occurs when a dog that has not been classified as dangerous attacks and causes severe injury to or the death of any human.

Section 767.14, F.S., allows local governments to adopt additional ordinances and restrictions relating to dangerous dogs. However, these restrictions may not be breed-specific or lessen the provisions of ch. 767, F.S. Ordinances adopted prior to October 1, 1990, are grandfathered in.

Dog Fighting in Florida

Section 828.122, F.S., “The Animal Fighting Act” provides that training or using a dog for fighting or baiting in Florida is a third degree felony. If a court finds probable cause to believe that a violation of this section has occurred, it is required to order the seizure of any animals used in committing the violation and provide for appropriate and humane care or disposition of the animals.

Many dog shelters will not offer dogs for adoption that are deemed dangerous for liability reasons, and many insurance companies will not provide coverage to homeowners with a “dangerous” dog. Thus, the plight of an animal seized in a dog fighting raid is apparent.

Several animal control centers in Florida have reported failure to comply with the law in that they will not automatically deem a dog as dangerous simply due to its use in dog fighting. Florida is one of 13 states that classifies dogs as dangerous or destroys a dog based only upon participation in or training for fighting. The law, as written, extends to “bait dogs,” usually small, submissive dogs (sometimes stolen pets) that are thrown between two powerful dogs to initiate a fight.

Advocates for changing the law argue that, as was observed with the Michael Vick/Bad Newz Kennels case in 2007 and other busts of dog fighting operations, many seized dogs can make excellent companions. One of the Vick dogs was euthanized because of temperament, but others are living with families and serving as therapy dogs.¹

Effect of Proposed Changes

HB 4075 repeals language in s. 767.11(c), F.S., which classifies any dog used or trained for dog fighting within the definition of “dangerous dog.”

¹ *Where Are the Vick Dogs Now?* An update from BADRAP.org.

This revision will allow a dog seized by animal control authorities in a dog fighting raid to be evaluated on a case-by-case basis by animal control officers and shelters to determine whether the dog is adoptable or can be rehabilitated.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.11, F.S., deleting language that classifies any dog used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting within the definition of "dangerous dog."

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

This bill is supported by the Florida Animal Control Association, Best Friends Animal Society and other dog rescue organizations.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES