

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 92
Judiciary II (Criminal) Committee Substitute Adopted 5/8/07

Short Title: Dangerous Dogs/Financial Responsibility.

(Public)

Sponsors:

Referred to:

February 12, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE OWNERS OF SOME DANGEROUS DOGS TO PROVIDE
3 PROOF OF FINANCIAL RESPONSIBILITY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 67-4.1 reads as rewritten:

6 "~~§ 67-4.1. Definitions and procedures.~~**Definitions; exclusions.**

7 (a) ~~As used in this Article, unless~~Unless the context clearly requires otherwise
8 and except as modified in subsection (b) of this section, ~~the term:~~section, the following
9 terms apply in this Article:

10 (1) ~~"Dangerous dog" means~~Dangerous dog. – A dog to which one or more
11 of the following applies:

12 a. ~~A dog that:~~

13 1. ~~Without~~The dog without provocation has killed or
14 inflicted severe injury on a person; or~~person.~~

15 2. ~~Is determined by the person or Board designated by the~~
16 ~~county or municipal authority responsible for animal~~
17 ~~control to be potentially dangerous because the dog has~~
18 ~~engaged in one or more of the behaviors listed in~~
19 ~~subdivision (2) of this subsection.~~

20 b. ~~Any dog~~The dog is owned or harbored primarily or in part for
21 the purpose of dog fighting, or any dog trained for dog fighting.

22 c. A dangerous dog board has determined that the dog is a
23 dangerous dog because the dog has inflicted severe injury on a
24 person.

25 (1a) Appeals board. – The person or entity designated under
26 G.S. 67-4.1A(c) to hear appeals regarding determinations made by a
27 dangerous dog board.

- 1 (1b) Dangerous dog board or board. – The person or entity designated
 2 under G.S. 67-4.1A(a) to make determinations regarding whether a
 3 dog is a dangerous dog.
- 4 (2) ~~"Potentially dangerous dog" means a dog that the person or Board~~
 5 ~~designated by the county or municipal authority responsible for animal~~
 6 ~~control determines to have:~~
- 7 a. ~~Inflicted a bite on a person that resulted in broken bones or~~
 8 ~~disfiguring lacerations or required cosmetic surgery or~~
 9 ~~hospitalization; or~~
- 10 b. ~~Killed or inflicted severe injury upon a domestic animal when~~
 11 ~~not on the owner's real property; or~~
- 12 c. ~~Approached a person when not on the owner's property in a~~
 13 ~~vicious or terrorizing manner in an apparent attitude of attack.~~
- 14 (3) ~~"Owner" means any Owner. – Any person or legal entity that has a~~
 15 ~~possessory property right in a dog.~~
- 16 (4) ~~"Owner's real property" means any Owner's real property. – Any real~~
 17 ~~property owned or leased by the owner of the dog, but does not include~~
 18 ~~any public right-of-way or a common area of a condominium,~~
 19 ~~apartment complex, or townhouse development.~~
- 20 (5) ~~"Severe injury" means any Severe injury. – Any physical injury that~~
 21 ~~results in broken bones or disfiguring lacerations or required cosmetic~~
 22 ~~surgery or hospitalization.~~
- 23 (6) Surety. – As defined in G.S. 15A-531(8).
- 24 (b) The provisions of this Article do not apply to any of the following:
- 25 (1) A dog being used by a law enforcement officer to carry out the law
 26 enforcement officer's official duties; duties.
- 27 (2) A dog being used in a lawful hunt; hunt.
- 28 (3) A dog where the injury or damage inflicted by the dog was sustained
 29 by a domestic animal while the dog was working as a hunting dog,
 30 herding dog, or predator control dog on the property of, or under the
 31 control of, its owner or keeper, and the damage or injury was to a
 32 species or type of domestic animal appropriate to the work of the dog;
 33 or dog.
- 34 (4) A dog where the injury inflicted by the dog was sustained by a person
 35 who, at the time of the injury, was committing a willful trespass or
 36 other tort, tort; was tormenting, abusing, or assaulting the dog, dog;
 37 had tormented, abused, or assaulted the dog, dog; or was committing
 38 or attempting to commit a crime.
- 39 (c) ~~The county or municipal authority responsible for animal control shall~~
 40 ~~designate a person or a Board to be responsible for determining when a dog is a~~
 41 ~~"potentially dangerous dog" and shall designate a separate Board to hear any appeal.~~
 42 ~~The person or Board making the determination that a dog is a "potentially dangerous~~
 43 ~~dog" must notify the owner in writing, giving the reasons for the determination, before~~
 44 ~~the dog may be considered potentially dangerous under this Article. The owner may~~

1 ~~appeal the determination by filing written objections with the appellate Board within~~
2 ~~three days. The appellate Board shall schedule a hearing within 10 days of the filing of~~
3 ~~the objections. Any appeal from the final decision of such appellate Board shall be~~
4 ~~taken to the superior court by filing notice of appeal and a petition for review within 10~~
5 ~~days of the final decision of the appellate Board. Appeals from rulings of the appellate~~
6 ~~Board shall be heard in the superior court division. The appeal shall be heard de novo~~
7 ~~before a superior court judge sitting in the county in which the appellate Board whose~~
8 ~~ruling is being appealed is located."~~

9 **SECTION 2.** Article 1A of Chapter 67 of the General Statutes is amended
10 by adding two new sections to read:

11 **"§ 67-4.1A. Dangerous dog board.**

12 (a) The county or municipal authority responsible for animal control shall
13 designate a dangerous dog board. The board shall be responsible for determining
14 whether a dog is a dangerous dog as defined in G.S. 67-4.1(a)(1)c. The board may make
15 a determination that a dog is a dangerous dog under G.S. 67-4.1(a)(1)a. or (a)(1)b.
16 Notwithstanding any other provision of law and regardless of whether a dangerous dog
17 board has made any determination, a dog shall be considered a dangerous dog for
18 purposes of this Article if the provisions of either G.S. 67-4.1(a)(1)a. or (a)(1)b. apply to
19 the dog.

20 (b) The board shall provide written notification to the owner at least three days
21 prior to making any determination under this Article. The notification shall state the
22 reasons the board is considering making a determination. If a board determines that a
23 dog is a dangerous dog, it shall provide the owner with written notification of the
24 reasons for that determination and a copy of this Article.

25 (c) The county or municipal authority responsible for animal control shall also
26 designate a separate appeals board to hear any appeal from a determination made by a
27 dangerous dog board. An owner may appeal a determination by a dangerous dog board
28 by filing written objections with the appeals board within three days of the dangerous
29 dog board's determination. The appeals board shall schedule a hearing within 10 days of
30 the filing of the objection.

31 (d) An owner may appeal from the final decision of the appeals board by filing a
32 notice of appeal and petition for review with the superior court within 10 days of the
33 final decision of the appeals board. Appeals from rulings of the appeals board shall be
34 heard in the superior court division. The appeal shall be heard de novo before a superior
35 court judge sitting in the county in which the appellate board whose ruling is being
36 appealed is located.

37 **"§ 67-4.1B. Proof of financial responsibility.**

38 (a) Upon a determination by a dangerous dog board that a dog is a dangerous
39 dog, the board shall require the dog owner to demonstrate proof of financial
40 responsibility to indemnify persons suffering damages as the result of personal injuries
41 inflicted or other damage caused by the dangerous dog. The amount of financial
42 responsibility shall be five thousand dollars (\$5,000). Proof of financial responsibility
43 may be demonstrated by any of the following methods:

44 (1) A cash deposit to be held by the clerk of court.

1 (2) A bond by at least one solvent surety.

2 (3) A policy of liability insurance.

3 (b) The deposit, bond, or policy of liability insurance shall be conditioned for
4 payment to a third party for any personal injuries inflicted or other damage subsequently
5 caused by the dangerous dog. Nothing in this section shall limit the strict liability of an
6 owner under G.S. 67-4.4 for damages caused by a dangerous dog. An owner who is
7 required to provide proof of financial responsibility under this section shall upon
8 demand present to an animal control officer evidence of that proof.

9 (c) The owner shall provide to the dangerous dog board the required proof within
10 five days of the board determining that the dog is dangerous under subsection (a) of this
11 section. An appeal under G.S. 67-4.1A(c) of a determination by the dangerous dog
12 board that a dog is a dangerous dog shall not stay the owner's obligation to provide
13 proof of financial responsibility.

14 (d) Failure by the owner to provide proof of financial responsibility as required in
15 this section or failure by the owner to produce evidence of the required proof upon
16 demand by an animal control officer shall be grounds for the dangerous dog board to
17 order that the dog be taken into custody and destroyed."

18 **SECTION 3.** This act becomes effective October 1, 2007, and applies to
19 determinations made by a dangerous dog board on or after that date.