

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 994  
Judiciary I Committee Substitute Adopted 6/29/89

Short Title: Dangerous Dog Liability.

(Public)

Sponsors:

Referred to:

April 24, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE THE OWNER OF A DANGEROUS DOG OR  
3 POTENTIALLY DANGEROUS DOG TO TAKE PRECAUTIONS AGAINST  
4 ATTACKS BY SUCH DOGS, TO IMPOSE CRIMINAL PENALTIES AND CIVIL  
5 LIABILITY UPON THE OWNER OF A DANGEROUS DOG WHICH ATTACKS  
6 AND CAUSES SERIOUS BODILY INJURY TO A PERSON, AND TO TAX THE  
7 OWNERSHIP OF A DANGEROUS DOG.

8 The General Assembly of North Carolina enacts:

9 Section 1. Chapter 67 of the General Statutes is amended by adding a new  
10 Article to read:

11 **“ARTICLE 1A.**

12 **“DANGEROUS DOGS.**

13 **“§ 67-4.1. Definitions and procedures.**

14 (a) As used in this Article, unless the context clearly requires otherwise and  
15 except as modified in subsection (b) of this section, the term:

16 (1) ‘Dangerous dog’ means

17 a. A dog that:

18 1. Without provocation has killed or inflicted severe injury  
19 on a person; or

20 2. Is determined by the person or Board designated by the  
21 county or municipal authority responsible for animal  
22 control to be potentially dangerous because the dog has

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

1 dog may be considered potentially dangerous under this Article. The owner may appeal  
2 the determination by filing written objections with the appellate Board within three  
3 days. The appellate Board shall schedule a hearing within 10 days of the filing of the  
4 objections. Any appeal from the final decision of such appellate Board shall be taken to  
5 the district court by filing notice of appeal and a petition for certiorari within five days  
6 of the final decision.

7 **"§ 67-4.2. Precautions against attacks by dangerous dogs.**

8 (a) It is unlawful for an owner to:

- 9 (1) Leave a dangerous dog unattended on the owner's real property unless  
10 the dog is confined indoors, in a securely enclosed and locked pen, or  
11 in another structure designed to restrain the dog;  
12 (2) Permit a dangerous dog to go beyond the owner's real property unless  
13 the dog is leashed and muzzled or is otherwise securely restrained and  
14 muzzled.

15 (b) If the owner of a dangerous dog transfers ownership or possession of the dog  
16 to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to:

- 17 (1) The authority that made the determination under this Article, stating  
18 the name and address of the new owner or possessor of the dog; and  
19 (2) The person taking ownership or possession of the dog, specifying the  
20 dog's dangerous behavior and the authority's determination.

21 (c) Violation of this section is a misdemeanor punishable by a fine not to exceed  
22 one hundred dollars (\$100.00) or imprisonment for not more than 30 days or both.

23 **"§ 67-4.3. Penalty for attacks by dangerous dogs or potentially dangerous dogs.**

24 The owner of a dangerous dog that attacks a person and causes physical injuries  
25 requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of  
26 a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000),  
27 imprisonment up to two years, or both.

28 **"§ 67-4.4. Strict liability.**

29 The owner of a dangerous dog shall be strictly liable in civil damages for any  
30 injuries or property damage the dog inflicts upon a person, his property, or another  
31 animal.

32 **"§ 67-4.5. Local ordinances.**

33 Nothing in this Article shall be construed to prevent a city or county from adopting  
34 or enforcing its own program for control of dangerous dogs."

35 Sec. 2. Article 2 of Chapter 105 of the General Statutes is amended by  
36 adding a new section to read:

37 **"§ 105-102.5. Dangerous dogs.**

38 There is imposed upon every owner of a dangerous dog, as defined in G.S. 67-4.1,  
39 an annual privilege tax of one hundred dollars (\$100.00) per dog. This tax shall be  
40 collected by the county in which the dog is located. The county shall deposit one-half  
41 of the net proceeds of the tax in the county's general fund and shall deposit the  
42 remaining net proceeds of the tax with the State Treasurer for the General Fund. As  
43 used in this section, the term 'net proceeds' means gross proceeds less the cost to the  
44 county of collecting and administering the tax."

1           Sec. 3. This act shall become effective October 1, 1989.