

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 986

Short Title: Amend Dangerous Dog Law.

(Public)

Sponsors: Representatives Hill; DeVane, Gottovi, Redwine, and Wright.

Referred to: Judiciary II.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING DANGEROUS DOGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 67-4.1 reads as rewritten:

"§ 67-4.1. Definitions and procedures.

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

(1) 'Dangerous dog' means

a. A dog that:

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

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

b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(2) 'Potentially dangerous dog' means a dog that the person or Board designated by the county or municipal authority responsible for animal control determines to have:

a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or

- 1 b. Killed or inflicted severe injury upon a domestic animal when
2 not on the owner's real property; or
3 c. Approached a person when not on the owner's property in a
4 vicious or terrorizing manner in an apparent attitude of attack.
5 (3) 'Owner' means any person or legal entity that has a possessory
6 property right in a dog.
7 (4) 'Owner's real property' means any real property owned or
8 leased by the owner of the dog, but does not include any public
9 right-of-way or a common area of a condominium, apartment
10 complex, or townhouse development.
11 (5) 'Severe injury' means any physical injury that results in broken bones
12 or disfiguring lacerations or ~~required~~requires cosmetic surgery or
13 hospitalization.
14 (b) The provisions of this Article do not apply to:
15 (1) A dog being used by a law enforcement officer to carry out the law
16 enforcement officer's official duties;
17 (2) A dog being used in a lawful hunt;
18 (3) A dog where the injury or damage inflicted by the dog was sustained
19 by a domestic animal while the dog was working as a hunting dog,
20 herding dog, or predator control dog on the property of, or under the
21 control of, its owner or keeper, and the damage or injury was to a
22 species or type of domestic animal appropriate to the work of the dog;
23 or
24 (4) A dog where the injury inflicted by the dog was sustained by a person
25 who, at the time of the injury, was committing a willful trespass or
26 other tort, was tormenting, abusing, or assaulting the dog, had
27 tormented, abused, or assaulted the dog, or was committing or
28 attempting to commit a crime.
29 (c) The county or municipal authority responsible for animal control shall
30 designate a person or a Board to be responsible for determining when a dog is a
31 'potentially dangerous dog' and shall designate a separate Board to hear any ~~appeal~~
32 appeal of the 'potentially dangerous dog' determination. The person or Board making
33 the determination that a dog is a 'potentially dangerous dog' must notify the owner in
34 writing, giving the reasons for the determination, before the dog may be considered
35 potentially dangerous under this Article. The owner may appeal the determination by
36 filing written objections with the appellate Board within three days. The appellate Board
37 shall schedule a hearing within 10 days of the filing of the objections. Any appeal from
38 the final decision of such appellate Board shall be taken to the superior court by filing
39 notice of appeal and a petition for review within 10 days of the final decision of the
40 appellate Board. Appeals from rulings of the appellate Board shall be heard in the
41 superior court division. The appeal shall be heard as a review of the record de novo
42 before a superior court judge sitting in the county in which the appellate Board whose
43 ruling is being appealed is located."
44 Sec. 2. G.S. 67-4.2 reads as rewritten:

1 **"§ 67-4.2. Precautions against attacks by dangerous dogs.**

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

3 (1) Leave a dangerous dog unattended on the owner's real property unless
4 the dog is confined indoors, in a securely enclosed and ~~locked~~
5 padlocked pen, with a concrete bottom and a secure top, along with the
6 posting of the premises with four clearly visible warning signs
7 adequate to inform the public, including children, of the presence of a
8 dangerous dog, and strategically placed on the property as designated
9 by the appropriate county or municipal authority; ~~or in another structure~~
10 designed to restrain the dog;

11 (2) Permit a dangerous dog to go beyond the owner's real property unless
12 the dog is leashed and muzzled or is otherwise securely restrained and
13 muzzled.

14 (a1) Within seven days after a dangerous dog determination becomes final, the
15 owner must have the dangerous dog tattooed with a State identification number or mark
16 on the inside of the right hind leg. Within 72 hours of the death of a dangerous dog, the
17 owner of the dog shall provide written notification of the dog's death to the appropriate
18 county or municipal authority. If the dog's body is not available, the notification shall
19 fully identify the dog and shall bear the notarized signature of the owner and a licensed
20 veterinarian, all attesting to the dog's death.

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

23 (1) The authority that made the determination under this Article, stating
24 the name and address of the new owner or possessor of the dog; and

25 (2) The person taking ownership or possession of the dog, specifying the
26 dog's dangerous behavior and the authority's determination.

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

29 Sec. 3. Chapter 67 of the General Statutes is amended by adding a new
30 section to read:

31 **"§ 67-4.6. Euthanizing dangerous dogs.**

32 An owner who violates G.S. 47-4.2(a) or G.S. 47-4.3 in a willful or grossly
33 negligent manner shall forfeit all rights of ownership of the dog, and upon a final
34 determination of such violation the dog may be humanely euthanized by the county or
35 municipal authority responsible for animal control. The person or Board responsible for
36 determining that the dog is potentially dangerous shall determine whether the owner's
37 violation was willful or grossly negligent. If the person or Board determines that the
38 owner's violation was willful or grossly negligent, the person or Board must notify the
39 owner in writing, giving the reasons for the determination, before the dog may be
40 euthanized. The owner may appeal the determination by filing written objections with
41 the appellate Board within three days of receipt of the notice. The appellate Board shall
42 schedule a hearing within 10 days of the filing of objections. Any appeal from the final
43 decision of such appellate Board shall be taken to the superior court by filing notice of
44 appeal and a petition for review within 10 days of the final decision of the appellate

1 Board. Appeals from rulings of the appellate Board shall be heard in the superior court
2 division. The appeal shall be heard as a review of the record before a superior court
3 judge sitting in the county in which the appellate Board whose ruling is being appealed
4 is located."

5 Sec. 4. This act becomes effective October 1, 1993.