



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4213

Introduced 12/1/2005, by Rep. Michael Tryon - Mark H. Beaubien, Jr.

SYNOPSIS AS INTRODUCED:

510 ILCS 5/2	from Ch. 8, par. 352
510 ILCS 5/2.11a	
510 ILCS 5/2.20 new	
510 ILCS 5/15	from Ch. 8, par. 365
510 ILCS 5/15.1	
510 ILCS 5/15.2	
510 ILCS 5/15.3	
510 ILCS 5/24	from Ch. 8, par. 374
510 ILCS 5/26	from Ch. 8, par. 376

Amends the Animal Control Act. Requires owners of dangerous and vicious dogs to maintain liability insurance for damage, injury, and death caused by the dog. Requires that a dog's breed be considered in the determination of the dog as dangerous or vicious if the dog is of a breed presumed to be a dangerous or vicious breed. Authorizes municipalities and other political subdivisions to ban those breeds and to regulate dogs by breed. Changes the physical requirements for keeping dangerous and vicious dogs. Beginning January 1, 2007, creates, and changes the penalties for existing, offenses with respect to dangerous and vicious dogs. Effective immediately.

LRB094 15225 JAM 50627 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Animal Control Act is amended by changing
5 Sections 2, 2.11a, 15, 15.1, 15.2, 15.3, 24, and 26 and by
6 adding Section 2.20 as follows:

7 (510 ILCS 5/2) (from Ch. 8, par. 352)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context otherwise requires, the terms specified in the
10 following Sections ~~2.01 through 2.19~~ have the meanings ascribed
11 to them in those Sections.

12 (Source: P.A. 78-795.)

13 (510 ILCS 5/2.11a)

14 Sec. 2.11a. "Enclosure" means a ~~fence or~~ structure of at
15 least 6 feet in height, forming or causing an enclosure
16 suitable to prevent the entry of young children, and suitable
17 to confine a vicious dog in conjunction with other measures
18 that may be taken by the owner or keeper, such as tethering of
19 the vicious dog within the enclosure. The enclosure shall be
20 securely enclosed and locked and designed with secure sides,
21 top, and bottom and shall be designed to prevent the animal
22 from escaping from the enclosure. If the enclosure is a room
23 within a residence, it cannot have direct ingress from or
24 egress to the outdoors unless it leads directly to an enclosed
25 pen and the door must be locked. A vicious dog may be allowed
26 to move about freely within the interior of the entire
27 residence ~~if it is muzzled at all times.~~

28 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

29 (510 ILCS 5/2.20 new)

30 Sec. 2.20. Scheduled dog breed. "Scheduled dog breed" means

1 American Pit Bull Terrier, American Staffordshire Terrier, pit
2 bull, pit bull terrier, rottweiler, and Staffordshire Terrier.

3 (510 ILCS 5/15) (from Ch. 8, par. 365)

4 Sec. 15. (a) In order to have a dog deemed "vicious", the
5 Administrator, Deputy Administrator, or law enforcement
6 officer must give notice of the infraction that is the basis of
7 the investigation to the owner, conduct a thorough
8 investigation, interview any witnesses, including the owner,
9 gather any existing medical records, veterinary medical
10 records or behavioral evidence, and make a detailed report
11 recommending a finding that the dog is a vicious dog and give
12 the report to the States Attorney's Office and the owner. The
13 Administrator, State's Attorney, Director or any citizen of the
14 county in which the dog exists may file a complaint in the
15 circuit court in the name of the People of the State of
16 Illinois to deem a dog to be a vicious dog. Testimony of a
17 certified applied behaviorist, a board certified veterinary
18 behaviorist, or another recognized expert may be relevant to
19 the court's determination of whether the dog's behavior was
20 justified. The petitioner must prove the dog is a vicious dog
21 by clear and convincing evidence, except that if the dog is of
22 a scheduled dog breed there shall be a mandatory presumption
23 that the dog is a member of a vicious dog breed and that
24 membership shall be considered as a factor in the determination
25 of the dog as a vicious dog. The Administrator shall determine
26 where the animal shall be confined during the pendency of the
27 case.

28 A dog may not be declared vicious if the court determines
29 the conduct of the dog was justified because:

30 (1) the threat, injury, or death was sustained by a
31 person who at the time was committing a crime or offense
32 upon the owner or custodian of the dog, or was committing a
33 willful trespass or other tort upon the premises or
34 property owned or occupied by the owner of the animal;

35 (2) the injured, threatened, or killed person was

1 abusing, assaulting, or physically threatening the dog or
2 its offspring, or has in the past abused, assaulted, or
3 physically threatened the dog or its offspring; or

4 (3) the dog was responding to pain or injury, or was
5 protecting itself, its owner, custodian, or member of its
6 household, kennel, or offspring.

7 No dog shall be deemed "vicious" if it is a professionally
8 trained dog for law enforcement or guard duties. ~~Vicious dogs~~
9 ~~shall not be classified in a manner that is specific as to~~
10 ~~breed.~~

11 If the burden of proof has been met, the court shall deem
12 the dog to be a vicious dog.

13 If a dog is found to be a vicious dog, the owner shall pay a
14 \$100 public safety fine to be deposited into the Pet Population
15 Control Fund, the dog shall be spayed or neutered within 10
16 days of the finding at the expense of its owner and
17 microchipped, if not already, and the dog shall be kept in an
18 is subject to enclosure. When the enclosure is anything other
19 than a room within a residence, the dog must be muzzled. If an
20 owner fails to comply with these requirements, the animal
21 control agency shall impound the dog and the owner shall pay a
22 \$500 fine plus impoundment fees to the animal control agency
23 impounding the dog. The judge has the discretion to order a
24 vicious dog be euthanized. A dog found to be a vicious dog
25 shall not be released to the owner until the Administrator, an
26 Animal Control Warden, or the Director approves the enclosure.
27 No owner or keeper of a vicious dog shall sell or give away the
28 dog without approval from the Administrator or court. Whenever
29 an owner of a vicious dog relocates, he or she shall notify
30 both the Administrator of County Animal Control where he or she
31 has relocated and the Administrator of County Animal Control
32 where he or she formerly resided.

33 (a-5) The owner of a dog found to be a vicious dog must
34 carry full liability insurance for any damage, injury, or death
35 caused by the dog in an amount no less than the amount
36 established by rule by the Department.

1 (b) It is unlawful, and beginning January 1, 2007 it is a
2 Class A misdemeanor punishable by a fine of at least \$1,001,
3 ~~shall be unlawful~~ for any person to keep or maintain any dog
4 which has been found to be a vicious dog unless the dog is kept
5 in an enclosure. The only times that a vicious dog may be
6 allowed out of the enclosure are (1) if it is necessary for the
7 owner or keeper to obtain veterinary care for the dog, (2) in
8 the case of an emergency or natural disaster where the dog's
9 life is threatened, or (3) to comply with the order of a court
10 of competent jurisdiction, provided that the dog is securely
11 muzzled and restrained with a leash not exceeding 6 feet in
12 length, and shall be under the direct control and supervision
13 of the owner or keeper of the dog or muzzled in its residence.

14 Any dog which has been found to be a vicious dog and which
15 is not confined to an enclosure shall be impounded by the
16 Administrator, an Animal Control Warden, or the law enforcement
17 authority having jurisdiction in such area.

18 If the owner of the dog has not appealed the impoundment
19 order to the circuit court in the county in which the animal
20 was impounded within 15 working days, the dog may be
21 euthanized.

22 Upon filing a notice of appeal, the order of euthanasia
23 shall be automatically stayed pending the outcome of the
24 appeal. The owner shall bear the burden of timely notification
25 to animal control in writing.

26 Guide dogs for the blind or hearing impaired, support dogs
27 for the physically handicapped, and sentry, guard, or
28 police-owned dogs are exempt from this Section; provided, an
29 attack or injury to a person occurs while the dog is performing
30 duties as expected. To qualify for exemption under this
31 Section, each such dog shall be currently inoculated against
32 rabies in accordance with Section 8 of this Act. It shall be
33 the duty of the owner of such exempted dog to notify the
34 Administrator of changes of address. In the case of a sentry or
35 guard dog, the owner shall keep the Administrator advised of
36 the location where such dog will be stationed. The

1 Administrator shall provide police and fire departments with a
2 categorized list of such exempted dogs, and shall promptly
3 notify such departments of any address changes reported to him.

4 (c) If the animal control agency has custody of the dog,
5 the agency may file a petition with the court requesting that
6 the owner be ordered to post security. The security must be in
7 an amount sufficient to secure payment of all reasonable
8 expenses expected to be incurred by the animal control agency
9 or animal shelter in caring for and providing for the dog
10 pending the determination. Reasonable expenses include, but
11 are not limited to, estimated medical care and boarding of the
12 animal for 30 days. If security has been posted in accordance
13 with this Section, the animal control agency may draw from the
14 security the actual costs incurred by the agency in caring for
15 the dog.

16 (d) Upon receipt of a petition, the court must set a
17 hearing on the petition, to be conducted within 5 business days
18 after the petition is filed. The petitioner must serve a true
19 copy of the petition upon the defendant.

20 (e) If the court orders the posting of security, the
21 security must be posted with the clerk of the court within 5
22 business days after the hearing. If the person ordered to post
23 security does not do so, the dog is forfeited by operation of
24 law and the animal control agency must dispose of the animal
25 through adoption or humane euthanization.

26 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

27 (510 ILCS 5/15.1)

28 Sec. 15.1. Dangerous dog determination.

29 (a) After a thorough investigation including: sending,
30 within 10 business days of the Administrator or Director
31 becoming aware of the alleged infraction, notifications to the
32 owner of the alleged infractions, the fact of the initiation of
33 an investigation, and affording the owner an opportunity to
34 meet with the Administrator or Director prior to the making of
35 a determination; gathering of any medical or veterinary

1 evidence; interviewing witnesses; and making a detailed
2 written report, an animal control warden, deputy
3 administrator, or law enforcement agent may ask the
4 Administrator, or his or her designee, or the Director, to deem
5 a dog to be "dangerous". No dog shall be deemed a "dangerous
6 dog" unless shown to be a dangerous dog by a preponderance of
7 evidence, except that if the dog is of a scheduled dog breed
8 there shall be a mandatory presumption that the dog is a member
9 of a dangerous dog breed and that membership shall be
10 considered a factor in the determination of the dog as a
11 dangerous dog. The owner shall be sent immediate notification
12 of the determination by registered or certified mail that
13 includes a complete description of the appeal process.

14 (b) A dog shall not be declared dangerous if the
15 Administrator, or his or her designee, or the Director
16 determines the conduct of the dog was justified because:

17 (1) the threat was sustained by a person who at the
18 time was committing a crime or offense upon the owner or
19 custodian of the dog or was committing a willful trespass
20 or other tort upon the premises or property occupied by the
21 owner of the animal;

22 (2) the threatened person was abusing, assaulting, or
23 physically threatening the dog or its offspring;

24 (3) the injured, threatened, or killed companion
25 animal was attacking or threatening to attack the dog or
26 its offspring; or

27 (4) the dog was responding to pain or injury or was
28 protecting itself, its owner, custodian, or a member of its
29 household, kennel, or offspring.

30 (c) Testimony of a certified applied behaviorist, a board
31 certified veterinary behaviorist, or another recognized expert
32 may be relevant to the determination of whether the dog's
33 behavior was justified pursuant to the provisions of this
34 Section.

35 (d) If deemed dangerous, the Administrator, or his or her
36 designee, or the Director shall order (i) the dog's owner to

1 pay a \$50 public safety fine to be deposited into the Pet
2 Population Control Fund, (ii) the dog to be spayed or neutered
3 within 14 days at the owner's expense and microchipped, if not
4 already, (iii) the dog to be restrained by a leash no greater
5 than 6 feet in length whenever outdoors or with access to
6 outdoors through an open or unlocked door, and (iv) ~~(iii)~~ one
7 or more of the following as deemed appropriate under the
8 circumstances and necessary for the protection of the public:

9 (1) evaluation of the dog by a certified applied
10 behaviorist, a board certified veterinary behaviorist, or
11 another recognized expert in the field and completion of
12 training or other treatment as deemed appropriate by the
13 expert. The owner of the dog shall be responsible for all
14 costs associated with evaluations and training ordered
15 under this subsection; or

16 (2) direct supervision by an adult 18 years of age or
17 older whenever the animal is on public premises.

18 (e) The owner of a dog found to be dangerous dog must carry
19 full liability insurance for any damage, injury, or death
20 caused by the dog in an amount no less than the amount
21 established by rule by the Department. The Administrator may
22 order a dangerous dog to be muzzled whenever it is on public
23 premises in a manner that will prevent it from biting any
24 person or animal, but that shall not injure the dog or
25 interfere with its vision or respiration.

26 (f) Guide dogs for the blind or hearing impaired, support
27 dogs for the physically handicapped, and sentry, guard, or
28 police-owned dogs are exempt from this Section; provided, an
29 attack or injury to a person occurs while the dog is performing
30 duties as expected. To qualify for exemption under this
31 Section, each such dog shall be currently inoculated against
32 rabies in accordance with Section 8 of this Act and performing
33 duties as expected. It shall be the duty of the owner of the
34 exempted dog to notify the Administrator of changes of address.
35 In the case of a sentry or guard dog, the owner shall keep the
36 Administrator advised of the location where such dog will be

1 stationed. The Administrator shall provide police and fire
2 departments with a categorized list of the exempted dogs, and
3 shall promptly notify the departments of any address changes
4 reported to him or her.

5 (g) An animal control agency has the right to impound a
6 dangerous dog if the owner fails to comply with the
7 requirements of this Act.

8 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

9 (510 ILCS 5/15.2)

10 Sec. 15.2. Dangerous and vicious dogs; criminal penalties.

11 (a) Through December 31, 2006, it ~~leash. It~~ is unlawful for
12 any person to knowingly or recklessly permit any dangerous dog
13 to leave the premises of its owner when not under control by
14 leash or other recognized control methods.

15 (b) Beginning January 1, 2007, any person who knowingly or
16 recklessly permits a dangerous dog to leave the indoor premises
17 of its owner when not securely muzzled and under control by a
18 leash not greater than 6 feet in length is guilty of a Class A
19 misdemeanor, punishable by a fine of at least \$1,001.

20 (c) Beginning January 1, 2007, if a vicious or dangerous
21 dog causes a physical injury to a person, the dog's owner is
22 guilty of a Class 4 felony. If the injury is a serious physical
23 injury other than death or if the person is a minor child, a
24 person age 60 years or more, a physically disabled person of
25 any age, or a developmentally disabled person of any age, the
26 dog's owner is guilty of a Class 3 felony. Beginning January 1,
27 2007, if a dangerous or vicious dog causes the death of a
28 person, the dog's owner is guilty of a Class 2 felony. If the
29 person whose death was caused by a dangerous or vicious dog was
30 a minor child, a person age 60 years or more, a physically
31 disabled person of any age, or a developmentally disabled
32 person of any age, the dog's owner is guilty of a Class 1
33 felony.

34 (Source: P.A. 93-548, eff. 8-19-03.)

1 (510 ILCS 5/15.3)

2 Sec. 15.3. Dangerous dog; appeal.

3 (a) The owner of a dog found to be a dangerous dog pursuant
4 to this Act by an Administrator may file a complaint against
5 the Administrator in the circuit court within 35 days of
6 receipt of notification of the determination, for a de novo
7 hearing on the determination. The proceeding shall be conducted
8 as a civil hearing pursuant to the Illinois Rules of Evidence
9 and the Code of Civil Procedure, including the discovery
10 provisions. After hearing both parties' evidence, the court may
11 make a determination of dangerous dog if the Administrator
12 meets his or her burden of proof of clear and convincing
13 evidence, except that if the dog is of a scheduled dog breed
14 there shall be a mandatory presumption that the dog is a member
15 of a dangerous dog breed and that membership shall be
16 considered as a factor in the determination of the dog as a
17 dangerous dog. The final order of the circuit court may be
18 appealed pursuant to the civil appeals provisions of the
19 Illinois Supreme Court Rules.

20 (b) The owner of a dog found to be a dangerous dog pursuant
21 to this Act by the Director may, within 14 days of receipt of
22 notification of the determination, request an administrative
23 hearing to appeal the determination. The administrative
24 hearing shall be conducted pursuant to the Department of
25 Agriculture's rules applicable to formal administrative
26 proceedings, 8 Ill. Adm. Code Part 1, SubParts A and B. An
27 owner desiring a hearing shall make his or her request for a
28 hearing to the Illinois Department of Agriculture. The final
29 administrative decision of the Department may be reviewed
30 judicially by the circuit court of the county wherein the
31 person resides or, in the case of a corporation, the county
32 where its registered office is located. If the plaintiff in a
33 review proceeding is not a resident of Illinois, the venue
34 shall be in Sangamon County. The Administrative Review Law and
35 all amendments and modifications thereof, and the rules adopted
36 thereto, apply to and govern all proceedings for the judicial

1 review of final administrative decisions of the Department
2 hereunder. In any hearing or review under this subsection,
3 there shall be a mandatory presumption that if the dog is of a
4 scheduled dog breed, then the dog is a member of a dangerous
5 dog breed and that membership shall be considered as a factor
6 in the determination of the dog as a dangerous dog.

7 (c) Until the order has been reviewed and at all times
8 during the appeal process, the owner shall comply with the
9 requirements set forth by the Administrator, the court, or the
10 Director.

11 (d) At any time after a final order has been entered, the
12 owner may petition the circuit court to reverse the designation
13 of dangerous dog.

14 (Source: P.A. 93-548, eff. 8-19-03.)

15 (510 ILCS 5/24) (from Ch. 8, par. 374)

16 Sec. 24. Nothing in this Act shall be held to limit in any
17 manner the power of any municipality or other political
18 subdivision to prohibit animals from running at large, nor
19 shall anything in this Act be construed to, in any manner,
20 limit the power of any municipality or other political
21 subdivision to further control and regulate dogs, cats or other
22 animals in such municipality or other political subdivision.
23 With respect to dogs, regulations and ordinances (i) may ban
24 one or more scheduled dog breeds and (ii) may be provided that
25 ~~no regulation or ordinance is~~ specific to breed.

26 (Source: P.A. 93-548, eff. 8-19-03.)

27 (510 ILCS 5/26) (from Ch. 8, par. 376)

28 Sec. 26. (a) Except as otherwise provided in this Act, any
29 ~~Any~~ person violating or aiding in or abetting the violation of
30 any provision of this Act, or counterfeiting or forging any
31 certificate, permit, or tag, or making any misrepresentation in
32 regard to any matter prescribed by this Act, or resisting,
33 obstructing, or impeding the Administrator or any authorized
34 officer in enforcing this Act, or refusing to produce for

1 inoculation any dog in his possession, or who removes a tag
2 from a dog for purposes of destroying or concealing its
3 identity, is guilty of a Class C misdemeanor for a first
4 offense and for a subsequent offense, is guilty of a Class B
5 misdemeanor.

6 Each day a person fails to comply constitutes a separate
7 offense. Each State's Attorney to whom the Administrator
8 reports any violation of this Act shall cause appropriate
9 proceedings to be instituted in the proper courts without delay
10 and to be prosecuted in the manner provided by law.

11 (b) Through December 31, 2006, if ~~If~~ the owner of a vicious
12 dog subject to enclosure:

13 (1) fails to maintain or keep the dog in an enclosure
14 or fails to spay or neuter the dog within the time period
15 prescribed; and

16 (2) the dog inflicts serious physical injury upon any
17 other person or causes the death of another person; and

18 (3) the attack is unprovoked in a place where such
19 person is peaceably conducting himself or herself and where
20 such person may lawfully be;

21 the owner shall be guilty of a Class 4 felony, unless the owner
22 knowingly allowed the dog to run at large or failed to take
23 steps to keep the dog in an enclosure then the owner shall be
24 guilty of a Class 3 felony. The penalty provided in this
25 paragraph shall be in addition to any other criminal or civil
26 sanction provided by law.

27 (c) If the owner of a dangerous dog knowingly fails to
28 comply with any order regarding the dog and the dog inflicts
29 serious physical injury on a ~~person or a~~ companion animal, the
30 owner shall be guilty of a Class A misdemeanor. Through
31 December 31, 2006, if ~~If~~ the owner of a dangerous dog knowingly
32 fails to comply with any order regarding the dog and the dog
33 kills a person the owner shall be guilty of a Class 4 felony.

34 (Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

35 Section 99. Effective date. This Act takes effect upon

1 becoming law.