

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1023
SENATE BILL 994

AN ACT TO REQUIRE THE OWNER OF A DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG TO TAKE PRECAUTIONS AGAINST ATTACKS BY SUCH DOGS, TO IMPOSE CRIMINAL PENALTIES AND CIVIL LIABILITY UPON THE OWNER OF A DANGEROUS DOG WHICH ATTACKS AND CAUSES SERIOUS BODILY INJURY TO A PERSON.

The General Assembly of North Carolina enacts:

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

"ARTICLE 1A.

"Dangerous Dogs.

"§ 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

b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or

c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

- (3) 'Owner' means any person or legal entity that has a possessory property right in a dog.
 - (4) 'Owner's real property' means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
 - (5) 'Severe injury' means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (b) The provisions of this Article do not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
 - (2) A dog being used in a lawful hunt;
 - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog;
or
 - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(c) The county or municipal authority responsible for animal control shall designate a person or a Board to be responsible for determining when a dog is a 'potentially dangerous dog' and shall designate a separate Board to hear any appeal. The person or Board making the determination that a dog is a 'potentially dangerous dog' must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this Article. The owner may appeal the determination by filing written objections with the appellate Board within three days. The appellate Board shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of such appellate Board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate Board. Appeals from rulings of the appellate Board shall be heard in the superior court division. The appeal shall be heard **de novo** before a superior court judge sitting in the county in which the appellate Board whose ruling is being appealed is located.

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

- (a) It is unlawful for an owner to:
 - (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;

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

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

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

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

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

"§ 67-4.3. Penalty for attacks by dangerous dogs.

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

"§ 67-4.4. Strict liability.

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

"§ 67-4.5. Local ordinances.

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

Sec. 2. This act shall become effective October 1, 1990.

In the General Assembly read three times and ratified this the 27th day of July, 1990.