

HOUSE BILL NO. 407

INTRODUCED BY R. DRISCOLL

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A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING CERTAIN REQUIREMENTS ON OWNERS OF POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS; DEFINING "POTENTIALLY DANGEROUS DOG" AND "DANGEROUS DOG"; PROVIDING A PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS IMPOSED ON OWNERS OF DANGEROUS DOGS; AND AMENDING SECTIONS 7-23-2108, 7-23-2109, AND 27-1-715, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Potentially dangerous dog -- definitions. For the purposes of [sections 1 through 5], the following definitions apply:

- (1) "Animal" means all livestock and any domestic pet.
- (2) "Animal control agency" means an agency designated by a county or a municipality to administer and enforce animal ordinances.
- (3) "At large" means off the premises of the dog's owner and not under the immediate, continuous, and effective control of the owner or another competent person.
- (4) "Dangerous dog" means a dog that meets the conditions of [section 4].
- (5) "Dog owner" means a person who owns, harbors, or keeps a dog.
- (6) "Potentially dangerous dog" means a dog that meets the conditions of [section 2].

NEW SECTION. Section 2. Potentially dangerous dog -- what constitutes -- exceptions. (1) Except as provided in subsection (2), a dog is considered to be a potentially dangerous dog if in the absence of intentional provocation and while a person or animal is lawfully on public property or lawfully on private property with the permission of the property owner, the dog:

- (a) inflicts a bite or injury on the person or animal; or
- (b) aggressively harasses, chases, bites, attempts to bite, injures, or threatens the person or animal in a manner that endangers the person's or animal's safety or kills the animal.

(2) A dog is not considered to be a potentially dangerous dog if, at the time that the dog engaged in the

1 actions against a person or animal provided in subsection (1):

2 (a) the person was committing willful trespass or a crime on the dog owner's property or other property
3 on which the dog owner has permission to be;

4 (b) the person was provoking, tormenting, or physically abusing the dog or has previously repeatedly
5 provoked, tormented, or physically abused the dog;

6 (c) the person was aggressively attacking the dog owner, the dog, or the dog's offspring;

7 (d) the dog was protecting or defending a person from an attack or the commission of a crime within the
8 immediate vicinity of the dog or the dog owner's property;

9 (e) the person was involved or engaged in another similar activity that in the opinion of the animal control
10 or law enforcement officer provoked the dog to act in the manner described in subsection (1); or

11 (f) the dog is a trained police dog as defined in 45-8-209.

12

13 **NEW SECTION. Section 3. Potentially dangerous dog -- requirements for owner.** (1) The owner
14 of a dog determined to be a potentially dangerous dog under [section 2] shall comply with the requirements of
15 this section within 30 days of the owner's acquisition of the dog, within 30 days of the dog having been
16 determined to be a potentially dangerous dog, or within 30 days of [the effective date of this act]. If a dog owner
17 fails to comply with the requirements of this section, a court having jurisdiction may require that the dog be
18 surrendered to the designated animal control agency or may order that the dog be euthanized.

19 (2) The dog owner shall register the dog as a potentially dangerous dog with the appropriate animal
20 control agency.

21 (3) The dog owner must have implanted on the dog an identification microchip, and the microchip's
22 information must be provided to the appropriate animal control agency.

23 (4) The dog owner shall provide a secure, enclosed fence, with locking gates to prevent unauthorized
24 entry, that is adequate in strength and height to contain the dog when unattended on the dog owner's property.

25 (5) The dog owner shall display commercially manufactured signs with a warning symbol indicating the
26 presence of a potentially dangerous dog on the dog owner's property.

27 (6) The dog must be restrained by a secure leash and collar or other secure restraint and must be under
28 the physical control of a person capable of restricting the dog's movement when the dog is off the dog owner's
29 property.

30 (7) The dog owner shall notify the appropriate animal control agency within 24 hours of the dog owner's

1 change of address or the death of the dog. The owner shall immediately notify the appropriate animal control
2 agency if the dog is at large.

3 (8) If the dog owner sells, transfers, or gives the dog to another person, the owner shall notify the
4 appropriate animal control agency. The person to whom the owner has sold, transferred, or given the dog shall
5 comply with the provisions of this section.

6
7 **NEW SECTION. Section 4. Dangerous dog -- what constitutes -- exceptions.** (1) Except as provided
8 in subsection (2), a dog is considered to be a dangerous dog if the dog:

9 (a) had been determined to be a potentially dangerous dog and, in the absence of provocation, acts in
10 the manner described in [section 2(1)] on a second or subsequent occasion;

11 (b) kills or inflicts serious bodily injury, as defined in 45-2-101, on a person who is lawfully on public
12 property or on private property with the permission of the property owner;

13 (c) kills or inflicts serious injury on an animal that is lawfully on public property or on private property with
14 the permission of the property owner;

15 (d) has previously been designated as a dangerous dog or similar designation by an animal control
16 agency, court, or governmental body.

17 (2) The dog is not considered to be a dangerous dog under the provisions of subsection (1)(a) through
18 (1)(c) if any of the conditions provided in [section 2(2)] apply.

19
20 **NEW SECTION. Section 5. Dangerous dog -- requirements for owner.** (1) (a) The owner of a dog
21 that has been determined to be a dangerous dog under [section 4] shall comply with the requirements of this
22 section within 30 days of the owner's acquisition of the dog, within 30 days of the dog having been determined
23 to be a dangerous dog, or within 30 days of [the effective date of this act]. If a dog owner fails to comply with the
24 requirements of this section, a court having jurisdiction may require that the dog be surrendered to the designated
25 animal control agency or may order that the dog be euthanized.

26 (b) A court having jurisdiction may place conditions on the custody of animals by a person who owns a
27 dangerous dog. The conditions may include that the person may not have custody of additional animals while
28 in possession of a dangerous dog.

29 (2) The dog owner shall register the dog as a dangerous dog with the appropriate animal control agency.

30 (3) The dog owner must have implanted on the dog an identification microchip, and the microchip's

1 information must be provided to the appropriate animal control agency.

2 (4) The dog owner shall provide a secure, enclosed pen or structure that is able to be locked to prevent
3 unauthorized entry and that is designed to prevent the dog from escaping when unattended on the dog owner's
4 property.

5 (5) The dog owner shall provide a secure, enclosed secondary fence, with locking gates to prevent
6 unauthorized entry, that is adequate in strength and height to contain the dog.

7 (6) A dangerous dog may not be kept in any part of a house or structure that would allow the dog to exit
8 the house or structure on its own volition into areas that have not been secured.

9 (7) The dog owner shall display commercially manufactured signs with a warning symbol indicating the
10 presence of a dangerous dog on the owner's property.

11 (8) (a) A dangerous dog must be restrained by a secure leash and collar or other secure restraint and
12 must be under the physical control of a person capable of restricting the dog's movement when the dog is off of
13 the dog owner's property.

14 (b) A court having jurisdiction may order that a dangerous dog wear a muzzle when the dog is off of the
15 dog owner's property. The muzzle must prevent the dog from biting a person or animal but may not injure the dog
16 or interfere with its vision or respiration.

17 (9) The dog owner shall procure liability insurance in an amount of not less than \$500,000 for the
18 dangerous dog and shall retain the insurance as long as the dog is alive. The policy must contain a provision
19 requiring the insurance company to notify the appropriate animal control agency no more than 10 days after
20 cancellation, termination, or expiration of the policy.

21 (10) The dog owner shall notify the appropriate animal control agency within 24 hours of the owner's
22 change of address or the death of the dog. The owner shall immediately notify the appropriate animal control
23 agency if the dog is at large.

24 (11) The dog owner may not sell, transfer, or give the dog to another person in the state of Montana,
25 other than to an appropriate animal control or law enforcement agency.

26 (12) The dog owner must allow access to the dog and to the dog owner's property by the appropriate
27 animal control agency or law enforcement agency to ensure compliance with the provisions of this section.

28 (13) A dog owner who violates the provisions of this section is guilty of a misdemeanor and upon
29 conviction shall be fined not more than \$1,000 or be imprisoned for not more than 1 year, or both.

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1 **Section 6.** Section 7-23-2108, MCA, is amended to read:

2 **"7-23-2108. County control of dogs.** (1) ~~The~~ Subject to [sections 1 through 5], the governing body of
3 the county may regulate, restrain, or prohibit the running at large of dogs by the adoption of an ordinance ~~which~~
4 that substantially complies with the provisions of 7-5-103 through 7-5-107 and ~~which that~~ may provide for the
5 wearing of a license tag upon the collar of the dog and the keeping of a record ~~which that~~ will establish the identity
6 of the person who owns, keeps, or harbors the dog.

7 (2) Violation of an ordinance adopted under subsection (1) is a misdemeanor.

8 (3) The county governing body is authorized to impound, sell, kill, or otherwise destroy dogs found at
9 large contrary to ordinances.

10 (4) Nothing in this section restricts the governing body from enacting dog control measures in a portion
11 of the county only."

12

13 **Section 7.** Section 7-23-2109, MCA, is amended to read:

14 **"7-23-2109. ~~Vicious~~ Potentially dangerous and dangerous dog control.** (1) ~~The~~ In addition to the
15 provisions of [sections 1 through 5], a county governing body may regulate, restrain, control, kill, or quarantine
16 any ~~vicious~~ potentially dangerous dog or any dangerous dog, whether ~~such the~~ dog is licensed or unlicensed,
17 by the adoption of an ordinance ~~which that~~ substantially complies with the provisions of 7-5-103 through 7-5-107.

18 (2) A violation of any ordinance established as provided in subsection (1) is a misdemeanor.

19 (3) For purposes of this section; ~~a "vicious dog" is defined as one which bites or attempts to bite any~~
20 ~~human being without provocation or which harasses, chases, bites, or attempts to bite any other animal. The term~~

21 (a) "animal" includes all livestock and any domestic pet; and

22 (b) "dangerous dog" and "potentially dangerous dog" have the meanings provided in [section 1]."

23

24 **Section 8.** Section 27-1-715, MCA, is amended to read:

25 **"27-1-715. Liability of owner of vicious dog.** (1) The owner of a dog that without provocation bites a
26 person while the person is on or in a public place or lawfully on or in a private place, including the property of the
27 owner of the dog, located within an incorporated city or town is liable for damages that may be suffered by the
28 person bitten regardless of ~~the former viciousness of the dog or the owner's knowledge of the viciousness~~
29 whether the dog has been determined to be a potentially dangerous dog or dangerous dog under [sections 1
30 through 5].

