

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 137, As Amended

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO DANGEROUS AND AT-RISK DOGS; AMENDING SECTION 25-2810, IDAHO CODE, TO REVISE PROVISIONS REGARDING DANGEROUS AND AT-RISK DOGS; AMENDING SECTION 25-2811, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 25-2812, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 25-2810, Idaho Code, be, and the same is hereby amended to read as follows:

25-2810. DANGEROUS AND AT-RISK DOGS. ~~(1)~~ For purposes of this act section:

(1) A person commits the crime of maintaining a dangerous dog or at-risk dog if the person is the owner, possessor, or harbinger of a dangerous dog or at-risk dog as described in subsection (4) (a) or (b) of this section. In all judgements rendered under this section, if the dog in question is still living, its disposition shall in all cases be determined in the same proceeding in accordance with this section to provide restrictions for the keeping of the dog or alternatively for its destruction.

(2) Anyone who owns, possesses, or harbors a dog found to be a dangerous dog or at-risk dog under this section is guilty of a misdemeanor.

(3) The court may also, in its discretion, order any individual found guilty of violating this section to pay the victim restitution related to medical expenses, property damage, property repair and replacement costs, if any, incurred as a result of the individual's violation of the provisions of this section.

(4) Definitions.

(a) "At-risk dog" means any dog that without justified provocation bites a person without causing a serious injury as defined in this section.

(b) "Dangerous dog" means any dog that:

(i) Without justified provocation has inflicted serious injury on a person; or

(ii) Has been previously found to be at risk and thereafter bites or physically attacks a person without justified provocation.

(c) "Justified provocation" means to perform any act or omission that a reasonable person with common knowledge of dog behavior would conclude is likely to precipitate a bite or attack by an ordinary dog.

(d) "Physically attack" means an aggressive action upon a person by a dog in which there is physical contact between the dog and the person.

(e) ~~"Serious injury" means an injury to a person characterized by piercing of the hypodermis or tearing of the muscles, veins or arteries, or disfiguring lacerations that would cause a reasonably prudent person~~

1 to seek treatment from a medical professional without regard to whether  
2 the person actually sought medical treatment.

3 ~~(2) A petition for a court to declare a dog dangerous or at-risk may be~~  
4 brought by:

5 ~~(a) Any person who has been bitten or physically attacked by the dog;~~

6 ~~(b) A parent or guardian of any minor who has been bitten or physically~~  
7 ~~attacked by the dog; or~~

8 ~~(c) A county or city prosecuting attorney.~~

9 In such proceedings, it is not necessary for the petitioner to show that the  
10 owner, possessor or harbinger of such dog had knowledge of the fact that the  
11 dog would behave in a manner consistent with the definition of a dangerous or  
12 at-risk dog.

13 "Serious injury" means an injury to a person characterized by bruising,  
14 laceration, or other injury that would cause a reasonably prudent  
15 person to seek treatment from a medical professional without regard to  
16 whether the person actually sought medical treatment.

17 (35) No dog may be declared found to be a dangerous or at-risk dog when,  
18 at the time an injury or damage was sustained, the precipitating cause con-  
19 stituted justified provocation. Justified provocation includes, but is not  
20 limited to, the following:

21 (a) The dog was protecting or defending a person within the immediate  
22 vicinity of the dog from an attack or assault;

23 (b) The person was committing a crime or offense upon the property of  
24 the owner or custodian of the dog;

25 (c) The person was at the time, or had in the past, willfully tormented,  
26 abused or assaulted the dog;

27 (d) The dog was responding to pain or injury or protecting its off-  
28 spring;

29 (e) The dog was working as a hunting dog, herding dog, or predator  
30 control dog on the property of, or under the control of, its owner or  
31 keeper, and the damage or injury sustained was to a person who was in-  
32 terfering with the dog while the dog was working in a place where it was  
33 lawfully engaged in such activity, including public lands;

34 (f) The dog was a service animal individually trained to do work or per-  
35 form tasks for a person with a disability; or

36 (g) The person was intervening between two (2) or more animals engaged  
37 in aggressive behavior or fighting.

38 (46) If a court finds that a dog is dangerous pursuant to the provisions  
39 of this ~~act~~ section, in addition to any other penalty or liability provided  
40 in this ~~act~~ section, the court may order the dog to be humanely put to death.

41 (57) If a court finds that a dog belonging to an owner is dangerous or at  
42 risk pursuant to the provisions of this act, the court in its discretion may  
43 order the owner to comply with one (1) or more of the following restrictions  
44 and requirements:

45 (a) When outdoors, the dog shall be confined to a secure, locked enclo-  
46 sure from which it cannot escape and that unauthorized persons are pre-  
47 vented from accidental entry, and for which entrance and exit are con-  
48 trolled by the owner of the premises or owner of the dog;

49 (b) When off the property of the owner and not confined in a secure  
50 enclosure, the dog shall be kept on a secure leash by a competent adult

1 physically capable of controlling the dog. The court shall have the  
2 discretion to order that the dog wear a muzzle capable of preventing the  
3 dog from biting if the dog is in any public area in which contact between  
4 the dog and the public is likely to occur;

5 (c) The dog shall be permanently identified by means of a color photo-  
6 graph in a file maintained by the court and local enforcement agency and  
7 by a microchip or tattoo used for the identification of companion ani-  
8 mals at the expense of the owner. Microchip registration shall be re-  
9 ported in a timely manner by the owner of the dog to the local agency re-  
10 sponsible for the control of such dogs. Upon demand, the owner shall  
11 provide access to the dog to any such agency or local law enforcement en-  
12 tity for the purposes of verifying microchip implantation; and

13 (d) The premises on which the dog is kept shall be posted with clearly  
14 visible signs stating "Beware of Dog" and may also require posting of  
15 signs with a warning symbol that informs children of the presence of a  
16 dog that may be dangerous. Signs shall be visible from the closest road-  
17 way.

18 ~~(68)~~ Any owner of a dog designated as a dangerous or at-risk dog shall  
19 notify any local agency responsible for the control of such dogs upon the  
20 transfer of a dangerous or at-risk dog to another person within thirty (30)  
21 days of such transfer. In order to transfer ownership of a dog designated as  
22 a dangerous or at-risk dog, the current owner shall notify the new owner of  
23 any order issued by a court pursuant to the provisions of this act and provide  
24 a copy of such order prior to such transfer. All sanctions and restrictions  
25 placed upon the keeping of the dog by the court shall transfer to any person  
26 taking custody of such dog, and such person shall comply with all such sanc-  
27 tions and restrictions and be duly registered as the owner of a dangerous or  
28 at-risk dog by the local agency. Any owner relocating a dangerous or at-risk  
29 dog to another jurisdiction served by a different agency responsible for the  
30 control of such dogs, shall notify both the previous agency and the responsi-  
31 ble agency in the new location within thirty (30) days of such relocation.

32 ~~(79)~~ In the event a dog designated by a court as at risk does not sub-  
33 sequently act in a manner consistent with the definitions of a dangerous or  
34 at-risk dog, and providing that the owner and keeper of the dog has complied  
35 with all the provisions of this act, for a period of ~~three~~ two (32) years, the  
36 restrictions and requirements imposed by the court shall be waived and the  
37 dog shall no longer be classified as at risk.

38 ~~(8)~~ Any person who fails to comply with sanctions, restrictions or re-  
39 quirements imposed by the court pursuant to the provisions of this section  
40 shall be subject to the provisions of section 25-2811, Idaho Code.

41 ~~(910)~~ During the pendency of a petition case to have a dog declared  
42 found dangerous or at risk, a law enforcement officer or officer of a local  
43 agency responsible for the control of such dogs shall be authorized to take  
44 the dog into custody and place the dog in a suitable place at a customary  
45 and reasonable expense to the owner pending final disposition of the charge  
46 against the owner. In lieu of keeping the dog at such facility, officers  
47 shall have the discretion to impose reasonable temporary restrictions upon  
48 the keeping of the dog at the property of the owner such that the dog is  
49 controlled and prevented from contact with others pending the final dispo-  
50 sition of the petition case. Upon notification that an action pursuant to

1 this subsection has been initiated by an officer authorized to enforce such  
 2 action against a dog, the relocation or transfer of such dog to another shall  
 3 be prohibited and constitute a violation of this ~~act~~ section. The court may  
 4 also, in its discretion, order any individual found guilty of violating this  
 5 section to pay the law enforcement or animal control agency or animal shelter  
 6 additional restitution related to impoundment costs, medical, and veteri-  
 7 nary-related expenses, and any costs related to the care and keeping of the  
 8 animal including costs of destruction and disposal of the animal.

9 (101) Any dog that physically attacks, wounds, bites or otherwise in-  
 10 jures any person who is not trespassing, when such dog is not physically pro-  
 11 voked or otherwise justified pursuant to subsection (35) of this section or  
 12 as set forth in section 25-2808, Idaho Code, subjects either its owner or any  
 13 person who has accepted responsibility as the possessor, harbinger, or cus-  
 14 todian of the dog, or both, to civil liability for the injuries caused by the  
 15 dog. A prior determination that a dog is dangerous or ~~at-risk~~ at risk, or  
 16 subject to any court order imposing restrictions or requirements pursuant to  
 17 the provisions of this section, shall not be a prerequisite to civil liabil-  
 18 ity for injuries caused by the dog.

19 SECTION 2. That Section 25-2811, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 25-2811. PENALTIES. For persons with knowledge of an order by a court  
 22 issued pursuant to the provisions of this act:

23 (1) A person guilty of a first violation of section 25-2810(8), Idaho  
 24 Code, shall be guilty of a misdemeanor punishable by a fine of not less than  
 25 two hundred dollars (\$200) and not more than five thousand dollars (\$5,000).

26 (2) A person guilty of a second violation of section 25-2810(8), Idaho  
 27 Code, within five (5) years of the first conviction shall be guilty of a mis-  
 28 demeanor punishable by a jail sentence of not more than six (6) months or by  
 29 a fine of not less than five hundred dollars (\$500) and not more than seven  
 30 thousand dollars (\$7,000), or by both such fine and imprisonment.

31 (3) A person guilty of a third or subsequent violation of section  
 32 25-2810(8), Idaho Code, within fifteen (15) years of the first conviction  
 33 shall be guilty of a misdemeanor punishable by a jail sentence of not more  
 34 than twelve (12) months or by a fine of not less than five hundred dollars  
 35 (\$500) and not more than nine thousand dollars (\$9,000), or by both such fine  
 36 and imprisonment.

37 SECTION 3. That Section 25-2812, Idaho Code, be, and the same is hereby  
 38 amended to read as follows:

39 25-2812. LOCAL REGULATION. The provisions of this act shall establish  
 40 as state law minimum standards and requirements for the control of dogs that  
 41 may threaten the public with injury and to provide for certain state crimes  
 42 for violations of such minimum standards and requirements. Provided how-  
 43 ever, this act shall not supersede or invalidate existing ordinances of lo-  
 44 cal governments or prohibit local governments from adopting and enforcing  
 45 more restrictive definitions of a dangerous or vicious dog, ~~se~~ as long as the  
 46 local government's definition of a dangerous or vicious dog allows for acts  
 47 of justified provocation as described in section 25-2810(35), Idaho Code.