

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 137, As Amended, As Amended in the Senate

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 owns, possesses, or harbors a dangerous dog or at-risk dog as described in subsection (4) (a) or (b) of this section unless otherwise in compliance with the provisions of an order pursuant to subsection (7) 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 unless otherwise in compliance with the provisions of an order pursuant to subsection (7) of this section.

(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.

1 ~~(e) "Serious injury" means an injury to a person characterized by~~
 2 ~~piercing of the hypodermis or tearing of the muscles, veins or arteries,~~
 3 ~~or disfiguring lacerations that would cause a reasonably prudent person~~
 4 ~~to seek treatment from a medical professional without regard to whether~~
 5 ~~the person actually sought medical treatment.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (a) When outdoors, the dog shall be confined to a secure, locked enclo-
 49 sure from which it cannot escape and that unauthorized persons are pre-

1 vented from accidental entry, and for which entrance and exit are controlled by the owner of the premises or owner of the dog;

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3 (b) When off the property of the owner and not confined in a secure enclosure, the dog shall be kept on a secure leash by a competent adult physically capable of controlling the dog. The court shall have the discretion to order that the dog wear a muzzle capable of preventing the dog from biting if the dog is in any public area in which contact between the dog and the public is likely to occur;

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9 (c) The dog shall be permanently identified by means of a color photograph in a file maintained by the court and local enforcement agency and by a microchip or tattoo used for the identification of companion animals at the expense of the owner. Microchip registration shall be reported in a timely manner by the owner of the dog to the local agency responsible for the control of such dogs. Upon demand, the owner shall provide access to the dog to any such agency or local law enforcement entity for the purposes of verifying microchip implantation or tattoo; and

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

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

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

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

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47 (910) During the pendency of a petition case to have a dog declared found dangerous or at risk, a law enforcement officer or officer of a local agency responsible for the control of such dogs shall be authorized to take the dog into custody and place the dog in a suitable place at a customary and reasonable expense to the owner pending final disposition of the charge

1 against the owner. In lieu of keeping the dog at such facility, officers
 2 shall have the discretion to impose reasonable temporary restrictions upon
 3 the keeping of the dog at the property of the owner such that the dog is
 4 controlled and prevented from contact with others pending the final dispo-
 5 sition of the petition case. Upon notification that an action pursuant to
 6 this subsection has been initiated by an officer authorized to enforce such
 7 action against a dog, the relocation or transfer of such dog to another shall
 8 be prohibited and constitute a violation of this ~~act~~ section. The court may
 9 also, in its discretion, order any individual found guilty of violating this
 10 section to pay the law enforcement or animal control agency or animal shelter
 11 additional restitution related to impoundment costs, medical, and veteri-
 12 nary-related expenses, and any costs related to the care and keeping of the
 13 animal including costs of destruction and disposal of the animal.

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

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

26 25-2811. PENALTIES. For persons with knowledge of an order by a court
 27 issued pursuant to the provisions of this act:

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

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

36 (3) A person guilty of a third or subsequent violation of section
 37 25-2810(8), Idaho Code, within fifteen (15) years of the first conviction
 38 shall be guilty of a misdemeanor punishable by a jail sentence of not more
 39 than twelve (12) months or by a fine of not less than five hundred dollars
 40 (\$500) and not more than nine thousand dollars (\$9,000), or by both such fine
 41 and imprisonment.

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

44 25-2812. LOCAL REGULATION. The provisions of this act shall establish
 45 as state law minimum standards and requirements for the control of dogs that
 46 may threaten the public with injury and to provide for certain state crimes
 47 for violations of such minimum standards and requirements. Provided how-

1 ever, this act shall not supersede or invalidate existing ordinances of lo-
2 cal governments or prohibit local governments from adopting and enforcing
3 more restrictive definitions of a dangerous or vicious dog, ~~so~~ as long as the
4 local government's definition of a dangerous or vicious dog allows for acts
5 of justified provocation as described in section 25-2810 (~~35~~), Idaho Code.