



Sub. H.B. 350

123rd General Assembly
(As Passed by the General Assembly)

Reps. Olman, Perry, Allen, Opfer, Evans, Vesper, Patton, Ford, Britton, Verich, Willamowski, Goodman, DePiero, Jerse, Myers, Callendar, Calvert, Damschroder, Mettler, Tiberi, Flannery, Redfern, Harris, Stevens, Hartnett, Healy, Hoops, Krupinski, Gerberry, Boyd, J. Beatty, Metelsky, Sulzer, Krebs, Robinson, Ferderber, Stapleton, Distel, Netzley, Bender, Jolivette, Terwilleger, Barnes, Smith, Jones

Effective date: *

ACT SUMMARY

- Prohibits a person from debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog.
- Prohibits a person from possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced.
- Allows a veterinarian, before the veterinarian debarks or surgically silences a dog, to give the owner of the dog a written waiver form that attests that the dog is not a vicious dog and requires certain information to be included in the form.
- Provides a veterinarian charged with a violation of any of the prohibitions created by the act with an affirmative defense to the charge if the veterinarian obtained the above described written waiver form before debarking or surgically silencing a dog.
- Prohibits a person from falsely attesting on a waiver form provided by a veterinarian as described above that the person's dog is not a vicious dog

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

and from otherwise providing false information on the form.

- Increases from \$50,000 to \$100,000 the minimum amount of liability insurance that the owner, keeper, or harbinger of a vicious dog must obtain.
- Requires a person who possesses a debarked or surgically silenced vicious dog to have the dog humanely destroyed within 90 days of the act's effective date.
- Increases the penalty for a subsequent dogfighting conviction.

CONTENT AND OPERATION

Continuing law--dangerous and vicious dogs

Continuing law contains two prohibitions regarding "vicious dogs" (see **COMMENT**). The first prohibition pertains to controlling a vicious dog and the second prohibition pertains to obtaining liability insurance regarding a vicious dog. The first prohibition also applies regarding "dangerous dogs" (see **COMMENT**).

Failing to control a vicious or dangerous dog

The first prohibition prohibits the owner, keeper, or harbinger of a dangerous or vicious dog from failing to do either of the following, except when the dog is lawfully engaged in hunting or training for the purpose of hunting, accompanied by the owner, keeper, harbinger, or a handler (R.C. 955.22(D)):

(1) While that dog is on the premises of the owner, keeper, or harbinger, securely confining it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top, or tying a dangerous dog with a leash or tether so that the dog is adequately restrained;

(2) While that dog is off the premises of the owner, keeper, or harbinger, keeping it on a chain-link leash or tether that is not more than six feet in length and additionally doing at least one of the following:

(a) Keeping the dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

(b) Having the leash or tether controlled by a person who is of suitable age and discretion or securely attaching, tying, or affixing the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and stationing such a person in close enough proximity to that dog so as to prevent it

from causing injury to any person;

(c) Muzzling the dog.

If a violation of the first prohibition involves a dangerous dog, a person who violates that prohibition is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both. The court also may order the offender to obtain liability insurance pursuant to the second prohibition (see below). The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. (R.C. 955.99(F).)

If a violation of the first prohibition involves a vicious dog, a person who violates that prohibition is guilty of one of the following (R.C. 955.99(G)):

(1) A felony of the fourth degree on a first or subsequent offense if the dog kills or seriously injures a person. Additionally, the court must order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(2) A misdemeanor of the first degree on a first offense and a felony of the fourth degree on each subsequent offense. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(3) A misdemeanor of the first degree if the dog causes injury, other than killing or serious injury, to any person.

Failing to obtain liability insurance regarding a vicious dog

The second prohibition prohibits the owner, keeper, or harbinger of a vicious dog from failing to obtain liability insurance providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than \$50,000 because of damage or bodily injury to or death of a person caused by the vicious dog. A person who violates this second prohibition is guilty of a misdemeanor of the first degree. (R.C. 955.22(E) and 955.99(H).)

Operation of the act--dangerous and vicious dogs

Additional prohibitions

The act adds three additional prohibitions regarding "vicious dogs" (see

COMMENT). The act prohibits a person from debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog. It also prohibits a person from possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced. A person who violates either of these new prohibitions is guilty of a felony of the fourth degree, and the court must order the debarked or surgically silenced vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. (R.C. 955.22(F)(1) and (2) and 955.99(J).)

See "*Falsely attesting on a debarking or silencing waiver form*," below, for a discussion of the third new prohibition added by the act.

Technical modification of existing prohibition

The act makes technical and clarifying amendments to the continuing prohibitions that prohibit the owner, keeper, or harbinger of a dog or of a dangerous or vicious dog from failing to take certain precautions with respect to the dog when the dog is not engaged in hunting or training for hunting and accompanied by that person or a handler (R.C. 955.22(D)). It also makes technical changes to a continuing prohibition, not discussed in this final analysis, that pertains to the control of any dog (R.C. 955.22(C)).

Increase in minimum amount of liability insurance for vicious dog

The act increases the minimum amount of liability insurance that the owner, keeper, or harbinger of a vicious dog must obtain to avoid being in violation of the continuing prohibition described above in "*Failing to obtain liability insurance regarding a vicious dog*." Under the act, the insurance must provide coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than \$100,000. (R.C. 955.22(E).)

Waiver form for debarking or surgically silencing a vicious dog; use as affirmative defense

The act allows a veterinarian, before the veterinarian debarks or surgically silences a dog, to give the owner of the dog a written waiver form that attests that the dog is not a vicious dog. The written waiver form must contain the following information (R.C. 955.22(G)):

(1) The veterinarian's license number and current business address;

(2) A restatement of the new prohibitions created by the act (see "*Additional prohibitions*," above and "*Falsely attesting on a debarking or surgically silencing waiver form*," below);

- (3) The number of the license of the dog if the dog is licensed;
- (4) A reasonable description of the age, coloring, and gender of the dog, as well as any notable markings on the dog;
- (5) The signature of the owner of the dog attesting that the owner's dog is not a vicious dog.

It is an affirmative defense to a charge of a violation of the act's new prohibitions that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with the above provisions and that attests that the dog is not a vicious dog (R.C. 955.22(H)).

Falsely attesting on a debarking or silencing waiver form

The act also creates a new prohibition that prohibits a person from falsely attesting on a waiver form provided by a veterinarian (see "**Waiver form for debarking or surgically silencing a vicious dog,**" above) that the person's dog is not a vicious dog or otherwise providing false information on that written waiver form. A violation of this prohibition is a felony of the fourth degree, and the court must order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. (R.C. 955.22(F)(3) and 955.99(J).)

Increased penalty for subsequent dogfighting conviction

Continuing law prohibits a person from knowingly doing any of the following (R.C. 959.16--not in the act):

- (1) Promoting, engaging in, or being employed at dogfighting;
- (2) Receiving money for the admission of another person to a place kept for dogfighting;
- (3) Selling, purchasing, possessing, or training a dog for dogfighting;
- (4) Using, training, or possessing a dog for seizing, detaining, or mistreating a domestic animal;
- (5) Purchasing a ticket of admission to be present at a dogfight;
- (6) Witnessing a dogfight if it is presented as a public spectacle.

Formerly, a violation of this prohibition was a felony of the fourth degree,

and the penalty did not increase for a subsequent violation. The act increases the penalty for a subsequent violation of this prohibition to a felony of the third degree (R.C. 959.99(G)).

Destruction of a debarked or surgically silenced vicious dog

The act requires a person who possesses a debarked or surgically silenced vicious dog to, within 90 days of the act's effective date, have the dog humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society (Section 3).

COMMENT

As used in the act (sec. 955.22(A) by reference to sec. 955.11--not in the act):

(1) "Dangerous dog" means a dog that, without provocation, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, harbinger, or some other responsible person, or not physically restrained or confined in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top. "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(2) "Vicious dog" means a dog that, without provocation, has killed or caused injury to any person, has killed another dog, or belongs to a breed that is commonly known as a pit bull dog.¹ "Vicious dog" does not include either of the following:

(a) A police dog that has killed or caused injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(b) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

¹ *The ownership, keeping, or harboring of a pit bull dog is prima-facie evidence of the ownership, keeping, or harboring of a vicious dog.*

(3) "Without provocation" means that a dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-20-99	p. 699
Reported, H. Criminal Justice	03-22-00	p. 1704
Passed House (95-0)	03-28-00	pp. 1714-1715
Reported, S. Judiciary	05-24-00	p. 1814
Passed Senate (32-1)	05-24-00	p. 1839
House concurred in Senate amendments (90-2)	05-25-00	pp. 2131-2132

00-HB350.123/nlr

