POLICY ANALYSIS

WHY BREED-SPECIFIC LEGISLATION DOESN’T WORK: AN ANALYSIS OF DANGEROUS DOG POLICY

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**POSITION STATEMENT**

The American Kennel Club supports reasonable, enforceable, non-discriminatory laws to govern the ownership of dogs. The AKC® believes that dog owners should be responsible for their dogs. We support laws that: establish a fair process by which specific dogs are identified as “dangerous” based on stated, measurable actions; impose appropriate penalties on irresponsible owners; and establish a well-defined method for dealing with dogs proven to be dangerous.

The American Kennel Club strongly opposes any legislation that determines a dog to be “dangerous” based on specific breeds or phenotypic classes of dogs.[i]

**BACKGROUND**

Breed-specific dangerous dog legislation (BSL) is any bill that seeks to ban or place severe restrictions on owners of a particular breed of dog or dogs with certain physical characteristics, regardless of whether or not the dog is a problem in the community. While some vary by adding additional breeds, many BSL proposals seek to specifically restrict “Pit Bulls”, defined as American Pit Bull Terriers (not recognized by AKC), American Staffordshire Terriers, Bull Terriers, Staffordshire Bull Terriers, or any mix of those breeds.[ii]

Breed-specific legislation is usually proposed by state or local lawmakers in response to a specific attack by a dangerous animal or a wave of irresponsible dog ownership issues in a community. BSL proponents try to find a way to protect members of their community, and latch onto the idea of regulating a specific breed of dog as a quick and easy solution to animal control problems. However, BSL does not address the underlying problem of irresponsible ownership.

The AKC believes that a better solution is to craft legislation that addresses the deeds of specific dogs and their owners, rather than to ban an entire breed.
**POINTS TO CONSIDER**

**Breed-specific laws do not protect communities.** Instead of holding all dog owners accountable for their behavior, breed-specific laws only place restrictions on the owners of certain types of dogs. An owner intent on using his or her dogs for malicious purposes, such as dog fighting, will simply be able to switch to another type of dog, thereby continuing to jeopardize public safety. Under BSL, the list of regulated breeds or types could grow every year without ever addressing the underlying issue of irresponsible dog ownership. Deeds, not breeds, should be addressed in the ordinance.

**Breed-specific laws are difficult to enforce.** Regulations that target specific breeds force law enforcement officials to focus their valuable time on breed identification. The task requires expert knowledge of the individual breeds and can be compounded when the law includes mixed breeds. It is very difficult for public officials to enforce such provisions in a fair and effective manner.[iii]

**Breed-specific laws are unfair to responsible owners.** Like racial profiling for dogs, BSL unfairly penalizes responsible dog owners without holding owners of truly dangerous dogs accountable. Many owners of the targeted breeds are extremely responsible and loving towards their pets. Likewise, many examples of targeted breeds are well-behaved, much loved pets. BSL may prevent responsible owners from freely interacting with, showing, breeding, or providing pet therapy with their dogs, such as visits to schools, hospitals, and nursing homes. In addition, some forms of BSL may cause financial hardship to responsible owners.

**Breed-specific laws could increase costs for the community.** Shelter costs for the community could rise as citizens abandon household pets of the targeted breeds at shelters because of the inability to comply with breed-specific laws. Additionally, adoptable dogs of the targeted breeds generally cannot be adopted out and would have to be euthanized at the shelter at public expense.[iv]

**Breed-specific laws may not withstand legal challenges.** Some communities have had their breed-specific laws overturned on constitutional challenges. Because proper identification of the dogs to be included is difficult, the law may be deemed as unconstitutionally vague. It may also be found to involve the taking of property without due process.[v]

**Broad support for breed-neutral laws.** Many national animal-interest organizations join the AKC in opposing breed-specific legislation and/or promoting breed-neutral approaches to reducing dog bites, including the American Bar Association[vi], American Society for the Prevention of Cruelty to Animals[vii], American Veterinary Medical Association[viii], Association of Pet Dogs Trainers[ix], Best Friends Animal Society[x], Centers for Disease Control[xi], the Humane Society of the United States[xii], the National Animal Control Association[xiii], and the National Animal Interest Alliance[xiv].
Better Solutions

Strongly enforced animal control laws (such as leash laws), breed-neutral guidelines on dealing with dangerous dogs, and increased public education efforts to promote responsible dog ownership are all better ways to protect communities from dangerous animals. Increasing public education efforts will address the root cause of the problem (irresponsible dog owners). Uniformly enforced animal control laws require all owners, regardless of the breed they own, to be responsible animal owners while preventing irresponsible owners from simply turning to a different breed for malicious purposes.
While each jurisdiction is unique, the AKC believes that reasonable, enforceable dangerous dog laws should:

1. Avoid breed-specific language. Laws should judge a dog’s actions, not its breed or appearance.

2. Establish measurable, objective criteria for determining that a dog is dangerous. Ideally, the measure will include at least two designations (i.e., “potentially dangerous” and “dangerous”), but may include three designations (i.e., “at-risk”, “dangerous”, and “vicious”) based on severity of behavior. Laws may also provide for a dog to have its “potentially dangerous” or “at-risk” designation removed if a dog has successfully completed a training class, received an AKC Canine Good Citizen title, and/or reasonable amount of time has passed with no additional behavioral incidents.

3. Establish defenses, which may include but not be limited to: provocation (with the exception of mitigating factors), protection of other dogs, property, or owners; and situations where the victim was trespassing on the owner’s property.

4. Establish a well-defined procedure for determining a dog to be dangerous (i.e., a documented, substantiated complaint is filed, an investigation is made, a hearing is set, etc.).

5. Provide owners with a process to appeal a dangerous dog designation.

6. Determine the outcome of a dangerous dog designation. Based on the designation, the measure will address whether the dog should be restricted (and if so, how). It will also address whether the owner should be required to successfully complete a training class, or take other measures to prevent a similar incident from happening again.

7. Establish procedures for violations.
CASE STUDY: ANAMOSA, IA

In March 2018, the City of Anamosa, Iowa, lifted a seven-year ban on “pit bulls” and dogs with similar characteristics. During the first 60 days after repeal, the city of just over 5,000 residents issued 180 new dog licenses. Moreover, in the first fiscal year following the repeal, the city experienced a 45% increase in the number of dog licenses issued, representing a 250% increase in licensing compliance from just two years before.

There is no doubt that Anamosa achieved desirable results due to repealing their breed-specific ordinance. Its story illustrates that local governments with breed-neutral policies incentivize licensing compliance. In contrast, breed-specific bans drive owners to hide their dogs for fear they will be taken away. As a result, dogs are not licensed and may not receive routine vaccination or health care out of fear of being reported.

Moreover, although opponents of the repeal were concerned with impacts on the public safety, Anamosa’s Police Chief Jeremiah Hoyt publicly reported that his department has not seen any evidence that a “pit bull” is more likely to be involved in dog bit incidents. [xv]

CASE STUDY: WYANDOTTE COUNTY, KS

In May 2019, Wyandotte County (Kansas City), Kansas, repealed its “pit bull” ban. This nearly 30-year old ordinance had also banned American Staffordshire Terriers and Staffordshire Bull Terriers.

Previously, Kansas City’s Animal Services would spend one-quarter of their $1 million annual budget on enforcing the ban, including going to calls to identify “pit bulls”. The Humane Society of Greater Kansas City was forced to spend additional money on “pit bull”-type dogs in their shelter because they could only adopt out the dogs to people not located in Wyandotte County. Moreover, “pit bull”-type dogs would spend significantly more time in the shelter than other types, upwards of 20 days more.

With the money saved from repealing the ban, Wyandotte County’s Animal Services plans to upgrade housing for animals in its shelter and hire additional staff, including an adoption coordinator tasked with making sure animals find homes that best suit them. With the funds saved the County will be able to microchip every shelter animal that doesn’t already have a microchip before rehoming. These improvements in facilities, staffing, and permanent identification are possible due to the adoption of breed-neutral policies.[xvi]
CITIES & TOWNS THAT HAVE REPEALED BSL SINCE 2018

1. New Albany, OH (January 2018)
2. Libby, MT (January 2018)
3. Hastings, MI (February 2018)
4. Reynoldsburg, OH (February 2018)
5. Lakewood, OH (March 2018)
6. Ironton, MO (March 2018)
7. Anamosa, IA (March 2018)
8. Marceline, MI (April 2018)
10. Castle Rock, CO (May 2018)
11. Pratt, KS (May 2018)
12. Springfield, MO (August 2018)
13. Yakima, WA (August 2018)
14. Rocky River, OH (December 2018)
15. Mentor-on-the-Lake, OH (December 2018)
17. Fort Lupton, CO (January 2019)
18. Gardendale, AL (March 2019)
19. Eureka, MO (March 2019)
20. Willoughby Hills, OH (April 2019)
21. Liberty, MO (April 2019)
22. Cabot, AR (April 2019)
23. Kansas City & Wyandotte County, KS (May 2019)
24. Yorkville, WI (August 2019)
25. Cudahy, WI (August 2019)
26. Kosciusko, MS (September 2019)
27. South Point, OH October 2019)
28. University City, MO (October 2019)
29. Sugar Creek, MO (November 2019)
30. Maquoketa, IA (November 2019)
31. Kennewick, WA (November 2019)
32. Everett, WA (November 2019)
33. Sioux City, IA (November 2019)

STATES THAT PROHIBIT LOCAL REGULATION OF DOGS BY BREED:

Arizona
Connecticut
Delaware
Illinois
Maine
Nevada
Rhode Island
South Dakota
Utah

STATES THAT PROHIBIT LOCAL DECLARATION OF DANGEROUS DOGS ONLY BY BREED:

*California
Colorado
Delaware
Florida
Illinois
Massachusetts
New Jersey
New York
Oklahoma
Pennsylvania
Texas
Virginia

*Allows local governments to enact only breed-specific mandatory spay/neuter
SAMPLE STATE LEGISLATION

SECTION 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) "Vicious dog" means
   a. A dog that:
      1. Without provocation has killed or inflicted severe injury on a person, or
      2. Has already been declared a dangerous dog and is determined to have committed a subsequent dangerous dog action as defined in subparagraph 2.
   b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(2) "Dangerous dog" means a dog that the person or Board designated by the county or municipal authority responsible for animal control determines to have, without provocation:
   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 serious injury upon a domestic animal when not on its owner’s real property; or
   c. Approached a person when not on its owner’s property in a vicious or terrorizing manner in an apparent attitude of attack.

(3) “At-risk dog” means any dog that, without provocation:
   a. Engages in any behavior that requires a defensive action by a human to avoid bodily injury;
   b. Acts in an aggressive manner within a fenced yard or enclosure and appears to law enforcement to be able to jump over or escape, or
   c. Bites a person without causing a significant break of the skin or serious or severe injury as defined in this section.
SAMPLE STATE LEGISLATION (CONTINUED)

(4) "Owner" means any person or legal entity that has a possessory property right in a dog.

(5) "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.

(6) "Serious injury" means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, and includes non-life-threatening injuries not considered "severe" as defined in this section.

(7) "Severe injury" means any physical injury that results in a substantial risk of death or serious permanent disfigurement or protracted loss or impairment of the function of a body part or organ.

(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.

(5) Excessive barking or vocalization, as long as the dog is not exhibiting other at-risk, dangerous, or vicious behaviors as defined in this section.
SAMPLE STATE LEGISLATION (CONTINUED)

(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 an "at-risk dog", "dangerous dog", or "vicious dog" and shall designate a separate Board to hear any appeal. The person or Board making the determination must notify the owner in writing, giving the reasons for the determination, before the dog may be considered “at-risk”, “dangerous”, or “vicious” 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. 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.

SECTION 2 - AT-RISK DOGS.

(a) The owner of a dog determined to be “at-risk”, after appropriate notification and any appeal pursuant to Section 1, will be required to demonstrate, for a first offense, that appropriate steps have been taken to correct the behavior, such as successful completion of a dog behavior class or American Kennel Club Canine Good Citizen certification or similar accepted program.

(b) If a second offense occurs within 24 months, the owner is guilty of a class 3 misdemeanor. The county or municipal authority responsible for animal control may, on a second offense, declare the dog a “dangerous dog”, subject to a hearing and any appeals as described in Section 1.

(c) The owner of a dog determined to be an “at-risk” dog may apply to the county or municipal authority responsible for animal control to have the designation removed if 24 months have elapsed with no further “at-risk” behaviors as defined in this section.
SECTION 3 - PRECAUTIONS AGAINST ATTACKS BY VICIOUS AND DANGEROUS DOGS.

(a) It is unlawful for an owner to:

(1) Leave a vicious or 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 vicious or dangerous dog to go beyond the owner’s real property unless the dog is leashed on a tether no longer than six feet in length and muzzled or is otherwise securely restrained and muzzled.

(3) Keep a vicious or dangerous dog on their premises without posting a sign in a conspicuous location on the outside of the property alerting those entering the property that a “vicious dog” or “dangerous dog” is on the premises.

   I. A sign stating, “BEWARE OF DOG”, “dangerous/vicious dog on premises”, or similar language is considered appropriate for the purposes of this section.

   II. The sign must be posted within three days of a final designation that the dog is vicious or dangerous as described in Section 1.

(b) If the owner of a dog declared vicious or dangerous transfers ownership or possession of the dog to another person, 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.

SECTION 4 - ADDITIONAL REQUIREMENTS FOR OWNERS OF VICIOUS DOGS.

(a) It is unlawful for an owner to:
SAMPLE STATE LEGISLATION (CONTINUED)

(1) Possess a vicious dog without the dog being registered as a vicious dog with the county or municipal authority responsible for animal control.

(2) Possess a vicious dog that has not been sterilized, provided the dog is of appropriate age and health for sterilization as determined by a licensed veterinarian.

(3) No person under 18 years of age shall own, control, or be responsible for the care of a vicious dog

SECTION 5 - PENALTY FOR ATTACKS BY VICIOUS AND DANGEROUS DOGS.

(a) The owner of a dog previously declared vicious or dangerous pursuant to Section 1 that attacks a person and causes serious or severe physical injuries shall be guilty of a felony.

(b) The owner of a dog previously declared vicious or dangerous pursuant to Section 1 that attacks a person and causes the victim’s death, shall be guilty of a felony. The county or municipal authority responsible for animal control pursuant to this article shall cause said dog to be humanely euthanized.

(c) The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one thousand dollars ($1,000) shall be guilty of a misdemeanor.

SECTION 6 - STRICT LIABILITY.

The owner of a vicious or 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.

SECTION 7 - 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, provided that no program, law, or regulation shall be specific to breed, phenotype, or appearance.

Victoria L. Voith, et al., Comparison of Adoption Agency Breed Identification and DNA Breed Identification of Dogs, 12 Journal of Applied Animal Welfare Society, 253, 260 (2009) (suggesting with the discrepancy of option by shelters and identification by DNA, that it would be worthwhile to reevaluate the reliability of breed identification as well as the justification of current public and private policies pertaining to specific dog breeds).

See e.g. American Dog Owners Assoc. v. City of Lynn, 533 N.E.2d 632 (Mass. 1989) (finding the law unconstitutional and stating that it "depends for enforcement on the subjective understanding of dog officers of the appearance of an ill-defined "breed," leaves dog owners to guess at what conduct or dog "look" is prohibited. ...Such a law gives unleashed discretion to the dog officers charged with its enforcement, and clearly relies on their subjective speculation whether a dog’s physical characteristics make it what is "commonly understood" to be a "Pit Bull.").


Humane Society of the United States, All dogs are equal, https://www.humanesociety.org/resources/all-dogs-are-equal (last visited July 30, 2019).


The American Kennel Club believes that comprehensive, breed-neutral dangerous dog laws are the best way to ensure the safety of communities while holding all owners accountable for their dogs.

The AKC welcomes the opportunity to work with lawmakers and communities to establish effective legislative and public education solutions to protect the community and encourage responsible dog ownership.

For more information or to speak with a member of the AKC Government Relations Staff, call 919-816-3720 or email doglaw@akc.org.