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ANIMALS

Dangerous Dog Control: Limit Liability of Local Governments

CODE SECTIONS:	O.C.G.A. §§ 4-8-21(1) (amended), 4-8-21(6) (amended), 4-8-23 (amended), 4-8-25 (amended), 4-8-29 (amended), 4-8-30 (new)
BILL NUMBER:	HB 630
ACT NUMBER:	170
SUMMARY:	The Act limits the responsibilities of local governments in regulating dangerous dogs. Changes to definitions make identification of dangerous dogs and potentially dangerous dogs easier. The Act places on dog owners the duty to register dogs annually, and to notify local officials if they move to a new jurisdiction within the state. Additionally, the Act clarifies the intent of the Legislature to hold dog owners, and not local governments, solely responsible for any injuries caused by dangerous and potentially dangerous dogs.
EFFECTIVE DATE:	March 22, 1989

History

In 1988, the Georgia General Assembly enacted the Georgia Dangerous Dog Control Law,[1] comprehensive legislation dealing with vicious dogs. The law was passed in response to a series of fatal attacks by pit bulls throughout the State.[2] The law defined and regulated dangerous and potentially dangerous dogs,[3] and provided for fines or jail terms for owners who violate the regulations.[4] The law required local governments to enforce the regulations.[5]

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1. 1988 Ga. Laws 824.
2. Jenkins & Long, *Cobb Balks at Implementing State's New Dangerous-Dog Measure*, Atlanta Const., Dec. 14, 1988, at B2, col. 2 [hereinafter *Cobb Balks*]. At the hearings on the proposed law, legislators saw photographs and films of children attacked by pit bulls. The legislators were disturbed and decided a state-wide law regulating dangerous dogs was needed. Telephone interview with Representative Lunsford Moody, House District No. 153 (Sept. 21, 1989).
3. 1988 Ga. Laws 824.
4. *Id.*
5. *Id.*

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Local governments complained of "a heavy administrative and financial burden."[6] The law required, among other things, that local governments take steps to identify dangerous and potentially dangerous dogs within their jurisdictions.[7] Local governments were also required to monitor dog owners' compliance.[8] Counties were permitted to form animal control boards to provide a forum for owners who dispute their dogs' classification.[9] Owners of dangerous dogs were required to post a $15,000 bond or buy a $15,000 liability insurance policy.[10] One city attorney pointed out that, to avoid liability, a local government would have "to keep track of lapsed or canceled insurance policies and bonds."[11] Local governments were also concerned that failure to enforce the law would expose local governments to liability for any injuries caused by dangerous dogs within their jurisdictions.[12] At least one county voted not to adopt the law, choosing instead to lobby State legislators to change the law.[13]

HB 630

Local governments petitioned the Legislature in 1989 to limit their liability.[14] The Act makes a number of changes in the Georgia Dangerous Dog Control Law. The Act amends the definitions of "dangerous dog" and "potentially dangerous dog"; only dogs classified after March 31, 1989, are included.[15] In addition, the definition of "potentially dangerous dog" was changed from a "known propensity, tendency, or disposition to attack unprovoked,"[16] or to chase or approach humans "in a vicious or terrorizing manner"[17] to one that "bites a human being" without provocation.[18] This definition makes it easier for local governments to identify a dog as potentially dangerous; many local officials expressed

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6. Davis, *State Law on Dangerous Dogs Not 'Workable,' City Attorney Says*, Atlanta J. & Const., July 4, 1988, at A10, col. 2 [hereinafter *Law Not Workable*].

7. 1988 Ga. Laws 824.

8. *Id. See also Law Not Workable, supra* note 6, at col. 5.

9. 1988 Ga. Laws 824.

10. *Id.* Dog owners may have trouble finding the requisite insurance coverage. Some insurance companies are refusing to grant homeowner's insurance to applicants whose dogs have bitten someone before. King, *Insurers Have Bad News for Owners of Vicious Dogs*, Atlanta J. & Const., Dec. 3, 1988, at D1, col. 1.

11. *Law Not Workable, supra* note 6, at col. 2.

12. *Id.*

13. *Cobb Balks, supra* note 2, at col. 1.

14. Telephone interview with Jim Grubiak, Association of County Commissioners of Georgia (Sept. 20, 1989) [hereinafter Grubiak Interview].

15. O.C.G.A. § 4-8-21(1), (6) (Supp. 1989). Several counties asked for this change to make it clear that they had no duty to search their records to identify dogs that had been dangerous in the past. Grubiak Interview, *supra* note 14.

16. 1988 Ga. Laws 824.

17. *Id.*

18. O.C.G.A. § 4-8-21(6) (Supp. 1989).

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concern that it would be difficult to identify a dog that had a propensity for unprovoked attack.[19]

The Act also amends section 4-8-23 by relieving local animal control officers of the duty of identifying dangerous dogs and their owners.[20] Animal control officers need only investigate "[u]pon receiving a report of a dangerous dog or potentially dangerous dog" from another governmental entity.[21]

The 1988 law required the posting of a sign containing a symbol to warn children of a dangerous dog.[22] Local governments asked that this be changed; it was unclear to them what kind of sign would adequately warn very small children.[23]

A related bill, SB 106, amended O.C.G.A. § 4-8-25 to require the Department of Natural Resources (DNR) to design an appropriate warning symbol by July 1, 1989.[24] Owners of dangerous or potentially dangerous dogs will be required to post a sign using this symbol within sixty days of its distribution by the DNR.[25]

The Act requires a new Georgia resident who owns a dangerous or potentially dangerous dog to register it within thirty days after becoming a resident.[26] A Georgia resident who owns a dangerous or potentially dangerous dog who moves from one part of Georgia to another, must register the dog in the new jurisdiction within ten days.[27] These changes reduce the burden on city and county animal control officers.[28] Under the 1988 Act, these officials were required to investigate to identify dangerous and potentially dangerous dogs throughout their jurisdictions.[29] They were also required to notify other jurisdictions of dog owners who were relocating within Georgia.[30]

Section 4-8-25(f) was added to reduce the potential liability of a local government if the government failed to ensure that a dog owner whose dog injured someone had met all the provisions of the law.[31] A local government certificate of registration "does not warrant or guarantee"

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19. *Id.* State legislators were also concerned that nonthreatening house pets might be labelled as potentially dangerous dogs by overly sensitive people who imagined that the dogs were vicious. Grubiak Interview, *supra* note 14.

20. *Compare* O.C.G.A. § 4-8-23(a) (Supp. 1989) *with* 1988 Ga. Laws 824.

21. O.C.G.A. § 4-8-23(a) (Supp. 1989). The entities specified are: "law enforcement agency, animal control agency, rabies control officer, or county board of health." *Id.*

22. 1988 Ga. Laws 824.

23. Grubiak Interview, *supra* note 14.

24. O.C.G.A. § 4-8-25(b)(2)(B) (Supp. 1989).

25. O.C.G.A. § 4-8-25(b)(2)(C) (Supp. 1989).

26. O.C.G.A. § 4-8-25(e) (Supp. 1989).

27. *Id.*

28. Grubiak Interview, *supra* note 14.

29. 1988 Ga. Laws 824.

30. *Id.*

31. Grubiak Interview, *supra* note 14.

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that these dogs are penned, that a warning sign is posted,[32] or that the owner has the required insurance or bond.[33]

The Act requires owners of dangerous or potentially dangerous dogs to renew their certificates of registration annually.[34] Before renewing, an animal control officer must verify that the dog is being "confined in a proper enclosure, and that the owner is continuing to comply with other provisions" of the statute.[35] The official can make this determination based either on evidence of compliance provided by the owner, or upon his own investigation.[36]

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32. O.C.G.A. § 4-8-25(f) (Supp. 1989).
33. O.C.G.A. § 4-8-25(c), (f) (Supp. 1989).
34. O.C.G.A. § 4-8-25(h) (Supp. 1989).
35. *Id.*
36. *Id.*

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