

ASSEMBLY BILL NO. 71—ASSEMBLYMAN HAMBRICK

PREFILED JANUARY 17, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing dangerous or vicious dogs. (BDR 15-13)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising provisions governing the basis and procedure for determining whether a dog is dangerous or vicious; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth the circumstances under which a dog may be deemed dangerous or vicious and provides criminal penalties for a person who knowingly owns or keeps a vicious dog after notice that the dog is vicious or who knowingly transfers ownership of such a vicious dog. (NRS 202.500) This bill: (1) revises the criteria by which a dog may be determined to be dangerous by a law enforcement agency or vicious by a court; (2) establishes a procedure for making such a determination about a dog; and (3) sets forth specific actions that may be taken with respect to a dog that has been determined to be dangerous or vicious, including, for example, requiring that the dog be spayed or neutered, microchipped, confined in an enclosure or humanely destroyed.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 202.500 is hereby amended to read as follows:

202.500 1. ~~As used in this section, a dog is:~~

~~(a) “Dangerous” if:~~

~~(1) It is so declared pursuant to subsection 2; or~~

~~(2) Without provocation, on two separate occasions within 18 months, it behaves menacingly, to a degree that would lead a reasonable person to defend himself or herself against substantial bodily harm, when the dog is:~~



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~~(I) Off the premises of its owner or keeper; or~~
~~(II) Not confined in a cage, pen or vehicle.~~
~~(b) "Provoked" when it is tormented or subjected to pain.~~
~~(c) "Vicious" if:~~
~~(1) Without being provoked, it kills or inflicts substantial~~
~~bodily harm upon a human being; or~~
~~(2) After its owner or keeper has been notified by a law~~
~~enforcement agency that it is dangerous, it continues the behavior~~
~~described in paragraph (a).~~

~~2. A~~ Except as otherwise provided in subsection 3, a dog may
be ~~declared~~ *deemed* dangerous by a law enforcement agency if ~~it~~
~~is used in the commission of a crime by its owner or keeper.~~

~~3.1~~ , after a thorough investigation, the dog is found to be a
dangerous dog by a preponderance of the evidence. For the
purposes of this subsection, a "thorough investigation" includes,
without limitation, a law enforcement agency:

(a) Notifying the owner or keeper of the dog of the alleged
infractions within 10 business days after becoming aware of the
alleged infractions and informing the owner or keeper that an
investigation has been initiated;

(b) Affording the owner or keeper of the dog an opportunity to
meet with the appropriate law enforcement officer before making
a determination that the dog is dangerous;

(c) Gathering any medical or veterinary evidence;

(d) Interviewing witnesses; and

(e) Preparing a detailed written report.

2. Upon determining whether a dog is dangerous, the law
enforcement agency shall notify the owner or keeper of the dog of
the determination as soon as practicable by registered or certified
mail, return receipt requested, and the notification must include a
complete description of the process for appealing such a
determination.

3. A dog may not be ~~found~~ *deemed* dangerous ~~for vicious~~
because of a defensive act against ~~at~~ :

(a) A person who was committing or attempting to commit a
crime or who provoked the dog ~~to~~

~~4.1~~ ; or

(b) A domestic animal which attacked or provoked the dog.

4. If a dog is deemed dangerous by a law enforcement
agency, the law enforcement agency shall order that the dog be
spayed or neutered and microchipped at the expense of the owner
or keeper of the dog within 14 days after receipt of the
determination by the owner or keeper. In addition, the law
enforcement agency may order:



1 (a) *An evaluation of the dog by a licensed veterinarian or*
2 *other recognized expert in the field and completion of training or*
3 *other treatment as deemed appropriate by the expert. The owner*
4 *or keeper of the dog is responsible for all costs associated with the*
5 *evaluation and any training or other treatment ordered by the law*
6 *enforcement agency.*

7 (b) *The direct supervision of the dog by an adult who is 18*
8 *years of age or older whenever the dog is on public premises.*

9 (c) *That the dog be muzzled whenever it is on public premises*
10 *in a manner which will prevent the dog from biting any person or*
11 *animal but which will not injure the dog or interfere with its vision*
12 *or respiration.*

13 (d) *That the dog be impounded if the owner or keeper fails to*
14 *comply with the requirements of this section.*

15 5. *Except as otherwise provided in subsection 6, a dog may be*
16 *deemed vicious by a court in this State if:*

17 (a) *After a law enforcement agency gives notice of the*
18 *infraction that is the basis of the investigation to the owner or*
19 *keeper of the dog, the law enforcement agency conducts a*
20 *thorough investigation as described in subsection 1; and*

21 (b) *The district attorney files a complaint in justice court or the*
22 *city attorney files a complaint in municipal court to have the dog*
23 *deemed a vicious dog and is able to prove the dog is vicious by*
24 *clear and convincing evidence.*

25 6. *A dog may not be deemed vicious if the court determines*
26 *that the conduct of the dog was justified because:*

27 (a) *The person who was threatened, injured or killed by the*
28 *dog:*

29 (1) *Was committing a crime or offense upon the owner or*
30 *keeper of the dog;*

31 (2) *Was committing a willful trespass or other tort upon the*
32 *premises or property owned or occupied by the owner or keeper of*
33 *the dog;*

34 (3) *Was abusing, assaulting or physically threatening the*
35 *dog or its offspring; or*

36 (4) *Has in the past abused, assaulted or physically*
37 *threatened the dog or its offspring; or*

38 (b) *The dog was responding to pain or injury or was protecting*
39 *itself, its offspring, its owner or keeper, or a member of its*
40 *household or kennel.*

41 7. *A law enforcement agency or an animal control agency*
42 *shall determine where a dog is to be confined while a case is*
43 *pending before the court pursuant to subsection 5.*

44 8. *If a dog is deemed vicious by the court, the court shall*
45 *order that the dog be:*



(a) Spayed or neutered, microchipped and kept in an enclosure at the expense of the owner or keeper of the dog within 10 days after the court's order; or

(b) Humanely destroyed.

9. A dog deemed vicious by the court must not be released to the owner or keeper of the dog until a law enforcement officer approves the enclosure. A vicious dog may only be allowed out of an enclosure:

(a) If it is necessary for the dog to receive veterinary care;

(b) If there is an emergency or natural disaster in which the life of the dog is threatened; or

(c) If it is necessary to comply with the order of a court, provided that the dog is securely muzzled and restrained with a leash not exceeding 6 feet in length and is under the direct control and supervision of the owner or keeper of the dog.

➔ If the owner or keeper of the dog fails to comply with the requirements of this section, the court shall order that the dog be impounded. If the owner or keeper of the dog does not appeal the impoundment order to the court within 15 working days after the impoundment, the dog may be humanely destroyed. Upon the filing of a notice of appeal by the owner or keeper of the dog, the order to humanely destroy the dog will be automatically stayed pending the outcome of the appeal. The owner or keeper of the dog has the burden of timely notifying, in writing, the animal control agency where the dog is impounded of the appeal.

10. A person who knowingly ~~†~~:

~~—(a) Owns or keeps a vicious dog, for more than 7 days after the person has actual notice that the dog is vicious; or~~

~~—(b) Transfers† transfers~~ ownership of a vicious dog after the person has actual notice that the dog is vicious ~~†~~

➔† is guilty of a misdemeanor.

~~†5-†~~ 11. If a person knowingly fails to comply with the requirements for maintaining a dangerous or vicious dog pursuant to this section:

(a) The person is guilty of a misdemeanor.

(b) In addition to any other penalty, the court shall order the person to pay any costs for impoundment of the dog.

12. If substantial bodily harm results from an attack by a dog known to be vicious, its owner or keeper is guilty of a category D felony and shall be punished as provided in NRS 193.130. In lieu of, or in addition to, a penalty provided in this subsection, the judge may order the vicious dog to be humanely destroyed.

~~†6-†~~ 13. A dog must not be deemed dangerous or vicious based solely on the breed of the dog.



1 14. *A local authority shall not adopt or enforce an ordinance*
2 *or regulation that deems a dog dangerous or vicious based solely*
3 *on the breed of the dog.*

4 15. This section does not apply to a dog used by a law
5 enforcement officer in the performance of his or her duty.

6 16. *For the purposes of this section, a dog is:*

7 (a) *"Dangerous" if:*

8 (1) *It is so deemed pursuant to subsection 1; or*

9 (2) *Without being provoked, on two separate occasions*
10 *within 18 months, it behaves menacingly, to a degree that would*
11 *lead a reasonable person to defend himself or herself or a*
12 *domestic animal against substantial bodily harm, when the dog is:*

13 (I) *Unleashed and off the premises of its owner or*
14 *keeper; or*

15 (II) *Not confined in a cage, pen or vehicle.*

16 (b) *"Provoked" when it is tormented or subjected to pain.*

17 (c) *"Vicious" if:*

18 (1) *Without being provoked, it kills or inflicts substantial*
19 *bodily harm upon a human being; or*

20 (2) *After its owner or keeper has been notified by a law*
21 *enforcement agency that it is dangerous, the dog continues the*
22 *behavior described in paragraph (a).*

23 17. *As used in this section:*

24 (a) *"Enclosure" means a fence or structure which is at least 6*
25 *feet in height and which is securely enclosed, locked and designed*
26 *to prevent a vicious dog from escaping the enclosure while*
27 *preventing the entry of young children. The term includes:*

28 (1) *A room within a residence if the room does not have*
29 *direct access to the outdoors, other than direct access to an*
30 *enclosed pen that is located outdoors, and if the door to the room*
31 *is locked.*

32 (2) *An entire residence, if the vicious dog is muzzled at all*
33 *times.*

34 (b) *"Local authority" means the governing board of a county,*
35 *city or other political subdivision having authority to enact laws or*
36 *ordinances or promulgate regulations relating to dogs.*

