HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 997 Dangerous Dogs
SPONSOR(S): Trujillo and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Kaiser	Blalock
2) Community & Military Affairs Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Chapter 767, F.S., governs issues related to damage by dogs, including restrictions on dangerous dogs. Currently, Florida law provides that local governments may place further restrictions or additional requirements on owners of dangerous dogs or develop procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. However, this provision does not apply to any local ordinance adopted prior to October 1, 1990. Miami-Dade is the only county that has breed specific regulations adopted prior to October 1, 1990.

This bill removes the exemption for breed-specific local ordinances adopted prior to October 1, 1990. Therefore, Miami-Dade County will no longer be able to have breed-specific restrictions or requirements on owners of dangerous dogs.

The bill does not appear to have a fiscal impact on state government. The bill may result in a decrease in fees or penalties collected by Miami-Dade County that currently has breed-specific ordinances.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 767.11, F.S., defines a dangerous dog as "any dog that according to the records of the appropriate authority:

- Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner's property; or
- Has, when unprovoked chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority."

Section 767.12, F.S., requires animal control authorities to investigate reported incidents involving dogs that may be dangerous. While under investigation, the dogs are impounded with the authorities or securely confined by the owner pending the outcome. After an investigation, the animal control authority makes an initial determination regarding if there is enough information (sufficient cause) to classify the dog as dangerous. If so, the owner is afforded a hearing before final determination of the dog's status. The owner has seven days to request a hearing with the animal control authority. If the dog is classified as dangerous after the hearing, the owner may file a written request for a hearing in the county court to appeal the classification within 10 days after receipt of a written determination of the dangerous dog classification. Pending resolution of the appeal, the dog must be confined in a securely fenced or enclosed area.

An owner has 14 days to obtain a certificate of registration after a dog has been classified as dangerous. This certificate must be renewed annually and may only be issued to persons at least 18 years old who have presented evidence of the following:

- Current rabies vaccination;
- Confinement in a proper enclosure with posting of warning signs at all entry points of the premises; and
- Permanent identification, such as a tattoo.

An annual fee is authorized to be imposed for the issuance of registration certificates.

If a dog is classified as a dangerous dog, the owner must immediately notify the authorities when the dog:

- Is loose or unconfined;
- Has bitten a human or attacked an animal;
- Has been sold, given away or dies; or
- Is moved to a new location.

Prior to a dangerous dog being sold or given away, several things must first occur. The owner must give the animal control authority information regarding the new owner. Secondly, the new owner must comply with all statutory and local provisions relating to dangerous dogs, even if the dog is being moved to another jurisdiction within the state. The new owner must also notify the local animal control authority that a dangerous dog is now in his jurisdiction.

A dangerous dog is not permitted to be outside its proper enclosure unless it is muzzled, restrained by a substantial chain or leash, and under control of a competent person. The dog may be exercised in an enclosure or area without a top, only if the dog is never out of the owner's sight. When being transported, the dog must be securely restrained in the vehicle.

Hunting dogs are exempt from the provisions of section 767.12, F.S., while engaged in any legal hunt or training exercise. However, at all other times, hunting dogs are subject to section 767.12, F.S. Dangerous dogs may not be used for hunting purposes. This section is not applicable to law enforcement dogs.

A person who violates any provision relating to the certification process, confinement parameters, or other unlawful acts as described in s. 767.12, F.S., is guilty of a noncriminal infraction and may be fined up to $500.

The classification "dangerous dog" may mean life or death for the dog if the dog bites a human or animal. If a dog that has been classified as a dangerous dog bites a person or domestic animal without provocation, the dog is immediately confiscated and placed in quarantine or impounded. The dog is held for 10 business days from notification of its owner, and then destroyed. During the 10 days, the owner may request a hearing. If an appeal is filed, the dog may not be destroyed pending the appeal. In addition, the owner is guilty of a misdemeanor of the first degree if the owner had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances.[1] The owner is liable for boarding costs and fees arising from the holding of the dog during any appeal procedure.

A similar scenario occurs when a dog that has not been classified as dangerous attacks and causes severe injury or death to any human. A dog that has not been classified as dangerous is not destroyed if it causes harm to a domestic animal. However, the attack may lead to a "dangerous dog" classification.

Section 767.14, F.S., provides that local governments may place further restrictions or additional requirements on owners of dangerous dogs or develop procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. However, this provision does not apply to any local ordinance adopted prior to October 1, 1990. Miami-Dade is the only county that has breed specific regulations adopted prior to October 1, 1990.

Effect of Proposed Changes

This bill amends s. 767.14, F.S., to remove the exemption of breed-specific local ordinances adopted prior to October 1, 1990. Therefore, Miami-Dade County will no longer be able to have breed-specific restrictions or requirements on owners of dangerous dogs.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.14, F.S., removing the exemption of breed-specific local ordinances adopted prior to October 1, 1990.

Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

[1] Section 767.13(2), F.S.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may result in a decrease in fees or penalties collected by Miami-Dade County that currently has breed-specific ordinances.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None