

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	14 Y, 0 N	Kaiser	Blalock
2) Community & Military Affairs Subcommittee	13 Y, 1 N	Gibson	Hoagland
3) State Affairs Committee		Kaiser	Hamby

SUMMARY ANALYSIS

Chapter 767, F.S., contains the state's laws relating to "Damage by Dogs", including restrictions on dangerous dogs. In 1990, the Legislature specified that nothing limits any local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria to implement state law relating to dangerous dogs, provided that no such local regulation is breed-specific and that state law is not lessened by such additional local regulations or requirements. The Legislature, however, grandfathered-in local breed-specific ordinances that had been adopted prior to October 1, 1990. A handful of local governments were grandfathered-in under this provision. Today, Miami-Dade County, which has a pit bull ordinance, is the only county with a breed-specific ordinance adopted prior to October 1, 1990.

The bill removes the exemption for breed-specific local ordinances adopted prior to October 1, 1990. Local governments may continue to use home rule authority to place additional restrictions or requirements on owners of dangerous dogs above that which exists in state law. However, no additional regulation or restriction is allowed to be breed-specific. Therefore, Miami-Dade County will no longer be able to enforce its breed-specific pit bull ordinance.

The bill does not appear to have a fiscal impact on state government. The bill's fiscal impact on local government is indeterminate at this time (see Fiscal Analysis).

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Law Relating to Dangerous Dogs

Chapter 767, F.S., contains the state's laws relating to "Damage by Dogs." In 1990, the legislature enacted a dangerous dog law finding that:

dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of dangerous dogs.¹

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.

¹ S. 767.10, F.S., ch. 90-180, L.O.F.

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 its 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 s. 767.12, F.S., while engaged in any legal hunt or training exercise. However, at all other times, hunting dogs are subject to s. 767.12, F.S. Dangerous dogs may not be used for hunting purposes. Law enforcement dogs are not subject to these provisions.

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.² 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.

Local Breed-Specific Regulation

Breed-specific laws and ordinances target specific breeds and subject them to regulation or complete bans, as opposed to basing regulation upon any prior conduct of an animal. In 1990, the Legislature specified that nothing limits any local government from placing further restrictions or additional requirements on owners of dangerous dogs or developing procedures and criteria to implement state law relating to dangerous dogs, provided that no such local regulation is breed-specific and that state law is not lessened by such additional local regulations or requirements. Florida is one of twelve states that prohibit local governments from enacting breed-specific ordinances. The Legislature, however, grandfathered-in local breed-specific ordinances that had been adopted prior to October 1, 1990. A

² S. 767.13(2), F.S.

handful of local governments were grandfathered-in under this provision,³ and today, Miami-Dade County, which has a pit bull ordinance, is the only county with a breed-specific ordinance adopted prior to October 1, 1990.

Miami-Dade County Pit Bull Ordinance

In 1989, Miami-Dade County adopted a pit bull ordinance in response to a series of incidents where residents were attacked and seriously injured by pit bulls.⁴ Today, it is illegal in Miami-Dade County to own or keep American Pit Bull Terriers, American Staffordshire Terriers, Staffordshire Bull Terriers, or any other dog that substantially conforms to any of these breeds' characteristics.⁵

Persons who acquire or keep a pit bull dog are subject to a \$500 fine and court action to force the removal of the dog from the county.⁶ Owners of a dog may bring the animal to the county's Animal Services Department to have the dog's breed evaluated. Persons whose dog is identified as pit bulls will not receive a citation, but they are required to remove the dog from the county.⁷ According to Miami-Dade's Animal Services webpage,⁸ if the Animal Services Department receives a report or complaint about an address where a pit bull is being kept, the Department will conduct an investigation. If the address of the owner is not known or the pit bull is observed running at large, the pit bull is classified as a stray and, if not registered, will be held for 5 days and then put down. Pit bulls with identification or that are registered are held for 5 days and the owner will receive a citation and be given the opportunity to remove the animal from the county.

In October of 2008, the Senate Committee on Community Affairs conducted an interim report that reviewed local breed-specific ordinances and state preemption of them.⁹ The report noted that, citing specific studies, advocates of breed specific legislation argue that certain breeds of dogs are inherently more dangerous than other breeds. The Miami-Dade County pit bull ordinance was based upon this policy argument. Opponents, to breed specific legislation argue that breed-specific legislation is based on irrational and impulsive decisions with faulty studies to back them up. The report further noted that opponents to breed-specific legislation point to the difficulty of properly identifying specific breeds, especially for pit bulls that are a compilation of several types of breeds. Opponents argue that stricter enforcement and harsher penalties for violating already existing dangerous dog laws should be put into place as opposed to legislation that targets only specific dog breeds.

Effect of Proposed Changes

The bill amends s. 767.14, F.S., to remove the exemption of breed-specific local ordinances adopted prior to October 1, 1990. Local governments may continue to use home rule authority to place additional restrictions or requirements on owners of dangerous dogs above that which exists in state law. However, no additional regulation or restriction is allowed to be breed-specific. Therefore, Miami-Dade County will no longer be able to enforce its breed-specific pit bull ordinance.

³ See Florida Senate Committee on Community Affairs Interim Report 2009-102, *Review of the Viability of City or County Preemption of Banning Certain Dog Breeds by Ordinance*, available at:

http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-102ca.pdf (last accessed Feb. 6, 2012).

⁴ See Miami-Dade County, FL, Ordinance No. 89-22 (1989).

⁵ See Miami Dade County Code of Ordinances, s. 5-17. Those pit bulls that were located in Miami-Dade County at the time of the ordinance's adoption are required to be registered with the Animal Services Department and be securely confined indoors or in a locked pen, and if not confined, the dog must be muzzled to prevent it from biting or injuring any person or animal (Miami Dade County Code of Ordinances, ss. 5-17.2, 5-17.4).

⁶ Miami Dade County Pit Bull Law, see http://www.miamidade.gov/animals/pit_bull_law.asp (last accessed Feb. 6, 2012).

⁷ *Id.*

⁸ *Id.*

⁹ See Florida Senate Committee on Community Affairs Interim Report 2009-102, *Review of the Viability of City or County Preemption of Banning Certain Dog Breeds by Ordinance*, available at:

http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-102ca.pdf (last accessed Feb. 6, 2012).

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

2. Expenditures:
None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None

2. Expenditures:
Miami-Dade County will see a cost savings as a result of no longer having to enforce its pit bull ordinance. Proponents of the bill have indicated that the savings will be substantial. The Animal Services Department, which is responsible for enforcing the ordinance, does not break down enforcement costs by breed or by ordinance, and so the positive fiscal impact is indeterminate at this time.

Miami-Dade County has also indicated that county costs may rise due to an increase in responses to dangerous dog calls and also an increase in health care costs relating to the treatment of additional injuries caused by pit bulls at the county-operated Jackson Memorial Hospital. Proponents of the bill dispute this, citing studies showing the ineffectiveness of breed-specific ordinances in preventing injuries and attacks. Any increase in expenditures to Miami-Dade County may be offset by the reduction in expenditures from no longer having to enforce the pit bull ordinance.

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