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AN ACT

RELATING TO ANIMALS; ENACTING THE DANGEROUS DOG ACT;
AUTHORIZING SEIZURE AND DESTRUCTION OF DANGEROUS DOGS;
DECLARING EXCEPTIONS; IMPOSING REGISTRATION AND HANDLING
REQUIREMENTS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Dangerous Dog Act".

Section 2. DEFINITIONS.--As used in the Dangerous Dog
Act:

A. "animal control authority" means an entity
authorized to enforce the animal control laws of a city,
county or state, whether acting alone or in concert with
other governmental authorities. In those areas not served by
an animal control authority, the sheriff or municipal law
enforcement shall carry out the duties of the animal control
authority under the Dangerous Dog Act;

B. "dangerous dog" means a dog that caused a
serious injury to a person or domestic animal;

C. "owner" means a person who possesses, harbors,
keeps or has control or custody of a dog or, if that person
is under the age of eighteen, that person's parent or
guardian;

D. "potentially dangerous dog" means a dog that

1 may reasonably be assumed to pose a threat to public safety
2 as demonstrated by the following behaviors:

3 (1) causing an injury to a person or
4 domestic animal that is less severe than a serious injury;

5 (2) chasing or menacing a person or domestic
6 animal in an aggressive manner and without provocation; or

7 (3) acting in a highly aggressively manner
8 within a fenced yard or enclosure and appearing able to jump
9 out of the yard or enclosure;

10 E. "proper enclosure" means secure confinement
11 indoors or outdoors, such as in a fenced yard, locked pen or
12 other structure, that is designed to prevent the animal from
13 escaping the confined area and young children from entering
14 the confined area but does not include chaining, restraining
15 or otherwise affixing the animal to a stationary object; and

16 F. "serious injury" means a physical injury that
17 results in broken bones, multiple bites or disfiguring
18 lacerations requiring sutures or reconstructive surgery.

19 Section 3. EXCEPTIONS.--A dog shall not be declared a
20 dangerous or potentially dangerous dog if:

21 A. the dog was used by a law enforcement official
22 for legitimate law enforcement purposes;

23 B. the threat, injury or damage was sustained by a
24 person or domestic animal who was:

25 (1) trespassing upon premises occupied by

1 the owner or the dog;

2 (2) provoking, tormenting, abusing or
3 assaulting the dog or had repeatedly, in the past, provoked,
4 tormented, abused or assaulted the dog; or

5 (3) committing or attempting to commit a
6 crime; or

7 C. the dog was:

8 (1) responding to pain or injury;

9 (2) protecting itself or its offspring; or

10 (3) protecting or defending a human being or
11 domestic animal from attack or assault.

12 Section 4. SEIZURE OF DOG--PETITION TO COURT.--

13 A. If an animal control authority has probable
14 cause to believe that a dog is a dangerous dog and poses an
15 imminent threat to public safety, the animal control
16 authority may apply to a court of competent jurisdiction in
17 the county where the animal is located for a warrant to seize
18 the animal.

19 B. If an animal control authority has probable
20 cause to believe that a dog is a potentially dangerous dog
21 and poses a threat to public safety, the animal control
22 authority may apply to a court of competent jurisdiction in
23 the county where the animal is located for a warrant to seize
24 the animal.

25 C. After seizure, the animal control authority

1 shall impound the dog pending disposition of the case or
2 until the owner has fulfilled the requirements for a
3 certificate of registration pursuant to the provisions of
4 Section 5 of the Dangerous Dog Act.

5 D. After seizure:

6 (1) the owner may admit that the dog is
7 dangerous or potentially dangerous and comply with the
8 requirements for a certificate of registration pursuant to
9 Section 5 of the Dangerous Dog Act; or

10 (2) the animal control authority may, within
11 fourteen days after seizure of the dog, bring a petition in
12 court seeking a determination of whether the dog is dangerous
13 or potentially dangerous. If the court finds, by clear and
14 convincing evidence, that the dog is dangerous and poses an
15 imminent threat to public safety or potentially dangerous and
16 poses a threat to public safety, the court shall order the
17 owner to comply with the registration and handling
18 requirements for the dog and obtain a certificate of
19 registration within thirty days or have the dog humanely
20 destroyed. If the court does not make the required findings
21 pursuant to this paragraph, the court shall immediately order
22 the release of the dog to its owner.

23 E. If the owner does not admit that the dog is
24 dangerous or potentially dangerous and the animal control
25 authority does not bring a petition in court within fourteen

1 days of seizure of the dog, the court shall immediately order
2 the release of the dog to its owner.

3 F. If the owner admits that the dog is dangerous
4 and transfers ownership of the dog to the animal control
5 authority, the animal control authority may humanely destroy
6 the dog.

7 G. A determination that a dog is not dangerous or
8 potentially dangerous shall not prevent an animal control
9 authority from making a subsequent application for seizure
10 based on the dog's subsequent behavior.

11 Section 5. REGISTRATION AND HANDLING REQUIREMENTS FOR
12 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.--

13 A. An animal control authority shall issue a
14 certificate of registration to the owner of a potentially
15 dangerous dog if the owner establishes that:

16 (1) the owner is able to keep the dog under
17 control at all times;

18 (2) a license, if applicable, has been
19 issued pursuant to the requirements of the jurisdiction;

20 (3) the dog has a current rabies
21 vaccination;

22 (4) the owner has a proper enclosure for the
23 dog;

24 (5) the owner has paid an annual fee, if
25 applicable, established by the animal control authority to

1 register a potentially dangerous dog;

2 (6) the dog has been spayed or neutered;

3 (7) the dog has been implanted with a
4 microchip containing owner identification information that is
5 also provided to the animal control authority; and

6 (8) the owner has entered the dog in a
7 socialization and behavior program approved or offered by the
8 animal control authority.

9 B. If a dog previously determined to be
10 potentially dangerous has not exhibited any of the behaviors
11 specified in Subsection D of Section 2 of the Dangerous Dog
12 Act for thirty-six consecutive months, the owner may request
13 the animal control authority in the jurisdiction to lift the
14 requirements for registration pursuant to this section. If
15 the animal control authority has no reasonable basis to
16 believe that the dog has exhibited the behaviors specified,
17 it shall relieve the owner of the requirements of this
18 section.

19 C. An animal control authority shall issue a
20 certificate of registration to the owner of a dangerous dog
21 if the owner, in addition to the requirements of Subsection A
22 of this section, establishes that:

23 (1) the owner has paid an annual fee, if
24 applicable, established by the animal control authority to
25 register a dangerous dog;

1 (2) the owner has written permission of the
2 property owner or homeowner's association where the dangerous
3 dog will be kept, if applicable;

4 (3) the dangerous dog will be maintained
5 exclusively on the owner's property except for medical
6 treatment or examination;

7 (4) when the dangerous dog is removed from
8 the owner's property, the dog shall be caged or muzzled and
9 restrained with a lead no longer than four feet, and the dog
10 shall be under complete control at all times;

11 (5) the dangerous dog will not be
12 transported in a vehicle that might allow the dog to escape
13 or gain access to any person or animal outside the vehicle;
14 and

15 (6) a clearly visible warning sign with a
16 conspicuous warning symbol indicating that there is a
17 dangerous dog on the premises is posted where the dog is kept
18 and is visible from a public roadway or from fifty feet,
19 whichever is less.

20 D. An animal control authority may order the
21 immediate impoundment or humane destruction of a dog
22 previously determined to be a dangerous dog if the owner
23 fails to abide by the conditions for registration,
24 confinement or handling set forth in this section.

25 Section 6. PROHIBITED ACTS--PENALTIES.--

1 A. It is unlawful for an owner of a dangerous or
2 potentially dangerous dog to:

3 (1) keep the dog without a valid certificate
4 of registration;

5 (2) violate the registration and handling
6 requirements for the dog;

7 (3) fail to notify the animal control
8 authority immediately upon:

9 (a) the escape of the dog; or

10 (b) an attack by the dog upon a human
11 being or a domestic animal;

12 (4) fail to notify the animal control
13 authority of the dog's death within five business days;

14 (5) fail to notify the animal control
15 authority within twenty-four hours if the dog has been sold
16 or given away and provide the name, address and telephone
17 number of the new owner of the dog;

18 (6) fail to surrender the dog to an animal
19 control authority for safe confinement pending a
20 determination of the case when there is reason to believe
21 that the dog poses an imminent threat to public safety; or

22 (7) fail to comply with special handling or
23 care requirements for the dog that a court has ordered.

24 B. Whoever violates a provision of Subsection A of
25 this section is guilty of a misdemeanor and shall be

1 sentenced in accordance with the provisions of Section
2 31-19-1 NMSA 1978 and, for a second or subsequent offense, is
3 guilty of a fourth degree felony and shall be sentenced in
4 accordance with the provisions of Section 31-18-15 NMSA 1978.

5 C. An owner of a dangerous or potentially
6 dangerous dog that causes serious injury or death to a
7 domestic animal, without provocation, is guilty of a fourth
8 degree felony and shall be sentenced in accordance with the
9 provisions of Section 31-18-15 NMSA 1978.

10 D. An owner of a dangerous or potentially
11 dangerous dog that causes serious injury to a human being,
12 without provocation, is guilty of a third degree felony and
13 shall be sentenced in accordance with the provisions of
14 Section 31-18-15 NMSA 1978.

15 E. An owner of a dangerous or potentially
16 dangerous dog that causes the death of a human being, without
17 provocation, is guilty of a third degree felony resulting in
18 the death of a human being and shall be sentenced in
19 accordance with the provisions of Section 31-18-15 NMSA 1978.

20 F. Prosecution pursuant to this section requires a
21 showing that:

22 (1) an owner knew of the propensity of a dog
23 to inflict serious injury; or

24 (2) the dog had previously been found by a
25 court to be a dangerous or potentially dangerous dog. _____