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SENATE BILL 188

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Sue Wilson Beffort

AN ACT

**RELATING TO ANIMALS; BANNING BREEDING OF PIT BULLS;
ESTABLISHING FINES FOR OTHER DANGEROUS DOGS; ENACTING THE PIT
BULL BREEDING BAN ACT; PROVIDING CIVIL AND CRIMINAL PENALTIES.**

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

**Section 1. SHORT TITLE.--This act may be cited as the
"Pit Bull Breeding Ban Act".**

**Section 2. DEFINITIONS.--As used in the Pit Bull Breeding
Ban Act:**

**A. "animal control authority" means an entity
authorized to enforce the animal control laws of the city,
county or state, acting alone or in concert with other
governmental units. In those areas not served by an animal
control authority, the sheriff shall carry out the duties of
the animal control authority under the Pit Bull Breeding Ban**

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1 Act;

2 B. "animal control officer" means a person
3 employed, contracted with or appointed by an animal control
4 authority for the purpose of aiding in the enforcement of the
5 Pit Bull Breeding Ban Act or any other law or ordinance
6 relating to the licensure of animals, control of animals or
7 seizure and impoundment of animals, and "animal control
8 officer" includes any state or local law enforcement officer or
9 other employee whose duties in whole or in part include
10 assignments that involve the seizure, impoundment and humane
11 destruction of dogs;

12 C. "at large" means away from the premises owned by
13 or under the control of the dog's owner;

14 D. "bite" means breaking the skin with the teeth;

15 E. "dangerous dog" means a dog that according to
16 the records of an animal control authority is identifiable as:

- 17 (1) an Akita;
- 18 (2) an Alaskan malamute;
- 19 (3) an American or old country bulldog;
- 20 (4) a boxer;
- 21 (5) a Canary dog or "perro de presa canario";
- 22 (6) a chow chow;
- 23 (7) a Doberman pinscher;
- 24 (8) a German shepherd;
- 25 (9) a great Dane;

1 (10) a Rottweiler;

2 (11) a Siberian husky; and

3 (12) a wolf hybrid;

4 F. "dog fighting" means a contest between two dogs
5 placed in an enclosed area for the purpose of fighting and for
6 spectator entertainment or gambling;

7 G. "impound" means to take a dog away from property
8 under the owner's care or exclusive control and to place the
9 dog in a secure area isolated from other persons and animals;

10 H. "mauling" means an attack on a person that
11 results in broken bones, multiple bites or disfiguring
12 lacerations requiring sutures or reconstructive surgery;

13 I. "muzzle" means a device of leather or wire that,
14 when fitted over an animal's snout, prevents biting and eating;

15 J. "own" means to possess, purchase, house, keep,
16 harbor, shelter, retain or have the care, custody or control
17 of;

18 K. "owner" means a person who possesses, harbors,
19 keeps or has control or custody of an animal or, if the animal
20 is owned by a person under the age of eighteen, that person's
21 parent or guardian;

22 L. "pit bull" means a pit bull terrier or an
23 American pit bull terrier or a dog identifiable as or known as
24 a pit bull; and

25 M "quarantine" means temporary isolation during

1 which the dog must stay inside property under an owner's
2 exclusive control.

3 Section 3. RESTRICTIONS ON OWNERSHIP AND ACQUISITION OF
4 A PIT BULL. --

5 A. The owner of a pit bull shall not:

6 (1) acquire by gift or purchase a pit bull
7 after July 1, 2005. An owner may keep a live pup born to a pit
8 bull that was pregnant as of July 1, 2005;

9 (2) breed a pit bull either commercially or
10 privately;

11 (3) fail to spay or neuter a pit bull by July
12 1, 2006. A female pit bull shall be spayed no later than nine
13 months after the effective date of the Pit Bull Breeding Ban
14 Act. An owner who moves to New Mexico with a pit bull has
15 thirty days to neuter a male pit bull and no more than ninety
16 days to spay a female pit bull. Proof of spaying or neutering
17 shall be presented when licensing a pit bull after January 1,
18 2006. An owner who fails to spay or neuter a pit bull after
19 January 1, 2006 is subject to penalties as provided in the Pit
20 Bull Breeding Ban Act; and

21 (4) keep a pit bull or a pit bull pup born to
22 a pit bull owned on July 1, 2005 unless the pit bull or pit
23 bull pup:

24 (a) is kept indoors;

25 (b) if outdoors unattended, is in an

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1 enclosed pen with fence and gate of iron or steel link at least
2 six feet tall and covered with an iron grating or full roof;

3 (c) if off the owner's premises, is on a
4 chain leash, muzzled and under the immediate supervision and
5 control of the owner or of a person capable of handling the pit
6 bull;

7 (d) is spayed or neutered;

8 (e) is covered by the owner's property
9 or other liability insurance or secured by a bond of one
10 hundred thousand dollars (\$100,000);

11 (f) is licensed; and

12 (g) is not the subject of a complaint
13 alleging that the dog poses an imminent threat to public
14 safety.

15 B. For purposes of deciding whether to quarantine,
16 impound or humanely destroy a pit bull, a pit bull shall be
17 presumed to pose an imminent threat to public safety.

18 Section 4. PROVISIONS APPLICABLE TO A PIT BULL--
19 QUARANTINE--IMPOUNDMENT--HEARING.--

20 A. A person threatened, bitten or mauled by a pit
21 bull may file a complaint alleging that the dog poses an
22 imminent threat to public safety with the animal control
23 authority.

24 B. On receiving a complaint from a person who has
25 been threatened, but who has not been bitten or mauled by a pit

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1 bull, the animal control authority shall require the dog to be
2 quarantined in the owner's home until a determination is made
3 as to whether the dog poses an imminent threat to public
4 safety.

5 C. When there is reason to believe that a pit bull
6 has bitten or mauled a person or domestic animal, the animal
7 control authority shall seize and impound the pit bull.

8 D. The owner of the pit bull may request a hearing
9 conducted by the animal control authority to determine whether
10 the pit bull poses an imminent threat to public safety.

11 E. The animal control authority shall determine
12 whether the pit bull poses an imminent threat to public safety.
13 The animal control authority shall consider the dog's history
14 of violence, its training and its age in determining whether a
15 dog poses an imminent threat to public safety.

16 F. The burden of proving that a pit bull is not an
17 imminent threat to public safety shall be on the owner.

18 G. Upon a finding by the animal control authority
19 that a pit bull poses an imminent threat to public safety, the
20 animal control authority shall humanely destroy the dog.

21 H. Nothing in the Pit Bull Breeding Ban Act shall
22 affect the licensure and vaccination requirements of Section
23 77-1-15.1 NMSA 1978 for all dogs, except that:

24 (1) the license fee for a pit bull is two
25 hundred fifty dollars (\$250) per year; and

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1 (2) an owner of a pit bull shall furnish proof
2 that the owner owned the pit bull prior to July 1, 2005 prior
3 to licensure and vaccination.

4 Section 5. EXCEPTION.--Dogs used by public and private
5 law enforcement agencies and officers are exempt from the
6 provisions of the Pit Bull Breeding Ban Act.

7 Section 6. CHAINING PROHIBITED.--It is unlawful to chain
8 a dog.

9 Section 7. ENFORCEMENT.--Each municipality and each
10 county shall provide by ordinance for the mandatory prohibition
11 on acquisition of a pit bull and for increased license fees for
12 a pit bull; for seizure, quarantine and impoundment of a pit
13 bull; and for assessment of fines for dangerous dogs.

14 Section 8. EXEMPTION.--An animal control authority or
15 animal control officer shall not be liable for damages pursuant
16 to Section 77-1-1 NMSA 1978 for impoundment or humane
17 destruction of a dog determined to be an imminent threat to
18 public safety.

19 Section 9. PENALTIES--FINES.--

20 A. In addition to any damages awarded by a court,
21 the owner of a dog shall pay:

22 (1) a fine of two hundred dollars (\$200) if
23 the dog bites a person while the person is in a public place or
24 lawfully in a private place, including the property of the
25 owner of the dog, regardless of the former viciousness of the

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1 dog or the owner's knowledge of its viciousness;

2 (2) a fine of four hundred dollars (\$400) if
3 the dog was previously fined for biting or five hundred dollars
4 (\$500) if the dog previously fined is a dangerous dog;

5 (3) a fine of five hundred dollars (\$500) if
6 the dog bites without provocation any mail, utility, delivery
7 or emergency personnel on premises owned by or under the
8 control of the owner, unless the dog was defending a person not
9 engaged in an illegal act; and

10 (4) a fine of one thousand dollars (\$1,000)
11 for mauling.

12 B. The owner of a dog found engaging in dog
13 fighting shall pay a fine of not more than seven thousand five
14 hundred dollars (\$7,500).

15 C. The owner who fails to spay or neuter a pit bull
16 after January 1, 2006 shall pay a fine of five hundred dollars
17 (\$500).

18 D. The owner of a pit bull shall pay a fine of one
19 thousand dollars (\$1,000) if the pit bull is found at large
20 without being muzzled, securely leashed and continuously
21 controlled.

22 E. The owner of a pit bull that bites a person is
23 guilty of a fourth degree felony and shall be sentenced in
24 accordance with the provisions of Section 31-18-15 NMSA 1978.

25 F. The owner of a pit bull that mauls is guilty of

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1 a third degree felony and shall be sentenced in accordance with
2 the provisions of Section 31-18-15 NMSA 1978.

3 Section 10. EFFECTIVE DATE. --The effective date of the
4 provisions of this act is July 1, 2005.

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