

Local Government Law News

Salmon P. Chase College of Law ♦ Kentucky Department for Local Government ♦ Northern Kentucky University

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THE 2003 KENTUCKY GENERAL ASSEMBLY: A TOPICAL REVIEW OF SELECTED ACTS AFFECTING LOCAL GOVERNMENTS

A NOTE ON EFFECTIVE DATES

"In accordance with Section 55 of the Constitution of Kentucky, the effective date of legislation passed by the 2003 Regular Session of the Kentucky General Assembly, except for general appropriation measures and those containing emergency or delayed effective date provisions, is the first moment of Tuesday, June 24, 2003, since 90 full days will then have passed after final adjournment on March 25, 2003." Opinion of the Attorney General 03-002.

ADMINISTRATIVE PROCEDURES

AN ACT relating to administrative regulations. Makes omnibus amendments to KRS Chapter 13A, Administrative Regulations, to revise the procedures that apply to the promulgation of rules by administrative agencies; makes conforming amendments to other provisions of KRS. SB 71 (Acts Ch. 89).

ALCOHOLIC BEVERAGES

AN ACT relating to alcoholic beverages. Amends KRS 243.200 to allow certain licensees to transport distilled spirits and wine in certain instances and amends KRS 243.260 to allow a nonprofit organization that holds a retail malt beverage license to obtain a special temporary license for distilled spirits in certain instances. SB 121 (Acts Ch. 37).

BUSINESS REGULATION

AN ACT relating to amusement rides and attractions and declaring an emergency. Adds a new section to KRS 247.232 to 247.236 to require certain persons in the business of providing temporary amusement rides or attractions to pay to the fiscal court a license fee of \$2000. SB 50 (Acts Ch. 28), effective March 10, 2003.

AN ACT relating to licensing massage therapists. Adds new sections to KRS Chapter 309 to establish a comprehensive licensing scheme for massage therapists, creating a licensing board, defining the scope of practice, establishing qualifications for licensure; expressly supersedes all local ordinances regulating massage therapists other than zoning and occupational license fees. SB 69 (Acts Ch. 70).

AN ACT relating to boilers. Amends KRS 236.060 to remove references to apartment houses of six or fewer families and to remove an exemption for certain installers of boilers. SB 109 (Acts Ch. 77).

AN ACT relating to electrical workers. Establishes KRS Chapter 227A to provide for statewide licensing of electrical contractors, electricians, and master electricians under the auspices of the Department of Housing, Buildings, and Construction, prohibits persons not licensed to engage in regulated activities, supersedes local government regulation of electrical contractors, electricians, and master electricians, allows authorized local licensing programs to be agents of Department, and makes conforming amendments to and repeals existing law. HB 115 (Acts Ch. 119).

CITIES

AN ACT changing the classification of the City of Goshen, in Oldham County. Reclassifies the city of Goshen from a city of the sixth class to a city of the fifth class. SB 63 (Acts Ch. 34).

continued on page 4

articles in this issue

Director's Desk page 2
Legislate Deeds, Not Breeds page 3

DIRECTOR'S DESK

On March 25, 2003 the Kentucky General Assembly adjourned its second odd-year session. After only two such sessions, the fact that the General Assembly now meets annually seems unremarkable. However, it appears yet too soon to judge whether the arguments of the proponents of annual sessions or those of their opponents have proven out.

Some proponents saw annual sessions as a means to make the legislature more efficient and accountable, able to act more quickly to changing conditions and federal mandates. Other proponents of annual sessions argued that it would reduce the need for special sessions and provide for the more orderly introduction of legislation. Opponents feared annual sessions would be a step toward bigger and more costly government – a government with more regulatory power, with full-time professional legislators, and with less stable public policy.

The first odd-year session was perhaps more cautious, but otherwise it has been difficult to extract evidence for either viewpoint. The effects of the budget crisis and divided government in the Senate and the House tend to mask the more subtle effects of annual sessions. Further complicating the analysis, this session saw a lame-duck governor facing investigation for his conduct in office and the overtones of the campaigns to succeed him.

From the perspective of local government, however, this session was not markedly different from other recent sessions, save of course for the budget. The Governor received from the General Assembly 161 bills, 58 Senate bills and 103 House bills, and 37 joint and concurrent resolutions. That is somewhat larger than two years ago. As before, approximately one-third have a more or less direct effect on local government. We review those bills topically in this issue.

One measure of the session is its effect on the health of home rule. Home rule reflects our democratic ideal and connects with values such as accountability, flexibility, diversity, and respect for the political subdivisions of the state. Although in Kentucky home rule for cities and counties takes different forms, the Gen-

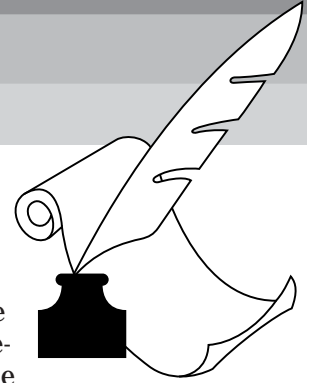
eral Assembly can limit each form in essentially the same two ways. One is by preemption, where the legislature creates a comprehensive scheme of legislation with respect to a general subject. The

other is by creating a conflict between state law and local action, expressly prohibiting exercise of a local function. Examples of preemption in this session include HB 69, which regulates massage therapists, and HB 115, which regulates electrical contractors and electricians. Both schemes displace local regulation of those occupations. An example of a prohibition on the exercise of local powers is HB 154, which prohibits local restrictions on the use of mobile phones while driving.

Always high on the list of priorities for local government, and for the General Assembly, is the economic well-being of the community. Several economic development initiatives passed this session ranging from the promotion of tourism to development of infrastructure to retention of existing industry to preserve both jobs and sources of tax revenue. As concerns tax revenues a notable bill is HB 107, which harmonizes administration of the occupational license tax and the net profits tax.

The events of September 11, 2001 highlighted the importance of local government in the provision of public safety and the role of local government in homeland security. SB 46 is a reflection of this, among other things charging the Department for Local Government to track federal homeland security funding received by local governments. Also noteworthy is SB 60, which in part provides for a vaccination program for emergency service workers.

Some bills, such as HB 36 directing implementation of an Amber alert system, received attention in the popular press. Most of what local government does, however, goes on below that level of attention. It may seem mundane or routine, but it is not unimportant as this issue's survey shows.



LEGISLATE DEEDS, NOT BREEDS

By Sarah Okrzyński¹

Traditionally, dog ordinances have been considered a constitutional exercise of a city's power to protect public health, safety, and welfare. However, dog ordinances that ban specific breeds raise questions as to the dog owners' rights. On the one hand, the ordinances are unconstitutionally under inclusive. Because almost any breed of dog can cause harm to people, an ordinance that singles out one breed as inherently more dangerous than another arbitrarily treats similarly situated dog owners differently. On the other hand, those ordinances are unconstitutionally vague. Because it is extremely difficult to identify the breed of a dog, the ordinances fail to provide the necessary notice to the dog owner and to the police of what it prohibits. Constitutionality aside, breed specific legislation is bad public policy when there are many "dog friendly" alternatives from which to choose.

Breed Specific Legislation or Banning

Over 150 United States cities ban specific breeds of dogs.² Although breed specific legislation has become a nationwide trend across the United States, dog fanciers throughout America have had some recent success preventing breed specific legislation. Last year, for example, Maryland dog owners successfully defeated HB567, a statewide ban of "Pitbulls."³ The bill, typical of its kind, would have prohibited owning, possessing, or harboring a "Pitbull." It allowed current owners to keep their dog only if able to prove they obtained the animal before the bill would have gone into effect and that it had been spayed or neutered. It also prohibited shelters from adopting out these breeds and required shelters to destroy any of these dogs taken in. Violators would be guilty of a misdemeanor and subject to a fine of up to \$5000. Dog owners in Baltimore also defeated the City Council's similar attempt to ban all "Pitbulls" from the city.⁴

Similar ordinances around the country also regulate specific breeds by requiring a special animal license at a higher cost, requiring owners to be at least 21, and requiring animals to be microchipped to prove that the dog has been spayed or neutered. Some ordinances provide that owners must consent to a criminal background check and obtain thousands of dollars in liability insurance.⁵

Efforts by dog owners to prevent breed specific legislation or banning are not always successful. For example, in Cincinnati, Ohio "Pitbulls" were regulated as "inherently vicious" and eventually banned from the city entirely until recently.⁶ Owners of dogs specifically

banned by the ordinance brought an action challenging its constitutionality. In *Singer v. Cincinnati*,⁷ the court upheld the trial court's finding that "Pitbulls" posed a special danger to humans, indicating that the breeds banned by the ordinance are exceptionally strong and athletic, require exceptional measures of confinement, and have exceptionally strong bites. The court discounted evidence to the contrary that effective training and human intervention are more significant than genetics in determining the behavioral propensities of a dog. The court also discredited data refuting the city's statistical evidence.

The court upheld the ordinance as constitutional explaining that the ordinance is a valid exercise of the city's police power. Because the ordinance did not affect a fundamental right or classify based on suspect categories, it did not violate equal protection or due process. The court held the ordinance bore a rational relationship to a legitimate state interest to protect its citizens. Further, one to whose conduct a law clearly applies does not have standing to challenge a law for vagueness.⁸

Interpretation of the Cincinnati ordinance had been liberal; the dog warden impounded some dogs that resembled the banned breeds.⁹ However, because Cincinnati lacked storage space for impounded dogs, the ordinance went unenforced for nearly 10 years. In 1996, the city contracted with the Hamilton County SPCA to house dogs confiscated as vicious and as members of the banned breeds. The city paid the SPCA to house hundreds of dogs taken from families, breeders, dog fighters, and drug dealers and held during the disposition of their cases. Population at the shelter sometimes exceeded 50 dogs while cases were pending. Judges often allowed owners to reclaim their dogs if they paid the fine and promised to get their pets out of the city. Dogs with poor temperaments and dogs belonging to owners convicted of crimes were euthanized. Many of the dogs damaged the kennel runs, increasing the cost of boarding. The city's bills mounted; police, prosecutor, and court time added to the expenses.

Due to the ineffectiveness of banning specific breeds and cost to house impounded animals and litigation, the Cincinnati City Council overturned the city's ban in 1999 in favor of a generic dog control ordinance that tightens restrictions on the ownership of all dangerous and vicious dogs.¹⁰ However, the new law requires registration and identification of all dangerous and vicious dogs, including all "Pitbulls." The city is not allowed to write laws that are less strict than state

AN ACT relating to mayoral candidates. Amends KRS 83A.170 to provide that if two candidates are tied for the second highest number of votes in a mayoral election, the names of those two candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot. HB 56 (Acts Ch. 61).

AN ACT relating to war memorial commissions. Amends KRS 97.630 to change from seven years to three the term of a member of a commission in cities of the second to sixth classes. HB 117 (Acts Ch. 3).

AN ACT relating to parking citation enforcement. Amends KRS 82.600 pertaining to parking citation enforcement to change the definition of local government to include cities of any class and a consolidated local government, not just cities of the first four classes and urban county governments. HB 144 (Acts Ch. 93).

COMMONWEALTH

AN ACT relating to bill drafting and other legislative records. Adds a new section to KRS Chapter 7 to provide that the General Assembly, its members, and its staff are immune from disclosure of information regarding bill drafting requests other than in criminal proceedings where the member or staff member is the subject of the proceeding; provides that records of the General Assembly are available under the Open Records Act and sets out applicable procedures. SB 213 (Acts Ch. 90).

AN ACT relating to legislative involvement in litigation. Amends KRS 418.075 to provide that, pursuant to Sections 43 and 231 of the Constitution of Kentucky, members of the General Assembly, organizations within the legislative branch of state government, or officers or employees of the legislative branch shall not be made parties to any action challenging the constitutionality or validity of any statute or regulation without the consent of the member, organization, officer, or employee. SB 219 (Acts Ch. 152), became law without the governor's signature.

COUNTIES

AN ACT relating to interlocal cooperation agreements. Amends KRS 65.230 to include a county or independent school district within the definition of public agency eligible to enter into interlocal agreements; directs the Legislative Research Commission to cre-

ate a Task Force on Inter-county Cooperation to examine and report on how the Commonwealth may provide incentives for the creation of these interlocal agreements. SB 133 (Acts Ch. 80).

AN ACT relating to counties dealing with public indebtedness. Repeals KRS 66.300 to abolish the County Debt Commission, amends KRS 66.310 relating to the powers and duties of the state local debt officer, and makes conforming amendments to KRS 11.400. SB 137 (Acts Ch. 82).

AN ACT relating to chemical weapons materials disposal. Amends KRS 224.50-130 to provide that no site or facility for treatment or disposal of any chemical agent shall be issued a permit to treat or destroy a live chemical agent as a research, development, or demonstration permit except for a pilot scale operation and to withhold any permit where the host county has not certified to the state that infrastructure and funding requirements are met. SB 162 (Acts Ch. 149).

AN ACT relating to county finances. Amends KRS 64.345 to provide that the Office of the Controller shall recognize the amount allowed for necessary office expenses of certain officers as the official budget for the office and directs the Office of the Controller to use professional judgment in creating the appropriate fund and account structure to ensure that the offices do not exceed annual approved budgetary amounts. HB 158 (Acts Ch. 192).

AN ACT relating to county treasurers. Amends KRS 68.010 to allow a person younger than twenty-five years old, but who has a bachelors degree from an accredited institution, to serve as county treasurer. HB 403 (Acts Ch. 105).

COURTS

AN ACT relating to access to justice programs. Amends KRS 27A.630 to increase the filing fee for civil actions (Access to Justice Fee) from ten to twenty dollars and provides that up to \$200,000 shall be appropriated to organizations that specialize in providing legal representation and services to children. HB 163 (Acts Ch. 120).

AN ACT relating to family courts. Adds, amends, repeals, and reenacts numerous provisions of KRS to implement the recent constitutional amendment authorizing creation of family courts. HB 380 (Acts Ch. 66).

Continued on page 5

CRIME AND CRIMINAL JUSTICE

AN ACT relating to animal cruelty. Adds a new section to KRS Chapter 525 to create the crime of torture of a dog or cat, punishable as a Class A misdemeanor for the first offense and as a Class D felony for subsequent offenses; amends KRS 525.130 (cruelty to animals in the second degree) and KRS 258.245 (as it pertains to poisoning of dogs) to conform. SB 24 (Acts Ch. 181).

AN ACT relating to abuse of public trust. Adds a new section to KRS Chapter 522 to create the crime of abuse of public trust where a person holding public office misappropriates public money or property, punishable as a felony; makes conforming amendments to KRS 514.070 and repeals KRS 61.190. SB 94 (Acts Ch. 76).

AN ACT relating to the Kentucky State Corrections Commission. Amends various provisions of KRS Chapter 196 pertaining to the Kentucky State Corrections Commission to reflect changes in membership and purposes, particularly as to community corrections programs; confirms Executive Order 2002-1068. SB 74 (Acts Ch. 71).

AN ACT relating to sentence credit for state prisoners. Adds a new section to KRS Chapter 197 to create the Governmental Services Program and specify the offenders eligible for the program. SB 123 (Acts Ch. 79).

DRIVER'S LICENSES AND LICENSE PLATES

AN ACT relating to special license plates. Adds a new section to KRS Chapter 186 to authorize a special Louisville zoo license plate; repeals various sections of Chapter 186 authorizing other special license plates. SB 92 (Acts Ch. 74).

AN ACT relating to traffic safety matters. Adds a new section to KRS 186.400 to 186.640 to allow certain person's whose driver's license is suspended in another state to receive a driver's license valid in Kentucky only and makes conforming amendments; adds a new section to KRS Chapter 434 to make a person who fraudulently installs a replacement air bag liable to a fine or time in jail, or both. HB 63 (Acts Ch. 189).

AN ACT relating to United States Selective Service System. Adds a new section to KRS Chapter 186 to provide that for males subject to selective service registration, submission of an application for a driver's license shall serve as an indication that the applicant

has already registered or that he is authorizing the Transportation Cabinet to forward the necessary information for registration to the Selective Service System. HB 64 (Acts Ch. 60).

ECONOMIC DEVELOPMENT

AN ACT relating to economic development and declaring an emergency. Amends KRS 154.24-090, 154.24-120, and various provisions of Chapter 148 to allow a "themed restaurant destination attraction" to be eligible for financial incentives under the Tourism Development Act. SB 91 (Acts Ch. 73).

AN ACT relating to coal severance tax projects, declaring an emergency, and making an appropriation therefore. Authorizes and appropriates monies from the Local Government Economic Development Fund for specified projects determined to further economic development. SB 93 (Acts Ch. 75), effective March 18, 2003.

AN ACT relating to revolving funds of the Kentucky Infrastructure Authority. Amends various provisions of KRS Chapter 224A to allow the authority to issue bonds up to a maximum amount of \$500,000,000 and to apply monies from the wastewater revolving loan fund and water supply revolving loan fund as security for the bonds. SB 127 (Acts Ch. 38).

AN ACT relating to reorganization. Adds a new section to KRS Chapter 154 to create the Department for Regional Development within the Cabinet for Economic Development to administer existing programs, including the Local Government Economic Development Program. HB 267 (Acts Ch. 54).

AN ACT relating to economic development. Adds new sections to KRS Chapter 154 establishing the Kentucky Reinvestment Act to be administered by the Kentucky Economic Development Finance Authority to foster the reinvestment and development of existing industry in the Commonwealth in order to preserve jobs and sources of tax revenues for the support of public services; adds new sections to KRS Chapter 541 to provide for the calculation of tax credits. HB 510 (Acts Ch. 148).

EDUCATION

See also Schools and School Districts; Teachers

AN ACT relating to school buses and declaring an emergency. Amends KRS 189.550 to increase the stop-

Continued on page 6

ping distance for school busses at a railroad crossing. In addition, the bill authorizes the commissioner of education to approve five disaster days for schools affected by disastrous weather conditions. SB 132 (Acts Ch. 147), effective March 18, 2003.

AN ACT relating to the elementary school curriculum. Adds new sections to KRS Chapter 158 setting out the General Assembly's findings and declarations that the integration of the arts and foreign languages into the school curriculum benefits students and directing the Department of Education to establish a program that promotes the integration of the arts and foreign languages in the elementary school program and award a grant to at least one school per region under specified criteria. SB 154 (Acts Ch. 35).

AN ACT relating to education and declaring an emergency. Amends KRS 159.140 to allow the local district superintendent to waive the requirement that a director of pupil personnel serve full time in his or her position and makes a conforming amendment to KRS 630.060; provides that time added in 2002-3 school year to make up for school closures counts for both student instructional days and classified staff days. HB 224 (Acts Ch. 159), effective March 31, 2003.

AN ACT relating to education and declaring an emergency. Amends KRS 161.133 and 161.134 concerning use of the Teachers' National Certification Incentive Trust Fund; adds a new section to KRS Chapter 161 to provide that an applicant for emergency substitute teaching who has a bachelor's degree from an accredited institution shall be granted a certificate; amends KRS 164.530 to specify the membership of and appointment to the Legislative Advisory Council to the Southern Regional Education Board. HB 252 (Acts Ch. 160), effective March 31, 2003.

AN ACT relating to safety education. Adds a new section to KRS 95A.200 to 95A.300 to created a Safety Education Fund to be administered by the Commission on Fire Protection Personnel Standards and Education to initiate education programs in the public schools and other agencies to reduce and prevent injuries and the loss of life. HB 398 (Acts Ch. 103).

ELECTIONS

AN ACT relating to absentee ballots. Amends KRS 117.087 to require that the counting of absentee ballots begin at 10:00 a.m. on election day rather than at 3:00 p.m. SB 161 (Acts Ch. 184).

AN ACT relating to publication of candidates' names. Repeals KRS 118.235 (publication of names of candidates by county clerk) and 118A.120 (publication and posting of names of certified candidates) and makes a conforming amendment to KRS 118.255. SB 192 (Acts Ch. 88).

AN ACT relating to mayoral candidates. Amends KRS 83A.170 to provide that if two candidates are tied for the second highest number of votes in a mayoral election, the names of those two candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot. HB 56 (Acts Ch. 61).

AN ACT relating to independent candidates for office. Adds a new section to KRS Chapter 118 to require independent candidates for office to file a statement of candidacy form and specify the applicable procedures; amends KRS 118.635 to prohibit the Secretary of State or county clerk from accepting nominating petitions where no statement of candidacy form is on file. HB 136 (Acts Ch. 92).

AN ACT relating to candidates for office. Amends KRS 118.212 to provide that, if following withdrawal or death of other candidates there remains only one candidate on a primary ballot, the votes shall not be tabulated and the filing officer shall issue a certificate of nomination; makes parallel amendments to KRS 83A.170, 83A.175, and 118A.150. HB 353 (Acts Ch. 101).

AN ACT relating to independent candidates. Amends KRS 118.315 to change from December 31 to January 1 the date for determining that a candidate is an independent. HB 363 (Acts Ch. 53).

EMERGENCY MEDICAL SERVICES

AN ACT relating to public health and declaring an emergency. Adds a new section to KRS Chapter 213 to authorize the state registrar to issue commemorative copies of birth certificates and marriage certificates for a fee, the fees to go to the Emergency Medical Services for Children Program, and makes conforming amendments to KRS 311A.045. Also adds new sections to KRS Chapter 194 to implement a vaccination program for emergency responders, amends KRS 200.664 and 200.658 pertaining to the Kentucky Early Intervention System, and amends KRS 311A.195 to permit an emergency medical technician to administer epinephrine for anaphylactic reactions. SB 60 (Acts Ch. 69), effective March 18, 2003 as to the vaccination program only.

Continued on page 7

FINANCE

AN ACT relating to amusement rides and attractions and declaring an emergency. Adds a new section to KRS 247.232 to 247.236 to require certain persons in the business of providing temporary amusement rides or attractions to pay to the fiscal court a license fee of \$2000. SB 50 (Acts Ch. 28), effective March 10, 2003.

AN ACT relating to counties dealing with public indebtedness. Repeals KRS 66.300 to abolish the County Debt Commission, amends KRS 66.310 relating to the powers and duties of the state local debt officer, and makes conforming amendments to KRS 11.400. SB 137 (Acts Ch. 82).

AN ACT relating to county finances. Amends KRS 64.345 to provide that the Office of the Controller shall recognize the amount allowed for necessary office expenses of certain officers as the official budget for the office and directs the Office of the Controller to use professional judgment in creating the appropriate fund and account structure to ensure that the offices do not exceed annual approved budgetary amounts. HB 158 (Acts Ch. 192).

FIRE SERVICE

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AN ACT relating to controlled burns. Amends KRS 149.400 to allow a controlled burn on land owned or leased by the state and allows other governmental agencies to apply to the Division of Forestry for permission to conduct controlled burns. SB 164 (Acts Ch. 47).

AN ACT relating to safety education. Adds a new section to KRS 95A.200 to 95A.300 to created a Safety

Education Fund to be administered by the Commission on Fire Protection Personnel Standards and Education to initiate education programs in the public schools and other agencies to reduce and prevent injuries and the loss of life. HB 398 (Acts Ch. 103).

AN ACT relating to in-service training requirements for local government employees mobilized for service in the United States Armed Forces. Amends KRS 95A.230 to waive the requirement for in-service training for fire fighters on active duty with armed forces of the United States, retroactive to September 11, 2001; amends KRS 15.440 to do the same for peace officers. HB 427 (Acts Ch. 106).

HOMELAND SECURITY

AN ACT relating to homeland security and declaring and emergency. Amends KRS 36.224 to direct the Office of Security Coordination in the Department of Military Affairs to maintain a record of all federal homeland security funding received in Kentucky and requires the Department for Local Government to annually submit to the office a record of all federal homeland security funding received by local governments and area development districts. Also amends KRS 39A.287 to require the Adjutant General to report annually on Kentucky homeland security readiness. SB 46 (Acts Ch. 68), effective March 18, 2003.

AN ACT relating to chemical weapons materials disposal. Amends KRS 224.50-130 to provide that no site or facility for treatment or disposal of any chemical agent shall be issued a permit to treat or destroy a live chemical agent as a research, development or demonstration permit except for a pilot scale operation and to withhold any permit where the host county has not certified to the state that infrastructure and funding requirements are met. SB 162 (Acts Ch. 149).

LAW ENFORCEMENT

See also Crimes and Criminal Justice; Police

AN ACT relating to abducted children. Adds a new section to KRS Chapter 16 to authorized the state police to implement the Kentucky Amber alert system and requires all law enforcement agencies to cooperate with the state police in its operation. HB 36 (Acts Ch. 62).

AN ACT relating to telecommunicators employed by local governments. Amends various sections of KRS

Continued on page 8

Chapter 15 to provides that a full-time public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that utilizes the Criminal Justice Information System may not be permanently appointed absent specified training. HB 406 (Acts Ch. 52).

LOCAL GOVERNMENT

See also *Cities; Counties; Officers and Employees; Special Purpose Governments*

AN ACT relating to homeland security and declaring and emergency. Amends KRS 36.224 to direct the Office of Security Coordination in the Department of Military Affairs to maintain a record of all federal homeland security funding received in Kentucky and requires the Department for Local Government to annually submit to the office a record of all federal homeland security funding received by local governments and area development districts. Also amends KRS 39A.287 to require the Adjutant General to report annually on Kentucky homeland security readiness. SB 46 (Acts Ch. 68), effective March 18, 2003.

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AN ACT relating to vehicle emissions. Amends KRS 224.20-720 to provide that official vehicles be subject to emissions testing at the same two-year interval as private vehicles, rather than annual testing. HB 18 (Acts Ch. 10).

AN ACT relating to parking citation enforcement. Amends KRS 82.600 pertaining to parking citation enforcement to change the definition of local government to include cities of any class and a consolidated local government, not just cities of the first four classes and urban county governments. HB 144 (Acts Ch. 93).

AN ACT relating to government. Amends KRS Chapter 74 pertaining to joint operation of water sources to allow federal agencies to participate in water commissions that administer joint water opera-

tions; amends KRS 100.187 to require local planning units to include in comprehensive plans provisions for the accommodation of all military installations greater than or equal in area to three hundred acres. HB 357 (Acts Ch. 167).

AN ACT relating to land bank authorities. Amends KRS 65.350 to add consolidated local governments to the definition of local governments, clarifies that local school districts include both county and independent school districts, and makes conforming amendments to KRS 65.355 and 65.360. HB 468 (Acts Ch. 171).

OFFICERS AND EMPLOYEES

AN ACT relating to abuse of public trust. Adds a new section to KRS Chapter 522 to create the crime of abuse of public trust where a person holding public office misappropriates public money or property, punishable as a felony; makes conforming amendments to KRS 514.070 and repeals KRS 61.190. SB 94 (Acts Ch. 76).

AN ACT relating to the employees of an urban-county adult misdemeanor probation and work release agency. Amends KRS 439.550 to require employees of the agency to be classified civil service employees of a correctional services division created under KRS 67A.028. HB 74 (Acts Ch. 59).

AN ACT relating to war memorial commissions. Amends KRS 97.630 to change from seven years to three the term of a member of a commission in cities of the second to sixth classes. HB 117 (Acts Ch. 3).

AN ACT relating to county treasurers. Amends KRS 68.010 to allow a person younger than twenty-five years old, but who has a bachelors degree from an accredited institution, to serve as county treasurer. HB 403 (Acts Ch. 105).

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quires all law enforcement agencies to cooperate with the state police in its operation. HB 36 (Acts Ch. 62).

AN ACT relating to police merit boards in a consolidated local government and declaring an emergency. Amends numerous sections of KRS Chapter 67C governing the police force merit system in consolidated local governments putting procedures in place for police departments that will merge upon formation of a consolidated local government. HB 109 (Acts Ch. 118), effective March 18, 2003.

AN ACT relating to in-service training requirements for local government employees mobilized for service in the United States Armed Forces. Amends KRS 95A.230 to waive the requirement for in-service training for fire fighters on active duty with armed forces of the United States, retroactive to September 11, 2001; amends KRS 15.440 to do the same for peace officers. HB 427 (Acts Ch. 106).

POLICE

AN ACT relating to public health and declaring an emergency. Adds a new section to KRS Chapter 213 to authorize the state registrar to issue commemorative copies of birth certificates and marriage certificates for a fee, the fees to go to the Emergency Medical Services for Children Program, and makes conforming amendments to KRS 311A.045. Also adds new sections to KRS Chapter 194 to implement a vaccination program for emergency responders, amends KRS 200.664 and 200.658 pertaining to the Kentucky Early Intervention System, and amends KRS 311A.195 to permit an emergency medical technician to administer epinephrine for anaphylactic reactions. SB 60 (Acts Ch. 69), effective March 18, 2003 as to the vaccination program only.

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PUBLIC HEALTH AND SAFETY

AN ACT relating to homeland security and declaring an emergency. Amends KRS 36.224 to direct the Office of Security Coordination in the Department of Military Affairs to maintain a record of all federal homeland security funding received in Kentucky and requires the Department for Local Government to annually submit to the office a record of all federal homeland security funding received by local governments and area development districts. Also amends KRS 39A.287 to require the Adjutant General to report annually on Kentucky homeland security readiness. SB 46 (Acts Ch. 68), effective March 18, 2003.

AN ACT relating to amusement rides and attractions and declaring an emergency. Adds a new section to KRS 247.232 to 247.236 to require certain persons in the business of providing temporary amusement rides or attractions to pay to the fiscal court a license fee of \$2000. SB 50 (Acts Ch. 28), effective March 10, 2003.

AN ACT relating to public health and declaring an emergency. Adds a new section to KRS Chapter 213 to authorize the state registrar to issue commemorative copies of birth certificates and marriage certificates for a fee, the fees to go to the Emergency Medical Services for Children Program, and makes conforming amendments to KRS 311A.045. Also adds new sections to KRS Chapter 194 to implement a vaccination program for emergency responders, amends KRS 200.664 and 200.658 pertaining to the Kentucky Early Intervention System, and amends KRS 311A.195 to permit an emergency medical technician to administer epinephrine for anaphylactic reactions. SB 60 (Acts Ch. 69), effective March 18, 2003 as to the vaccination program only.

AN ACT relating to licensing massage therapists. Adds new sections to KRS Chapter 309 to establish a comprehensive licensing scheme for massage therapists, creating a licensing board, defining the scope of practice, establishing qualifications for licensure; expressly supersedes all local ordinances regulating massage therapists other than zoning and occupational license fees. SB 69 (Acts Ch. 70).

Continued on page 10

AN ACT relating to boilers. Amends KRS 236.060 to remove references to apartment houses of six or fewer families and to remove an exemption for certain installers of boilers. SB 109 (Acts Ch. 77).

AN ACT relating to chemical weapons materials disposal. Amends KRS 224.50-130 to provide that no site or facility for treatment or disposal of any chemical agent shall be issued a permit to treat or destroy a live chemical agent as a research, development or demonstration permit except for a pilot scale operation and to withhold any permit where the host county has not certified to the state that infrastructure and funding requirements are met. SB 162 (Acts Ch. 149).

AN ACT relating to public safety vehicles. Amends KRS 189.930 to require that motorists slow down and yield when approaching a stationary public safety vehicle displaying flashing yellow warning lights. HB 15 (Acts Ch. 63).

AN ACT relating to abducted children. Adds a new section to KRS Chapter 16 to authorized the state police to implement the Kentucky Amber alert system and requires all law enforcement agencies to cooperate with the state police in its operation. HB 36 (Acts Ch. 62).

AN ACT relating to electrical workers. Establishes KRS Chapter 227A to provide for statewide licensing of electrical contractors, electricians, and master electricians under the auspices of the Department of Housing, Buildings, and Construction, prohibits persons not licensed to engage in regulated activities, supersedes local government regulation of electrical contractors, electricians, and master electricians, allows authorized local licensing programs to be agents of Department, and makes conforming amendments to and repeals existing law. HB 115 (Acts Ch. 119).

AN ACT relating to mobile telephone use. Adds a new section to KRS Chapter 189 to prohibit a city, county, urban-county, charter county, consolidated local government, or special district from imposing a restriction on the use of a mobile telephone in a motor vehicle. HB 154 (Acts Ch. 94).

SCHOOLS AND SCHOOL DISTRICTS

See also Education; Teachers

AN ACT relating to school buses and declaring an emergency. Amends KRS 189.550 to increase the stop-

ping distance for school busses at a railroad crossing. In addition, the bill authorizes the commissioner of education to approve five disaster days for schools affected by disastrous weather conditions. SB 132 (Acts Ch. 147), effective March 18, 2003.

AN ACT relating to interlocal cooperation agreements. Amends KRS 65.230 to include a county or independent school district within the definition of public agency eligible to enter into interlocal agreements; directs the Legislative Research Commission to create a Task Force on Inter-county Cooperation to examine and report on how the Commonwealth may provide incentives for the creation of these interlocal agreements. SB 133 (Acts Ch. 80).

AN ACT relating to school council members. Amends KRS 160.345 to allow experienced school council members to participate in new member training in order to satisfy the training requirement. SB 134 (Acts Ch. 81).

AN ACT relating to school records concerning missing children. Amends KRS 17.470 to require the state police to provide the state registrar with information on missing and recovered children; amends KRS 156.495 to require the Department of Education to distribute to schools the names of missing and recovered children and to require schools to notify law enforcement of contact with children on the list; amends KRS 158.032 to require schools to notify law enforcement of a request for records of a missing child. SB 156 (Acts Ch. 39).

AN ACT relating to programs of significant importance to the citizens of the Commonwealth and declaring an emergency. Adds a new section to KRS Chapter 158 to require all public high schools to observe Veterans Day; creates task force on prescription drug abuse and the illegal diversion of prescription drugs. HB 303 (Acts Ch. 162), effective March 31, 2003 as to the task force only.

AN ACT relating to land bank authorities. Amends KRS 65.350 to add consolidated local governments to the definition of local governments, clarifies that local school districts include both county and independent school districts, and makes conforming amendments to KRS 65.355 and 65.360. HB 468 (Acts Ch. 171).

SPECIAL PURPOSE GOVERNMENTS

AN ACT relating to air boards. Amends KRS 183.182

to make provisions for an air board established or maintained in a county containing a city of the first class or consolidated local government. HB 496 (Acts Ch. 172).

TAXATION

AN ACT relating to amusement rides and attractions and declaring an emergency. Adds a new section to KRS 247.232 to 247.236 to require certain persons in the business of providing temporary amusement rides or attractions to pay to the fiscal court a license fee of \$2000. SB 50 (Acts Ch. 28), effective March 10, 2003.

AN ACT relating to local taxation. Adds new sections to KRS Chapter 67 to provide uniform definitions for and uniform administration of the occupational license tax and net profits tax and makes conforming amendments to other sections. HB 107 (Acts Ch. 117).

AN ACT relating to taxation and governmental services provided therefrom. Adds, amends and repeals sections of KRS Chapter 139 pertaining to sales and use taxes to conform to the Streamlined Sales and Use Tax Agreement; adds and amends other sections pertaining to operation and taxation of certain motor vehicles. HB 293 (Acts Ch. 124), various effective dates.

TEACHERS

AN ACT relating to a pilot teacher internship program and declaring an emergency. Adds a new section to KRS Chapter 161 to authorize the Education Professional Standards Board to conduct a two-year internship pilot program for new teachers. SB 95 (Acts Ch. 6), effective March 7, 2003.

AN ACT relating to education and declaring an emergency. Amends KRS 161.133 and 161.134 concerning use of the Teachers' National Certification Incentive Trust Fund; adds a new section to KRS Chapter 161 to provide that an applicant for emergency substitute teaching who has a bachelor's degree from an accredited institution shall be granted a certificate; amends KRS 164.530 to specify the membership of and appointment to the Legislative Advisory Council to the Southern Regional Education Board. HB 252 (Acts Ch. 160), effective March 31, 2003.

ZONING, PLANNING, AND LAND USE

AN ACT relating to licensing massage therapists. Adds new sections to KRS Chapter 309 to establish a comprehensive licensing scheme for massage therapists, creating a licensing board, defining the scope of practice, establishing qualifications for licensure; expressly supersedes all local ordinances regulating massage therapists other than zoning and occupational license fees. SB 69 (Acts Ch. 70).

AN ACT relating to government. Amends KRS Chapter 74 pertaining to joint operation of water sources to allow federal agencies to participate in water commissions that administer joint water operations; amends KRS 100.187 to require local planning units to include in comprehensive plans provisions for the accommodation of all military installations greater than or equal in area to three hundred acres. HB 357 (Acts Ch. 167).

Endnotes

1. The text of this and the other laws summarized below is available at http://www.lrc.state.ky.us/record/03rs/PAS_L.htm.



laws, so all dogs identified as “Pitbulls” in Cincinnati must be registered and housed as vicious dogs in accordance with the state statute that lumps “dogs commonly known as pit bull dogs” in its definition of vicious dogs.¹¹ Cincinnati has realized targeting specific breeds for legislation is ineffective, costly, and bad public policy.

Constitutionality of Breed Specific Legislation

Regulations designed to protect people and property from the destructiveness of dogs have existed since the time man first domesticated dogs. Early American courts upheld the constitutionality of various canine control laws because they viewed dogs as “imperfect” or “qualified” property, a position adopted from the early English common law.¹² Under this view, strict regulations did not interfere with the owners’ rights to due process because dogs were not considered property. This initial basis for upholding the constitutionality of canine control statutes is no longer valid because dogs now have the legal status of valuable property. Today, dog regulations are considered constitutionally legitimate exercises of the state’s police power.

In 1897, the United States Supreme Court decided whether state and city canine control measures deprived a dog owner of his Fourteenth Amendment right to due process. The Court found that dogs are subject to the full force of the police power and may be destroyed or otherwise regulated in whatever manner the legislature deems reasonable for the protection of citizens.¹³ While conceding that most dogs are harmless, the Court approved the principle that legislatures have broad police powers to control all dogs to protect against the public nuisance posed by a vicious dog that endangers people and property.

Modern canine control laws take various forms and cover numerous areas including licensing and registration, running at large, disease control, kennels and breeding, sanitation, summary destruction, ownership limitations, and fighting. Procedures for violations of these laws usually prescribe impoundment of the dog, notice to the owner, release of the dog upon payment of fines, or destruction of the dog if not claimed.¹⁴

In addition to the wide variety of regulations that require a dog owner to take specific precautions to control his pet’s activities, states have codified an owner’s liability for damages caused by his dog. Under early common law, every dog was entitled to “one free bite.” Modern statutes hold an owner strictly liable for his dog’s actions without regard for the owner’s knowledge of his dog’s viciousness.¹⁵

Regulation of all dogs regardless of breed is constitutional. However, legislation targeting or banning specific breeds is problematic.

Equal Protection

Because almost any breed of dog can cause harm to people, an ordinance that classifies or singles out one breed as inherently more dangerous than another unfairly and arbitrarily treats similarly situated dog owners differently. A generic vicious dog ordinance would be just as effective. There simply is no need to single out specific breeds. Although “Pitbulls” have been involved in a number of severe or fatal attacks, many other breeds are also capable of inflicting serious injuries. By banning or regulating only certain breeds, ordinances offer little or no protection for individuals attacked by any type of dog not covered in a particular ordinance.¹⁶

Statistics on dog bites demonstrate that “Pitbulls” are not uniquely dangerous.¹⁷ According to Dr. Bonnie Beaver, a board-certified veterinary behaviorist, “Dogs that receive proper socialization, exercise, and attention; that are given adequate food, water, shelter, and veterinary care; that are neutered or spayed, unless retained for responsible breeding purposes; and that are trained humanely and confined safely present much less risk to communities.”¹⁸ Because no one breed is inherently vicious, it is arbitrary to treat similarly situated dog owners differently.

Due Process

Because the ordinances apply only to certain breeds, the laws imply that there is some method of determining a dog’s breed. In fact, no objective standard or test for identifying a dog’s breed exists. There is no breed known simply as a “Pitbull” and therefore no means by which a person could determine whether their dog is of the regulated breed.¹⁹ Such a determination is necessary for citizens, who must have notice of the prohibited conduct, and for the police, who must enforce the law. Breed specific ordinances do not provide adequate notice of the prohibited conduct.

Due process requires that a law give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by statute.²⁰ If an ordinance encourages arbitrary and erratic law enforcement or if it places unlimited discretion in the hands of the police, the law will violate due process. A breed specific ordinance is too subjective; proving that a particular dog falls within the ordinance usually requires expert testimony.²¹

Continued on page 13

Application of breed specific ordinances to mixed breed dogs presents both legal and practical difficulties. This problem was first illustrated in 1982, when a Hollywood, Florida ordinance was challenged on constitutional grounds.²² The ordinance applied to the American Pit Bull Terrier or American Staffordshire Terrier. The court found that despite this particularity, the ordinance presented “notice problems for citizens and enforcement problems for the police.” Neither the owners nor the police had any effective means for determining whether a particular dog, especially unregistered or mixed breeds, was in fact one of the breeds described in the statute. Thus, the court found that the statute, as written, was vague, arbitrary, and an unconstitutional violation of due process.²³

This same issue arose in 1985 following the enactment of a “Pitbull” ordinance in Shawnee, Kansas. The ordinance prohibited the possession, ownership, or harboring of pit bulls within the city limits.²⁴ Additionally, there was a catchall provision covering “any dog which had the appearance and characteristics of ... any other breed commonly known as pit bulls ...”²⁵ This time the ordinance survived. The City contended that the term “Pitbull” was commonly understood in the community and subject to reasonable interpretation owners and veterinarians. Moreover, there was considerable testimony to the effect that the plaintiff knew his dog was a Pitbull and that veterinarians and animal control officers in the city generally recognized the term. Accordingly, the court concluded that the ordinance was constitutionally permissible.²⁶

Nationwide, courts uphold breed specific ordinances when the ordinance defines them by names recognized by national dog breed registry organizations such as the American Kennel Club or the United Kennel Club.²⁷ The courts note that these organizations publish specific physical characteristics to guide enforcement. These standards provided a basis for examining the physical characteristics of the dog in question and comparing them with breed standards published by the two clubs. A few courts have upheld ordinances that define the breed in question to mean “any dog which exhibits those distinguishing characteristics” that “substantially conform to the standards” established by either the American Kennel Club or United Kennel Club. Other courts have struck such ordinances down as vague because of the difficulty for even experts to determine the breeding of mixed breed dogs.²⁸

Alternatives to Breed Specific Legislation and Banning

Cincinnati realized the ineffectiveness and costli-

ness of its breed specific ordinance and changed it. Similarly, a study in Great Britain revealed its breed specific legislation did not result in a reduction in dog bites.²⁹ Breed specific legislation is bad public policy when legislatures have so many alternatives from which to choose.

There are about 53 million dogs in the United States, creating a multi-billion dollar industry. Many families treat the dog as a member of the family, some even as they would a child. Lawmakers must see that education for dogs and owners, and punishment for irresponsible owners, is the better way to address the community’s concerns about dogs.

Breed bans are an emotional response to a nuisance problem better solved by more dog friendly means. For instance, because the owner typically has the most control over his animal, any dangerous or vicious dog legislation must aggressively regulate the conduct of irresponsible owners. Communities can effectively enforce of all existing dog ordinances, revise existing vicious dog laws to increase penalties on owners, and enact and enforce strict vicious dog laws that address all dogs causing harm, regardless of breed. Communities can also promote canine education to dog owners and non-owners alike to promote responsible dog ownership and interaction with dogs in the community.

The activities of breeders should be closely monitored and statutory provisions prohibiting the type of genetic engineering that results in the creation of an animal bearing little or no resemblance to the average domesticated dog should be considered. The activity of breeders who “manufacture” vicious or uncontrollable dogs constitutes nothing less than cruelty to animals and should be prosecuted accordingly.³⁰

Additionally, communities and veterinarians can abate the cost of licensing, spaying or neutering, and vaccinating dogs. The cost for any of these services could be provided from revenues raised by a per household fee or funds set up by kennel clubs. A very small fee levied per household could generate substantial income. It is appropriate that the entire community share the burden, not just pet owners, because as with the cost of maintaining police and fire services, the benefit accrues to the entire community.³¹

There are plenty of models for cities and states to consult to construct generic dangerous dog legislation that effectively addresses the communities concerns.³² Any dog law should have several key elements.³³ First a dog law must have clear definitions. Terms like “potentially dangerous,” “dangerous,” “bite,” “serious injury,” and “provocation” must be clearly defined, based on objective, observable behaviors, not subjective per-

ceptions and must clearly distinguish between normal dog behaviors and abnormally aggressive behaviors. Second, a dog law should specify exceptions in which a dog may reasonably be expected to bite. Third, it should distinguish between mouthing/nipping, bites, and life-endangering attacks. A dog that nips someone may need training, but does not deserve the same punishment as a dog that kills or severely maims a person. Fourth, a dog law should establish an impartial appeal process, establish the burden of proof and clearly define who has it, and establish what standard of proof applies. A dog law should match penalties to the seriousness of the behavior and provide options other than euthanasia. Euthanasia or exile should be reserved for only the most serious cases—dogs that kill or severely maim. Laws should also provide for rehabilitation when appropriate, expunging a dog's record if the dog has completed training and there are no repeat incidents. The AVMA Model Dog Bite Prevention Legislation, published in the June 1, 2001 issue of the *Journal of the American Veterinary Medical Association*, is a model for the control of dangerous dogs was developed to assist communities in addressing dog bite issues.³⁴

Dr. Bonnie Beaver says, "Communities can respond effectively to citizen pressure for action regarding 'dangerous' dogs without introducing breed specific legislation or banning. Dogs that receive proper socialization, exercise, and attention; that are given adequate food, water, shelter, and veterinary care; that are neutered or spayed, unless retained for responsible breeding purposes; and that are trained humanely and confined safely present much less risk to communities."³⁵ Dr. Gail Golab, Assistant Director of Education and Research for the AVMA, agrees: "Reasonable and enforceable laws that apply equally to all dogs and dog owners are fairer to the community as a whole than ones drafted in the heat of a perceived crisis. Dog bite reduction strategies are more likely to be effective if they focus on reducing inappropriate dog and dog owner behaviors, regardless of the dog's breed, instead of on banning specific breeds."³⁶

Both the AVMA and the Humane Society of the United States (HSUS) have recommended that each community gather information from appropriate sources, including breeders, veterinarians, animal control officers, police officers, and animal owners. Then the community can accurately assess its individual needs, explore the concerns raised by members of that community, and, in turn, incorporate these needs and concerns into any proposed legislation.³⁷

The scope and actual language of the model ordi-

nances strike a balance between protecting members of the community, respecting the rights of responsible pet owners, treating the animals involved in a humane manner and reflect the need to encourage lawmakers to focus on the temperament of the animal instead of on a specific breed. Only when lawmakers appreciate the importance of this distinction may communities begin to resolve their problems with dangerous or vicious dogs.

Conclusion

Breed specific legislation is not a practicable approach to regulation of dogs. Communities must establish a well-defined procedure for dealing with dogs proven dangerous which includes, if necessary, the destruction of such animals. In order to be effective, such legislation should not single out specific breeds or phenotypic classes of dogs. It should address deeds, not breeds.

Regulation defining prohibited dog behavior is a more practicable approach than breed specific regulation. Such regulation is also more likely to gain support. Properly drafted it has a stronger legal and evidentiary basis. Specificity aids enforcement and understanding of what is necessary to comply. Breed specific regulation is controversial and difficult to administer. It requires training of enforcement personnel in the identification of those breeds and in distinguishing those breeds from others. It might not be possible to enforce such ordinances against mixed breed dogs that had only some of the physical characteristics of the named breed.

The dogs are not the threat to communities. Dogs are the products of their masters. Man has domesticated dogs to serve as companions and workers. Dogs protect him, see for him, hunt for him, play for him, even fight to the death for him. One breed is not inherently good or evil, vicious or docile, harmful or helpful. Attempts to legislate breeds out of existence fail to understand that people determine whether dogs will be useful inhabitants of a community and canine good citizens.

Endnotes

1. Sarah Okrzynski is a 2003 graduate of Salmon P. Chase College of Law. This article derives from a paper originally prepared in partial satisfaction of the requirements of the course in State and Local Government Law. The views expressed here are her own and not necessarily those of the College of Law or the Local Government Law Center.
2. Breed Specific Banning Legislation. <http://www.mans-best-friend.org/banning.html>.

Legislate Deeds, Not Breeds *continued from page 14*

3. Taking Command, December 2001, <http://www.akc.org/love/dip/legislat/tcdec01.cfm>.
4. Maryland State and City Legislation Targets Breeds, http://www.akc.org/news/md_breedban.cfm. For more examples of other defeated proposed legislation see Broward County, FL Seeks Right to Restrict Breeds, March 22, 2001, http://www.akc.org/love/dip/legislat/broward_county.cfm; Taking Command, December 2001, <http://www.akc.org/love/dip/legislat/tcdec01.cfm>; Florida Dog Owners Win Battle in Legislature, May 7, 2001, <http://www.akc.org/love/dip/legislat/fladogowners.cfm>; The AKC Opposes Louisiana Breed Ban, <http://www.akc.org/love/dip/legislat/LAbreedban.cfm>; State Wide Legislation: HB 616 PROPOSED BY REP. FAUCHEUX, 4/17/01, <http://www.adoa.org/states/la/la.shtml>; Springfield, MA Considers Breed-Specific Legislation, June 14, 2001, <http://www.akc.org/love/dip/legislat/MAbreedlegislation.cfm>; Massachusetts Fanciers Defeat Breed-Specific Ordinance, June 18, 2001, <http://www.akc.org/love/dip/legislat/MAfanciersdefeat.cfm>; Breed-Specific Legislation Proposed in Chicago, May 15, 2001, http://www.akc.org/love/dip/legislat/proposedleg_chicago.cfm.
5. Maryland State and City Legislation Targets Breeds, http://www.akc.org/news/md_breedban.cfm.
6. Banned in Cincinnati: My dog was banned in Cincinnati, <http://www.canismajor.com/dog/bancvg.html>.
7. Singer v. Cincinnati, 57 Ohio App. 3d 1, 566 N.E. 2d 190 (1990).
8. *Id.* at 3.
9. Pitbulls no longer banned in Cincinnati: Ohio Valley dog owners, Cincinnati Kennel Club helped draft new city dog control law, <http://www.canismajor.com/dog/cvgpbban.html>.
10. See Cincinnati Code of Ordinances § 701-1-D-1, 701-1-V, 701-4, 701-5, 701-6, 701-7, 701-8, 701-9, 701-10, 701-14, 701-99.
11. *O.R.C.* § 955.11(A)(4)(a)(iii).
12. Lynn Marmer, Comment, The New Breed of Municipal Dog Control Laws: Are They Constitutional?, 53 U. Cin. L. Rev. 1067 (1984).
13. Sentell v. New Orleans & Carrollton R.R., 166 U.S. 698 (1897).
14. See Marmer, *supra*, at note 12.
15. *Id.*
16. Julie A. Thorne, Note, If Spot Bites the Neighbor, Should Dick and Jane Go to Jail?, 39 Syracuse L. Rev. 1445, 1455-1456 (1988).
17. See Marmer, *supra*, at note 12.
18. AVMA Proposes Alternatives to Breed-Specific "Dangerous Dog" Legislation, Press Release, May 31, 2001, <http://www.avma.org/press/pibreedlegislation01.asp>.
19. Diane Blackman, Breed Specific Legislation: Practicality of Breed Specific Legislation in Reducing or Eliminating Dog Attacks on Humans and Dogs, 1995, <http://www.dog-play.com/pitbull.html>.
20. See Marmer, *supra*, at note 12.
21. See Blackman, *supra*, at note 19.
22. See Hollywood, Florida Code § 6-25 (1980); Holder v. City of Hollywood, No. 81-13968-CR (Fla., 17th Cir. Nov. 19, 1982).
23. *Id.*
24. City of Shawnee Ordinance No. 1695.
25. *Id.*
26. *Id.*
27. See Blackman, *supra*, at note 19.
28. *Id.*
29. Breed Specific Banning Legislation, <http://www.mans-best-friend.org/banning.html>.
30. See Thorne, *supra*, at note 16.
31. Margaret Anne Cleek, Instead of breeding bans, Animal People, June 1993, <http://www.animalpeoplenews.org/insteadof.html>.
32. See the HSUS proposed model legislation similar to the AVMA model law, also model legislation proposed by National Institute of Municipal Law Officers (NIMLO) and Dangerous Dog Control Law (DDCL) enacted by the General Assembly of Georgia. This bill became effective for all purposes on January 1, 1989, and provides for the regulation and registration of both dangerous and potentially dangerous dogs. This legislation is not breed-specific in nature and appears to strike a balance between protecting the public and respecting the rights of dog owners.
33. Dangerous Ordinance Group, www.ilovemydog.org/mission.htm.
34. AVMA Proposes Alternatives to Breed-Specific "Dangerous Dog" Legislation, Press Release, May 31, 2001, <http://www.avma.org/press/pibreedlegislation01.asp>.
35. *Id.*
36. *Id.*
37. *Id.* See also Thorne, *supra*, at note 16.



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