

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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No. 853

H.P. 630

House of Representatives, March 21, 1989

Reference to the Committee on Agriculture suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative MITCHELL of Freeport.

Cosponsored by Representative NUTTING of Leeds, Representative TARDY of Palmyra and Representative PINES of Limestone.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

---

An Act Regarding Dangerous Dogs.

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1 Be it enacted by the People of the State of Maine as follows:

3 Sec. 1. 7 MRSA c. 727, as amended, is repealed.

5 Sec. 2. 7 MRSA c. 727-A is enacted to read:

7 CHAPTER 727-A

9 DANGEROUS DOGS

11 §3955. Definitions

13 As used in this chapter, unless the context indicates  
15 otherwise, the following terms have the following meanings.

17 1. Animal control authority. "Animal control authority"  
19 means an entity acting alone or in concert with other local  
21 governmental units for the shelter and welfare of animals and the  
23 enforcement of the animal control laws of the municipality, the  
county and the State. If there is no authority specially  
designated for the enforcement of animal control laws, animal  
control authority shall mean a state or local law enforcement  
agency or county sheriff's office.

25 2. Animal control officer. "Animal control officer" means  
27 any individual employed, contracted with or appointed by an  
29 animal control authority for the purpose of aiding in the  
31 enforcement of this chapter or any other law or ordinance  
33 relating to the licensure of animals, control of animals or  
seizure and impoundment of animals and includes any state, county  
or local law enforcement officer or other employee whose duties  
in whole or in part include assignments that involve the seizure  
and impoundment of any animal.

35 3. Dangerous dog. "Dangerous dog" means any dog which  
37 according to the records of the appropriate authority:

39 A. Has inflicted severe injury on a human being without  
provocation on public or private property;

41 B. Has killed a domestic animal without provocation while  
43 off the owner's property; or

45 C. Has been found to be potentially dangerous and after the  
47 owner has received notice, again aggressively bites, attacks  
or endangers the safety of humans or domestic animals.

49 4. Owner. "Owner" means any person, firm, corporation,  
51 organization or department possessing, harboring, keeping, having  
an interest in or control or custody of an animal.



1 requiring the animal control authority which registered the  
2 dog to be named an additional insured for the sole purpose  
3 that the authority be notified by the insurance company of  
4 any cancellation, termination or expiration of the policy.

5  
6 **§3955-B. Inspection**

7  
8 The animal control authority having jurisdiction over the  
9 area in which a dog registered under this chapter is located may  
10 make whatever inquiry or inspection is deemed necessary to ensure  
11 compliance with the provisions of this chapter.

12 **§3955-C. Notification of change of status**

13  
14 The owner shall notify the animal control authority in which  
15 the owner's dog is registered if that dangerous dog is loose,  
16 unconfined, has attacked another animal or a human being, has  
17 died, has been sold or given away. If the dog has been sold or  
18 given away, the owner shall provide the authority with the name,  
19 address and telephone number of the new owner. If the ownership  
20 is transferred to another person residing in this State, the  
21 animal control authority in the municipality where the present  
22 owner registered the dog shall inform the authority in the  
23 municipality where the new owner resides. The new owner must  
24 comply with the requirements of this chapter.

25  
26 **§3955-D. Governmental unit issuing registration**

27  
28 The following governmental units shall have responsibility  
29 for issuing registrations and conducting inspections.

30  
31 1. Municipal authority. If an owner has the dangerous dog  
32 in an incorporated area that is serviced by both a municipal and  
33 a county animal control authority, the owner shall obtain a  
34 certificate of registration from the municipal authority.

35  
36 2. County authority. If an owner has the dangerous dog in  
37 an incorporated or unincorporated area served only by a county  
38 animal control authority, the owner shall obtain a certificate of  
39 registration from the county authority.

40  
41 3. County sheriff. If an owner has the dangerous dog in an  
42 incorporated or unincorporated area that is not served by an  
43 animal control authority, the owner shall obtain a certificate of  
44 registration from the office of the local sheriff.

45  
46 Municipalities and counties may charge an annual fee, in  
47 addition to regular dog licensing fees, to register dangerous  
48 dogs.

1        **§3955-E. Restraint of dangerous dogs**

3            It is unlawful for an owner of a dangerous dog to permit the  
4            dog to be outside the proper enclosure unless the dog is muzzled,  
5            restrained by a collar or harness which the dog cannot slip out  
6            of and a substantial chain or leash and is under physical  
7            restraint of a responsible person. The muzzle must not cause  
8            injury to the dog or interfere with its vision or respiration but  
9            must prevent it from biting any person or animal.

11        **§3955-F. Potentially dangerous dogs**

13            Potentially dangerous dogs shall be regulated only by local,  
14            municipal and county ordinances. Nothing in this section limits  
15            restrictions that local jurisdictions may place on owners of  
16            potentially dangerous dogs.

17        **§3955-G. Provoked attack**

19            Dogs may not be declared dangerous if the threat, injury or  
20            damage was sustained by a person who at the time was committing a  
21            willful trespass or other tort upon the premises occupied by the  
22            owner of the dog, or was tormenting, abusing or assaulting the  
23            dog or has in the past been observed or reported to have  
24            tormented, abused or assaulted the dog or was committing or  
25            attempting to commit a crime.

27        **§3955-H. Unprovoked attack**

29            A person who is attacked by a potentially dangerous dog  
30            which is not restrained by a chain or leash may kill the dog if  
31            necessary to prevent further personal harm or harm to others.

33        **§3955-I. Hunting**

35            Dogs may not be declared dangerous if they attack  
36            undomesticated animals while engaged in hunting with a person  
37            holding an appropriate hunting license.

39        **§3955-J. Complaints regarding dangerous dogs**

41            1. Procedure. Any person may make written complaint to an  
42            animal control officer alleging that a dog is dangerous. The  
43            officer shall investigate the complaint. If on conclusion of the  
44            investigation the officer considers the dog dangerous, then the  
45            officer may file the complaint in District Court or Superior  
46            Court.

49            2. Pending hearing. Pending the outcome of the District  
50            Court hearing, the dog must be securely confined in a humane  
51            manner either on the premises of the owner or with a licensed  
52            veterinarian.

53

1           3. Court action. If, upon hearing, the court is satisfied  
2           that the complaint is true, it shall:

3           A. Order the owner to register the dog as a dangerous dog;  
4           or

5           B. Order the dog to be euthanatized if it has killed,  
6           maimed or inflicted serious bodily injury upon a person or  
7           has a history of assault.

8           4. Failure to abide by court order. If the court order in  
9           subsection 2, paragraph B, is not complied with within the time  
10           set by the court, the court may, upon application by the  
11           complainant or other person, issue a warrant to the county  
12           sheriff, any of the county sheriff's deputies, a local law  
13           enforcement officer or constable in the municipality where the  
14           dog is found, ordering the officer to kill the dog immediately  
15           and make a return of the warrant to the court within 14 days from  
16           the date of the warrant.

17           5. Court action; ex parte. An order may be entered ex  
18           parte upon findings by the court or justice of the peace that  
19           there is a reasonable likelihood that the dog is dangerous, its  
20           owner has failed to muzzle, restrain or confine it and that this  
21           failure poses an immediate threat of harm to the public.

22           A. Upon 2 days' notice, or a shorter period if the court  
23           prescribes, the owner whose animal has been possessed  
24           pursuant to an ex parte order may appear in the District  
25           Court or Superior Court and move the dissolution or  
26           modification of the ex parte order.

27           B. The court shall hear and determine the motion as  
28           expeditiously as justice requires.

29           C. The owner shall submit an affidavit setting forth  
30           specific facts to substantiate the findings that will serve  
31           to modify or dissolve the order. The applicant shall have  
32           the burden of presenting evidence to substantiate the  
33           original findings.

34           6. Lien. Any person taking possession of a dog as provided  
35           in this section shall have a lien on that dog in accordance with  
36           Title 17, section 1021, subsection 6.

37           §3955-K. Penalties

38           1. Confiscated. Any dangerous dog shall be immediately  
39           confiscated by an animal control authority if the:

40           A. Dog is not validly registered under this chapter;

1           B. Owner does not secure the liability insurance coverage  
2           required under section 3955-A;

3           C. Dog is not maintained in the proper enclosure; or

4           D. Dog is outside of the dwelling of the owner, or outside  
5           of the proper enclosure and not under physical restraint of  
6           the responsible person.

7           Any violation of this subsection shall be a Class E crime.

8           2. Prior conviction. If a dangerous dog of an owner with a  
9           prior conviction under this chapter attacks or bites a person or  
10           another domestic animal, the dog's owner is guilty of a Class C  
11           crime. The dangerous dog shall be immediately confiscated by an  
12           animal control authority, placed in quarantine for the proper  
13           length of time and thereafter destroyed in an expeditious and  
14           humane manner.

15           3. Attack on human. The owner of any dog that aggressively  
16           attacks and causes severe injury or death of any human, whether  
17           the dog has previously been declared potentially dangerous or  
18           dangerous, shall be guilty of a Class C crime. The dog shall be  
19           immediately confiscated by an animal control authority, placed in  
20           quarantine for the proper length of time and thereafter destroyed  
21           in an expeditious and humane manner.

22           4. Costs. The owner or keeper of the dog shall be ordered  
23           to pay all costs of supplementary proceedings and all reasonable  
24           costs for seizure and euthanasia.

25           5. Treble damages. If a dog whose owner or keeper refuses  
26           or neglects to comply with the order wounds any person by a  
27           sudden assault or wounds or kills any domestic animal, the owner  
28           or keeper shall pay the person injured treble damages and costs  
29           to be recovered by a civil action.

30           §3955-L. Stealing or killing dogs

31           Except as provided in this chapter and Title 12, sections  
32           7504 and 7505, and unless the killing is justified to protect  
33           persons or property, any person who steals, confines, secretes,  
34           willfully or negligently injures or willfully or negligently  
35           kills a dog is liable in damages to its owner in a civil action.

36           §3395-M. Severability

37           If any provision of this chapter or its application to any  
38           person or circumstance is held invalid, the remainder of the  
39           chapter or its application to other persons or circumstances is  
40           not affected.



1

## STATEMENT OF FACT

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5

This bill establishes a new chapter governing the control of dangerous dogs.