



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

H.B. 14

129th General Assembly
(As Introduced)

Rep. Sears

BILL SUMMARY

- Eliminates the requirement that the owner of a pit bull dog must comply with the statutory requirements applicable to an owner of a vicious dog solely because of the breed of the owner's dog by removing from the definition of vicious dog the automatic inclusion of pit bull dogs.
- Repeals the statement that the ownership, keeping, or harboring of a pit bull dog is *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog.

CONTENT AND OPERATION

Removal of pit bull dogs from definition of vicious dog

Operation of the bill

Overview--pit bull dog owner compliance with vicious dog owner requirements based on dog's behavior; *prima facie* evidence of vicious dog

The bill makes two changes to the existing law dealing with vicious dogs. First, it eliminates (by removing language that automatically includes pit bull dogs within the definition of vicious dog) the requirement that an owner of a pit bull dog comply with the statutory confinement, restraint, transfer of ownership, and liability insurance duties and debarking restrictions applicable to vicious dogs solely because the owner's dog is a pit bull dog. Under the bill, the owner of a pit bull dog will be required to comply with those duties and restrictions only if the dog exhibits the behavior that defines a dog as a vicious dog. (See "**Background/existing law**," below for a discussion of those provisions.)

Second, the bill repeals the existing statement that the ownership, keeping, or harboring of a pit bull dog is *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog. Therefore, under the bill, a person who owns, keeps, or harbors a pit bull dog cannot be found to have owned, kept, or harbored a vicious dog unless the pit bull dog exhibits the behavior that defines a dog as a vicious dog.¹

Changes to vicious dog definition

Under existing law, "vicious dog" is defined as a dog that, without provocation and subject to exceptions related to police dogs performing official duties and dogs harming persons committing a trespass or other criminal offense on the dog owner's property, meets any of the following:²

- (1) Has killed or caused serious injury to any person;
- (2) Has caused injury, other than killing or serious injury, to any person, or has killed another dog;
- (3) Belongs to a breed that is commonly known as a pit bull dog.

The bill removes the third component of the definition of a vicious dog. As a result, pit bull dogs will be treated in the same manner as all other dogs in determining whether they are vicious dogs. A pit bull dog will meet the definition of a vicious dog only if it kills or causes injury to a person or another dog and none of the exceptions apply.

***Prima facie* evidence rule**

Existing law also provides that the ownership, keeping, or harboring of a pit bull dog is *prima facie* evidence of the ownership, keeping, or harboring of a vicious dog. Under that provision, a person who owns, keeps, or harbors a pit bull dog is considered to own, keep, or harbor a vicious dog without the need for additional evidence and solely because of the breed of the dog that the person owns, keeps, or harbors. The bill repeals this *prima facie* evidence rule. Therefore, under the bill a person cannot be found to own, keep, or harbor a vicious dog unless evidence is presented to prove that the behavior of the person's dog is such that it meets the behavioral components of the vicious dog definition.³

¹ R.C. 955.11(A)(4)(a)(iii).

² R.C. 955.11(A)(4).

³ R.C. 955.11(A)(4)(a)(iii).

Background/existing law

Transfer of ownership requirements for vicious dog or dangerous dog

Under existing law, the seller or other transferor of ownership or possession of a dog who knows that the dog is a dangerous or vicious dog, within ten days after the transfer, must give a completed form that contains specified information to the transferee and to the board of health and dog warden of the transferee's place of residence. In addition, a seller must answer specified questions on the form dealing with the dog's past behavior.⁴ Whoever violates this requirement is guilty of a minor misdemeanor on a first offense and a fourth degree misdemeanor on a subsequent offense.⁵

Under the bill, an owner of a pit bull dog would not be required to comply with the transfer requirements described above unless the dog meets the behavioral components of the vicious dog definition or meets the requirements of the definition of dangerous dog.

Confinement and restraint requirements for a vicious dog or dangerous dog

Existing law (with limited exceptions for dogs engaged in hunting or training for hunting) prohibits the owner, keeper, or harbinger of a vicious dog from failing to do any of the following:⁶

(1) While the dog is on the premises of the owner, keeper, or harbinger, securely confining it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure with a top;

(2) While the dog is off those premises, keeping it on a chain-link leash or tether not more than six feet in length and also doing one or both of the following:

(a) Keeping the dog as described in paragraph 1 above;

(b) Having a person of suitable age and discretion control the leash or tether or securely attaching, tying, or affixing it to the ground or a stationary object so that the dog is adequately restrained and stationing such a person close enough to the dog to prevent it from causing injury to any person;

(c) Muzzling the dog.

⁴ R.C. 955.11(D) and (E).

⁵ R.C. 955.99(A).

⁶ R.C. 955.22(D).

Whoever violates these requirements is guilty of a first degree misdemeanor or fourth degree felony depending upon the circumstances of the offense. In addition, the dog must be destroyed if it causes death or serious injury to a person and may be destroyed in other specified circumstances.⁷

The owner of a dangerous dog is subject generally to the same requirements; however, the penalties for a violation of the requirements are different.

Under the bill, the owner of a pit bull dog would be subject to the requirements that apply to a vicious dog or to those that apply to a dangerous dog only if the dog meets the behavioral components of the vicious dog definition or meets the requirements of the definition of dangerous dog.

Liability insurance requirements applicable to a vicious dog

Existing law prohibits an owner, keeper, or harbinger of a vicious dog from failing to obtain liability insurance with coverage of at least \$100,000 per occurrence covering damage, bodily injury, or death caused by the dog. Whoever violates this prohibition is guilty of a misdemeanor of the first degree.⁸

Under the bill, the owner of a pit bull dog does not have to comply with the above liability insurance requirements unless the dog meets the behavioral components of the vicious dog definition.

Debarking restrictions related to vicious dogs

Existing law also prohibits a person from debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog, possessing a vicious dog that the person knows or has reason to believe is debarked or surgically silenced, or falsely attesting to a veterinarian (before the vet debarks or surgically silences the dog) on a written waiver form that the dog is not a vicious dog. Whoever violates this prohibition is guilty of a fourth degree felony, and the dog must be destroyed.⁹

Under the bill, an owner of a pit bull dog is not subject to this prohibition unless the dog meets the behavioral components of the vicious dog definition.

⁷ R.C. 955.99(G).

⁸ R.C. 955.22(E) and 955.99(H).

⁹ R.C. 955.22(F) and 955.99(J).

HISTORY

ACTION	DATE
Introduced	01-11-11

H0014-I-129.docx/ks:jc

