



DEPARTMENT OF
PUBLIC WORKS

CITY OF SACRAMENTO
CALIFORNIA

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OFFICE OF THE DIRECTOR

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April 28, 1988

Law and Legislation Committee
City Council Chambers
Sacramento, California 95814

SUBJECT: SB 1741 (Torres) Regarding Vicious Dogs

Honorable Members in Session:

SUMMARY

This report recommends that the City of Sacramento go on record in opposition to SB 1741 (Torres) regarding vicious animals.

BACKGROUND

SB 1741 (Torres) originated as a statewide approach to the regulation of vicious dogs, including a rebuttable presumption that dogs generally known as pit bulls are vicious. According to the League of California Cities, the author's intention was to provide alternative vicious dog regulations for communities which did not have them. Before the bill's first hearing, the author amended his proposal to remove the provisions concerning pit bulls.

The bill has since undergone additional amendments, and now consists of a two-tier system regulation "potentially dangerous dogs" and "vicious dogs". These terms are defined in ways which are substantially different from the definition of vicious dogs in the City of Sacramento's existing vicious dog regulations.

Although SB 1741 purports to permit alternative local programs for regulating vicious dogs, it would require every local government to use the SB 1741 definition of vicious dog and potentially dangerous dog. In SB 1741, a dog is not vicious unless it is owned or harbored for the purpose of dog fighting; has killed a person or caused broken bones, disfiguring lacerations, multiple sutures, or cosmetic surgery; or has on three separate occasions within three years killed, seriously bitten, inflicted injury, or otherwise attacked a domestic animal.

The mandated use of such a vicious dog definition would gut the City of Sacramento's working, tested vicious dog program.

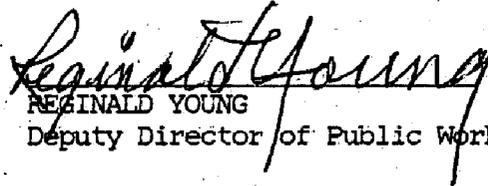
Attachment A describes two cases decided within the past month in which the hearing officer upheld the Chief Animal Control's order to destroy a dog. In both of these cases, the SB 1741 definitions would prevent us from declaring the dog vicious. At best, we would be forced to create a new "potentially dangerous" dog system which would maintain these dogs in their neighborhoods to the detriment of our citizens, waiting for worse to happen.

SB 1741, which ostensibly originated as an attempt to assist cities to prevent vicious behavior by dogs, has evolved into legislation which would force cities to tolerate vicious behavior, including multiple attacks on people and domestic animals, before we could remove a dog from our midst. Attacks or injury to persons would not be enough to declare a dog vicious. We would have to wait until bones were broken, lacerations were disfiguring, multiple sutures or cosmetic surgery were required.

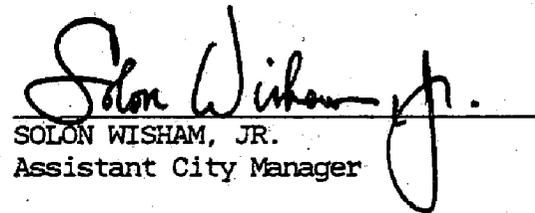
RECOMMENDATION

It is recommended that the Law and Legislation Committee put the City of Sacramento on record in opposition to SB 1741 (Torres) regarding vicious dogs.

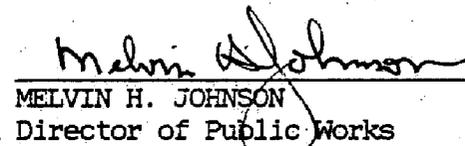
Respectfully submitted,


REGINALD YOUNG
Deputy Director of Public Works

RECOMMENDATION APPROVED:


SOLON WISHAM, JR.
Assistant City Manager

APPROVED:


MELVIN H. JOHNSON
Director of Public Works

April 28, 1988
Law and Legislation
All Districts

CASE 1

Dog A attacked and chased without provocation a young man who was in a public sidewalk where he was lawfully entitled to be. The young man was forced to take off his back pack and use it as a shield between the dog and himself in order to fend off the dog's attack and to prevent physical harm to himself. A witness came to the young man's rescue by using a baseball bat to chase the dog away.

Later the same month, Dog A attacked a dog being walked on a leash by its owner on the public sidewalk, biting it on the tail and hind quarters. Veterinary care was required.

Dog A has been seen on many occasions running loose in the neighborhood during a recent six-month period. Two other attacks on domestic animals were alleged, but were not proven at hearing because a witness failed to appear.

The hearing officer concluded that public safety required destruction of the dog. He noted that the owners of the dog had demonstrated no ability to restrain their dog within their yard. The hearing officer further stated:

It is clear from the evidence that had it not been for...interference [by the witness], the dog would have harmed the young man. There is no doubt in the mind of this hearing officer that this dog will attack people and animals in the future and that [the owners] are not willing or able to prevent such attacks from occurring.

CASE 2

Dog B attacked and bit a seven-year-old child on her lower left leg causing two puncture wounds. At the time of the attack, the child was in a place where she was lawfully entitled to be.

Two months later, Dog B chewed through and knocked down portions of a fence separating his property from his neighbor's, and entered his neighbor's property. Dog B then attacked and inflicted fatal wounds upon the small dog residing there.

The hearing officer concluded:

Both of these attacks evidence the vicious nature of this dog. The attack on the [neighbor's] dog in which [the] dog chewed its way through the fence clearly demonstrates [the owner's] inability to prevent such attacks in the future. The public safety will be protected only by destruction of the dog.

AMENDED IN SENATE APRIL 4, 1988

AMENDED IN SENATE MARCH 7, 1988

AMENDED IN SENATE FEBRUARY 17, 1988

SENATE BILL

No. 1741

Introduced by Senators Torres, Deddeh, Royce, and Russell
(Coauthors: Assembly Members Eastin and Roybal-Allard)

January 11, 1988

An act to amend Sections 30652 and 31401 of, and to add Chapter 9 (commencing with Section ~~31510~~ 31601) to Division 14 of, the Food and Agricultural Code, relating to dogs, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1741, as amended, Torres. *Vicious and potentially dangerous dogs.*

(1) Existing law provides for the regulation and licensing of dogs, including providing for dog tags, the seizure and destruction of dogs, and fees for impounding dogs. It imposes civil liability and fines for specified violations and provides that certain offenses involving dogs are misdemeanors or felonies.

This bill would provide for the regulation and licensing of vicious and potentially dangerous dogs, as specified, and would require a license number or other identification number to be tattooed upon vicious dogs, as specified. It would require the owner or keeper to display a warning sign on his or her premises, and the owner or keeper to sign a statement agreeing to specified conditions. The bill would also require all vicious dogs to be confined in an enclosure, as specified, and would prohibit specified acts with respect to vicious dogs. It would require the destruction of a dog and

the payment of a specified fine for a violation of the licensure, liability insurance, enclosure, or tattoo requirements.

The bill would also provide for the destruction of a vicious dog, and would impose ~~finer and civil liability~~ a fine on the owner or keeper of the dog, which, when unprovoked, commits specified attacks on a person ~~or specified animals~~. It would provide for procedures for the owner or keeper of a vicious dog to challenge the destruction of a dog. It would also provide for procedures for a determination that a dog is vicious *or potentially dangerous*.

The bill would provide for exceptions to specified provisions for licensed kennels, shelters, licensed guard dog trainers, police departments, and law enforcement officers, as specified.

The bill would require the Attorney General to establish a uniform summons or citation to be used by law enforcement agencies in the enforcement of this act.

The bill would not prevent a city or county from adopting or enforcing a more restrictive program for the control of vicious dogs.

(2) Existing law provides that a violation of specified provisions regarding the regulation and licensing of dogs that results in death or serious injury to livestock or poultry is a misdemeanor.

This bill would add additional provisions to the above, thereby creating new crimes and infractions. The bill would also increase the fines for violations of laws relating to registration and licensing of dogs, generally. This bill would mandate additional duties on local officials regarding the licensing and regulation of dogs, thereby creating a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30652 of the Food and
2 Agricultural Code is amended to read:

3 30652. Except as provided in subdivision (d) of
4 Section 31518, all fees for the issuance of dog license tags
5 and all fines collected pursuant to this division shall be
6 paid into the county, city, or city and county treasury, as
7 the case may be, and shall be used:

8 (a) First, to pay fees for the issuance of dog license
9 tags.

10 (b) Second, to pay fees, salaries, costs, expenses, or any
11 or all of them for the enforcement of this division and all
12 ordinances which are made pursuant to this division.

13 (c) Third, to pay damages to owners of livestock which
14 are killed by dogs.

15 (d) Fourth, to pay costs of any hospitalization or
16 emergency care of animals pursuant to Section 597f of the
17 Penal Code.

18 SEC. 2. Section 31401 of the Food and Agricultural
19 Code is amended to read:

20 31401. Except as provided in Sections 31402 and
21 31518, violation of any provision of this division is an
22 infraction punishable by a fine of not more than five
23 hundred dollars (\$500) for a first offense, and by a fine of
24 not more than one thousand dollars (\$1,000) for a second
25 or subsequent offense.

26 SEC. 3. Chapter 9 (commencing with Section 31510
27 31601) is added to Division 14 of the Food and
28 Agricultural Code, to read:

29
30 CHAPTER 9. VICIOUS DOGS

31
32 31510. The Legislature finds and declares:

33 (a) Vicious dogs have become a serious and
34 widespread threat to the safety and welfare of citizens of
35 this state. In recent years they have assaulted without
36 provocation and seriously injured numerous individuals,

1 particularly children; and have killed numerous dogs.
2 Many of these attacks have occurred in public places.

3 (b) The number and severity of these attacks are
4 attributable to the failure of owners to register, confine,
5 and properly control vicious dogs.

6 (c) The necessity for the regulation and control of
7 vicious dogs is a statewide problem; requiring statewide
8 regulation; and existing laws are inadequate to deal with
9 the threat to public health and safety posed by vicious
10 dogs.

11 (d) The owning, keeping, or harboring of vicious dogs
12 is a nuisance.

13 21511. As used in this chapter, the following terms
14 shall have the following meanings unless otherwise
15 stated:

16 (a) "Vicious dog" means:

17 (1) Any dog which when unprovoked approaches any
18 person in a vicious or terrorizing manner, in an apparent
19 attitude of attack, upon the streets, sidewalks, or any
20 public grounds or places.

21 (2) Any dog with a known propensity, tendency, or
22 disposition to attack unprovoked, to cause injury, or to
23 otherwise endanger the safety of persons or domestic
24 animals.

25 (3) Any dog which bites, inflicts injury, assaults, or
26 otherwise attacks a person or domestic animal without
27 provocation on public or private property.

28 (4) Any dog owned or harbored for the purpose of dog
29 fighting or any dog trained for dog fighting.

30 Notwithstanding the definition of vicious dog above, no
31 dog may be declared vicious if any injury or damage is
32 sustained by a person who, at the time the injury or
33 damage was sustained, was committing a willful trespass
34 or other tort upon premises occupied by the owner or
35 keeper of the dog, or was teasing, tormenting, abusing, or
36 assaulting the dog, or was committing or attempting to
37 commit a crime. No dog may be declared vicious if the
38 dog was protecting or defending a person within the
39 immediate vicinity of the dog from an unjustified attack
40 or a dog. No dog may be declared vicious if an injury or

1 damage was sustained by a domestic animal which at the
2 time the injury or damage was sustained was teasing,
3 tormenting, abusing, or assaulting the dog.

4 (b) "Enclosure" means a fence or structure at least six
5 feet in height which forms an enclosure suitable to
6 prevent the entry of young children, and which is
7 suitable to confine a vicious dog in conjunction with other
8 measures which may be taken by the owner or keeper,
9 such as tethering of the vicious dog. The enclosure shall
10 be securely locked and designed with secure sides, top,
11 and bottom sufficient to prevent the animal from
12 escaping.

13 (c) "Animal control department" means the county,
14 city, or city and county animal control department. If the
15 county, city, or city and county does not have an animal
16 control department, it shall mean the city, county, or city
17 and county clerk.

18 (d) "Impounded" means taken into the custody of the
19 public pound in the county, city, or city and county
20 where the vicious dog is found.

21 (e) "Person" means a natural person or any legal
22 entity, including, but not limited to, a corporation,
23 association, firm, partnership, or trust.

24 21512. (a) In the event that an animal control officer
25 or a law enforcement officer has probable cause to
26 believe that a dog is vicious, the chief officer of the animal
27 control department or his or her immediate supervisor or
28 the chief of police, or his or her designee, shall petition
29 the municipal court within the judicial district wherein
30 the dog is owned or kept, or any other tribunal that may
31 be established pursuant to this chapter by the city or
32 county, for a hearing for the purpose of determining
33 whether or not the dog in question should be declared
34 vicious. Any complaint received from a member of the
35 public which serves as the evidentiary basis for the
36 animal control officer or law enforcement officer to find
37 a probable cause shall be sworn to and verified by the
38 complainant. The chief officer of the animal control
39 department or chief of police shall conduct or cause to be
40 conducted an investigation and shall notify the owner of

1 keeper of the dog that a hearing will be held by the
 2 municipal court or the tribunal, as the case may be, at
 3 which time he or she may have the opportunity to
 4 present evidence why the dog should not be declared
 5 vicious. The hearing shall be held promptly within no less
 6 than five nor more than 10 days after service of notice
 7 upon the owner or keeper of the dog. The hearing shall
 8 be informal and shall be open to the public.

9 (b) After the hearing, the owner or keeper of the dog
 10 shall be notified in writing of the determination. If a
 11 determination is made that the dog is vicious, the owner
 12 or keeper shall comply with the provisions of this chapter
 13 in accordance with a time schedule established by the
 14 chief officer of the animal control department or chief of
 15 police, but in no case more than 30 days subsequent to the
 16 date of the determination. If the owner or keeper of the
 17 dog contests the determination, he or she may, within
 18 five days of the determination, appeal the decision of the
 19 municipal court to the superior court within the judicial
 20 district wherein the dog is owned or kept, praying that
 21 the court conduct its own hearing on whether or not the
 22 dog should be declared vicious. The owner or keeper of
 23 the dog shall serve notice of the appeal upon the animal
 24 control officer or law enforcement officer involved in the
 25 matter.

26 The superior court shall conduct a hearing de novo,
 27 without a jury, and make its own determination as to
 28 viciousness. The hearing shall be conducted within seven
 29 days of the service of notice upon the animal control
 30 officer or law enforcement officer involved in the matter.
 31 The issue shall be decided upon the preponderance of the
 32 evidence. If the court rules the dog to be vicious, the
 33 court may establish a time schedule to ensure compliance
 34 with this chapter, but in no case more than 30 days
 35 subsequent to the date of the court's determination.

36 (c) The court may decide all issues for or against the
 37 owner or keeper of the dog even if the owner or keeper
 38 fails to appear at the hearing.

39 (d) The determination of the municipal court shall be
 40 final and conclusive upon all parties. However, any

1 animal control officer or law enforcement officer shall
 2 have the right to have that dog declared vicious for any
 3 subsequent actions of the dog.

4 (e) In the event that the animal control officer or law
 5 enforcement officer has probable cause to believe that
 6 the dog in question is vicious and may pose a threat of
 7 serious harm to persons or other domestic animals, the
 8 animal control officer or law enforcement officer may
 9 seize and impound the dog pending the hearings to be
 10 held pursuant to this section. The owner or keeper of the
 11 dog shall be liable to the city, county, or city and county
 12 where the dog is impounded for the costs and expenses
 13 of keeping the dog. The city, county, or city and county
 14 council may establish by ordinance a schedule of those
 15 costs and expenses.

16 31513. (a) No vicious dog shall be licensed by any
 17 county, city, or city and county for any licensing period
 18 commencing after September 15, 1988, unless the owner
 19 or keeper of the vicious dog meets the following
 20 requirements:

21 (1) The owner or keeper shall present to the city,
 22 county, or city and county animal control department
 23 proof that the owner or keeper has procured liability
 24 insurance in the amount of at least one hundred thousand
 25 dollars (\$100,000), covering any damage or injury which
 26 may be caused by the vicious dog during the 12/month
 27 period for which licensing is sought. The policy shall
 28 contain a provision naming the city, county, or city and
 29 county where that dog is licensed as an additional
 30 insured. The policy shall also contain a provision
 31 requiring the insurer to notify the city, county, or city and
 32 county of any cancellation, termination, or expiration of
 33 the liability insurance policy.

34 (2) The owner or keeper shall, at his or her own
 35 expense, have the licensing number assigned to that
 36 vicious dog, or any other identification number as the
 37 animal control department shall determine, tattooed
 38 upon that vicious dog by a licensed veterinarian or person
 39 trained as a tattooist and authorized to tattoo dogs in
 40 accordance with any applicable state, county, city, or city

1 and county law. The tattoo shall be placed either on the
 2 upper inner lip or upper left rear thigh of the vicious dog.
 3 The animal control department in its discretion may
 4 designate the particular location of the tattoo. If the
 5 identification number is different from the license
 6 number of that vicious dog, the number shall be noted in
 7 the city, county, or city and county licensing files for that
 8 vicious dog. For the purposes of this subdivision, "tattoo"
 9 means any permanent numbering of a vicious dog with
 10 the number designated by the animal control
 11 department by means of indelible or permanent ink or
 12 any other permanent, acceptable method of tattooing.
 13 Each city, county, or city and county shall affix a
 14 two-letter prefix to the identification number in order to
 15 identify the particular place where the dog was initially
 16 licensed.

17 (3) The owner or keeper shall display a sign on his or
 18 her premises warning that there is a vicious dog on the
 19 premises. The sign shall be visible and capable of being
 20 read from the public highway.

21 (4) The owner or keeper shall sign a statement
 22 attesting that:

23 (A) The owner or keeper shall maintain and not
 24 voluntarily cancel the liability insurance required by this
 25 section during the 12-month period for which licensing is
 26 sought, unless the owner or keeper shall cease to own or
 27 keep the vicious dog prior to expiration of that license.

28 (B) The owner or keeper shall, on or prior to the
 29 effective date of the license for which application is being
 30 made, have an enclosure for the vicious dog on the
 31 property where the vicious dog will be kept or
 32 maintained.

33 (C) The owner or keeper shall notify the animal
 34 control department within 24 hours if a vicious dog is on
 35 the loose, is unconfined, has attacked another animal or
 36 has attacked a human being, has died, has been sold, or
 37 has been given away. If the vicious dog has been sold or
 38 given away, the owner or keeper shall also provide the
 39 animal control department with the name, address, and
 40 telephone number of the new owner of the vicious dog.

1 (b) The animal control department may make
 2 whatever inquiry it deems necessary to ensure
 3 compliance with the provisions of this chapter and may
 4 seize and impound any vicious dog whose owner or
 5 keeper fails to comply with this chapter. In the event that
 6 the owner or keeper of the dog refuses to surrender the
 7 animal to the animal control department, the animal
 8 control department may request a police officer to obtain
 9 a search warrant and to seize the dog upon execution of
 10 the warrant.

11 31514. (a) All vicious dogs shall be confined in an
 12 enclosure. It is unlawful for any owner or keeper to
 13 maintain a vicious dog upon any premises which does not
 14 have an enclosure.

15 (b) It is unlawful for any owner or keeper to allow any
 16 vicious dog to be outside of the enclosure unless it is
 17 inside of the dwelling of the owner or keeper or it is
 18 necessary for the owner or keeper to do one of the
 19 following:

20 (1) Obtain veterinary care for the vicious dog.

21 (2) Sell or give away the vicious dog.

22 (3) Comply with commands or directions of the
 23 animal control department with respect to the vicious
 24 dog.

25 (4) Comply with the provisions of subdivision (a) or
 26 (b) of Section 31513.

27 (c) In any case where the vicious dog is outside the
 28 enclosure, except in cases where it is inside the dwelling
 29 of the owner or keeper, the vicious dog shall be securely
 30 muzzled and restrained with a chain having a minimum
 31 tensile strength of 300 pounds and not exceeding three
 32 feet in length, and the vicious dog shall be under the
 33 direct control and supervision of its owner or keeper.

34 31515. No person shall own or harbor any dog for the
 35 purpose of dog fighting, or train, torment, badger, bait or
 36 use any dog for the purpose of causing or encouraging
 37 that dog to attack human beings or domestic animals
 38 without provocation.

39 31516. (a) If any vicious dog shall, when unprovoked,
 40 kill or wound, or assist in killing or wound any sheep;

1 lamb, cattle, horse, hog, swine, fowl, or other domestic
 2 animal, belonging to or in the possession of any person;
 3 or shall, when unprovoked, attack, assault, bite, or
 4 otherwise injure any person or assist in attacking,
 5 assaulting, biting, or otherwise injuring any person while
 6 out of or within the enclosure of the owner or keeper of
 7 that vicious dog, or while otherwise on or off the property
 8 of the owner or keeper, the owner or keeper of that dog
 9 shall be liable to the aggrieved person for all damage
 10 sustained, to be recovered in a civil action, with costs of
 11 suit. The owner or keeper shall be liable regardless of
 12 whether or not that vicious dog was on a leash and
 13 securely muzzled or whether or not the vicious dog
 14 escaped without fault of the owner or keeper. It is
 15 rebuttably presumed as a matter of law that the owning,
 16 keeping, or harboring of a vicious dog in violation of this
 17 chapter is a nuisance. It shall not be necessary, in order
 18 to sustain any action arising under this section, to prove
 19 that the owner or keeper of that vicious dog knew that
 20 that vicious dog possessed the propensity to cause that
 21 damage or that the vicious dog had a vicious nature.

22 (b) Upon an attack or assault described in subdivision
 23 (a), the animal control department in the county, city, or
 24 city and county where the attack or assault occurred may
 25 confiscate and destroy that vicious dog, if the conduct of
 26 that vicious dog or its owner or keeper constituted a
 27 violation of the provisions of this chapter, punishable by
 28 the confiscation and destruction of the animal.

29 31517. (a) Sections 31513 to 31516, inclusive, shall not
 30 apply to licensed kennels, humane society shelters,
 31 Society for the Prevention of Cruelty to Animals shelters,
 32 or licensed trainers of guard dogs.

33 (b) This chapter shall not apply to dogs owned by any
 34 police department or any law enforcement officer which
 35 are used in the performance of police work.

36 31518. (a) A vicious dog shall be confiscated by the
 37 animal control department and destroyed in an
 38 expeditious and humane manner after the expiration of
 39 a five/day waiting period exclusive of Sundays and
 40 holidays and the owner or keeper of the dog shall pay a

1 one thousand dollar (\$1,000) fine if any of the following
 2 occurs:

3 (1) The dog does not have a valid license as required
 4 by this chapter.

5 (2) The dog's owner or keeper does not secure the
 6 liability insurance coverage required by paragraph (1) of
 7 subdivision (a) of Section 31513.

8 (3) The dog is not maintained on property with an
 9 enclosure.

10 (4) The dog is not inside either the dwelling of the
 11 owner or keeper or an enclosure except as provided in
 12 Section 31514.

13 (5) The dog is not tattooed as required by paragraph
 14 (2) of subdivision (a) of Section 31513.

15 (b) If any vicious dog shall, when unprovoked, kill,
 16 wound, or worry, or assist in killing or wounding any
 17 animal described in Section 31516, the owner or keeper
 18 of that dog shall pay a two hundred fifty dollar (\$250) fine
 19 and the animal control department may confiscate and,
 20 after the expiration of a five/day waiting period, exclusive
 21 of Sundays and holidays, shall destroy that vicious dog.

22 For each subsequent violation the owner or keeper of
 23 that dog shall pay a fine of five hundred dollars (\$500).

24 (c) If any vicious dog shall, when unprovoked, attack,
 25 assault, wound, bite, or otherwise injure or kill a person,
 26 the owner or keeper shall pay a one thousand dollar
 27 (\$1,000) fine. For each subsequent violation the owner or
 28 keeper shall pay a fine of five thousand dollars (\$5,000)
 29 for owning or keeping a vicious dog which attacks,
 30 assaults, wounds, bites, or otherwise injures or kills a
 31 person.

32 No person shall be charged under subdivision (a), (b),
 33 or (c) above, unless the dog, prior to the offense alleged,
 34 has been declared vicious pursuant to this chapter.

35 (d) One-half of all fines paid pursuant to this section
 36 shall be paid to the city, county, or city and county in
 37 which the violation occurred for the purpose of defraying
 38 the cost of the implementation of this chapter.

39 (e) No dog shall be destroyed within five days of being
 40 impounded, exclusive of Sundays and holidays.

1 (f) If the owner or keeper of a dog impounded for an
 2 alleged violation of Sections 31513 to 31516, inclusive, of
 3 this chapter believes that there has not been a violation
 4 of these sections; the owner or keeper may petition the
 5 municipal court which has jurisdiction in the county
 6 where the dog is impounded praying that the impounded
 7 dog not be destroyed. The impounded dog shall not be
 8 destroyed pending resolution of the owner's or keeper's
 9 petition if the petition is filed within five days of
 10 impoundment of that dog and notice has been served
 11 within five days of the impoundment of that dog upon the
 12 animal control department. The hearing shall be
 13 conducted within seven days from serving the notice.
 14 The decision of the municipal court may be appealed to
 15 the superior court by any aggrieved party within 48 hours
 16 of the decision. The dog shall remain impounded pending
 17 the appeal. A hearing de novo, without a jury, shall be
 18 conducted within seven days of the appeal. The decision
 19 of the superior court shall be final and conclusive upon all
 20 the parties thereto. However, the animal control
 21 department or any law enforcement officer shall have the
 22 right to destroy the dog pursuant to this section for any
 23 actions of the dog subsequent to the date of the alleged
 24 violation. If the court finds that there has not been a
 25 violation, that dog shall be released to the custody of the
 26 owner or keeper upon payment to the poundkeeper or
 27 animal control department of the expense of keeping
 28 that dog. The city, county, or city and county may
 29 establish by ordinance a schedule of those costs.

30 (g) If the owner or keeper of the dog violates any of
 31 the terms and conditions of paragraph (1) of subdivision
 32 (a) of Section 31513, that owner or keeper shall be fined
 33 one hundred dollars (\$100) for the first violation and two
 34 hundred fifty dollars (\$250) for each subsequent
 35 violation.

36 31519. It shall be the duty of each city, county, or city
 37 and county to conduct an annual licensing drive in order
 38 to ensure compliance with this chapter.

39 31520. If any provision of this chapter, or the
 40 application thereof to any person or circumstance, is held

1 invalid, the validity of the remainder of the chapter and
 2 its application to other persons and circumstances shall
 3 not be affected.

4 31521. The Attorney General shall establish a uniform
 5 summons or citation to be used by law enforcement
 6 agencies in the enforcement of this chapter. Fines of one
 7 hundred dollars (\$100) or less may be paid by mail. All
 8 other fines or penalties shall require a court appearance.
 9 Any offense hereunder may be prosecuted by complaint.

10 31522. In the event that the owner or keeper of a
 11 vicious dog is a minor, the parent or guardian of that
 12 minor shall be liable for all injuries and property damages
 13 sustained by any person or domestic animal caused by an
 14 unprovoked attack by that vicious dog.

15 31523. Nothing in this chapter prevents a city or
 16 county from adopting or enforcing a more restrictive
 17 program for the control of vicious dogs.

18 CHAPTER 9. POTENTIALLY DANGEROUS AND VICIOUS 19 DOGS

20 Article 1. Findings, Definitions, and General 21 Provisions

22 31601. The Legislature finds and declares all of the
 23 following:

24 (a) Potentially dangerous and vicious dogs have
 25 become a serious and widespread threat to the safety and
 26 welfare of citizens of this state. In recent years they have
 27 assaulted without provocation and seriously injured
 28 numerous individuals, particularly children, and have
 29 killed numerous dogs. Many of these attacks have
 30 occurred in public places.

31 (b) The number and severity of these attacks are
 32 attributable to the failure of owners to register, confine,
 33 and properly control vicious dogs.

34 (c) The necessity for the regulation and control of
 35 vicious dogs is a statewide problem, requiring statewide
 36 regulation, and existing laws are inadequate to deal with
 37 the threat to public health and safety posed by vicious
 38 dogs.

1 dogs.

2 (d) The owning, keeping, or harboring of vicious dogs
3 is a nuisance.

4 31602. "Potentially dangerous dog" means any of the
5 following:

6 (a) Any dog which, when unprovoked, chases or
7 approaches any person or domestic animal, anywhere
8 other than on the property of the owner or keeper, in an
9 apparent attitude of attack.

10 (b) Any dog which, on three separate occasions within
11 the prior 36-month period, has been cited or properly
12 impounded three times for being off its owner's or
13 keeper's premises in violation of a local ordinance.

14 (c) Any dog which, on two separate occasions within
15 the prior 36-month period, when unprovoked, has
16 seriously bitten, inflicted injury, or otherwise attacked a
17 domestic animal off the property of the owner or keeper.

18 31603. "Vicious dog" means any of the following:

19 (a) Any dog owned or harbored for the purpose of dog
20 fighting.

21 (b) Any dog which inflicts severe injury or kills a
22 human being.

23 (c) Any dog which, on three or more separate
24 occasions within a 36-month period, when unprovoked,
25 has killed, seriously bitten, inflicted injury, or otherwise
26 attacked a domestic animal off the property of the owner
27 or keeper.

28 (d) Any dog previously determined to be a potentially
29 dangerous dog which, after its owner or keeper has been
30 notified of this determination, is maintained in violation
31 of this chapter.

32 31604. "Severe injury" means any physical injury to a
33 human being that results in broken bones or disfiguring
34 lacerations or requires multiple sutures or cosmetic
35 surgery.

36 31605. "Enclosure" means a fence or structure
37 suitable to prevent the entry of young children, and
38 which is suitable to confine a vicious dog in conjunction
39 with other measures which may be taken by the owner
40 or keeper, such as tethering within the enclosure of the

1 dog. The enclosure shall be securely locked and designed
2 with secure sides, top, and bottom sufficient to prevent
3 the animal from escaping.

4 31606. "Animal control department" means the
5 county or city animal control department. If the city or
6 county does not have an animal control department, it
7 means whatever entity performs animal control
8 functions.

9 31607. "Impounded" means taken into the custody of
10 the public pound in the city or county where the
11 potentially dangerous or vicious dog is found.

12 31608. "County" includes any city and county.

13 31609. (a) This chapter does not apply to licensed
14 kennels, humane society shelters, society for the
15 prevention of cruelty to animals shelters, or licensed
16 trainers of guard dogs.

17 (b) This chapter does not apply to dogs owned by any
18 police department or any law enforcement officer which
19 are used in the performance of police work.

20

21 Article 2. Judicial Process

22

23 31621. If an animal control officer or a law
24 enforcement officer has investigated and determined
25 that there exists probable cause to believe that a dog is
26 potentially dangerous or vicious, the chief officer of the
27 animal control department or his or her immediate
28 supervisor or the chief of police, or his or her designee,
29 shall petition the municipal court within the judicial
30 district wherein the dog is owned or kept, or any other
31 tribunal that may be established pursuant to this chapter
32 by the city or county, for a hearing for the purpose of
33 determining whether or not the dog in question should
34 be declared potentially dangerous or vicious. Any
35 complaint received from a member of the public which
36 serves as the evidentiary basis for the animal control
37 officer or law enforcement officer to find probable cause
38 shall be sworn to and verified by the complainant. The
39 chief officer of the animal control department or chief of
40 police shall notify the owner or keeper of the dog that a

1 hearing will be held by the municipal court or the
2 tribunal, as the case may be, at which time he or she may
3 have the opportunity to present evidence as to why the
4 dog should not be declared potentially dangerous or
5 vicious. The hearing shall be held promptly within no less
6 than five working days nor more than 10 working days
7 after service of notice upon the owner or keeper of the
8 dog. The hearing shall be informal and shall be open to
9 the public.

10 31622. (a) After the hearing conducted pursuant to
11 Section 31621, the owner or keeper of the dog shall be
12 notified in writing of the determination. If a
13 determination is made that the dog is potentially
14 dangerous or vicious, the owner or keeper shall comply
15 with Article 3 (commencing with Section 31641) in
16 accordance with a time schedule established by the chief
17 officer of the animal control department or the chief of
18 police, but in no case more than 30 days after the date of
19 the determination. If the owner or keeper of the dog
20 contests the determination, he or she may, within five
21 days of the receipt of the notice of determination, appeal
22 the decision of the court or tribunal of original
23 jurisdiction to a court of appeal. If the original hearing
24 held pursuant to Section 31621 was in a tribunal other
25 than the municipal court of the jurisdiction, appeal shall
26 be to the municipal court. If the original hearing was held
27 in the municipal court, appeal shall be to the superior
28 court within the judicial district wherein the dog is
29 owned or kept, asking that the court conduct its own
30 hearing on whether or not the dog should be declared
31 potentially dangerous or vicious. The owner or keeper of
32 the dog shall serve notice of the appeal upon the animal
33 control officer or law enforcement officer involved in the
34 matter.

35 (b) The court of appeal shall conduct a hearing de
36 novo, without a jury, and make its own determination as
37 to potential danger and viciousness. The hearing shall be
38 conducted in an expeditious manner. The issue shall be
39 decided upon the preponderance of the evidence. If the
40 court rules the dog to be potentially dangerous or vicious,

1 the court may establish a time schedule to ensure
2 compliance with this chapter, but in no case more than
3 30 days subsequent to the date of the court's
4 determination.

5 31623. The court of original jurisdiction or the court of
6 appeal may decide all issues for or against the owner or
7 keeper of the dog even if the owner or keeper fails to
8 appear at the hearing.

9 31624. The determination of the court of appeal shall
10 be final and conclusive upon all parties.

11 31625. If upon investigation it is determined by the
12 animal control officer or law enforcement officer that
13 probable cause exists to believe the dog in question poses
14 an immediate threat to public safety of the city or county,
15 then the animal control officer or law enforcement
16 officer may seize and impound the dog pending the
17 hearings to be held pursuant to this article. The owner or
18 keeper of the dog shall be liable to the city or county
19 where the dog is impounded for the costs and expenses
20 of keeping the dog, if the dog is later adjudicated
21 potentially dangerous or vicious.

22 31626. When not contrary to public safety, the chief
23 animal control officer shall permit the animal to be
24 confined at the owner's expense in a department
25 approved kennel or veterinary facility. The city council
26 or county board of supervisors, as the case may be, may
27 establish, by ordinance, a schedule of those costs and
28 expenses.

29 31627. (a) No dog may be declared potentially
30 dangerous or vicious if any injury or damage is sustained
31 by a person who, at the time the injury or damage was
32 sustained, was committing a willful trespass or other tort
33 upon premises occupied by the owner or keeper of the
34 dog, or was teasing, tormenting, abusing, or assaulting the
35 dog, or was committing or attempting to commit a crime.
36 No dog may be declared potentially dangerous or vicious
37 if the dog was protecting or defending a person within
38 the immediate vicinity of the dog from an unjustified
39 attack or assault. No dog may be declared potentially
40 dangerous or vicious if an injury or damage was sustained

1 by a domestic animal which at the time the injury or
2 damage sustained was teasing, tormenting, abusing,
3 or assaulting the dog.

4 (b) No dog may be declared potentially dangerous or
5 vicious if the injury or damage to a domestic animal was
6 sustained while the dog was working as a hunting dog,
7 herding dog, or predator control dog on the property of,
8 or under the control of, its owner or keeper, and the
9 damage or injury was to a species or type of domestic
0 animal appropriate to the work of the dog.

1 Article 3. Disposition of Potentially Dangerous or
2 Vicious Dogs

3
4
5 31641. All potentially dangerous dogs shall be
6 properly licensed and vaccinated. The licensing authority
7 shall include the potentially dangerous designation in the
8 registration records of the dog. The city or county may
9 charge a potentially dangerous dog fee in addition to the
0 regular licensing fee to provide for the increased costs of
1 maintaining the records of the dog.

2 31642. A potentially dangerous dog, while on the
3 owner's property, shall, at all times, be kept indoors, or in
4 a securely fenced, locked yard from which the dog cannot
5 escape, and into which children cannot trespass. A
6 potentially dangerous animal may be off the owner's
7 premises only if it is restrained by a substantial leash, and
8 if it is under the control of a responsible adult.

9 31643. The owner of a potentially dangerous dog shall
0 notify the animal control department within 24 hours if
1 the dog in question dies, or is sold, transferred, or
2 permanently removed from the city or county where the
3 owner or keeper resides.

4 31644. After January 1, 1989, no dog found vicious
5 pursuant to Article 2 (commencing with Section 31621)
6 shall be licensed by any city or county for any licensing
7 period unless the owner or keeper of the vicious dog is 18
8 years of age or older and meets the following
9 requirements:

0 (a) The owner or keeper shall present to the city or

1 county animal control department proof that the owner
2 or keeper has procured liability insurance in the amount
3 of at least one hundred thousand dollars (\$100,000)
4 covering any damage or injury which may be caused by
5 the vicious dog during the 12-month period for which
6 licensing is sought.

7 (b) The owner or keeper shall, at his or her own
8 expense, have the word "vicious" and an identification
9 number assigned to that dog tattooed on the dog. The
10 tattoo shall be placed on the upper left rear thigh of the
11 dog. The number shall be noted in the city or county
12 licensing files for that dog. The tattoo shall consist of a
13 permanent numbering of the dog with the number
14 designated by the animal control department by means
15 of indelible or permanent ink or any other permanent,
16 acceptable method of tattooing. Each city or county shall
17 affix a two-letter prefix to the identification number in
18 order to identify the particular place where the dog is
19 initially licensed.

20 (c) The owner or keeper shall display a sign that
21 visually depicts a menacing dog on his or her premises
22 warning that there is a vicious dog on the premises. The
23 sign shall be visible to the general public.

24 (d) The owner or keeper shall sign a statement, under
25 penalty of perjury, attesting to all of the following:

26 (1) The owner or keeper shall maintain and not
27 voluntarily cancel the liability insurance required by this
28 section during the period for which licensing is sought,
29 unless the owner or keeper shall cease to own or keep the
30 dog prior to expiration of that license.

31 (2) The owner or keeper shall, on or prior to the
32 effective date of the license for which application is being
33 made, have an enclosure for the dog on the property
34 where the vicious dog will be kept or maintained.

35 (3) The owner or keeper shall notify the animal
36 control department within 24 hours if a vicious dog is on
37 the loose, is unconfined, has attacked another domestic
38 animal or has attacked a human being, has died, has been
39 sold, or transferred, or has been permanently removed
40 from the city or county. If the vicious dog has been sold,

1 the owner or keeper shall also provide the animal control
2 department with the name, address, and telephone
3 number of the new owner of the vicious dog.

4 31645. All dogs determined vicious shall be confined
5 in an enclosure. It is unlawful for any owner or keeper to
6 maintain a vicious dog upon any premises which does not
7 have an enclosure.

8 31646. It is unlawful for any owner or keeper to allow
9 any vicious dog to be outside of the enclosure unless it is
10 inside of the dwelling of the owner or keeper or it is
11 necessary for the owner or keeper to do one of the
12 following:

- 13 (a) Obtain veterinary care for the dog.
- 14 (b) Sell or give away the dog.
- 15 (c) Comply with commands or directions of the
- 16 animal control department with respect to the dog.
- 17 (d) Comply with Section 31644.

18 31647. In any case where a vicious dog is outside the
19 enclosure, except in cases where it is inside the dwelling
20 of the owner or keeper, the dog shall be securely muzzled
21 and restrained, with a chain sufficient to restrain the dog,
22 having a minimum tensile strength of 300 pounds and not
23 exceeding three feet in length, and the dog shall be under
24 the direct control and supervision of its owner or keeper.

25 Article 4. Penalties

26 31661. A dog previously determined vicious pursuant
27 to Article 2 (commencing with Section 31621) shall be
28 confiscated by the animal control department and
29 destroyed in an expeditious and humane manner after
30 the expiration of a five-day waiting period, specified in
31 Section 31681, exclusive of Sundays and holidays, and the
32 owner or keeper of the dog shall pay a fine not to exceed
33 one thousand dollars (\$1,000) if any of the following
34 occurs:

- 35 (a) The owner violated any provision of this chapter
- 36 relating to the keeping of vicious dogs.
- 37 (b) A vicious dog, when unprovoked, attacks, wounds,

1 shall be charged under this section unless the dog, prior
2 to the offense alleged, has been declared vicious pursuant
3 to this chapter.

4 31662. Any violation of this chapter relating to
5 potentially dangerous dog shall be punished by a fine not
6 to exceed five hundred dollars (\$500).

7 31663. All fines paid pursuant to this article shall be
8 paid to the city or county in which the violation occurred
9 for the purpose of defraying the cost of the
10 implementation of this chapter.

11 Article 5. Miscellaneous

12 31681. If the owner or keeper of a dog impounded for
13 an alleged violation of this chapter believes that there has
14 not been a violation, the owner or keeper may petition
15 the municipal court which has jurisdiction in the county
16 where the dog is impounded asking that the impounded
17 dog not be destroyed. Any such petition shall be filed and
18 notice thereof served upon the animal control
19 department within five working days of the date of notice
20 of impoundment of the dog. The hearing shall be
21 conducted in an expeditious manner. The decision of the
22 municipal court may be appealed to the superior court by
23 any aggrieved party within 48 hours of the decision. The
24 dog shall remain impounded and shall not be destroyed
25 pending the appeal. A hearing de novo, without a jury,
26 shall be conducted in an expeditious manner. The
27 decision of the superior court shall be final and conclusive
28 upon all the parties thereto. If the court finds that there
29 has been a violation, the owner or keeper shall pay to the
30 city or county for the expense of keeping the dog. The
31 city or county may establish by ordinance a schedule of
32 those costs.

33 31682. If any provision of this chapter or the
34 application thereof to any person or circumstance is held
35 invalid, that invalidity shall not affect other provisions or
36 applications of the chapter which can be given effect
37 without the invalid provision or application and to this

31683. *Attorney General shall establish a uniform summons or citation to be used by law enforcement agencies in the enforcement of this chapter. Any offense committed under this chapter may be prosecuted by complaint.*

31684. *Nothing in this chapter shall be construed to prevent a city or county from adopting or enforcing an alternative program for the control of potentially dangerous or vicious dogs provided that no such alternative program shall modify the definitions of potentially dangerous or vicious dogs established herein.*

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state pursuant to this act because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the danger posed to the public peace, health, and safety by vicious dogs, it is necessary that this bill take effect immediately to provide for the preservation of the public peace, health, and safety.

O