

# Public safety and dangerous dog laws: What you need to know



## **Breed-discriminatory laws fail to protect public safety, lead to costly litigation and violate the Americans with Disabilities Act (ADA).**

Creating safe, humane communities is a priority for all of us. And efforts to protect community members from dangerous dogs are a key component of any public safety plan. That's why passing and enforcing laws that emphasize public safety and individual accountability is the only effective approach to protecting both people and pets. When it comes to enforcing dangerous dog laws, our focus should be on negligent and reckless owners, not breed.

All dogs have the potential to bite, and breed is not a factor in their capacity or likelihood to do so. See "Co-occurrence of potentially preventable factors in 256 dog bite-related fatalities in the United States (2000-2009)," *Journal of the American Veterinary Medical Association*, Vol. 243, No. 12, Dec. 2013.

## **A focus on reckless owners**

The American Bar Association's House of Delegates passed the following resolution in 2012:

*RESOLVED, that the American Bar Association urges all state, territorial, and local legislative bodies and governmental agencies to adopt comprehensive breed-neutral dangerous dog/reckless owner laws that ensure due process protections for owners, encourage responsible pet ownership and focus on the behavior of both dog owners and dogs, and to repeal any breed-discriminatory or breed specific provisions.*

Since 2012, an increasing number of cities are repealing breed-discriminatory laws and replacing them with comprehensive breed-neutral laws that focus on problematic pet owners and individual dog behavior, rather than a dog's breed. As of 2017, a total of 21 states have provisions prohibiting breed-discriminatory laws and policies by municipalities.

Negligent and reckless pet owners create unsafe environments that put people and pets at risk. Effective laws address the behavior of dog owners and the resulting behavior of their individual dogs, and put regulations in place to restrict and restrain any dangerous dog.

## **Efforts to avoid costly litigation**

An unanticipated and inherent problem with breed-discriminatory laws is their sizable financial cost to municipalities. Court challenges have sprung up throughout the country, costing local jurisdictions millions of dollars. Since breed-discriminatory laws often violate constitutionally required protections, they are fraught with problems and lead to expensive lawsuits.

Most recently, in 2017, breed-discriminatory laws were found to be unconstitutional in Ohio. In the case of *Russ v. Reynolds*, Fifth District, Licking No. 16CA58 (April 19, 2017), the court held that the Ohio Home Rule Amendment to the Ohio Constitution prohibits breed-discriminatory or breed-specific ordinances, and therefore all municipalities in the Fifth District must be revised to comport with the state's breed-neutral law.

## **Honoring protections provided under the ADA**

In addition to violating certain constitutional protections, many breed-discriminatory ordinances also violate the Americans with Disabilities Act. In its *Guidance for the Americans with Disabilities Act*, the U.S. Department of Justice Civil Rights Division noted: "The department does not believe it is either appropriate or consistent with the ADA to defer to local laws that prohibit certain breeds of dogs based on local concerns that these breeds may have a history of unprovoked aggression or attacks." See *Sak v. City of Aurelia Iowa*, U.S. District Court for the Northern District of Iowa, Western Division 2011 WL 6826146 (N.D. Iowa 2011), Memorandum Opinion and Order Regarding Plaintiff's Motion for Preliminary Injunction Dated December 28, 2011.

## **In summary**

In America, every individual should have the right to own whatever breed of dog he or she chooses. City attorneys should advise clients to hold negligent and reckless owners accountable for their animals' behavior, while simultaneously avoiding the pitfalls inherent in singling out specific breeds of dogs.

For comprehensive information on dangerous dog and reckless owner ordinances or recent court cases, please contact Lee Greenwood at [leeg@bestfriends.org](mailto:leeg@bestfriends.org), Ledy VanKavage at [ledyv@bestfriends.org](mailto:ledyv@bestfriends.org), or Andrea Joy, Esq., at [andreajoya@bestfriends.org](mailto:andreajoya@bestfriends.org).

## **BREED DISCRIMINATION FAILS BECAUSE:**

- It violates basic property rights.
- It's expensive.
- It's ineffective.