

Comprehensive, breed-neutral laws for people and pets



Breed-discriminatory laws fail to protect public safety, lead to costly litigation and may 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 negligent and reckless dog owners are a key component of any public safety plan. The only effective approach to protecting both people and pets is passing and enforcing comprehensive, breed-neutral laws that emphasize public safety and individual accountability. All dogs have the potential to bite and breed is not a factor in their capacity or likelihood to do so¹.

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Since 2012, an increasing number of cities have repealed breed-discriminatory laws and replaced them with comprehensive, breed-neutral laws that focus on problematic pet owners and individual dog behavior, rather than a dog's breed. Twenty states now 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.

Efforts to avoid costly litigation

An inherent problem with breed-discriminatory laws is their 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 can be fraught with problems and lead to expensive lawsuits. In 2014, breed-discriminatory laws were found to be unconstitutional in Ohio, Louisiana and Alabama. In the Alabama case, *Schreiner v. City of Clay*, a court held that a city's breed-based law was constitutionally flawed and unable to withstand even a rational basis review.

Honoring protections provided under the ADA

In addition to violating certain constitutional protections, many breed-discriminatory ordinances may violate the Americans with Disabilities Act. In its *Guidance for the Americans with Disabilities Act*, the U.S. Department of Justice's 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."²

In America, every person capable of demonstrating and practicing responsible pet ownership 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 problems associated with singling out specific breeds of dogs.

BREED DISCRIMINATION FAILS BECAUSE:

- It violates basic property rights.
- It focuses on the wrong thing.
- It's arbitrary.
- It's expensive.
- It's ineffective.
- It's not practical.

By working together toward comprehensive, breed-neutral laws that champion responsible pet ownership, we can ensure safer, humane communities for both people and pets.

For more information on dog-related ordinances or recent court cases, please contact Lee Greenwood, Esq., at leeg@bestfriends.org or Ledy VanKavage, Esq., at ledyv@bestfriends.org.

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¹Co-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.

² 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 Dec. 28, 2011.