

HOUSE BILL NO. 355

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/24/16

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to annoying, dangerous, and potentially dangerous dogs; relating to**
2 **keepers of dogs; and relating to the crimes of maintaining a dangerous dog and**
3 **maintaining a potentially dangerous dog."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 03.55 is amended by adding new sections to read:

6 **Sec. 03.55.031. Classification of dogs.** (a) The Department of Public Safety
7 may classify a dog as dangerous or potentially dangerous subject to appeal under
8 AS 03.55.063. A classification must be based on behavior exhibited by the dog and an
9 investigation by the department that may include review of

10 (1) statements from witnesses about the dog's behavior;

11 (2) the dog's upbringing;

12 (3) the keeper's control of the dog; and

13 (4) other evidence the department finds relevant.

14 (b) After classifying a dog, the department shall give the dog's keeper written

1 notice of the dog's classification by certified mail or personal service. The notice must
 2 include a description of the dog's behavior and classification, the fee imposed, and the
 3 restrictions applicable to that dog. Upon receiving notice of the dog's classification as
 4 a dangerous or potentially dangerous dog, the dog's keeper shall comply with the
 5 restrictions specified by the department.

6 (c) Notwithstanding a dog's classification, the department retains the
 7 discretion to increase or decrease the restrictions on a dog based on the dog's behavior.

8 **Sec. 03.55.032. Classification of potentially dangerous dogs.** (a) The
 9 department may classify a dog as potentially dangerous by level based on the
 10 following behavior:

11 (1) level one behavior is established if a dog, while at large, menaces,
 12 chases, displays threatening or aggressive behavior, or otherwise threatens or
 13 endangers the safety of a person or domestic animal;

14 (2) level two behavior is established if a dog

15 (A) bites or causes physical injury to a domestic animal; or

16 (B) while at large, kills or causes the death of a domestic
 17 animal that is at large;

18 (3) level three behavior is established if a dog, while not at large,
 19 aggressively bites or causes physical injury to a person; and

20 (4) level four behavior is established if a dog

21 (A) while at large,

22 (i) aggressively bites or causes physical injury to a
 23 person; or

24 (ii) kills or causes the death of a domestic animal that is
 25 not at large; or

26 (B) is classified as a level two or three potentially dangerous
 27 dog, and, after the keeper receives notice of the level two or three
 28 classification, the dog kills or causes the death of or physical injury to a
 29 domestic animal.

30 (b) The department may decide not to classify a dog as potentially dangerous,
 31 even if the dog engaged in the behaviors specified in (a) of this section, if the

1 department determines that

2 (1) the dog's behavior toward a person or animal was the result of the
3 person's or animal's abusing or tormenting the dog;

4 (2) the dog's behavior was directed toward a trespasser;

5 (3) there is an extenuating circumstance that establishes that the dog is
6 not an unreasonable risk to human life or property; or

7 (4) the dog is trained to attack persons independently or on oral
8 command while under the restraint and supervision of an authorized government
9 official or law enforcement officer, and the dog's behavior is directly associated with
10 the proper execution of the dog's duties.

11 (c) If a dog's keeper is convicted of maintaining a potentially dangerous dog
12 under AS 03.55.064, the department shall classify the dog that the keeper criminally
13 maintained as a level four potentially dangerous dog.

14 **Sec. 03.55.033. Classification of dangerous dogs.** (a) The department may
15 classify a dog as dangerous when the dog

16 (1) whether or not confined, causes serious physical injury to or the
17 death of a person;

18 (2) is used as a weapon in the commission of a crime; or

19 (3) is classified as a level three or four potentially dangerous dog, and,
20 after the keeper receives notice of the level three or four classification, the dog

21 (A) aggressively bites or causes physical injury to a person; or

22 (B) kills or causes the death of or physical injury to a domestic

23 animal.

24 (b) The department may decide not to classify a dog as dangerous, even if the
25 dog engaged in the behaviors specified in (a) of this section, if the department
26 determines that

27 (1) the dog's behavior toward a person or animal was the result of the
28 person or animal abusing or tormenting the dog;

29 (2) the dog's behavior was directed toward a trespasser;

30 (3) there is an extenuating circumstance that establishes that the dog is
31 not an unreasonable risk to human life or property; or

1 (4) the dog is trained to attack persons independently or on oral
2 command while under the restraint and supervision of an authorized government
3 official or law enforcement officer, and the dog's behavior is directly associated with
4 the proper execution of the dog's duties.

5 (c) If a dog's keeper is convicted of maintaining a dangerous dog under
6 AS 03.55.065 or 03.55.066, the department shall classify as dangerous the dog that the
7 keeper criminally maintained.

8 **Sec. 03.55.034. Impoundment.** (a) If, after a dog is classified as potentially
9 dangerous based on level four behavior, the department finds that the dog repeats level
10 four behavior, and the dog is not already impounded, the department shall impound
11 the dog. The department shall provide notice to the dog's keeper at least 72 hours
12 before the dog is impounded. The keeper may request a hearing regarding the
13 department's decision to impound by filing, within 15 days after receipt of the
14 department's notice of impoundment, a written request for an administrative hearing.
15 A hearing on the department's decision to impound may be consolidated with any
16 underlying infraction still pending and eligible for a hearing under AS 03.55.031 -
17 03.55.063. The department may not release the dog to the keeper until the keeper
18 arranges accommodations for the dog consistent with department requirements.

19 (b) If the department or the hearing officer finds that a dog has engaged in
20 dangerous behavior under AS 03.55.032(a)(4) or 03.55.032(c) on two or more
21 occasions, the department shall impound the dog until the dog is euthanized or placed
22 in a dangerous dog facility under AS 03.55.036.

23 **Sec. 03.55.035. Keeping a potentially dangerous dog.** (a) The keeper of a
24 potentially dangerous dog shall restrain the dog at all times. Upon receiving the notice
25 of classification, the keeper shall immediately comply with any leash or muzzle
26 requirements and, within five days after receipt of the notice of classification, comply
27 with requirements to restrain the dog by a physical structure when not leashed. The
28 keeper of a potentially dangerous dog shall comply with the restrictions in (b) - (d) of
29 this section unless the department increases or decreases a classified dog's restrictions
30 or the keeper successfully appeals the classification determination.

31 (b) When a dog classified as level one is outside of the keeper's home and not

1 leashed, the keeper shall restrain the dog with a physical device or structure that
 2 prevents the dog from reaching a public sidewalk or adjoining property and is located
 3 so as not to interfere with the public's legal access to the keeper's premises. The use of
 4 an electric dog fence does not satisfy the requirements of this subsection.

5 (c) When a dog classified as level two is outside of the keeper's home and not
 6 leashed, the keeper shall confine the dog within a secure enclosure that is located so as
 7 not to interfere with the public's legal access to the keeper's premises. The keeper may
 8 not allow the dog outside of the keeper's premises unless the dog is muzzled and
 9 leashed. The department may require the keeper to obtain and maintain proof of public
 10 liability insurance or complete a responsible pet ownership program.

11 (d) When a dog classified as level three or level four is outside of the keeper's
 12 home and not leashed, the keeper shall confine the dog within a secure enclosure in a
 13 location that does not interfere with the public's legal access to the keeper's premises,
 14 and the keeper shall post warning signs, provided by the department, on the premises
 15 where the dog is kept. The department may require the keeper to maintain proof of
 16 public liability insurance. The keeper may not allow the dog outside of the keeper's
 17 premises unless the dog is muzzled and leashed. The department may require the
 18 keeper to complete satisfactorily a responsible pet ownership program.

19 **Sec. 03.55.036. Dangerous dog facilities and euthanasia.** A dog classified as
 20 dangerous shall be euthanized or placed in a dangerous dog facility as determined by
 21 the department. In making this determination, the department may consider evidence
 22 that the department finds relevant about whether the dog will constitute an
 23 unreasonable risk to human life or property if housed in a dangerous dog facility,
 24 whether the dog has completed temperament testing, and the likelihood of repeated
 25 dangerous or potentially dangerous behavior. If the department determines that a dog
 26 shall be placed in a dangerous dog facility, the dog shall be placed in the facility as
 27 soon as possible, and the dangerous dog facility shall post warning signs, provided by
 28 the department, on the premises of the dangerous dog facility.

29 **Sec. 03.55.037. Enforcement.** If the keeper of a dangerous or potentially
 30 dangerous dog violates a provision of AS 03.55.031 - 03.55.090, a regulation adopted
 31 under AS 03.55.031 - 03.55.090, or a restriction issued by the department regarding a

1 dangerous or potentially dangerous dog, the department may impose a civil penalty on
 2 the keeper as well as additional restrictions on the dog. A decision to fine a keeper
 3 must be based on the animal's behavior, the keeper's control, care, and treatment of the
 4 animal, and other evidence the department finds relevant. The department shall
 5 provide, within five days, written notice by regular or certified mail or personal
 6 service of the department's decision to impose a civil penalty and any additional
 7 conditions or restrictions on the keeper and the department's reasoning.

8 **Sec. 03.55.038. Identification and location.** (a) The department shall adopt
 9 regulations requiring a keeper to provide identification for potentially dangerous and
 10 dangerous dogs, at the keeper's expense. A dog classified as either potentially
 11 dangerous or dangerous shall be marked with a permanent identifying mark, implanted
 12 with a microchip, and photographed. The department may require a keeper to fit the
 13 keeper's dog with a special tag or collar.

14 (b) The keeper of a potentially dangerous or dangerous dog may not move the
 15 dog to a new address or transfer the dog to another keeper without

16 (1) providing the department with at least 10 days' written notice;

17 (2) receiving written consent from the department at least 48 hours
 18 before the move or transfer of the dog; and

19 (3) providing the department with the new keeper's name, address, and
 20 telephone number.

21 (c) The keeper of a potentially dangerous or dangerous dog may not transfer
 22 the dog to another keeper without informing the new keeper of the dog's classification
 23 and classification requirements.

24 (d) The keeper of a potentially dangerous or dangerous dog shall notify the
 25 department immediately if the dog escapes, is at large and not under the control of a
 26 competent person, attacks a person or domestic animal or livestock, or dies.

27 **Sec. 03.55.039. Fees.** The department shall establish by regulation annual fees
 28 for keeping a potentially dangerous dog based on classification level. The fee is
 29 payable to the department within 30 days after the classification of the dog. Annual
 30 payment of the fee is due on the anniversary date of the classification.

31 * **Sec. 2.** AS 03.55 is amended by adding new sections to read:

1 **Sec. 03.55.061. Declassification of dogs.** (a) The department shall declassify a
2 potentially dangerous dog if

3 (1) the dog has been classified for one year without further incident as
4 a level one or level two dog or the dog has been classified for two years without
5 further incident as a level three or level four dog; and

6 (2) the dog's keeper has complied with department regulations and
7 orders.

8 (b) The department may declassify a dog that is classified as a dangerous dog
9 if all conditions ordered by the department at the time of classification have been met.
10 The conditions may include successful completion by the dog of obedience training or
11 spaying or neutering of the dog.

12 (c) The department may require a declassification fee.

13 **Sec. 03.55.062. Restrictions on declassified dogs.** If a dog that was classified
14 as potentially dangerous is declassified, the department may remove restrictions on the
15 dog, except that the keeper of a dog that was classified as a level three or level four
16 potentially dangerous dog or as a dangerous dog shall continue to confine the dog
17 within a secure enclosure and may not allow the dog outside of the keeper's premises
18 unless the dog is muzzled and leashed.

19 **Sec. 03.55.063. Appeal and hearing.** (a) A dog's keeper may appeal the
20 department's decision to classify a dog under AS 03.55.031 or to issue a civil penalty
21 under AS 03.55.037 by filing, within 15 days after receipt of the department's notice, a
22 written request for an administrative hearing.

23 (b) Unless otherwise provided, a hearing under AS 03.55.031 - 03.55.090 or
24 regulations adopted under AS 03.55.031 - 03.55.090 shall be conducted by the
25 Department of Public Safety under regulations adopted by the department governing
26 practice and procedure and consistent with due process of law.

27 (c) Pending the outcome of an appeal or administrative hearing, the keeper of
28 a dog classified as potentially dangerous shall comply with AS 03.55.035, and the
29 keeper of a dangerous dog that is not impounded shall keep the dog in a dangerous
30 dog facility.

31 (d) If necessary for the protection of the health, safety, or welfare of the

1 public, the department may impound a dog pending an appeal or administrative
2 hearing regarding the dog's classification.

3 **Sec. 03.55.064. Maintaining a potentially dangerous dog.** (a) A person
4 commits the offense of maintaining a potentially dangerous dog if the person is the
5 keeper of a dog and the person, with criminal negligence and under circumstances not
6 amounting to homicide or assault under AS 11.41, fails to prevent the dog from

7 (1) causing physical injury to a person; or

8 (2) menacing a person or causing physical pain or suffering to or
9 causing the death of a domestic animal, while on premises from which the keeper may
10 not lawfully exclude others.

11 (b) Maintaining a potentially dangerous dog is a violation and shall be
12 punished as provided in AS 12.55.035.

13 **Sec. 03.55.065. Maintaining a dangerous dog in the first degree.** (a) A
14 person commits the crime of maintaining a dangerous dog in the first degree if the
15 person is the keeper of a dog and the person, with criminal negligence and under
16 circumstances not amounting to homicide or assault under AS 11.41, fails to prevent
17 the dog from causing the death of a person.

18 (b) Maintaining a dangerous dog in the first degree is a class C felony and
19 shall be punished as provided in AS 12.55.

20 **Sec. 03.55.066. Maintaining a dangerous dog in the second degree.** (a) A
21 person commits the crime of maintaining a dangerous dog in the second degree if the
22 person is the keeper of a dog and the person, with criminal negligence and under
23 circumstances not amounting to homicide or assault under AS 11.41,

24 (1) fails to prevent the dog from causing serious physical injury to a
25 person;

26 (2) uses the dog as a weapon in the commission of a crime; or

27 (3) previously violated AS 03.55.064 and fails to prevent the dog from

28 (A) causing physical injury to a person; or

29 (B) menacing a person or causing physical pain or suffering to
30 or killing a domestic animal, while on premises from which the keeper may not
31 lawfully exclude others.

1 (b) Maintaining a dangerous dog in the second degree is a class A
2 misdemeanor and shall be punished as provided in AS 12.55.

3 **Sec. 03.55.067. Defense.** It is a defense to a prosecution under AS 03.55.064 -
4 03.55.067 that the victim provoked the dog.

5 **Sec. 03.55.068. Regulations.** (a) The department may adopt regulations for
6 certification of dangerous dog facilities. An applicant for certification as a dangerous
7 dog facility shall pay a filing fee established by the department by regulation.

8 (b) The department may adopt regulations under AS 44.62 (Administrative
9 Procedure Act) to implement AS 03.55.031 - 03.55.090.

10 * **Sec. 3.** AS 03.55.070 is amended to read:

11 **Sec. 03.55.070. Power of village council to control dogs.** (a) A village
12 council duly elected by residents of an unincorporated village not within an organized
13 borough may destroy loose dogs in the village and [MAY] otherwise control dogs to
14 the extent authorized first class cities, **consistent with AS 03.55.031 - 03.55.090.**

15 (b) The council may impose and enforce the provisions of a dog control
16 ordinance in the total area within 20 miles of the village, **consistent with**
17 **AS 03.55.031 - 03.55.090.** The ordinance must generally describe the area in which it
18 is imposed. If two villages having dog control ordinances lie within 40 miles of each
19 other, the jurisdiction of each village terminates at a point midway between them.

20 * **Sec. 4.** AS 03.55 is amended by adding a new section to read:

21 **Sec. 03.55.090. Definition.** In AS 03.55.010 - 03.55.090,

22 (1) "aggressively bite" means a dog bite that breaks the skin and is
23 accompanied by an attack where the dog snarls at, bares its teeth at, growls at, barks
24 at, snaps at, lunges at, or chases the victim;

25 (2) "criminal negligence" has the meaning given in AS 11.81.900;

26 (3) "department" means the Department of Public Safety;

27 (4) "keeper" means a person who owns, possesses, controls, or
28 otherwise has charge of a dog; "keeper" does not include a

29 (A) licensed dog kennel business;

30 (B) nonprofit animal shelter;

31 (C) facility that impounds dogs on behalf of a municipality,

1 village, city, or borough; or

2 (D) veterinary facility;

3 (5) "leashed" means on a leash that is six feet or less in length and
4 under the control of an adult who is familiar with the animal;

5 (6) "livestock" has the meaning given in AS 09.45.235(d)(3);

6 (7) "physical injury" has the meaning given in AS 11.81.900;

7 (8) "serious physical injury" has the meaning given in AS 11.81.900.

8 * **Sec. 5.** AS 09.60.070(c) is amended to read:

9 (c) In this section, "serious criminal offense" means the following offenses:

10 (1) murder in any degree;

11 (2) manslaughter;

12 (3) criminally negligent homicide;

13 (4) assault in any degree;

14 (5) kidnapping;

15 (6) sexual assault in any degree;

16 (7) sexual abuse of a minor in any degree;

17 (8) robbery in any degree;

18 (9) coercion;

19 (10) extortion;

20 (11) arson in any degree;

21 (12) burglary in any degree;

22 (13) criminal mischief in the first, second, third, or fourth degree;

23 (14) driving while under the influence of an alcoholic beverage,
24 inhalant, or controlled substance or another crime resulting from the operation of a
25 motor vehicle, boat, or airplane when the offender is under the influence of an
26 alcoholic beverage, inhalant, or controlled substance;

27 (15) a crime involving domestic violence, as defined in AS 18.66.990;

28 **(16) maintaining a dangerous dog in the first degree.**

29 * **Sec. 6.** AS 29.35.200(b) is amended to read:

30 (b) A first class borough may by ordinance exercise the following powers on
31 an areawide basis:

- 1 (1) provide transportation systems;
- 2 (2) provide water pollution control;
- 3 (3) provide air pollution control in accordance with AS 46.14.400;
- 4 (4) license day care facilities;
- 5 (5) license, impound, and dispose of animals, consistent with

6 **AS 03.55.031 - 03.55.090.**

7 * **Sec. 7.** AS 29.35.210(a) is amended to read:

8 (a) A second class borough may by ordinance exercise the following powers
9 on a nonareawide basis:

- 10 (1) provide transportation systems;
- 11 (2) regulate the offering for sale, exposure for sale, sale, use, or
12 explosion of fireworks;
- 13 (3) license, impound, and dispose of animals, consistent with
14 **AS 03.55.031 - 03.55.090;**
- 15 (4) subject to AS 29.35.050, provide garbage, solid waste, and septic
16 waste collection and disposal;
- 17 (5) provide air pollution control under AS 46.14.400;
- 18 (6) provide water pollution control;
- 19 (7) participate in federal or state loan programs for housing
20 rehabilitation and improvement for energy conservation;
- 21 (8) provide for economic development;
- 22 (9) provide for the acquisition and construction of local service roads
23 and trails under AS 19.30.111 - 19.30.251;
- 24 (10) establish an emergency services communications center under
25 AS 29.35.130;
- 26 (11) subject to AS 28.01.010, regulate the licensing and operation of
27 motor vehicles and operators;
- 28 (12) engage in activities authorized under AS 29.47.460;
- 29 (13) contain, clean up, or prevent a release or threatened release of oil
30 or a hazardous substance, and exercise a power granted to a municipality under
31 AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this

1 paragraph in a manner that is consistent with a regional master plan prepared by the
2 Department of Environmental Conservation under AS 46.04.210.

3 * **Sec. 8.** AS 29.35.210(b) is amended to read:

4 (b) A second class borough may by ordinance exercise the following powers
5 on an areawide basis:

6 (1) provide transportation systems;

7 (2) license, impound, and dispose of animals, consistent with

8 AS 03.55.031 - 03.55.090;

9 (3) provide air pollution control under AS 46.14.400;

10 (4) provide water pollution control;

11 (5) license day care facilities.

12 * **Sec. 9.** AS 03.55.030 is repealed.