

CHAPTER 2

An Act to amend the Dog Owners' Liability Act to increase public safety in relation to dogs, including pit bulls, and to make related amendments to the Animals for Research Act

Assented to March 9, 2005

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Amendments to the *Dog Owners' Liability Act*

1. (1) The *Dog Owners' Liability Act* is amended by adding the following heading immediately before section 1:

INTERPRETATION

(2) Section 1 of the Act is amended by adding the following definitions:

“pit bull” includes,

- (a) a pit bull terrier,
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire terrier,
- (d) an American pit bull terrier,
- (e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (“pit-bull”)

“pound” has the same meaning as in the *Animals for Research Act*; (“fourrière”)

“regulation” means a regulation made under this Act. (“règlement”)

(3) Section 1 of the Act is amended by adding the following subsection:

Same

(2) In determining whether a dog is a pit bull within the meaning of this Act, a court may have regard to the breed standards established for Staffordshire Bull Terriers, American Staffordshire Terriers or American Pit Bull Terriers by the Canadian Kennel Club, the United Kennel Club, the American Kennel Club or the American Dog Breeders Association.

(4) The Act is amended by adding the following heading immediately before section 2:

CIVIL LIABILITY

(5) The Act is amended by adding the following heading immediately before section 4:

PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT

(6) Subsection 4 (1) of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is repealed and the following substituted:

Proceedings against owner of dog

(1) A proceeding may be commenced in the Ontario Court of Justice against an owner of a dog if it is alleged that,

- (a) the dog has bitten or attacked a person or domestic animal;
- (b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
- (c) the owner did not exercise reasonable precautions to prevent the dog from,
 - (i) biting or attacking a person or domestic animal, or
 - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals.

Same

(1.1) A proceeding may be commenced in the Ontario Court of Justice against a person if it is alleged that the person contravened a provision of this Act or the regulations or a court order made under this Act.

Nature of proceeding

(1.2) Part IX of the *Provincial Offences Act* applies to a proceeding under this section.

Standard of proof

(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities.

(7) Subsection 4 (2) of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding “or (1.1)” after “subsection (1)”.

(8) Subsection 4 (3) of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding “or that the dog’s behaviour is such that the dog is a menace to the safety of persons or

domestic animals” after “bitten or attacked a person or domestic animal” in the portion before clause (a).

(9) Clause 4 (3) (b) of the Act, as enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding at the end “or for purposes of public safety”.

(10) Subsection 4 (4) of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding the following paragraph:

4. Posting warning signs.

(11) Subsection 4 (5) of the Act, as enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding “and such other means as the court may order” after “leash and muzzle”.

(12) Subsection 4 (6) of the Act, as enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding “Except as provided by subsections (8) and (9)” at the beginning.

(13) Section 4 of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by adding the following subsections:

Sterilization requirement

(7) The owner of a dog that is subject to an order under clause (3) (b) shall ensure that the dog is neutered or spayed, as the case may be, within 30 days of the making of the order or, if the court specifies a different time period, within the time period specified by the court.

Mandatory order under cl. (3) (a)

(8) When, in a proceeding under this section, the court finds that the dog is a pit bull and has bitten or attacked a person or domestic animal, or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the court shall make an order under clause (3) (a).

Same

(9) When, in a proceeding under this section, the court finds that the owner of a pit bull contravened a provision of this Act or the regulations relating to pit bulls or contravened a court order relating to one or more pit bulls, the court shall make an order under clause 3 (a).

Onus of proof, pit bulls

(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog.

(14) Section 5 of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, is amended by,

(a) striking out “subsection 4 (1)” and substituting “section 4”;
and

(b) adding “or that the dog’s behaviour is such that the dog is a menace to the safety of persons or domestic animals” after “bitten or attacked a person or domestic animal”.

(15) The Act is amended by adding the following section:

PRECAUTIONS BY DOG OWNERS

Owner to prevent dog from attacking

5.1 The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals.

(16) Sections 6 and 7 of the Act, as enacted by the Statutes of Ontario, 2000, chapter 26, Schedule A, section 6, are repealed and the following substituted:

PIT BULLS — BAN AND RELATED CONTROLS

Pit bull ban

- 6.** Except as permitted by this Act or the regulations, no person shall,
- (a) own a pit bull;
 - (b) breed a pit bull;
 - (c) transfer a pit bull, whether by sale, gift or otherwise;
 - (d) abandon a pit bull other than to a pound operated by or on behalf of a municipality, Ontario or a designated body;
 - (e) allow a pit bull in his or her possession to stray;
 - (f) import a pit bull into Ontario; or
 - (g) train a pit bull for fighting.

Ownership of restricted pit bulls

- 7.** (1) For the purposes of this Act, a pit bull is a restricted pit bull if,
- (a) it is owned by a resident of Ontario on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force; or

(b) it is born in Ontario before the end of the 90-day period beginning on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force.

Same

(2) Despite clause 6 (a), a person may own a pit bull if it is a restricted pit bull.

Controls on restricted pit bulls

(3) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this Act and the regulations that relate to restricted pit bulls, within such time frames as are provided for those requirements in this Act or the regulations.

Ownership of pit bull other than restricted

8. (1) Despite clause 6 (a), a pound may own a pit bull that is not a restricted pit bull for as long as is reasonably necessary to fulfil its obligations under the *Animals for Research Act*.

Same

(2) Despite clause 6 (a), a research facility registered under the *Animals for Research Act* may own a pit bull that is not a restricted pit bull that is transferred to it under the *Animals for Research Act*.

Transfer of pit bulls

9. (1) Despite clause 6 (c) and subject to the regulations, an owner of a restricted pit bull may transfer that pit bull by gift or bequest.

Same

(2) No person who owned one or more pit bulls on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire a pit bull under subsection (1) after that day if the effect of the acquisition would be that the person owns more pit bulls after that day than on that day.

Same

(3) No person who did not own a pit bull on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire more than one pit bull under subsection (1) after that day.

Same

(4) The limits set out in subsections (2) and (3) do not apply to a pound operated by or on behalf of a municipality, Ontario or a designated body or to a research facility within the meaning of the *Animals for Research Act*.

Same

(5) Despite clause 6 (c), a pit bull may be transferred by its owner to a pound operated by or on behalf of a municipality, Ontario or a designated body.

Same

(6) Despite clause 6 (c), a pit bull may be transferred in accordance with section 20 of the *Animals for Research Act*.

Importation of restricted pit bulls

10. (1) For the purposes of clause 6 (f), an individual who leaves Ontario with a restricted pit bull and returns to Ontario with that pit bull within three months is not importing that pit bull into Ontario.

Same

(2) For the purposes of clause 6 (f), an individual who owns a pit bull on the day referred to in clause 7 (1) (a) and is legally resident in Ontario on that day, but who is not present in Ontario on that day, is not importing a pit bull into Ontario if he or she returns to Ontario with that pit bull within three months of that day.

Municipal by-laws

11. Despite section 14 of the *Municipal Act, 2001*, if there is a conflict between a provision of this Act or of a regulation under this or any other Act relating to pit bulls and a provision of a by-law passed by a municipality relating to pit bulls, the provision that is the most restrictive in relation to controls or bans on pit bulls prevails.

SEARCH AND SEIZURE

Peace officers

12. For the purposes of this Act, the following persons are peace officers:

1. A police officer, including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of a police force.
2. A municipal law enforcement officer.
3. An inspector or agent under the *Ontario Society for the Prevention of Cruelty to Animals Act*.
4. A public officer designated as a peace officer for the purposes of this Act.

Warrant to seize dog

13. (1) Subsection (2) applies where a justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that,

(a) a dog is in any building, receptacle or place, including a dwelling house, other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act*; and

(b) it is not desirable in the interests of public safety that the dog be in that location.

Same

(2) In the circumstances described in subsection (1), the justice of the peace may issue a warrant authorizing a peace officer named in the warrant to enter any building, receptacle or place, including a dwelling house, to search for and seize the dog and any muzzle, collar or other equipment for the dog.

Same

(3) Without limiting the generality of clause (1) (b), it is not desirable in the interests of public safety for a dog to be in a location other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act* if,

(a) the dog has on one or more occasions bitten or attacked a person or domestic animal;

(b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;

(c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,

(i) biting or attacking a person or domestic animal, or

(ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;

(d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;

(e) the dog is a pit bull other than a restricted pit bull; or

(f) there is reason to believe that the dog may cause harm to a person or domestic animal.

Same

(4) A peace officer named in a warrant who is executing a warrant under this section may be accompanied by one or more veterinarians or animal control personnel as are reasonably required to give effect to the safe and humane seizure of the dog, whether the accompanying persons are named in the warrant or not.

Same

(5) Every warrant issued under this section shall name a date on which it expires, which date shall be not later than 30 days after its issue.

Same

(6) Every warrant shall be executed between 6 a.m. and 9 p.m., unless the justice by the warrant otherwise authorizes.

Exigent circumstances

14. (1) Where the circumstances in clauses 13 (1) (a) and (b) exist and it would be impracticable to obtain a warrant because of exigent circumstances, a peace officer may exercise any of the powers of a peace officer described in section 13.

Same

(2) In this section, exigent circumstances include circumstances in which the peace officer has reasonable grounds to suspect that entry into any building, receptacle or place, including a dwelling house, is necessary to prevent imminent bodily harm or death to any person or domestic animal.

Seizure in public place

15. (1) A peace officer may seize a dog in a public place if the officer believes on reasonable grounds that,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
 - (i) biting or attacking a person or domestic animal,
 - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or

(f) there is reason to believe that the dog may cause harm to a person or domestic animal.

Same

(2) Subsection (1) shall not be interpreted to restrict seizure of a dog in a public place if the seizure is otherwise lawful.

Necessary force

16. A peace officer may use as much force as is necessary to execute a warrant issued under section 13 or to exercise any authority given by section 14 or 15.

Delivery of seized dog to pound

17. A peace officer who seizes a dog under section 13, 14 or 15 shall promptly deliver the seized dog to a pound operated by or on behalf of a municipality, Ontario or a designated body.

OFFENCES

Offences

18. (1) An individual who contravenes any provision of this Act or the regulations or who contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or both.

Same

(2) A corporation that contravenes any provision of this Act or the regulations or that contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$60,000.

Same

(3) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation to the offence.

Identification of pit bull

19. (1) A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this Act is receivable in evidence in a prosecution for an offence under this Act as proof, in the absence of evidence to the contrary, that the dog is a pit bull for the purposes of this Act, without proof of the signature and without proof that the signatory is a member of the College.

Immunity

(2) No action or other proceeding may be instituted against a member of the College of Veterinarians of Ontario for providing, in good faith, a document described in subsection (1).

Onus of proof

(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt.

REGULATIONS

Regulations

20. (1) The Lieutenant Governor in Council may make regulations respecting the control of pit bulls.

Same

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) respecting leashing and muzzling of restricted pit bulls;
- (b) respecting the spaying or neutering of restricted pit bulls;
- (c) authorizing persons or other bodies specified in the regulations to pass and enforce by-laws governing pit bulls for the purposes of unorganized territory or specified parts of unorganized territory in the same ways that a municipality can pass and enforce by-laws governing pit bulls for the purposes of its geographic jurisdiction;
- (d) governing the presence in Ontario of pit bulls in connection with dog shows, including regulations providing for exemptions, subject to any restrictions specified in the regulations, from any provision of this Act or the regulations;
- (e) designating bodies referred to as designated in this Act;
- (f) designating public officers as peace officers for the purposes of this Act.

Same

(3) Regulations may be general or specific.

Same

(4) Without limiting the generality of subsection (3), a regulation may be made to apply or not to apply to a person or body specified in the regulation.

Amendments to the *Animals for Research Act*

2. (1) The definition of “pound” in section 1 of the *Animals for Research Act* is amended by adding “or the *Dog Owners’ Liability Act*” after “by-law of a municipality”.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1994, chapter 27, section 9 and 1999, chapter 12, Schedule A, section 3, is amended by adding the following subsection:

Restricted pit bull, meaning

(2) The term “restricted pit bull” has the same meaning for the purposes of this Act as it has for the purposes of the *Dog Owners’ Liability Act*.

(3) Subsection 20 (5) of the Act is amended by striking out “subject to subsection (7)” and substituting “subject to subsections (7) to (7.4)”.

(4) Subsection 20 (6) of the Act is amended by striking out “subject to subsection (7)” in the portion before clause (a) and substituting “subject to subsections (7) to (7.4)”.

(5) Section 20 of the Act is amended by adding the following subsections:

Transfers of pit pulls

(7.1) No pit bull may be transferred under,

- (a) clause 14 (3) (b);
- (b) subsection (5) of this section; or
- (c) clause (6) (a) or (b) of this section.

Same

(7.2) The operator of a pound who believes it has possession of a pit bull and who has found the person who owned the dog before it was delivered to the pound shall provide the owner with an opportunity to satisfy the pound that,

- (a) the dog is not a pit bull; or
- (b) the dog is a restricted pit bull and the owner has complied with all of the requirements of the *Dog Owners’ Liability Act* and the regulations under it relating to pit bulls.

Same

(7.3) If the owner satisfies the operator of the pound that either of clause (7.2) (a) or (b) apply, the operator shall return the dog to the owner, subject to the payment of such damages, fines and expenses as are required by law, unless the operator has reason to believe that the return of the dog would pose a menace to the safety of persons or domestic animals.

Same

(7.4) Where the operator of a pound believes it has possession of a pit bull and that it should not return the pit bull under subsection (7.3), the operator of the pound shall do one of the following with the dog:

1. Destroy the dog.

2. Transfer the dog to a person who is resident outside Ontario in a jurisdiction in which ownership and possession of the pit bull is lawful, where the person is acquiring the dog, in good faith, in order that it be used as a pet or in hunting or for working purposes.

3. Transfer the dog in accordance with clause 20 (6) (c).

4. Transfer the dog in accordance with the permission to transfer restricted pit bulls given by section 9 of the *Dog Owners' Liability Act*.

(6) Subsection 20 (12) of the Act is amended by adding “or the *Dog Owners' Liability Act*” after “by-law of a local municipality”.

Commencement

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

4. The short title of this Act is the *Public Safety Related to Dogs Statute Law Amendment Act, 2005*.