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Senate Bill 269 (Substitute S-2 as passed by the Senate)

Senate Bill 270 (as passed by the Senate)

Senate Bill 271 (as passed by the Senate)

Sponsor: Senator Joseph S. Mack

Committee: Regulatory Affairs

Date Completed: 6-23-87

RATIONALE

The American pit bull terrier breed of dog has become well known as a vicious fighter. Sometimes, they are trained to withstand considerable pain and to rip and tear at their victims. In fact, there have been a number of reports in Michigan of American pit bulls escaping from their owners and attacking people without warning, with tragic consequences. The State Police also say that pit bulls are used in illegal gambling operations in which two pit bulls are released in a ring to battle until one dies or cowers and refuses to fight on. The dogs are also said to have been used to guard establishments where illegal drugs are sold and have even been used instead of other weapons to commit robberies. Some say that, considering the particular strength and viciousness with which pit bulls attack children and others, something must be done to reduce the likelihood of future injury of persons by this particular dog. Therefore, it has been proposed that strict regulations for the ownership, registration and liability of the American pit bull breed be created to reflect the potential danger these animals pose to the public.

CONTENT

Senate Bill 269 (S-2) would create the "American Pit Bull Terrier Act" to do the following:

- Regulate the ownership, registration, and identification of American pit bull terriers.
- Establish criminal penalties for violations of the Act.
- Prescribe mandatory imprisonment for a person convicted of fighting or baiting a pit bull terrier, and for the owner of a pit bull terrier that killed a person.
- Require a pit bull terrier that killed a person to be euthanized.

Senate Bill 270 would amend the Act that establishes the liability of dog owners for a dog that bites a person who is on public property or lawfully on private property, including the property of the dog owner. Under the bill, a person would not be on the property of a dog owner lawfully if the person had gained lawful entry upon the premises for the purposes of an unlawful or criminal act.

Senate Bill 271 would amend the Act that provides for dog registration to create an exception for pit bull terriers.

Senate Bill 269 (S-2)

"American pit bull terrier" would mean the American Staffordshire terrier, any strain of the American pit bull terrier, and any cross-breed of the American pit bull terrier, whether registered or not with the United Kennel Club, the American Kennel Club, or the American Dog Breeders Association.

Registration

The bill would make it a felony for a person to own an American pit bull terrier for more than 48 hours unless the dog were registered under the proposed Act or an application for registration were pending.

The owner of an American pit bull terrier would be required to apply to the Director of the Department of Agriculture for the registration of the dog with the Department. The following would have to accompany the application:

- Proof that the applicant owned the dog.
- One copy of a registration certificate issued for the dog by the United Kennel Club, the American Kennel Club, or the American Dog Breeders Association, or a notarized bill of sale.
- One copy of the immunization and health records for the dog.
- Proof that the applicant had insurance coverage of at least \$100,000 for any injury, damage, or loss caused by the dog.
- Two photographs of the dog—one front view and one side view—taken not more than one month before the date of the application.
- The name and address of the previous owner and the number of ownership assigned to the dog, if the dog were previously registered under the proposed Act.
- A \$25 fee.

A person who purchased or otherwise received an American pit bull terrier from outside the State would be required, within 48 hours after purchasing or receiving the dog, to apply to the Department for State registration.

Department Responsibilities/Identification

The Director of the Department of Agriculture would be required to create within the Department a unit that would be dedicated solely to administering the proposed Act, directing investigation of possible violations of the Act or of related laws, and performing any other duties the Director considered necessary to enforce the Act. The Director also would be authorized to promulgate rules to implement the Act.

The Director or the Director's designee would be required to register a dog if satisfied that the applicant was the dog's owner, at least 18 years old, and a State resident, and met the other requirements for registration of a pit bull terrier.

Upon registration of a dog not previously registered under the bill, the Director would have to assign a specific number of ownership to the dog, without duplication. This number

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would have to be tattooed on and through the ear of the dog and on the inside and through the skin of a rear leg of the dog. The tattooing would have to be done by a qualified person designated by the Director and would have to be made by permanent tattoo ink. The tattoo would have to be at least one inch long and one-quarter inch high. The Department would have to issue to the dog's owner an identification certificate for the dog.

The Department would be required to keep a permanent record of the name and address of the owner of each dog registered under the Act, and the number of ownership, name, breed, sex, color, and two photographs of each registered dog, and to keep the registration records for American pit bull terriers separate from the records for all other breeds of dog. The Department also would have to give any law enforcement agency a true copy of the American pit bull terrier records upon request.

A dog pound or animal shelter that received a dog registered under the proposed Act that had been found would immediately have to notify the Department, which would have to give the name and address of the dog's owner to the shelter or pound upon request. The dog would have to be disposed of in the manner provided by law. The Department also would have to reimburse the shelter or pound \$5 per day for boarding the dog, which would be collected from the dog's owner if he or she were located.

Ownership Responsibilities/Violations

It would be a misdemeanor for an owner of an American pit bull terrier to cause or permit a person less than 18 years of age to walk, run, exercise, or transport an American pit bull terrier on public property.

The owner of a pit bull terrier or a person employed or otherwise authorized by the owner to keep the dog would be required to notify a local law enforcement agency within 12 hours if the dog were on the loose, had been stolen, or had attacked a person. Failure to do so would be a misdemeanor.

If an American pit bull terrier killed a person, the owner of the dog would be guilty of a felony, and would have to be punished by imprisonment for one year and a \$100,000 fine. In addition, upon conviction of the owner, the ownership of the dog would have to be forfeited to the local animal control authority, which would be required to euthanize the dog in a humane manner.

The owner of an American pit bull terrier would be required to provide a secure fenced enclosure for the dog. The enclosure would have to be designed and maintained in a manner that prevented the dog from escaping or endangering the safety of persons or domestic animals and that was healthy and humane for the dog. Violation of these requirements would be a misdemeanor subject to a maximum penalty of one year's imprisonment and/or a \$500 fine.

A person who sold or otherwise transferred ownership of a dog registered under the Act would have to notify the Department within five days of the sale or transfer. Violation would be a misdemeanor.

Other Criminal Offenses

It would be a felony for a person to fight or bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, an American pit bull terrier. The offense would be punishable by imprisonment for at least two years but no more than five years, and a fine of up to \$5,000.

The bill would make it a misdemeanor for a person, corporation, club, or organization to tattoo any number over or upon the number tattooed on a dog under the Act

so as to deface the number and prevent identification by the dog's owner, or to duplicate any number used by the Director under the Act. The misdemeanor would be punishable by imprisonment for up to one year and/or a maximum fine of \$1,000.

It also would be a misdemeanor for a person to steal or take without the owner's consent and without lawful authority a dog registered under the Act, or for a person other than a dog warden to harbor or hold in his or her possession a stray dog registered under the Act of which he or she was not the owner without reporting the possession to a local law enforcement agency within 12 hours after coming into possession of the dog. Such an offense would be punishable by imprisonment for up to 90 days and/or a maximum fine of \$500.

The bill would make it a misdemeanor to breed an American pit bull terrier without being licensed as a State breeder. A person who intended to breed the American pit bull terrier would have to apply to the Department and pay \$100 for a breeder's license. The applicant would have to specify the breed, age, sex, and assigned number of each American pit bull terrier the person intended to use for breeding.

A person who possessed or intended to possess three or more adult American pit bull terriers would have to apply to the Department for a State kennel license, and to specify the breed, age, sex, and assigned number of each American pit bull terrier in the person's possession. Possessing three or more of the dogs without a license would be a misdemeanor.

Senate Bill 270

The bill would amend Public Act 73 of 1939, which provides that the owner of a dog is liable for damages suffered by a person whom the dog bit without provocation while the person was on public property or was lawfully on private property, regardless of the dog's former viciousness or the owner's knowledge of such viciousness. Under the bill, a person would not be on the property of a dog owner lawfully if the person had gained lawful entry upon the premises for the purpose of an unlawful or criminal act.

MCL 287.351

Senate Bill 271

The bill would amend Public Act 309 of 1939, which provides for the registration of dogs with the Department of Agriculture. The bill specifies that the Act would not apply to the registration, licensing, regulation, identification, or tattooing of an American pit bull terrier, as defined in the proposed American Pit Bull Terrier Act.

MCL 287.301

FISCAL IMPACT

Senate Bill 269

Because the number of pit bulls in the State, or likely to be in the State, is not known at this time, the costs and revenues that would be created by this Act are indeterminate. The Department of Agriculture would incur costs in registering pit bulls; issuing licenses to breeders of pit bulls; issuing State kennel licenses; regulating pit bulls; and keeping records relative to the Act. Revenues would be received for registering pit bulls (\$25 per dog) and for issuing a breeder's license (\$100 per license). Revenue would not be received for issuing a State kennel license.

Senate Bill 270

The bill would have no fiscal impact on State or local government.

Senate Bill 271

The bill would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The pit bull terrier's reputation for viciousness is, unfortunately, well deserved. In June of 1986, for example, a pit bull grasped the neck of a 20-month-old Upper Peninsula boy, shook him from side to side and killed him. There have been other instances of pit bulls attacking kids and causing hundreds of stitches of injury. Faced with an attack by a pit bull, a person could hit the dog over the head with a lead pipe or take other extreme measures to try to defend himself, but unless the dog were killed, it probably would not stop. This breed is different from other types of dogs, being the predominant breed used to kill each other in illegal dog fighting operations. It is an exceedingly tough animal if allowed to attack, and is known to attack without warning or provocation. Following a pit bull attack on a human, the dog often is euthanized, and a declaration is made that: "The problem is over, the dog is dead, it won't attack again." This is not an adequate response. Someone has to take responsibility for the attack, and that should be the owner. It should be deemed nothing short of criminal to have an unregistered dog that could turn and kill a child. Senate Bills 269 through 271 would help solve the problem by regulating the ownership of this dangerous breed of dog, by requiring insurance for those who own the dog, and by providing penalties for a person convicted of fighting a pit bull terrier or owning one that killed a person.

Opposing Argument

There is no place for a dangerous animal or an irresponsible animal owner in our society. It is unfair, however, to offer narrow legislation that would restrict one or a few breeds of one species of animal, irrespective of whether an individual member of that species may be dangerous. Pit bulls can be as kind and loyal as any other dog if properly bred and not trained for dog fighting. In addition to the pit bull, many people fear the doberman pinscher breed of dog. There are dobermans that bite, and people who breed biting dobermans. Does this mean that all dobermans should be specially registered, insured for \$100,000, and tattooed? Since many animals can be dangerous, a more generic law, encompassing all breeds and species, that would control all dangerous animals and irresponsible owners, would make much more sense than a bill aimed at just one breed.

Opposing Argument

Although protecting the public against severe injury from attacks by American pit bull terriers is laudable, most dangerous pit bulls are kept for illegal fighting purposes. Enforcement of existing laws prohibiting dog fighting, along with adequately funding animal control and law enforcement agencies responsible for enforcement of the law, would be more appropriate and effective in accomplishing this objective.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.