

## Dog Laws

### **What you need to know about four major legal issues affecting dog owners in America.**

*Maryann Mott*

If Henry Bergh, founder of the American Society for the Prevention of Cruelty to Animals, were alive today, even he might be surprised by the sheer number and tenacity of politically savvy dog owners and animal welfare organizations.

During hearings on controversial local and state bills, legions of canine enthusiasts pack rooms to voice their support or opposition. In July 2007, animal advocates began lining up outside California's Capitol nearly two hours before a senate committee hearing on a statewide mandatory spay-neuter bill. Hundreds of people attended a hearing in Boston earlier this year when lawmakers decided to explore the idea of a statewide ban on pit bull-type dogs.

The reason for the intense interest and passionate debate is simple: Dogs have captured our hearts — so much, that 45 million U.S. households choose to share their lives with some 65 to 80 million dogs. But society's view of dogs often differs from how the legal system sees them. Under the law, pets are considered property — the same as your shirt or shoes.

Even so, Ledy VanKavage, senior director of legislation for the ASPCA, believes society's changing attitudes toward dogs is increasingly playing a role in the amount of animal-related legislation being introduced. "The more we are considering dogs to be family members, not property, the more we want them protected," she says.

Steven Zawistowski, a certified applied animal behaviorist with the ASPCA, agrees. "One of the reasons we see [dog] laws being drafted, submitted, and debated is because our society has evolved and this is how we discuss significant issues in our culture," he says.

David Favre, professor of law at Michigan State University's College of Law and editor of the Animal Legal and Historical Web Center, says the push to expand dog laws began about a decade ago.

During the past 10 years, he says, membership in national and local animal welfare groups has exploded, providing the money and clout needed for these groups to become political powerhouses.

Working on legislative issues is still one of the ASPCA's guiding principles — although a far cry from 140 years ago when Bergh stood alone pushing for reform. Today, a staff of 12, with an annual budget of \$1.6 million, monitors and lobbies for local, state, and federal laws.

With the backing of one in every 30 Americans and an annual revenue of more than \$120 million, the Humane Society of the United States is by far the best funded and staffed of all the national animal welfare groups. HSUS's Government Affairs department has 20 employees focusing on federal and state legislation, ballot measure campaigns, and grassroots organizing. Fifty people in its Field Services section work on regional and local issues, including state legislation. The group's lobbying affiliate, the Humane Society Legislative Fund, has six full-time staffers who also do legislative and political work.

"The animal protection movement is becoming more politically organized and politically effective," says Michael Markarian, HSUS' executive vice president of external affairs. In the first seven months of 2007, 43 bills — 42 state, one federal — relating to dogs were signed into law. Many more were considered. They range from strengthening animal cruelty and dogfighting laws to including pets in domestic violence orders and disaster evacuation plans. Others crack down on puppy mills or permit the creation of pet trusts.

Markarian says the spike in dog legislation is due, in part, to people taking animal issues more seriously. "Animal protection is becoming part of the public discourse," he says. The Internet is raising awareness and sparking discussion. An increasing number of blogs, e-mail lists, and chat rooms devoted to animal welfare issues have emerged. "Legislative alerts" sent by animal organizations fill the in-boxes of supporters almost weekly, encouraging them to contact their legislators in support of or opposition to proposed bills.

The American Kennel Club goes a step further by holding an annual Lobby Day on Capitol Hill where members network in person with federal policymakers.

The New York-based purebred dog registry has four full-time employees doing political work and relies heavily on its legislative liaisons — a group of about 1,000 members from AKC-affiliated clubs — to monitor proposed ordinances throughout the country.

AKC spokesperson Lisa Peterson says more involvement and interest in proposed legislation is needed among dog enthusiasts. “Even if they learn of a bill in another state or town and think it doesn’t affect them, it really does,” she says. “All dog owners need to stick together as a cohesive group.”

#### The forced fix

Requiring owners to sterilize their dogs isn’t a new idea. A few cities and counties have had such ordinances in place for years, including Santa Cruz County, Calif.; Aurora, Colo.; and Camden, N.J. But the introduction of the California Healthy Pets Act in March 2007 pushed the issue into the national spotlight.

The bill, which its author Assemblyman Lloyd Levine (D-Van Nuys) shelved in July, would have required most owners to fix their pets by 4 months of age, or face a fine. A revised version may be reintroduced in 2008.

Supporters of mandatory spay-neuter legislation believe it’s a reasonable and necessary measure to reduce the number of animals destroyed in shelters.

Those opposed argue that such legislation is difficult to enforce, allows for too much government interference in pet owners’ lives, and will hamper reputable breeders’ ability to provide quality puppies.

“Are the police going to start knocking on doors and checking under dogs to see if they’ve been fixed or not?” wonders law professor Favre. “It’s really intrusive as an idea.”

California isn’t the first state to try to pass a spay-neuter law. Attempts failed earlier this year in New Mexico and Virginia. Rhode Island, however, successfully implemented a rule last year requiring cats to be spayed or neutered by 6 months of age.

#### Saying ‘no’ to chains

Animal welfare groups and others say tethering — fastening a dog with a chain or rope to a stationary object — is inhumane, and they’re pushing for legislation to stop it.

Currently, dozens of cities and six states — California, Connecticut, Maryland, Texas, Virginia, and West Virginia — restrict or ban the practice.

Anti-chaining advocates say long hours spent restrained can turn a normally friendly dog into a neurotic, anxious, and aggressive animal. They add that chained dogs often aren’t given proper veterinary care, food, water, or shelter.

The Humane Society of Hall County in Gainesville, Ga., frequently receives calls from concerned people about tethered animals. “We had one dog that fell off a porch and hung itself,” says Rick Aiken, the humane society’s director.

Earlier this year, the group saw a citywide ban on the practice passed. Violators are fined \$50, and the penalty increases with each repeat offense.

Critics argue that owner education is needed, not new laws. Aiken disagrees. “There are some people you can’t educate,” he says. “The only way I can educate them is to take money out of their billfold.”

On the other side of the debate is the AKC, which believes that under certain circumstances tethering is a useful tool for confining dogs. “It’s really about responsible tethering — not too short, adequate shelter, the dog gets socialization, that sort of thing,” Peterson says.

#### The rabies debate

Vaccinating dogs against rabies every three years, as most states require, is unnecessary, says W. Jean Dodds, DVM, vaccine research scientist and founder of HEMOPET, a nonprofit animal blood bank. Still, some states, like Alabama, require annual boosters, she says. This is despite recommendations by the National Association of State Public Health Veterinarians for local and state rabies control programs to use vaccines with “at least a three-year duration of immunity.”

Dodds is part of the Rabies Challenge Fund, a group working to extend state-mandated intervals for rabies boosters to five years and then possibly to seven years.

“Showing that a vaccine for rabies can provide five, or preferably seven years of immunity would have great significance,” says Ronald Schultz, DVM, “not only in controlling rabies, but, more importantly, in reducing the adverse vaccine reactions that can occur in dogs and cats after vaccination.” Schultz, along with Dodds, volunteered to conduct the rabies challenge study.

Adverse vaccine reactions, say Schultz and Dodds, include autoimmune diseases, behavior changes, seizures, muscle weakness, and chronic digestive problems.

Before a change can take place, however, a study currently underway at the University of Wisconsin’s School of Veterinary Medicine in Madison must determine the true duration of immunity from the canine rabies vaccine.

Because he’s a pit

After a fatal dog attack or mauling in a community, city officials often try to outlaw or restrict ownership of certain breeds they deem a threat to public safety.

VanKavage of the ASPCA says she receives a call every day from someone whose community is considering banning pit bulls, Chow Chows, Rottweilers, German Shepherd Dogs, and their mixes. “The only thing I can tell those people is to get politically active,” she says.

Hundreds of cities and counties have passed breed-specific legislation, including Denver, Miami-Dade County, Fla., and Providence, R.I. Ohio is the only state as of press time that automatically labels all pit bulls and pit bull-types as “vicious,” and requires owners to carry \$100,000 liability insurance. And in August, the Ohio Supreme Court upheld a Toledo ordinance that limited dog owners to one pit bull-type dog per residence and established confinement regulations.

Labeling a dog as dangerous or vicious based on breed alone is unfair, say animal welfare groups, because temperament is shaped by many factors, including genetics, training, and socialization. The public is better protected, they say, through enforcement of laws with strong criminal penalties that target owners who allow their dogs — regardless of breed or mix — to behave aggressively.

Those in favor of breed-specific legislation believe special restrictions are needed for strong, powerful dogs, claiming that they cause more than their fair share of trouble.

In 2004 Boston implemented a laundry list of requirements for owners of pit bull-type dogs. The Responsible Pit Bull Ownership ordinance requires owners to spay or neuter their dogs, muzzle them in public, pay a \$50 annual licensing fee, and post warning signs outside their homes. In addition, no more than two pit bull-type dogs are allowed at each residence, unless the dogs are less than 9 weeks old.

About 350 pit bulls and pit bull mixes were licensed in Boston as of press time.

Charles Rudack, acting director for Boston’s Animal Care and Control, says the ordinance has decreased the number of pit bull-related incidents in the city, although he would not provide numbers.

The ordinance is needed, he says, in part, because disreputable breeders are intentionally producing litters of overly aggressive dogs. “The breed of pit [bull] that I knew growing up isn’t necessarily the breed we’ve got now,” Rudack says.

The push continues for new dog laws in cities and counties throughout the United States. Whether you support or oppose each new law or ordinance, you owe it to your pets to stay informed.

Pets as property

Your dog may be your best friend, but in the eyes of the law he’s considered personal property — just like your TV or toaster.

That means if he’s injured or killed, monetary damages are usually limited to his original or replacement cost. For many people, that may be as little as the \$100 adoption fee they paid to a shelter.

In recent years, however, there’s been a legislative push to allow owners to recover non-economic damages, which could cover pain, suffering, and loss of companionship.

So far, only Tennessee has succeeded. The state’s “T-Bo Act” authorizes damages up to \$4,000 for emotional distress.



As of press time, a similar bill was pending in Massachusetts, and a measure in New Jersey gives owners the right to sue for up to \$15,000 for loss of companionship if their pet gets sick or dies from eating contaminated pet food.

The biggest opposition to such legislation comes from veterinarians. They argue that allowing non-economic damages for an animal's death or injury encourages malpractice lawsuits that could cause the cost of veterinary care to skyrocket.

Nevertheless, David Favre, professor of law at Michigan State University College of Law, believes the legal system should recognize the human-animal bond. To do that, he proposes a new property category, called "living property," in which all animals would be placed.

This differentiates pets from other types of property, he says, and would allow courts more flexibility in awarding appropriate damages to owners, including those for loss of companionship.

"I think the world is right for it," Favre says. "A lot of people aren't happy with where we are."

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