

1 HB381  
2 97515-2  
3 By Representative Fincher (N & P)  
4 RFD: Mobile County Legislation  
5 First Read: 12-FEB-08



1 by an entity under agreement or contract with the county to  
2 perform animal control functions or to enforce this act.

3 (2) ATTACK. Aggressive physical contact initiated by  
4 a dog.

5 (3) BITTEN. Seized with the teeth so that the skin  
6 of the person seized has been gripped, or has been wounded or  
7 pierced.

8 (4) COUNTY. Mobile County.

9 (5) DANGEROUS DOG. A dog, regardless of its breed,  
10 that has bitten, or caused physical injury to a human being  
11 without provocation, or has repeatedly bitten or caused  
12 physical injury to humans except a dog used by law enforcement  
13 officials for legitimate law enforcement purposes, a certified  
14 guide dog for the blind, a hearing dog for the deaf, or a  
15 service dog for the disabled.

16 (6) DOG. All members of the canine family including  
17 dog hybrids.

18 (7) IMPOUNDED. Taken into the custody of law  
19 enforcement, the county pound, or an animal control authority  
20 or provider of animal control services to the county where the  
21 dangerous dog is found.

22 (8) NUISANCE DOG. A dog, regardless of its breed,  
23 that has caused damage to or disturbed the real or personal  
24 property of a human being without provocation, except a dog  
25 used by law enforcement officials for legitimate law

1 enforcement purposes, a certified guide dog for the blind, a  
2 hearing dog for the deaf, or a service dog for the disabled.

3 (9) OWNER. A person, firm, corporation, or  
4 organization having a right of property in a dog, or who keeps  
5 or harbors a dog, or who has a dog in his or her care or acts  
6 as the custodian of a dog, or who permits a dog to remain on  
7 or about any premises occupied by him or her.

8 (10) PHYSICAL INJURY. An injury as defined in  
9 Section 13A-1-2(8), Code of Alabama 1975.

10 (11) PROPER ENCLOSURE OF A DANGEROUS or NUISANCE  
11 DOG. An enclosure for the confinement of a dog that has been  
12 declared dangerous that is suitable to prevent the entry of  
13 the general public and that:

14 a. Is capable of being locked with a key or  
15 combination lock when the dog is within the structure.

16 b. Has secure sides and a secure top attached at all  
17 sides. All four sides of the fence or pen must be sunk at  
18 least two feet into the ground or the fence or pen must be  
19 built over a concrete pad to prevent the dog from digging out.

20 c. Provides adequate ventilation and protection from  
21 the elements.

22 d. Exhibits a sign conspicuously posted upon the pen  
23 or the structure containing the following: "Dangerous Dog - No  
24 Trespassing" or "Nuisance Dog - No Trespassing."

25 e. The enclosure shall be constructed to allow the  
26 dog to stand normally and without restriction and shall be not

1 less than four times the length of the dog and two times the  
2 width of the dog.

3 (12) SERIOUS PHYSICAL INJURY. An injury as defined  
4 in Section 13A-1-2(9), Code of Alabama 1975.

5 Section 3. (a) An animal control officer or law  
6 enforcement officer of Mobile County shall investigate any  
7 incidents involving any dog reported to be dangerous or a  
8 nuisance.

9 (b) If a dog, which is unowned and has been reported  
10 to be dangerous, bites a person, the dog may be quarantined  
11 and destroyed pursuant to Section 3-7A-9(b), Code of Alabama  
12 1975. For purposes of this subsection, "bites" means the same  
13 as "has been exposed" as defined in Section 3-7A-1(4), Code of  
14 Alabama 1975.

15 (c) If there is probable cause to believe that an  
16 owned dog is dangerous or a nuisance and has caused serious  
17 physical injury or has caused damage to real or personal  
18 property, the law enforcement officer or animal control  
19 officer shall impound the dog pending disposition of a  
20 petition to declare a dog to be dangerous or a nuisance. The  
21 county may impound the dog at the county pound as described in  
22 Section 3-7A-7, Code of Alabama 1975, or may enter into an  
23 agreement with an animal shelter or licensed veterinarian to  
24 secure and impound dangerous or nuisance dogs pursuant to this  
25 section. The owner of the dog shall be liable to the county

1 for the costs and expenses incurred in impounding, feeding,  
2 and providing veterinary care or treatment for the dog.

3 (d) The district attorney shall be authorized to  
4 file a petition in the district court to declare the dog  
5 dangerous or a nuisance. The owner of the dog shall be served  
6 with a copy of the petition.

7 (e) A dog that is the subject of a dangerous or  
8 nuisance dog investigation may not be relocated and ownership  
9 shall not be transferred pending the outcome of the  
10 investigation and hearing to determine whether to declare the  
11 dog to be dangerous or a nuisance.

12 (f) The court hearing shall be held as soon as  
13 practicable. At the hearing, the district attorney shall  
14 present evidence that the dog is a dangerous dog or a nuisance  
15 dog as defined by this act.

16 (1) If the court determines that the dog is  
17 dangerous or a nuisance and has caused serious physical injury  
18 or death to a human being, the court shall order the dog to be  
19 humanely euthanized by a licensed veterinarian or an  
20 authorized animal control official.

21 (2) If the court determines that the dog is  
22 dangerous or a nuisance, but has not caused serious physical  
23 injury or death to a human being, the court shall issue orders  
24 authorized by this act.

25 (g) The pleading and practice in all cases to  
26 petition the court to declare a dog to be dangerous or a

1 nuisance under this act shall be in accordance with the  
2 Alabama Rules of Civil Procedure. Any judicial determination  
3 of a district court that a dog is dangerous or a nuisance may  
4 be appealed to the circuit court pursuant to the requirements  
5 of the Alabama Rules of Civil Procedure.

6 Section 4. (a) A dog may not be declared dangerous  
7 or a nuisance in any of the following circumstances:

8 (1) When an injury or damage was sustained by a  
9 person who, at the time of injury or damage, was committing a  
10 willful trespass or other tort upon premises occupied by the  
11 owner or custodian of the dog with the intent to commit a  
12 crime or was committing a crime, or was teasing, tormenting,  
13 abusing, or assaulting the dog, or who can be shown to have  
14 repeatedly, in the past, provoked, tormented, abused, or  
15 assaulted the dog.

16 (2) When the dog was protecting or defending a  
17 person within the immediate vicinity of the dog from an  
18 unjustified attack or assault.

19 (3) When the dog was responding to pain or injury or  
20 protecting itself, its kennel, or its offspring.

21 (4) When a person or domestic animal was disturbing  
22 the natural functions of the dog such as sleeping or eating.

23 (b) Neither growling nor barking, or both, shall  
24 alone constitute grounds upon which to find a dog to be  
25 dangerous or a nuisance.

1           Section 5. (a) If a court determines that a dog is  
2 dangerous or a nuisance, but does not order that the dog be  
3 destroyed because evidence was insufficient to determine that  
4 the dog caused serious physical injury or damage to the real  
5 or personal property of another person, the owner of the dog  
6 shall comply with the following requirements in addition to  
7 any other requirements imposed by the court:

8           (1) Within 30 days of the issuance of the order  
9 declaring the dog to be dangerous or a nuisance, the owner of  
10 the dog shall be required to register the dog with the animal  
11 control authority in the jurisdiction in which the animal is  
12 kept or if there is no animal control authority in the  
13 jurisdiction where the animal is kept, with the county health  
14 department. All certificates of registration required to be  
15 obtained under this section shall only be issued to persons 18  
16 years of age or older which represent evidence of the  
17 following:

- 18           a. A current certificate of rabies vaccination.
- 19           b. A current photograph of the dog.
- 20           c. That the dog will be confined to a proper  
21 enclosure when the dog is outdoors and unattended.
- 22           d. That the dog has been neutered or spayed, unless  
23 medically not needed.
- 24           e. That the dog has been permanently identified by  
25 tattooing or injected with an identification microchip using  
26 standard veterinary procedures.

1           f. A policy of insurance, such as homeowners, or a  
2           surety bond in the amount of not less than one hundred  
3           thousand dollars (\$100,000) covering the medical or veterinary  
4           costs, or both, resulting from any future dangerous actions of  
5           the dog.

6           g. If the owner of the dangerous or nuisance dog is  
7           not the owner of the property where the dog is kept, proof  
8           that the owner of the dog has obtained from the property owner  
9           written permission for the dangerous or nuisance dog to be  
10          kept there.

11          h. A notarized affidavit from the owner of the  
12          dangerous or nuisance dog stating that the dog will be under  
13          the control of a person 18 years of age or older when the dog  
14          is not in a proper enclosure or inside a building and that the  
15          dog will not be allowed outside the property of its owner  
16          except in emergencies or for normal or necessary medical or  
17          health-related treatment.

18          (b) If the owner fails to provide a proper enclosure  
19          for the dangerous or nuisance dog or fails to provide a  
20          certification of dangerous or nuisance dog registration to the  
21          court within 30 days of the issuance of the declaration of the  
22          court that the dog is dangerous or a nuisance, the dog shall  
23          be humanely euthanized.

24          (c) The owner of the dangerous or nuisance dog shall  
25          pay an annual fee to register the dog pursuant to this act.

1 The amount of the dangerous or nuisance dog registration fee  
2 shall be established by the county.

3 (d) An animal control officer or law enforcement  
4 officer may make whatever inquiry is deemed necessary to  
5 ensure compliance with this act and any court order issued  
6 pursuant to this act.

7 (e) Prior to a dangerous or a nuisance dog being  
8 sold or given away, the owner shall advise the new prospective  
9 owner in writing that the dog has been declared to be  
10 dangerous or a nuisance by a court and shall provide the  
11 animal control authority or county health department  
12 information on where the dog is registered, the name, address,  
13 and the telephone number of the new owner. The new owner shall  
14 comply with all of the requirements of this act.

15 Section 6. The owner of a dog which has been  
16 declared to be dangerous or a nuisance by a court may petition  
17 the district court to remove the dangerous or nuisance dog  
18 designation 18 months after the judicial declaration was  
19 issued. A copy of the petition shall be filed with the  
20 district attorney. The court may remove the dangerous or  
21 nuisance dog designation and eliminate any requirements of  
22 this act if the owner of the dog has not violated this act and  
23 any orders of the court, and if the court is satisfied from  
24 the evidence that the dog is no longer dangerous.

25 Section 7. (a) An owner of a dangerous dog who  
26 violates this act shall be guilty of a misdemeanor punishable

1 by a fine of not more than three hundred dollars (\$300) for  
2 the first offense and not more than six hundred dollars (\$600)  
3 for each subsequent offense.

4 (b) If a dog that has previously been declared  
5 dangerous, when unprovoked, attacks, assaults, wounds, or  
6 causes severe physical injury, or kills a human being, the  
7 owner or keeper of the dog shall be guilty of a Class C felony  
8 punishable by a fine of not more than five thousand dollars  
9 (\$5,000) or imprisonment of not more than two years, or both.  
10 The dog control authority may confiscate and, after the  
11 expiration of 10 working days after the owner has been  
12 notified, destroy the dangerous dog. The 10-day time period  
13 shall allow the owner to request a due process hearing. The  
14 owner shall be responsible for payment of all boarding costs  
15 and other fees as may be required to humanely and safely keep  
16 the dog during any appeal procedure.

17 (c) If a dog that has not been declared dangerous,  
18 attacks and causes severe injury to or death of any human, and  
19 the owner of the dog had prior knowledge of the dangerous  
20 propensities of the dog yet demonstrated a reckless disregard  
21 of the propensities under the circumstances, the owner of the  
22 dog shall be guilty of a misdemeanor punishable by a fine of  
23 not more than ~~one~~ three hundred dollars (~~\$100~~ \$300) for the  
24 first offense and, for a second or subsequent offense,  
25 punishable by a fine of not more than ~~three~~ six hundred  
26 dollars (~~\$300~~ \$600). In addition, the dog shall be immediately

1 confiscated by a dog control authority, held for 10 business  
2 days after the owner is given written notification, and  
3 thereafter destroyed in an expeditious and humane manner. This  
4 10-day period shall allow the owner to request a due process  
5 hearing. The owner shall be responsible for payment of all  
6 boarding costs and other fees as may be required to humanely  
7 and safely keep the dog during any appeal procedure.

8 (d) This section shall not be construed to repeal  
9 other criminal laws. Whenever conduct prescribed by any  
10 provision of this act is also prescribed by any other  
11 provision of law, the provision which carries the more serious  
12 penalty shall be applied.

13 Section 8. An owner of a nuisance dog who violates  
14 this act shall be guilty of a misdemeanor punishable by a fine  
15 of not more than three hundred dollars (\$300) for the first  
16 offense and not more than six hundred dollars (\$600) for each  
17 subsequent offense.

18 Section 9. A law enforcement officer may enforce  
19 this act by immediately removing the dog to an appropriate  
20 facility, without requirement for a warrant or pending due  
21 process, or both, if in responding to an incident covered by  
22 this act, he or she determines that the dog poses a threat to  
23 the public safety, regardless of the actions, omissions, or  
24 intent of the owner.

25 Section 10. A person falsifying charges due to a  
26 malicious intent toward the owner of the dog or the dog itself

1 is guilty of a Class B misdemeanor and upon conviction may be  
2 assessed a fine of up to five hundred dollars (\$500).

3 Section 11. This act shall become effective on the  
4 ratification of a constitutional amendment to the Constitution  
5 of Alabama of 1901, providing for regulations of dogs in  
6 Mobile County.

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House of Representatives

Read for the first time and referred to the House of Representatives committee on Mobile County Legislation ..... 12-FEB-08

Read for the second time and placed on the calendar with 1 substitute and ..... 14-FEB-08

Read for the third time and passed as amended ..... 19-FEB-08

Yeas 60, Nays 0, Abstains 20

Greg Pappas  
Clerk