

1999 HOUSE POLITICAL SUBDIVISIONS

HB 1146

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1146

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-15-99

TAPE	Side A	Side B	Meter #
/	x		1.3-48.9
Committee Clerk Signature <i>Sam Dever</i>			

Minutes: BILL SUMMARY: Relating to potentially dangerous and vicious dogs; to repeal chapter 42-03, relating to dogs as a public nuisance; and to provide a penalty.

Chairman Froseth called the meeting to order with all members present: Chairman Froseth, Vice Chair Maragos, Rep. Delmore, Rep. Disrud, Rep. Eckre, Rep. Ekstrom, Rep. Glasheim, Rep. Gunter, Rep. N. Johnson, Rep. Koppelman, Rep. Niemeier, Rep. Rose, Rep. Severson, Rep. B. Thoreson, and Rep. Wikenheiser.

Rep. Galvin : Addressed the group in support of HB1146 on behalf of the Dept. of Health. He asked everyone to please listen carefully to all who testify.

Rod Gilmore, Dept. of Health : 2.1 Testified in support of the bill. (See attached testimony)

Rep. Eckre : 5.1 What is meant by “unprovoked”?

Rod: Further on in the bill, it explains the circumstances if the dog is protecting the property or family member or owner this is “unprovoked”.

Vice Chair Maragos : 5.8 If I understand correctly, state law supersedes county laws with supersede city laws in the absence of any laws, is this correct?

Rod : Yes, but here we specifically state in the bill that this doesn't prevent cities from enforcing their own regulations.

Vice Chair Maragos : What you are asking us to do is to put a whole new section of code in state law which could more easily be handled on the local level.

Rod : That's correct. The problem we have when dealing with dog bites, the Health Dept. has trouble when bites outside city are reported too city authorities, The city says it's out of their jurisdiction and call county and they have no laws to deal with it. It falls back to being a civil matter between the owner of vicious dog and person bit, instead of looked at as criminal stand point.

Vice Chair Maragos : 7.3 Has your department attempted to promulgate a rule in this regard, rather than set up a whole new statute in code?

Rod : No, we have not. That I will have to address back to our state health officer.

Rep. Niemeier : 9.1 I noticed that the bill includes wolf dog. Do you have reported incidences with that breed?

Rod : Not within North Dakota. We needed to introduce that because during research, we did find where wolf breeds have attacked and killed people. Currently, 12 states ban wolf hybrids as pets.

Rep. Delmore :9.8 How far is a public road and what is a public road?

Rod : No.

Rep. Glassheim : 11.2 Could you please explain what will happen if we pass this bill. Who does what to what dog.

Rod : It still falls back to local law enforcement. It goes into effect if a dog bites a person or attacks a person. The level of severity is in the bill. Rod reads from the bill to explain.

Rep. Koppelman : 17.5 What is classified as dangerous. It could be left to interpretation of barkee. Not all people like dogs. Then we have the issue of when you sell the dog. Lots of complications.

Rod : We are very willing to work with this committee to make it more workable for cities and county, etc. to make bookkeeping easier. We have looked at other states to fashion ours.

Rep. Niemeier : 18.0 Any potentially dangerous dog must be properly licensed and vaccinated. Is this currently in statute?

Rod : No, the only licensing requirements on dogs are the local ordinances.

Rep. B. Thoreson : 20.5 What is done to determine to "significant" threat to public safety.

Rod : The reason for this section, is to address a problem with people having one vicious dog taken away, and then they go right around and get another vicious dog. The city or county has the discretion of enforcing this part.

Rep. Severson : 22.9 Have there been reported bites and attacks on file with the Health Dept.?

Rod : Yes, we do have them on file; but it isn't required for hospitals or clinics or police departments to report the numbers back to us. We are mostly concerned with rabies.

Rep. Eckre : Do you mean rabies only.

Rod : Yes, I believe that is the intent, but I will check that out and get back to you.

Rep. Delmore : 24.9 Why are kennels, humane society shelters, animal control facilities, or veterinarians exempt?

Rod : These are the facilities that would handle the dangerous dogs. Through this exposure they can be bitten and they need to be exempt.

Rep. Niemeier : Do the vaccines have the same effectiveness on wolf hybrids?

Rod : There is not a USDA approved vaccine for wolf hybrids. We hope to have a decision within 6 months to see if our research proves conclusive.

Testimony continues in favor:

Susan J. Keller DVM, Deputy State Veterinarian, : Testified in favor of bill. (See attached testimony) Please omit in my last paragraph "proposed amendment" as I have no amendment.

Rep. Glassheim :30.6 Do you have evidence or experience to where this testimony comes from?

Susan : These have happened within the last year. We get complaints from individuals. We are concerned about the wolf hybrid issue. This bill is a good starting point to address some important issues. We don't want to ban every species and breed.

Testimony continues:

Terry Traynor, N.D. Assoc. of Counties : 32.8 Testified in opposition to HB 1146. This is a serious issue. However, it has been our position that this should be handled at the local level. Our concern is that it creates mandates. It creates an administrative burden, as well as an enforcement burden. The counties don't the resources to hire staff to deal with mandates, etc. There has not been a real outcry of citizens concerning these issues, so we have been reluctant to support mandates.

Chairman Froseth : 35.7 Can you tell us a little bit about what types of connecting law enforcement offices, county and city, and what expense would be required.

Terry : Many, many counties have 2, 3, and 4 deputies and none are specifically trained to handled vicious animals, nor are they equipped with the cages, etc. needed to control. The issue will have to be raised to added expense.

Vice Chair Maragos : 37.4 When county doesn't have any ordinance in regard to vicious animals, do they expose themselves to liability? Where does the citizen go if they live in the county. Do they have to go to court in civil action instead of having a political subdivisions try to deal with this in a uniform fashion?

Terry : If they had an ordinance and did not enforce it, they will certainly be liable. If they don't enact an ordinance, it is generally a civil matter.

Rep. Glassheim : 39.9 So now, in a county, if a dog viciously bits a child, the county sheriffs can do nothing about it? They have no authority to correct it? What would happen?

Terry : What authority they have in the county, is under the nuisance, if certain conditions are met, laws.

Jerry Hjelmstad, N.D. League of Cities : 41.1 We sympathize with the goal of this bill, but we are in opposition, because in N.D. there are 361 incorporated cities. They range in population from less than 10 to 70,000 and any time you try to have a one size fits all bill it causes problems. We have always felt that this issue is best dealt with local ordinances. Each city has different needs.

Rep. Delmore voiced some concern on making sure there was rabies control through vaccination requirements.

Rep. Glassheim : 48.2 This bill does not require licensing and vaccination of all dogs, but only the few who are involved. We are not asking counties to mandate this. Is this all correct?

Terry : Yes.

Hearing no further testimony, Chairman Froseth closed the hearing.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1146-a

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-28-99

Tape Number	Side A	Side B	Meter #
2		x	12.4-35.8
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: Consideration of 1146 by committee.

Mike Mullen, Health Dept : addressed the group again, and explained some modifications to amendments they propose to the bill. 12.4-16.4 Some counties do not have dog ordinances. This gives the local authorities something to work with to pick up vicious animals.

Rep. Eckre : 16.5 I checked back home and there are things that can be done. The sheriff can take action, because they are using the law in effect now.

Mike : I'm not saying the towns aren't dealing with it now. But now, the law only deals with a dog that habitually molests an individual and only when it occurs on a public street or road. That is too narrow.

Rep. Delmore : 19.0 Did you talk with the State Vet and work with here?

Mike : Yes, and I believe they are comfortable with the bill.

Chairman Froseth : 20.6 The other set of amendments before you, are ones I had the legislative council draft in an attempt to update the present law. The terminology is outdated, etc.

Rep. Koppelman : Do you think it would be best to add a line, “or a newspaper having wide circulation in the area”. I have an amendment to the amendment Chairman Froseth brought forth. LC-98254.0102.

Rep. Rose : Looking at the first amendment, I don’t see how the public is protected. Did you consult with the health department, since they brought the bill in. Hog housing the bill is not right. How do we protect these people.

Voice vote on the amendment to the amendment. Passed.

Rep. Glassheim : As I read it, there is public protection. Maybe not quite as strong as the original bill.

Rep. Eckre : I asked Mike if this is O.K. and he said, yes. So, Rep. Rose, there is protection.

Voice vote was taken on amendments. All in favor. We have the amended bill before us. Rep. Severson made a motion DO PASS as amended and Rep. Wikenheiser seconded the motion.

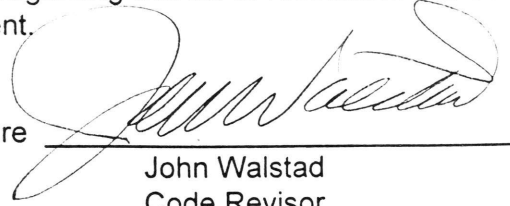
ROLL CALL VOTE: 11 YES and 2 NO and 2 ABSENT. Rep. Koppelman will carry the bill.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1146

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Signature



John Walstad
Code Revisor

use this one

Pans

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1146

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 42-03-01, 42-03-02, 42-03-03, and 42-03-04 of the North Dakota Century Code, relating to dogs as public nuisances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 42-03-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-01. ~~When dogs are a public~~ Dogs - Public nuisance - Complaint - Notice. Any dog ~~that habitually molests a person traveling peaceably on the public road or street which when unprovoked causes physical injury to an individual~~ is a public nuisance. ~~Upon~~ and may be adjudged to be dangerous or vicious. For purposes of this chapter, dog includes a wolf or the offspring of a canine and wolf breeding. An individual may file a written complaint ~~to~~ with a district or municipal judge describing the dog, ~~giving~~ stating the name of the dog, if known, and stating the name and address of the dog's owner, if known, and, if not, so stating, and alleging that the dog is a public nuisance, ~~the~~ and is dangerous or vicious. The district or municipal judge shall give notice to the dog's owner that a complaint has been filed ~~alleging that the dog has been molesting certain persons is a public nuisance and is dangerous or vicious~~ and directing that the owner shall take the necessary action to prevent the dog from any further violations of this chapter. If the district or municipal judge receives a ~~further~~ second complaint regarding the dog, after notice has been given under this section, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge ~~in the same manner as other court summonses~~ at the time and place set for a hearing.

SECTION 2. AMENDMENT. Section 42-03-02 of the North Dakota Century Code is amended and reenacted as follows:

42-03-02. Owner of dog ~~not known~~ unknown - Notice. If it ~~appears from the complaint that the owner of the dog is not known to the complainant,~~ ~~ten days' notice shall be given~~ the judge shall give notice once by publication in ~~one issue of a~~ the official newspaper ~~having wide circulation in the area.~~ Such notice shall ~~of the city in which the dog was sighted, or if the dog was sighted outside the city limits, in the official newspaper of the county in which the dog was sighted.~~ The notice must contain a description of the dog as given in the complaint, the area in which the dog was sighted, a statement that such a complaint has been ~~made~~ filed, and the date, time, and place of set for a hearing ~~thereon~~. The hearing may not take place less than ten days after the date of notice by publication.

or in a newspaper having wide circulation in the area

SECTION 3. AMENDMENT. Section 42-03-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-03. Hearing - Judgment - Execution. ~~On the day of~~ At the hearing, the district or municipal judge shall hear the evidence in the case. If the judge finds that the dog is a public nuisance and potentially dangerous or vicious, judgment must be entered accordingly, ~~and the~~. The judge shall ~~may~~ order any peace officer to kill and bury ~~that the dog, which order the peace officer shall forthwith execute~~ be humanely destroyed.

SECTION 4. AMENDMENT. Section 42-03-04 of the North Dakota Century Code is amended and reenacted as follows:

42-03-04. Costs. ~~Costs shall be paid by the~~ The complainant shall pay all costs of the action, but if the dog is adjudged a public nuisance and potentially dangerous and vicious, and the owner is known, ~~judgment shall be entered the judge shall assess costs against him for such costs~~ the owner."

Renumber accordingly

January 28, 1999

VK
1/29/99
1 of 2

HOUSE AMENDMENTS TO HOUSE BILL NO. 1146

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 42-03-01, 42-03-02, 42-03-03, and 42-03-04 of the North Dakota Century Code, relating to dogs as public nuisances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 42-03-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-01. ~~When dogs are a public~~ Dogs - Public nuisance - Complaint - Notice. Any dog that ~~habitually molests a person traveling peaceably on the public road or street that~~ when unprovoked causes physical injury to an individual is a public nuisance. ~~Upon~~ and may be adjudged to be dangerous or vicious. For purposes of this chapter, dog includes a wolf or the offspring of a canine and wolf breeding. An individual may file a written complaint ~~to~~ with a district or municipal judge describing the dog, ~~giving~~ stating the name of the dog, if known, and stating the name and address of the dog's owner, if known, ~~and, if not, so stating,~~ and alleging that the dog is a public nuisance, ~~the~~ and is dangerous or vicious. The district or municipal judge shall give notice to the dog's owner that a complaint has been filed ~~alleging that the dog has been molesting certain persons~~ is a public nuisance and is dangerous or vicious and directing that the owner shall take the necessary action to prevent the dog from any further violations of this chapter. If the district or municipal judge receives a ~~further~~ second complaint regarding the dog, after notice has been given under this section, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge ~~in the same manner as other court summonses~~ at the time and place set for a hearing.

SECTION 2. AMENDMENT. Section 42-03-02 of the North Dakota Century Code is amended and reenacted as follows:

42-03-02. Owner of dog ~~not known~~ unknown - Notice. If it appears from the ~~complaint that~~ the owner of the dog is not known ~~to the complainant,~~ ~~ten days' notice shall be given~~ the judge shall give notice once by publication in ~~one issue of a the~~ official newspaper ~~having wide circulation in the area.~~ Such notice shall ~~of the city in which the dog was sighted, or if the dog was sighted outside the city limits, in the official newspaper of the county or in a newspaper having wide circulation in the area in which the dog was sighted.~~ The notice must contain a description of the dog ~~as given in the complaint,~~ the area in which the dog was sighted, a statement that such a complaint has been ~~made~~ filed, and the ~~date,~~ time, and place ~~of set for a hearing thereon.~~ The hearing may not take place less than ten days after the date of notice by publication.

SECTION 3. AMENDMENT. Section 42-03-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-03. Hearing - Judgment - Execution. ~~On the day of~~ At the hearing, the district or municipal judge shall hear the evidence in the case. If the judge finds that the dog is a public nuisance and ~~potentially~~ dangerous or vicious, judgment must be entered accordingly, ~~and the.~~ The judge shall ~~may~~ order any peace officer to kill and bury ~~that~~ the dog, which order the peace officer shall forthwith execute ~~be~~ humanely destroyed.

2 of 2

SECTION 4. AMENDMENT. Section 42-03-04 of the North Dakota Century Code is amended and reenacted as follows:

42-03-04. Costs. ~~Costs shall be paid by the~~ The complainant shall pay all costs of the action, but if the dog is adjudged a public nuisance and potentially dangerous and vicious, and the owner is known, judgment shall be entered the judge shall assess costs against him for such costs the owner."

Renumber accordingly

Please type or use black pen to complete

Date 1-28-99

Roll call vote # _____

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1146

House POLITICAL SUBDIVISIONS Committee _____

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number 98254.0102

Action Taken Do Pass as amended

Motion Made By Rep. Severson Seconded By Rep. Wikenheiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser		
Vice Chair Maragos					
Rep. Delmore	/				
Rep. Disrud	/				
Rep. Eckre	/				
Rep. Ekstrom		/			
Rep. Glassheim	/				
Rep. Gunter	/				
Rep. Johnson, N					
Rep. Koppelman	/				
Rep. Niemeier	/				
Rep. Rose		/			
Rep. Severson	/				
Rep. Thoreson, B	/				

Total 11 2
(Yes) (No)

Absent 2

Floor Assignment Rep Koppelman

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

HB 1146: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). HB 1146 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 42-03-01, 42-03-02, 42-03-03, and 42-03-04 of the North Dakota Century Code, relating to dogs as public nuisances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 42-03-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-01. ~~When dogs are a public~~ Dogs - Public nuisance - Complaint - Notice. Any dog ~~that habitually molests a person traveling peaceably on the public road or street that when unprovoked causes physical injury to an individual~~ is a public nuisance. ~~Upon~~ and may be adjudged to be dangerous or vicious. For purposes of this chapter, dog includes a wolf or the offspring of a canine and wolf breeding. An individual may file a written complaint ~~to~~ with a district or municipal judge describing the dog, ~~giving~~ stating the name of the dog, if known, and ~~stating the name and address of the dog's owner, if known, and, if not, so stating,~~ and alleging that the dog is a public nuisance, ~~the~~ and is dangerous or vicious. The district or municipal judge shall give notice to the dog's owner that a complaint has been filed ~~alleging that the dog has been molesting certain persons~~ is a public nuisance and is dangerous or vicious and directing that the owner shall take the necessary action to prevent the dog from any further violations of this chapter. If the district or municipal judge receives a ~~further~~ second complaint regarding the dog, after notice has been given under this section, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge ~~in the same manner as other court summonses~~ at the time and place set for a hearing.

SECTION 2. AMENDMENT. Section 42-03-02 of the North Dakota Century Code is amended and reenacted as follows:

42-03-02. Owner of dog ~~not known~~ unknown - Notice. If it appears from the ~~complaint that the owner of the dog is not known to the complainant, ten days' notice shall be given~~ the judge shall give notice once by publication in ~~one issue of a the official newspaper having wide circulation in the area. Such notice shall of the city in which the dog was sighted, or if the dog was sighted outside the city limits, in the official newspaper of the county or in a newspaper having wide circulation in the area in which the dog was sighted.~~ The notice must contain a description of the dog ~~as given in the complaint, the area in which the dog was sighted,~~ a statement that ~~such a~~ complaint has been ~~made~~ filed, and the date, time, and place ~~of set for a hearing thereon.~~ The hearing may not take place less than ten days after the date of notice by publication.

SECTION 3. AMENDMENT. Section 42-03-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

42-03-03. Hearing - Judgment - Execution. ~~On the day of~~ At the hearing, the district or municipal judge shall hear the evidence in the case. If the judge finds that the dog is a public nuisance ~~and potentially dangerous or vicious,~~ judgment must be entered accordingly, ~~and the.~~ The judge shall ~~may~~ order any peace officer to kill and bury ~~that~~ the dog, ~~which order the peace officer shall forthwith execute~~ be humanely destroyed.

SECTION 4. AMENDMENT. Section 42-03-04 of the North Dakota Century Code is amended and reenacted as follows:

42-03-04. Costs. ~~Costs shall be paid by the~~ The complainant shall pay all costs of the action, but if the dog is adjudged a public nuisance and potentially dangerous and vicious, and the owner is known, judgment shall be entered the judge shall assess costs against him for such costs the owner."

Renumber accordingly

1999 SENATE POLITICAL SUBDIVISIONS

HB 1146.


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1146

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 25, 1999

Tape Number	Side A	Side B	Meter #
1	x		375 to 4661
Committee Clerk Signature 			

Minutes:

SENATOR LEE: open meeting on HOUSE BILL 1146

REPRESENTATIVE GALVIN: introduction of HB1146

MIKE MULLEN: see testimony

SENATOR LYSON: three counties that have ordinances and legislature gave the counties permission to make ordinances on dogs running at large only, Number one under 36.04-01 entity that performs animal control functions

MIKE MULLEN: county sheriff, local police, law enforcement officers or whom ever would have responsibility for dealing with this issue

SENATOR LYSON: see this as an unfunded mandate to local subdivisions

MIKE MULLEN: no I do not, this defines what is applicable and legislature determines certain kinds of conduct that is a threat to public safety, dogs biting people or killing other animals and the legislature acts on this conduct

SENATOR LYSON: scenario of Williams County and lack of animal control enforcement.

Responsible parties for payment of adjudication unfunded mandate

MIKE MULLEN: cities that have dog ordinances and how they enforce these ordinances. Do not see this as an unfunded mandate because it is not required, relation to sex offenders cases and the enforceable mandates brought upon by these actions

SENATOR LEE: any questions

SENATOR LYSON: several other questions later on

SENATOR LEE: Hog housing the bill back to it's original version and walking us through an example

MIKE MULLEN: 36.24-2, immediate seizure of an animal that poses a threat to public safety and review of HOUSE BILL 1146 and the adjudication process of wild animals, and the animal ordinances that are already in place. Question is to have a better defined and drafted bill that is more enforceable and will allow officials to better protect the people

SENATOR LEE: opportunity for complaint by a runner whom is chased or harassed by a dog

MIKE MULLEN: all dogs will chase runners, bill doesn't deal with those instances but deals with vicious situations

SENATOR LEE: attached by dogs to runners and where the situation is clearly defined

MIKE MULLEN: this law would cover an instance where a dog bites a person but also covers a person who engages in defensive action to avoid bodily harm.

SENATOR LEE: perhaps a warning to the owner could be all that it would take to prevent this

SENATOR LYSON: hog house bill, number 2 on the first page, 36-24.1 and fences that are four feet tall to keep a dog in and what type of dog.

MIKE MULLEN: part of the law that can be changed, and keeping a small child away from a dog and the willingness to change this part of the law

SENATOR LYSON: several parts of the bill that could be approved on, determination of a vicious dog and destroying this dog and how the courts define the dog as vicious and the time limit that they allow the dog to be taken off the list of being destroyed. How many dogs have you impounded.

MIKE MULLEN: statistics from the city of Mandan

SENATOR LYSON: having to purchase the equipment and trying to force this unfunded mandate to the counties for animal control, and taking care of these animals

SENATOR KELSH: amendments and the fence or enclosure being four feet high, what in the amended bill is so different than your amendments that the law couldn't work because they have the same processes. Complainant shall pay all cost in the House Amendments

MIKE MULLEN: house measure is better than the existing law, elimination of vague parts of the law, ordering a dangerous dog to rein in and the determination of a dangerous dogs by the court where as the old law doesn't include this

SENATOR KELSH: complainant shall pay all costs

MIKE MULLEN: unless the court determines that the dog is dangerous, that is correct, but if the dog is considered dangerous by the courts, than the owner has to pay the costs

SENATOR LEE: appears that this is the way the law was before

MIKE MULLEN: correct and clear up of the original language

SENATOR FLAKOLL: dogs riding in a vehicle and biting another person whom wants to pet this dog.

MIKE MULLEN: person entered your property at a willful intent by a third party to stick their hand in your vehicle and it being the third party responsibility. Language of bill is drafted as such

SENATOR LEE: any further questions

LARRY SCHULER: see testimony

SENATOR LEE: interesting piece about all the interesting animals being raised

SENATOR FLAKOLL: include horses in this bill

LARRY SCHULER: this bill would not include domestic animals, subsection A, number 1

SENATOR FLAKOLL: very excitable and out of control animals and the medications used to put these animals down.

LARRY SCHULER: true, the amount is increased

SENATOR LYSON: supporting bill as amended in the house

LARRY SCHULER: supporting the bill with the health departments amendments as proposed here this morning

SENATOR LEE: any further questions

JERRY HJELMSTED: different possibilities for this law and the need to protect the citizens and the different grouping of cities to provide the level of enforcement when this city doesn't have the necessary enforcement measures to do so (county enforcement) and a large number of cities that can't do this. Basic level of protection provided by this bill for the smaller townships.

SENATOR LEE: questions, opposing HOUSE BILL 1146

DICK PECK: support for this bill but opposing the amendments and if a dog attacks someone else and the costs to the counties to enforce these amendments. Wish to go back to the original bill.

SENATOR LEE: how to we address the fact that we need to protect the citizens

DICK PECK: looking out for the citizens and getting a veterinarian to assist us and what can be done in the smaller counties. Cost of destroying an animal and making the wrong call. Example of a family dog

SENATOR FLAKOLL: certain base line level of vigilante justice done in the counties

DICK PECK: allot of dogs disappear this way and if a dog is tracking livestock, it can be destroyed. If dog is a nuisance, call the owner

SENATOR FLAKOLL: harassing livestock, destroyed immediately, harassing people they check the situation out

DICK PECK: true, game and fish laws are more strict

SENATOR LEE: jack rabbits that are harassing her home

MOTION: closed the hearing on HOUSE BILL 1146

COMMITTEE DISCUSSION ON HOUSE BILL 1146

MIKE MULLEN: AMENDMENTS TO BILL

DICK PECK: GIVE BILL BACK TO THE COUNTY COMMISSIONERS

AMENDMENT DRAFTING BY LEGISLATIVE COUNCIL

MARCH 18, 1999

COMMITTEE DISCUSSION ON HOUSE BILL 1146

Page 6
Senate Political Subdivisions Committee
Bill/Resolution Number Hb1146
Hearing Date February 25, 1999

MOTION: DO PASS AS AMENDED

SENATOR NELSON: MOVE THE AMENDMENTS

SENATOR KELSH: SECOND

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. ~~1294~~¹¹⁴⁰

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 22 of section 11-11-14 of the North Dakota Century Code, relating to powers of boards of county commissioners; to repeal chapter 42-03 of the North Dakota Century Code, relating to dogs as public nuisances; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

22. To regulate ~~or prohibit the running at large of animals~~ the confinement and control of dogs, cats, and other household pets, provided the regulations do not conflict with rules adopted by the state board of animal health.

← **SECTION 2. REPEAL.** Chapter 42-03 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act becomes effective on August 1, 2000."

Renumber accordingly

*You may think of the family black bear as a "household pet" but if the st. bd. of animal health regulates it as "captive wildlife", st. bd regs. control
-Same for diseases*

Confinement & Control

- # of animals on premises
- fencing or kennel requirements
- barking
- leash laws
- clean-up
- containment on property
- no dumping of unwanted animals
- who is responsible - who has control

March 18, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1146

Page 1, line 1, after "A BILL" replace the remainder of the ~~Bill~~ with "for an Act to amend and reenact subsection 22 of section section 11-11-14 of the North Dakota Century Code, relating to powers of boards of county commissioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA

SECTION 1. AMENDMENT. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

22. To regulate ~~or prohibit the running at large of animals~~ the confinement and control of dogs, cats, and other household pets, provided the regulations do not conflict with rules adopted by the state board of animal health.

Renumber accordingly

Date:
Roll Call Vote #: (

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1146

Senate Political Subdivisions Committee Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Watne Seconded By Lyson

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Lyson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1146, as engrossed: Political Subdivisions Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1146 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 22 of section 11-11-14 of the North Dakota Century Code, relating to powers of boards of county commissioners.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH
DAKOTA**

SECTION 1. AMENDMENT. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

22. To regulate ~~or prohibit the running at large of animals~~ the confinement and control of dogs, cats, and other household pets, provided the regulations do not conflict with rules adopted by the state board of animal health."

Renumber accordingly

1999 TESTIMONY

HB 1146

Rod

Testimony
on
HB 1146, the Dangerous & Vicious Dog Law
before the
House Political Subdivisions Committee
by
Rod Gilmore, Department of Health
January 15, 1999

Good morning. Mr. Chairman and members of the Committee, I am Rod Gilmore, manager of the Injury Program in the Division of Disease Control, with the State Department of Health. We are pleased to present the Department's testimony in support of HB 1146, the Dangerous and Vicious Dog Law. Let me highlight some of the key reasons for favorable action on this legislation:

- The current law is 40 years old and of almost no use.
- This bill is based on similar laws in California and Minnesota, which have been on the books and apparently are working well.
- Because the bill does not name any breed of dog, it should not be opposed by those who own a "pit bull" or similar breed of dog. [Under the bill, a dog is restricted or banned only on the basis of its behavior.]
- The bill leaves cities FREE to enforce *more restrictive* laws.

The Dangerous and Vicious Dog Law, HB 1146, would replace a 1959 nuisance law which declares that a dog is a public nuisance if the dog "habitually molests a person traveling peacefully on the public road..." NDCC § 42-03-01. The weakness of this law is obvious. It applies only if the dog *habitually* [vague] *molests* [vague] an individual, and then only if this improper conduct occurs on a public road or street [narrow application].

In contrast, the proposed Dangerous Dog Act would apply if a dog makes an unprovoked attack on two separate occasions within 36 months under circumstances that are specifically defined. Unlike current law, while the dog must be off the property of its owner or keeper, the dog does not have to be on a public road for a violation to occur.

In addition, the proposed law establishes two categories of dogs: "potentially dangerous dogs," which must be kept strictly penned or on a strong leash, and a "vicious dog" -- a dog which, when unprovoked inflicts severe injury or kills a human being, or, after being previously classified as a potentially dangerous dog, continues to manifest unprovoked attacks that require defensive behavior by an individual, or engages in unprovoked serious attacks on other animals. A court may impose sanctions, including taking a *vicious dog* away from its owner.

New Para
It may be asked if the state needs this law. The Department believes it does. There are over 200 small towns in North Dakota, and not all of them have a dog ordinance. In addition, not every county has an animal ordinance, meaning animals kept outside a city may not be subject to any regulation. Thus, this law is a supplement to local laws, and as I mentioned, simply replaces an outdated law, chapter 42-03.

It is important to note that the Dangerous Dog Law does not require any expenditure of resources by the Department of Health or the Board of Animal Health. This law will be enforced through the actions of local law enforcement officers, city attorneys, and states attorneys in their respective district and municipal courts.

In closing, Mr. Chairman, let me add a brief comment on how the Department of Health came to recommend this legislation. In the course of reviewing the rabies law and assessing the risk of rabies, it became apparent that the risk of physical injury from attacks by dogs, and other carnivorous animals is as great or greater than the risk of rabies. Further research on injuries caused by animal attacks indicated that California and Minnesota had in the recent past enacted more carefully drafted laws to protect against the threat of injury by dangerous and vicious dogs. That led to this the bill before you, HB 1146.

* * *

Mr. Chairman, this completes my formal testimony. I would be pleased to answer any questions you have regarding the proposed legislation.

Testimony of Susan J. Keller DVM
Deputy State Veterinarian
Chairperson of the Nontraditional Livestock Advisory Council
House Bill 1146
January 15, 1999
10:00 A.M. CST
House Agriculture Committee
Prairie Room

Chairman Froseth and Committee members, my name is Susan Keller. I am the Deputy State Veterinarian and also the Chairperson of the Nontraditional Livestock Advisory Council. I am here to testify in support of HB1146.

Currently § 42-03 'Dogs As Public Nuisance' is the statute that deals with dogs that are potentially dangerous. Municipal authorities often receive complaints concerning dangerous animals, but those complaints can not be dealt with properly under § 42-03.

House Bill 1146 avoids prohibiting various breeds of dogs but does allow local authorities to deal with individual cases which have proven to be of valid concern to a community or an individual.

The owner of the dog in question is given two warnings over a period of thirty-six months and has the right to a hearing concerning the complaint. Provisions are included which take into consideration whether the dog in question was provoked into attacking or was attempting to defend itself or its owner. This bill is strictly intended to address unprovoked attacks.

Chairman Froseth and Committee members, I would urge you to support the passage of HB1146 with the proposed amendment. I would be glad to answer any questions you may have.

Mullen, Mike J.

From: mjmj [mjmj@gateway.net]

Sent: Tuesday, January 19, 1999 7:30 AM

To: mmullen@state.nd.us

Subject: Dog Bites Are Significant Source Of Injury In U.S (http://www.pslgroup.com/dg/5)



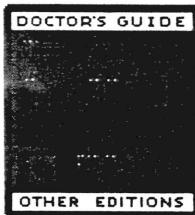
departments

What's New

Medical News & Alerts

Conferences & Meetings

editions



resources

Other Medical Resources

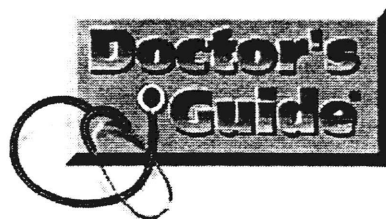
opportunities

Employment Opportunities

DGquiz

First choose a quiz

To select a quiz click here



Medical & Other News

Dog Bites Are Significant Source Of Injury In U.S.

CHICAGO, IL -- January 6, 1998 -- Dogs bite more than four-million people in the U.S. each year -- more than 750,000 require medical treatment, according to an article in tomorrow's issue of *The Journal of the American Medical Association* .

Harold Weiss, M.S., M.P.H., and colleagues, formerly from the Center for Injury Research and Control, University of Pittsburgh, PA., describe the incidence and characteristics of dog-bite injuries treated in U.S. emergency departments (EDs). The authors are now with the Center for Violence and Injury Control, Allegheny University of the Health Sciences, Pittsburgh.

Based on data from the National Center for Health Statistics National Hospital Ambulatory Medical Care Survey for 1992-1994 and the Centers for Disease Control and Prevention, they estimate that dog bites are annually responsible for:

- nearly 4.5 million injuries
- 20 deaths
- nearly 334,000 visits to hospital emergency departments
- more than 21,000 visits to medical offices and clinics
- more than 670 hospitalizations
- about 3.73 million non-medically treated injuries
- 914 new dog bite injuries requiring ED visits per day

The researchers also determined: males were more likely than females to be bitten by dogs; children had the highest rate of ED visits for dog

WARNING!

BACK TO TOP

to be bitten by dogs; children had the highest rate of ED visits for dog bite injuries; and young children were more likely than adults to be bitten in the head, neck and face area.

The median age of patients bitten was 15 years, with children, especially boys aged five to nine years, having the highest incidence rate. The authors write that it has been estimated that almost half of all children have been bitten by a dog at some point in their lives.

Concerning the economic impact of treating dog bite injuries, the authors estimate that the average dog bite results in a payment to the hospital of \$274 and a national annual total payment for ED services for new dog bite-related injuries of \$102.4 million. Children and adolescents younger than 20 years accounted for over half of these payments (\$58.7 million), and Medicaid, Medicare, and other government sources were mentioned as payers in 26 percent of the visits.

"Considering the risk to large parts of the population, especially to children, it is necessary that effective preventive strategies be developed and applied to reduce the painful and costly burden of dog bites," the authors write. "We know little about which strategies work or do not work, however. More knowledge is needed through a combination of enhanced and coordinated dog bite reporting systems, expanded population-based surveys, and implementation and evaluation of preventive trials.

"Particularly for the more severe episodes, information needs to be obtained regarding high-risk situations, high-risk dogs and what leads to successful preventive interventions."

The researchers write that by better understanding the patterns of medical care for dog bite victims, the broad medical and public health impact of dog bite-related injuries can be better appreciated and targeted for preventive efforts.

The authors estimate that with more than one-third of American households owning a dog, there are more than 50 million dogs in the U.S. They add that dog bites occur because the domesticated dog still retains many of its wild instincts, including behaviours that all too often lead to human attacks.

More "Top of the News" stories

Just type your keywords in the space provided below, then click on the Search button.

Enter keywords you wish to find information about:

Search for documents that contain:

- any of these words.
- this exact phrase.




NORTH DAKOTA
DEPARTMENT OF HEALTH
600 East Boulevard Avenue, Dept. 301
Bismarck, ND 58505-0200
Fax # (701) 328-1412

PREVENTIVE HEALTH SECTION

MEMO

TO: Chairperson Glen Froseth
House Committee on Political Subdivisions

FROM: Rod Gilmore 
Injury Program Manager
Division of Disease Control

DATE: January 21, 1999

RE: HB 1146

The Department maintains a medical data information system based on insurance claims filed through Blue Cross/Blue Shield of ND, Medicare and Medicaid. This system captures approximately 70% of hospitalizations, hospital emergency room (ER) visits and clinical visits that occur yearly in ND. We ran a search for ER visits for puncture wounds caused by dog bites in 1996 (the last full year data is available). The results revealed 7233 visits to hospital emergency rooms for puncture type wounds. Of those, 128 were caused by dog bites, approximately 1.8%.

The system has some significant limitations in that the cause, in this case dog bite, of a particular medical condition is coded in the medical records as a non-primary code. This cause code, known as E-code, is not required by insurance carriers for payment of medical services and is not a code that triggers or corresponds to payment categories. Consequently, E-codes are routinely not always listed on billing statements to the insurance carriers which is the source for our data base. Our estimate on the number of dog bites occurring in the state based on this limited data is very conservative.

Of the 218 potential rabid animal cases the Department handled in 1997 and 1998, 48 (22%) involved dog bites.

An article in the January 7, 1998 issue of the Journal of the American Medical Association estimated that more than 750,000 dog bite incidents a year in the United States require medical care. Of those, nearly 334,000 are seen in hospital emergency departments. Utilizing a generally accepted method of converting national health statistics to North Dakota numbers, the state would experience approximately 835 dog bites a year which would require medical treatment in hospital emergency departments.

98254.0100

Fifty-sixth

Legislative Assembly **HOUSE BILL NO. 1146**

of North Dakota

Introduced by

Representative Galvin

A BILL for an Act to create and enact chapter 36-24 of the North Dakota Century Code, relating to potentially dangerous and vicious dogs; to repeal chapter 42-03, relating to dogs as a public nuisance; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 36-24 of the North Dakota Century Code is created and enacted as follows:

36-24-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Animal control department" means the county or city animal control department, or if the city or county does not have an animal control department, the entity that performs animal control functions.
2. "Enclosure" means a fence or structure suitable to prevent the entry of a child under eight years of age, and which is suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the dog, and must be designed in order to prevent the animal from escaping.
3. "Impounded" means taken into custody of the public pound or animal control department or provider of animal control services to the city or county where the potentially dangerous or vicious dog is found.
4. "Potentially dangerous dog" means:
 - a. Any dog, including a wolf dog, which when unprovoked, bites a person causing an injury that is less severe than a severe injury as defined in subsection 5; or
 - b. Any dog, including a wolf dog, which when unprovoked, on two separate occasions within the prior thirty-six-month period:

Page No. 1 98254.0100

Fifty-sixth

Legislative Assembly

(1) Engages in any behavior that requires a defensive action by any person to prevent bodily injury; or

(2) Kills, seriously bites, or otherwise causes injury by attacking a person or domestic animal when the person or the animal attacked and the dog are off the property of the owner or keeper of the dog and the incident was reported to an animal control officer or law enforcement officer within five days of its occurrence.

5. "Severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

6. "Vicious dog" means:

a. Any dog, including a wolf dog, which when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being; or

b. Any dog, including a wolf dog, previously determined to be ~~and currently listed~~ as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in subsection 4 or is maintained in violation of subsection 1, 2, or 3 of section 36-24-06.

36-24-02. Immediate seizure.

1. If an animal control officer or law enforcement officer determines there is probable cause to believe a dog poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the dog pending a hearing to be held pursuant to this chapter. The owner or keeper of the dog is liable to the city or county where the dog is impounded for the costs and expenses of keeping the dog, if the dog is later adjudicated potentially dangerous or vicious.

2. If a dog has been impounded pursuant to subsection 1 and it is not contrary to public safety, the chief animal control officer may permit the animal to be confined at the owner's expense in a kennel or veterinary facility approved by that officer.

36-24-03. Judicial process.

1. Unless an animal owner consents to a classification of the owner's dog as a potentially dangerous or vicious dog, if an animal control officer or a law

enforcement officer determines there is probable cause to believe that a dog is potentially dangerous or vicious, the officer or the officer's designee, may petition the municipal court within the judicial district where the dog is owned, or the district court if the animal is kept outside a city or the city does not have a municipal court, for a hearing to determine if the dog in question should be declared potentially dangerous or vicious.

2. A city or county may establish an administrative hearing procedure to hear and dispose of petitions filed pursuant to this chapter. A jury is not available.

3. The court may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and make any other order authorized by this chapter.

36-24-04. Exceptions.

1. This chapter does not apply to licensed kennels, humane society shelters, animal control facilities, or veterinarians.

2. This chapter does not apply to dogs while utilized by any police department or any law enforcement officer in the performance of police work.

36-24-05. Special exceptions.

1. A dog may not be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

2. A dog may not be declared potentially dangerous or vicious if:

a. The dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or

b. The dog was attacking a domestic animal which, at the time the injury was sustained, was teasing, tormenting, abusing, or assaulting the dog.

3. A dog may not be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its

owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

36-24-06. Requirements for potentially dangerous ~~or vicious~~ dogs.

1. Any potentially dangerous dog must be properly licensed and vaccinated, if required by the jurisdiction where the dog is kept. ~~The licensing authority must include the potentially dangerous designation in the registration records of the dog, if the owner or keeper of the dog has agreed to the designation or a court or hearing entity has determined the designation applies to the dog.~~

2. The city or county may charge a potentially dangerous dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of such a dog.

3. A potentially dangerous dog, while on the owner's property, shall, at all times, be kept indoors, or in a securely fenced yard from which the dog cannot escape, and into which a child of under eight years of age cannot trespass. A potentially dangerous animal may be off the owner's premises only if it is restrained by a substantial leash, of appropriate length, and if it is under the control of a responsible adult.

~~4. If the dog in question dies, or is sold, transferred, or permanently removed from the city or county where the owner or keeper resides, the owner of a potentially dangerous dog shall notify in writing within five working days the animal control department of the changed condition and new location of the dog.~~

54. If there are no additional instances of the behavior described in subsection 4 of section 36-24-01 within a thirty-six-month period from the date of designation as a potentially dangerous dog, the dog ~~may~~ shall be removed from the list of potentially dangerous dogs, if the owner or keeper of the dog demonstrates to the animal control department that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, have mitigated the risk to the public safety.

36-24-07. Disposition of vicious dogs.

1. A vicious dog may be humanely destroyed by the animal control department if it is found, after proceedings conducted under section 36-24-03 that the release of the dog would create a significant threat to the public health and safety.

Page No. 4 98254.0100

Legislative Assembly

2. If it is determined that a dog found to be vicious may not be destroyed, the judicial authority may impose conditions upon the ownership of the dog that protect the public health and safety.

3. Any enclosure that is required pursuant to subsection 2 must meet the requirements for an enclosure as defined in section 36-24-01.

4. The owner of a dog determined to be a vicious dog may be prohibited by a city or county from owning, possessing, controlling, or having custody of any dog for a period of up to three years, if it is found, after proceedings conducted under this chapter, that ownership or possession of a dog by that person would create a significant threat to the public health and safety.

36-24-08. Penalties. Any violation of this chapter involving a potentially dangerous dog may be punished by a fine not to exceed five hundred dollars. Any violation of this chapter involving a vicious dog may be punished by a fine not to exceed one thousand dollars.

36-24-09. Construction. This chapter may not be construed to prevent a city or county from adopting or enforcing a more restrictive program to control potentially dangerous or vicious dogs.

SECTION 2. REPEAL. Chapter 42-03 of the North Dakota Century Code is repealed.

Testimony of Larry A. Schuler, DVM
State Veterinarian and Executive Secretary
State Board of Animal Health
House Bill 1146
February 25, 1999
9:15 A.M. CST
Senate Political Subdivisions Committee
Red River Room

Chairman Lee and Committee members, my name is Larry A. Schuler, DVM . I am the State Veterinarian and Executive Secretary of the State Board of Animal Health. I am here to testify in support of HB1146 with the Department of Health's amendments.

Currently NDCC Chapter 42-03 'Dogs As Public Nuisance' is the statute that deals with dogs that are potentially dangerous. Municipal authorities often receive complaints concerning dangerous animals, but those complaints can not be dealt with properly under § 42-03.

House Bill 1146 avoids prohibiting various breeds of dogs but does allow local authorities to deal with individual cases which have proven to be of valid concern to a community or an individual.

The owner of the dog in question is given two warnings over a period of thirty-six months and has the right to a hearing concerning the complaint. Provisions are included which take into consideration whether the dog in question was provoked into attacking or was attempting to defend itself or its owner. This bill is strictly intended to address unprovoked attacks.

Chairman Lee and Committee members, I would urge you to support the passage of HB1146 with the proposed amendments. I would be glad to answer any questions you may have.

Testimony

on

HB 1146, the Dangerous Dog Law

before the

Senate Political Subdivisions Committee

by

Michael J. Mullen , Senior Advisor
State Department of Health

February 25, 1999

Good morning. Madame Chair and members of the Committee, I am Michael J. Mullen, Senior Advisor for Health Policy, and with me is Rodney Gilmore, who is manager of the Injury Program in the Division of Disease Control, North Dakota Department of Health.

We are pleased to present the Department's testimony in support of HB 1146, the Dangerous Dog Law.

Let me at the outset, attempt to clarify certain matters.

- **First, the bill -- regulating dangerous dogs -- is not a new area of state law. This bill replaces a very vague, narrow, 40-year-old dog nuisance law.**

- **Second, dangerous and vicious dogs represent a significant public safety issue which is of concern to the Department of Health. It is estimated that there are approximately 800 dog bites each year in North Dakota that require medical treatment in a hospital emergency department.**

- **Third, this bill does not impose any financial or bureaucratic mandate on any unit of local government. In fact, the bill expressly provides that it does not supersede any local ordinance regulating dogs. The bill leaves cities FREE to enforce more restrictive laws.**

• Fourth, a recent survey indicated that only three out of 16 counties had dog ordinances. This indicates the need for a new state dangerous dog law to provide some level of public safety - some protection in those counties and towns without any dog or animal ordinance.

• Fifth, ALL ENFORCEMENT IS IN THE HANDS OF LOCAL AUTHORITIES AND THEY HAVE THE SOLE DISCRETION TO ACT, OR NOT TO ACT, WHEN THEY RECEIVE A COMPLAINT ABOUT A DANGEROUS DOG.

1. The Weakness of the Current Dog Nuisance Law

The Dangerous and Vicious Dog Law, HB 1146, would replace a 1959 nuisance law which declares that a dog is a public nuisance if the dog “habitually molests a person traveling peacefully on the public road . . .” NDCC § 42-03-01. The weakness of this law is obvious. It applies only if the dog *habitually* [vague] *molests* [vague] an individual, and then only if this improper conduct occurs on a public road or street [narrow application].

2. New Objective Standards for Measuring Dangerous Conduct by a Dog

In contrast, the proposed Dangerous Dog Act would apply if a dog makes an unprovoked attack on two separate occasions within 36 months under circumstances that are specifically defined. Unlike current law, while the dog must be off the property of its owner, the dog does not have to be on a public road for a violation to occur. In addition, the proposed law establishes two categories of dogs: “dangerous dogs,” which must be kept strictly penned or on a strong leash, and a “vicious dog” -- a dog which, when unprovoked, inflicts severe injury or kills a human being, or, after being previously classified as a *dangerous dog*, continues to manifest unprovoked attacks that require defensive behavior by an individual, or engages in unprovoked serious attacks on other

animals. A court may impose sanctions, including taking a *vicious dog* away from its owner.

3. A New, Clear Dog Law is Reasonable and Necessary

It may be asked if the state needs this law. The Department believes it does. There are over 200 small towns in North Dakota and not all of them have a dog ordinance. In addition, not every county has an animal ordinance, meaning animals kept outside a city may not be subject to any regulation. Thus, this law is a supplement to local laws, and as I mentioned, simply replaces an outdated law, chapter 42-03. The Dangerous Dog Law is closely patterned after a similar law enacted in 1988 in California. It is also substantively similar to the Dangerous Dog Law of Minnesota.

It is important to note that the Dangerous Dog Law does not require any expenditure of resources by the Department of Health or the Board of Animal Health. This law will be enforced through the actions of local law enforcement officers, city attorneys, and states attorneys in their respective district and municipal courts. And, even with respect to local governments, this law does not mandate any additional expenditures; it merely gives to local agencies another enforcement resource that can be applied in appropriate cases.

4. A New, Clear Dog Law is Better than a Slightly Amended Nuisance Law

We recommend that you “hoghouse” the engrossed bill and reenstate the original bill as introduced [with some minor amendments that remove any trace of regulatory requirements, and simplify the bill]. The clear definitions and structure will give more guidance to police and judges. An amendment to make that change is attached to this testimony.

In closing Madame Chair, let me add a brief comment on how the Department of Health came to recommend this legislation. In the course of reviewing the rabies law and assessing the risk of rabies, it became apparent that the risk of physical injury from attacks by dogs and other carnivorous animals is as great or greater than the risk of rabies. Further research on injuries caused by animal attacks indicated that California and Minnesota had recently enacted more carefully drafted laws to protect against the threat of injury by dangerous and vicious dogs. That research led to the introduction of HB 1146.

Finally, let me elaborate on the significance of dog bite injuries. According to a study recently published in the New England Journal of Medicine, each year attacks by dogs cause 10 to 20 deaths in the United States, predominantly among children. 340 NEJM, No. 2, 138 (January 14, 1999). An article in the January 7, 1999, issue of the Journal of the American Medical Association [JAMA] estimated that more than 750,000 dog bite incidents occur each year in the United States, and that 334,000 of those bites require treatment in a hospital emergency department. Applying a generally accepted method of projecting national health statistics to North Dakota, we estimate that approximately 835 dog bites would require medical treatment in a hospital emergency room each year.

* * *

Madame Chair, this completes my formal testimony. I would be pleased to answer any questions you have regarding the proposed legislation.



NORTH DAKOTA
DEPARTMENT OF HEALTH
600 East Boulevard Avenue, Dept. 301
Bismarck, ND 58505-0200
Fax # (701) 328-1412

PREVENTIVE HEALTH SECTION

March 4, 1999

The Honorable Judy Lee
Chairman, Senate Political Subdivisions Committee
Bismarck, ND

Re: HB 1146, The Dangerous Dog Law

Dear Chairman Lee:

The Department of Health respectfully requests the Committee delay action on HB 1146 at least until March 11 to give the Department additional time to discuss with the Peace Officers Association their concerns about this measure.

There are several reasons for this request. First, the Peace Officers Association did not testify in opposition to this bill when it was heard by the House Political Subdivisions Committee. Second, even though we provided a copy of the amendment we offered at the Senate hearing to the Peace Officers Association on Friday, February 19, the Peace Officers -- to my knowledge -- did not make any attempt to contact the Department of Health to discuss their concerns about HB 1146. Third, in a meeting with the Peace Officers Association held after the hearing, a number of issues were raised -- in addition to those mentioned by Deputy Peck in his testimony (such as whether the Rabies Law [which is referenced in the "animal bite procedure" circular of the Burleigh County Sheriff] adequately addresses the dangerous dog issue).

In order to allow the Department a reasonable opportunity to see if we can reach accommodation or modify the bill to address law-enforcement concerns, we respectfully request that Committee action on this bill be postponed until next week. We are, of course, mindful of the calendar and of the rapid pace at which the Legislative Assembly is moving towards completion of its business.

Please call me at 8.3406 if you have any questions or would like me to attend a Committee meeting.

Sincerely,

Michael J. Mullen

Cc: Murray G. Sagsveen, State Health Officer
Dick Peck

RESTATEMENT OF TESTIMONY BY ALBERT A. WOLF
ON BEHALF OF
NORTH DAKOTA TRIAL LAWYERS ASSN.
BEFORE
SENATE POLITICAL SUBDIVISIONS COMMITTEE

March 5, 1999

Engrossed HB 1272

Chairman Lee and Members of the Committee

The important part about the Engrossed Bill is that the last sentence of the bill to correct the effect of the bill on employees who may be involved in accidents arising from the passage of trains through quiet zone crossings without sounding the warning device on the locomotive engine.

The concerns about this bill relate to the question of liability for injuries sustained by pedestrians or bicyclists who might be crossing the railroad tracks when a train is approaching without sounding a warning device.

The other question relating to liability which must be considered is the liability of the city that prohibits the sounding of a warning device at a crossing when injuries occur resulting from that arrangement.

The third concern is that this bill is predicated upon the implementation of the Federal Railroad Administration's supplemental safety measures that have not yet been formulated or agreed upon. It simply is

not good legislative practice to tie the substantial change of safety rules at railroad crossings to a federal agency's safety plan that has not yet been finally worded or adopted.

For these reasons I have submitted proposed amendments that would make the effective date of this act July 1, 2001.

There was some suggestion made during the hearing that the effective date could be tied to the approval of the Federal Railroad Administration's supplemental safety measures that govern these quiet zone crossings. I believe that such an amendment could be drafted, but it would be difficult to specify the particular triggering device that makes the act effective, since there must be someone or some mechanism whereby the language of the supplemental safety measures would be reviewed and deemed appropriate by the city for authorizing the quiet zone crossing arrangement. There should also be some concern as to whether the city has clarified its own insurance coverage resulting from these actions in the event that personal injuries or property damage resulted from the quiet zone crossing arrangement.

Incidence of Dog Bite Injuries Treated in Emergency Departments

Harold B. Weiss, MS, MPH; Deborah I. Friedman; Jeffrey H. Coben, MD

Context.—Dog bites that result in injuries occur frequently, but how frequently dog bite injuries necessitate medical attention at a hospital or hospital admission is unknown.

Objective.—To describe the incidence and characteristics of dog bite injuries treated in US emergency departments (EDs).

Design.—Emergency department survey from the National Center for Health Statistics National Hospital Ambulatory Medical Care Survey for 1992 to 1994.

Patients.—National probability sample of patients visiting EDs.

Main Outcome Measure.—Incidence of dog bites treated in EDs, defined as a cause of injury recorded as the E-code E906.0.

Results.—The 3-year annualized, adjusted, and weighted estimate of new dog bite-related injury visits to US EDs was 333 687, a rate of 12.9 per 10 000 persons (95% confidence interval [CI], 10.5-15.4). This represents approximately 914 new dog bite injuries requiring ED visits per day. The median age of patients bitten was 15 years, with children, especially boys aged 5 to 9 years, having the highest incidence rate (60.7 per 10 000 persons for boys aged 5 to 9 years). Children seen in EDs were more likely than older persons to be bitten on the face, neck, and head (73% vs 30%). We estimated that for each US dog bite fatality there are about 670 hospitalizations and 16 000 ED visits.

Conclusions.—Dog bite injuries are an important source of injury in the US population, especially among children. Improved surveillance and prevention of dog bite-related injuries, particularly among children, are needed.

JAMA. 1998;279:51-53

THE CLOSE ASSOCIATION between humans and domesticated dogs began at least 12 000 years ago.¹ Since then, people have been intimately involved in domesticating the wild dog into hunter,

guard, and companion. However, the domesticated dog retains many of its wild instincts, including behaviors that all too often lead to human attacks. This risk has always been present. Only now, however, are we beginning to gain a full understanding of the impact of dog bites on populations.²

Estimates of dog bite injuries have been reported from data derived from household surveys, hospital-based studies, school-based surveys, local animal shelter monitoring, police reports, and newspaper articles.²⁻⁵ Because of lack of a national reporting system and variation of local reporting procedures, accurate national incidence rates for dog bite-related emergency department (ED) visits and hospitalizations have not

been well quantified. The reported incidence of ED-treated dog bite injuries in the United States ranges from 0.3% to 1.1% of all ED visits.^{3,9,10}

With regard to overall morbidity, the annual number of total bites that occur in the US population has been estimated to range from 500 000 to 4.5 million.^{11,12} It has been estimated that almost half of all children have been bitten by a dog at some point in their lives.⁵ Among children, more than 50% of documented bites have been to the head, face, or neck.^{4,13,14} Unfortunately, most of the studies that provided this descriptive information were limited because of small sample size and lack of consistent definitions, or they were not representative of the general population.

Recent work by Sacks et al² has improved the precision of national estimates for dog bite-related mortality and for dog bites receiving any medical attention. For the 10-year period, 1979 through 1988, an annual average of about 15 fatal dog attacks was documented in the United States, with extrapolated estimates suggesting that as many as 20 per year may have actually occurred.¹¹ Based on a random household survey, the Injury Control and Risk Survey conducted by the Centers for Disease Control and Prevention, it was estimated that about 800 000 bites occur annually that require medical attention.² However, this estimate was not able to break down the proportion of patients seen in hospitals owing to the small size of the sample. The only nationwide study from any country that examined both major morbidity and mortality from dog bite injuries was conducted in New Zealand.¹⁵ This study predicted an incidence of hospitalization due to dog bites in the year 2000 of 9.6 per 100 000 persons, twice the incidence for 1979.¹⁵

From the Department of Emergency Medicine, Center for Injury Research and Control, University of Pittsburgh, Pittsburgh, Pa. Mr Weiss, Ms Friedman, and Dr Coben are now with the Department of Emergency Medicine, Center for Violence and Injury Control, Allegheny University of the Health Sciences, Pittsburgh.

Presented in part at the American Public Health Association annual meeting, San Diego, Calif, October 30, 1995, and the Pennsylvania Public Health Association annual meeting, Pittsburgh, October 1, 1996.

Reprints: Harold B. Weiss, MS, MPH, Center for Violence and Injury Control, Allegheny University of the Health Sciences, 1 Allegheny Center, Suite 510, 320 East North Ave, Pittsburgh, PA 15212-4772 (e-mail: hweiss@injurycontrol.com).

Comparison of the Frequency of Annual US Emergency Department Visits for Injuries Associated With Selected Activities and Products

Selected Activity	Estimated Annual No. of Emergency Department Visits
Baseball/softball*	404 364
Dog bites	333 687
Playground*	266 810
All-terrain vehicles, mopeds, etc*	125 136
Volleyball*	97 523
Inline skating*	75 994
Horseback riding*	71 162
Baby walkers†	28 000
Skateboards*	25 486

*Data from US Consumer Product Safety Commission.²⁰

†Data from US Consumer Product Safety Commission.²¹

visits (office and clinic), and 187 000 non-medically treated bites. Consistent with the results of other reports, males were more likely than females to be bitten by dogs, children had the highest rate of ED visits for dog bite injuries, and young children were more likely than adults to be bitten in the head, neck, and face area.

The Table presents some interesting comparisons between the incidence of the dog bite-related ED visits and ED visits for selected injury types reported by the US Consumer Product Safety Commission (CPSC).²⁰ The CPSC does not currently collect or report dog bite-related injuries.

We also applied a limited but useful payment model to the data. This model was based on averaging a non-NCHS/NHAMCS sample of actual ED visit reimbursements for each of several broad body part-based diagnosis code groupings (details available from authors on request). This conservative model excluded indirect costs (such as pain and suffering or lost work, either by parents or the victim), charges for ED follow-up visits and inpatient visits, and non-ED-

References

1. Davis SJM, Valla FR. Evidence for domestication of the dog 12,000 years ago in the Natufian of Israel. *Nature*. 1978;276:608-610.
2. Sacks JJ, Kresnow M, Houston B. Dog bites: how big a problem? *Inj Prev*. 1996;2:52-54.
3. Aghababian RV, Conte JE. Mammalian bite wounds. *Ann Emerg Med*. 1980;9:79-83.
4. Brogan TV, Bratton SL, Dowd D, Hegenbarth MA. Severe dog bites in children. *Pediatrics*. 1996;96:947-950.
5. Beck AM, Jones BA. Unreported dog bites in children. *Public Health Rep*. 1985;100:315-321.
6. Gershman KA, Sacks JJ, Wright JC. Which dogs bite: a case-control study of risk factors. *Pediatrics*. 1994;93:913-917.
7. Beck AM, Loring H, Lockwood R. The ecology of dog bite injury in St. Louis, Missouri. *Public Health Rep*. 1975;90:262-267.
8. Pickney LE, Kennedy LA. Traumatic deaths from dog attacks in the United States. *Pediatrics*. 1982;69:193-196.
9. Avner JR, Baker MD. Dog bites in urban children. *Pediatrics*. 1991;88:55-57.

10. Sokol AB, Houser RG. Dog bites: prevention and treatment. *Clin Pediatr*. 1971;10:336-338.
11. Sacks JJ, Lockwood R, Hornreich J, Sattin RW. Fatal dog attacks, 1989-1994. *Pediatrics*. 1996;97(6, pt 1):891-895.
12. Scarcella J. Management of bites: early definitive repair of bite wounds. *Ohio State Med J*. 1969;65:25-31.
13. Chin Y, Berkelhamer JE, Herold TE. Dog bites in children less than 4 years old. *Pediatrics*. 1982;69:119-120.
14. Kizer KW, Town M. Epidemiologic and clinical aspects of animal bite injuries. *J Am Coll Emerg Phys*. 1979;8:134-141.
15. Langley J. The incidence of dog bites in New Zealand. *N Z Med J*. 1992;105:33-35.
16. McCaig LF. *National Hospital Ambulatory Medical Care Survey: 1992 Emergency Department Summary*. Hyattsville, Md: National Center for Health Statistics; 1994. Advance Data From Vital and Health Statistics, No. 245.
17. Burt CW. *Injury-Related Visits to Hospital Emergency Departments: United States, 1992*. Hyattsville, Md: National Center for Health Statistics; 1996. Advance Data From Vital and Health Statistics, No. 271.
18. Stussman BJ. *National Hospital Ambulatory Medical Care Survey: 1993 Emergency Department Summary*. Hyattsville, Md: National Center for Health Statistics; 1996. Advance Data From Vital and Health Statistics, No. 271.
19. Sacks JJ, Sattin RW, Bonze SE. Dog bite-related fatalities from 1979 through 1988. *JAMA*. 1989;262:1489-1492.
20. US Consumer Product Safety Commission. *Injuries associated with selected sports and recreation equipment treated in hospital emergency departments, calendar year 1994*. *Consumer Product Safety Review*. Summer 1996;1:5.
21. US Consumer Product Safety Commission. *Stair Steps and Baby Walkers Don't Mix*. Washington, DC: US Consumer Product Safety Commission; 1992. Consumer Product Safety Alert No. 009207.
22. Peel MM. Dog-associated bacterial infections in humans. *Pathology*. 1993;25:379-384.
23. Wise JK, Yang JJ. Dog and cat ownership, 1991-1998. *J Am Vet Med Assoc*. 1994;204:1166-1167.

related charges. Also, given the risk of infection,²² the ragged nature of many bite-related lacerations, and the large number of dog bites treated by at least an initial course of rabies prophylaxis, the average payment for a dog bite-related injury might be much higher than the diagnostic group average used in the model. Nevertheless, using this model we estimate the average dog bite results in a payment to the hospital of \$274 and a national annual total payment for ED services for new dog bite-related injuries of \$102.4 million. Children and adolescents younger than 20 years accounted for over half these payments (\$58.7 million), and Medicaid, Medicare, and other government sources were mentioned as payers in 26% of the visits.

Regarding study limitations, some undercounting was possible since the NHAMCS data set had no cause of injury text-string field available to search for dog bite-related visits that were not E-coded. Therefore, some bites may not have been identified on account of missing or incorrect coding. However, a single, unambiguous E-code for dog bites limits the false positives likely in the ICD-9-CM coding scheme used in this data set.

The NHAMCS provides the ongoing ability to quantify nationally the magnitude of the incidence of hospital-treated dog bite injuries. This data set is a representative sample of the US population from which trends can eventually be followed for the nation as a whole and to set realistic goals for local programs. However, sample size issues result in large 95% CIs for many subgroup distributions, limiting the data set's usefulness. Most animal control programs are administered locally and require local and more specific data, such as breed type and

more specificity about the incident, for which the NHAMCS national ED survey is not suited.

Analysis of the NHAMCS data set has shown that each year US EDs treat about 334 000 new cases of dog bites with associated ED treatment payments of over \$100 million. With more than one third of American households owning a dog, the number of dogs in the United States is over 50 million.²³ Clearly, the popularity of the dog as both friend and protector will not soon disappear. Considering the risk to large parts of the population, especially to children, it is necessary that effective preventive strategies be developed and applied to reduce the painful and costly burden of dog bites. We know little about which strategies work or do not work, however.¹¹ More knowledge is needed through a combination of enhanced and coordinated dog bite reporting systems, expanded population-based surveys, and implementation and evaluation of preventive trials. Particularly for the more severe episodes, information needs to be obtained regarding high-risk situations, high-risk dogs, and what leads to successful preventive interventions.

This study was supported in part by project MCH-424002-01-0 from the Emergency Medical Services for Children Program (Section 1910 of the US Public Health Service Act), Health Resources and Services Administration, Department of Health and Human Services.

The payment model was done with the assistance of Ted Miller, PhD, and tabulations by his colleague Diane Lestina at the Children's Safety Network Economics and Insurance Resource Center, National Public Services Research Institute, Landover, Md. We would like to thank Larry Mathers and Samuel Forjuoh, MD, for their help in reviewing the manuscript. We also acknowledge the key role of the National Center for Health Statistics in developing and maintaining the National Hospital Ambulatory Medical Care Survey.



**PROPOSED AMENDMENT TO
ENGROSSED HOUSE BILL NO. 1146**

OK On page 1, line 10, after "individual" insert ", including a law enforcement officer,"

On page 2, line 18, after "complainant" insert: ", other than a law enforcement officer,"

On page 2, line 20, after "costs" insert: "and any fees for impoundment, veterinary, or related services"

Renumber accordingly

CATALOGLINK

request hundreds of
your favorite catalogs
FREE

Read Message In-Box

RELATED: Dictionary
Thesaurus

From: Lacey JS Robb <lrobb@plains.NoDak.edu> [Save Address](#) [Block Sender](#)
To: Lacey Robb <ljsrobb@hotmail.com>
Subject: HB 1146; dogs (fwd)
Date: Tue, 16 Mar 1999 08:23:24 -0600 (CST)

[Reply](#) [Reply All](#) [Forward](#) [Delete](#) [Previous](#) [Next](#) [Close](#)

----- Forwarded message -----

Date: Mon, 15 Mar 1999 08:23:54 -0600
From: "Mullen, Mike J." <mmullen@state.nd.us>
To: "Clark, Jennifer S." <jclark@state.nd.us>
Cc: "'lrobb@plains.nodak.edu'" <lrobb@plains.NoDak.edu>
Subject: HB 1146; dogs

Jennifer, could you pass this on to the attorney who is to prepare an amendment for the Senate pol. subs. on HB 1146.

*OK with
Changes
Per
Tim
Dawson*

PROPOSED AMENDMENTS TO
ENGROSSED HOUSE BILL NO. 1146

[First choice is to "hoghouse" the bill, and insert the 2 sections below as section 1 and 2. Alternatively, you could add this to the end of the House passed bill, if they will accept it without a conference.]

On page 2, after line 21³ insert:

SECTION 5. COUNTY AUTHORITY. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

"22. To regulate or prohibit the owning and keeping of dogs, cats, and other household pets, including regulating or prohibiting, stray, running at large of animals, dangerous, vicious, or diseased pets, but this authority does not included the power to regulate livestock, or any animal that is subject to regulation under a permit or license issued by the board of animal health."

SECTION 6. REPEAL; EXPIRATION DATE. Chapter 42-03 of the North Dakota Century Code is repealed effective August 1, 2000; and after July 31, 2000 is ineffective.

[Reply](#) [Reply All](#) [Forward](#) [Delete](#) [Previous](#) [Next](#) [Close](#)

Move To (Move to Selected Folder) ▾

From: Mike J. Mullen/ISD/NoDak@Hub on 03/16/99 05:07 PM
To: S PSD NDLA/NDLC/NoDak@NODAK
cc: lrobb@lrobb@plains.nodak.edu@SMTP@Hub
Subject: RE: Amendments to House Bill 1146

BRAD, BELOW IS WHAT I SENT TO TIME DAWSON -- MY LATEST VERSION.

Dog bill. Here is my try at what I think the Senate Pol. Sub. Comm. is trying to do, EXCEPT THAT I do not require counties to do anything, I would merely give them authority to act.
If you have any questions call me at 8.3406.

NOTICE THIS IS THE LATEST VERSION. IT IS A HOGHOUSE AND DELETES EVERYTHING.
ALSO YOU NEED TO CHECK MY WORK FOR STYLE AND FORM -- ESPECIALLY ON THE
"REPEAL."

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1146

[First choice is to "hoghouse" the bill, and insert the 2 sections below as section 1 and 2. Alternatively, you could add this to the end of the House passed bill, if they will accept it without a conference.]

Page 1, line 1, after "Bill" replace the remainder of the bill with " to amend and reenact section 11-11-14 of the North Dakota Century Code to give the boards of county commissioners the power to regulate the owning and keeping of dogs, cats , and other household pets, and to repeal, at a future date, chapter 42-03 of the North Dakota Century Code, relating to dogs as a public nuisance.

SECTION 1. COUNTY AUTHORITY. Subsection 22 of section 11-11-14 of the North Dakota Century Code is amended and reenacted as follows:

"22. To regulate ~~or prohibit~~ the owning and keeping of dogs, cats, and other household pets, including regulating or prohibiting, stray, running at large of animals, dangerous, vicious, or diseased pets, but this authority does not included the power to regulate livestock, or any other animal that is subject to regulation under a permit or license issued by the board of animal health."

SECTION 2. REPEAL; EXPIRATION DATE. Chapter 42-03 of the North Dakota Century Code is repealed effective August 1, 2000; and after July 31, 2000 is ineffective.

Counties shall regulate the confinement and control law.
-----Original Message-----

Department of Health Amendments
to Engrossed HOUSE BILL NO. 1146

Mike
Wyllen
Kaufman
Soyler

1
2
3
4 On page 1, line 1, after "Bill" replace the remainder of the bill with "for an Act to create
5 and enact chapter 36-24 of the North Dakota Century Code, relating
6 to dangerous and vicious dogs; to repeal chapter 42-03, relating to dogs as a public
7 nuisance; and to provide a penalty.
8

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1.** Chapter 36-24 of the North Dakota Century Code is created and enacted
11 as follows:

12 **36-24-01. Definitions.** As used in this chapter, unless the context or subject matter
13 otherwise requires:

14 1. "Animal control department" means the county or city animal control department, or
15 if the city or county does not have an animal control department, the entity that
16 performs animal control functions.

17 2. "Enclosure" means a fence or structure with door or gate that is kept locked or has a
18 latch that is at least four feet from the ground and suitable to prevent the entry of a
19 young child, and that is suitable to confine a vicious dog in conjunction with other
20 measures which may be taken by the owner or keeper of the dog, and must be designed
21 in order to prevent the animal from escaping.

22 3. "Impounded" means taken into custody of the public pound or animal control
23 department or provider of animal control services to the city or county where the
24 dangerous or vicious dog is found.

25 4. "Dangerous dog" means:

26 a. Any dog, including a wolf dog, which when unprovoked, bites a person
27 causing an injury that is less severe than a severe injury as defined in
28 subsection 5; or

29 b. Any dog, including a wolf dog, which when unprovoked, on two separate
30 occasions within the prior thirty-six-month period:

31 Page No. 1 98254.0100

1 Fifty-sixth

2 Legislative Assembly

3 (1) Engages in any behavior that requires a defensive action by any person
4 to prevent bodily injury; or

5 (2) Kills, seriously bites, or otherwise causes injury by attacking a person or
6 domestic animal when the person or the animal attacked and the dog
7 are off the property of the owner or keeper of the dog and the incident
8 was reported to an animal control officer or law enforcement officer
9 within five days of its occurrence.

10 5. "Severe injury" means any physical injury to a human being that results in muscle
11 tears or disfiguring lacerations or requires multiple sutures or corrective or
12 cosmetic surgery.

13 6. "Vicious dog" means:

14 a. Any dog, including a wolf dog, which when unprovoked, in an aggressive
15 manner, inflicts severe injury on or kills a human being; or

16 b. Any dog, including a wolf dog, previously determined to be ~~and currently listed~~
17 ~~as~~ a dangerous dog which, after its owner or keeper has been
18 notified of this determination, continues the behavior described in
19 subsection 4 or is maintained in violation of subsection 1 or 2 of section
20 36-24-06.

21 **36-24-02. Immediate seizure.**

22 1. If an animal control officer or law enforcement officer determines there is probable
23 cause to believe a dog poses an immediate threat to public safety, then the animal
24 control officer or law enforcement officer may seize and impound the dog pending
25 a hearing to be held pursuant to this chapter. The owner or keeper of the dog is
26 liable to the city or county where the dog is impounded for the costs and expenses
27 of keeping the dog, if the dog is later adjudicated dangerous or vicious.

28 2. If a dog has been impounded pursuant to subsection 1 and it is not contrary to
29 public safety, the chief animal control officer may permit the animal to be confined
30 at the owner's expense in a kennel or veterinary facility approved by that officer.

31 Page No. 2 98254.0100

1 **36-24-03. Judicial process.**

2 1. Unless an animal owner consents to a classification of the owner's dog as a
3 dangerous or vicious dog, if an animal control officer or a law enforcement officer
4 determines there is probable cause to believe that a dog is dangerous or vicious, the
5 officer or the officer's designee, may petition the municipal court within the judicial district
6 where the dog is owned, or the district court if the animal is kept outside a city or the city
7 does not have a municipal court, for a hearing to determine if the dog in question should
8 be declared dangerous or vicious.

9 2. A city or county may establish an administrative hearing procedure to hear and
10 dispose of petitions filed pursuant to this chapter. A jury is not available.

11 3. The court may find, upon a preponderance of the evidence, that the dog is
12 dangerous or vicious and make any other order authorized by this
13 chapter.

14 **36-24-04. Exceptions.**

15 1. This chapter does not apply to licensed kennels, humane society shelters, animal
16 control facilities, or veterinarians.

17 2. This chapter does not apply to dogs while utilized by any police department or any
18 law enforcement officer in the performance of police work.

19 **36-24-05. Special exceptions.**

20 1. A dog may not be declared dangerous or vicious if any injury or damage
21 is sustained by a person who, at the time the injury or damage was sustained, was
22 committing a willful trespass or other tort upon premises occupied by the owner or
23 keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or
24 was committing or attempting to commit a crime.

25 2. A dog may not be declared dangerous or vicious if:

26 a. The dog was protecting or defending a person within the immediate vicinity of
27 the dog from an unjustified attack or assault; or

28 b. The dog was attacking a domestic animal which, at the time the injury was
29 sustained, was teasing, tormenting, abusing, or assaulting the dog.

1 3. A dog may not be declared dangerous or vicious if the injury or damage
2 to a domestic animal was sustained while the dog was working as a hunting dog,
3 herding dog, or predator control dog on the property of, or under the control of, its
4 owner or keeper, and the damage or injury was to a species or type of domestic
5 animal appropriate to the work of the dog.

6 **36-24-06. Requirements for dangerous ~~or vicious~~ dogs.**

7 1. Any dangerous dog must be properly licensed and vaccinated, *if required by the*
8 *jurisdiction where the dog is kept.* ~~The licensing authority must include the dangerous~~
9 ~~designation in the registration records of the dog, if the owner or keeper of the dog has~~
10 ~~agreed to the designation or a court or hearing entity has determined the designation~~
11 ~~applies to the dog.~~

12 ~~2. The city or county may charge a dangerous dog fee in addition to the~~
13 ~~regular licensing fee to provide for the increased costs of maintaining the records~~
14 ~~of such a dog.~~

15 3. A dangerous dog, while on the owner's property, shall, at all times, be
16 kept indoors, or in a ~~securely fenced yard from which the dog cannot escape, and~~
17 ~~into which a child of under eight years of age cannot trespass~~ enclosure. A
18 dangerous animal may be off the owner's premises only if it is restrained by a
19 substantial leash, of appropriate length, and if it is under the control of a
20 responsible adult.

21 ~~4. If the dog in question dies, or is sold, transferred, or permanently removed from the~~
22 ~~city or county where the owner or keeper resides, the owner of a~~
23 ~~dangerous dog shall notify in writing within five working days the animal control~~
24 ~~department of the changed condition and new location of the dog.~~

25 ~~5. If there are no additional instances of the behavior described in subsection 4 of~~
26 ~~section 36-24-01 within a thirty-six-month period from the date of designation as a~~
27 ~~dangerous dog, the dog ~~may~~ shall be removed from the list of~~
28 ~~dangerous dogs, if the owner or keeper of the dog demonstrates to the animal~~
29 ~~control department that changes in circumstances or measures taken by the owner~~
30 ~~or keeper, such as training of the dog, have mitigated the risk to the public safety.~~

1 **36-24-07. Disposition of vicious dogs.**

2 1. A vicious dog may be humanely destroyed by the animal control department if it is
3 found, after proceedings conducted under section 36-24-03 that the release of the
4 dog would create a significant threat to the public health and safety.

5 2. If it is determined that a dog found to be vicious may not be destroyed, the judicial
6 authority may impose conditions upon the ownership of the dog that protect the
7 public health and safety.

8 3. Any enclosure that is required pursuant to subsection 2 must meet the
9 requirements for an enclosure as defined in section 36-24-01.

10 4. The owner of a dog determined to be a vicious dog may be prohibited by a city or
11 county from owning, possessing, controlling, or having custody of any
12 dangerous dog for a period of up to ~~three~~ two years, if it is found, after proceedings
13 conducted under this chapter, that ownership or possession of such a dog by that
14 person would create a significant threat to the public health and safety.

15 **36-24-08. Penalties.** Any violation of this chapter involving a dangerous dog
16 may be punished by a fine not to exceed five hundred dollars. Any violation of this
17 chapter involving a vicious dog may be punished by a fine not to exceed one thousand
18 dollars.

19 **36-24-09. Construction.** This chapter may not be construed to prevent a city or county
20 from adopting or enforcing a more restrictive program to control dangerous or vicious
21 dogs.

22 **SECTION 2. REPEAL.** Chapter 42-03 of the North Dakota Century Code is repealed."
23 Renumber accordingly

24 # # #

House Bill 1146

Political Subdivisions amendments

1. Date that order has to be in place 7-1-2000
2. Political Subdivision order must be at least as stringent as current law
3. Local subdivision law will take precedence
4. To include but not limited to: dangerous, vicious, nuisance, stray, diseased animals and animals at large

PROPOSED AMENDMENTS TO *Department of Health Amendments*
to ENGROSSED HOUSE BILL 1146

On page 1, after line 13 [of the North Dakota Department of Health Amendment.], insert:

"1. 'Animal' means any cat, dog, or hybrid of these species, and any other animal, but does not include:

[a] a domestic animal (other than a dog or cat) as defined in section 36-01-00.1 that is subject to regulation by the board of animal health; or

[b] wildlife as defined in section 20-01-02 that is subject to regulation by the game and fish department."

On each page, each applicable line, replace "dog" with "animal"

Renumber accordingly