

THE DANGEROUS DOGS (NO. 2) BILL, 1999

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Explanatory Note

(These notes form no part of the Bill, but are intended only to indicate its general purport)

This Bill seeks to address the threat posed by dangerous dogs, to the well being of the population by imposing the requirements that those dogs be muzzled and be kept on leads while in public places. It also seeks to place an obligation on the owners of these dogs to ensure that the premises on which these dogs are kept are secured and maintained so as to prevent the escape of these dogs. The owner of a dangerous dog will be held strictly liable for that dog.

Additionally the Bill would require the owners of dangerous dogs to have these dogs licensed annually. It would also require the owners to hold liability insurance for the protection of victims of attacks by these dogs.

The main aim of the Bill is to establish a regulatory framework for the keeping of dangerous dogs and to promote responsible ownership of those dogs.

Clauses 1 and 2 of the Bill contain the short title and commencement provisions.

Clause 3 contains the interpretation section.

Clause 4 would require the owner of a dangerous dog to have that dog licensed annually, and before a licence is issued the owner must present to the local authority sufficient evidence in the form of certificates verifying that the premises on which the dog is kept have been inspected and approved and that a policy of insurance has been issued. The local authority will also be

required to maintain a register of all dogs licensed and the register shall include the full particulars of any insurance policies held in relation to the dangerous dog.

Clause 5 would empower an authorised officer of a local authority to enter upon premises on which a dangerous dog is kept for the purposes of inspecting those premises to ensure compliance with the requirements for the security of premises.

Clause 6 proposes to make it an offence to keep an unlicensed dangerous dog and imposes certain penalties for keeping such a dog.

Clause 7 would make it unlawful for a minor to own a dangerous dog.

Clause 8 would place an obligation on owners of dangerous dogs to hold liability insurance in respect of those dogs.

Clause 9 would place the onus on the owner of a dangerous dog to inform the local authority if the policy of insurance in respect of that dog is cancelled, has lapsed, or for any other reason, has ceased to be in force. Failure to inform the local authority that the policy is no longer in force would constitute an offence.

Clause 10 would provide that where a plaintiff pursues a civil action under this Act the insurer shall be joined as a co-defendant in the action.

Clause 11 would require the owner of a dangerous dog to keep that dog under proper control.

Clause 12 would impose an obligation upon the owner of a dangerous dog to secure the premises on which the dog is kept by ensuring that adequate fencing is provided so as to prevent the dog from escaping.

Clause 13 would make the owner of a dangerous dog strictly liable where that dog escapes and causes injury or damage.

Clause 14 would require the owner of a dangerous dog to ensure that a notice is placed in a prominent place on the premises on which the dog is kept warning persons that there is a dangerous dog on those premises.

Clause 15 seeks to ensure that dangerous dogs are muzzled and kept on leads while they are in public places.

Clause 16 would create the offence of inciting a dangerous dog to attack a person. This section will not apply where a person is on the premises with the intention of committing a criminal offence and is bitten by a dangerous dog. The clause affords some measure of protection to persons who legitimately use these dangerous dogs to safeguard their premises.

Clause 17 would empower the Minister with responsibility for local government to designate as dangerous other types of dogs.

Clause 18 would empower the Court on the conviction of an owner for a designated offence to order the destruction of the dog involved and to disqualify the owner from having custody of dogs.

Clause 19 would empower a constable or an officer of a local authority to enter premises to seize any dog which is not kept on a lead and muzzled in a public place as required by the Act and to obtain a search warrant to enter premises where an offence has been committed.

Clause 20 would exempt from liability a veterinary surgeon who in his professional capacity receives a dangerous dog for emergency care and treatment.

Clause 21 would make provision for a person to pursue a civil action for an offence committed under the Act. It would also provide that the common law principle of scienter would not apply.

Clause 22 would provide for the repeal of certain sections of the Dogs Act.

Clause 23 would give the Minister power to make regulations for carrying into effect the provisions of the Act.

BILL

An Act to provide for regulating the keeping of dangerous dogs which present a serious danger to the public; to make further provision for ensuring that such dogs are kept under proper control; and for connected purposes.

[, 1999]

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Dangerous Dogs Act, 1999.
Commencement	2. This Act comes into operation on such day as is fixed by the President by Proclamation.
Interpretation	3. In this Act "advertisement" includes any means of bringing a matter to the attention of the public; "constable" means a member of the protective service or of a licensed security service; "court" means the Magistrate Court; "dangerous dog" means a dog of the type listed in the Schedule; "insurer" has the same meaning ascribed to it in section 2 of the Insurance Act; "local authority" means the Council of a Municipal Corporation within the meaning of the Municipal Corporation Act, 1990 or the Tobago House of Assembly; "Minister" means the Minister to whom is assigned responsibility for Local Government;
Chap. 84:01	
Act No. 21 of 1990	

“public place” means any street, road or other place (whether or not enclosed) to which the public have or are permitted to have access whether for payment or otherwise and includes the common parts of premises containing two or more separate dwellings;
“veterinary surgeon” means a veterinary surgeon registered under the Veterinary Surgeons (Registration) Act.

4.(1) No person shall own a dangerous dog unless that person applies for and obtains an annual licence from the local authority in the area in which he resides.

(2) The local authority shall maintain a register of all licences issued under this section and shall include in the register the particulars of the policy of insurance required under section 8.

(3) The register mentioned in sub section (1) shall be open to the public for inspection at all reasonable times.

(4) A local authority shall not issue a licence to the owner of a dangerous dog unless the owner presents to the local authority -

(a) a certificate in the prescribed form verifying that the premises on which the dog in respect of which the licence is to be issued have been inspected and approved in accordance with section 5;

(b) a policy of insurance issued in accordance with section 8.

(5) The local authority shall not issue a licence under this section unless it is satisfied that section 8 has been complied with.

(6) For each licence issued there shall be paid to the local authority a fee of five hundred dollars.

(7) The licence fee required to be paid under subsection (6) may be varied from time to time by the Minister.

(8) Every licence issued in accordance with subsection (1)

shall expire on the anniversary of the date of its issue.

(9) All monies received in respect of licences granted under this Act shall be retained by the local authority for the purposes of administering this Act.

(10) With every licence granted under this Act, there shall be issued free of charge and delivered to the licensee or his agent a metal label or other badge in such form as may from time to time be prescribed by the Minister.

(11) A person who owns a dangerous dog shall ensure that the metal label or badge referred to in subsection (10) is at all times securely affixed to the collar worn by the dog.

(12) Where a person mentioned in subsection (1) takes up residence in an area other than that in respect of which he had obtained a licence, he shall apply to the local authority in the new area for a transfer of his registration and the local authority shall register the dog in accordance with this Act.

Power to inspect
Premises

5.(1) Subject to this section, an authorised officer of a local authority may, upon producing, if so required, a duly authenticated document showing his authority, enter any premises upon which a dangerous dog is kept at all reasonable hours to inspect those premises for the purpose of ensuring compliance with section 12.

(2) Upon being so satisfied, the authorised officer shall issue a certificate of compliance in the prescribed form.

(3) Where the authorised officer is not so satisfied, he shall draw to the attention of the occupier of the premises the area or areas of non-compliance, requesting him to remedy the deficiencies within a fixed time.

(4) Where the occupier of the premises fails to comply with the notice within the fixed time, he shall be deemed to have contravened section 12.

Keeping an
Unlicensed dangerous
dog

6. The owner or keeper of a dangerous dog who fails to license that dog in accordance with this Act commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

Prohibition on
ownership of
dangerous dog

7. A person who is a minor shall not own or keep a dangerous dog.

Obligation on owner
of dangerous dog to
hold policy of
Insurance

8.(1) Subject to this Act a person who owns or keeps a dangerous dog shall have in force in relation to that dog, a policy of Insurance in the sum of not less than two hundred and fifty thousand dollars or such sum as the Minister may prescribe, or such other security as the Minister may by Order require.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars and to imprisonment for three years.

(3) In order to comply with this Act, a policy of insurance must be a policy which –

- (a) is issued by a person who is an insurer; and
- (b) insures the owner and any authorised keeper specified in the policy against any liability which may be incurred by him in respect of the death of, or injury to a person caused by a dog in relation to which a policy of insurance under this section is in force.

(4) Where payment is made by an insurer under a policy issued under this Act, or by the owner of a dangerous dog in respect of the death of, or injury to a person and the person who has died or suffered injury has to the knowledge of the insurer or owner received treatment in a medical institution in respect of the fatal or other injury, there shall also be paid by the insurer to the owner of the institution, the expenses reasonably incurred

in the treatment of that injury.

Cancellation or lapse
of policy

9.(1) Where a policy of insurance required under section 8 is no longer in force, the owner of the dangerous dog in respect of which the policy is issued shall promptly inform the local authority.

(2) Where a local authority is informed that a policy of insurance required under section 8 is no longer in force, the authority shall revoke the licence issued in accordance with section 4.

(3) The owner of a dangerous dog who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

(4) Where the owner of a dangerous dog is convicted under subsection (3), the court shall in addition make an order that the owner take out a policy of insurance required under this Act in respect of the dangerous dog within one month of the date of the conviction or such reasonable time as the court thinks fit.

(5) Where the owner fails to comply with the order made under subsection (4), the relevant local authority shall have the dog destroyed by a licensed veterinary surgeon, and the owner shall be liable for any expenses incurred in the destruction of the dog.

Joinder of insurer as
co-defendant

10.(1) Where a plaintiff brings a civil action for damages against any person who is required by this Act to have in force a policy of insurance, then even though –

(a) liability as between the plaintiff and the insured has not yet been determined; or

(b) the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy,

the plaintiff may, subject to the provisions of this section, join the insurer as a co-defendant in the action.

(2) Where an insurer is joined as a co-defendant under subsection (1), the insurer may raise any defence that he may be entitled to under the policy of insurance or otherwise.

(3) Where the insurer is joined as a co-defendant or is required to make a payment to any person entitled under section 8(4), he shall be liable to satisfy the judgment that may be obtained against the insured in addition to all costs and interest payable in respect of such judgment and any other costs for which the insured may be made liable.

(4) A plaintiff who desires to institute proceedings under this section may require the insured to provide within fourteen days the name and address of the insurer, the date of the policy, and such other particulars as may be required to enable him to institute such proceedings.

(5) Upon receipt of the particulars referred to in subsection (4), or where the plaintiff has obtained those particulars in any other manner, whichever is earlier, the plaintiff shall give to the insurer twenty-eight days' notice of his intention to institute proceedings under this section.

(6) Where the insured refuses or neglects to provide the particulars required under subsection (4), he commits an offence and he is liable on summary conviction to a fine of fifteen thousand dollars.

(7) This section shall apply where a plaintiff brings an action in his capacity as the personal representative of a person who suffered fatal injuries.

(8) Proceedings for an offence under subsection (6) shall not be instituted without the leave of the Court.

Keeping dangerous
dogs under control

11.(1) A person who owns, or who for the time being is in charge of a dangerous dog shall keep that dog under proper control.

(2) A person who owns a dangerous dog or who is for the time being in charge of such a dog which is dangerously out of control in a public place commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year,

(3) In proceedings for an offence under subsection (2) it shall be for the accused who is the owner of the dangerous dog but who was not at the material time in charge of it, to prove that that dog was at the material time in the charge of a person whom he reasonably believed to be a fit and proper person to be in charge of it.

(4) If the owner or, if different, the person for the time being in charge of a dangerous dog allows it to enter a place which is not a public place, but where it is not permitted to be and while it is there -

(a) it injures any person; or

(b) there are grounds for reasonable apprehension that it will do so,

the owner or, if different, the person for the time being in charge of the dog, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

(5) For the purposes of this Act, a dangerous dog shall be regarded as dangerously out of control on any occasion on which there are grounds for reasonable apprehension that it will injure any person whether or not it actually does so.

(6) References to a dangerous dog injuring a person or there being grounds for reasonable apprehension that it will do so, do not include references to a dog being used for a lawful purpose by constable or a person in the service of the State.

Obligation to secure premises

12.(1) A person who owns or who for the time being is in charge of a dangerous dog shall ensure that the premises on which that dog is kept are secured by a fence or wall of a suitable height and that such fence or wall is so constructed and maintained as to prevent the escape of the dog.

(2) For the purposes of this section, fence or wall includes a gate.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to

imprisonment for one year.

(4) Where a person is charged with an offence under this section the onus of proof shall lie on that person to show that he complied with the requirements of subsection (1).

Liability for escape of dangerous dog

13. Where a dangerous dog escapes from any premises, the owner of that dog shall be liable for any injury or damage caused by that dog.

Notice

14.(1) A person who owns a dangerous dog or keeps a dangerous dog on his premises shall cause to be displayed in a prominent place on the premises, a notice indicating that there is a dangerous dog on the premises.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

Obligation to keep dangerous dogs muzzled and on leads

15.(1) A person who owns or who for the time being is in charge of a dangerous dog shall not –

(a) allow that dog to be in a public place unless the dog is muzzled and held on a lead;

(b) abandon or allow that dog to stray in a public place.

(2) This section shall not apply where a constable is in charge of a dangerous dog during the course of duty.

(3) References to a dog being muzzled are to its being securely fitted with a muzzle sufficient to prevent it from biting any person.

(4) References to a dog being on a lead are to its being securely held on a lead by a person who is not less than eighteen years old and who is capable of controlling that dog.

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year.

Inciting a dangerous dog to attack a person

16.(1) A person who incites a dog to attack another person commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for one year.

(2) This section shall not apply where that other person is on premises with the intention of committing a criminal offence and incurs damage by being bitten by a dangerous dog.

(3) This section shall not apply to the training of dogs by a constable.

Other specially dangerous dogs

17.(1) If it appears to the Minister that dogs of any type other than those mentioned in this Act present a serious danger to the public, he may by Order impose in relation to dogs of that type such restrictions as those provided in this Act with such modification as he thinks appropriate.

(2) An Order under this section may provide for exceptions from any restriction imposed by the Order in such cases and subject to compliance with such conditions as are specified in the Order.

(3) The Minister may by Order amend the Schedule.

(4) An order made under this section shall be subject to affirmative resolution of Parliament.

Destruction and disqualification orders

18.(1) Where a person is convicted of an offence under this Act, the Court may –

(a) order the destruction of the dog in respect of which the offence was committed; and

(b) order the offender to be disqualified, for such period as the Court thinks fit, from having custody of a dangerous dog.

(2) Where a Court makes an order under subsection (1)(a) in respect of a dangerous dog owned by a person other than the offender, the owner may appeal against the order.

(3) A dog shall not be destroyed pursuant to an order under subsection (1)(a) -

(a) until the end of the period for giving notice of appeal against the order; and

(b) if the notice of appeal is given within that period, until the appeal is determined or withdrawn.

(4) Where a Court makes an order under subsection (1)(a) it may order the offender to pay such sum as the Court may determine to be the reasonable expenses incurred in destroying the dog and in keeping it pending its destruction.

(5) Any sum ordered to be paid under subsection (4) shall be treated for the purposes of enforcement as if it were a fine imposed on conviction.

(6) A person who has custody of a dangerous dog in contravention of an order under subsection (1)(b) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

Seizure, entry of premises and evidence

19.(1) A constable or an officer of a local authority duly authorized to exercise the powers conferred by this subsection may seize-

(a) any dog which appears to him to be a dangerous dog and which is in a public place without being muzzled and kept on a lead;

(b) any dangerous dog which is in a public place and which appears to him to be dangerously out of control.

(2) A Magistrate who is satisfied by information on oath, that there are reasonable grounds for believing -

(a) that an offence under this Act is being or has been committed; or

(b) that evidence of the commission of any such offence is to be found on any premises,

may issue a warrant authorizing a constable to enter and search those premises and to seize any dangerous dog or other thing found there which is

evidence of the commission of such an offence.

(3) If, in any proceedings, it is alleged by the prosecution, that a dog is a dangerous dog it shall be presumed that it is such a dog unless the contrary is shown by the accused by such evidence as the Court considers sufficient.

Exemption

20. Any reference in this Act to a person who for the time being is in charge of a dangerous dog shall not include a veterinary surgeon who keeps a dangerous dog in a professional capacity for the purposes of emergency care or treatment.

Civil actions

21.(1) Nothing in this Act prevents a person from bringing an action under any other law in respect of any injury inflicted by a dangerous dog.

(2) The common law principle of scienter does not apply where an action is brought under any other law.

Repeal
Chap. 67:54

22. Sections 15, 16 and 17 of the Dogs Act are hereby repealed.

Regulations

23. The Minister may make regulations for carrying into effect this Act.

SCHEDULE
(Section 3)
Dangerous Dogs

1. Pitbull Terrier or any dog bred from the Pitbull terrier and having the dominant characteristics of that dog;
2. Fila Brasileiro or any dog bred from the Fila Brasileiro and having the dominant characteristics of that dog;
3. Japanese Tosa or any dog bred from the Japanese Tosa and having the dominant characteristics of that dog.

