

**18-9-204.5. Unlawful ownership of dangerous dog.**

(1) The general assembly hereby finds, determines, and declares that:

(a) Dangerous dogs are a serious and widespread threat to the safety and welfare of citizens throughout the state because of the number and serious nature of attacks by such dogs; and

(b) The regulation and control of dangerous dogs is a matter of statewide concern.

(2) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

(a.5) "Bureau" means the bureau of animal protection in the department of agriculture, division of animal industry, created pursuant to section 35-42-105, C.R.S.

(b) "Dangerous dog" means any dog that:

(I) Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal; or

(II) Has demonstrated tendencies that would cause a reasonable person to believe that the dog may inflict injury upon or cause the death of any person or domestic animal; or

(III) Has engaged in or been trained for animal fighting as described and prohibited in section 18-9-204.

(c) "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.

(d) "Domestic animal" means any dog, cat, or livestock.

(e) "Owner" or "owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal, as the term is defined in paragraph (d) of this subsection (2), including a dangerous dog as the term is defined in paragraph (b) of this subsection (2).

(f) "Serious bodily injury" has the same meaning as such term is defined in section 18-1-901 (3) (p).

(3) (a) A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.

(b) Any owner who violates paragraph (a) of this subsection (3) whose **dog** inflicts bodily injury upon any person commits a class 3 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (b) commits a class 2 misdemeanor.

(c) Any owner who violates paragraph (a) of this subsection (3) whose **dog** inflicts serious bodily injury to a person commits a class 1 misdemeanor. Any owner involved in a second or subsequent violation under this paragraph (c) commits a class 6 felony.

(d) Any owner who violates paragraph (a) of this subsection (3) whose **dog** causes the death of a person commits a class 5 felony.

(e) (I) Any owner who violates paragraph (a) of this subsection (3) whose **dog** injures or destroys any domestic animal commits a class 3 misdemeanor.

(II) Any owner involved in a second or subsequent violation under this paragraph (e) commits a class 2 misdemeanor. The minimum fine specified in section 18-1.3-501 for a class 2 misdemeanor shall be mandatory.

(III) (A) The court shall order the convicted owner and any owner who enters into a deferred judgment or deferred prosecution to make restitution to the injured or dead domestic animal's owner pursuant to applicable provisions of title 16, C.R.S., governing restitution.

(B) Restitution shall be equal to the greater of the fair market value or the replacement cost of the domestic animal on the date, but before the time, the animal was injured or destroyed plus any reasonable and necessary medical expenses incurred in treating the animal and any actual costs incurred in replacing the injured or destroyed animal.

(C) Any owner whose **dog** destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

(e.5) The court shall order any owner of a dangerous **dog** who has been convicted of a violation of this section to:

(I) Confine such dangerous **dog** in a building or enclosure designed to be escape-proof and, whenever such **dog** is outside of such building or enclosure, keep the **dog** under such owner's control by use of a leash. In addition, if the conviction is for a second or subsequent offense, such dangerous **dog** shall also be muzzled whenever it is outside of the building or enclosure.

(II) Immediately report to the bureau any material change in the dangerous dog's situation, including but not limited to a change of address, escape, or death.

(III) At the owner's expense, permanently identify the dangerous **dog** through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous **dog** shall report the microchipping information to the bureau within ten days after implantation of the microchip, pursuant to section 35-42-115 (2), C.R.S.

(IV) Prior to the implantation of the microchip, pay a nonrefundable dangerous **dog** microchip license fee of fifty dollars to the bureau.

(f) In addition to any other penalty set forth in this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in bodily injury, serious bodily injury, or death to a person, the court, pursuant to applicable provisions of title 16, C.R.S., governing restitution, shall order the defendant to make restitution in accordance with said provisions.

(g) In addition to the penalties set forth in paragraphs (b) to (e) of this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of said paragraph (b) or (e) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same **dog** of the same owner, the court may order that the dangerous **dog** be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous **dog** be destroyed by lethal injection administered by a licensed veterinarian.

(h) (I) An affirmative defense to the violation of this subsection (3) shall be:

(A) That, at the time of the attack by the dangerous **dog** which causes injury to or the death of a domestic animal, the domestic animal was at large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;

(B) That, at the time of the attack by the dangerous **dog** which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous **dog** or its owner;

(C) That, at the time of the attack by the dangerous **dog** which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;

(D) That, at the time of the attack by the dangerous **dog** which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or

the property itself and the attack began, but did not necessarily end, upon such property;  
or

(E) That the person who was the victim of the attack by the dangerous **dog** tormented, provoked, abused, or inflicted injury upon the **dog** in such an extreme manner which resulted in the attack.

(II) The affirmative defenses set forth in subparagraph (I) of this paragraph (h) shall not apply to any **dog** that has engaged in or been trained for animal fighting as said term is described in section 18-9-204.

(4) Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., the owner's dangerous **dog** may be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court, pursuant to the Colorado rules of criminal procedure and part 1 of article 4 of title 16, C.R.S., sets bail for an owner's release from custody pending final disposition, the court may require, as a condition of bond, that the owner's dangerous **dog** be placed at the owner's expense in a public animal shelter, licensed boarding facility, or veterinarian's clinic of the owner's choosing, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a **dog** placed pursuant to this subsection (4).

(5) (a) Nothing in this section shall be construed to prohibit a municipality from adopting any rule or law for the control of dangerous dogs; except that any such rule or law shall not regulate dangerous dogs in a manner that is specific to breed.

(b) Nothing in this section shall be construed to abrogate a county's authority under part 1 of article 15 of title 30, C.R.S., to adopt **dog** control and licensing resolutions and to impose the penalties set forth in section 30-15-102, C.R.S.; except that any such resolution shall not regulate dangerous dogs in a manner that is specific to breed.

(c) No municipality or county may destroy or dispose of a **dog** that is awaiting destruction or disposition as of April 21, 2004, in connection with a violation or charged violation of a municipal or county ban on one or more specific **dog** breeds.

(6) The provisions of this section shall not apply to the following:

(a) To any **dog** that is used by a peace officer while the officer is engaged in the performance of peace officer duties;

(b) To any **dog** that inflicts bodily or serious bodily injury to any veterinary health care worker, **dog** groomer, humane agency personnel, professional **dog** handler, trainer, or **dog** show judge each acting in the performance of his or her respective duties; or

(c) To any **dog** that inflicts injury upon or causes the death of a domestic animal while the **dog** was working as a hunting **dog**, herding **dog**, or predator control **dog** on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such **dog**.

**Source:** **L. 91:** Entire section added, p. 413, § 1, effective July 1. **L. 99:** (2)(a) amended, p. 797, § 10, effective July 1; (3)(e) amended and (3)(e.5) added, p. 274, § 1, effective July 1. **L. 2002:** (3)(e)(II) amended, p. 1517, § 206, effective October 1. **L. 2004:** (1) and (5) amended, p. 509, § 3, effective April 21; (2)(a.5) added and (3)(e.5) and (4) amended, p. 1761, §§ 2, 3, effective July 1.

**Editor's note:** (1) Section 4 of chapter 168, Session Laws of Colorado 2004, provides that the act amending subsections (1) and (5) applies to offenses, acts, and omissions committed on or after April 21, 2004, and also applies to dogs awaiting destruction or disposition as of April 21, 2004, in connection with a violation or charged violation of a municipal or county ban on one or more specific **dog** breeds.

(2) Section 6 of chapter 370, Session Laws of Colorado 2004, provides that the act enacting subsection (2)(a.5) and amending subsections (3)(e.5) and (4) applies to offenses committed on or after July 1, 2004.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (3)(e)(II), see section 1 of chapter 318, Session Laws of Colorado 2002.

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