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Vague pit bull definition could clog Ont. courts

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TORONTO -- Ontario's justice system could be overrun by frantic dog owners trying to prove their beloved pets aren't pit bull types, a nebulous category that is impossible to define, experts say.

Legislation that took effect Monday made it illegal to own a new pit bull-type dog in Ontario, although existing dogs can live out their days as long as certain conditions are followed.

Owners who violate the law can be fined up to \$10,000 and/or be sentenced to six months in jail -- the first time imprisonment has been included in the province's dangerous dog legislation.

A constitutional challenge announced the same day will likely be the first of many legal battles against the only provincewide law of its kind in Canada, said Michael O'Sullivan, executive director of the Humane Society of Canada.

"The only people who are going to profit from the passage of this law are lawyers," said O'Sullivan.

The legislation came into being after several bloody attacks on children, adults and other animals last year by dogs identified as pit bulls.

In announcing the constitutional challenge, lawyer Clayton Ruby slammed the legislation as a misguided "quick fix" that would do nothing to improve public safety or reduce dog bites in the province.

Critics claim the law's definition is so broad that many dogs who have no "pit" in them will be swallowed up and either euthanized or forced to leave the province unless their owners can prove in court they're not pit bulls.

"We've definitely seen (appeals mounted) in places that have had bans before," said Steve Barker, Ontario director of the Dog Legislation Council of Canada.

For example, appeals are up sharply in Windsor, Ont., where a ban on pit bulls that took effect in October has been strictly enforced.

"What we're finding in Windsor is that there's a serious backlog of cases already," said Barker, adding there's already a delay of several months.

By contrast, authorities in Kitchener, Ont., have not "gone crazy" enforcing that city's ban.

About 250 dogs there have been targeted over six years, but 30 per cent of those turned out not be pit bulls on appeal.

Sandra Mitchell, of Kitchener, has set up a website to help dog owners navigate the tricky specifics of proving a dog isn't a pit bull.

"I think if one owner has to deal with wrongful identification, then that's one too

many," Mitchell said.

Earlier this year, Mitchell left her job for a month and hired two Ottawa lawyers to prove her year-old dog Lily wasn't a pit bull.

She said a bylaw officer responding to reports of a new pit bull in the neighbourhood gave her five days to get Lily out of the city or launch an appeal and prove the dog wasn't a pit bull.

If she didn't comply, Lily would be taken away and put down, the officer warned.

Mitchell said it's difficult to prove a dog isn't a pit bull.

Under the new legislation, a pit bull is defined as a Staffordshire bull terrier, an American Staffordshire terrier, an American pit bull terrier or any dog that has an appearance and physical characteristics that are "substantially similar" to those dogs.

That definition is broad enough to include a wide range of dogs, the vast majority of which have never bitten anyone, experts said.

"There is no such thing as a pit bull," said O'Sullivan.

"They don't exist as a species."

Lily is half boxer and half Labrador retriever, Mitchell said, but even a vet's agreement wasn't necessarily enough to keep her safe because -- like almost all pet dogs -- she doesn't have official papers.

So Mitchell went on the offensive in the month leading to her appeal hearing, doing extensive research, calling in animal-rights lawyers Terrance Green and Anne Vespry of Ottawa.

"We took about 300 pictures of our poor dog," she said.

"That dog went through being poked and prodded and taken to vets for almost the entire time."

Vespry said the process involved an incredible amount of leg work.

Much of the time was taken up with the minute details that separate one dog from another.

The first task was to figure out what exactly defines the breed standards of the various dogs defined as pit bulls.

"Then you have to do the reconciliation of 'this is what my dog looks like'," said Vespry.

"This is the height, the length ratio, the weight-to-thighs ratio, the shape of the ears, the shape and positioning of the eyes, the length of the nose compared to the length of the rest of the head, the angle of the tail. It's a fairly detailed process."

Brendan Crawley, spokesman for Ontario's Ministry of the Attorney General, said the legislation will require the province to provide a note from a vet that a dog is a pit bull.

It will then be up to the owner to convince the courts that it isn't.

But Crawley said the government doesn't believe the situation will crop up often.

Barker said pet owners should consider appealing if their dog is branded a pit bull.

"The best approach in a law like this, where it is vague, it to appeal," he said. "That's what you should do, as a dog owner, to keep your dog."

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