



House of Representatives

General Assembly

File No. 12

February Session, 2016

Substitute House Bill No. 5151

House of Representatives, March 9, 2016

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE AUTHORITY OF ANIMAL CONTROL OFFICERS IN COMMON INTEREST COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 22-332d of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) Any animal control officer for a municipality which has adopted
5 an ordinance under subsection (b) of section 22-339d, as amended by
6 this act, may take into custody any cat found to be: [damaging
7 property] (1) Damaging: (A) Property other than property of its owner
8 or keeper, or (B) property that is part of the common elements of a
9 common interest community, as defined in section 47-202, or (2)
10 causing an unsanitary, dangerous or unreasonably offensive condition
11 unless such cat can be identified as under the care of its owner or a
12 registered keeper of feral cats. The officer shall impound such cat at the
13 pound serving the town where the cat is taken unless, in the opinion of
14 a licensed veterinarian, the cat is so injured or diseased that it should

15 be destroyed immediately, in which case the municipal animal control
16 officer of such town may cause the cat to be mercifully killed by a
17 licensed veterinarian or disposed of as the State Veterinarian may
18 direct. The municipal animal control officer shall immediately notify
19 the owner or keeper of any cat so taken, if known, of its impoundment.
20 If the owner or keeper of any such cat is unknown, the officer shall
21 immediately tag or employ such other suitable means of identification
22 of the cat as may be approved by the Chief Animal Control Officer and
23 shall promptly cause a description of such cat to be published once in
24 the lost and found column of a newspaper having a circulation in such
25 town.

26 Sec. 2. Subsection (b) of section 22-339d of the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective from*
28 *passage*):

29 (b) A municipality may adopt an ordinance providing that no
30 person owning or keeping any cat shall permit such animal to (1)
31 substantially damage property other than the property of the owner or
32 keeper, (2) substantially damage property that is part of the common
33 elements of a common interest community, as defined in section 47-
34 202, or [(2)] (3) cause an unsanitary, dangerous or unreasonably
35 offensive condition. Violation of such provision shall be an infraction.

36 Sec. 3. Section 22-357 of the 2016 supplement to the general statutes
37 is repealed and the following is substituted in lieu thereof (*Effective*
38 *from passage*):

39 If any dog does any damage to either the body or property of any
40 person, the owner or keeper, or, if the owner or keeper is a minor, the
41 parent or guardian of such minor, shall be liable for the amount of
42 such damage, except when such damage has been occasioned to the
43 body or property of a person who, at the time such damage was
44 sustained, was committing a trespass or other tort, or was teasing,
45 tormenting or abusing such dog. If a minor, on whose behalf an action
46 under this section is brought, was under seven years of age at the time
47 such damage was done, it shall be presumed that such minor was not

48 committing a trespass or other tort, or teasing, tormenting or abusing
49 such dog, and the burden of proof thereof shall be upon the defendant
50 in such action. In an action under this section against a household
51 member of a law enforcement officer to whom has been assigned a dog
52 owned by a law enforcement agency of the state, any political
53 subdivision of the state or the federal government for damage done by
54 such dog, it shall be presumed that such household member is not a
55 keeper of such dog and the burden of proof shall be upon the plaintiff
56 to establish that such household member was a keeper of such dog and
57 had exclusive control of such dog at the time such damage was
58 sustained. For the purposes of this section, "property" includes, but is
59 not limited to, a companion animal, as defined in section 22-351a and
60 the common elements of a common interest community, as defined in
61 section 47-202, and "the amount of such damage", with respect to a
62 companion animal, includes expenses of veterinary care, the fair
63 monetary value of the companion animal and burial expenses for the
64 companion animal.

65 Sec. 4. Section 22-358 of the general statutes is amended by adding
66 subsection (i) as follows (*Effective from passage*):

67 (NEW) (i) For purposes of this section, the premises of the owner or
68 keeper of a dog, cat or other animal shall not be deemed to include any
69 property that is part of the common elements of a common interest
70 community, as defined in section 47-202.

71 Sec. 5. Subsection (a) of section 22-364 of the general statutes is
72 repealed and the following is substituted in lieu thereof (*Effective from*
73 *passage*):

74 (a) No owner or keeper of any dog shall allow such dog to roam at
75 large upon the land of another, including, but not limited to, any
76 property that is part of the common elements of a common interest
77 community, as defined in section 47-202, and not under control of the
78 owner or keeper or the agent of the owner or keeper, nor allow such
79 dog to roam at large on any portion of any public highway and not
80 attended or under control of such owner or keeper or his agent,

81 provided nothing in this subsection shall be construed to limit or
82 prohibit the use of hunting dogs during the open hunting or training
83 season. The unauthorized presence of any dog on the land of any
84 person, including, but not limited to, any property that is part of the
85 common elements of a common interest community, as defined in
86 section 47-202, other than the land of the owner or keeper of such dog
87 or on any portion of a public highway when such dog is not attended
88 by or under the control of such owner or keeper, shall be prima facie
89 evidence of a violation of the provisions of this subsection. Violation of
90 any provision of this subsection shall be an infraction.

91 Sec. 6. Section 22-364a of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective from passage*):

93 Any person who intentionally or recklessly releases a domestic
94 animal that enters upon the real property of another person and causes
95 damage to such real property in an amount in excess of one hundred
96 dollars shall have committed an infraction. For purposes of this
97 section, "real property" includes, but is not limited to, any property
98 that is part of the common elements of any common interest
99 community, as defined in section 47-202.

100 Sec. 7. Section 22-364b of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective from passage*):

102 The owner or keeper of a dog shall restrain and control such dog on
103 a leash when such dog is not on the property of its owner or keeper or
104 is on property that is part of the common elements of any common
105 interest community, as defined in section 47-202, and is in proximity to
106 a blind, deaf or mobility impaired person accompanied by his guide
107 dog, provided the guide dog is in the direct custody of such blind, deaf
108 or mobility impaired person, is wearing a harness or an orange-colored
109 leash and collar which makes it readily-identifiable as a guide dog and
110 is licensed in accordance with section 22-345. Any person who violates
111 the provisions of this section shall have committed an infraction. If an
112 owner or keeper of a dog violates the provisions of this section and, as
113 a result of such violation, such dog attacks and injures the guide dog,

114 such owner or keeper shall be liable, as provided in section 22-357, as
 115 amended by this act, for any damage done to such guide dog, and such
 116 liability shall include liability for any costs incurred by such blind, deaf
 117 or mobility-impaired person for the veterinary care, rehabilitation or
 118 replacement of the injured guide dog and for reasonable attorney's
 119 fees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22-332d(a)
Sec. 2	<i>from passage</i>	22-339d(b)
Sec. 3	<i>from passage</i>	22-357
Sec. 4	<i>from passage</i>	22-358
Sec. 5	<i>from passage</i>	22-364(a)
Sec. 6	<i>from passage</i>	22-364a
Sec. 7	<i>from passage</i>	22-364b

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Potential Cost	See Below	See Below

Explanation

The bill provides animal control officers (ACOs) jurisdiction in common interest communities (such as condominium units).¹

To the extent that the bill expands ACOs area of jurisdiction, this may result in an increased number of animals seized by ACOs. Therefore, the bill may result in increased costs to various municipalities associated with animal care (i.e. food and medical expenses).

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of animals seized.

¹ There are approximately 5,000 condominium units in the state.

OLR Bill Analysis**sHB 5151*****AN ACT CONCERNING THE AUTHORITY OF ANIMAL CONTROL OFFICERS IN COMMON INTEREST COMMUNITIES.*****SUMMARY:**

This bill allows (1) municipalities to adopt ordinances prohibiting anyone owning or keeping a cat from allowing the cat to substantially damage the common areas of a condominium or other common interest community and (2) animal control officers (ACOs) to impound such cats (§§ 1 & 2).

It also provides that certain laws concerning dogs (e.g., dogs causing damage, roaming, or near guide dogs) apply when the dogs are in the common areas of a condominium or other common interest community (§§ 3 & 5-7).

Additionally, the bill specifies that the premises of an animal's owner or keeper does not include the common areas of a condominium or other common interest community, allowing an animal to be killed or quarantined for biting or attacking while in such areas (§ 4).

EFFECTIVE DATE: Upon passage

§§ 1 & 2 – CATS CAUSING DAMAGE**§ 2 – *Cat Damage Ordinances***

The bill allows municipalities to adopt ordinances prohibiting anyone owning or keeping a cat from letting the cat cause substantial damage to the common areas of a condominium or other common interest community. A violation of such an ordinance is an infraction.

By law, municipalities may adopt ordinances making it an

infraction for a cat's owner or keeper to allow it to substantially damage property, other than the owner's or keeper's property, or cause unsanitary, dangerous, or unreasonably offensive conditions.

§ 1 – Impounding Cats Causing Damage

The bill allows ACOs in municipalities with cat damage ordinances to impound cats doing damage to the common areas of condominiums or other common interest community. By law, ACOs may impound cats for doing damage to other people's property or creating an unsanitary, dangerous, or offensive condition. But ACOs cannot impound feral cats under the care of a registered feral cat keeper and cats under an owner's control. If a licensed veterinarian determines that an impounded cat should be euthanized because of injury or disease, the ACO may have the cat mercifully killed.

An ACO who impounds a cat from the common areas of a condominium or other common interest community must follow the statutory procedures for impounding cats generally. This includes immediately notifying the cat's owner or keeper, if known, or publishing the cat's description in a lost and found column of a local newspaper. If the cat is not claimed and released to its owner within seven days of publishing notice, the ACO may have the cat spayed or neutered and sold to someone suitable.

An impounded cat's owner or keeper, or his or her agent, can redeem the cat with proper identification. He or she must pay the municipally set redemption fee of up to \$15 and pay the cost of publishing the newspaper notice. If the owner or keeper does not redeem the cat within 24 hours after receiving notice, he or she must also pay the cost of the cat's care and impoundment. Failure to redeem a cat within five days of receiving notice is an infraction.

§ 3 – DOGS CAUSING DAMAGE

By law, a dog's owner or keeper is liable when the dog hurts a person or damages property, unless the person was trespassing; committing a tort; or teasing, tormenting, or abusing the dog. The bill

specifies that the common areas of a condominium or other common interest community are included in the definition of “property” for which an offending dog’s owner or keeper is liable for damages.

§ 4 – BITING OR ATTACKING ANIMALS

Under the bill, the premises of an animal’s owner or keeper does not include the common areas of a condominium or other common interest community with respect to a biting or attacking animal, thus allowing such an animal to be killed or quarantined.

By law, anyone who is bitten or attacked by a dog, cat, or other animal when he or she is not on the premises of the animal’s owner or keeper may kill the animal during the attack. Also, an ACO may quarantine an animal that bites or attacks. If the animal bit or attacked while on the premises of its owner or keeper, the ACO may quarantine the animal on those premises. If the animal bit or attacked while not on the premises of its owner or keeper, the ACO must quarantine the animal at a public pound or other place the agriculture commissioner approves (e.g., a veterinary hospital or kennel).

§ 5 – ROAMING DOGS

By law, a dog’s owner or keeper cannot let the dog roam on another’s land while it is not under the owner’s or keeper’s control. The bill specifies that another’s land includes the common areas of a condominium or other common interest community. A dog’s presence in the common areas while unattended is prima facie evidence of a violation, which is an infraction by law.

§ 6 – RELEASE OF A DOMESTIC ANIMAL

By law, a person commits an infraction when he or she intentionally or recklessly releases a domestic animal that enters some else’s property and causes over \$100 in damage. The bill provides that “property” includes the common areas of a condominium or other common interest community.

§ 7 – CONTROL OF DOG NEAR GUIDE DOG

The bill requires a dog's owner or keeper to restrain and leash the dog when near a guide dog in the common areas of a condominium or other common interest community. By law, a dog's owner or keeper must control the dog on a leash when near a guide dog but not on the owner's or keeper's property.

Violators are guilty of an infraction. If the dog attacks or injures the guide dog, the dog's owner or keeper is liable for the damage, including costs of veterinary care, rehabilitation or replacement of the guide dog, and attorney's fees.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (02/24/2016)