



**FIRST REPORT
OF THE
STANDING COMMITTEE ON LAW AMENDMENTS**

Second Session

Fifty-fifth Legislative Assembly

of the

Province of New Brunswick

December 16, 2004

MEMBERS OF THE COMMITTEE

Mr. Carr, Chairman
Mr. Betts, Vice-Chairman
Hon. Mr. Green
Mr. C. LeBlanc
Mr. Stiles
Mr. Sherwood

Mr. MacDonald
Mr. Boudreau
Mr. McGinley
Mr. Murphy
Mr. Burke
Ms. Weir

December 16, 2004

To The Honourable
The Legislative Assembly of
The Province of New Brunswick

Mr. Speaker:

I have the pleasure to present herewith the First Report of the Standing Committee on Law Amendments for the Session.

The Report is the result of your Committee's deliberations on Bill 55, *Restricted Dogs Act*, which was introduced in the Legislative Assembly during the previous session of the Legislature and referred to your Committee for its consideration.

The Report outlines your Committee's recommendations with respect to the issue of legislating certain restrictions on the owners of specific breeds of dogs in the Province of New Brunswick.

On behalf of the Committee, I wish to thank the many presenters who appeared at the public hearing and those individuals and groups who submitted written briefs.

In addition, I would like to express my sincere appreciation to the members of the Committee for their contribution in carrying out our mandate.

And your Committee begs leave to make a further report.

Respectfully submitted,

Jody Carr, M.L.A.
Chairman

December 16, 2004

To The Honourable
The Legislative Assembly of
The Province of New Brunswick

Mr. Speaker:

Your Standing Committee on Law Amendments begs leave to submit this their First Report of the Session.

The Committee met in an organizational session on August 6, 2003.

On motion of Mr. C. LeBlanc, Mr. Carr was elected Chairman.

On motion of Mr. C. LeBlanc, Mr. Betts was elected Vice-Chairman.

On May 28, 2004, during the First Session of the Fifty-fifth Legislature, Bill 55, *Restricted Dogs Act*, was introduced in the Legislative Assembly by Mr. Lamrock, Member for Fredericton - Fort Nashwaak. The proposed legislation would make several changes to the law regarding certain breeds of dogs, namely, Staffordshire Bull Terriers, American Staffordshire Terriers, Rottweilers, and Akitas. The Bill requires owners to have a licence for these dogs, and to carry liability insurance to cover damages caused by them. As well, the Bill holds owners strictly responsible for any injuries caused by these dogs, and requires owners to maintain control of them both on and off their property. Finally, the Bill allows for the seizure of these dogs in specific circumstances.

On June 8, 2004, by Resolution of the House, consideration of Bill 55 was referred to the Standing Committee on Law Amendments. This resolution is the order of reference and forms the basis of the Standing Committee on Law Amendments' First Report to the Second Session of the Fifty-fifth Legislature.

On September 17, 2004, your Committee met and determined that members of the public should be invited to provide input and advice to the Committee with respect to issues raised by Bill 55. Public hearings were held on November 16 and 17, 2004 in the Legislative Assembly Chamber. A total of 203 written submissions were received by your Committee, representing kennel clubs, societies for the prevention of cruelty to animals, breed specific clubs and associations, dog breeders, veterinary medical associations, obedience clubs, animal shelters, dog owners, and other concerned individuals and organizations.

Your Committee wishes to note that Bill 55 has since died on the Order and Notice Paper as the First Session of the Fifty-fifth Legislature came to an end when the Legislative Assembly was prorogued on December 2, 2004. Nonetheless, the mandate of your Committee to review the subject matter of the Bill with respect to the issue of legislating certain restrictions on the owners of specific breeds of dogs remains in effect. Your Committee is pleased to offer its recommendations.

Your Committee expresses appreciation to the presenters who appeared at the public hearing and

to those individuals and organizations who submitted written briefs.

EXECUTIVE SUMMARY

Based on the input and advice received during the public consultation process, your Committee believes that responsible dog ownership should be the main purpose of any dangerous dog legislation. While Bill 55 does contain certain provisions that encourage responsible dog ownership, your Committee does not recommend the enactment of Bill 55, as it would place certain restrictions only on specific breeds of dogs. Your Committee believes the focus of any proposed legislation should be on the promotion and education of responsible dog ownership, with a strong commitment to enforcement, and not on the restriction of specific breeds of dogs.

Therefore, your Committee recommends that breed specific legislation such as Bill 55, *Restricted Dogs Act*, not be proceeded with. In the alternative, your Committee recommends that the Legislative Assembly urge the government to consider the advisability of developing province-wide dangerous dog legislation that does not focus on specific breeds of dogs, but rather focuses on education, prevention, responsible dog ownership and commitment to enforcement.

SUMMARY OF FINDINGS

Your Committee has reviewed the provisions of the *Restricted Dogs Act* and considered the written submissions received and the presentations made at the public hearings. As a result of its review, your Committee has determined that the following issues should be addressed: Definition of Restricted Dog; Licencing of Restricted Dog Breeds; Liability Insurance; Strict Liability; Care and Control of Restricted Dogs; Seizure of Restricted Dogs; and Public Involvement.

Definition of Restricted Dog

Your Committee received a number of submissions with respect to the definition of “restricted dog” as contained in Bill 55. The Bill defines a “restricted dog” as “any dog that is certified by, or would be certified upon request of, a veterinarian licensed to practice veterinary medicine in New Brunswick to be primarily of the breed Staffordshire Bull Terrier, American Staffordshire Terrier, Rottweiler, or Akita.” Respondents noted the difficulty in reliably identifying the correct breed of a dog and submitted that there is no reliable method to determine the exact percentage mix of a breed, which may pose a problem when trying to determine if a dog is “primarily” of a breed restricted by Bill 55.

In addition, Respondents submitted that restricting dogs solely on the basis of breed fails to recognize that many factors contribute to the aggressive behavior in dogs, such as inadequate socialization, inadequate training, poor health or injury, abuse or mistreatment, failure to spay or neuter, and inadequate supervision or control. Respondents submitted that by focusing on breed alone in an attempt to reduce aggressive behaviors in dogs, Bill 55 fails to take into consideration the range of factors that can produce aggressive behavior, or, in the worst cases, unprovoked attacks. Respondents noted that the stereotyping of certain breeds of dogs is unfair and under inclusive as

it ignores the existence of other dogs with dangerous tendencies and it ignores the conduct of irresponsible dog owners. In addition, the stereotyping of certain breeds of dogs assumes these breeds are all inherently dangerous, which many Respondents submitted was not accurate. Respondents were of the opinion that any legislation enacted to regulate dangerous dogs or to promote responsible dog ownership should not be breed specific. A dangerous dog should be identified by its own actions or the actions of its owner.

Licensing of Restricted Dog Breeds

Bill 55 requires all owners of a restricted dog to obtain a licence. Respondents submitted that the licensing of all dog breeds is a necessity and the existing laws with respect to licensing should be better enforced. Respondents noted that municipalities are responsible for the licensing of dogs which often provides for inconsistent enforcement. Respondents suggested a centralized administration of dog licensing with built-in incentives for responsible dog ownership such as a descending fee scale for proof of such factors as purchase from certified breeders, vaccinations, spay or neutering, and obedience training, and, in addition, heavy fines for non-compliance. Respondents also suggested improved licensing and regulation of dog breeders.

Liability Insurance

Bill 55 requires that owners of restricted dogs carry liability insurance of at least one million dollars for personal injuries caused by the restricted dog. Respondents submitted that the focus of any dangerous dog legislation should be on education, prevention and responsible dog ownership, rather than insurance, but did appreciate the necessity of insurance to cover potential damages caused by a dog. However, Respondents submitted that the existing insurance regime with respect to pets may be sufficient, as many Respondents expressed concern over insurance companies taking advantage of dog owners through increased rates.

Strict Liability

Bill 55 requires that owners of restricted dogs be strictly liable for any personal injury caused by the dog. In addition, the Bill eliminates the defense to a claim for personal injury that the restricted dog had not previously bitten or attacked any person. Respondents were in agreement that the responsibility begins with the owner. Owners who are irresponsible or negligent should not benefit from the excuse that their dog had not exhibited dangerous tendencies in the past. In addition, Respondents were of the opinion that all dog owners should be held accountable for irresponsible ownership and negligence with substantial fines and penalties. Respondents also submitted that the establishment of a central database to record information on dog populations and bite incidents may aid in designating a particular owner's dog "dangerous" before further harm may occur. As well, the development and delivery of a province wide dog bite prevention program was suggested as a means to reduce the number of bite incidents.

Care and Control of Restricted Dogs

Bill 55 requires owners of restricted dogs to maintain care and control of the dog both on and off the property. While on the property owners may either keep the dog indoors, outdoors in a fully enclosed pen, or outdoors, muzzled and secured by a chain fixed to the property. While off the property the owner is required to keep the dog under control, muzzled and on a leash. Respondents agreed that dog owners should maintain care and control of their dogs at all times. This can be facilitated through education, the promotion of responsible dog ownership, and the dedicated enforcement of existing laws. However, several Respondents submitted that the requirement of a muzzle unfairly punishes a dog who has not exhibited dangerous tendencies. Respondents were of the opinion that responsible owners should be able to maintain control of their dog without the use of a muzzle.

Seizure of Restricted Dogs

Bill 55 allows for the seizure of a restricted dog in specific circumstances. Respondents submitted that the proper authorities should be allowed to seize a dog in certain situations, which may already be addressed in existing municipal bylaws. However, Respondents submitted that the current laws were not being consistently enforced and suggested a province-wide approach may lead to better enforcement. Respondents agreed that a dog belonging to irresponsible owners should be subject to the possibility of seizure in abusive or negligent circumstances. Respondents also felt that education and the promotion of responsible dog ownership would lead to reducing the necessity of seizure.

Public Involvement

As demonstrated by the 203 written submissions received by the Committee, there was an overwhelming interest in this particular subject matter by New Brunswickers. Bill 55 was successful in initiating the debate on how best to prevent serious and fatal dog attacks. While many Respondents strongly believed that any dangerous dog legislation should not be breed specific, they supported the intent of the legislation and looked forward to the opportunity to work with government to best determine the appropriate measures to deal with dangerous dogs and irresponsible dog owners through a provincial dog policy that focuses on education, prevention, responsible dog ownership and commitment to enforcement.

RECOMMENDATIONS

Your Committee therefore recommends that breed specific legislation such as Bill 55, *Restricted Dogs Act*, not be proceeded with.

Your Committee further recommends that the Legislative Assembly urge the government to consider the advisability of developing province-wide dangerous dog legislation that does not focus on specific breeds of dogs, but rather focuses on education, prevention, responsible dog ownership and commitment to enforcement.

CONCLUSION

Your Committee gave serious consideration to the advice and input received through the public consultation process. Your Committee believes that any legislation developed to protect the public from dangerous and aggressive dogs must promote the education of dog owners in order to facilitate responsibility and such legislation should encompass a prevention based strategy backed up by consequences. In addition, your Committee believes that such legislation needs to be comprehensive, addressing the wide range of factors that contribute to this type of behavior in both dogs and their owners. As several Respondents stated, an appropriate legislative framework must “consider both ends of the leash”.