



Breed-Discriminatory Legislation: An Ineffective Response to Negligent or Reckless Owners

Definition of breed-discriminatory legislation (BDL). Breed-discriminatory legislation is any ordinance or law that bans, or places special restrictions on, certain pets based solely upon their perceived breed.

Ineffectiveness of BDL. Everyone benefits from safe communities — both people and pets. And we have a responsibility to keep our communities protected from any dangerous dogs and their negligent or reckless owners. But breed-discriminatory legislation is ineffective, because it focuses on the wrong thing. Rather than pass laws that punish innocent dogs and their responsible owners, our communities should have breed-neutral comprehensive dog laws that hold negligent or reckless owners accountable for their animals and situations that are actually dangerous.

Interference with property rights. Breed-discriminatory laws are bad policy because they infringe on our basic property rights. All Americans who follow the safety rules should be allowed to own whatever breed of dog they choose. It's that simple.

Trend toward repeal of breed-discriminatory legislation. Most canine profiling laws resulted from panic policy-making in the 1980s. The trend today is to repeal these laws. In fact, 17 states have enacted laws that prohibit breed discrimination, and even the White House came out against breed-specific legislation¹ (another term for breed-discriminatory legislation). Ohio, the only state to have a breed-discriminatory law targeting alleged pit bull terriers, repealed that provision and enacted a comprehensive generic dangerous-dog and reckless-owner law in its place in 2012.

Difficulty of enforcing breed-specific legislation. Not only are breed-specific laws difficult and expensive to enforce, there is nothing "specific" about them. Scientific studies show that visual breed identification of a mixed-breed dog often has nothing to do with the dog's actual heritage or temperament. In fact, visual identification is completely unscientific and is likely to be contradicted by a DNA test. Cities must also consider the "CSI effect" of dog DNA testing and its recent use in court cases.² Local governments carry the burden of proof and so will incur the expense of proving the breed or combination of breeds in an individual dog. In addition, numerous breed-discriminatory ordinances have been found to be unconstitutional (and therefore stricken) because they failed to provide due process protection for dog owners.

Expense of enforcing BDL. Scientific advances (i.e., DNA testing), increased litigation and violations of the Americans with Disabilities Act (which prohibits local laws from banning or restricting service dogs simply because of their breed) have all made outdated breed-discriminatory laws even costlier.³

Myths about pit bull terriers. Proponents of BDL operate under the mistaken notion that regulating pets based solely on their breed will somehow make a community safer. Despite myths perpetuated by the media about pit bulls, there is no evidence that any breed of dog poses more of a danger to people. Indeed, when it comes to safety, American pit bull terriers score higher than many other popular breeds, including golden retrievers. In addition, pit bull terriers have been trained to be successful service dogs for developmentally disabled children, as well as therapy dogs working with people of all ages. These intelligent dogs also serve in law enforcement and the military, as drug- and bomb-sniffing dogs, and as search and rescue dogs.

Safe communities through responsible dog ownership. Experts consistently identify responsible dog ownership practices as one way to maintain safe, humane communities. A community policing approach to preventing dog bites is much more effective than breed bans and restrictions.⁴

Effective use of public resources. In the current economic climate, public resources are scarce. Rather than passing expensive BDL, communities ought to enforce existing laws that prosecute and penalize negligent owners who not only abuse man's best friend, but also put their neighbors at risk. Another good and effective use of public resources is to provide education for all citizens regarding responsible dog ownership and dog behavior.

¹ Official White House Response via "We the People" (2013), <https://petitions.whitehouse.gov/response/breed-specific-legislation-bad-idea>

² Breed-discriminatory laws are frequently directed against what the law calls "pit bulls," despite the fact that "pit bull" is not a specific breed of dog. The term "pit bull" loosely describes a continually expanding group of dogs that includes American Staffordshire terriers, Staffordshire bull terriers, American pit bull terriers and 20 other pure breeds, along with any dogs presumed, on the basis of appearance, to be mixes of one or more of those breeds.

³ James Sak et al. v. City of Aurelia, Iowa, U.S. Dist. Ct. Northern Dist. of Iowa, Western Div. No. C11-4111. See also: Alan Grider et al. v. City of Denver, Colo., et al. U.S. Dist. Ct. Dist. of Colo., No. 10-cv-00722-MSK-MJW. Title II of the Americans with Disabilities Act specifically outlines standards for service animals and details how prohibitive local breed restrictions unduly regulate living and travel for disabled persons in the city. See also: United States Department of Justice, Final Rule in Order to Adopt Enforceable Accessibility Standards (July 2010) (p. 77). http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.pdf

⁴ "The Problem of Dog-Related Incidents and Encounters," U.S. Department of Justice, Office of Community-Oriented Policing Services (COPS) (2011), <http://nc-zai-inc.com/Publications/cops-p206-pub.pdf>

This analysis was produced by John Dunham and Associates for the Best Friends Animal Society. It is based on the best available information on dog ownership rates and the costs of animal control programs. For summary results and a detailed methodology [click here](#). © 2012 Best Friends.



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