

BILL ESSENTIALS

The Dog Control Bill, 2013

BACKGROUND

Legislation regarding the control of dogs began with the Dogs Act Chapter 67:54¹(Act No. 14 of 1918). However, it was determined that more stringent measures were required to regulate the control of dangerous dogs to protect citizens of Trinidad and Tobago. The Dangerous Dogs (No.2) Bill, 1999² was passed in the House of Representatives, but the Bill subsequently lapsed in the Senate after its Third reading. The Dangerous Dogs Bill, 2000³ was introduced in the same session, incorporating all amendments made to the 1999 Bill, as well as the provisions for passage by a Special Majority. This Bill was assented to on Aug 11, 2000 however, it is still awaiting proclamation.

THE PURPOSE OF THE BILL

The Bill seeks to provide for the control of dogs and to regulate the manner in which certain breeds of dogs are kept by their owners or keepers, to repeal the Dangerous Dogs Act 2000 and for related matters.

KEY FEATURES OF THE PROPOSED LEGISLATION

The Bill:

- ✓ is inconsistent with Sections 4 and 5 of the Constitution and therefore needs to be passed by a three-fifths majority in both Houses of Parliament;
- ✓ repeals the Dangerous Dogs Act, 2000 and Sections 15, 16 and 17 of the Dogs Act Chapter 67:54; and
- ✓ will come into operation on such date as is fixed by the President by Proclamation.
- ✓ categorises dogs into two (2) classes. Class A dogs are defined as Pitbull Terriers or any dog bred from the Pitbull Terrier; Fila Brasileiros, or any dog bred from the Fila Brasileiro; and Japanese Tosas, or any dog bred from the Japanese Tosa, while Class B Dogs are defined as being all other types of dogs other than those listed as Class A dogs.
- ✓ provides for the establishment of a database for all Class A dogs.
- ✓ outlines the criteria required for the ownership of a Class A dog inclusive of:
 - ✓ the registration and licensing of Class A dogs with the local authority for the area where the owner resides within three (3) months of the Act coming into force;
 - ✓ the registration of a pup of a class A dog where the pup is at least six months old or whose canines have descended,
 - ✓ the implanting of a microchip device, containing a unique code which will permit or facilitate access to owner information, which is stored in a database

¹ http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/67.54.pdf

² <http://www.ttparliament.org/legislations/b1999h16.pdf>

³ <http://www.ttparliament.org/legislations/a2000-32.pdf>

BILL ESSENTIALS

The Dog Control Bill, 2013

- ✓ the training of the dog by a certified dog trainer;
- ✓ the mandatory requirement that a Class A dog wear the collar bearing a registration number, affixed to a metal label or badge at all times ; and
- ✓ the insuring of the dog on a policy of insurance with coverage of no less than two hundred and fifty thousand dollars (\$250,000.00)
- ✓ places full liability on the owner or keeper of a Class A dog for any death, injury or damage caused by a dog that has escaped and does not restrict a person from bringing a civil action in respect of death, injury or damage by a dog.
- ✓ imposes penalties (both fines and/or imprisonment) on owners or keepers of dogs for the following:
 - ✓ injury or death caused by a Class A dog;
 - ✓ failing to license or insure a Class A dog;
 - ✓ failing to inform the local authority within twenty-four hours excluding weekends and public holidays of the cancellation or lapsing of a policy of insurance for a Class A dog;
 - ✓ failing to train a Class A dog or a dangerously out of control Class B dog;
 - ✓ allowing a dog to be dangerously out of control in a public place;
 - ✓ encouraging a dog to be aggressive or to intimidate a person;
 - ✓ permitting and inciting a dog to attack a person without reasonable cause;
 - ✓ allowing dogs (with the exception of guide dogs) to enter restaurants, places where food and beverages are consumed by the public, commercial malls, and shops;
 - ✓ allowing a Class A dog to enter public places unless the dog is properly muzzled and securely held on a leash by a person who is no less than eighteen years old and capable of controlling the dog and the owner or keeper of the dog has completed a course of training in the control of dogs that is recognised by the Minister by Order;
 - ✓ permitting a Class A dog to enter private premises and there are either reasonable grounds for apprehension that the dog will injure a person, or the dog injures a person;
 - ✓ failing to keep a dog under control in their private premises or failing to ensure that the premises upon which a dog is kept are secured by a fence or wall of prescribed dimensions to prevent escape of the dog;
 - ✓ the removal or defacing of the registration number or the microchip or any other form of identification from a Class A dog;
 - ✓ abandoning a Class A dog; and
 - ✓ failing to display a notice situated in a prominent place notifying that a Class A dog resides on their premises
- ✓ empowers the Court, in instances where a person is convicted of an offence so listed to order:
 - ✓ that a dog be sold or given to a person to care for the dog;
 - ✓ that the dog be sold or given to an establishment for the reception of stray dogs;
 - ✓ the destruction of the Class A dog at the offenders expense; or

BILL ESSENTIALS

The Dog Control Bill, 2013

- ✓ the offender to be disqualified from owning or keeping a class A dog.
- ✓ empowers the Court to order the seizure and destruction of a Class A dog that kills a person or causes death of a person on or outside private premises even if the dog has not been provoked or where an offence was not being committed.
- ✓ provides for:
 - ✓ the annihilation of a Class A dog by the owner or occupier of private premises on which the dog has trespassed;
 - ✓ the seizure of a Class A dog by a constable or officer of a local authority if the dog is found in a public place or in a place where it is not permitted to be and subsequent destruction of the dog;
 - ✓ the impounding and destruction of a Class A dog where the owner or keeper has failed to comply with requirements of the Bill.
- ✓ authorises:
 - ✓ an officer of a local authority to inspect the premises of the owner of a Class A dog to determine compliance, security and suitability.
 - ✓ a constable or officer of a local authority to seize a Class A dog if it is found in a public place or unauthorised place.
 - ✓ the Ministry of Local Government to assume responsibility for a Class A dog in the event that the owner or keeper does not adhere to the requirements in the Act who will destroy the dog in a manner that causes the least pain possible by a veterinary surgeon.
- ✓ defines a person who keeps more than five (5) Class A dogs as a kennel operator subject to the regulations pertaining to kennels.
- ✓ exempts veterinary surgeons who keep Class A dogs in a professional capacity from any reference in the Bill as a keeper of a Class A dog but holds a veterinary surgeon liable for any damages caused by a Class A dog in his custody.
- ✓ empowers the Minister to make regulations under the Act.

BILL ESSENTIALS

The Dog Control Bill, 2013

COMPARISON OF SIMILAR LEGISLATION IN OTHER JURISDICTIONS

Country	Similar Legislation	Remarks
United Kingdom	Dangerous Dog Act, 1991 ⁴ Draft Dangerous Dogs (Amendment) Bill ⁵	<p>The purpose of the Dangerous Dog Act, 1991 is to prohibit persons from having in their possession or custody dogs belonging to types bred for fighting; to impose restrictions in respect of such dogs pending the coming into force of the prohibition; to enable restrictions to be imposed in relation to other types of dog which present a serious danger to the public; to make further provision for securing that dogs are kept under proper control; and for connected purposes.</p> <p>A Draft Dangerous Dogs Amendment Bill will provide for the police to tackle irresponsible dog owners and improve public safety. It will extend the law to include all private property.</p>
Australia <i>Southern Australia</i> <i>Western Australia</i>	Dog and Cat Management Act, 1995 ⁶ Dog Act 1976 ⁷ Dog (Restricted Breeds) Regulations (No. 2) 2002 ⁸	<p><i>The Dog and Cat Management Act, 1995 provides for the management of dogs and cats; and for other purposes</i></p> <p><i>The Dog Act 1976 is an Act to amend and consolidate the law relating to the control and registration of dogs, the ownership and keeping of dogs and the obligations and rights of persons in relation thereto, and for incidental and other purposes.</i></p> <p>Dog (Restricted Breeds) Regulations (No. 2) 2002 made provisions for sterilising of dogs.</p>

⁴ <http://www.legislation.gov.uk/ukpga/1991/65/data.pdf>

⁵ <http://www.official-documents.gov.uk/document/cm86/8601/8601.pdf>

⁶ <http://www.legislation.sa.gov.au/LZ/C/A/Dog%20and%20Cat%20Management%20Act%201995.aspx>

⁷ [http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:15487P/\\$FILE/DogAct1976-05-f0-02.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:15487P/$FILE/DogAct1976-05-f0-02.pdf?OpenElement)

BILL ESSENTIALS

The Dog Control Bill, 2013

Country	Similar Legislation	Remarks
Tasmania	Dog Regulations 1976 ⁹	<i>The regulations were a reference to the act and makes provisions for change of ownership of dogs and specifies length of leash</i>
	Dog Amendment Bill, 2012 ¹⁰	<i>Amends the Dog Act 1976 and repeals Dog (Restricted Breeds)Regulations (no. 2) 2002</i>
	The Dog Control Act, 2000 ¹¹¹²	<i>The Dog Control Act, 2000 provides for the control and management of dogs.</i>
Canada		
Ontario	Dog Owners' Liability Act (DOLA) ¹³	<i>The DOLA Bans pit bull and makes provisions for peace officers to enforce the law.</i>
	Public Safety Related to Dogs Statute Law Amendment Act, 2005 ¹⁴	<i>The purpose of the Act to amend the Dog Owners' Liability Act to increase public safety in relation to dogs, including pit bulls, and to make related amendments to the Animals for Research Act.</i>
British Columbia	B.C. Statutes - Vancouver Charter. Part XIV -- Nuisances ¹⁶	<i>The Act provides for the preventing, abating,</i>

⁸ [http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:6408P/\\$FILE/DogRstdBreedsRegsNo22002-01-a0-04.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:6408P/$FILE/DogRstdBreedsRegsNo22002-01-a0-04.pdf?OpenElement)

⁹ [http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/\\$FILE/DogRegs1976-02-c0-01.pdf?OpenElement](http://www.slp.wa.gov.au/pco/prod/FileStore.nsf/Documents/MRDocument:20787P/$FILE/DogRegs1976-02-c0-01.pdf?OpenElement)

¹⁰ [http://www.parliament.wa.gov.au/Parliament/bills.nsf/4798E38D89B9F49A48257A5A001491FD/\\$File/Bill292-1B.pdf](http://www.parliament.wa.gov.au/Parliament/bills.nsf/4798E38D89B9F49A48257A5A001491FD/$File/Bill292-1B.pdf)

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¹² http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=102%2B%2B2000%2BAT%40EN%2B2013052200000;hison=;prompt=;rec=;term=

¹³ http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90d16_e.htm

¹⁴ http://www.e-laws.gov.on.ca/html/source/statutes/english/2005/elaws_src_s05002_e.htm

¹⁵ http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90a22_e.htm

¹⁶ http://www.animallaw.info/nonus/statutes/stcasbc1953_c_55_323.htm

BILL ESSENTIALS

The Dog Control Bill, 2013

Country	Similar Legislation	Remarks
		<ul style="list-style-type: none"> - Provisions are made for rules regarding burial of carcasses; and - Provisions are made for dog wardens.
Jamaica	Dogs (Liability for Injuries By) Act ²¹	This Act defines liabilities for injuries caused by dogs
New Zealand	Dog Control Act 1996 ²² Dog Control Amendment Act 2003 ²³ Dog Control Amendment Act 2004 ²⁴ Dog Control Amendment Act 2006 ²⁵	The purpose of the Dog Control Act 1996:— <ul style="list-style-type: none"> • (a) to make better provision for the control of dogs; and • (b) to make better provision in relation to damage caused by dogs; and • (c) to repeal the Dog Control and Hydatids Act 1982 and its amendments
United States		In the State of Illinois the:
<i>Illinois</i>	Animal Welfare Act ²⁶ Animal Control Act ²⁷ Humane Care for Animals Act ²⁸	<u>Animal Control Act</u> , dogs 4 months of age and older must be maintained under current rabies vaccination status. The Act also requires county governments to develop a county animal control program. Animal health and welfare staff works with county officials to develop and implement these programs.

²¹ <http://www.moj.gov.jm/laws/dogs-liability-injuries-act>

²² <http://www.legislation.govt.nz/act/public/1996/0013/latest/whole.html#DLM374415>

²³ [http://www.dia.govt.nz/diawebsite.NSF/Files/DogAct03/\\$file/DogAct03.pdf](http://www.dia.govt.nz/diawebsite.NSF/Files/DogAct03/$file/DogAct03.pdf)

²⁴ [http://www.dia.govt.nz/diawebsite.nsf/Files/dogctrl/\\$file/dogctrl.pdf](http://www.dia.govt.nz/diawebsite.nsf/Files/dogctrl/$file/dogctrl.pdf)

²⁵ [http://www.dia.govt.nz/diawebsite.nsf/Files/2006023p/\\$file/2006023p.pdf](http://www.dia.govt.nz/diawebsite.nsf/Files/2006023p/$file/2006023p.pdf)

²⁶ <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1375&ChapAct=225%2%A0ILCS%2%A0605/&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Animal+Welfare+Act%2E>

²⁷ <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1704&ChapAct=510%2%A0ILCS%2%A05/&ChapterID=41&ChapterName=ANIMALS&ActName=Animal+Control+Act%2E>

²⁸ <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1717&ChapAct=510%2%A0ILCS%2%A070/&ChapterID=41&ChapterName=ANIMALS&ActName=Humane+Care+for+Animals+Act%2E>

BILL ESSENTIALS

The Dog Control Bill, 2013

Country	Similar Legislation	Remarks
<p><i>New York</i></p>	<p>Domestic Animals Running at Large Act²⁹</p> <p>Section 121 of Agriculture & Markets Law³⁰</p>	<p><u>Domestic Animals Running at Large Act</u> requires that animal owners maintain their animals on their own premises and not allow them to run at large.</p> <p>This New York statute provides that statutory penalties for dog bites and the process for declaring a dog "dangerous." Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal, farm animal, or a domestic animal to a dog control officer or police officer of the appropriate municipality. Such officer shall immediately inform the complainant of his or her right to commence a proceeding as provided in subdivision two of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself or herself. Upon a finding that a dog is dangerous, the judge or justice may order humane euthanasia or permanent confinement of the dog if one listed aggravating circumstances is established at the judicial hearing.</p>

²⁹ <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1714&ChapAct=510%2%A0ILCS%2%A055/&ChapterID=41&ChapterName=ANIMALS&ActName=Illinois+Domestic+Animals+Running+At+Large+Act%2E>

³⁰ <http://codes.lp.findlaw.com/nycode/AGM/7/121>

BILL ESSENTIALS

The Dog Control Bill, 2013

CONSIDERATIONS

- ✓ The interpretation of the following terms is not listed in the Interpretation Clause:
 - “reasonable cause”,
 - “certain circumstances”
 - “dangerously out of control”
 - “certified dog trainer”
- ✓ The consequential effect on insurance practices
- ✓ The severity and types of penalties imposed.
- ✓ Regulations are needed to give effect to some sections of the Bill

The Bill does not provide for the:

- The neutering and prohibition of breeding of Class A dogs
- Liability for death or injury caused by a Class B dog

Note on the common law principle of *scienter*: The keeper of an animal of a species dangerous by nature, or of any animal which he knows, or has reason to know, to have dangerous propensities, is liable, without wrongful intent or negligence, for damage to others resulting from such a propensity. In a *scienter* case, it is not required to prove negligence on the part of the dog owner. The two key elements of a *scienter* claim are prior dangerous behavior by the animal and knowledge of it on the part of the defendant.

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