

PROHIBIT BREED-SPECIFIC LEGISLATION

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House Bill 4035 (H-1) as referred to second committee
Sponsor: Rep. Jim Ellison
1st Committee: Local Government and Municipal Finance
2nd Committee: Ways and Means
Complete to 4-1-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY: House Bill 4035 would create a new act to prohibit a county, city, village, or township from enacting or enforcing an ordinance, policy, resolution, or rule regulating a dog based on its actual or perceived breed.

The new act would not prohibit an ordinance, policy, resolution, or rule that did any of the following:

- Placed restrictions or imposed additional requirements on dogs or dog owners.
- Regulated dogs determined to be dangerous or potentially dangerous by local units. (Such a policy could include a definition of “dangerous dog” or a similar term, rules for determining whether a dog is dangerous, requirements for ownership or possession of a dog determined to be dangerous, and penalties for a dog owner or possessor who violated the policy.)

The bill would take effect 90 days after its enactment.

FISCAL IMPACT: House Bill 4035 would establish no new regulatory responsibilities for state agencies or local units of government and no new taxes or fees and would therefore have no direct fiscal impact on either the state or local units of government.

THE APPARENT PROBLEM:

The ordinances the bill would prohibit are known as “breed-specific legislation” or BSL. BSL is typically implemented to regulate pit bull terriers and breeds that appear related to pit bulls. Breed-specific local ordinances in Michigan range from requiring sterilization on a breed-specific basis, as in Ypsilanti Charter Township, to prohibiting the prospective possession of pit bulls, as in Orchard Lake Village. As of 2019, eight states prohibited any municipal breed-specific regulations, while 13 others prohibited the breed-specific classification or regulation of dogs as dangerous or potentially dangerous.¹

BACKGROUND INFORMATION:

Part of the challenge in enforcing BSL, and part of the opposition to it, is that it is often difficult for proponents to define the dogs to be targeted. While BSL typically applies to “pit bulls,” local ordinances like Ypsilanti Township’s² often define that term to mean “a Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, or

¹ See <https://www.animallaw.info/article/overview-states-prohibit-bsl>

² <https://annarborchronicle.com/wp-content/uploads/2012/05/Ypsi-Township-animal-control-ordinance.pdf>

any mixed breed dog displaying five out of the following eight distinguishing characteristics:

- (1) Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
- (2) Eyes are round to almond shaped, are low in the skull and set far apart.
- (3) Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.
- (4) Neck is heavy and muscular, attached to strong, muscular shoulders.
- (5) Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
- (6) Tail is medium length and set low, thick at the base, tapering to a point.
- (7) Hindquarters are well muscled, with hocks, set low on the legs.
- (8) Coat is a single coat, smooth, short and close to the skin.”

(The ordinance includes exceptions for puppies, show dogs, dogs whose veterinarian has certified that they do not have at least five of the characteristics, and dogs whose health would be seriously adversely affected by the requisite spaying or neutering.)

ARGUMENTS:

For:

While the definition of “pit bull” in **Background**, above, is an attempt to make concrete the vague objection that a dog “looks like a pit bull,” these characteristics are still subjective. After all, how short must a dog’s coat be to qualify? How high must the dog’s ears be set? What is a “medium-length” skull and tail? Additionally, the provision allowing a veterinarian to certify that the dog is excluded would result in even more subjectivity and variation, potentially exempting dogs with sympathetic vets and targeting only those whose owners cannot find or do not care to find a vet willing to make the certification.

Supporters of the BSL prohibition argue that legislation seeking to protect the public should be aimed at owners rather than dogs. After all, any breed of dog can be dangerous if its owner has been abusive and encouraging of vicious behavior, and any breed can be docile and well-mannered with the proper training. Anecdotally, according to committee testimony, small breeds are often the dogs most likely to bite and show aggression at a vet’s office. Instead of focusing on the breed, proponents stressed that behavior should be the main deciding factor.

Against:

Opponents argue that pit bull-type breeds are disproportionately responsible for bites, maulings, and killings. Communities should be allowed to recognize that fact as they deem necessary, whether that means requiring sterilization or a ban on the breed. Then, residents of that community are protected from the breeds they consider most likely to attack, and owners of pit bulls can simply choose other communities in which to live. It is a local issue, more prevalent in some communities than others, and should be decided at a local level without interference from the state.

Local units must have the autonomy to act in the best interest of their citizens. A city should not have to wait for an individual dog to attack and potentially kill a child to be able to take action against that dog and owner. Two well-publicized pit bull attacks have been reported in just the last year—the mauling deaths of a girl in Detroit³ and a boy in Hazel Park.⁴ How many more attacks must communities endure before they are able to act in their own best interest?

POSITIONS:

Representatives of the following entities testified in support of the bill (2-19-20):

City of Hazel Park Council
Best Friends Animal Society
Humane Society of Huron Valley
Attorneys for Animals
Newfoundland Club of America

The following entities indicated support for the bill (2-19-20):

Department of Agriculture and Rural Development
Michigan Pet Fund Alliance
Humane Society of the United States
Michigan Retailers Association
Michigan Political Advocacy Committee for Animals
Citizens Against Breed Discrimination

Representatives of the Responsible Citizens for Public Safety testified in opposition to the bill. (2-19-20)

The Michigan Townships Association indicated opposition to the bill. (2-19-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

³ <https://www.detroitnews.com/story/news/local/detroit-city/2019/08/24/family-says-final-goodbyes-emma-mauled-dogs/2096412001/>

⁴ <https://www.freep.com/story/news/local/michigan/oakland/2019/10/31/pit-bull-dog-controversy-hazel-park/4101094002/>