

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0646.01 Stephen Miller

HOUSE BILL 04-1279

HOUSE SPONSORSHIP

Stafford, and Rose

SENATE SPONSORSHIP

Hillman, and Kester

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Local Government

A BILL FOR AN ACT

101 **CONCERNING LIABILITY REGARDING THE BEHAVIOR OF DOGS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Specifies that negligence is the primary liability standard in civil actions for bodily injury, serious bodily injury, or death caused to persons by dogs. Defines "bodily injury" and "serious bodily injury". Disregards the viciousness or dangerous propensities of the dog or the dog owner's knowledge thereof. Imposes strict liability in cases in which the dog owner had knowledge of the dog's viciousness or dangerous propensities. Permits a court to enter a euthanasia order in strict liability cases.

Exempts dog owners from liability under certain circumstances. Clarifies the general assembly's intent not to abrogate any provision of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 30, 2004

HOUSE
Amended 2nd Reading
March 29, 2004

"Colorado Governmental Immunity Act".

Establishes an affirmative defense to a criminal charge brought under the cruelty to animals statute involving injury or death to a dog that the dog was worrying livestock and was on the property where the livestock were being kept at the time of the dog's injury or death. Prohibits a municipality from adopting a rule or law for the control of dangerous dogs that is specific to breed. Prohibits a county from adopting a resolution for the control of dangerous dogs that is specific to breed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 21 of title 13, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **13-21-122. Civil actions against dog owners.** (1) AS USED IN
6 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "BODILY INJURY" MEANS ANY PHYSICAL INJURY THAT RESULTS
8 IN SEVERE BRUISING, MUSCLE TEARS, OR SKIN LACERATIONS REQUIRING
9 PROFESSIONAL MEDICAL TREATMENT OR ANY PHYSICAL INJURY THAT
10 REQUIRES CORRECTIVE OR COSMETIC SURGERY.

11 (b) "DOG" MEANS ANY DOMESTICATED ANIMAL RELATED TO THE
12 FOX, WOLF, COYOTE, OR JACKAL.

13 (c) "DOG OWNER" MEANS A PERSON, FIRM, CORPORATION, OR
14 ORGANIZATION OWNING, POSSESSING, HARBORING, KEEPING, HAVING
15 FINANCIAL OR PROPERTY INTEREST IN, OR HAVING CONTROL OR CUSTODY
16 OF, A DOG.

17 (d) "SERIOUS BODILY INJURY" HAS THE SAME MEANING AS SET
18 FORTH IN SECTION 18-1-901 (3) (p), C.R.S.

19 (2) A PERSON OR A PERSONAL REPRESENTATIVE OF A PERSON WHO
20 SUFFERS SERIOUS BODILY INJURY OR DEATH FROM BEING BITTEN BY A DOG

1 WHILE LAWFULLY ON PUBLIC OR PRIVATE PROPERTY, SHALL BE ENTITLED
2 TO BRING A CIVIL ACTION TO RECOVER ECONOMIC DAMAGES AGAINST THE
3 DOG OWNER REGARDLESS OF THE VICIOUSNESS OR DANGEROUS
4 PROPENSITIES OF THE DOG OR THE DOG OWNER'S KNOWLEDGE OR LACK OF
5 KNOWLEDGE OF THE DOG'S VICIOUSNESS OR DANGEROUS PROPENSITIES.

6 (3) IN ANY CASE DESCRIBED IN SUBSECTION (2) OF THIS SECTION
7 IN WHICH IT IS ALLEGED AND PROVED THAT THE DOG OWNER HAD
8 KNOWLEDGE OR NOTICE OF THE DOG'S VICIOUSNESS OR DANGEROUS
9 PROPENSITIES, THE COURT, UPON A MOTION MADE BY THE VICTIM OR THE
10 PERSONAL REPRESENTATIVE OF THE VICTIM, MAY ENTER AN ORDER THAT
11 THE DOG BE EUTHANIZED BY A LICENSED VETERINARIAN OR LICENSED
12 SHELTER AT THE EXPENSE OF THE DOG OWNER.

13 (4) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE DEEMED
14 TO BE LAWFULLY ON PUBLIC OR PRIVATE PROPERTY IF HE OR SHE IS IN THE
15 PERFORMANCE OF A DUTY IMPOSED UPON HIM OR HER BY LOCAL, STATE OR
16 FEDERAL LAWS OR REGULATIONS OR IF HE OR SHE IS ON PROPERTY UPON
17 EXPRESS OR IMPLIED INVITATION OF THE OWNER OF THE PROPERTY OR IS
18 ON HIS OR HER OWN PROPERTY.

19 (5) A DOG OWNER SHALL NOT BE LIABLE TO A PERSON WHO
20 SUFFERS BODILY INJURY, SERIOUS BODILY INJURY, OR DEATH FROM BEING
21 BITTEN BY THE DOG:

22 (a) WHILE THE PERSON IS UNLAWFULLY ON PUBLIC OR PRIVATE
23 PROPERTY;

24 (b) WHILE THE PERSON IS ON PROPERTY OF THE DOG OWNER AND
25 THE PROPERTY IS CLEARLY AND CONSPICUOUSLY MARKED WITH ONE OR
26 MORE POSTED SIGNS STATING "NO TRESPASSING" OR "BEWARE OF DOG";

27 (c) WHILE THE DOG IS BEING USED BY A PEACE OFFICER OR

1 MILITARY PERSONNEL IN THE PERFORMANCE OF PEACE OFFICER OR
2 MILITARY PERSONNEL DUTIES;

3 (d) AS A RESULT OF THE PERSON KNOWINGLY PROVOKING THE
4 DOG;

5 (e) IF THE PERSON IS A VETERINARY HEALTH CARE WORKER, DOG
6 GROOMER, HUMANE AGENCY STAFF PERSON, PROFESSIONAL DOG HANDLER,
7 TRAINER, OR DOG SHOW JUDGE ACTING IN THE PERFORMANCE OF HIS OR
8 HER RESPECTIVE DUTIES; OR

9 (f) WHILE THE DOG IS WORKING AS A HUNTING DOG, HERDING DOG,
10 FARM OR RANCH DOG, OR PREDATOR CONTROL DOG ON THE PROPERTY OF
11 OR UNDER THE CONTROL OF THE DOG'S OWNER.

12 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

13 (a) AFFECT ANY OTHER CAUSE OF ACTION PREDICATED ON OTHER
14 NEGLIGENCE, INTENTIONAL TORT, OUTRAGEOUS CONDUCT, OR OTHER
15 THEORIES;

16 (b) AFFECT THE PROVISIONS OF ANY OTHER CRIMINAL OR CIVIL
17 STATUTE GOVERNING THE REGULATION OF DOGS; OR

18 (c) ABROGATE ANY PROVISION OF THE "COLORADO
19 GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

20 **SECTION 2. 18-9-202**, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **18-9-202. Cruelty to animals - aggravated cruelty to animals**
23 **- neglect of animals - offenses - repeal.** (2.5) IT SHALL BE AN
24 AFFIRMATIVE DEFENSE TO A CHARGE BROUGHT UNDER THIS SECTION
25 INVOLVING INJURY OR DEATH TO A DOG THAT THE DOG WAS FOUND
26 RUNNING, WORRYING, OR INJURING SHEEP, CATTLE, OR OTHER LIVESTOCK.

27 **SECTION 3. 18-9-204.5** (1) and (5), Colorado Revised Statutes,

1 are amended, and the said 18-9-204.5 (5) is further amended BY THE
2 ADDITION OF A NEW PARAGRAPH, to read:

3 **18-9-204.5. Unlawful ownership of dangerous dog.** (1) The
4 general assembly hereby finds, determines, and declares that:

5 (a) Dangerous dogs are a serious and widespread threat to the
6 safety and welfare of citizens throughout the state because of the number
7 and serious nature of attacks by such dogs; AND

8 (b) THE REGULATION AND CONTROL OF DANGEROUS DOGS IS A
9 MATTER OF STATEWIDE CONCERN.

10 (5) (a) Nothing in this section shall be construed to prohibit a
11 municipality from adopting any rule or law for the control of dangerous
12 dogs; EXCEPT THAT ANY SUCH RULE OR LAW SHALL NOT REGULATE
13 DANGEROUS DOGS IN A MANNER THAT IS SPECIFIC TO BREED.

14 (b) Nothing in this section shall be construed to abrogate a
15 county's authority under part 1 of article 15 of title 30, C.R.S., to adopt
16 dog control and licensing resolutions and to impose the penalties set forth
17 in section 30-15-102, C.R.S.; EXCEPT THAT ANY SUCH RESOLUTION SHALL
18 NOT REGULATE DANGEROUS DOGS IN A MANNER THAT IS SPECIFIC TO
19 BREED.

20 (c) THE PROVISIONS OF PARAGRAPHS (a) AND (b) OF THIS
21 SUBSECTION (5) THAT PROHIBIT THE REGULATION OF DANGEROUS DOGS IN
22 A MANNER THAT IS SPECIFIC TO BREED SHALL NOT APPLY TO A CITY AND
23 COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR MORE.

24 **SECTION 4. Effective date - applicability.** This act shall take
25 effect July 1, 2004, and shall apply to offenses, acts, and omissions
26 committed on or after said date.

27 **SECTION 5. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.