

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 18, 2004
Date

Committee on Agriculture, Livestock, & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB04-1279 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

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

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

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

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

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

1 OF, A DOG.

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

4 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
5 SECTION, A PERSON OR A PERSONAL REPRESENTATIVE OF A PERSON WHO
6 SUFFERS BODILY INJURY, SERIOUS BODILY INJURY, OR DEATH FROM BEING
7 BITTEN BY A DOG WHILE LAWFULLY ON PUBLIC OR PRIVATE PROPERTY AS
8 A RESULT OF THE NEGLIGENCE OF THE DOG OWNER SHALL BE ENTITLED TO
9 BRING A CIVIL ACTION TO RECOVER DAMAGES AGAINST THE DOG OWNER
10 REGARDLESS OF THE VICIOUSNESS OR DANGEROUS PROPENSITIES OF THE
11 DOG OR THE DOG OWNER'S KNOWLEDGE OR LACK OF KNOWLEDGE OF THE
12 DOG'S VICIOUSNESS OR DANGEROUS PROPENSITIES.

13 (3) (a) IN ANY CASE DESCRIBED IN SUBSECTION (2) OF THIS SECTION
14 IN WHICH IT IS ALLEGED AND PROVED THAT THE DOG OWNER HAD
15 KNOWLEDGE OR NOTICE OF THE DOG'S VICIOUSNESS OR DANGEROUS
16 PROPENSITIES:

17 (I) THE REQUIREMENT OF NEGLIGENCE SHALL NOT APPLY AND THE
18 DOG OWNER SHALL BE LIABLE TO THE VICTIM OR VICTIM'S ESTATE FOR THE
19 VICTIM'S PRESENT AND FUTURE COSTS OF MEDICAL CARE THAT WERE OR
20 WILL BE INCURRED AS A RESULT OF THE DOG BITING INCIDENT THAT IS THE
21 SUBJECT OF THE CIVIL ACTION; AND

22 (II) THE COURT, UPON A MOTION MADE BY THE VICTIM OR THE
23 PERSONAL REPRESENTATIVE OF THE VICTIM, MAY ENTER AN ORDER THAT
24 THE DOG BE EUTHANIZED BY A LICENSED VETERINARIAN OR LICENSED
25 SHELTER AT THE EXPENSE OF THE DOG OWNER.

26 (b) THE VICTIM OR VICTIM'S ESTATE MAY RECOVER DAMAGES NOT
27 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) BY PROCEEDING IN
28 ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION.

29 (4) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE DEEMED
30 TO BE LAWFULLY ON PUBLIC OR PRIVATE PROPERTY IF HE OR SHE IS IN THE
31 PERFORMANCE OF A DUTY IMPOSED UPON HIM OR HER BY LOCAL, STATE OR

1 FEDERAL LAWS OR REGULATIONS OR IF HE OR SHE IS ON PROPERTY UPON
2 EXPRESS OR IMPLIED INVITATION OF THE OWNER OF THE PROPERTY OR IS
3 ON HIS OR HER OWN PROPERTY.

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

7 (a) WHILE THE PERSON IS UNLAWFULLY ON PUBLIC OR PRIVATE
8 PROPERTY;

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

12 (c) WHILE THE DOG IS BEING USED BY A PEACE OFFICER OR
13 MILITARY PERSONNEL IN THE PERFORMANCE OF PEACE OFFICER OR
14 MILITARY PERSONNEL DUTIES;

15 (d) AS A RESULT OF THE PERSON KNOWINGLY PROVOKING THE
16 DOG;

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

21 (f) WHILE THE DOG IS WORKING AS A HUNTING DOG, HERDING DOG,
22 OR PREDATOR CONTROL DOG ON THE PROPERTY OF OR UNDER THE
23 CONTROL OF THE DOG'S OWNER.

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

25 (a) AFFECT ANY OTHER CAUSE OF ACTION PREDICATED ON
26 NEGLIGENCE, INTENTIONAL TORT, OUTRAGEOUS CONDUCT, OR OTHER
27 THEORIES;

28 (b) AFFECT THE PROVISIONS OF ANY OTHER CRIMINAL OR CIVIL

1 STATUTE GOVERNING THE REGULATION OF DOGS; OR

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

4 **SECTION 2.** 18-9-204.5 (1) and (5), Colorado Revised Statutes,
5 are amended to read:

6 **18-9-204.5. Unlawful ownership of dangerous dog.** (1) The
7 general assembly hereby finds, determines, and declares that:

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

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

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

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

23 **SECTION 3. Effective date - applicability.** This act shall take
24 effect July 1, 2004, and shall apply to offenses, acts, and omissions
25 committed on or after said date.

26 **SECTION 4. Safety clause.** The general assembly hereby finds,
27 determines, and declares that this act is necessary for the immediate
28 preservation of the public peace, health, and safety.”.

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