

CHAPTER 168

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1279

BY REPRESENTATIVE(S) Stafford, Rose, Coleman, Fairbank, Garcia, Harvey, Larson, Madden, May M., McCluskey, Merrifield, Paccione, Plant, Stengel, Williams S., Butcher, Frangas, Spence, and Tochtrop;
also SENATOR(S) Hillman, Kester, Cairns, Chlouber, Johnson S., Jones, Teck, and Tupa.

AN ACT**CONCERNING LIABILITY REGARDING THE BEHAVIOR OF DOGS.**

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

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

13-21-124. Civil actions against dog owners. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

(2) A PERSON OR A PERSONAL REPRESENTATIVE OF A PERSON WHO SUFFERS SERIOUS BODILY INJURY OR DEATH FROM BEING BITTEN BY A DOG WHILE LAWFULLY ON PUBLIC OR PRIVATE PROPERTY, SHALL BE ENTITLED TO BRING A CIVIL ACTION TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RECOVER ECONOMIC DAMAGES AGAINST THE DOG OWNER REGARDLESS OF THE VICIOUSNESS OR DANGEROUS PROPENSITIES OF THE DOG OR THE DOG OWNER'S KNOWLEDGE OR LACK OF KNOWLEDGE OF THE DOG'S VICIOUSNESS OR DANGEROUS PROPENSITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. 18-9-204.5 (1) and (5), Colorado Revised Statutes, are amended to read:

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

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

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

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

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

(c) NO MUNICIPALITY OR COUNTY MAY DESTROY OR DISPOSE OF A DOG THAT IS AWAITING DESTRUCTION OR DISPOSITION AS OF THE EFFECTIVE DATE OF HOUSE BILL 04-1279 IN CONNECTION WITH A VIOLATION OR CHARGED VIOLATION OF A MUNICIPAL OR COUNTY BAN ON ONE OR MORE SPECIFIC DOG BREEDS.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses, acts, and omissions committed on or after said date. Section 3 of this act shall also apply to dogs awaiting destruction or disposition as of said date in connection with a violation or charged violation of a municipal or county ban on one or more specific dog breeds.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 21, 2004