



**AMERICAN
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Summary of State Vicious Dog Laws

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Complex Policy Issues

State's Public Health and Safety Interest

- Most Dog Bites are of Children
- Transmission of Disease

Irresponsible Owner or Dangerous Dog?

- Responsible Dog Ownership Education

What level of Risk?

- Dog history (Where and When)

Liability Exposure

- owner/keeper/municipality/rescue/shelter

Reasonable and Enforceable Govn't Responses

- Determining "Provocation" = most litigated
- Dogs are legal property of owner = impoundment qualifies as a taking
- Procedural due process = most common legal challenge
- Avoiding Arbitrary Enforcement



State's Public Health and Safety Interest

- Courts: to justify the state's assertion of authority on behalf of the public, it must appear that the interests of the public require such interference
- Restrictions on dogs (property) posing a risk is a reasonable exercise of state's police power
- State has a duty to protect children
- And prevent disease transmission e.g. rabies

Dangerous/Vicious Dog Laws Across the Country

19 States w/laws & clauses prohibiting local government from passing breed specific bans

- Arizona
- Colorado
- Connecticut
- Delaware
- Florida
- Illinois
- Maine
- Massachusetts
- Minnesota
- Nevada
- New Jersey
- New York
- Oklahoma
- Pennsylvania
- Rhode Island
- South Dakota
- Texas
- Utah
- Virginia

Related Issues

Can You Spot the Pit Bull?

1. Inability to visually determine breed accurately
2. Pit bull is not a breed, but a type
3. Owner may be unable to obtain homeowner/renter insurance for specific breeds

The breed by which a dog is identified has important implications and ramifications.....

Components of a Breed-Neutral Dangerous Dog Law

- Avoid using breed specific language (e.g. investigation report should describe appearance, may attach photo) = discriminatory restriction on right to own dog
- Establish measurable, objective criteria for determining level of dangerousness with at least two designations so the dog does not lose when real issue is irresponsible owner
 - “potentially dangerous” and “dangerous”
 - “at risk” “dangerous” and “vicious”
- Define what is “provocation” See IMLA definition and consider minors
- Provide for strict liability (in addition to any other cause of action) accounting for reasonable medical and veterinarian costs, etc. even if they “exceed market or replacement costs” (Irwin v. Degtiarov, 85 Mass.App.Ct. 234 (2014))
- Require owner remain at scene of dog attack until providing contact info, reporting to police and securing medical aid, as necessary; violations are crime (ME Public Law Chapt. 134 of 2019, cited as Sec. 1. 7 MRSA §3955)

Due Process Components of a Breed-Neutral Dangerous Dog Law

- Detail info ACO shall include in investigation report-where dog came from?
- Timely notice to owner/keeper
- Establish a well defined procedure for making a designation and identification of designated dogs (e.g. micro-chip, photo on file)
- Provide for an appeals process
- Allow discretion regarding outcome of the designation - what restrictions are imposed; but include a prohibition on children entering dangerous dog enclosures
- Include guidance on how long restrictions are imposed
- Violations must address the need to report any designated dog at large
- Provide process for removal of designation, where appropriate

Establish measurable, objective criteria for determining level of dangerousness

- Dangerous or Vicious: use the phrase "vicious dog" or "dangerous dog," referring to the same type of unprovoked actions (MA) or may use a "vicious" dog classification only for death of person in addition to a "dangerous dog" classification distinguishing severe injury to person or death of animal (OH)
- Potentially Dangerous: an unprovoked dog that bites or chases or approaches a person e.g. on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property—in an apparent attitude of attack. No serious injury or death (MN)
- Nuisance or At-Risk: unprovoked engages in behavior that requires a defensive action by a person to avoid bodily injury; acts in an aggressive manner within an enclosed area and appears able to escape enclosure; or bites a person without causing significant break of the skin....

Definition of “Provocation”

- *Provocation* means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence. (IMLA Model Ordinance)
- Exceptions for Minors:
 - *MA MGL c. 140 §157* ...however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing
 - *CT CGS §22-357(b)*.... If a minor, on whose behalf an action under this section is brought, was under seven years of age at the time such damage was done, it shall be presumed that such minor was not committing a trespass or other tort, or teasing, tormenting or abusing such dog, and the burden of proof thereof shall be upon the defendant in such action

Due Process Components

- Establish Mechanisms that satisfy the dog owner's due process rights by eliminating ambiguity and arbitrary enforcement
 - Timely Notice
 - State the Appropriate Burden of Proof – by preponderance of the evidence, clear and convincing evidence, beyond reasonable doubt if criminal penalties
 - Afforded A Fair Hearing before Determining any Designation
 - Specify Actions to be taken by owner for Designation applied
 - Training/Obedience Classes for At Risk Dogs/Irresponsible Owners
 - Describe Applicable Penalties (Civil and/or Criminal) for Failure to Comply
 - Continuation of Designation Requirements and Process For Removing Designation After Period with No Incidents...

Liability Issues

Dog Owner/Keepers

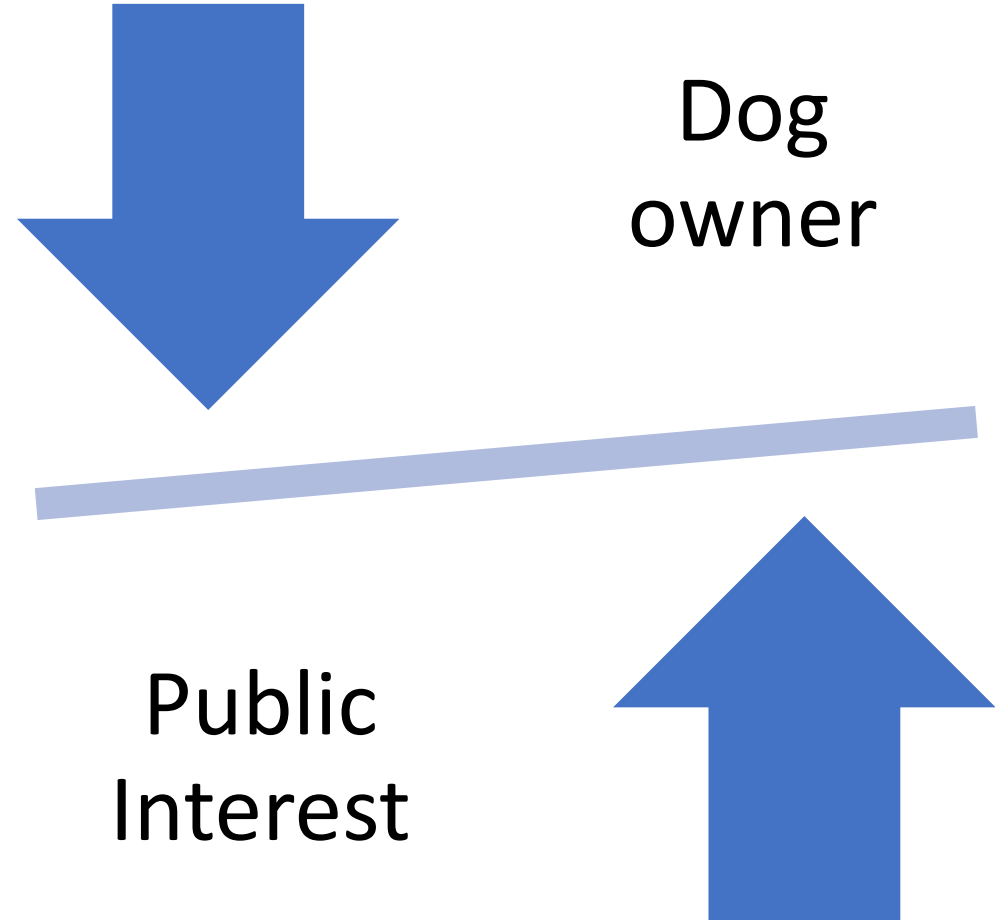
- Negligence
- Strict Liability
- Other Causes of Action

Parents of Minor Owner/Keeper

Immunity of Gov't Employees

- Municipality & Special Duty Rule

** No damages allowed after attack to domestic animals or poultry of person with unlicensed dog. CT Sec. 22-355. Damage by dog to domestic animals or poultry



Q & A

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