

HOUSE BILL 78

D3

EMERGENCY BILL

3lr1534
CF SB 160

By: **Delegates Simmons, Anderson, Bromwell, Cardin, K. Kelly, Kramer, Smigiel, and Vallario**

Introduced and read first time: January 14, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Personal Injury or Death Caused by Dog – Rebuttable**
3 **Presumption**

4 FOR the purpose of establishing that certain evidence creates a certain rebuttable
5 presumption in an action against an owner of a dog for damages for personal
6 injury or death caused by the dog; establishing that certain common law is
7 retained as to certain ~~owners of real property and certain other~~ persons;
8 providing for the construction and application of this Act; stating the intent of
9 the General Assembly; making this Act an emergency measure; and generally
10 relating to civil liability for personal injury or death caused by a dog.

11 BY adding to

12 Article – Courts and Judicial Proceedings

13 Section 3–1901 to be under the new subtitle “Subtitle 19. Personal Injury or
14 Death Caused by Dog”

15 Annotated Code of Maryland

16 (2006 Replacement Volume and 2012 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 **SUBTITLE 19. PERSONAL INJURY OR DEATH CAUSED BY DOG.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **3-1901.**

2 (A) IN AN ACTION AGAINST AN OWNER OF A DOG FOR DAMAGES FOR
 3 PERSONAL INJURY OR DEATH CAUSED BY THE DOG, EVIDENCE THAT THE DOG
 4 CAUSED THE PERSONAL INJURY OR DEATH CREATES A REBUTTABLE
 5 PRESUMPTION THAT THE OWNER KNEW OR SHOULD HAVE KNOWN THAT THE
 6 DOG HAD VICIOUS OR DANGEROUS PROPENSITIES.

7 (B) IN AN ACTION AGAINST ~~AN OWNER OF REAL PROPERTY OR OTHER~~
 8 ~~PERSON WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON THE~~
 9 ~~PROPERTY OTHER THAN THE OWNER OF THE DOG, INCLUDING A LANDLORD,~~
 10 ~~CONDOMINIUM COUNCIL OF UNIT OWNERS, COOPERATIVE HOUSING~~
 11 ~~CORPORATION, OR HOMEOWNERS ASSOCIATION, A PERSON OTHER THAN AN~~
 12 OWNER OF A DOG FOR DAMAGES FOR PERSONAL INJURY OR DEATH CAUSED BY
 13 A THE DOG, THE COMMON LAW OF LIABILITY RELATING TO ATTACKS BY DOGS
 14 AGAINST HUMANS THAT EXISTED ON APRIL 1, 2012, IS RETAINED AS TO ~~THE~~
 15 ~~OWNER OF REAL PROPERTY OR OTHER PERSON WHO HAS THE RIGHT TO~~
 16 ~~CONTROL THE PRESENCE OF A DOG ON THE PROPERTY~~ THE PERSON WITHOUT
 17 REGARD TO THE BREED OR HERITAGE OF THE DOG.

18 (C) THIS SECTION DOES NOT AFFECT:

19 (1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;
 20 OR

21 (2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR
 22 IMMUNITY.

23 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
 24 this Act, it is the intent of the General Assembly that this Act abrogate the holding of
 25 the Court of Appeals in Tracey v. Solesky, ~~No. 53, September Term 2011~~ 427 Md. 627
 26 (2012).

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
 28 construed to apply only prospectively and may not be applied or interpreted to have
 29 any effect on or application to any cause of action arising before the effective date of
 30 this Act.

31 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
 32 measure, is necessary for the immediate preservation of the public health or safety,
 33 has been passed by a yea and nay vote supported by three-fifths of all the members
 34 elected to each of the two Houses of the General Assembly, and shall take effect from
 35 the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.