

# SENATE BILL 2

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EMERGENCY BILL

3lr3512  
CF 3lr3539

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By: **Senators Frosh, Raskin, and Gladden**

Introduced and read first time: August 9, 2012

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Liability for Personal Injury or Death Caused by Dog**

3 FOR the purpose of establishing that the owner of a dog is liable for damages for  
4 personal injury or death caused by the dog, under certain circumstances;  
5 establishing certain exceptions; establishing that certain common law is  
6 retained as to certain owners of real property and certain other persons;  
7 providing for the construction and application of this Act; stating the intent of  
8 the General Assembly; defining certain terms; making this Act an emergency  
9 measure; and generally relating to civil liability for personal injury or death  
10 caused by dogs.

11 BY adding to

12 Article – Courts and Judicial Proceedings

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

15 Annotated Code of Maryland

16 (2006 Replacement Volume and 2011 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. LIABILITY FOR PERSONAL INJURY OR DEATH CAUSED BY DOG.**

21 **3–1901.**

22 **(A) (1) IN THIS SECTION, “OWNER OF A DOG” MEANS:**

23 **(I) A PERSON WHO HAS A PROPERTY RIGHT IN A DOG; OR**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (II) A PERSON WHO KEEPS OR HARBORS A DOG.

2 (2) "OWNER OF A DOG" INCLUDES A CUSTODIAL PARENT OR  
3 GUARDIAN OF A MINOR WHO IS AN OWNER OF A DOG.

4 (3) "OWNER OF A DOG" DOES NOT INCLUDE A VETERINARY  
5 HOSPITAL, COMMERCIAL KENNEL, ANIMAL SHELTER, OR PET SHOP, OR AN  
6 EMPLOYEE OF A VETERINARY HOSPITAL, COMMERCIAL KENNEL, ANIMAL  
7 SHELTER, OR PET SHOP, AS TO A DOG BEING TREATED, BOARDED, SHELTERED,  
8 OR OFFERED FOR ADOPTION OR SALE.

9 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
10 SUBSECTION, AN OWNER OF A DOG IS LIABLE FOR DAMAGES FOR PERSONAL  
11 INJURY OR DEATH CAUSED BY THE DOG, REGARDLESS OF WHETHER THE DOG  
12 HAS SHOWN ANY VICIOUS OR DANGEROUS PROPENSITIES OR WHETHER THE  
13 OWNER KNEW OR SHOULD HAVE KNOWN OF THE DOG'S VICIOUS OR DANGEROUS  
14 PROPENSITIES.

15 (2) AN OWNER OF A DOG IS NOT LIABLE UNDER THIS SECTION  
16 FOR DAMAGES FOR PERSONAL INJURY OR DEATH CAUSED BY THE DOG IF:

17 (I) UNLESS THE INJURED OR DECEASED INDIVIDUAL WAS  
18 UNDER THE AGE OF 7 YEARS, THE INJURED OR DECEASED INDIVIDUAL  
19 INTENTIONALLY PROVOKED THE DOG;

20 (II) UNLESS THE INJURED OR DECEASED INDIVIDUAL WAS  
21 UNDER THE AGE OF 7 YEARS, THE INJURED OR DECEASED INDIVIDUAL WAS  
22 COMMITTING OR ATTEMPTING TO COMMIT A CRIMINAL TRESPASS OR OTHER  
23 CRIMINAL OFFENSE ON THE REAL PROPERTY OF THE OWNER OF THE DOG; OR

24 (III) THE DOG WAS BEING USED BY AN EMPLOYEE OF A  
25 GOVERNMENTAL UNIT IN MILITARY OR POLICE WORK IF:

26 1. THE INJURED OR DECEASED INDIVIDUAL WAS A  
27 PARTY TO OR PARTICIPANT IN, OR SUSPECTED OF BEING A PARTY TO OR  
28 PARTICIPANT IN, AN ACT OR CONDUCT THAT PROMPTED THE USE OF THE DOG  
29 IN MILITARY OR POLICE WORK; AND

30 2. THE EMPLOYEE WAS COMPLYING WITH A  
31 WRITTEN POLICY ADOPTED BY THE GOVERNMENTAL UNIT ON THE NECESSARY  
32 AND APPROPRIATE USE OF A DOG IN MILITARY OR POLICE WORK AND THE  
33 INJURY OCCURRED AS A RESULT OF THE REASONABLE USE OF FORCE.

1           **(C) (1) THIS SUBSECTION DOES NOT APPLY TO AN OWNER OF A DOG**  
2 **THAT CAUSES PERSONAL INJURY OR DEATH.**

3           **(2) IN AN ACTION AGAINST AN OWNER OF REAL PROPERTY OR**  
4 **OTHER PERSON WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON**  
5 **THE PROPERTY, INCLUDING A LANDLORD, FOR DAMAGES FOR PERSONAL**  
6 **INJURY OR DEATH CAUSED BY A DOG, THE COMMON LAW OF LIABILITY**  
7 **RELATING TO ATTACKS BY DOGS AGAINST HUMANS THAT EXISTED ON APRIL 1,**  
8 **2012, IS RETAINED AS TO THE OWNER OF REAL PROPERTY OR OTHER PERSON**  
9 **WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON THE PROPERTY**  
10 **WITHOUT REGARD TO THE BREED OR HERITAGE OF THE DOG.**

11           **(D) THIS SECTION DOES NOT AFFECT:**

12                   **(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;**  
13 **OR**

14                   **(2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR**  
15 **IMMUNITY.**

16           SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
17 this Act, it is the intent of the General Assembly that this Act abrogate the holding of  
18 the Court of Appeals in Tracey v. Solesky, No. 53, September Term 2011.

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

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