

SENATE BILL 2

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EMERGENCY BILL

3lr3512
CF HB 2

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

Introduced and read first time: August 9, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: August 10, 2012

CHAPTER _____

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.**

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) (1) IN THIS SECTION, "OWNER OF A DOG" MEANS:

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

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

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

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

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

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

20 (I) UNLESS THE INJURED OR DECEASED INDIVIDUAL WAS
21 UNDER THE AGE OF 7 YEARS, THE INJURED OR DECEASED INDIVIDUAL
22 INTENTIONALLY PROVOKED THE DOG;

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

27 (III) UNLESS THE INJURED OR DECEASED INDIVIDUAL WAS
28 UNDER THE AGE OF 7 YEARS, THE INJURED OR DECEASED INDIVIDUAL WAS
29 TRESPASSING ON THE REAL PROPERTY OF THE OWNER OF THE DOG AND THE
30 OWNER CONSPICUOUSLY HAD POSTED THE PROPERTY WITH A "BEWARE OF
31 DOG" SIGN OR WARNING; OR

1 ~~(III)~~ (IV) THE DOG WAS BEING USED BY AN EMPLOYEE OF A
2 GOVERNMENTAL UNIT IN MILITARY OR POLICE WORK IF:

3 1. THE INJURED OR DECEASED INDIVIDUAL WAS A
4 PARTY TO OR PARTICIPANT IN, OR SUSPECTED OF BEING A PARTY TO OR
5 PARTICIPANT IN, AN ACT OR CONDUCT THAT PROMPTED THE USE OF THE DOG
6 IN MILITARY OR POLICE WORK; AND

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

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

13 (2) IN AN ACTION AGAINST AN OWNER OF REAL PROPERTY OR
14 OTHER PERSON WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON
15 THE PROPERTY, INCLUDING A LANDLORD, FOR DAMAGES FOR PERSONAL
16 INJURY OR DEATH CAUSED BY A DOG, THE COMMON LAW OF LIABILITY
17 RELATING TO ATTACKS BY DOGS AGAINST HUMANS THAT EXISTED ON APRIL 1,
18 2012, IS RETAINED AS TO THE OWNER OF REAL PROPERTY OR OTHER PERSON
19 WHO HAS THE RIGHT TO CONTROL THE PRESENCE OF A DOG ON THE PROPERTY
20 WITHOUT REGARD TO THE BREED OR HERITAGE OF THE DOG.

21 (D) THIS SECTION DOES NOT AFFECT:

22 (1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;
23 OR

24 (2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR
25 IMMUNITY.

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

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

33 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
34 measure, is necessary for the immediate preservation of the public health or safety,

SENATE BILL 2

1 has been passed by a yea and nay vote supported by three-fifths of all the members
2 elected to each of the two Houses of the General Assembly, and shall take effect from
3 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.