

DOG BITE STATUTE

1. This statute shall be known as the Dog Bite Statute.
2. The owner, harbinger or keeper of any dog shall be civilly liable for all injuries and damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner, harbinger or keeper of the dog, regardless of the former viciousness of the dog or that person's knowledge of such viciousness.
3. A person is lawfully upon the private property of such owner, harbinger or keeper within the meaning of this Dog Bite Statute when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner, harbinger or keeper of the dog, the owner or lessee of the property, or any person authorized to grant such permission.
4. This Dog Bite Statute shall not apply where the victim was a criminal suspect, and the dog was engaged in the performance of duties for on-duty law enforcement officers or military personnel who were acting within the written guidelines previously adopted by their agencies.
5. This Dog Bite Statute shall not apply where the dog was in the custody of an animal trainer, animal behaviorist, groomer, veterinarian, or an agent or employee of any of the foregoing, for the purpose of rendering a professional service in exchange for compensation.
6. Provocation shall not be a defense to liability under this Dog Bite Statute or any other cause of action, except where the victim (a) was threatening or attempting to commit a crime of violence upon any person, or (b) caused the dog to experience physical pain and the bite was an immediate response to the pain, provided however that the dog bit the victim only once and further provided that the victim was not younger than 5 years of age.
7. The parents having custody of a minor who is the owner, harbinger or keeper of any dog shall be additionally liable parties under this Dog Bite Statute.
8. If the victim of the dog bite is a harbinger or keeper of the dog, the owner and other harborers and keepers of the dog nevertheless shall be liable under this Dog Bite Statute.
9. It shall not be a defense to liability under this Dog Bite Statute that the owner, harbinger or keeper (a) exercised the utmost care to prevent the dog from biting, or (b) did not have custody or control of the dog at the time of the biting.
10. It shall not be a defense to liability under this Dog Bite Statute that the dog did not intend to injure the victim, or that the dog's action was playful, mischievous, or otherwise not vicious.
11. A person who kills, wounds, or attempts to kill or wound a dog while it is chasing, approaching in a menacing fashion, approaching in an apparent attitude of attack, attempting to bite, or biting a

person or livestock, poultry, or a domestic animal other than a cat or dog, or which had bitten, attempted to bite, or killed a person, shall not be liable for the payment of damages to the owner of the dog or any third party, shall not be prosecuted for or convicted of any law pertaining to cruelty to animals, and if the killing, wounding or attempt to kill or wound the dog took place on the premises which are owned by the person or where the person resides, shall not be prosecuted for or convicted of any law pertaining to the possession, display, discharge or use of weapons.

12. Every person who owns, harbors, keeps, or is in temporary possession of a dog shall be required to provide in writing the official registration number of the dog and that person's name and address, and the name and address of the owner of the dog if that person is not the owner, to anyone whom the dog has injured or damaged, or the parents if the victim was a minor, at the time of the incident or as soon as possible thereafter, whether or not requested to provide such information, and to anyone who requests such information after witnessing a violation of any law involving that dog.

13. The owner, harborer or keeper of any dog shall provide a copy of its most recent proof of rabies vaccination to anyone whom the dog has injured, or the parents of an injured minor, at the time of the incident or as soon as possible thereafter, whether or not requested to provide such information. If the dog never received such vaccination, a written statement to that effect shall be provided to the person who was injured, or the parents of an injured minor.

14. The owner, harborer or keeper of any dog who has actual knowledge that the dog is injuring, attempting to injure, or indicating intent to injure another person shall take all necessary measures to prevent injury or further injury to such person.

15. The rights and remedies set forth by this Dog Bite Statute are cumulative and not exclusive of any other rights or remedies that may be available to the injured parties, including without limitation actions based on general negligence and negligence per se.

Notes about the Dog Bite Statute

The Dog Bite Statute is based on provisions found in the dog bite statutes of a number of states, as well as the court decisions that have limited those statutes, such as the decisions about the defense of provocation. The states have a number of variations on many of the points covered in this Dog Bite Statute, including the following:

A. This law applies to the "owner, harborer or keeper." Many states with dog bite statutes confine liability to the owner, and do not mention the harborer and keeper. The better practice, however, is to include harborers and keepers because the modern trend is for people to have the custody of a dog without necessarily owning it. An example would be the "fosters" of a rescue dog.

B. This law specifies that the victim must be a "person." It therefore does not create a remedy in cases of damaged property or injured animals. The dog bite statutes of some jurisdictions make owners liable for damage to property (i.e., tires that are destroyed by chewing) and other animals (such as dogs belonging to neighbors). Note also, however, that some of the statutes that cover other animals specifically exclude animals such as cats, wild animals, and sometimes even other dogs. The

better law might create a remedy for damaged property and injured animals. One reason is that pitbulls attack and kill tens of thousands of pets and hoofed animals per year.

C. This law only applies to bites, not other types of accidents such as one in which a dog runs against an older person, causing the latter to fall and break a hip. There are some dog liability statutes that cover all canine-inflicted injuries.

D. This law makes exceptions for a variety of canine professionals. The states are divided, however, as to whether people who work with dogs should be left without a remedy if mauled. The trend appears to be to leave our dog workers with no remedy, so the drafted law reflects this.

E. This law provides a definition of "provocation." In dog bite law, the provocation defense is similar to comparative negligence or contributory negligence. Nevertheless, the courts have struggled at times to determine what constitutes provocation. The most correct view is that provocation is an action that justifies an immediate, measured, violent response. Therefore this law proposes essentially a limited right to self-defense on the part of the dog.

F. This law makes clear that the statutory remedies are not exclusive. Therefore New Yorkers shall once again be entitled to sue for dog owner negligence. The two varieties are mentioned, namely general negligence and the negligence that results when a state law is violated.

G. This law is not breed specific and therefore does not single out pitbulls or any other fighting dog. Politicians are usually reluctant to enact laws against pitbulls because the fanciers of that type of animal are loud and obnoxious, and a number of well-known organizations have opposed breed specific laws. On the other hand, a majority of the public understands the dangers presented by these breeds, and wants something done about it. If support is available for a law that requires the spaying or neutering of pitbulls so that their ranks diminish, then such a provision should be included here.