



February 27, 2003

HOUSE BILL No. 1882

DIGEST OF HB 1882 (Updated February 25, 2003 9:15 PM - DI 107)

Citations Affected: IC 15-5; IC 35-46; noncode.

Synopsis: Dog attacks. Specifies that a dog owner may be held civilly liable if the owner's dog attacks someone, even if the attack occurs on the dog owner's property. Provides that the owner of a dog that attacks another person may be criminally liable for failing to reasonably restrain the dog, even if the dog attack occurs on the dog owner's property.

Effective: July 1, 2003.

Pierce, Foley, Bardon

January 23, 2003, read first time and referred to Committee on Judiciary.
February 26, 2003, amended, reported — Do Pass.

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HB 1882—LS 6728/DI 110+



February 27, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1882

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-5-12-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a dog, without
3 provocation, bites any person who is peaceably conducting himself in
4 any place where ~~he~~ **the person** may be required **to go or has the**
5 **authority** to go for the purpose of discharging any duty imposed upon
6 ~~him~~ **the person** by the laws **or regulations** of this state, ~~or by~~ the laws
7 or ~~postal~~ regulations of the United States of America, **or the postal**
8 **regulation of the United States of America**, the owner of such dog
9 may be ~~held liable~~ **subject to civil liability** for any damages suffered
10 by the person bitten, regardless of the former viciousness of such dog
11 or the owner's knowledge of such viciousness.

12 SECTION 2. IC 35-46-3-6, AS AMENDED BY P.L.76-2002,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2003]: Sec. 6. (a) This section does not apply to a violation of
15 section 1 of this chapter.

16 (b) Any law enforcement officer or any other person having
17 authority to impound animals who has probable cause to believe there

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1 has been a violation of this chapter ~~or IC 15-5-12-3~~ may take custody
2 of the animal involved.

3 (c) The owner of an animal that has been impounded under this
4 section may prevent disposition of the animal by an animal shelter that
5 is caring for the animal by posting, not later than ten (10) days after the
6 animal has been impounded, a bond with the court in an amount
7 sufficient to provide for the animal's care and keeping for at least thirty
8 (30) days, beginning from the date the animal was impounded. The
9 owner may renew a bond by posting a new bond, in an amount
10 sufficient to provide for the animal's care and keeping for at least an
11 additional thirty (30) days, not later than ten (10) days after the
12 expiration of the period for which a previous bond was posted. If a
13 bond expires and is not renewed, the animal shelter may determine
14 disposition of the animal, subject to court order. If the owner of an
15 animal impounded under this section is convicted of an offense under
16 this chapter, ~~or IC 15-5-12-3~~, the owner shall reimburse the animal
17 shelter for the expense of the animal's care and keeping. If the owner
18 has paid a bond under this subsection, the animal shelter may euthanize
19 an animal if a veterinarian determines that an animal is suffering
20 extreme pain.

21 (d) If the owner requests, the court having jurisdiction of criminal
22 charges filed under this chapter ~~or IC 15-5-12~~ shall hold a hearing to
23 determine whether probable cause exists to believe that a violation of
24 this chapter ~~or IC 15-5-12~~ has occurred. If the court determines that
25 probable cause does not exist, the court shall order the animal returned
26 to its owner, and the return of any bond posted by its owner.

27 (e) This subsection applies only to livestock animals. Whenever
28 charges are filed under this chapter, the court shall appoint the state
29 veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee
30 to:

- 31 (1) investigate the condition of the animal and the circumstances
32 relating to the animal's condition; and
- 33 (2) make a recommendation to the court under subsection (f)
34 regarding the confiscation of the animal.

35 (f) The state veterinarian or the state veterinarian's designee who is
36 appointed under subsection (e) shall do the following:

- 37 (1) Make a recommendation to the court concerning whether
38 confiscation is necessary to protect the safety and well-being of
39 the animal.
- 40 (2) If confiscation is recommended under subdivision (1),
41 recommend a manner for handling the confiscation and
42 disposition of the animal that is in the best interests of the animal.



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1 The state veterinarian or the state veterinarian's designee who submits
 2 a recommendation under this subsection shall articulate to the court the
 3 reasons supporting the recommendation.

4 (g) The court:

- 5 (1) shall give substantial weight to; and
 6 (2) may enter an order based upon;

7 a recommendation submitted under subsection (f).

8 (h) If a person is convicted of an offense under this chapter, ~~or~~
 9 ~~IC 15-5-12~~, the court may impose the following additional penalties
 10 against the person:

11 (1) A requirement that the person pay the costs of caring for an
 12 animal involved in the offenses that are incurred during a period
 13 of impoundment authorized under subsection (b).

14 (2) An order terminating the person's right to possession, title,
 15 custody, or care of an animal that was involved in the offense.

16 (i) If a person's right to possession, title, custody, or care of an
 17 animal is terminated under subsection (h), the court may:

18 (1) award the animal to a humane society or other organization
 19 that has as its principal purpose the humane treatment of animals;
 20 or

21 (2) order the disposition of the animal as recommended under
 22 subsection (f).

23 SECTION 3. IC 35-46-3-14 IS ADDED TO THE INDIANA CODE
 24 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 25 1, 2003]: **Sec. 14. (a) Except as provided in subsection (b) and**
 26 **subject to section 16 of this chapter, an owner of a dog commits a**
 27 **Class C misdemeanor if the owner recklessly, knowingly, or**
 28 **intentionally fails to take reasonable steps to restrain the dog and:**

29 (1) the dog enters property other than the property of the
 30 dog's owner; and

31 (2) as the result of the failure to restrain the dog, the dog bites
 32 or attacks another person, resulting in unprovoked bodily
 33 injury to the other person.

34 (b) The offense under subsection (a) is:

35 (1) a Class B misdemeanor if the person has been convicted of
 36 one (1) previous unrelated violation of this section;

37 (2) a Class A misdemeanor if:

38 (A) the person has been convicted of more than one (1)
 39 previous unrelated violation of this section; or

40 (B) the violation results in serious bodily injury to a
 41 person;

42 (3) a Class D felony if the owner recklessly violates this section

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1 and the violation results in the death of a person; and
 2 (4) a Class C felony if the owner intentionally or knowingly
 3 violates this section and the violation results in the death of a
 4 person.

5 SECTION 4. IC 35-46-3-15 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2003]: Sec. 15. (a) Except as provided in subsection (b) and
 8 subject to section 16 of this chapter, if a dog, without provocation,
 9 bites any person who is peaceably conducting himself in any place
 10 where the person may be required to go or has the authority to go
 11 for the purpose of discharging any duty imposed upon the person
 12 by the laws or regulations of this state, the laws or regulations of
 13 the United States of America, or the postal regulation of the United
 14 States of America, the owner of the dog commits a Class C
 15 misdemeanor, regardless of the former viciousness of the dog or
 16 the owner's knowledge of such viciousness.

17 (b) The offense under subsection (a) is:

18 (1) a Class B misdemeanor if the dog owner has been
 19 convicted of one (1) previous unrelated violation of this
 20 section;

21 (2) a Class A misdemeanor if:

22 (A) the dog owner has been convicted of more than one (1)
 23 previous unrelated violation of this section; or

24 (B) the violation results in serious bodily injury to a
 25 person;

26 (3) a Class D felony if the dog owner recklessly violates this
 27 section and the violation results in the death of a person; and

28 (4) a Class C felony if the dog owner intentionally or
 29 knowingly violates this section and the violation results in the
 30 death of a person.

31 SECTION 5. IC 35-46-3-16 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 33 1, 2003]: Sec. 16. An owner of a dog does not commit an offense
 34 under section 14 or section 15 of this chapter if:

35 (1) the dog commits the act described in section 14 or section
 36 15 of this chapter while owned by:

37 (A) the United States;

38 (B) an agency of the United States; or

39 (C) a governmental entity (as defined in IC 34-6-2-49);

40 and while engaged in assisting the owner or the owner's agent
 41 in the performance of law enforcement or military duties; or

42 (2) the dog bites a person while the person is committing a

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misdemeanor or felony.
SECTION 6. IC 35-46-3-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17. If a law enforcement officer or any other person having authority to impound animals has probable cause to believe that there has been a violation of section 14 or section 15 of this chapter, section 6 of this chapter applies.**
SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 15-5-12-3; IC 15-5-12-4; IC 15-5-12-5.
SECTION 8. [EFFECTIVE JULY 1, 2003] **IC 15-5-12-1, as amended by this act, applies only to causes of action arising after June 30, 2003.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1882, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1882 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 2.

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