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## **Assembly Bill 413 – Dog Damage Liability Assembly Committee on Insurance October 22, 2015**

Thank you Chairman Petersen and members of the committee for holding a public hearing today on Assembly Bill 413. This legislation seeks to fix an anomaly in Wisconsin law and to provide greater certainty for homeowners in our state.

Wisconsin is one of only two states nationwide (the other being Rhode Island) that award double damages in dog bite cases. This automatic doubling of damages increases the cost of homeowners' policies across the board because of the increased liability and inflated payouts that insurers are facing.

As a result, Wisconsin families with dogs find themselves with higher homeowners' insurance costs and, in some cases, are unable to find any coverage at all when they own a dog that has been documented as "causing injury" even if that "injury" was minor property damage.

I want to emphasize that the rights of individuals to be fully compensated for their dog bite injuries are not changed, reduced or compromised by this proposal. AB 413 places additional responsibilities on owners of problem dogs while modifying the current double damage awards when the first injury is modest.

**Summary of the Bill:** This reform makes the following changes to Wisconsin statutes:

1. Under current law the dog owner is liable for two times the amount of damages for the second injury caused by a dog. This bill still allows these "double damages" but only when the first injury was a bite to a person that caused permanent physical scaring or disfigurement and the second offense was a bite to a person.
2. Under current law the owner of a dog may be subject to forfeiture of \$50 - \$500 in the first instance of a dog causing injuries. This bill increased the maximum forfeiture to \$5,000.
3. Under current law the owner of a dog committing a second offense may be subject to forfeiture of \$20 - \$1,000 if the owner knew of a previous injury caused by the dog. This bill increases the maximum forfeiture to \$10,000.
4. This bill expands the scope of persons who may ask for a court order that a biting dog be euthanized.

# WMC

WISCONSIN MANUFACTURERS  
& COMMERCE

TO: Assembly Committee on Insurance  
FROM: Jason Culotta  
Director, Civil Justice Reform  
RE: Assembly Bill 413  
DATE: October 22, 2015

The Wisconsin Manufacturers and Commerce (WMC) supports Assembly Bill 413 relating to the imposition of automatic double damages under Wisconsin statute.

In a claim for damages caused by injury to a person or property, the amount of the award is generally established by a judge or jury in an amount deemed appropriate to fully compensate the injured party for their losses. Generally the question of whether punitive damages should be awarded to punish the defendant is a matter for the judge and jury to decide based on the facts and circumstances of the case. Automatically doubling a damage award by operation of statute is a form of punitive damages that creates an unjustified windfall for a plaintiff regardless of whether the defendant's behavior justifies the imposition of punishment.

Assembly Bill 413 eliminates automatic punitive damages in cases involving property damage and minor injury caused by dogs. It retains double or punitive damages for second offense dog bite claims that cause injury based on the fact that under these circumstances a dog owner should have taken steps to avoid a second injury based on the first offense.

WMC supports Assembly Bill 413 because we believe that the decision to impose punitive damages should be left up to a judge and jury justified by the individual facts and circumstances of the case. Automatic double damages should be very narrowly tailored to avoid unjust outcomes.

We urge the committee to support Assembly Bill 413.



# WISCONSIN CIVIL JUSTICE COUNCIL, INC.

*Promoting Fairness and Equity in Wisconsin's Civil Justice System*

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*Wisconsin Restaurant Association*

TO: Assembly Committee on Insurance

FROM: Wisconsin Civil Justice Council

RE: Assembly Bill 413

DATE: October 22, 2015

The Wisconsin Civil Justice Council supports Assembly Bill 413 relating to double damages for injury claims involving dogs.

Under current law, dog owners are liable for double damages for injury caused by a dog to a person, domestic animal or property. These double damages apply regardless of the culpability of the dog owner for the damage caused or the seriousness of the injury. Normally the imposition of punitive damages is appropriately left up to a judge and jury to decide in cases where the defendant's behavior was sufficiently egregious as to justify punishment. Arbitrary, statutorily imposed double damages often unjustly punish a defendant while unfairly enriching a plaintiff.

Assembly Bill 413 will more appropriately tailor the remedies for damage claims involving dogs so that double damages are only available in cases involving a second actual dog bite. In other types of damage claims involving dogs it will be left to a judge and jury to decide if punitive damages are justified.

These changes will put Wisconsin law in line with the vast majority of states that do not impose automatic double damages for claims involving dogs. This will benefit Wisconsin consumers and homeowners who ultimately bear the cost of double damages in the form of higher homeowner's insurance premiums. In part, because of the double damage statute Wisconsin has the third highest average cost of dog bite claims in the nation according to the Insurance Information Institute.

The Wisconsin Civil Justice Council supports Assembly Bill 413 because it will appropriately put decision about the imposition of punitive damages in the hands of judges and juries who are in the best position to determine if punishment is justified in a given case.

We respectfully urge members of the Assembly Committee on Insurance to support Assembly Bill 413. Please contact R.J. Pirlot if you have any questions at 608-258-9506.

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*The Wisconsin Civil Justice Council, Inc. represents Wisconsin business interests on civil litigation legislation before the Wisconsin Legislature. WCJC's goal is to achieve fairness and equity within Wisconsin's judicial system, to reduce unnecessary litigation costs, and enhance state's image as a good place to live and work.*