

2001 DRAFTING REQUEST

Bill

Received: **06/11/2001**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing: **Kimberly**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Addl. Drafters:

Subject: **Agriculture - animals**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Changes to dog bite law

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 06/12/2001	wjackson 06/12/2001		_____			
/1			rschluet 06/12/2001	_____	lrb_docadmin 06/12/2001	lrb_docadmin 06/12/2001	

FE Sent For:

↳ Not Needed

2001 DRAFTING REQUEST

Bill

Received: 06/11/2001

Received By: traderc

Wantcd: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Kimberly

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Addl. Drafters:

Subject: **Agriculture - animals**

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Changes to dog bite law

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 06/12/2001	wjackson 06/12/2001		_____			
/1			rschluet 06/12/2001	_____	lrb_docadmin 06/12/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 06/11/2001

Received By: traderc

Wanted: As time permits

Identical to LRB:

For: Mark Pettis (608) 267-2365

By/Representing: Kimberly

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Addl. Drafters:

Subject: Agriculture - animals

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

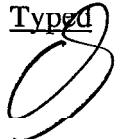
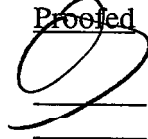
Topic:

Changes to dog bite law

Instructions:

See Attached

Drafting History:

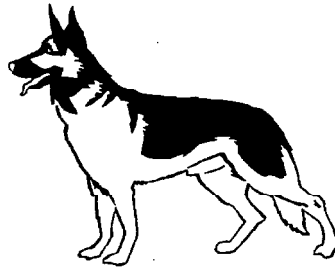
<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc	1 WLj 6/12					

6-12-1

FE Sent For:

<END>

IMPROVING WISCONSIN'S "DOG BITE" LAW



BACKGROUND

Wisconsin has a "Dog Bite" law that is meant to encourage dog owners to assume responsibility in protecting the public from being injured by their dog. Current law attempts to accomplish this goal by allowing for the recovery of "double damages" in civil cases where the dog has previously caused injury to a person, providing fines for both the first and subsequent incidents, and providing law enforcement with the authority to have the dog destroyed.

The problem we face today is that current law is not working as it was intended. Double damages are in fact not levied against the dog owner, but are transferred to the insurer. Fines are not being issued and are inadequate. Modifications to existing law are needed to make this work. The dog bite statute should be modified to encourage and motivate the dog owner to be more responsible when choosing a breed appropriate to her/his lifestyle, implementing training and socialization methods, and protecting the general public, especially children from injury by a dog.

CURRENT LAW

The current Wisconsin "Dog Bite" law (Sec. 174.07 Wis. Stats) includes the following:

- The dog owner is liable for the amount of damages caused by the dog injuring a person, domestic animal or property.
- The dog owner is liable for two times the amount of damages caused by the dog injuring a person, domestic animal or property IF the owner knew that the dog previously injured a person, domestic animal or property.
- The dog owner is subject to a civil penalty of \$50 to \$500 if the dog causes injury.
- The civil penalty is increased to \$200 to \$1,000 if the owner knew the dog had previously caused injury.
- The state or municipality may ask the court to order the dog destroyed if the dog caused serious injury on two separate occasions off the owner's property without reasonable cause and the owner knew before the second injury that the dog caused the first injury.

PROPOSED CHANGES TO CURRENT LAW

The owner will remain liable to the amount of damage caused by the dog injuring a person, domestic animal or property. Additionally, the legislation proposes to:

- ❑ Eliminates the "double damage" provision.
- ❑ Apply civil forfeitures only if the dog causes injury from biting a person.
- ❑ Increase civil forfeitures from \$500 to \$5,000 if the dog causes injury by biting a person without provocation.
- ❑ Increase civil forfeitures from \$2,000 to \$10,000 if the owner knew the dog previously caused injury by biting a person.
- ❑ Expand the right to "any person" to request that a court order a dog be destroyed.

WHAT THESE CHANGES WILL ACCOMPLISH

- ❑ The increase in civil forfeitures places additional financial responsibility on the owner of the dog to make certain that the dog does not bite someone.
- ❑ The expansion of the right to ask that the dog be destroyed to any person provides additional remedies where a dog has seriously injured someone in the past.
- ❑ Awarding double damages to the injured person provides a windfall to them without any offsetting public benefit. Under current law, the "first injury" can include a dog's paw scratching the hand of a child when the dog and child are playing on the living room floor; the dog chewing the draperies of a neighbor when the drapes are hung out to dry; or the dog causing some minor damage by accident while engaging in some other sort of appropriate activity such as wagging his tail, etc.

1 **AN ACT** to repeal 174.02 (1) (title) and (b); to renumber and amend 174.02 (1)
2 (a); to amend 174.02 (2) (a) and (b) and 174.02 (3) (a) (intro.) and 1.; and to
3 create 174.02 (1g) of the statutes, relating to: liability for damages caused by
4 dogs, court orders to kill a dog, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property. Under current law, a person who owns or keeps a dog is generally liable for two times the amount of damages caused by the dog injuring a person, a domestic animal, or property if the owner or keeper knew that the dog previously injured a person, a domestic animal, or property.

Under this bill, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property if there was no provocation. The bill eliminates the current provision under which a dog owner or keeper may be liable for two times the amount of damages caused by the dog.

Under current law, a person who owns or keeps a dog is subject to a forfeiture (a civil monetary penalty) of \$50 to \$500 if the dog causes injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds. If the owner or keeper knew that the dog previously caused injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds, the forfeiture is \$200 to \$1,000.

This bill changes the provisions that impose forfeitures because of injuries caused by dogs so that the provisions only apply if a dog causes injury by biting a person without provocation. Under this bill, a person who owns or keeps a dog is subject to a forfeiture of \$500 to \$5,000 if the dog causes injury by biting a person without provocation. If the owner or keeper knew that the dog previously caused injury by biting a person without provocation, the forfeiture is \$2,000 to \$10,000.

Under current law, this state or a municipality may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury to a person or domestic animal on two separate occasions, off of the owner's or keeper's property, without reasonable cause, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

Under this bill any person may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury by biting a person on two separate occasions, off of the owner's or keeper's property, without provocation on either occasion, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 174.02 (1) (title) and (b) of the statutes are repealed.

SECTION 2. 174.02 (1) (a) of the statutes is renumbered 174.02 (1m) and amended to read:

174.02 (1m) ~~WITHOUT NOTICE LIABILITY FOR INJURY~~ Subject to s. 895.045 and except as provided in s. 895.57 (4), the owner of a dog is liable for the full amount of damages caused by the dog injuring or causing injury to a person, domestic animal, or property without provocation.

SECTION 3. 174.02 (1g) of the statutes is created to read:

174.02 (1g) DEFINITION. In this section, "provocation" means any act or circumstance that a reasonable person would believe to be sufficient to cause a dog to bite, attack, or otherwise act in a way that causes injury or damage.

SECTION 4. 174.02 (2) (a) and (b) of the statutes are amended to read:

BILL

SECTION 4

1 174.02 (2) (a) *Without notice.* The owner of a dog shall forfeit not less than \$50
2 ~~\$500~~ nor more than ~~\$500~~ ~~\$5,000~~ if the dog injures or causes injury to by biting a
3 person, domestic animal, property, deer, game birds or the nests or eggs of game birds
4 without provocation.

5 (b) *After notice.* The owner of a dog shall forfeit not less than ~~\$200~~ ~~\$2,000~~ nor
6 more than ~~\$1,000~~ ~~\$10,000~~ if the dog injures or causes injury to by biting a person,
7 domestic animal, property, deer, game birds or the nests or eggs of game birds,
8 without provocation, or if the owner was notified or knew that the dog previously
9 injured or caused injury to by biting a person, domestic animal, property, deer, game
10 birds or the nests or eggs of game birds without provocation.

11 **SECTION 5.** 174.02 (3) (a) (intro.) and 1. of the statutes are amended to read:

12 174.02 (3) (a) (intro.) The state, or any municipality, or any other person may
13 commence a civil action to obtain a judgment from a court ordering an officer to kill
14 a dog. The court may grant the judgment if the court finds both of the following:

15 1. The dog caused serious injury to by biting a person or domestic animal on
16 2 separate occasions, off of the owner's property, without reasonable cause
17 provocation on either occasion.

18

(END)

2001 BILL

1 AN ACT **REGEN** *to repeal* 174.02 (1) (title) and (b); *to renumber and amend* 174.02 (1)
2 (a); *to amend* 174.02 (2) (a) and (b) and 174.02 (3) (a) (intro.) and 1.; and *to*
3 *create* 174.02 (1g) of the statutes; **relating to:** liability for damages caused by
4 dogs, court orders to kill a dog, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property. Under current law, a person who owns or keeps a dog is generally liable for two times the amount of damages caused by the dog injuring a person, a domestic animal, or property if the owner or keeper knew that the dog previously injured a person, a domestic animal, or property.

Under this bill, a person who owns or keeps a dog is generally liable for the amount of damages caused by the dog injuring a person, a domestic animal, or property if there was no provocation. The bill eliminates the current provision under which a dog owner or keeper may be liable for two times the amount of damages caused by the dog.

Under current law, a person who owns or keeps a dog is subject to a forfeiture (a civil monetary penalty) of \$50 to \$500 if the dog causes injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds. If the owner or keeper knew that the dog previously caused injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds, the forfeiture is \$200 to \$1,000.

BILL

This bill changes the provisions that impose forfeitures because of injuries caused by dogs so that the provisions only apply if a dog causes injury by biting a person without provocation. Under this bill, a person who owns or keeps a dog is subject to a forfeiture of \$500 to \$5,000 if the dog causes injury by biting a person without provocation. If the owner or keeper knew that the dog previously caused injury by biting a person without provocation, the forfeiture is \$2,000 to \$10,000.

Under current law, this state or a municipality may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury to a person or domestic animal on two separate occasions, off of the owner's or keeper's property, without reasonable cause, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

Under this bill any person may ask a court to order that a dog be killed. The court may issue the order if the dog caused serious injury by biting a person on two separate occasions, off of the owner's or keeper's property, without provocation on either occasion, and the owner or keeper knew, before the second injury, that the dog caused the first injury.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 174.02 (1) (title) and (b) of the statutes are repealed.

2 **SECTION 2.** 174.02 (1) (a) of the statutes is renumbered 174.02 (1m) and
3 amended to read:

4 174.02 (1m) ~~WITHOUT NOTICE~~ LIABILITY FOR INJURY Subject to s. 895.045 and
5 except as provided in s. 895.57 (4), the owner of a dog is liable for the full amount of
6 damages caused by the dog injuring or causing injury to a person, domestic animal,
7 or property without provocation.

8 **SECTION 3.** 174.02 (1g) of the statutes is created to read:

9 174.02 (1g) **DEFINITION.** In this section, "provocation" means any act or
10 circumstance that a reasonable person would believe to be sufficient to cause a dog
11 to bite, attack, or otherwise act in a way that causes injury or damage.

12 **SECTION 4.** 174.02 (2) (a) and (b) of the statutes are amended to read:

BILL

1 174.02 (2) (a) *Without notice.* The owner of a dog shall forfeit not less than \$50
2 \$500 nor more than ~~\$500~~ \$5,000 if the dog ~~injures or causes injury to~~ by biting a
3 ~~person, domestic animal, property, deer, game birds or the nests or eggs of game birds~~
4 without provocation.

5 (b) *After notice.* The owner of a dog shall forfeit not less than \$200 \$2,000 nor
6 more than ~~\$1,000~~ \$10,000 if the dog ~~injures or causes injury to~~ by biting a person,
7 ~~domestic animal, property, deer, game birds or the nests or eggs of game birds,~~ ^{if}
8 without provocation, ^{and} if the owner was notified or knew that the dog previously
9 ~~injured or caused injury to~~ by biting a person, ~~domestic animal, property, deer, game~~
10 ~~birds or the nests or eggs of game birds~~ without provocation.

11 **SECTION 5.** 174.02 (3) (a) (intro.) and 1. of the statutes are amended to read:

12 174.02 (3) (a) (intro.) The state, ~~or any municipality, or any other person~~ may
13 commence a civil action to obtain a judgment from a court ordering an officer to kill
14 a dog. The court may grant the judgment if the court finds both of the following:

15 1. The dog caused serious injury ~~to~~ by biting a person ~~or domestic animal~~ on
16 2 separate occasions, off of the owner's property, without ~~reasonable cause~~
17 provocation on either occasion.

18 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

June 12, 2001

MEMORANDUM

To: Representative Pettis

From: Rebecca C. Tradewell, Managing Attorney

Re: LRB-3416/1 Changes to dog bite law

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7290 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.