

SENATE BILL 160

D3

EMERGENCY BILL

3lr1212
CF HB 78

By: **Senators Frosh, Brochin, Gladden, Raskin, ~~and Stone~~ Stone, and Manno**

Introduced and read first time: January 17, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2013

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Personal Injury or Death Caused by Dog – Rebuttable**
3 **Presumption**

4 FOR the purpose of establishing that certain evidence creates a certain rebuttable
5 presumption in an action against an owner of a dog for damages for personal
6 injury or death caused by the dog; providing that the presumption may not be
7 rebutted as a matter of law; providing that the presumption may be rebutted by
8 certain clear and convincing evidence; establishing that certain common law is
9 retained as to certain owners of real property and certain other persons;
10 providing for the construction and application of this Act; stating the intent of
11 the General Assembly; making this Act an emergency measure; and generally
12 relating to civil liability for personal injury or death caused by a dog.

13 BY adding to

14 Article – Courts and Judicial Proceedings

15 Section 3–1901 to be under the new subtitle “Subtitle 19. Personal Injury or
16 Death Caused by Dog”

17 Annotated Code of Maryland

18 (2006 Replacement Volume and 2012 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Courts and Judicial Proceedings**

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 **SUBTITLE 19. PERSONAL INJURY OR DEATH CAUSED BY DOG.**2 **3-1901.**

3 **(A) (1) IN AN ACTION AGAINST AN OWNER OF A DOG FOR DAMAGES**
4 **FOR PERSONAL INJURY OR DEATH CAUSED BY THE DOG, EVIDENCE THAT THE**
5 **DOG CAUSED THE PERSONAL INJURY OR DEATH CREATES A REBUTTABLE**
6 **PRESUMPTION THAT THE OWNER KNEW OR SHOULD HAVE KNOWN THAT THE**
7 **DOG HAD VICIOUS OR DANGEROUS PROPENSITIES.**

8 **(2) NOTWITHSTANDING ANY OTHER LAW OR RULE, THE**
9 **PRESUMPTION MAY NOT BE REBUTTED AS A MATTER OF LAW.**

10 **(3) THE PRESUMPTION MAY BE REBUTTED BY CLEAR AND**
11 **CONVINCING EVIDENCE THAT THE OWNER DID NOT KNOW AND SHOULD NOT**
12 **HAVE KNOWN THAT THE DOG HAD VICIOUS OR DANGEROUS PROPENSITIES.**

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

23 **(C) THIS SECTION DOES NOT AFFECT:**

24 **(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION;**
25 **OR**

26 **(2) ANY OTHER COMMON LAW OR STATUTORY DEFENSE OR**
27 **IMMUNITY.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
29 this Act, it is the intent of the General Assembly that this Act abrogate the holding of
30 the Court of Appeals in Tracey v. Solesky, ~~No. 53, September Term 2011~~ 427 Md. 627
31 (2012).

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

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
2 measure, is necessary for the immediate preservation of the public health or safety,
3 has been passed by a yea and nay vote supported by three-fifths of all the members
4 elected to each of the two Houses of the General Assembly, and shall take effect from
5 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.