

1980

## c 124 Dog Owners' Liability Act

Ontario

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## CHAPTER 124

## Dog Owners' Liability Act

1. In this Act, "owner", when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor. 1980, c. 65, s. 1.

Interpretation

2.—(1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person.

Liability of owner

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section.

Where more than one owner

(3) The liability of the owner does not depend upon *scienter* or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages.

Extent of liability

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damages. 1980, c. 65, s. 2.

Contribution by person at fault

3.—(1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers' Liability Act*.

Application of R.S.O. 1980, c. 322

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. 1980, c. 65, s. 3.

Protection of property

4.—(1) Where it is alleged that a dog has bitten or attacked a person, a proceeding may be commenced against the owner of the dog and the proceeding is one to which Part VIII of the *Provincial Offences Act* applies.

Proceeding against owner of dog R.S.O. 1980, c. 400

## Order

(2) Where, in a proceeding under subsection (1), the provincial offences court finds that the dog has bitten or attacked a person, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in such manner as is provided in the order; or
- (b) that the owner of the dog take such steps as are provided in the order for the more effective control of the dog.

## Considerations

(3) In exercising its powers to make an order under subsection (2), the court may take into consideration the following circumstances:

1. The past and present temperament and behaviour of the dog.
2. The seriousness of the injuries caused by the biting or attack.
3. Unusual contributing circumstances tending to justify the action of the dog.
4. The improbability that a similar attack will be repeated.
5. The dog's physical potential for inflicting harm.
6. Precautions taken by the owner to preclude similar attacks in the future.
7. Any other circumstances that the court considers to be relevant.

## Penalty

(4) An owner who contravenes an order made under subsection (2) is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000. 1980, c. 65, s. 4.