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TEXAS GETS TOUGH ON DOG OWNERS

Dog bite stories have received much notoriety in the last couple of months. Most recently, the Michael Vick scandal has made such matters headline news. Many proponents wanting stricter legislation against dog owners who have dogs, which have unprovoked violent tendencies, are advocating changes to the current laws. They are wanting to toughen penalties against such dog owners. In Texas, such changes have occurred. Recent legislation in Texas, often known as a dog-loving state, will now make dog owners more responsible for their pets.

On September 1, 2007, House Bill 1355 went into effect. House Bill 1355, which was recently passed by the Senate, states that dog owners will now be held responsible for the first time their pets attack and seriously injure another person.

THE OLD LAW

Under the old law, a dog owner was not penalized until the dog had already attacked someone or had been deemed dangerous by a court or animal control official. If there was a second attack and someone was seriously injured or killed, the owner could face a misdemeanor charge. This was often referred to as the Texas "one-bite" law.

Recent attacks by dogs have prompted law makers to toughen legislation on dog owners. Specifically, House Bill 1355, dubbed "Lillian's Law," strengthens laws to address the current rate of dog attacks in Texas.

LILLIAN'S LAW

Lillian's Law was named after Lillian Stiles, a 76 year old woman who was killed while riding a lawn mower in the front yard of her home on November 26, 2005. Stiles was mauled to death by a pack of six pit bull-rottweiler mixed-breed dogs. Lillian's husband, Jack, was inside the home watching television and was unaware of the attack until a passerby knocked on his door. Mr. Stiles ran outside and found his wife lying dead from the dog attacks.

Jose Hernandez, the dogs' owner, was put on trial for criminally negligent homicide, but was found not guilty. Since the attack, Mrs. Stiles daughter, Marilyn Schumacher, and her father have fought to pass Lillian's Law.

HOUSE BILL 1355

House Bill 1355 which took effect on September 1, 2007, requires dog owners, regardless of whether their dog has been declared dangerous, to secure their dog on their property.

Under House Bill 1355, the owner of a dog that seriously injures or kills someone in an unprovoked attack could be charged with a felony if he or she failed to take reasonable steps to keep the dog confined. The new law raises the penalty by providing that a dog owner is held criminally responsible for the first attack by a dog. The attack must cause serious bodily injury or death at a place other than the dog owner's property, in an unprovoked attack, in which the dog owner failed to secure the dog.

The crime is now punishable by a third degree felony for serious bodily injury and second degree felony for death. The bill exempts prosecution against veterinarians and staff, peace officers, animal shelter workers, dog trainers, and owners of guide dogs. It also would not charge owners of dogs who attack burglars and other criminals.

Representative Dan Gattis (Republican-Georgetown), a proponent of this bill, states that the law is very narrowly crafted to consider only the most egregious of dog attacks. This bill is not supposed to charge owners of dogs who might bite the heel on a bicyclist and draw a small amount of blood. Rather, it is meant to punish owners who have dogs that "ripped the flesh, muscle, and/or causes someone to go to the hospital with a serious injury or a resulting death."

WHAT DOES THIS MEAN?

Obviously, the negative news and media coverage on this issue have forced the Texas legislature to take action on this matter. Thus, the law imposes stricter penalties on dog owners who have dogs with aggressive propensities. It is supposed to make the owners of dogs more responsible for their pets. How this will affect the legal arena remains to be seen. We can expect to see more criminal charges filed against dog owners who have hostile dogs and possibly more lawsuits against such dog owners.

If you are a dog owner, or insurer of property with dogs, make sure that the dogs are on leashes and secured on the property. If a dog has a propensity to run off, chase people, and be aggressive with passers-by, be cognizant of the strict penalties with which you or your insured can now be charged. For those of you who insure property with dogs, it might be a good idea to inform your insured of the recent changes in the law. Remember, there is no more "one free bite."

The Bassett Firm

*Two Turtle Creek Village
3838 Oak Lawn Avenue
Suite 1300
Dallas, Texas 75219
(214) 219-9900 Telephone
(214) 219-9456 Facsimile
Toll Free: 1-800-310-9769
www.thebassettfirm.com*

ATTORNEYS

- **MIKE H. BASSETT**
- **JENNIFER R. ELDRIDGE**
- **MICHAEL J. NOORDSY**
- **MATHEW SAMUEL**
- **JEFF A. WELLS**
- **DEAN MIYAZONO**



Information regarding *The Bassett Bulletin*TM is available from **Angie Stevenson** (astevenson@thebassettfirm.com) at (214) 219-9900. ©2004 The Bassett Firm. All rights reserved.

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