~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 18, 2012

**S. 485**

Introduced by Senators Knotts, Bright, Campbell, McConnell, L. Martin and Leatherman

S. Printed 4/18/12--S.

Read the first time February 1, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 485) to amend Section 47‑3‑110, Code of Laws of South Carolina, 1976, relating to the liability of the owner or a person having a dog in his, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words, and inserting:

/ SECTION 1. Section 47‑3‑110 of the 1976 Code is amended to read:

“Section 47‑3‑110. (A) ~~Whenever any~~ If a person is bitten or otherwise attacked by a dog while the person is in a public place or is lawfully in a private place, including the property of the dog owner ~~of the dog~~ or other person having the dog in his care or keeping, the dog owner ~~of the dog~~ or other person having the dog in his care or keeping is liable for the damages suffered by the person bitten or otherwise attacked. For the purposes of this section, a person bitten or otherwise attacked is lawfully in a private place, including the property of the dog owner ~~of the dog~~ or other person having the dog in his care or keeping, when the person bitten or otherwise attacked is on the property in the performance of ~~any~~ a duty imposed upon ~~him~~ the person by the laws of this State, by the ordinances of ~~any~~ a political subdivision of this State, by the laws of the United States of America, including, but not limited to, postal regulations, or when the person bitten or otherwise attacked is on the property upon the invitation, express or implied, of the property owner ~~of the property~~ or of ~~any~~ a lawful tenant or resident of the property. ~~If a person provokes a dog into attacking him then the owner of the dog is not liable.~~

(B) Subsection (A) does not apply to a trained police dog acting under the direct supervision of the dog’s law enforcement handler during a law enforcement action unless the bite or other injury is sustained as the result of the dog’s failure to properly respond to the handler’s command, or a person who is not the intended subject of the command is injured during a law enforcement action or other activity.

(C) If a person provokes a dog into attacking him, the dog owner is not liable.”

SECTION 2. Chapter 23, Title 23 of the 1976 Code is amended by adding:

“Section 23-23-140. (A) For purposes of this section, ‘patrol canine teams’ refers to a certified officer and a specific patrol canine controlled by the handler working together in the performance of law enforcement or correctional duties. ‘Patrol canine teams’ does not refer to canines used exclusively for tracking or specific detection.

(B) The South Carolina Criminal Justice Academy shall verify that patrol canine teams have been certified by a nationally recognized police dog association or similar organization.

(C) No law enforcement agency may utilize patrol canine teams after January 1, 2013, unless the patrol canine teams have met all certification requirements.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LUKE A. RANKIN ROBERT FORD

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

There is no fiscal impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

Pursuant to Section 2-7-76 of the Code of Laws of South Carolina, 1976, the State Budget Division surveyed municipal members of the FIST network to assess the impact of this bill. Respondents indicated that there is no fiscal impact to municipalities with the adoption of this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 47‑3‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIABILITY OF THE OWNER OR A PERSON HAVING A DOG IN HIS CARE WHEN THE DOG ATTACKS A PERSON, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO CERTAIN TRAINED POLICE DOGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 47‑3‑110 of the 1976 Code is amended to read:

“Section 47‑3‑110. (A) Whenever any person is bitten or otherwise attacked by a dog while the person is in a public place or is lawfully in a private place, including the property of the owner of the dog or other person having the dog in his care or keeping, the owner of the dog or other person having the dog in his care or keeping is liable for the damages suffered by the person bitten or otherwise attacked. For the purposes of this section, a person bitten or otherwise attacked is lawfully in a private place, including the property of the owner of the dog or other person having the dog in his care or keeping, when the person bitten or otherwise attacked is on the property in the performance of any duty imposed upon him by the laws of this State, by the ordinances of any political subdivision of this State, by the laws of the United States of America, including, but not limited to, postal regulations, or when the person bitten or otherwise attacked is on the property upon the invitation, express or implied, of the owner of the property or of any lawful tenant or resident of the property. ~~If a person provokes a dog into attacking him then the owner of the dog is not liable.~~

(B) The provisions contained in subsection (A) do not apply to a trained police dog acting under the direct supervision of its law enforcement handler when the bit or attack was the result of a command by the handler during a law enforcement action.

(C) If a person provokes a dog into attacking him, then the owner of the dog is not liable.”

SECTION 2. This act takes effect upon approval by the Governor.

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