**A** **BILL**

TO AMEND SECTION 47‑3‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIABILITY OF THE OWNER OF 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 DOGS IN THE PERFORMANCE OF CORRECTIONS OR POLICE WORK.

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

(C) 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 bite or attack was the result of a command by the handler during a law enforcement action.

(D) Nothing in this section shall permit the bringing of an action for damages for injury against any governmental agency using a dog specifically trained and certified according to standards adopted by the Law Enforcement Training Council in the performance of corrections or police work if the injury occurred while the dog was defending itself from a harassing or provoking act, or assisting an employee of the agency in the:

(1) apprehension or holding of a suspect where the employee has a reasonable suspicion of a subject’s involvement in a criminal act;

(2) investigation of a crime or possible crime;

(3) execution of warrant; or

(4) defense of a police officer or another person.

(E) Subsection (C) shall apply only if the governmental agency using a dog in corrections or police work has adopted a written policy on the necessary and appropriate use of a dog in corrections or police work, and the required training and certification as contained in subsection (B).

(F) Subsection (C) shall not apply in any case where:

(1) a victim of the bite was not a party to nor a participant in, or suspected to be a party to or participant in the act that prompted the use of the dog in corrections or police work; or

(2) the actions of the dog and the employee are in violation of the agency’s written policy on the necessary and appropriate use of a dog in corrections or police work which results in a excessive use of force.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

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

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