~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 30, 2013

**S. 8**

Introduced by Senator L. Martin

S. Printed 5/30/13--H.

Read the first time May 2, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 8) to amend Section 47-3-110, South Carolina Code of Laws, 1976, relating to the liability of an owner or keeper of a dog for a dog attack, 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 deleting SECTION 1 in its entirety 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~~ the person’s care or keeping, the dog owner ~~of the dog~~ or ~~other~~ person having the dog in ~~his~~ the person’s 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~~ the person’s 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) This section does not apply if, at the time the person is bitten or otherwise attacked:

(1) The person who was attacked provoked or harassed the dog and that provocation was the proximate cause of the attack; or

(2) the dog was working in a law enforcement capacity with a governmental agency and in the performance of the dog’s official duties provided that:

(a) the dog’s attack is in direct and complete compliance with the lawful command of a duly certified canine officer;

(b) the dog is trained and certified according to the standards adopted by the South Carolina Law Enforcement Training Council;

(c) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in the dog’s official law enforcement duties;

(d) the actions of the dog’s handler or dog do not violate the agency’s written policy;

(e) the actions of the dog’s handler or dog do not constitute excessive force; and

(f) the attack or bite does not occur on a third party bystander.” /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 47-3-110, SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO THE LIABILITY OF AN OWNER OR KEEPER OF A DOG FOR A DOG ATTACK, TO PROVIDE THAT LIABILITY DOES NOT EXTEND TO TRAINED LAW ENFORCEMENT DOGS IN THE PERFORMANCE OF OFFICIAL DUTIES OR DOGS ACTING IN DEFENSE OF A PERSON; AND TO AMEND CHAPTER 23, TITLE 23 BY ADDING SECTION 23‑23‑140, RELATING TO PATROL CANINE TEAMS.

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~~ 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~~ the person’s care or keeping, the dog owner ~~of the dog~~ or ~~other~~ person having the dog in ~~his~~ the person’s 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~~ the person’s 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) This section does not apply if:

(1) the person who was attacked provoked or harassed the dog leading to the attack;

(2) the dog is working in a law enforcement capacity with a governmental agency and in the performance of the dog’s official duties provided that:

(a) the dog is trained and certified according to the standards adopted by the South Carolina Law Enforcement Training Council;

(b) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in the dog’s official law enforcement duties;

(c) the actions of the dog’s handler or dog do not violate the agency’s written policy;

(d) the actions of the dog’s handler or dog do not constitute excessive force; and

(e) the attack or bite does not occur on a third party by-stander not involved in the criminal investigation, search, or arrest; or

(3) the dog is defending the life, health, or safety of the dog’s owner, handler, or another person.”

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 July 1, 2014, unless the patrol canine teams have met all certification requirements.”

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

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