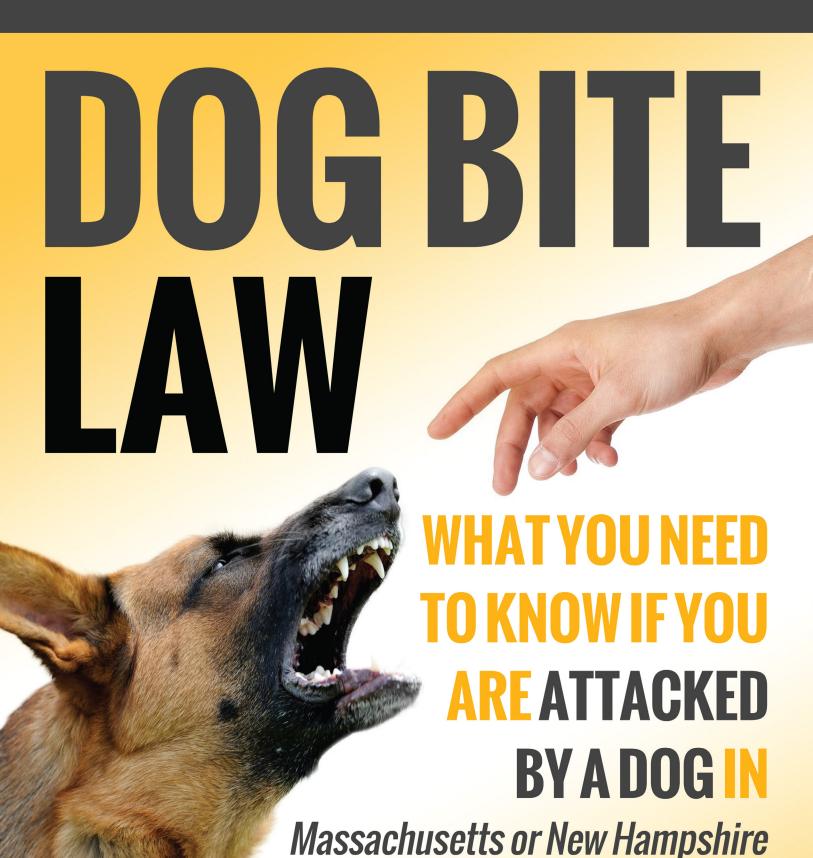
G U I D E T O



ROBERT E. MAZOW & KEVIN J. MCCULLOUGH

From the Desk of Robert E. Mazow & Kevin J. McCullough

When you or your child are attacked and bitten by a dog, it can be a frightening time. Depending on how severe the bite was, you could be left with medical bills, a temporary or permanent disability, and even permanent disfiguration. Additionally, there is a great deal of psychological trauma that results from being attacked by a dog, which may require counseling or therapy.

At Mazow | McCullough, PC, we are dedicated to providing the victims of dog bites and their families with comprehensive legal support during their time of need. Navigating New Hampshire and Massachusetts dog bite law can be overwhelming, and recovering compensation in these cases can be difficult. We have the expertise and resources to assist you in obtaining the full and fair compensation you deserve after being attacked by a vicious dog.

Our hope is that by reading this eBook, you will learn more about your rights as a dog attack victim, how you can make your own case stronger with photographic evidence and medical reports, and how you can file an injury claim and pursue compensation to cover the damages you've incurred through no fault of your own. Not only is it important to ensure that your medical bills, lost wages, and other damages are covered, negligent owners of vicious dogs must be held responsible.

Thank you for the opportunity to share our knowledge with you.

Sincerely,

Robert E. Mazow & Kevin J. McCullough



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Introduction

Unfortunately, dog bites are more prevalent in Massachusetts and New Hampshire than we'd like to think. Although many dogs are considered "man's best friend," there are a lot of dogs that are vicious and pose a danger to both adults and children when allowed to roam at large.

If an owner that allows his or her vicious dog to come into contact with a person and the dog causes an injury either by attacking the person or biting them, the owner should be held responsible for the damages their dog caused. The victim and his or her family should not be forced to be financially responsible for the medical bills, lost wages, disfigurement, and psychological trauma that resulted through no fault of their own.

This eBook will provide a wealth of information for dog bite victims and their families to use after being involved in a dog attack incident. You'll learn about what types of evidence are crucial to a dog bite claim, how you can begin filing a claim after being bitten or attacked by a dog, what you can do to ensure that you are able to get the most compensation possible to cover your damages, and what you should do if the owner of the dog wants to handle the bite "privately," outside of insurance companies.

Keep reading to find out more about your rights as a dog attack victim and what your next step should be.



What You Need to Know About Dog Bite Law

Dog bite law tends to be extraordinarily complex, because there are few laws that specifically govern dog bites and legal remedies for dog attack victims. Much must be gleaned from the details of previous cases, and in some instances, pursuing a dog bite claim may land the plaintiff in unknown legal territory. Here's what you need to know about established dog bite laws, and what to do if you or a loved one have been the victim of a dog attack.

Massachusetts and New Hampshire are Both "Strict Liability" States

Both Massachusetts and New Hampshire are considered "strict liability" states when it comes to dog bites, meaning that dog owners are almost always held liable for the actions of their pets. This is true even if the dog owner had no knowledge that the dog would attack or bite another person. This law makes it easier to pursue a dog bite claim in these states, because there is not a requirement to show negligence on the part of the owner.

Both States Have a 3-Year Statute of Limitations on Dog Bite Claims

While many other states have a fairly ample statute of limitations, both Massachusetts and New Hampshire have just a three-year statute of limitations. This means that you must file your dog bite claim within three years of the original incident, or you will forfeit your right to bring forward a claim for compensation entirely.

An Actual "Bite" Is Not Necessary to Bring Forward a Claim

Massachusetts and New Hampshire have laws that allow for a dog attack victim to seek compensation for all damages, not just those related to an actual dog bite. This means that if a dog attacks an individual and causes injury, but does not bite, the victim can still bring forward an injury claim for damages. In some cases, dog attack compensation cases may also include provisions for property damage.

You May Not Be Able to Recover Damages if You Were Trespassing

If you were trespassing on another person's property, or committing another tort, you may not be eligible to bring forward a claim for compensation. Because both Massachusetts and New Hampshire are strict liability states, this is generally the only defense that a dog owner has against a person seeking damages for a dog attack. However, because the law tends to favor dog bite victims, compensation can sometimes still be awarded in cases where the victim was trespassing, but the owner's property did not have clear markers or signs warning of trespassing.

Leash Laws

Massachusetts and New Hampshire do not have a statewide leash law. Instead, municipalities and other governments make laws related to dog restraint, control, and leashing. However, leashes are required in some areas, and there are a number of other laws related to leashing and tethering dogs. To get a sense of the requirements, take a look at these specifics.

Municipal Leash Laws in Massachusetts

Different towns have different leash laws. For instance, in Salem, the law says that dogs need to be on a leash of an appropriate length. The exact length is left to the discretion of the owner. In contrast, in Andover, MA¹, dogs must be firmly held on a leash that is six feet or less in length. On the owner's property, the dog must be under the owner's control, but it doesn't necessarily need to be on a leash.

Public Highway Rest Areas in Massachusetts

Based on Section 174B², dogs must be restrained while at rest areas near public highways. If owners need to let their dogs run off some steam, they should walk them around while on a leash, or they should look for a designated dog park. At the time of writing, the fine for breaking this law is \$100. Keep in mind that the law specifically says leash or chain. As a result, owners may be cited if they are just using a rope or something that is not a proper leash.

Leashes for Hearing Dogs in Massachusetts

Dogs with special jobs may need special leashes to identify them. For instance, people who train hearing dogs³ need to obtain a license from the Director of the Office of Deafness for their dogs, and they must also provide the name and address of the clients who receive hearing assistance dogs. To ensure hearing dogs are easily identifiable, they must wear a bright colored collar and leash.

Restraining Dogs Around the Visually Impaired in Massachusetts

When a dog is around someone who is partially or completely visually impaired⁴, the dog must be restrained with a leash on both public and private walkways and roadways. Often, dog owners identify the visually impaired by their white canes or their guide dogs, but these individuals are not required to have either of those items with them. Additionally, the courts cannot assign contributory negligence to a blind person for not having those items.

To explain, imagine that someone is walking their dog without a leash. When they encounter a blind individual, the dog runs forward and trips the blind person. If the blind person takes the dog owner to court, the defendant cannot argue that the blind person contributed to the injury by not identifying themselves with a cane or a guide dog.

Leashes and Massachusetts Wildlife Areas

The state has over 200,000 acres of wild areas, and traditionally, many dog owners let their dogs roam unleashed in these areas. As of 2018, the state requires dogs to be on leashes in state wildlife management areas. Dogs involved in hunting or training are exempt from the rule.

Note that this only applies to state managed areas⁵. It doesn't necessarily apply to wildlife areas managed by the federal government, but to be on the safe side, owners should always check the rules before taking their dogs to any natural areas.

Tethering Laws in Massachusetts

The law also has strict guidelines on tethering dogs⁶. If you tether your dog, you need to make sure that they can't leave the property while on the tether. Legally, you cannot tether a dog for more than 5 hours in a row in any 24-hour period. That includes tethering a dog to any stationary object including poles, dog houses, and trees. You are also not allowed to tether dogs outside for longer than 15 minutes between 10:00 pm and 6:00 am. Dogs under six months old cannot ever be tethered outside.

You also have to ensure that the tether weighs less than an eighth of the dog's weight. For instance, a small dog who weighs 16 pounds can't have a tether that weighs more than two pounds. Additionally, the tether must be designed for dogs. You can't use logging chains or other makeshift tethers. The tether must be on a swivel so that it doesn't get tangled, and you can only have one dog per tether. You have to attach the tether to a harness or a collar, and the collar must be loose enough so that you can slip two adult fingers between the dog and the collar.

New Hampshire Leash Laws

In New Hampshire⁷, state law doesn't require dogs to be on leashes. Again, that is left up to municipalities. For instance, in Manchester, NH⁸, owners can't let dogs run unattended in the city. Dogs must also be on a leash or in a carrier, and their keeper must be old enough and strong enough to keep the dog under control. However, owners don't have to keep their dogs on a leash if the dog is confined to an automobile. Although New Hampshire doesn't have leash laws, the state has strict laws about menacing or vicious dogs.

If you have been hurt by an unleashed dog, you may be entitled to compensation. Even if the area where you were attacked does not have a leash law, both New Hampshire and Massachusetts are strict liability states in relation to dog bites, and owners are responsible for their dogs' actions.

Does Breed Specific Law Help Reduce Dog Attacks?

In Massachusetts, it is illegal to make breed-specific laws or to label a dog as dangerous solely based on its breed. But throughout the rest of the country, many other states and cities have laws banning certain breeds of dogs. Typically, these laws target pit bulls, rottweilers, bull mastiffs, akitas, Doberman pinschers, and other large dogs — but are these laws helpful? Do they reduce dog attacks? According to many legal experts and animal advocates, the short answer is "no", but others (including animal advocates) claim that these laws work. What's the truth? Well, the truth may be in the middle of these extremes. Here is a closer look at the details.

The Experts on Breed-Specific Legislation

Nearly every animal advocacy group⁹ and the American Bar Association are against breed-specific laws. These groups claim that communities should focus on identifying reckless owners and dangerous dog behaviors. They also note that breed-specific laws put too much pressure on law enforcement to identify dogs by their breed. Beyond that, it's not always possible to identify a dog's breed just by looking at it.

The groups against breed-specific laws include the following:

- The American Kennel Club
- The American Veterinary Medical Association
- American Veterinary Society of Animal Behavior
- National Animal Control Association
- National Canine Research Council
- Centers for Disease Control and Prevention

On the other side of the coin, many people are for breed specific legislation in general and pit bull bans in particular. That includes the City of Denver, Miami-Dade County, and several other local governments throughout the United States. It also includes PETA president Ingrid Newkirk who has encouraged all animal shelters to euthanize pit bulls and all dogs that look like pit bulls.

The Risk of Dog Bites

According to the Centers for Disease Control, 4.5 million people get bitten by dogs annually in the United States, and less than a million seek medical treatment. Additionally, only about 18 people are killed every year by dogs. To get a sense of how shocking those statistics are, compare them to other tragedies in this country.

- You are more likely to get bitten by a dog than die in a car accident. Only 1.3 million people die
 in road accidents every year.
- Even though falls are one of the biggest causes of death among seniors, you are more likely to get bit by a dog than die falling. That only affects about 33,000 people¹⁰ every year.
- You're also about 128 times more likely to get bitten by a dog than you are to be murdered with a gun¹¹.

When you take into account the fact that dogs like pit bulls are responsible for an inordinate number of attacks and murders, these comparisons become even more dramatic.

Targeting Large Dogs

According to the people against this type of legislation, breed-specific dog bans aren't based on science. On paper, large dogs are responsible for more attacks. However, the reality is that small dogs also attack, but the effects simply aren't as brutal. As a result, attacks from small dogs are less likely to be reported. In both cases, however, the true culprits tend to be irresponsible owners, and these owners need to be held liable for their dogs.

How Breed-Specific Laws Work

To get a sense of whether or not these laws work, you may want to look at places that have experimented with this type of legislation. Ireland¹², for example, banned 11 breeds of dogs in 1998. But over the next 17 years, dog bites increased by 51%. Even when you adjust for population increases, that's still a 21% jump in dog bites.

Similarly, when the province of Ontario banned pit bulls, the number of bites stayed the same. Although pit bulls were no longer the culprit, other dogs took on the role. In 2010, the Toronto Humane Society looked at dog attack rates in 36 Canadian towns, and they found no difference between the towns with breed-specific legislation and those without it.

Unfortunately, there are no comprehensive studies on the effectiveness of breed-specific laws in the United States, but cases in Denver¹³ underscore the trouble cities can get into for misclassifying dogs. Owners in this city have had their pets labeled as pit bulls, and they have been instructed to get rid of them or take other actions. However, professional analysis has proven that these dogs are not pit bulls. If a city required an owner to take action based on the breed of the dog, and then, the owner came forward with proof that the dog was not that breed, the city could face legal damages.

Useful Alternatives to Breed-Specific Legislation

Rather than banning certain breeds of dogs, communities may want to take another approach. In particular, they may want to implement strong licensing laws. When dogs have to be licensed, that requires their owners to be more responsible for them, and if a dog is ever out, it's easy to identify its owner. Additionally, communities need to be strict about enforcing safety rules. For instance, if a town has a leash law, it should be enforced.

When Calgary tried these tactics, the province saw a huge reduction in dog bites. Over a 20-year period, the rate of dog attacks dropped by 80% from 10 of every 1,000 people to two. In addition to taking the above actions, the province also initiated several dog safety public education campaigns.

A Victim's Perspective

It's important to note that all the ideas above are put forth by law makers and analysts. These individuals often don't have the experience or the understanding of what it's like to face an attack. When you're subjected to an attack, that can really change your perspective.

Case in point, PETA president and founder Ingrid Newkirk worked closely with stray dogs for years. She was attacked by a pit bull and still has the scars to prove it. This personal experience informs her opinion. Although she formed an organization that is resolutely against animal cruelty and even against eating meat, she doesn't hold pit bulls in high regard. In fact, she goes much further than advocating for pit bull bans. She claims that all pit bulls should be destroyed.



Dog Bite Laws in Massachusetts

Massachusetts is a strict liability state when it comes to dog bites. In strict liability states, the owner is responsible for damages even if the dog has never exhibited violent behavior, or the owner was unaware of the dog's possible violent behavior. According to Chapter 140, Section 155 of Massachusetts¹⁴ General Law, the owner or keeper of the dog is liable if:

- The dog causes injury or property damage.
- The injured person was not trespassing, committing another tort, or provoking the dog.

Defense Against Dog Bite Claims

When a victim brings forward a dog bite claim in Massachusetts, the owner really only has a handful of defense options. If the owner can prove that the victim was provoking the dog, trespassing on the owner's property, or committing another tort, they may be able to escape liability.

A tort is a civil wrong that shifts the liability to the person committing the tort. Often in liability cases, torts are accidents. For instance, if a shop owner has a wet floor and that causes a customer to get injured, the slippery floor is an example of an unintentional tort, and the shop owner may be liable. When used as a defense in dog bite cases, torts generally need to be purposeful. If someone is mugging or attacking a dog owner, for example, and the owner's dog bites that person, the dog owner is probably not liable because the victim was committing a tort against them.

However, there is an exception for people under the age of seven. In other words, if a six-year-old is trespassing and gets bitten by a dog, the dog owner would be liable. Similarly, if a two-year-old is taunting a dog and the dog snaps, the owner is also liable. If you are a dog owner, you should never leave your dog alone with children. It can be physically dangerous for the child and legally and financially dangerous for you.

In strict liability states, the owner stands a tougher time defending against a claim because it is unnecessary for a victim of a dog bite or attack, to prove the owner was negligent. Proving negligence is much more complex and therefore more difficult to determine.

Dog Keeper

As you may have noticed, liability doesn't necessarily fall on the owner of the dog. It can also fall on the dog's keeper. To explain, imagine someone is walking a dog. They are the keeper of the dog, and they may be held personally liable if the dog got away from them and attacked someone. If they are working as a dog walker for a company, the company may also be liable. Note that if a minor is the dog's keeper, their parents are liable under Massachusetts state law.

If you decide to bring forward a dog bite claim, it's important to pursue all these angles. Typically, claims are covered by the dog owner's homeowners' or renters' insurance policy and potentially even by the dog owner's assets or wages. But in cases where there is no insurance or assets, you need to find other liable parties. For instance, if someone's neighbor is walking the dog and the neighbor has insurance, your lawyer may suggest pursuing the neighbor as the liable party.

Landlord Liability

The Massachusetts dog bite statutes don't mention landlords, but there are legal cases which set precedents on this issue. Landlords are not strictly liable in the same way that dog owners are. Instead, when a landlord is involved, the plaintiff typically needs to prove that the landlord had a duty to keep them safe and that the landlord was negligent in that duty.

If the landlord rents to someone with a dog and the dog attacks someone out of the blue, the landlord is usually not liable. The landlord had no way to predict that the attack would happen. However, that's not always the case. Imagine that a landlord owns a four-plex. One tenant has a dog and another tenant repeatedly reports to the landlord that the dog is aggressive and potentially dangerous. The landlord refuses to take action and the tenant gets attacked in the hallway of the four-plex. In this situation, the landlord may be liable because they knew about the dog's propensity to be dangerous.

Additionally, if the landlord is the dog's keeper, the landlord can also be held liable in that situation. To give you an example, let's say the tenant and the landlord lives in a duplex. The landlord watches the tenant's dog when the tenant is at work. The dog attacks someone while the landlord is keeping in it. In this case, the landlord may be held liable as the keeper of the dog.

Types of Damages

Massachusetts state laws don't just cover dog bites. They expressly refer to "any damage to either the body or property of any person". That means if someone's dog knocks you over and you sustain injuries, you may still be able to bring a lawsuit forward. Similarly, if the dog causes property damage such as creating a hole in your fence or chewing holes in your patio furniture, you can also hold the dog owner liable for those damages.

Filing a Personal Injury Lawsuit

According to Massachusetts' Statute of Limitations¹⁵, a person has three years to file a personal injury lawsuit, including those stemming from a dog bite or attack. Every state has its own statute of limitations, that's the time period in which victims of dog bite attacks can bring up a case. If you wait longer than that, you can't bring forward a case.

However, minors have three years from their 18th birthday to bring forward a case. To give you an example of when that might happen, let's say you were attacked by a dog when you were 10 years old. Your parents didn't want to bring forward a case because the dog owner was their friend, but tragically, you were disfigured in the attack and it affected your entire life. In this situation, you may want to bring forward a case when you become an adult, but again, you only have three years from your 18th birthday.

When it comes to dog bite laws in Massachusetts, if a victim wants to pursue legal action, they need to prove that the defendant owns the dog. Usually, the process starts with a public hearing. Essentially, that is the criminal case. Then, you can move forward with a civil case to recoup damages. The standards of proof are different in criminal and civil cases. Even if the dog owner is not convicted of any criminal charges, you may still be able to bring forward a civil suit successfully.

The Need for a Dog Bite Attorney

In most cases, homeowners' insurance will cover a dog attack, but in order to recover full compensation for all your damages as well as pain and suffering, you need a lawyer by your side. Someone with experience handling dog bite cases can help you understand your legal rights and what damages you are entitled to. If you opt to just work directly with the insurance company, you are likely to receive a minimum amount of compensation that doesn't cover all your damages. Ideally, when you have suffered serious injuries or property damage, you shouldn't accept an offer until you speak to a dog bite attorney.

The strict protection of dog bite victims' stems from Massachusetts law, requiring that owners must restrain and control dogs on all public property and their own private property. Failure to do so can entitle victims to compensation for their injuries, when and if pursued within the statute of limitations.



Massachusetts Dog Bite Statute

Many states do not have specific laws related to dog bite liability, and when dog attacks occur, it can be difficult to who may be held liable for damages. Massachusetts, however, has a specific dog bite statute. Massachusetts is also a strict liability state. Here's what you need to know about the state's dog bite laws and how strict liability may affect your case.

Massachusetts Dog Bite Statute

The dog bite statutes are listed in Massachusetts General Laws in Chapter 40, Section 155. This law states that the dog's "owner or keeper" is liable for damages if their dog bites, attacks, or injures another person. However, two basic criteria must be met in order for the statute to apply:

- The dog must have caused property damage or injury
- The victim of the attack must not have been trespassing or provoking the dog

While many people assume that a dog must bite in order to qualify for damages, this is not necessarily true. Massachusetts law covers any injury or property damage caused by a dog, even if the dog is being friendly. For example, if a friend's dog jumps on you playfully but knocks you down and causes you to hit your head on the concrete, your friend could be held liable for your medical care and other damages related to the incident.

What Is Strict Liability?

Generally speaking, there are two approaches to dog bite liability. Each state handles dog bite incidents differently.

Negligence

In states that use negligence as the basis for dog bite liability, an owner must have previous knowledge that the dog was vicious or would bite and neglected to protect others from the risk. For example, if a dog owner knows that their dog is vicious and has bitten before, and allows their dog to roam at large, they may be held liable for damages.

Strict Liability

In states that use strict liability as the basis for dog bite liability, a dog owner does not have to have previous knowledge that the dog was vicious or would bite. They are held liable for their dog's actions, regardless of whether the dog is known to be friendly or vicious.

How Does Strict Liability Affect a Dog Bite Claim?

In Massachusetts and other states that use strict liability, it is much easier to bring forward a claim for damages caused by a dog attack. Since Massachusetts law considers owners to be liable for their dog's actions in all cases, you do not have to prove that the owner was negligent in the care of their dog. You simply have to prove that the dog that attacked you belonged to the owner in question.



What Happens to a Dog When it Bites in Massachusetts

Massachusetts has very strict dog bite laws. If a dog bites, attacks, or hurts someone in this state, it may be labeled as a dangerous or nuisance dog. Then, both the dog and its owner may face strict penalties. A dog can only be labeled as dangerous or a nuisance if it actually hurts someone. It can't get these labels due to its breed or just from growling or looking mean. If it does bite or attack, however, here's what happens.

Due Process for Attack Dogs

If someone is attacked by a dog, they have three years to bring forward a complaint, and at that time, the case goes to a public hearing. That gives the victim as well as the dog owner the chance to present evidence and testimony related to the dog's attack.

Based on that information, the hearing authority¹⁶ can choose one of the following three options:

- Dismiss the complaint
- Label the dog as a nuisance
- Label the dog as dangerous

Note that this is essentially the criminal hearing. If someone has been attacked by a dog, they can also bring forward a civil suit. A civil suit is where the victim works with a dog bite attorney to get compensated for the damages associated with the dog attack.

Nuisance Dogs in Massachusetts

If a dog is determined to be a nuisance, the owner usually has to take action to reduce the unwanted behavior. For instance, the courts may require the dog to go to obedience classes, or they may create other requirements.

Penalties for Dangerous Dogs

When a dog bites someone, they are typically going to be labeled as dangerous, and in that situation, their owner may be required to do one or several of the following:

- Keep the dog restrained
- Confine the dog to secure premises, such as a locked pen or dog run with a roof
- Put a muzzle or a short leash on the dog for outings
- Insure the dog for at least \$100,000 as a safeguard against future injuries or property damage
- Create a permanent and reliable way for the state to identify that dog in the future, such as a microchip, photographs, veterinary records, etc.

- Neuter or spay the animal
- Euthanize the dog

Owners Who Break the Rules

If the owner doesn't follow all the requirements for their nuisance or dangerous dog, the city may be able to take the dog and impound it. If the dog is ordered to be euthanized after being impounded, the owner usually must pay all the fees related to the impoundment and the euthanasia. If the owner fails to pay, the city can place a lien on their property or increase the amount of their vehicle excise tax. Additionally, the dog owner will be banned from owning another dog for at least five years.

Civil Penalties for Dog Owners

After biting someone, the dog can face any or all the penalties listed above, but the owner may face additional civil penalties. When it comes to dog bite law, Massachusetts is a strict liability state. That means that the owner is always liable if their dog attacks. The only exceptions are if the victim was criminally trespassing, attacking, or provoking the dog, but these exceptions don't apply to children under the age of seven. If a child is involved, the dog owner is always liable.

The owner may have to pay for the victim's injuries as well as other costs related to their recovery or any disabilities that arise due to the injuries. Additionally, the owner may have to pay for pain and suffering, loss of consortium, or wrongful death if applicable.

Criminal Penalties for Dog Attacks

In some cases, the owner may also face criminal penalties. For instance, if an owner sets their dog loose and tells them to attack, that is akin to assaulting someone with a deadly weapon, and that dog owner may face assault charges.

If you have been bitten by a dog, you have a right to justice. You may also have a right to compensation, but that's not the only reason you should come forward. If you don't act, the dog may continue its behavior and other people could get hurt.

Dangerous Dog Laws in Essex County

In a recent update to the Commonwealth of Massachusetts legislation on dog laws, it does not fall on county and town authorization to classify certain dog breeds as "dangerous." Although most dog attacks occur amongst a certain breed, the breed itself should not be the one punished, and neither should owners living with these breeds.

According to the MSPCA¹⁷, which called for this new legislation, most attacks occur within the home or on the property of the owner; the victims usually being young children, or visiting family and friends.

In Essex County, as well as the rest of the state, leash laws are being enforced in places of BSL (breed-specific legislation) in order to prevent attacks in public, which contrary to popular belief, occur mostly because of unrestrained dogs, not because a specific dog is deemed dangerous. In addition to the current solution, the definition of a dangerous dog has to be determined prior to any circumstance in which a dog attacks a person. According to Article V of the Administrative Legislation¹⁸ from the City of Haverhill in Essex County, the term "dangerous dog" shall mean:

- Any dog that has bitten or attacked any person or has attempted to bite or attack any person.
 A dog shall be deemed to be attempting to attack if it is retrained by a leash, fence or other means and it is clear from the dog's excited actions that only the presence of the leash, fence, or other means of restraint is preventing the dog from making an immediate attack;
- Any dog with propensity, tendency or disposition to attack, cause injury to, or to otherwise threaten the safety of domestic animals, or any dog which attacks a human being or domestic animal on one or more occasions without provocation and without justification.
- Any dog, whether leashed or not, which, in a vicious or terrorizing manner, approaches any
 person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or
 places.
- Any dog owned or harbored primarily or in the part for purpose of dog fighting or any dog trained for dog fighting.
- Any dog harbored on property known for drug trafficking or gang activity and shows an aggressive temperament.

In the City of Haverhill, when a dog is considered dangerous, it is enforced that signs be in place on the property where the dog is harbored, rabies shots are up-to-date, and that proper security is provided, by fence or any other means of constraint where entry and escape are insurmountable. With proper preventative measures and a fair warning to visitors, all outsiders would be entering at their own risk.

On the sidewalk, in a public park or on the street, it is necessary that aggressive or dangerous dogs be muzzled and restrained by an able-bodied adult. If you are attacked in a public place by a dog deemed "dangerous" you are entitled to compensation, and the owner can be fined up to \$100, depending on whether this is a repeated offense. If you are attacked on the property of the owner that has taken all the proper precautions to warn outsiders of a dangerous dog, then the victim must prove they were not trespassing or committing a tort.

A new law in place protecting dog breeds with dangerous reputations does not lessen liability. Massachusetts is a strict liability state, and owners, in most cases, are legally responsible for all injuries, psychological trauma or death caused by a dog, whether or not the dog has previously attacked or has the potential to.



Dangerous Dog Laws in Suffolk County

Massachusetts recently passed legislation on dog laws in favor of specific breeds. In regards to Suffolk County, it is not contingent upon their authorization that certain dog breeds be deemed "dangerous". Previously, people categorized certain dog breeds like pit bulls, as "dangerous" because they have a reputation for being aggressive. New legislation makes the dog owner responsible for this aggression, not the breed itself.

In Boston, as well as the rest of Suffolk County, breed specific laws are being replaced, and leash laws are being strictly enforced. This legislation is meant to prevent attacks, which according to MSPCA¹⁹ occur mostly within the home or on the owner's property. In public, most attacks occur because of free roaming animals, not just those that are categorized as "dangerous." According to Section 157 of the General Laws of Massachusetts:

"No dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances..."

Though these are statewide laws, each county differs when it comes to penalties and fines. In Boston and the rest of Suffolk County, the following action should be taken if authorities deem your dog dangerous:

- that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;
- that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;
- that when removed from the premises of the owner or the premises of the person keeping the
 dog, the dog shall be securely and humanely muzzled and restrained with a chain or other
 tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in
 length;

- that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;
- that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;
 - that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact: or
 - o that the dog be humanely euthanized.

Massachusetts is still a strict liability state when it comes to dog laws. BSL (breed-specific legislation) does not lessen liability on the dog owner; in fact it reinforces responsibility on their behalf. Dog owners in strict liability states are legally responsible for personal injury as a result of their dog's aggressive behavior, as long as the victim was not trespassing or committing a tort.



Dog Bite Laws in New Hampshire

New Hampshire laws for dog bite injuries are one of the most favorable in the country for victims. Dog bites are common occurrences, resulting in more than 4 million incidents each year, therefore it is important to keep these dog bite laws in mind.

Statute of Limitations for Dog Bites in New Hampshire

The New Hampshire statute of limitations for a personal injury lawsuit involving a dog bite is 3 years. A victim of a dog attack must file a case during the 3-year window of when the incident occurred in order to have a day in court.

Who is Responsible for Dog Bites in New Hampshire?

If a person is harmed by a dog, compensation and recovery for damages may be obtained from either the owner or the keeper of the dog, but not from both.

The single element required for the recovery of damages for injuries under the Dog Bite Statute is that the dog in question acted viciously or maliciously. The New Hampshire Courts²⁰ have interpreted malicious or viscous acts by a dog to include some act beyond the mere presence of the dog. For example, if a person is frightened by the very presence of the dog, and reacts to that presence in such a fashion as to injure himself, a Court would most likely find that the dog did not act maliciously or viciously. On the other hand, a dog does not have to actually bite a person for its actions to be classified as malicious or vicious. A malicious act can be a dog running at a person, or onto the person's property, which causes that person to fall or otherwise be injured, even if the dog never actually bit that person.

With strict liability laws in place, dog bite cases in NH are, more often than not, in favor of the victim, because the burden of proof is not that high. When a documented dog bite attack occurs the owner or keeper of the dog will be liable unless they can prove that the dog was provoked or the victim was trespassing. In New Hampshire's dog bite statute²¹, the owner/keeper of a dog is liable if:

Any person to whom or to whose property, including sheep, lambs, fowl, or other domestic creatures, damage may be occasioned by a dog not owned or kept by such person shall be entitled to recover damages from the person who owns, keeps, or possesses the dog, unless the damage was occasioned to a person who was engaged in the commission of a trespass or other tort. A parent or guardian shall be liable under this section if the owner or keeper of the dog is a minor.

Filing a Personal Injury Lawsuit

It's important to remember that in order to file a personal injury lawsuit, a victim needs to prove the defendant is in fact the owner or keeper of the dog to receive compensation. Even if the dog was on the owner's property and the victim tried to escape, causing injuries, the owner will be considered negligent if taken to court.

Thanks to dog restraint laws in New Hampshire, it's much harder to prove a victim's negligence than it is to prove an owners liability. For example, if the victim provoked the defendant's dog by running on the sidewalk, then he/she cannot be found negligent, even though provoking a dog is one of the only circumstances in which a defendant may have a case.

Proving negligence is much harder to determine because of its complexities, meaning that you must be able to prove four essential features in order to win your case. Knowing that might make it a little easier to understand why New Hampshire is a strict liability state when it comes to personal injury protection.



Massachusetts Animal Control Laws and Dog Safety

Every dog owner, as well as anyone who works with dogs, must understand the Massachusetts animal control laws in order to properly follow them.

Following is information from Don Famico, certified animal control officer in Salem, Massachusetts, as he discusses these dog laws and provides tips on dog safety.

- Most towns have their own bylaws or ordinances. Here in Salem, a dog must be on a leash of an appropriate length. Some towns will say three feet, four feet, six feet then there are towns that don't have leash laws. It's appropriate to check with your individual town to see what the actual law is there. The towns have the right to make their own bylaws.
- All dogs in the Commonwealth of Massachusetts are required to have a rabies vaccine. That's
 punishable by a fine if you don't have it, and it can raise a lot of havoc if your dog were to
 become in contact with a wild animal. It's very important that they have that rabies shot. That is
 one of the most important. Other vaccines are really not required by law, but they do push the
 rabies.
- The Commonwealth of Massachusetts says you can't discriminate against breed. I find that
 personally, I've had trouble with more smaller breeds versus the larger breeds. Some of the
 larger breeds will maybe give you a worse bite, but some of the smaller ones, I call them ankle
 biters, are just as dangerous.
- Well, a lot of people are concerned, number one for the dog's safety. You don't see as
 many dogs running the streets per se. It could be a lost dog. It could be a stray of sorts that
 somebody might have dumped. You can call your local animal control or in Salem, people will
 call the police department not 911 but they will dial 744-1212 here in Salem and report it.
 Generally, they'll send a cruiser out to evaluate and see if they can find the owner. If I'm on the
 road, they'll send me to the area.
- Regarding retractable leashes, check with your town's ordinance to see if they are allowed.
- When someone is bitten by a dog, the animal control team will try to find out who the owner
 of the animal is, ask them their veterinary history of the dog, and show proof of rabies. If they
 don't have it available, they will ask them who their veterinarian is so we can consult with the
 veterinarian to see what the dog's history is on his inoculations.

- In Massachusetts, there are no laws regarding when a dog must be put down after biting someone. But if the dog has a history of biting, under Mass General Laws, people have the right to petition the chief of police for a hearing and the Mass General Laws to declare that dog is dangerous, or to put restraining orders on the dog. Here in Salem, we also have a dangerous dog ordinance which I have the authority to order the dog muzzled and restrained. There's a whole bunch of rules or regulations. They must post their home as having a dangerous dog. They have the right to appeal that to the chief of police. We've had several laws a year but, again, with all of the new laws and regulations, a lot of people are more in tune as to what their responsibilities are civilly.
- People other than the owner may be responsible if a dog bites, for instance, a 'dog keeper'. A
 keeper as any person other than the dog owner having the control or the custody of a dog at
 the time of an incident. For example, if you're walking your neighbor's dog or taking that dog
 for a week at your home and the dog bit somebody at your home, you'd have a civil liability on
 that end for that dog. The courts could be charging you as well as maybe the dog owner.
- To prevent dog bites, take steps to keep the property safe. Maybe post up a "Beware of Dog" sign so people will know that they're walking into a property that has a dog that they may encounter, so they can knock on around the corner and from a blind point and all of a sudden startle the dog. It's good that the people that own the dog to post those areas.
- If a stranger approaches a dog, do it slowly, not to make eye contact and just not to scare the dog. Again, if the dog is wagging his tail, it's a good sign that you've been accepted to come in.



Although dealing with a dog attack and the aftermath can be exceptionally challenging for a family, an experienced attorney can help you navigate through New Hampshire or Massachusetts dog bite law. In order to best protect the victim of the attack and ensure that you and your family receive the full and fair compensation needed to cover medical expenses, lost wages, disability, and potential permanent disfigurement, it is absolutely imperative that you speak with an attorney as soon as possible after the incident.

At Mazow | McCullough, PC, we understand how frightening being bitten by a dog can be. We are able to apply our expertise and resources to your case, providing you with the information you need to make critical decisions regarding your medical care and your future.

Footnotes:

- 1Town of Andover, MA. Article XII: Miscellaneous Bylaws. https://ecode360.com/15619771.
- ²Commonwealth of Massachusetts. Section 174B. https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140/Section174B.
- ${\it ^3} Commonwealth\ of\ Massachusetts.\ Section\ 39C.\ https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter129/Section39C.$
- ⁴Commonwealth of Massachusetts. Section 173. https://malegislature.gov/Laws/GeneralLaws/Partl/TitleXX/Chapter140/Section173.
- ⁵New Rules for State Wildlife Areas Will Require Dogs on Leash. Cape Cod Times. https://www.capecodtimes.com/news/20180403/new-rules-for-state-wildlife-areas-will-require-dogs-on-leash.
- $^6 Commonwealth\ of\ Massachusetts.\ Section\ 174E.\ https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140/Section174E.$
- ⁷Dogs and Cats: Some of the Laws Affecting Our Four-Legged Friends. New Hampshire Municipal Association. https://www.nhmunicipal.org/TownAndCity/Article/279.
- ⁸Guide to Information and Laws Relating to Animals. City of Manchester. https://www.manchesternh.gov/portals/2/Departments/police/Guide%20to%20Information%20and%20Laws%20Relating%20to%20Animals%201-2006.pdf.
- ⁹Breed-Specific Legislation. The Humane Society of the United States. https://www.humanesociety.org/resources/breed-specific-legislation
- ¹⁰Accidents or Unintentional Injuries Fast Facts. Centers for Disease Control and Prevention. https://www.cdc.gov/nchs/fastats/accidental-injury.htm.
- ¹¹Gun Violence in America. Everytown for Gun Safety. https://everytownresearch.org/gun-violence-america/.
- ¹²Breed-Specific Legislation. Snopes.com. https://www.snopes.com/news/2016/10/25/bsl-and-dog-bites/.
- ¹³Ruling on "Pit Bull" Revives Debate on Denver Ban. The Denver Post. https://www.denverpost.com/2009/10/10/ruling-on-pit-bull-revives-debate-on-denvers-ban/.
- ¹⁴Commonwealth of Massachusetts. Section 155. https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140/Section155.
- 15Commonwealth of Massachusetts. Chapter 260. https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleV/Chapter260.
- ¹⁶Commonwealth of Massachusetts. Section 157. https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140/Section157
- ¹⁷General Information. MSPCA. https://www.mspca.org/.
- ¹⁸City of Haverhill. Municipal Canine Commission. https://ecode360.com/6260962.
- ¹⁹MSPCA. General Information. https://www.mspca.org/.

The law firm of Mazow | McCullough, PC was formed in 2003 when two experienced personal injury lawyers and life-long Massachusetts residents, Mr. Robert E. Mazow and Mr. Kevin J. McCullough, joined forces to create a personal injury law firm dedicated to helping injured persons in Massachusetts achieve fair and just compensation for the injuries they have sustained and the emotional, physical and financial hardship caused by those injuries.

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