

Dog Bites, Vicious Animal Attacks, Rottweiler Bite, Pit Bull Attack

Kenneth Vercammen & Associates Law Office helps people injured due to the negligence of others. We provide representation throughout New Jersey. The insurance companies will not help. Don't give up! Our Law Office can provide experienced attorney representation if you are injured in an accident and suffer a Serious Injury.

If someone hops your fence, trespasses on your land, and your dog bites him, you are not liable. However, New Jersey does impose strict liability if your dog bites someone if it is loose or if the person bitten was in a public place or permitted on your property. NJSA 4:19-16 provides:

"The owner of any dog which shall bite a person while such person is on or in a public place, or lawfully on or in a private place, including the property of the owner of the dog, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness."

"For the purpose of the New Jersey Statute 4:19-16, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner thereof."

Thus, in New Jersey, a dog does not get two bites.

A person can even be liable if your dog injures someone although not biting it. Being jumped on or chased by a dog could be grounds for a civil liability. It is also strict liability if any of your dangerous animals injure someone, i.e. pet, buffalo or tiger.

For the purpose of this state law, a person is lawfully upon the private property of such owner when he/she is on the property in the performance of any duty imposed upon him by the laws of this state or the laws or postal regulations of the United States, or when he/she is on such property upon the invitation, express or implied, of the owner thereof.

In deciding whether the plaintiff was on or in a public place or lawfully on or in a private place, including the property of the defendant, you should note that anyone whose presence is expressly or impliedly permitted on the property is entitled to the protection of the statute. The permission extends to all areas

where the plaintiff may reasonably believe to be included within its scope.
DeRobertis v. Randazzo, 94 N.J. 144 (1983).

In a case such as this where the defendant has raised the negligence of the plaintiff as a defense, the defendant has the burden of proof. This means that the defendant has the burden to prove plaintiff's "unreasonable and voluntary exposure to a known risk." This means that the plaintiff "knew" the dog had a propensity to bite either because of the dog's known viciousness or because of the plaintiff's deliberate acts intended to incite the animal. For example, one who beats or torments a dog has no call upon the owner if in self-defense the dog bites back. Budai v. Teague, 212 N.J. Super. 522 (Law Div. 1986); see also Dranow v. Kolmar, 92 N.J.L. 114, 116-17 (1918). In conclusion, a New Jersey dog does not get two bites. Keep your dog fenced in or tied up and away from mailman and visiting friends.

Updated dog liability statutes: 4:19-16. Liability of owner regardless of viciousness of dog The owner of any dog which shall bite a person while such person is on or in a public place, or lawfully on or in a private place, including the property of the owner of the dog, shall be liable for such damages as may be suffered by the person bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

For the purpose of this section, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner thereof.

4:19-17. Findings, declarations The Legislature finds and declares that certain dogs are an increasingly serious and widespread threat to the safety and welfare of citizens of this State by virtue of their unprovoked attacks on, and associated injury to, individuals and other animals; that these attacks are in part attributable to the failure of owners to confine and properly train and control these dogs; that existing laws at the local level inadequately address this problem; and that it is therefore appropriate and necessary to impose a uniform set of State requirements on the owners of vicious or potentially dangerous dogs.

L.1989, c.307, s.1.

4:19-18. Definitions 2. As used in this act:

"Animal control officer" means a certified municipal animal control officer or, in the absence of such an officer, the chief law enforcement officer of the

municipality or his designee.

"Department" means the Department of Health.

"Dog" means any dog or dog hybrid.

"Domestic animal" means any cat, dog, or livestock other than poultry.

"Potentially dangerous dog" means any dog or dog hybrid declared potentially dangerous by a municipal court pursuant to section 7 of P.L.1989, c.307 (C.4:19-23).

"Vicious dog" means any dog or dog hybrid declared vicious by a municipal court pursuant to section 6 of P.L.1989, c.307 (C.4:19-22).

L.1989,c.307,s.2; amended 1994,c.187,s.1. 4:19-19. Impoundment of dog An animal control officer shall seize and impound a dog when the officer has reasonable cause to believe that the dog:

- a. attacked a person and caused death or serious bodily injury as defined in N.J.S.2C:11-1(b) to that person;
- b. caused bodily injury as defined in N.J.S.2C:11-1(a) to a person during an unprovoked attack and poses a serious threat of harm to persons or domestic animals;
- c. engaged in dog fighting activities as described in R.S.4:22-24 and R.S.4:22-26; or
- d. has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal health officer, the dog may be impounded in a facility or other structure agreeable to the owner.

L.1989, c.307, s.3.

4:19-20. Notification of owner of dog; hearing 4. a. The animal control officer shall notify the municipal court and the municipal health officer immediately that he has seized and impounded a dog pursuant to section 3 of P.L.1989, c.307 (C.4:19-19), or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. The animal

control officer shall through a reasonable effort attempt to determine the identity of the owner of any dog seized and impounded pursuant to section 3 of P.L.1989, c.307. If its owner cannot be identified within seven days, that dog may be humanely destroyed.

b. The animal control officer shall, within three working days of the determination of the identity of the owner of a dog seized and impounded pursuant to section 3 of P.L.1989, c.307 (C.4:19-19), notify by certified mail, return receipt requested, the owner concerning the seizure and impoundment, and that, if the owner wishes, a hearing will be held to determine whether the impounded dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed.

L.1989,c.307,s.4; amended 1994,c.187,s.2.

4:19-21.1. Settlement agreements, immunity of municipality 12.

Notwithstanding any provision in P.L.1989, c.307 (C.4:19-17 et seq.) to the contrary, the municipality and the owner of the dog may settle and dispose of the matter at any time in such manner and according to such terms and conditions as may be mutually agreed upon. Notwithstanding any provision of P.L.1989, c.307 to the contrary, no municipality or any of its employees shall have any liability by virtue of having entered into any settlement agreement pursuant to this section, or for any action or inaction related to the entry into such agreement, for any injuries or damages caused thereafter by the dog. The municipality may, as a condition of the settlement agreement, also require that the owner of the dog hold the municipality harmless for any legal expenses or fees the municipality may incur in defending against any cause of action brought against the municipality notwithstanding the prohibition against such causes of action set forth in this section.

L.1994,c.187,s.12. 4:19-22. Dog declared vicious by municipal court; conditions 6. a. The municipal court shall declare the dog vicious if it finds by clear and convincing evidence that the dog:

(1) killed a person or caused serious bodily injury as defined in N.J.S.2C:11-1(b) to a person; or

(2) has engaged in dog fighting activities as described in R.S.4:22-24 and

R.S.4:22-26.

b. A dog shall not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S.2C:11-1(b) upon a person if the dog was provoked. The municipality shall bear the burden of proof to demonstrate that the dog was not provoked.

c. If the municipal court declares a dog to be vicious, and no appeal is made of this ruling pursuant to section 9 of P.L.1989, c.307 (C.4:19-25), the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

L.1989,c.307,s.6; amended 1994,c.187,s.3.

4:19-23. Dog declared potentially dangerous; conditions 7. a. The municipal court shall declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog:

(1) caused bodily injury as defined in N.J.S.2C:11-1(a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person, or

(2) killed another domestic animal, and

(a) poses a threat of serious bodily injury or death to a person; or

(b) poses a threat of death to another domestic animal, or

(3) has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

b. A dog shall not be declared potentially dangerous for:

(1) causing bodily injury as defined in N.J.S.2C:11-1(a) to a person if the dog was provoked, or

(2) killing a domestic animal if the domestic animal was the aggressor.

For the purposes of paragraph (1) of this subsection, the municipality shall bear the burden of proof to demonstrate that the dog was not provoked.

L.1989,c.307,s.7; amended 1994,c.187,s.4.

4:19-24. Registration of potentially dangerous dog; conditions 8. If the municipal court declares the dog to be potentially dangerous, it shall issue an

order and a schedule for compliance which, in part:

a. shall require the owner to comply with the following conditions:

(1) to apply, at his own expense, to the municipal clerk or other official designated to license dogs pursuant to section 2 of P.L.1941, c.151 (C.4:19-15.2), for a special municipal potentially dangerous dog license, municipal registration number, and red identification tag issued pursuant to section 14 of this act. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number, and red identification tag;

(2) to display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosure required pursuant to paragraph (3) of this subsection;

(3) to immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the animal control officer and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner;

b. may require the owner to maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the municipality in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

L.1989,c.307,s.8; amended 1994,c.187,s.5. 4:19-25. Appeal of decision 9. The owner of the dog, or the animal control officer in the municipality in which the dog was impounded, may appeal any final decision, order, or judgment,

including any conditions attached thereto, of a municipal court pursuant to P.L.1989, c.307 (C.4:19-17 et seq.) by filing an appeal with the Superior Court, Law Division, in accordance with the Rules Governing The Courts of the State of New Jersey pertaining to appeals from courts of limited jurisdiction. The Superior Court shall hear the appeal by conducting a hearing de novo in the manner established by those rules for appeals from courts of limited jurisdiction.

L.1989,c.307,s.9; amended 1994,c.187,s.6.

4:19-26. Liability of owner for cost of impounding, destroying dog; rabies testing 10. a. If a dog is declared vicious or potentially dangerous, and all appeals pertaining thereto have been exhausted, the owner of the dog shall be liable to the municipality in which the dog is impounded for the costs and expenses of impounding and destroying the dog. The municipality may establish by ordinance a schedule of these costs and expenses. The owner shall incur the expense of impounding the dog in a facility other than the municipal pound, regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

b. If the dog has bitten or exposed a person within 10 days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

L.1989,c.307,s.10; amended 1994,c.187,s.7.

4:19-27. Hearing on subsequent actions of dog 11. If the municipal court finds that the dog is not vicious or potentially dangerous, the municipal court shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog.

L.1989,c.307,s.11; amended 1994,c.187,s.8. 4:19-28. Obligations of owner of potentially dangerous dog 12. The owner of a potentially dangerous dog shall:

a. comply with the provisions of P.L.1989, c.307 (C.4:19-17 et seq.) in accordance with a schedule established by the municipal court, but in no case more than 60 days subsequent to the date of determination;

b. notify the licensing authority, local police department or force, and the animal control officer if a potentially dangerous dog is at large, or has attacked a human being or killed a domestic animal;

c. notify the licensing authority, local police department or force, and the animal control officer within 24 hours of the death, sale or donation of a

potentially dangerous dog;

d. prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;

e. upon the sale or donation of the dog to a person residing in a different municipality, notify the department and the licensing authority, police department or force, and animal control officer of that municipality of the transfer of ownership and the name, address and telephone of the new owner; and

f. in addition to any license fee required pursuant to section 3 of P.L.1941, c.151 (C.4:19-15.3), pay a potentially dangerous dog license fee to the municipality as provided by section 15 of P.L.1989, c.307 (C.4:19-31).

L.1989,c.307,s.12; amended 1994,c.187,s.9.

4:19-29. Violation by owner; fine, seizure, impoundment of dog 13. The owner of a potentially dangerous dog who is found by clear and convincing evidence to have violated this act, or any rule or regulation adopted pursuant thereto, or to have failed to comply with a court's order shall be subject to a fine of not more than \$1,000 per day of the violation, and each day's continuance of the violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction to enforce this section. An animal control officer is authorized to seize and impound any potentially dangerous dog whose owner fails to comply with the provisions of P.L.1989, c.307 (C.4:19-17 et seq.), or any rule or regulation adopted pursuant thereto, or a court's order. The municipal court may order that the dog so seized and impounded be destroyed in an expeditious and humane manner.

L.1989,c.307,s.13; amended 1994,c.187,s.10.