

# STATUTORY ANALYSIS - ACADEMIC ORIENTATION 2012

1. What is a statute? Why are statutes created?
2. What is a bill? What process must be followed to create a statute?
3. How does one determine whether the federal government or a provincial legislature has the authority to enact a new statute concerning a particular area of law? What happens if the federal government or provincial legislature enacts a law that is outside its sphere of authority?
4. For today's session, it is only necessary to familiarize yourself with the purpose of statutory interpretation. You will be examining the rules of statutory interpretation in more detail later in your Access to Justice and Legal Research and Writing courses, and you may wish to return to this material at that time.

## ***Re: The Dog Owners' Liability Act***

5. What is the subject matter of the Act? Where is the information found?
6. In his book, *On Coming to Law: An Introduction to Law in Liberal Societies* (Markham: Butterworths, 2001), F.C. DeCoste states (see Reading #1):

*"Typically, statutes begin with words of enactment . . . which are followed first (but not always) by a section containing the short title of the act, next (and almost always) by a section containing the definition of certain words as they are used in the act, and then (always) by the parts, sections, subsections and paragraphs which comprise the body of the act."*

- a) Are there words of enactment in this statute? Is there a short title? Is there a preamble?
  - b) Is there a definition section?
7. In "*On Coming to Law . . .*", Professor DeCoste writes, ". . . a statute is an act of some legislature which declares, commands or prohibits something . . ." (see Reading #1).

- a) Where in the statute is there language to identify which legislature has created the statute?
  - b) Identify a section of the statute that 'declares'. Find a section that 'commands'. Find a section that 'prohibits'.
8. In *"On Coming to Law . . ."*, Professor DeCoste indicates that *". . . many statutes are in fact amendments to existing acts . . ."* (see Reading #1).
- a) Has the *Dog Owners' Liability Act* been amended since it was first enacted?
  - b) What is a statute consolidation? Has the *Dog Owners' Liability Act* been consolidated? When?
9. Does this Act have one or more sections dealing with "Regulations"? What is the difference between a statute and a regulation? Which parts of the *Dog Owners' Liability Act* are clarified by the *Pit Bull Controls Regulation*?
10. What is the difference between criminal law and civil law? Are parts of the Act criminal in nature? What are some of the possible criminal consequences for the owner of a dog, and the dog itself, if a dog injures someone?
11. Are parts of the Act civil in nature? Consider the following reasons given by a dog owner whose dog has bitten someone:
- "The leash was defective; it broke and my dog accidentally got away from me."
- "My dog has never bitten anyone before; it is not a vicious breed; it was merely protecting me."
- "My dog, Blinky, recently became blind and has not yet adjusted; during our walk in the park, when the other dog jumped on him, he attacked because he was startled."
- Can the dog owner avoid having to pay the injured person damages by offering an excuse such as those noted above?
12. Zack and Zoe, co-owners of a German Shepherd dog called Rover, posted a notice on the front gate of their Ontario country home which said, *"BEWARE – GUARD DOG – DO NOT ENTER"*. Rover was purchased following a break-in at their home last year. Not only did Rover receive standard obedience training, but also Zack and Zoe trained him to restrain intruders by holding onto their clothing and pinning them to the ground.

Rover had the run of the three-acre fenced property when Zack and Zoe were at work. Rover was trained not to leave the property unless accompanied by Zack or Zoe.

Last night, when they returned from work at 7:00 p.m., Zack and Zoe found Rover guarding a man who was on the ground in the front yard. When helped to his feet, the man told Zack and Zoe that his name was Arthur Anderson (“Anderson”) and that he had recently started a new business which provides accounting services in the home. Anderson said that he had been dropping off advertising brochures that afternoon in the neighbourhood. He had arrived at Zack and Zoe’s home at about 2:00 p.m. Although he had seen the warning sign, Anderson had not seen the dog. He decided to put the brochure in the mail-slot in the front door. He was returning to his car when Rover jumped on him from behind. Rover bit him on the arm, leg and shoulder when he tried to escape. Rover further restrained him for the subsequent 5-hour period by standing on Anderson’s chest and growling whenever Anderson moved. Although shaken, Anderson said hospital treatment was not required. Rover had torn Anderson’s clothing; however, the actual bite wounds were superficial and consisted of bruising.

Zack and Zoe have consulted you for legal advice because they believe that Anderson may sue them for damages. At your meeting, they provide you with a copy of the morning paper which includes a story warning residents in their neighbourhood to be on the lookout for door-to-door sales people and report actions to the police. Apparently, there has been a rash of break-ins following visits from sales people. The police believe that the sales pitch is an excuse to go into someone’s property to find homes that are vulnerable to burglary.

How would you advise Zack and Zoe? Explain how you arrived at your answer.

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**Ministry of the Attorney General      Ministère du Procureur général**

For Immediate Release  
October 15, 2004

**MCGUINTY GOVERNMENT TO INTRODUCE PIT BULL BAN**

**Legislation To Ban Dangerous Breed, Increase Dog Owners' Responsibility**

TORONTO — The McGuinty government is making our communities safer and responding to the concerns expressed by thousands of Ontarians by introducing legislation this fall to ban pit bulls in the province, Attorney General Michael Bryant announced today.

“People want to be protected from the menace of these dangerous dogs,” said Bryant. “Some of these dogs are nothing but a loaded weapon waiting to go off and so we are taking action to make our communities safer.”

Bryant will introduce legislation this fall to amend the Dog Owners' Liability Act. The legislation, if passed, would:

- Ban pit bulls
- Muzzle existing pit bulls, impose other province-wide restrictions to improve public safety, and allow municipalities to impose appropriate controls
- Increase fines up to a maximum of \$10,000 and allow for jail sentences of up to six months for owners of any dangerous dog that bites, attacks, or poses a threat to public safety.

If passed, the legislation would allow for a transition period for existing pit bulls. During this time, owners would be required to comply with strict new requirements for continued ownership.

Bryant said the proposed ban is meant to be supportive of municipal governments, and that this proposed bill respects the municipality's authority under the Municipal Act. This comprehensive approach would avoid a patchwork of bans.

“I support the province’s swift action,” said David Miller, Mayor of Toronto. “This problem is not exclusive to any single municipality, it is a province-wide issue and therefore the best solution is a province-wide strategy to keep Ontarians safe from dangerous dogs.”

“My officers have encountered a number of dangerous situations involving pit bulls,” said Julian Fantino, Chief of Toronto Police Service. “This proposed ban will help my officers and police services across Ontario keep our community safe from dangerous dogs.”

“The ban of pit bulls that Kitchener has had for the past seven years is helping to keep our community safer from a breed that has demonstrated undesirable, aggressive behaviour,” said Carl Zehr, Mayor of Kitchener. “I believe that every Ontarian deserves this level of safety and am pleased that the provincial government will introduce legislation that will, if passed, ban pit bulls province-wide.”

“Our experience in Winnipeg has been one of success,” said Tim Dack, Chief Operating Officer of the Animal Services Agency of the City of Winnipeg. “We have seen the number of pit bull incidents decline dramatically since introducing a pit bull ban 14 years ago. I applaud the Government of Ontario for their decision to ban pit bulls and deal with this urgent public safety issue.”

“I feel safer knowing that the Ontario government has taken steps to protect us from the extreme danger posed by pit bulls,” said Diana Fischer, a victim of a pit bull attack. “The particular problem with pit bulls is the inability to stop them once they have started to attack, the viciousness of their attack and the seriousness of the injuries they inflict. I know this based on my experience as a trainer - through which I’ve dealt with hundreds of dogs - and my experience being attacked by a pit bull who was trying to kill my own dogs.”

“I commend the McGuinty government for moving forward quickly on this very important initiative,” said Rod Morrison, Mayor of Wawa. “Protecting the public from the menace of pit bulls and toughening up on owners of dangerous dogs that attack is in the best interest of all people, in every town, city and community across Ontario.”

“With today’s announcement, we are proposing serious action to respond to the concerns of people worried about their personal safety,” said Bryant. “Our government is committed to protecting all Ontarians from these highly unpredictable dogs.”

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# DOG OWNERS' LIABILITY ACT

## R.S.O. 1990, CHAPTER D.16

**Consolidation Period:** From January 1, 2007 to the e-Laws currency date.

Last amendment: 2006, c. 32, Sched. C, s. 13.

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## INTERPRETATION

### Definitions

1. (1) In this Act,

“owner”, when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor; (“propriétaire”)

“pit bull” includes,

- (a) a pit bull terrier,
- (b) a Staffordshire bull terrier,
- (c) an American Staffordshire terrier,
- (d) an American pit bull terrier,
- (e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (“pit-bull”)

“pound” has the same meaning as in the *Animals for Research Act*; (“fourrière”)

“regulation” means a regulation made under this Act. (“règlement”) R.S.O. 1990, c. D.16, s. 1; 2005, c. 2, s. 1 (2).

### Same

(2) In determining whether a dog is a pit bull within the meaning of this Act, a court may have regard to the breed standards established for Staffordshire Bull Terriers, American Staffordshire Terriers or American Pit Bull Terriers by the Canadian Kennel Club, the United Kennel Club, the American Kennel Club or the American Dog Breeders Association. 2005, c. 2, s. 1 (3).

## CIVIL LIABILITY

### Liability of owner

2. (1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal. R.S.O. 1990, c. D.16, s. 2 (1).

### Where more than one owner

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section. R.S.O. 1990, c. D.16, s. 2 (2).

### Extent of liability

(3) The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (3).

### **Contribution by person at fault**

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damages. R.S.O. 1990, c. D.16, s. 2 (4).

### **Application of *Occupiers' Liability Act***

3. (1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers' Liability Act*. R.S.O. 1990, c. D.16, s. 3 (1).

### **Protection of persons or property**

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. R.S.O. 1990, c. D.16, s. 3 (2).

## **PROCEEDINGS — PART IX OF THE PROVINCIAL OFFENCES ACT**

### **Proceedings against owner of dog**

4. (1) A proceeding may be commenced in the Ontario Court of Justice against an owner of a dog if it is alleged that,

- (a) the dog has bitten or attacked a person or domestic animal;
- (b) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
- (c) the owner did not exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or
  - (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (6).

### **Same**

(1.1) A proceeding may be commenced in the Ontario Court of Justice against a person if it is alleged that the person contravened a provision of this Act or the regulations or a court order made under this Act. 2005, c. 2, s. 1 (6).

### **Nature of proceeding**

(1.2) Part IX of the *Provincial Offences Act* applies to a proceeding under this section. 2005, c. 2, s. 1 (6).

### **Standard of proof**

(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities. 2005, c. 2, s. 1 (6).

**Interim order**

(2) When a proceeding has been commenced under subsection (1) or (1.1), the Ontario Court of Justice may, pending a determination of whether an order should be made under subsection (3) or pending an appeal of such an order, make an interim order requiring the owner to take measures specified in the interim order for the more effective control of the dog. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (7).

**Final order**

(3) If, in a proceeding under subsection (1), the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in the manner specified in the order; or
- (b) that the owner of the dog take the measures specified in the order for the more effective control of the dog or for purposes of public safety. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (8, 9).

**Examples, measures for more effective control**

(4) Some examples of measures that may be ordered under subsection (2) or clause (3) (b) are:

1. Confining the dog to its owner's property.
2. Restraining the dog by means of a leash.
3. Restraining the dog by means of a muzzle.
4. Posting warning signs. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (10).

**Automatic restraint order**

(5) If a dog whose destruction has been ordered under clause (3) (a) is not taken into custody immediately, the owner shall restrain the dog by means of a leash and muzzle and such other means as the court may order until the dog is taken into custody. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (11).

**Considerations**

(6) Except as provided by subsections (8) and (9), in exercising its powers to make an order under subsection (3), the court may take into consideration the following circumstances:

1. The dog's past and present temperament and behaviour.
2. The seriousness of the injuries caused by the biting or attack.
3. Unusual contributing circumstances tending to justify the dog's action.
4. The improbability that a similar attack will be repeated.
5. The dog's physical potential for inflicting harm.
6. Precautions taken by the owner to preclude similar attacks in the future.

7. Any other circumstances that the court considers to be relevant. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (12).

### **Sterilization requirement**

(7) The owner of a dog that is subject to an order under clause (3) (b) shall ensure that the dog is neutered or spayed, as the case may be, within 30 days of the making of the order or, if the court specifies a different time period, within the time period specified by the court. 2005, c. 2, s. 1 (13).

### **Mandatory order under cl. (3) (a)**

(8) When, in a proceeding under this section, the court finds that the dog is a pit bull and has bitten or attacked a person or domestic animal, or has behaved in a manner that poses a menace to the safety of persons or domestic animals, the court shall make an order under clause (3) (a). 2005, c. 2, s. 1 (13).

### **Same**

(9) When, in a proceeding under this section, the court finds that the owner of a pit bull contravened a provision of this Act or the regulations relating to pit bulls or contravened a court order relating to one or more pit bulls, the court shall make an order under clause 3 (a). 2005, c. 2, s. 1 (13).

### **Onus of proof, pit bulls**

(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog. 2005, c. 2, s. 1 (13).

### **Order to prohibit dog ownership**

5. When, in a proceeding under section 4, the court finds that the dog has bitten or attacked a person or domestic animal or that the dog's behaviour is such that the dog is a menace to the safety of persons or domestic animals, the court may make an order prohibiting the dog's owner from owning another dog during a specified period of time. 2000, c. 26, Sched. A, s. 6; 2005, c. 2, s. 1 (14).

## **PRECAUTIONS BY DOG OWNERS**

### **Owner to prevent dog from attacking**

5.1 The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals. 2005, c. 2, s. 1 (15).

## **PIT BULLS — BAN AND RELATED CONTROLS**

### **Pit bull ban**

6. Except as permitted by this Act or the regulations, no person shall,
- (a) own a pit bull;
  - (b) breed a pit bull;
  - (c) transfer a pit bull, whether by sale, gift or otherwise;
  - (d) abandon a pit bull other than to a pound operated by or on behalf of a municipality, Ontario or a designated body;
  - (e) allow a pit bull in his or her possession to stray;
  - (f) import a pit bull into Ontario; or
  - (g) train a pit bull for fighting. 2005, c. 2, s. 1 (16).

### **Ownership of restricted pit bulls**

7. (1) For the purposes of this Act, a pit bull is a restricted pit bull if,
- (a) it is owned by a resident of Ontario on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force; or
  - (b) it is born in Ontario before the end of the 90-day period beginning on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force. 2005, c. 2, s. 1 (16).

### **Same**

- (2) Despite clause 6 (a), a person may own a pit bull if it is a restricted pit bull. 2005, c. 2, s. 1 (16).

### **Controls on restricted pit bulls**

- (3) A person who owns a restricted pit bull shall ensure compliance with the requirements set out in this Act and the regulations that relate to restricted pit bulls, within such time frames as are provided for those requirements in this Act or the regulations. 2005, c. 2, s. 1 (16).

### **Ownership of pit bull other than restricted**

8. (1) Despite clause 6 (a), a pound may own a pit bull that is not a restricted pit bull for as long as is reasonably necessary to fulfil its obligations under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

### **Same**

- (2) Despite clause 6 (a), a research facility registered under the *Animals for Research Act* may own a pit bull that is not a restricted pit bull that is transferred to it under the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

### **Transfer of pit bulls**

9. (1) Despite clause 6 (c) and subject to the regulations, an owner of a restricted pit bull may transfer that pit bull by gift or bequest. 2005, c. 2, s. 1 (16).

#### **Same**

(2) No person who owned one or more pit bulls on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire a pit bull under subsection (1) after that day if the effect of the acquisition would be that the person owns more pit bulls after that day than on that day. 2005, c. 2, s. 1 (16).

#### **Same**

(3) No person who did not own a pit bull on the day subsection 1 (16) of the *Public Safety Related to Dogs Statute Law Amendment Act, 2005* comes into force shall acquire more than one pit bull under subsection (1) after that day. 2005, c. 2, s. 1 (16).

#### **Same**

(4) The limits set out in subsections (2) and (3) do not apply to a pound operated by or on behalf of a municipality, Ontario or a designated body or to a research facility within the meaning of the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

#### **Same**

(5) Despite clause 6 (c), a pit bull may be transferred by its owner to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

#### **Same**

(6) Despite clause 6 (c), a pit bull may be transferred in accordance with section 20 of the *Animals for Research Act*. 2005, c. 2, s. 1 (16).

### **Importation of restricted pit bulls**

10. (1) For the purposes of clause 6 (f), an individual who leaves Ontario with a restricted pit bull and returns to Ontario with that pit bull within three months is not importing that pit bull into Ontario. 2005, c. 2, s. 1 (16).

#### **Same**

(2) For the purposes of clause 6 (f), an individual who owns a pit bull on the day referred to in clause 7 (1) (a) and is legally resident in Ontario on that day, but who is not present in Ontario on that day, is not importing a pit bull into Ontario if he or she returns to Ontario with that pit bull within three months of that day. 2005, c. 2, s. 1 (16).

### **Municipal by-laws**

11. Despite section 14 of the *Municipal Act, 2001* and section 11 of the *City of Toronto Act, 2006*, if there is a conflict between a provision of this Act or of a regulation under this or any other Act relating to pit bulls and a provision of a by-law passed by a municipality relating to pit bulls, the provision that is the most restrictive in relation to controls or bans on pit bulls prevails. 2005, c. 2, s. 1 (16); 2006, c. 32, Sched. C, s. 13.

## SEARCH AND SEIZURE

### Peace officers

12. For the purposes of this Act, the following persons are peace officers:

1. A police officer, including a police officer within the meaning of the *Police Services Act*, a special constable, a First Nations Constable and an auxiliary member of a police force.
2. A municipal law enforcement officer.
3. An inspector or agent under the *Ontario Society for the Prevention of Cruelty to Animals Act*.
4. A public officer designated as a peace officer for the purposes of this Act. 2005, c. 2, s. 1 (16).

### Warrant to seize dog

13. (1) Subsection (2) applies where a justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that,

- (a) a dog is in any building, receptacle or place, including a dwelling house, other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act*; and
- (b) it is not desirable in the interests of public safety that the dog be in that location. 2005, c. 2, s. 1 (16).

### Same

(2) In the circumstances described in subsection (1), the justice of the peace may issue a warrant authorizing a peace officer named in the warrant to enter any building, receptacle or place, including a dwelling house, to search for and seize the dog and any muzzle, collar or other equipment for the dog. 2005, c. 2, s. 1 (16).

### Same

(3) Without limiting the generality of clause (1) (b), it is not desirable in the interests of public safety for a dog to be in a location other than in a pound operated by or on behalf of a municipality, Ontario or a designated body or in a research facility registered under the *Animals for Research Act* if,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal, or

- (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

**Same**

(4) A peace officer named in a warrant who is executing a warrant under this section may be accompanied by one or more veterinarians or animal control personnel as are reasonably required to give effect to the safe and humane seizure of the dog, whether the accompanying persons are named in the warrant or not. 2005, c. 2, s. 1 (16).

**Same**

(5) Every warrant issued under this section shall name a date on which it expires, which date shall be not later than 30 days after its issue. 2005, c. 2, s. 1 (16).

**Same**

(6) Every warrant shall be executed between 6 a.m. and 9 p.m., unless the justice by the warrant otherwise authorizes. 2005, c. 2, s. 1 (16).

**Exigent circumstances**

**14.** (1) Where the circumstances in clauses 13 (1) (a) and (b) exist and it would be impracticable to obtain a warrant because of exigent circumstances, a peace officer may exercise any of the powers of a peace officer described in section 13. 2005, c. 2, s. 1 (16).

**Same**

(2) In this section, exigent circumstances include circumstances in which the peace officer has reasonable grounds to suspect that entry into any building, receptacle or place, including a dwelling house, is necessary to prevent imminent bodily harm or death to any person or domestic animal. 2005, c. 2, s. 1 (16).

**Seizure in public place**

**15.** (1) A peace officer may seize a dog in a public place if the officer believes on reasonable grounds that,

- (a) the dog has on one or more occasions bitten or attacked a person or domestic animal;
- (b) the dog has on one or more occasions behaved in a manner that poses a menace to the safety of persons or domestic animals;
- (c) an owner of the dog has on one or more occasions failed to exercise reasonable precautions to prevent the dog from,
  - (i) biting or attacking a person or domestic animal,

- (ii) behaving in a manner that poses a menace to the safety of persons or domestic animals;
- (d) the dog is a restricted pit bull and an owner of the dog has on one or more occasions failed to comply with one or more of the requirements of this Act or the regulations respecting restricted pit bulls;
- (e) the dog is a pit bull other than a restricted pit bull; or
- (f) there is reason to believe that the dog may cause harm to a person or domestic animal. 2005, c. 2, s. 1 (16).

**Same**

(2) Subsection (1) shall not be interpreted to restrict seizure of a dog in a public place if the seizure is otherwise lawful. 2005, c. 2, s. 1 (16).

**Necessary force**

**16.** A peace officer may use as much force as is necessary to execute a warrant issued under section 13 or to exercise any authority given by section 14 or 15. 2005, c. 2, s. 1 (16).

**Delivery of seized dog to pound**

**17.** A peace officer who seizes a dog under section 13, 14 or 15 shall promptly deliver the seized dog to a pound operated by or on behalf of a municipality, Ontario or a designated body. 2005, c. 2, s. 1 (16).

## **OFFENCES**

**Offences**

**18.** (1) An individual who contravenes any provision of this Act or the regulations or who contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or both. 2005, c. 2, s. 1 (16).

**Same**

(2) A corporation that contravenes any provision of this Act or the regulations or that contravenes an order made under this Act or the regulations is guilty of an offence and liable, on conviction, to a fine of not more than \$60,000. 2005, c. 2, s. 1 (16).

**Same**

(3) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation to the offence. 2005, c. 2, s. 1 (16).

**Identification of pit bull**

**19.** (1) A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this Act is receivable in evidence in a prosecution for an offence under this Act as proof, in the absence of evidence to the contrary, that the dog is a pit bull for the purposes of this Act,

without proof of the signature and without proof that the signatory is a member of the College. 2005, c. 2, s. 1 (16).

### **Immunity**

(2) No action or other proceeding may be instituted against a member of the College of Veterinarians of Ontario for providing, in good faith, a document described in subsection (1). 2005, c. 2, s. 1 (16).

### **Onus of proof**

(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt. 2005, c. 2, s. 1 (16).

## **REGULATIONS**

### **Regulations**

**20.** (1) The Lieutenant Governor in Council may make regulations respecting the control of pit bulls. 2005, c. 2, s. 1 (16).

### **Same**

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) respecting leashing and muzzling of restricted pit bulls;
- (b) respecting the spaying or neutering of restricted pit bulls;
- (c) authorizing persons or other bodies specified in the regulations to pass and enforce by-laws governing pit bulls for the purposes of unorganized territory or specified parts of unorganized territory in the same ways that a municipality can pass and enforce by-laws governing pit bulls for the purposes of its geographic jurisdiction;
- (d) governing the presence in Ontario of pit bulls in connection with dog shows, including regulations providing for exemptions, subject to any restrictions specified in the regulations, from any provision of this Act or the regulations;
- (e) designating bodies referred to as designated in this Act;
- (f) designating public officers as peace officers for the purposes of this Act. 2005, c. 2, s. 1 (16).

### **Same**

(3) Regulations may be general or specific. 2005, c. 2, s. 1 (16).

### **Same**

(4) Without limiting the generality of subsection (3), a regulation may be made to apply or not to apply to a person or body specified in the regulation. 2005, c. 2, s. 1 (16).

# **DOG OWNERS' LIABILITY ACT**

## **ONTARIO REGULATION 157/05**

### **PIT BULL CONTROLS**

**Consolidation Period:** From August 29, 2005 to the e-Laws currency date.

Last amendment: O.Reg. 434/05.

*This is the English version of a bilingual regulation.*

#### **GENERAL**

##### **Control of pit bulls**

1. (1) Subject to subsections (2) and (3), an owner of a restricted pit bull shall ensure that the pit bull is at all times equipped with a muzzle and secured by a leash in accordance with subsection (5). O. Reg. 157/05, s. 1 (1).

(2) Subsection (1) does not apply when a pit bull is within enclosed property occupied by the owner of the pit bull. O. Reg. 157/05, s. 1 (2).

(3) When a pit bull is within enclosed property occupied by a person who consents to the pit bull being off leash or off muzzle, subsection (1) does not apply to the extent of that consent. O. Reg. 157/05, s. 1 (3).

(4) For the purposes of subsections (2) and (3), a pit bull is within enclosed property when the property is enclosed in a way that can be relied on to prevent the pit bull from breaking out of the property. O. Reg. 157/05, s. 1 (4).

(5) For the purposes of subsection (1), a pit bull shall be equipped with a muzzle and secured by a leash in accordance with the following rules:

1. The pit bull shall be fitted with a collar or harness that is properly fitted to and placed on the dog.
2. The movement of the pit bull shall be controlled by a person by means of a leash attached to the collar or harness on the pit bull.
3. The leash is not more than 1.8 metres in length and is attached to the collar or harness.

4. The collar or harness, the leash and the attachment between the leash and the collar or harness are all strong enough to prevent the pit bull from breaking any of them.
5. The mouth of the pit bull is covered by a muzzle that is humane and that is strong enough and well-fitted enough to prevent the pit bull from biting, without interfering with the breathing, panting or vision of the pit bull or with the pit bull's ability to drink. O. Reg. 157/05, s. 1 (5).

(6) Every owner of a pit bull shall ensure that the requirements of this section are complied with on and after the day that is 60 days after the day on which this Regulation comes into force. O. Reg. 157/05, s. 1 (6).

### **Sterilization**

2. (1) Subject to subsections (2) and (3), every owner of a restricted pit bull shall ensure that the pit bull is sterilized by a veterinarian on or before the day that is 60 days after the day on which this Regulation comes into force. O. Reg. 157/05, s. 2 (1).

(2) If the effect of subsection (1) would be to require sterilization of a pit bull before it reaches the age of 36 weeks, every owner of the pit bull shall instead ensure that it is sterilized on or before the day on which it reaches that age. O. Reg. 157/05, s. 2 (2).

(3) An owner of a restricted pit bull is exempt from complying with subsection (1) if, in the written opinion of a veterinarian, the pit bull is physically unfit to be anaesthetized because of old age or infirmity. O. Reg. 157/05, s. 2 (3).

(4) If a veterinarian gives a written opinion based on infirmity, the veterinarian shall state, in the written opinion, whether, in his or her opinion, the infirmity may not be permanent. O. Reg. 157/05, s. 2 (4).

(5) Where the veterinarian states that an infirmity may not be permanent, he or she shall specify, in the written opinion, a date by which the owner should have the pit bull re-examined by a veterinarian to determine whether the pit bull is fit to be anaesthetized. O. Reg. 157/05, s. 2 (5).

(6) An exemption based on a written opinion that specifies a date under subsection (5) ends on that date, but a further written opinion under subsection (3) may be sought in respect of the pit bull on or before that date. O. Reg. 157/05, s. 2 (6).

(7) In this section,

“veterinarian” means a member of the College of Veterinarians of Ontario. O. Reg. 157/05, s. 2 (7).

### **Interpretation**

2.1 Nothing in section 4, 5, 7 or 8 of this Regulation shall be interpreted as a limit on the prohibition, in clause 6 (b) of the Act, against breeding pit bulls. O. Reg. 434/05, s. 1.

## **DOG SHOWS AND FLYBALL TOURNAMENTS**

### **Approved dog shows**

3. (1) In this section and sections 4 and 5,

“dog show” includes a conformation show, an agility trial, an obedience trial, a tracking test and an earth dog test but does not include a flyball tournament as defined in section 6. O. Reg. 157/05, s. 3 (1); O. Reg. 434/05, s. 3.

(2) For the purposes of sections 4 and 5, a dog show is an approved dog show if it is an event, whether held in Ontario or elsewhere, that is sanctioned, in writing, by one or more of the following dog registries:

1. The Canadian Kennel Club.
2. The United Kennel Club.
3. The American Kennel Club.
4. The American Dog Breeders Association. O. Reg. 157/05, s. 3 (2).

### **Exemptions, restricted pit bulls**

4. (1) The exemptions set out in subsection (3) apply in respect of restricted pit bulls within the meaning of subsection 7 (1) of the Act, as long as the conditions set out in subsection (2) are met. O. Reg. 157/05, s. 4 (1).

(2) The following are the conditions referred to in subsection (1):

1. The restricted pit bull is registered as a Staffordshire bull terrier, an American Staffordshire terrier or an American pit bull terrier with one or more of the dog registries named in subsection 3 (2).
2. The owner of the restricted pit bull has given written notice to one of the dog registries named in subsection 3 (2) stating the owner’s intention that the restricted pit bull participate in approved dog shows.
3. Except in the circumstances described in paragraph 4, the restricted pit bull has participated in at least one approved dog show during the 365-day period ending on the day this Regulation comes into force.
4. In the case of a restricted pit bull that was unborn or below the age of 36 weeks on the day this Regulation comes into force, the pit bull has participated in at least one approved dog show during the period ending on the day on which the pit bull reaches the age of 36 weeks.
5. The restricted pit bull has participated in an approved dog show at least once in every 365-day period since the dog’s first participation in such a show during the period that applies to the pit bull under paragraph 3 or 4, as the case may be. O. Reg. 157/05, s. 4 (2).

(3) The following are the exemptions referred to in subsection (1):

1. The requirements of subsections 1 (1), (5) and (6) do not apply while the pit bull is on the site of and participating in an approved dog show.
2. The requirements of section 2 do not apply. O. Reg. 157/05, s. 4 (3).

### **Exemptions, pit bulls not owned by Ontario residents**

5. (1) The exemptions set out in subsection (3) apply in respect of pit bulls that are not owned by a resident of Ontario, as long as the conditions set out in subsection (2) are met. O. Reg. 157/05, s. 5 (1).

(2) The following are the conditions referred to in subsection (1):

1. The pit bull is registered as a Staffordshire bull terrier, an American Staffordshire terrier or an American pit bull terrier with one or more of the dog registries named in subsection 3 (2).
2. The owner of the pit bull has given written notice to one of the dog registries named in subsection 3 (2) stating the owner's intention that the pit bull participate in approved dog shows.
3. Beginning on the day on which this Regulation comes into force, the pit bull has not been present in Ontario except during 14-day periods that include an approved dog show in which the pit bull participated.
4. Beginning on the day on which this Regulation comes into force, the pit bull has not been imported into Ontario more than 14 days preceding an approved dog show in Ontario in which the pit bull was registered. O. Reg. 157/05, s. 5 (2); O. Reg. 434/05, s. 4 (1).

(3) The following are the exemptions referred to in subsection (1):

1. Subsections 1 (1), (5) and (6) do not apply while the pit bull is on the site of and participating in an approved dog show.
2. Section 2 does not apply.
3. Clause 6 (a) of the Act does not apply during the 14-day periods mentioned in paragraph 3 of subsection (2).
4. Clause 6 (f) of the Act does not apply if the pit bull is imported into Ontario within the 14-day period mentioned in paragraph 4 of subsection (2). O. Reg. 157/05, s. 5 (3); O. Reg. 434/05, s. 4 (2).

### **Flyball tournaments**

6. In sections 7 and 8,

“flyball tournament” means a dog flyball tournament, whether held in Ontario or elsewhere, that is sanctioned, in writing, by the North American Flyball Association. O. Reg. 434/05, s. 5.

### **Exemptions, restricted pit bulls**

7. (1) The requirements of subsections 1 (1), (5) and (6) do not apply in respect of a restricted pit bull within the meaning of subsection 7 (1) of the Act while the pit bull is on the site of and participating in a flyball tournament, as long as the conditions set out in subsection (2) are met. O. Reg. 434/05, s. 5.

(2) The following are the conditions referred to in subsection (1):

1. The restricted pit bull is registered with the North American Flyball Association.
2. The owner of the restricted pit bull has given written notice to the North American Flyball Association stating the owner's intention that the restricted pit bull participate in a flyball tournament.
3. The restricted pit bull has participated in at least one flyball tournament during the 365-day period ending on the day this Regulation comes into force.
4. The restricted pit bull has participated in a flyball tournament at least once in every 365-day period since the dog's first participation in such an event during the period that applies to the pit bull under paragraph 3. O. Reg. 434/05, s. 5.

### **Exemptions, pit bulls not owned by Ontario residents**

8. (1) The exemptions set out in subsection (3) apply in respect of pit bulls that are not owned by a resident of Ontario, as long as the conditions set out in subsection (2) are met. O. Reg. 434/05, s. 5.

(2) The following are the conditions referred to in subsection (1):

1. The pit bull is registered with the North American Flyball Association.
2. The owner of the pit bull has given written notice to the North American Flyball Association stating the owner's intention that the pit bull participate in a flyball tournament.
3. Beginning on the day on which this Regulation comes into force, the pit bull has not been present in Ontario except during seven-day periods that include a flyball tournament in which the pit bull participated.
4. Beginning on the day on which this Regulation comes into force, the pit bull has not been imported into Ontario more than seven days preceding a flyball tournament in Ontario in which the pit bull was registered. O. Reg. 434/05, s. 5.

(3) The following are the exemptions referred to in subsection (1):

1. Subsections 1 (1), (5) and (6) do not apply while the pit bull is on the site of and participating in a flyball tournament.
2. Clause 6 (a) of the Act does not apply during the seven-day periods mentioned in paragraph 3 of subsection (2).

3. Clause 6 (f) of the Act does not apply if the pit bull is imported into Ontario within the seven-day period mentioned in paragraph 4 of subsection (2). O. Reg. 434/05, s. 5.

**Maximum days**

9. Despite the exemption from clause 6 (a) of the Act provided by sections 5 and 8, no person shall permit a pit bull to which the exemption would apply to be present in Ontario for more than 14 consecutive days. O. Reg. 434/05, s. 5.