

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 0 - 1

Yeas: Beyer, Prozanski, Walker, Burdick

Nays: 0

Exc.: Kruse

Prepared By: Matt Kalmanson, Counsel

Meeting Dates: 5/9, 5/21

WHAT THE MEASURE DOES: Establishes that, in an action arising from an injury caused by a dog: (a) the plaintiff is not required to prove that the dog owner should have foreseen that the dog would cause the injury; and (b) the owner may not assert as a defense that the dog bite was not foreseeable. Preserves “any other defense that may be available to the owner,” such as that the dog was provoked. Applies to claims for economic damages only.

ISSUES DISCUSSED:

- The “one free bite” rule in actions relating to dog bites
- Impact of one free bite rule on injured parties
- Insurance coverage of dog-bite injuries
- Laws of other states
- Impact on animal rescue organizations
- Economic versus non-economic damages
- Evidence necessary for punitive damages

EFFECT OF COMMITTEE AMENDMENT: Establishes that bill applies to claims for economic damages only.

BACKGROUND: A person who owns a domestic animal that is abnormally dangerous is strictly liable for the harm caused by the animal. For all other domestic animals, however, an owner is liable only if he or she was negligent in failing to prevent the harm. The Court of Appeals has ruled that, in this context, negligence is determined by evaluating whether it was foreseeable that the dog might cause the injury. This has been referred to as the “one free bite” rule. HB 2345 B would eliminate that rule in Oregon by providing that a plaintiff is not required to establish that a dog bite was foreseeable in order to recover damages, while at the same time preserving “any other defense that may be available to the owner,” such as that the dog was provoked. The bill applies to claims for economic damages only, and expressly does not alter the law of punitive damages.