



# Senate

General Assembly

**File No. 805**

January Session, 2005

Substitute Senate Bill No. 634

*Senate, May 26, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING DAMAGE BY ROAMING LIVESTOCK AND DOGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-561a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Any owner or keeper of domestic fowls, including, but not  
4 limited to, ostrich and emu, and any owner or keeper of livestock,  
5 including, but not limited to, cervids, camelids, bison, buffalo, cattle,  
6 equine, asses, mules, sheep, swine and goats, who allows [them] such  
7 fowls or livestock to trespass upon the premises of another person  
8 shall be liable to the owner or occupant of such premises for all  
9 damage done by such fowls or livestock.

10 (b) An owner or keeper of domestic fowls or livestock shall not be  
11 liable for the cost of repairing damage done by such fowls or livestock  
12 pursuant to subsection (a) of this section when the fence or barrier

13 used to enclose such fowls or livestock is determined by the  
14 Commissioner of Agriculture or the commissioner's designee to be  
15 sufficient to control such fowls or livestock and has either (1) been  
16 damaged by natural acts not under the control of the owner or keeper,  
17 or (2) been damaged by criminal or other malicious acts, including, but  
18 not limited to, vandalism, trespass, or other intentional acts not under  
19 the control of the owner or keeper.

20 (c) A municipal animal control officer may impound roaming  
21 domestic fowls or livestock and may recover reasonable costs from the  
22 owner or keeper associated with the feeding and care of such fowls  
23 and livestock. At the request of the municipal animal control officer,  
24 the Commissioner of Agriculture or the commissioner's designee may  
25 provide assistance to the officer regarding the impoundment, feeding  
26 and care of such fowls or livestock. Municipal animal control officers  
27 impounding fowls or livestock pursuant to this section shall make a  
28 reasonable effort to notify the owner or keeper of such fowls or  
29 livestock regarding the impoundment.

30 Sec. 2. (NEW) (*Effective October 1, 2005*) Any person who sustains  
31 damage by a dog to such person's sheep, goats, horses, hogs, cattle,  
32 poultry or domestic rabbits kept in enclosures shall make complaint  
33 concerning the circumstances of the attack by such dog on any such  
34 domestic animal to the Chief Animal Control Officer, any animal  
35 control officer or the municipal animal control officer or regional  
36 animal control officer of the town in which such dog is owned or kept.  
37 Any such officer to whom such complaint is made shall immediately  
38 make an investigation of such complaint. If such officer finds that the  
39 complainant's domestic animal has been bitten or attacked by such dog  
40 when such domestic animal was not on the premises of the owner or  
41 keeper of such dog, such officer shall quarantine such dog in a public  
42 pound or order the owner or keeper of such dog to quarantine such  
43 dog in a veterinary hospital, kennel or other building or enclosure  
44 approved by the Commissioner of Agriculture for such purpose. The  
45 commissioner, the Chief Animal Control Officer or any animal control  
46 officer, municipal animal control officer or regional animal control

47 officer may make any order concerning the restraint or disposal of any  
 48 such attacking dog as the commissioner or such officer deems  
 49 necessary. Notice of any such order shall be given to the owner of such  
 50 dog within twenty-four hours. The owner of such dog shall pay all fees  
 51 as set forth in section 22-333 of the general statutes. On the fourteenth  
 52 day of such quarantine, such dog shall be examined by the  
 53 commissioner or a person designated by the commissioner to  
 54 determine whether such quarantine shall be continued or removed.  
 55 Whenever any quarantine is ordered under the provisions of this  
 56 section, notice thereof shall be given to the commissioner and to the  
 57 complainant within twenty-four hours. Any owner or keeper of such  
 58 dog who fails to comply with such order shall be fined not more than  
 59 two hundred fifty dollars or imprisoned not more than thirty days, or  
 60 both. If the owner or keeper of such dog fails to comply with a  
 61 quarantine or restraining order made pursuant to this section, the  
 62 Chief Animal Control Officer or any animal control officer, municipal  
 63 animal control officer or regional animal control officer may seize such  
 64 dog to ensure such compliance, and the owner or keeper of such dog  
 65 shall be responsible for any expenses resulting from such seizure. Any  
 66 person aggrieved by an order of the Chief Animal Control Officer or  
 67 any animal control officer, municipal animal control officer or regional  
 68 animal control officer made pursuant to this section may request a  
 69 hearing before the commissioner not later than fourteen days after the  
 70 issuance of such order. After such hearing, the commissioner may  
 71 affirm, modify or revoke such order as the commissioner deems  
 72 proper. Any dog owned by a police agency of the state or any of its  
 73 political subdivisions is exempt from the provisions of this section  
 74 when such dog is under the direct supervision, care and control of an  
 75 assigned police officer, has been vaccinated annually and is subject to  
 76 routine veterinary care.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	52-561a
Sec. 2	October 1, 2005	New section

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
Department of Agriculture	GF - Cost	Potential	Potential
Judicial Dept.	GF - Revenue Gain	Minimal	Minimal
Judicial Dept. (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
Various Municipalities	Cost	Potential Minimal	Potential Minimal

### **Explanation**

The additional workload increase for the Department of Agriculture (DOAG) due to additional determinations and assistance to municipal animal control officers in regard to damage caused by roaming livestock is anticipated to be minimal and within existing resources. In the majority of instances, it is anticipated that the DOAG would have been contacted anyway.

The bill could also result in the need for additional DOAG hearings concerning damage by a dog. This could result in an increase in costs to DOAG; the exact impact would depend upon the number of additional hearings required and is unknown at this time.

The bill makes it a crime (punishable by a fine of up to \$250, up to thirty days in prison, or both) for any owner or keeper of a dog that fails to comply with an order of quarantine issued under the bill for that dog. It is anticipated that few offenses would be prosecuted each year and, consequently, any revenue gain from criminal fines under the bill would be minimal. To the extent that offenders are prosecuted

criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

***Municipal***

Allowing municipal animal control officers to impound roaming livestock or domestic fowl and recover reasonable costs from the owners or keepers is anticipated to minimally increase costs to a municipality. Since the provisions are discretionary, it is anticipated municipalities will undertake the actions within available resources.

Requiring the immediate investigation by a local animal control officer (aco) of a dog damaging anyone's sheep, goats, horses, hogs, cattle, poultry, or domestic rabbits is anticipated to minimally increase the aco's workload. Various municipalities could incur costs for quarantining a dog as required in the bill. However, since the dog owner must pay any costs incurred due to quarantining the dog, it is anticipated that the costs would be reimbursed.

**OLR Bill Analysis**

sSB 634

**AN ACT CONCERNING DAMAGE BY ROAMING LIVESTOCK AND DOGS****SUMMARY:**

The bill broadens the circumstances under which a livestock owner or keeper is liable for damage his animals cause and it establishes a procedure for dealing with dogs that attack domestic animals.

Under current law, a livestock owner or keeper is responsible for such damage only when the fence of the owner of the damaged land is sufficient (with a few exceptions). The bill makes an owner or keeper liable for all damage that his animals cause to another person's property, except when the agriculture commissioner determines the animal owner's fence was sufficient and natural or malicious acts disrupted it. Existing law makes owners or keepers liable for all damage their domestic fowl cause.

The bill allows a municipal animal control officer (ACO) to impound roaming livestock or domestic fowl and recover reasonable costs associated with their feeding and care from the owner or keeper. The agriculture commissioner may assist with impoundment, care, or feeding, if the ACO asks. Existing law does not specify that domestic fowl can be impounded.

The bill applies laws similar to those for when a dog bites a person to a scenario when a dog attacks certain domestic animals. It requires (1) the owner of certain domestic animals to inform an ACO of a dog attack and (2) the ACO to immediately investigate. If the ACO finds the dog attacked the domestic animal away from the dog owner's or keeper's premises, the ACO must quarantine the dog or order its owner or keeper to do so. Under the bill, the commissioner or an ACO may make an order concerning the restraint or disposal of such an attacking dog. The bill lays out notice and other requirements. It exempts dogs owned by a state or local police agency from its provisions under certain conditions.

EFFECTIVE DATE: October 1, 2005

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## **DAMAGE BY FOWL AND LIVESTOCK**

### ***Exemptions for Livestock and Domestic Fowl***

The bill exempts both livestock and domestic fowl owners or keepers from liability if the agriculture commissioner determines that the fence or barrier used to enclose the animals was sufficient to control them and was damaged either by (1) natural acts the owner or keeper could not control or (2) criminal or other malicious acts, including vandalism, trespass, or other intentional acts not under control of the owner or keeper.

### **Livestock and Domestic Fowl Impoundment, Care, and Notice**

Under the bill, the agriculture commissioner or his designee may assist the ACO with the impoundment, feeding, and care of the livestock or fowl, if the ACO requests it. An ACO impounding fowl or livestock for damaging another's property must make a reasonable effort to notify the owner or keeper of the impoundment.

### ***Fowl and Livestock Defined***

The bill specifies that (1) domestic fowl include ostriches and emus and (2) livestock include cervids (e.g., deer), camelids (e.g., llamas), buffalo, cattle, equines (horses), asses, mules, sheep, swine (hogs), and goats.

## **DOGS THAT ATTACK DOMESTIC ANIMALS**

### ***Complaint to ACO***

Under the bill, if a dog damages anyone's sheep, goats, horses, hogs, cattle, poultry, or domestic rabbits that are kept in enclosures, the aggrieved animal owner must notify a state or local ACO. The ACO who receives the complaint must immediately investigate it.

### ***Quarantine, Notice, and Orders***

If the ACO finds that the complainant's domestic animal was bitten or attacked by the dog outside of the premises of the dog owner or keeper, the officer must quarantine the dog in a public pound or order the dog owner or keeper to quarantine it in a veterinary hospital,

kennel, or other building or enclosure approved by the agriculture commissioner.

The dog owner must pay all fees for the dog's care while it is impounded. On the 14th day of quarantine, the commissioner or his designee must examine the dog to determine whether to continue or end the quarantine. Whenever quarantine is ordered in such an instance, notice must be given to the commissioner and complainant within 24 hours.

The commissioner or any ACO may make any order they deem necessary concerning the restraint or disposal of an attacking dog. They must give notify the dog owner of any order within 24 hours.

Any dog owned by a state or local police agency state is exempt from the quarantine and seizure provisions above when it is (1) under the direct supervision, care, and control of an assigned police officer; (2) has been vaccinated annually; and (3) is subject to routine veterinary care.

### ***Failure to Comply***

Under the bill, any owner or keeper of an attacking dog who fails to comply with an order may be fined up to \$250, imprisoned up to 30 days, or both. If the owner or keeper fails to comply with a quarantine or restraining order, the ACO may seize the dog to ensure compliance, and the owner or keeper is responsible for any expenses resulting from the seizure.

### ***Hearing for Anyone Aggrieved by an ACO's Order***

Anyone aggrieved by an ACO's order (but apparently not an order of the commissioner) may request a hearing before the commissioner no later than 14 days after the order is issued. After the hearing, the commissioner may affirm, modify, or revoke the order as he deems proper.

### ***Law Concerning a Dog that Bites a Person***

By law, an ACO must quarantine a dog that has bitten someone outside its owner's property. The dog must be quarantined for 14 days in a public pound, veterinary hospital, or place approved by the

agriculture commissioner. The purpose of the quarantine is to assure the animal does not have rabies and to examine the dog's demeanor. The owner must pay all fees associated with quarantining the animal. The ACO may quarantine the dog on the premises if it has bitten someone on its owner's property. The ACO must give the person the dog bit and the commissioner notice of the quarantine within 24 hours. The commissioner or his designee must examine the dog on the 14th day of the quarantine to determine whether it should continue (CGS §22-358).

## **BACKGROUND**

### ***Damage to Fenced Property***

Under existing law, an animal owner must pay for damage his animals cause when they damage the property of another person whose fence was sufficient. If the fence of a person whose property is damaged by another's animal is insufficient, he cannot recover damages, except when (1) the animals are at large against the law, (2) the damage was done by unruly cattle not restrained by ordinary fences, (3) the animal owner puts the animals onto the other person's property voluntarily (voluntary trespasses on the enclosure), or (4) the animals entered through a portion of the fence that was sufficient. In all of the previous four examples, the landowner may impound the animals and recover poundage and damages. The courts have determined what makes a fence sufficient (CGS § 47-55).

### ***Dogs and Domestic Animals***

By law, dogs are prohibited from roaming at large on someone else's land or public road (CGS § 22-364). An owner of livestock or poultry who sees a dog at large may report the dog to the local ACO. The ACO may impound the dog and issue the owner an infraction (CGS §§ 22-332 and 364).

If a domestic animal or poultry owner or his agent observes a dog pursuing or worrying his animals, he may kill the dog without civil or criminal liability (CGS § 22-358). "Poultry" is defined as all domestic fowl and any pheasants or other game birds securely confined that someone lawfully owns and possesses (CGS § 22-327).

If the owner has already lost domestic animals, such as poultry, to a

dog, he may report the loss to the town's chief administrative official within 24 hours, and the town must reimburse him for the estimated value of the animals lost. The town may recover that amount plus other expenses from the dog's owner or keeper (CGS § 22-355). A dog's owner or keeper may be civilly liable to anyone injured by his dog or whose property the dog damages, so long as the injured person was not trespassing or teasing the dog (CGS § 22-357).

**Legislative History**

On April 15, the Senate referred the bill (File 212) to the Planning and Development Committee. On April 20, the committee favorably reported a substitute bill that made the commissioner's assistance in livestock impoundment permissive. On May 11, the Senate referred the bill (File 633) to the Judiciary Committee. On May 16, the committee favorably reported a substitute bill that added the provisions concerning dogs that cause damage to domestic animals.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute  
Yea 26 Nay 0

Planning and Development Committee

Joint Favorable Substitute  
Yea 10 Nay 5

Judiciary Committee

Joint Favorable Substitute  
Yea 36 Nay 0