



## MEANING OF A DOG "PURSUING OR WORRYING" A DOMESTIC ANIMAL UNDER CGS § 22-358(a)

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### CGS § [22-358\(a\) & \(e\)](#)

"(a) Any owner or the agent of any owner of any domestic animal or poultry, or the Chief Animal Control Officer, any animal control officer, any municipal animal control officer, any regional animal control officer or any police officer or state policeman, may kill any dog which he observes pursuing or worrying any such domestic animal or poultry.

"(e) Any person who kills any dog, cat or other animal in accordance with the provisions of this section shall not be held criminally or civilly liable therefor."

### QUESTION

What does it mean for a dog to be "pursuing or worrying" a domestic animal or poultry under CGS § [22-358\(a\)](#) in order to relieve someone of liability for killing the dog?

### SUMMARY

By law, certain people may kill, without criminal or civil liability, a dog that they see "pursuing or worrying" a domestic animal or poultry (CGS § [22-358\(a\) & \(e\)](#), see side box).

The law does not define the terms "pursuing" or "worrying" and a review of legislative committee transcripts for the original act and later revisions reveal no explanation of the terms.

Similarly, few written court decisions exist applying the statutory subsections and none of them define the terms pursuing or worrying. But in an oral decision, reprinted in a newspaper, a city court applied a dictionary definition of "worry," meaning to "harass with or as if with continual snapping or biting; also to shake, tear or mangle with the teeth," though the court's decision did not rest on the definition.

When courts have addressed the statute, they have held that the dog must be killed when it is actively pursuing or worrying the domestic animal or poultry in order to relieve someone of liability — it cannot be killed beforehand or after-the-fact. There must also be a reasonable belief that the killing is needed to prevent injury.

## **LEGISLATIVE HISTORY**

### ***Original Act***

The Legislative Library traced the language of CGS § [22-358\(a\)](#) to 1907 when the legislature adopted an act allowing anyone to kill a dog, without criminal or civil liability, if he found it pursuing, worrying, or wounding a sheep, lamb, or other domestic animal. The act also allowed selectmen and dog wardens to kill dogs killing or worrying sheep, lambs, or other domestic animals or poultry (An Act Concerning Dogs of 1907, Chapter 167 §§ 12 & 13).

The act also permitted killing a dog, without liability, if it was straying, between sunset and sunrise, on a farm where domestic animals were kept. But it prohibited the killing without a "reasonable apprehension" that the dog would pursue, worry, wound, or terrify the animals, if it (1) belonged to an adjacent property occupant, (2) was securely muzzled, or (3) was accompanied by or within "a reasonable call" of the person in charge of the dog. (This provision concerning dogs straying between sunset and sunrise was repealed in 1979.)

The committee testimony for the bill that became this act contains no discussion of the meaning of pursuing or worrying. (House and Senate transcripts are unavailable for sessions before 1953.)

(Before the 1907 law, a narrower law permitted killing dogs caught in the act of killing or worrying sheep, but it also did not define "worrying" (1855).)

### ***Revisions of Dog's Actions Needed for Liability Relief***

The legislature revised this law numerous times between 1907 and 2012, twice amending the actions a person must see a dog taking toward a domestic animal for the person to be relieved of criminal or civil liability for killing it. (Poultry was added to the statute in 1947).

In 1911, An Act Amending an Act Concerning Dogs, Chapter 121 § 4, broadened the law to include "harassing" sheep, lambs, or other domestic animals. But in 1925, the legislature removed harassing and wounding from the law, thus reducing the law's scope to situations where a dog is pursuing or worrying a domestic animal. It also, among other things, limited the ability to kill a dog in these situations to the owner of the domestic animal that is pursued or worried or the owner's agent (An Act Revising and Codifying the Dog Laws of 1925, Chapter 269 § 24).

## CASE LAW

Little case law is available on the meaning of pursuing or worrying a domestic animal or poultry under CGS § [22-358\(a\)](#). And whether a dog was engaged in these actions is a question of fact to be determined at trial (*State v. Tripp*, 84 Conn. 640 (1911)).

In 1931, a Norwalk City Court judge issued an oral decision on whether a dog was pursuing or worrying a hog when the hog's owner killed it, thus relieving the owner of liability under CGS § [22-358\(e\)](#). The decision, reprinted in part in the *Hartford Courant*, discussed a Webster's dictionary definition of worry – "to harass with or as if with continual snapping or biting; also to shake, tear or mangle with the teeth." (According to the *Webster's Third New International Dictionary* available in the Legislative Library, this remains one of the word's definitions.)

But the judge ruled that because the owner did not see the hog being bitten, despite evidence making it reasonably likely to have occurred, the owner did not observe the dog actually pursuing or worrying the hog when he killed it. Thus, the owner was liable. (*When a Dog Bites a Pig---!*, *The Hartford Courant*, Mar. 29, 1931, at E7.)

Also, in 1952 a trial court determined that killing a dog was unjustified under the law because, at the time the dog was shot, it was not pursuing or worrying the poultry (*Soucy v. Wysocki*, 18 Conn. Sup. 53). Specifically, although the court found the dog caused the poultry to be "excited and worried," terms which it did not define, the dog was withdrawing from where the poultry was kept.

The trial court further used the legal encyclopedia *American Jurisprudence* to discuss what someone must show to be relieved of liability. In addition to the dog attacking or threatening the animal or poultry at the time of its killing, the situation must create a reasonable belief that killing the dog is needed to prevent injury. On appeal, the state Supreme Court upheld the trial court's decision (*Soucy v. Wysocki*, 139 Conn. 622 (1953)).

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