S T A T E  O F  N E W  Y O R K

2375

2009-2010 Regular Sessions

I N  A S S E M B L Y

January 15, 2009

Introduced by M. of A. DIAZ, ORTIZ, DINOWITZ, PERALTA, JOHN, ESPAILLAT -- Multi-Sponsored by -- M. of A. ALFANO, ARROYO, BARRA, CANESTRARI, HOOPER, LIFTON, PHEFFER, P. RIVERA, WEISENBERG, WRIGHT -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to liability of owners for dog bites

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general obligations law is amended by adding a new section 11-108 to read as follows:

S 11-108. LIABILITY OF OWNER FOR DOG BITES AND EXCEPTIONS. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE OWNER OF ANY DOG IS LIABLE FOR DAMAGES SUFFERED BY ANY PERSON WHO ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION IS BITTEN BY THE DOG WHILE IN A PUBLIC PLACE OR LAWFULLY IN A PRIVATE PLACE, INCLUDING THE PROPERTY OF THE OWNER OF SUCH DOG, REGARDLESS OF THE FORMER DANGEROUSNESS OR VICIOUSNESS OF THE DOG OR THE OWNER'S KNOWLEDGE OF SUCH DANGEROUSNESS OR VICIOUSNESS. A PERSON IS LAWFULLY UPON THE PRIVATE PROPERTY OF SUCH OWNER WITHIN THE MEANING OF THIS SECTION WHEN SUCH PERSON IS ON SUCH PROPERTY IN THE PERFORMANCE OF ANY DUTY IMPOSED UPON HIM OR HER BY THE LAWS OF THIS STATE OR BY THE LAWS OR POSTAL REGULATIONS OF THE UNITED STATES, OR WHEN HE OR SHE IS ON SUCH PROPERTY UPON THE INVITATION, EXPRESS OR IMPLIED, OF THE OWNER.

2. NOTHING IN THIS SECTION SHALL AUTHORIZE THE BRINGING OF AN ACTION PURSUANT TO SUBDIVISION ONE OF THIS SECTION AGAINST ANY GOVERNMENTAL ENTITY OR INSTRUMENTALITY USING A DOG IN MILITARY OR POLICE WORK IF THE BITE OR BITES OCCURRED WHILE THE DOG WAS DEFENDING ITSELF FROM AN ANNOYING, HARASSING OR PROVOKING ACT, OR ASSISTING AN EMPLOYEE OF THE ENTITY OR LOCALITY IN ANY OF THE FOLLOWING:

(A) IN THE APPREHENSION OR HOLDING OF A SUSPECT WHERE THE EMPLOYEE HAS A REASONABLE SUSPICION OF THE SUSPECT'S INVOLVEMENT IN CRIMINAL ACTIVITY;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03920-01-9

(B) IN THE INVESTIGATION OF A CRIME OR POSSIBLE CRIME;
(C) IN THE SEARCH FOR A CONTROLLED SUBSTANCE AS DEFINED IN SECTION 220.00 OF THE PENAL LAW;
(D) IN THE EXECUTION OF A WARRANT;
(E) IN THE DEFENSE OF A PEACE OFFICER OR ANOTHER PERSON.

3. SUBDIVISION TWO OF THIS SECTION SHALL NOT APPLY IN ANY CASE WHERE THE PERSON WHO SUSTAINED THE BITE OR BITES WAS NOT A PARTY TO, NOR SUSPECTED TO BE A PARTY TO OR A PARTICIPANT IN, THE ACT OR ACTS THAT PROMPTED THE USE OF THE DOG IN THE MILITARY OR POLICE WORK.

4. THE OWNER OF THE DOG SHALL NOT BE LIABLE PURSUANT TO SUBDIVISION ONE OF THIS SECTION IF THE DOG WAS COMING TO THE AID OR DEFENSE OF A PERSON DURING THE COMMISSION OR ATTEMPTED COMMISSION OF A CRIME OR OFFENSE UPON THE OWNER OR CUSTODIAN OR UPON THE PROPERTY OF THE OWNER OR CUSTODIAN OF THE DOG.

5. ANY DOG CONTROL OFFICER AS DEFINED IN SUBDIVISION SIX OF SECTION ONE HUNDRED EIGHT OF THE AGRICULTURE AND MARKETS LAW AND ANY LAW ENFORCEMENT OFFICER WHO INVESTIGATES ANY INJURY COVERED BY THE PROVISIONS OF THIS SECTION SHALL TAKE SUCH ACTIONS AS ARE NECESSARY TO INFORM THE INJURED PERSON OF THE RIGHT PROVIDED IN THIS SECTION.

6. THIS SECTION SHALL NOT BE DEEMED TO LIMIT OR IMPAIR ANY CAUSE OF ACTION AUTHORIZED PURSUANT TO ANY OTHER PROVISION OF LAW AVAILABLE TO A PERSON INJURED AS A RESULT OF A DOG BITE OR BITES. THE PROVISIONS OF THIS SECTION SHALL BE IN ADDITION TO ANY OTHER STATUTORY REMEDIES.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.