

KNOWLEDGE IS POWER

By Kerry Vinson

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PROTECT YOURSELF AND YOUR DOG — UNDERSTAND THE DOG OWNERS' LIABILITY ACT
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The September/October 2011 issue of *PETS Magazine* contained a very interesting article by veterinary technician and regular contributor Kristina Cooper on the importance of understanding your local dog laws. This topic is of particular interest to me, as I work in the dog behaviour field. In this article, Kristina accurately pointed out that any time a dog attacks, bites, harms or injures another person or pet, the owner of that dog could be fined under municipal by-laws. In addition, she points out that an incident of this nature can also result in charges under the Dog Owners' Liability Act (D.O.L.A.) in Ontario, which can lead to much stiffer penalties, and that these laws are in place to protect the safety of both pets and people. While I am in complete agreement with protecting the safety of the general public, it is important to note that the D.O.L.A. has been subject to misinterpretation in several cases that I am familiar with and have been involved in.

Dog owners in Ontario, and other jurisdictions, need to be aware that their liability goes beyond the bounds of their dog biting someone. Even seemingly minor incidents can be interpreted as menacing behaviour and end up in court, resulting in tremendous financial and emotional burden to responsible pet owners whose dog has never physically harmed anyone.

For example, the language of the Ontario act mandates that the same penalties can be applied to dogs whose behaviour might be perceived as a "menace." Thus, the law can be enforced whether there is an actual menace or not. As the term "menace" can be a rather subjective concept (what one party perceives as menacing may not be so to someone else), there is room for considerable variation in its definition. A particular case comes to mind in

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which my client's medium-sized dog squeezed through the front door and barked at someone passing in the street. The dog had no actual contact with this person and certainly did not bite or attempt to bite them. Nevertheless, the dog's owners were sued successfully for a fairly large amount of money. The attorney for the complainant reportedly asserted that his client was upset by the incident and could no longer sleep well at night. The complainant's definition of the word menace was accepted, resulting in a severe financial penalty for a seemingly minor incident.

More egregious situations than that have resulted in destruction orders being issued for dogs under D.O.L.A. based on complaints by a neighbour, though, in my opinion, the dog's behaviour did not warrant such action. In more than one case that I have been involved in, it has been apparent that the complaints were brought as a continuation of a long-standing neighbour dispute. Unfortunately, D.O.L.A. allows for such inappropriate actions to take place, as it does not mandate an objective assessment of a dog before labelling it as

aggressive or dangerous. All too often, these designations are made in a completely arbitrary fashion, despite the fact that they have far-reaching implications.

The question then arises as to what a dog owner can do when their dog has been unjustly accused of an offense. Be prepared to get an objective assessment of the dog's behaviour, something that can be easier said than done at times. When I perform a behaviour assessment of a dog for a potential court case, it involves utilizing a valid protocol for measuring canine aggression and can last several hours. It may also be necessary to obtain the services of an attorney, and, of course, all of this comes with an expense. In a recent case that I was involved in, which stretched out for more than a year, a dog owner ended up spending over \$15,000 to save her dog and have, in my view, questionable charges against her dropped, something that not everyone can afford to do.

A better strategy for every responsible dog owner is to be aware of both local and provincial dog laws, and take the necessary actions to prevent an incident from occurring (e.g., always having your dog

under control in potentially problematic situations). In the final analysis, you are responsible for your dog's behaviour. What you may interpret as an innocent or minor interaction between your dog and your neighbour or a stranger in your local park, may in fact be considered a violation under D.O.L.A and result in major inconvenience to you and/or severe penalties, including fines and the destruction of your beloved pet. 🐕

Kerry Vinson, founder of Animal Behaviour Consultants, has a BA in Psychology and has extensively studied animal learning and behaviour modification. In addition to conducting seminars on canine behaviour and assessing dogs with behavioural problems, he has been designated by the Province of Ontario as an Expert Witness in the area of canine aggression, and has testified in a provincial inquest and other high-profile court cases. For more information, contact him at (905) 352-3353.

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