

EXHIBIT 4
DATE 3/24/09
HB 431

¶15 In *Ridley*, we held that pursuant to §§ 33-18-201(6) and (13), MCA, when liability is reasonably clear, an insurer is obligated to advance payment of an injured third party's medical expenses until a final settlement is reached. *Ridley*, 286 Mont. at 334, 951 P.2d at 992.

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27-1-106. Injury defined. (1) An injury is of two kinds:

(a) to the person; and

(b) to property.

(2) An injury to property consists in depriving its owner of the benefit of it, which is done by taking, withholding, deteriorating, or destroying it. Every other injury is an injury to the person.

History: (1)En. Sec. 3476, C. Civ. Proc. 1895; re-en. Sec. 8084, Rev. C. 1907; re-en. Sec. 9002, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 27; re-en. Sec. 9002, R.C.M. 1935; Sec. 93-2208, R.C.M. 1947; (2)Ap. p. Sec. 3477, C. Civ. Proc. 1895; re-en. Sec. 8085, Rev. C. 1907; re-en. Sec. 9003, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 28; re-en. Sec. 9003, R.C.M. 1935; Sec. 93-2209, R.C.M. 1947; Ap. p. Sec. 3478, C. Civ. Proc. 1895; re-en. Sec. 8086, Rev. C. 1907; re-en. Sec. 9004, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 29; re-en. Sec. 9004, R.C.M. 1935; Sec. 93-2210, R.C.M. 1947; R.C.M. 1947, 93-2208, 93-2209, 93-2210.

Provided by Montana Legislative Services



Orthopedic Surgeons and Sports Medicine
RUEBKE DOUGLAS
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Acc: SMR091608-033
2008 Sep 16
Acq Tm: 12:37:10

EX: 1224
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Acc: SMR091608-033
2008 Sep 16
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Orthopedic Surgeons and Sports Medicine
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EX: 1224
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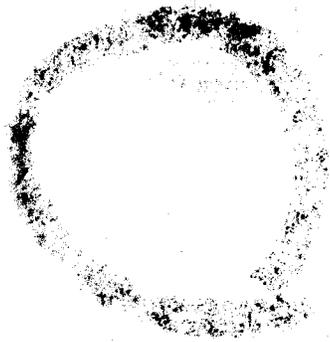
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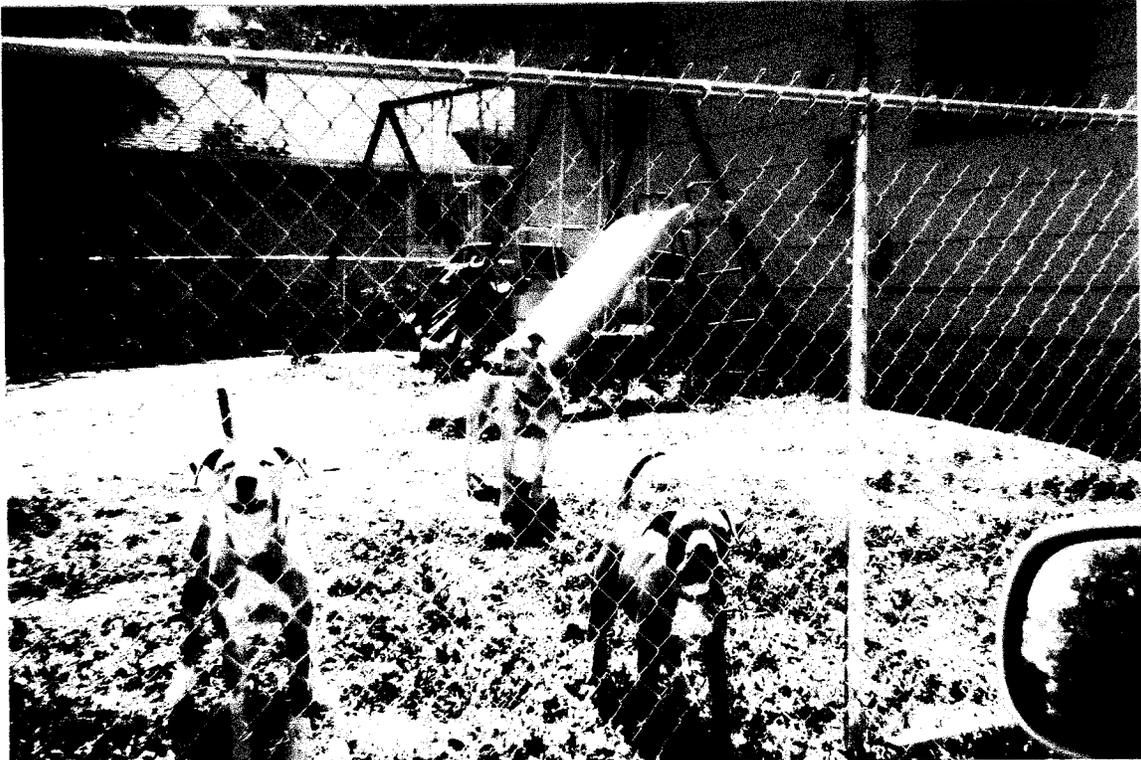
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SIZES ARE APPROXIMATE



PHOTOS TAKEN FROM A TRUCK
OF THE PIT BULLS IN THE YARD
OF THE ONE THAT ATTACKED US
WHEN THEY WERE LITTLE.

WOULD IT BE A OR A
IF THEY GOT OUT WHEN A SMALL
CHILD WAS WALKING BY?







04/23/2008



MR. CHAIRMAN COUNCIL MEMBERS

MY NAME IS DOUGLAS RUEBKE
I AM FROM BILLINGS

I AM TO SUPPORT THIS BILL BECAUSE OF THE
CHANGE OF THE WORD FROM BITE TO INJURY
AND IT CLARIFIES THE LIABILITIES OF THE
OWNERS.

I WOULD LIKE TO SUBMIT EVIDENCE TO SHOW
WHY I SUPPORT THE CHANGES IF I MAY;
ARTICLE ABOUT A MAN THAT SUFFERED
INJURYS NOT DUE TO A BITE, PHOTOS OF
INJURY SUFFERED BY ME AND MY PET BUSTER,
INSURANCE COMPANY POLICY
EXCULSIONS, ANIMAL LAWS AND TESTIMONY
FROM THE H.B.191 COMMITTEE HEARING THAT
HAD BEEN SUBMITTED FOR RECORD AT THE
COMMITTEE MEETING

[SUBMITTED]

IN BILLINGS A 70 YEAR OLD MAN WAS
ATTACKED BY A DOG. THE DOG HIT HIM SO
HARD THAT HE WAS LIFTED OFF THE GROUND.
WHEN HE LANDED HE HIT HIS HEAD SO HARD
THAT BLOOD WAS COMING OUT OF HIS EAR. AS
A RESULT OF THE ATTACK, HE IS IN A NURSING
HOME FOR THE REST OF HIS LIFE. HIS INJURIES
WAS FROM BEING KNOCKED DOWN, NOT FROM
BEING BITTEN.

[SUBMITTED] PHOTOS

I WAS ATTACKED BY A DOG FROM THE BACK AND KNOCKED DOWN ALSO. I WAS ALSO BITTEN NON STOP FOR ABOUT 3- 4 MINUTES. THE DOG RIPPED ME AND MY SMALL DOG APART CAUSING PERMANENT DAMAGES TO BOTH OF MY HANDS FOR LIFE AND TO MY DOG. ALTHOUGH THE STATE LAW STATED THAT THE OWNER SHALL BE LIABLE FOR THE DAMAGES AND A JUDGE ORDERED THE OWNER TO PAY, SHE REFUSED TO. I HAD TO HIRE A ATTORNEY JUST TO GET THE HOME OWNERS POLICY FROM HER THAT SHE REFUSED TO GIVE UP. ITS BE ALMOST A YEAR SINCE I WAS ATTACKED. HER INSURANCE COMPANY HAS BEEN LESS THEN COOPERATIVE IN PAYING THE MEDICAL BILLS WHEN DUE. I AM STILL FACING AT LEAST ONE OR TWO MORE OPERATIONS ON MY HANDS AND MY DOG IS STILL HAVING PROBLEMS. THIS BILL WILL HELP WHEN ENFORCING RIDLEY.

[SUBMITTED]

RIDLEY is a Montana Supreme Court decision.

¶15 In *Ridley*, we held that pursuant to §§ 33-18-201(6) and (13), MCA, when liability is reasonably clear, an insurer is obligated to advance payment of an injured third party's medical expenses until a final settlement is reached. *Ridley*, 286 Mont. at 334, 951 P.2d at 992.

[SUBMITTED]

27-1-106. Injury defined. (1) An injury is of two kinds:

(a) to the person; and

(b) to property.

(2) An injury to property consists in depriving its owner of the benefit of it, which is done by taking, withholding, deteriorating, or destroying it. Every other injury is an injury to the person.

ALL ANIMAL LAWS CALL THE PERSON THAT IS IN CHARGE OF A DOG, THE OWNER. IN ORDER TO BE A OWNER A PERSON NEEDS TO HAVE PROPERTY. IN THIS CASE THE PROPERTY IS A DOG.

[SUBMITTED]

70-1-101. Property defined -- ownership. The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this code, the thing of which there may be ownership is called property.

BY CHANGING THE TERM OF BITE TO INJURY AND DEFINING THE OWNERS RESPONSIBILY IT WILL HELP GUARANTEE THE COLLECTION FOR INJURYS TO A PERSON AND TO THEIR PROPERTY.

[SUBMITTED]

THE CITY OF BILLINGS USES THIS LIABILITY STATUTE AS PART OF ITS ANIMAL CODE. SOME OTHER CITIES AND COUNTIES DO NOT HAVE CODES IN THEIR ANIMAL LAWS THAT

COVER LIABILITY AND RELY ON THIS STATUTE FOR IT.

ID LIKE TO REFER TO THE TESTIMONY FROM H.B. 191 COMMITTEE HEARING AS SUPPORT FOR THIS BILL. WHAT ID LIKED REFER TO IS THE TESTIMONIES GIVEN BY THE ANIMAL SHELTERS, MOST OF THE PIT BULL OWNERS, ANIMAL RIGHTS GROUPS AND THE EVIDENCE SUBMITTED SHOWING THE INJURIES THAT A DOG CAN DO THAT ARE A LOT MORE THAN A BITE. MOST OF TESTIMONY GIVEN STATED THAT THEY WERE IN FAVOR OF LAWS THAT WOULD HOLD THE OWNERS RESONSIBLE FOR THE INJURY AND ACTIONS OF THEIR DOG . ONE TESTIMONY THAT WAS GIVEN STATED THAT A PERSON WAS USING A PIT BULL AS A SERVICE DOG BECAUSE OF EMOTIONAL PROBLEMS. A. D. A. STATES THAT THIS IS NOT A LEGAL USE OF A SERVICE DOG. THIS BILL WILL HELP PROTECT STORE OWNERS FROM LIABILITY IF A OWNER BROUGHT A DOG INTO A STORE UNDER THIS ILLEGAL USE AND IT ATTACKED SOMEONE. A OTHER PERSON BRAGGED ABOUT HOW HIS PIT BULL HAD ATTACKED A NEIGHBORS DOG. THESE ARE A COUPLE OF EXAMPLES OF WHY THIS BILL IS NEEDED TO HELP ASSIGN THE RESPONSIBILITIES TO THE DOGS OWNERS.

[SUBMITTED]

I HAVE SUBMITTED A SAMPLE POLICY FROM JUST

ONE OF MANY INSURANCE COMPANY THAT WILL NOT INSURE SOME BREEDS BECAUSE OF THE HIGH RISKS OF THE INJURYS AND FATALTIES CAUSE BY THEM. MORE INSURANCE COMPANIES ARE GOING TO THIS EXCLUSION. THIS LEAVES OWNERS OF THESE BREEDS WITHOUT INSURANCE COVERAGE. ALSO THERE IS A GROWING NUMBER OF BANS ON CERTAIN BREEDS ACROSS THE COUNTRY BECAUSE OF THE INJURYS THEY CAUSE. CURRENT MONTANA LAWS DO NOT PROTECT ITS RESIDENTS FROM THESE BREEDS OF DOGS.

AS PET OWNER, I AM THE PERSON RESONSIBLE FOR THE ACTIONS OF MY PET. BUT THERE ARE OWNERS THAT REFUSE TO ACKNOWLEDGE THIS RESPONSIBLITY. THIS IS WHY THIS BILL NEEDS TO BE PASSED.

THANK YOU CHAIRMAN AND COUNCIL MEMBERS.

Dog that attacked man was a pit bull, vet says

By GREG TUTTLE
Of The Gazette Staff

The condition of a 70-year-old Billings man hospitalized after being attacked by a dog has been upgraded to good from critical.

Gerald Brawley is being treated at Billings Clinic after he was injured Thursday morning when he was attacked by a large dog while walking near the intersection of State Avenue and South 32nd Street. A motorist stopped to help Brawley, and the dog was later shot and wounded by a Billings Police officer when it charged the officer after being hit with a Taser and eluding capture.

The dog was euthanized at the request of the owner.

The extent of Brawley's injuries are unclear, and he declined to be interviewed this morning.

A veterinarian who treated the dog before it was euthanized said initial information about the size and breed of the dog was incorrect. Dr. Lisa Galvin at the Moore Lane Veterinary Hospital said the dog was a male pit bull that weighed between 70 and 100 pounds. The dog was aggressive with veterinary staff when it was brought in with a gunshot wound by an animal control officer, Galvin said.

On Thursday, Rick Harbaugh, the brother of the dog's owner who lives at the same residence, described the dog as a Labrador and boxer mix. He said the 11-year-old dog named Harley had never caused problems before.

Police said officers were called to 915 S. 32nd St. about 10:44 a.m. Thursday. Officers Dan Brown and Dan Walters tried to keep the dog in the yard while waiting for an animal control officer to arrive. The dog charged Walters, who shot the dog with a Taser.

A few minutes later, while an animal control officer tried to get a snare on the dog, it charged Walters again, police said. Walters shot the dog with a pistol, hitting him in the face and shoulder.

The dog was then taken to the vet, where its owner, Glen Harbaugh II, had it euthanized.

On Thursday afternoon, Rick Harbaugh criticized the officer's decision to shoot the dog.

Published on Friday, August 17, 2007.
Last modified on 8/17/2007 at 10:06 am

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70-1-101. Property defined -- ownership. The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this code, the thing of which there may be ownership is called property.

History: En. Sec. 1070, Civ. C. 1895; re-en. Sec. 4421, Rev. C. 1907; re-en. Sec. 6663, R.C.M. 1921; Cal. Civ. C. Sec. 654; Field Civ. C. Sec. 159; re-en. Sec. 6663, R.C.M. 1935; R.C.M. 1947, 67-201.

Provided by Montana Legislative Services

(1) A small animal permit shall be revoked upon refusal to allow inspection, or for three (3) convicted violations of animal ordinances in a twenty-four (24) month period; or for use of shelter facilities to dispose of, or to find homes for surplus puppies and breeding stock; or any other violation of the provisions of this article.

(2) The city administrator shall give notice to the permittee of any revocation. The notice shall be in writing, shall specify the deficiencies or violations, advise the violator of the right to appeal, and shall be mailed by certified mail, return receipt requested or personally served. The violation shall have ten (10) days to appeal the revocation to the city council. The appeal shall be filed in writing with the city clerk. The city administrator shall cause the matter to be placed on the first available agenda. The appellant shall be notified by certified mail or personally served with notice of the date of the council meeting at least three (3) days prior to the hearing. The matter shall be considered by the council after the appellant has had an opportunity to be heard in person or by council at the regular council meeting in which the matter appears on the agenda.

(Code 1967, §§ 8.08.020, 8.08.025; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 2, 12-23-85; Ord. No. 03-5259, § 4, 10-27-03; Ord. No. 05-5351, § 2, 12-12-05)

Sec. 4-403. Female small animals.

Every person having under his/her control any female small animal in heat (i.e., in the oestral period) shall confine such small animal in a house, garage or other enclosed area. The female small animal shall be contained in such a manner that the female cannot come into contact with a male of the same species except for planned breeding. Such female not so confined is a public nuisance, and the owner or other person in control of such small animal is guilty of maintaining a public nuisance and upon conviction shall be guilty of a misdemeanor. The animal control officer or any police officer shall immediately abate every such nuisance by impounding such small animal.

(Code 1967, § 8.08.030; Ord. No. 85-4616, 1-7-85; Ord. No. 85-4676, § 3, 12-23-85)

Sec. 4-404. Noisy animals.

Every person who keeps, feeds, harbors or allows to stay about any premises occupied or controlled by such person, any animal which unreasonably annoys or disturbs any person by continuous and habitual barking, howling, yowling, whining or other noise is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor. This section does not apply to an animal that is owned, kept, or harbored as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

The complainant must identify himself or herself by name, address and telephone number.

To constitute a violation for prosecution under this section, a written complaint must be received by the animal shelter which shall include but not be limited to a summary of the nature and duration of the animal noise and any other information as may be required by the animal shelter to establish a violation of this section.

Upon conviction in municipal court of a noisy animal, the penalty shall be in accordance with section 4-411.

(Code 1967, § 8.08.040; Ord. No. 90-4829, § 4, 5-7-90; Ord. No. 03-5259, § 5, 10-27-03; Ord. No. 055351, § 3, 12-12-05)

Sec. 4-405. Potentially dangerous behavior.

Any person who keeps, feeds, harbors or allows to stay about the premises occupied or controlled by him within the city any animals exhibiting potentially dangerous behavior is guilty of maintaining a public nuisance and is guilty of misdemeanor. An animal is presumed to have exhibited potentially dangerous behavior if it demonstrated any of the behavior set forth in section 4-401. Such presumption is rebuttable.

(Code 1967, § 808050; Ord. No. 85-4616, 1-7-85; Ord. No. 90-4829, § 5, 5-7-90; Ord. No. 03-5259, § 6, 10-27-03; Ord. No. 05-5351, § 4, 12-12-05)

State law references: Liability of owner of vicious dog, MCA 27-1-715.

Sec. 4-405.1. Quarantine--Rabies.

(a) Any animal not currently vaccinated for rabies which bites a person shall be isolated in strict confinement at the animal shelter or a licensed veterinarian clinic to be observed for at least ten (10) days from the day of infliction of the bite. The owner will be responsible and must pay the confinement fees. If the owner fails to pay such fees, the animal control officer shall dispose of the animal.

(b) Upon the discretion and advice of the animal control or law enforcement officer any animal currently vaccinated for rabies which bites a person may be isolated in strict confinement at the owner's home provided the following conditions are available and met:

(1) Animal must be kept away from all animals and people except the immediate household.

(2) Animal must be kept inside an enclosed structure such as a house, garage or if outside, the animal must be in a covered pen from which it cannot escape or come into contact with another animal or person. If confinement is authorized under this condition, the person responsible for the animal shall further assure that the animal shall only be allowed outside the above-described pen or other suitable place approved by the animal control

CITY OF BILLINGS, MONTANA ANIMAL ORDINANCES

NOW ENFORCED
BY

BILLINGS POLICE DEPT.
ANIMAL CONTROL DIVISION



OFFICE HOURS

Mon., Tues., Thurs., Fri.
12 P.M. - 6 P.M.
Saturdays 1 P.M. - 4 P.M.

657-8226

1735 Monad

Billings, Montana 59102

<http://ci.billings.mt.us/animalsshelter>

bas@ci.billings.mt.us

123 South 35th Street
Billings, MT 59101-3724
January 13, 2009

Dear Alexe,

Robin Driscoll is placing before the Committee a bill regarding the governance of dangerous/aggressive dogs, pit Bull terriers in particular.

I implore you to speak on behalf of this bill and to do everything you can to ensure its passage in this Legislative session.

As you may know, many states have already enacted laws restricting, if not outright banning, the ownership of pit Bull dogs. Towns, including our own Ekalaka and Liddy (I am told), have banned them, and many insurance companies, recognizing the risk and cost of liability, either will not offer homeowner protection or offer it at an elevated rate.

As our towns and cities grow and the economic times become more perilous, the

issue becomes ever more problematic.

You remember the elderly man
mailed as he dared to walk the
public sidewalk on State Avenue.
I understand he will likely spend
the remainder of his days in a
nursing home.

You remember the man who,
with his small dog, suffered very
serious injuries as they dared to
walk along a public alley way across
the street from his home. He has
permanent disfigurement and/or
disability as a result. To add the
proverbial insult to injury, he now
has not one, not two, not three,
but FOUR adult and six pit bull
puppies immediately across the
street.

My friend was lucky to rescue
her small dog when a pit bull
climbed over her fence to accost
it. Last week my terrier and I
met an unaccompanied pit bull,
and while we were able to duck
into a yard, I was still quite
intimidated as he eyed me for
well over two minutes before he

turned away.

And nearly every day someone walks by my home with a fairly-controlled, much less controlled, pit bull, pulling the owner along, often growling or trying to get at my fenced terrace.

The Gazette recently reported a considerable uptick in the number of gangs and gang-related activities. As the bull terrier is often the "body guard" of choice for gang members, the can assault the number of pit bull dogs will also proliferate.

The time to act is now, to protect our state, our town.

We cannot do it by city ordinance alone. Councilman Jim Rosquillo told me this very morning that a city law without the power of the Legislature behind it would be virtually meaningless.

Please make every effort to get this bill passed!

Thank you for your time and your consideration.

Barbara Granjou

Montana

Effective - February 1, 2007

The Hartford Dimensions Homeowners Underwriting Eligibility Criteria

The Hartford Dimensions enables agents to offer competitive rates and comprehensive coverage to a broad spectrum of individual drivers, homeowners and renters. It's designed to give customers the best possible rate throughout their lifetimes - allowing agents to profitably write and retain more account business.

Pricing for The Hartford Dimensions Homeowner Plan is based on combinations including Insurance score, prior losses, age of owner and prior insurance. All Insurance Scores are eligible for coverage.

Please refer to the following eligibility criteria and requirements and see how The Hartford's Dimensions Homeowners plan delivers greater value to our agency partners

Ineligible Risks

- Risks with more than 2 losses of any type (in the last 3 years). No fire losses allowed.
Note: Can not consider claim 'inquiries' as basis for declination.
- Risks located in Protection Class 10 with woodstoves. (Woodstove questionnaire is required for PC 1-9)
- Greater than 2 family home
- Properties with unfenced pools or any trampoline.
- Properties that are vacant, unoccupied, up for sale, or under construction (when completion date exceeds 120 days).
- Dwellings with Asbestos building materials (including roof material), or with knob and tube or aluminum wiring.
- Dwellings of unique construction, including but not limited to: Mobile/Manufactured homes Underground homes, Log Cabins (Kit Log Homes are acceptable; however, hand hewn Log Homes are not.), Adobe Construction or those built on pilings, stilts, or piers.
- Dwellings Exposed to an announced Brush, Range or Forest fire, or within the susceptible path of an existing fire or locations that are exposed to brush or forest fire, wave wash, cave-in, sinkhole or landslide loss exposures.
- Residences that provide home day care.
- Pets/Animals - Including but not limited to Presa Canario, Pit Bull (Staffordshire terrier)/Rottweiler dog breeds (or any mix including these breeds), are unacceptable or any dog with previous bite history, aggressiveness, or which are unrestrained are unacceptable.
- Properties with a slope of more than 30 degrees are not acceptable.

The Hartford reserves the right to evaluate each application's exposure to loss on its own merit. As a result there will be occasions where a risk marginally meeting these criteria will be judged unacceptable for the coverages or rates requested due to the combination of overall risk factors.

Montana Ins. Commissioner

800-332-6148.

Untitled

Another common misconception is that Pit Bulls don't feel pain. Pit Bulls have the same nervous system as any other breed, and they can and do feel pain. Historically, breeders propagated dogs who would tolerate or ignore discomfort and pain allowing them to finish required tasks. This trait is known as "gameness" which is defined as "The desire to continue on and/or complete a task despite pain and discomfort." Therefore care must be taken to avoid serious injuries, since Pit Bulls, like some herding dogs, will continue to perform tasks despite injuries as severe as broken legs.

[edit] Pepper spray or other pain when attacking

Another urban myth surrounding this breed states that Pit Bulls are the only type of dog that are not affected by capsaicin-based dog-repellent sprays. In fact, many other dog breeds also display this resistance to pepper spray when they are attacking. Documented cases include Bull Mastiffs, Rottweilers and many German Shepherds (including Police K-9s). [39] In the words of two police officers, it is "not unusual for pepper spray not to work on dogs" [40] and "just as OC spray doesn't work on all humans, it won't work on all canines." [41]

It is also untrue that the Pit Bull is the only dog that will keep attacking after being sub-lethally shot. Rottweilers, Mastiffs and German Shepherds have all exhibited this capacity. [42][43]

[edit] Insurance problems

Many homeowners' insurance companies in the United States are reluctant to insure owners of dogs that are considered to be a dangerous breed. Allstate (depending on the state) may not insure homes with Pit Bulls or even Boxers, Akitas, Chow Chows, Dobermans, Rottweilers, or wolf hybrids. [44] The Automobile Club of Southern California will refuse to provide homeowner's insurance if a dog living in the home "looks like a Pit Bull". [45] The CDC estimates that 4.7 million people were bitten by dogs in 1994. By analyzing data from the National Electronic Injury Surveillance System-All Injury Program (NEISS-AIP), the CDC determined that 368,245 persons were treated in U.S. hospitals for nonfatal dog bites in 2001, and that approximately 2% of the U.S. population are attacked by dogs per year. These attacks most often occur on the owner's property. [46]

Some insurance companies have taken a compromise position, and will only insure Pit Bull owners if their dogs have achieved a Canine Good Citizen award. [47]

[edit] Breed specific legislation (BSL)

In response to a number of well-publicized incidents involving dogs that resemble Pit Bulls, some jurisdictions began placing restrictions on the ownership of Pit Bulls, such as the Dangerous Dogs Act 1991 in the UK, an example of breed-specific legislation. Many jurisdictions have outlawed the possession of Pit Bulls, either Pit Bull breeds specifically, or in addition to other breeds that are regarded as dangerous. The DEFRA (Department for Environment Food and Rural Affairs) office explains why Pit Bulls are prohibited in Great Britain; "The prohibited types were all considered to have been bred specifically to be fighting dogs. Organised dog fighting is illegal in Great Britain. Under the Dangerous Dogs Act 1991 other types of dogs can be added to the prohibited list by Order in Council." [48]

A muzzled Pit Bull. Pit Bull Terriers are regulated in the United Kingdom under the Dangerous Dogs Act 1991, administered by the government agency DEFRA. It is illegal to own any of these dogs without a specific exemption from a court. Licensing is done by local governments, dogs must be muzzled and kept on a leash in public, they must be registered and insured, and receive microchip implants. In November 2002, The Princess Royal was fined £500 under the provisions of the Act.

The Canadian province of Ontario, on August 29, 2005 enacted a ban on Pit Bulls. It was the first province or state in North America to do so. [49] The breeds listed in