

The purpose of **Statue 27-1-715** is to place absolute liability on the owner of an animal that has bitten or attacked without provocation.

This is one of the statues in the MCA that apply ONLY to "incorporated cities or towns".

Herding or stock dogs are not used in cities. Most cities have ordinances against residential keeping of livestock.

The term "livestock" means, including but not limited to: cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, poultry, rheas, emus, and ungulates.

The language in the amendments **removes all liability** if the owner puts up signs, the dog is with the owner, or if the dog unprovoked attacks an authorized person on the owner's property while it is working.

Any **pet dog** living at a farm or ranch is considered a "farm or ranch dog" (vague definition).

Would a dog that liked to chased rabbits or prairie dogs be defined as a **predator control dog**? If so, it would be exempt from liability if it attacked an authorized person on the owner's property.

The **AKC classifies** many breeds as **Herding Dogs**. Does this exempt dogs that are in this AKC dog category?

There is no definition in the MCA of what a livestock protection/herd dog actually is or does.

There are two other Bills addressing this statue. One Bill contains a section with language for exemptions that should cover these concerns and at the same time cover the actions of all dogs.

Request: Ask the Code Commissioner to review or form a committee to review the animal statues in both the MCA and ARM for constancy, and consolidate them so they are applicable to both cities and counties were possible.

HOUSE BILL NO. 329

INTRODUCED BY C. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN EXCEPTION TO THE LIABILITY PROVISIONS OF AN OWNER OF A VICIOUS DOG FOR OWNERS OF LIVESTOCK PROTECTION DOGS; AMENDING SECTION 27-1-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-715, MCA, is amended to read:

"27-1-715. Liability of owner of vicious dog -- exception. (1) The Except as provided in subsection (2), the owner of a dog that without provocation bites a person while the person is on or in a public place or lawfully on or in a private place, including the property of the owner of the dog, **located within an incorporated city or town** is liable for damages that may be suffered by the person bitten regardless of the former viciousness of the dog or the owner's knowledge of the viciousness.

This statute covers liability for "incorporated city or town" only. It has nothing to do with county dogs, which is where stock dogs would be operating. The only application that I can think of that would apply to these amendments is the running of the sheep in the City of Reed Point.

(2) (a) The liability provisions of subsection (1) do not apply to an owner of a livestock protection dog if:

(i) the person bitten is unlawfully on private property;

This provision is already in the statute. ~~(2)~~(3) (a) A person is lawfully upon the private property of the owner within the meaning of this section when the person is..... or when the person is on the property as an invitee or licensee of the person lawfully in possession of the property.

(ii) the property of an owner of a livestock protection dog is clearly and conspicuously marked with one or more posted signs stating "beware of dog" or "livestock protection dog present and working"; or

By extending no liability with "or" in subsection (ii), by just posting signage would prevent any person legally on the owner's property that is attacked by an animal from recovery of damages.

(iii) the livestock protection dog is working under the control of or on the property of the owner.

If the dog is working under the control of the owner off the owner's property and attacks an animal or human without provocation, it would prevent the victim from recovering damages.

Does not cover properties that are leased by the owner.

(b) A person asserting liability pursuant to this section has the burden of establishing that a dog is not a livestock protection dog.

The owner of any dog that attacks just needs to call it a stock dog to prevent liability, what would be the legal definition of a stock dog. (b) states "a farm or ranch dog, or a predator control dog." Any pet may be considered a "farm or ranch dog" by their presence at the farm/ranch, and all dogs may be considered as predator control dogs.

~~(2)~~(3) (a) A person is lawfully upon the private property of the owner within the meaning of this section when the person is on the property in the performance of any duty imposed upon the person by the laws of this state or by the laws or postal regulations of the United States of America or when the person is on the property as an invitee or licensee of the person lawfully in possession of the property.

(b) For purposes of this section, "livestock protection dog" means a dog working as a herding dog, a farm or ranch dog, or a predator control dog.

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 3. Applicability. [This act] applies to proceedings begun on or after [the effective date of this act].

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81-4-401. Certain livestock not to run at large in municipalities. Horses, cattle, mules, sheep, llamas, alpacas, bison, goats, or swine may not be allowed to run at large in any incorporated city or town.

History: En. Sec. 1, Ch. 65, L. 1917; re-en. Sec. 3401, R.C.M. 1921; re-en. Sec. 3401, R.C.M. 1935; R.C.M. 1947, 46-1714; amd. Sec. 14, Ch. 166, L. 1989; amd. Sec. 9, Ch. 417, L. 1993.

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81-4-201. Animals running at large. It is unlawful for an owner or person in control of swine, sheep, llamas, alpacas, bison, ostriches, rheas, emus, or goats to willfully permit the animals to run at large.

History: En. Sec. 1165, Pen. C. 1895; re-en. Sec. 8838, Rev. C. 1907; re-en. Sec. 3393, R.C.M. 1921; re-en. Sec. 3393, R.C.M. 1935; amd. Sec. 1, Ch. 169, L. 1945; R.C.M. 1947, 46-1704; amd. Sec. 10, Ch. 166, L. 1989; amd. Sec. 5, Ch. 417, L. 1993; amd. Sec. 9, Ch. 206, L. 1995.

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81-7-402. Liability of owner of dog for damages to livestock or poultry. (1) The owner of livestock or poultry injured or killed by any dog may recover as liquidated damages from the owner of the dog the actual value of the animals killed or the value of the damages sustained by reason of the injuries as the case may be. If two or more dogs kept by two or more owners or keepers injure or kill any livestock or poultry at the same time, the owners or keepers of the dogs are jointly and severally liable for such damages. **It is no defense to the action that the owner or keeper of the dog had no knowledge of the dog's whereabouts at or prior to the time when the dog injured or killed livestock or poultry or that the owner or keeper of the dog had no knowledge of the dog's disposition or inclination to worry, kill, or injure livestock or poultry.**

(2) The word "owner" when used in this section in relation to property interest in or possession of dogs includes every person who owns, harbors, or keeps a dog.

History: En. Secs. 14, 15, Ch. 280, L. 1959; R.C.M. 1947, 16-4614, 16-4615; amd. Sec. 8, Ch. 14, L. 1979.

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81-7-403. Dogging livestock. Any person who permits or directs any dog owned by the person or in the person's possession to chase or run any cattle or other livestock of which the person is not the owner or the person in charge upon the open range or government lands or away from any watering place upon the open range is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

History: En. Sec. 1, Ch. 110, L. 1903; re-en. Sec. 8861, Rev. C. 1907; re-en. Sec. 11552, R.C.M. 1921; re-en. Sec. 11552, R.C.M. 1935; Sec. 94-3567, R.C.M. 1947; redes. 46-3001 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 56, Ch. 12, L. 1977; R.C.M. 1947, 46-3001; amd. Sec. 3, Ch. 106, L. 1993; amd. Sec. 2673, Ch. 56, L. 2009.

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81-7-401. Killing of dogs harassing, destroying, or injuring stock -- notice to owner -- penalty. (1) As used in this section, "harasses" means worries, chases, or runs after livestock, including ostriches, rheas, and emus, in a manner that may lead to subsequent injury to the livestock.

(2) A dog, whether licensed or not, that, while off the premises owned or under control of its owner and on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or injures livestock not belonging to the owner of the dog is considered a public nuisance and:

(a) may be killed immediately by the owner of the livestock or an agent or employee of the owner; or

(b) the owner of the dog, when reasonably notified after due process, shall kill the dog within 24 hours of notification. If the owner fails to do so, an officer may be notified and shall kill the dog or cause the dog to be killed.

(3) A dog may not be killed in a manner that will endanger a person.

(4) This section does not apply to a dog herding livestock under the direction of its owner or the agents or employees of its owner.

(5) This section does not apply to a dog engaged in legitimate sport hunting or predator control activities under the direction of its owner or the agents or employees of its owner.

(6) The owner of a dog that harasses, kills, wounds, or injures livestock is guilty of a misdemeanor and upon conviction shall be fined not more than \$500.

History: En. Sec. 1, Ch. 142, L. 1933; re-en. Sec. 3417.15, R.C.M. 1935; R.C.M. 1947, 46-1916; amd. Sec. 1, Ch. 106, L. 1993; (6)En. Sec. 2, Ch. 106, L. 1993; amd. Sec. 12, Ch. 206, L. 1995.

Sentinel Insurance Company
Homeowner Plan
New Business

Montana

Effective February 1, 2008

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). ~~None 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.

SUPREME COURT OF THE STATE OF MONTANA

¶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.