



House Bill 73

Civil Actions – Personal Injury or Death Caused by Dog – Rebuttable Presumption

MACo Position: **Support with Amendments**

Date: January 23, 2014

To: Judiciary Committee

From: Natasha Mehu

The Maryland Association of Counties **SUPPORTS** House Bill 73 (HB 73) **WITH AMENDMENTS**. MACo believes HB 73 provides a sensible solution to liability issues that are raised when a case is brought against a dog owner for personal injury or death caused by the dog. However, MACo proposes additional language to clarify protections for local law enforcement.

HB 73 would create a rebuttable presumption liability standard for personal injury or death caused by a dog. The liability standard would not affect any other common law or statutory cause of action, defense, or immunity. The bill explicitly states that it is the intent of the General Assembly that the bill abrogate the holding of the Maryland Court of Appeals in the case of *Tracey v. Solesky*, 427 Md. 627 (2012), which overturned long established common law and created a strict liability standard for owners of pit bulls and their landlords.

MACo appreciates the hard work of this Committee in crafting a solution to the challenges posed by the *Solesky* decision. However, counties remain concerned that the broad defense and immunity language in the bill does not adequately shield county law enforcement departments from potential liability, or at least the effort and cost of going to court to assert governmental immunity and possibly having to rebut the presumption. MACo proposes the following amendment to address the county concerns:

On page 2, after line 18, insert:

“(D) AN OWNER OF A DOG IS NOT LIABLE UNDER THIS SECTION FOR DAMAGES FOR PERSONAL INJURY OR DEATH CAUSED BY THE DOG IF:

(1) THE DOG WAS BEING USED BY AN EMPLOYEE OF A GOVERNMENTAL UNIT IN MILITARY OR POLICE WORK IF THE EMPLOYEE WAS COMPLYING WITH A WRITTEN POLICY ADOPTED BY THE GOVERNMENTAL UNIT ON THE NECESSARY AND APPROPRIATE USE OF A DOG IN MILITARY OR POLICE WORK AND THE INJURY OCCURRED AS A RESULT OF:

(I) REASONABLE USE OF FORCE; OR

(II) TRAINING OR A TRAINING EXERCISE IN SUPPORT OF THE DOG’S DUTIES IN MILITARY OR POLICE WORK.”.

In conclusion, MACo believes HB 73 is a reasonable and well-considered approach to addressing the liability issues raised by the *Solesky* decision and MACo’s proposed amendment clarifies the bill’s intended protections regarding the use of dogs for law enforcement work. For these reasons, MACo recommends the Committee issue a report of **FAVORABLE WITH AMENDMENTS** on HB 73.