

DOGS AND TENNESSEE LAW

compiled by Tim Harrison

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Title 44, Dogs

The owner of a dog (person who regularly harbors, keeps or exercises control over a dog) has a duty to keep their dog **UNDER REASONABLE CONTROL AT ALL TIMES**, and keep it from running at large. The owner breaks the law if their dog goes uncontrolled upon a highway, public road or street. The **OWNER CAN BE HELD LIABLE** regardless of whether the dog has shown any previous aggressive tendencies. The owner is subject to **CIVIL LIABILITY** for any damages suffered by an injured person.

A violation is a misdemeanor **PUNISHABLE BY UP TO \$2,500** or a FELONY if there is ¹serious bodily injury or death.

Source:

<https://www.animallaw.info/statute/tn-dog-consolidated-dog-laws>

<http://www.byrdslaw.com/aop/Tennessee-criminal-law/felonies-misdemeanors/>

<http://www.lexisnexis.com/hottopics/tncode>

¹"serous bodily injury" is a "bodily injury" that involves: (A) A substantial risk of death; (B) Protracted unconsciousness (C) Extreme physical pain; (D) Protracted or obvious disfigurement; [or] (E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty."

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TENNESSEE CODE ANNOTATED

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Title 44 Animals And Animal Husbandry

Chapter 8 Fences and Confinement

Part 4 Running at Large

Tenn. Code Ann. 44-8-408 (2014)

44-8-408. Dogs not allowed at large -- Exception -- Penalties.

(a) As used in this section, unless the context otherwise requires, "owner" means a person who, at the time of the offense, regularly harbors, keeps or exercises control over the dog, but does not include a person who, at the time of the offense, is temporarily harboring, keeping or exercising control over the dog.

(b) The owner of a dog commits an offense if that dog goes uncontrolled by the owner upon the premises of another without the consent of the owner of the premises or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street or any other place open to the public generally.

(c) It is an exception to the application of this section that:

- (1) The dog was on a hunt or chase;
- (2) The dog was on the way to or from a hunt or chase;
- (3) The dog was guarding or driving stock or on the way to guard or drive stock;
- (4) The dog was being moved from one place to another by the owner of the dog;

(5) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;

(6) The violation of subsection (b) occurred while the injured person was on the private property of the dog's owner with the intent to engage in unlawful activity while on the property;

(7) The violation of subsection (b) occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or an animal owned by the injured person;

(8) The violation of subsection (b) occurred while the dog was securely confined in a kennel, crate or other enclosure; or

(9) The violation of subsection (b) occurred as a result of the injured person disturbing, harassing, assaulting or otherwise provoking the dog.

(d) The exception to the application of this section provided in subdivisions (c)(1)-(4) shall not apply unless the owner in violation of subsection (b) pays or tenders payment for all damages caused by the dog to the injured party within thirty (30) days of the damage being caused.

(e) It is not a defense to prosecution for a violation of subsection (b) and punished pursuant to subdivision (g)(1), (g)(2) or (g)(3) that the dog owner exercised reasonable care in attempting to confine or control the dog.

(f) It is an affirmative defense to prosecution for a violation of subsection (b) and punished pursuant to subdivision (g)(4) or (g)(5) that the dog owner exercised reasonable care in attempting to confine or control the dog.

(g) (1) A violation of this section is a Class C misdemeanor punishable by fine only.

(2) A violation of this section is a Class B misdemeanor punishable by fine only if the dog running at large causes damage to the property of another.

(3) A violation of this section is a Class A misdemeanor punishable by fine only if the dog running at large causes bodily injury, as defined by 39-11-106, to another.

(4) A violation of this section is a Class E felony if the dog running at large causes serious bodily injury, as defined by 39-11-106, to another.

(5) A violation of this section is a Class D felony if the dog running at large causes the death of another.

(h) Notwithstanding subsection (g), a violation of this section shall be punished as provided in subsection (i) if the violation involves:

(1) A dog that was trained to fight, attack or kill or had been used to fight; or

(2) The owner of the dog violating this section knew of the dangerous nature of the dog and, prior to the violation of this section, the dog had bitten one (1) or more people that resulted in serious bodily injury or death.

(i) A violation of this section, where one (1) or more of the factors set out in subsection (h) are present, shall be punished as follows:

(1) A Class C misdemeanor if the dog running at large does not cause property damage, injury or death;

(2) A Class A misdemeanor if the dog running at large causes damage to the property of another;

(3) A Class E felony if the dog running at large causes bodily injury to another;

(4) A Class D felony if the dog running at large causes serious bodily injury to another; and

(5) A Class C felony if the dog running at large causes the death of another.

HISTORY: Acts 1901, ch. 50, 1; 1903, ch. 419, 1; Shan., 2853a4; Code 1932, 5086; T.C.A. (orig. ed.), 44-1408, 44-8-108; Acts 2007, ch. 533, 1; 2007, ch. 556, 1.

Title 44 Animals And Animal Husbandry
Chapter 8 Fences and Confinement
Part 4 Running at Large

Tenn. Code Ann. 44-8-413 (2014)

44-8-413. Civil liability for injury caused by dogs.

(a) (1) The owner of a dog has a duty to keep that dog under reasonable control at all times, and to keep that dog from running at large. A person who breaches that duty is subject to civil liability for any damages suffered by a person who is injured by the dog while in a public place or lawfully in or on the private property of another.

(2) The owner may be held liable regardless of whether the dog has shown any dangerous propensities or whether the dog's owner knew or should have known of the dog's dangerous propensities.

(b) Subsection (a) shall not be construed to impose liability upon the owner of the dog if:

(1) The dog is a police or military dog, the injury occurred during the course of the dog's official duties and the person injured was a party to, a participant in or suspected of being a party to or participant in the act or conduct that prompted the police or military to utilize the services of the dog;

(2) The injured person was trespassing upon the private, nonresidential property of the dog's owner;

(3) The injury occurred while the dog was protecting the dog's owner or other innocent party from attack by the injured person or a dog owned by the injured person;

(4) The injury occurred while the dog was securely confined in a kennel, crate or other enclosure; or

(5) The injury occurred as a result of the injured person enticing, disturbing, alarming, harassing, or otherwise provoking the dog.

(c) (1) If a dog causes damage to a person while the person is on residential, farm or other noncommercial property, and the dog's owner is the owner of the property, or is on the property by permission of the owner or as a lawful tenant or lessee, in any civil action based upon such damages brought against the owner of the dog, the claimant shall be required to establish that the dog's owner knew or should have known of the dog's dangerous propensities.

(2) The element of proof required by subdivision (c)(1) shall be in addition to any other elements the claimant may be required to prove in order to establish a claim under the prevailing Tennessee law of premises liability or comparative fault.

(d) The statute of limitations for an action brought pursuant to this section shall be the same as provided in 28-3-104, for personal injury actions.

(e) As used in this section, unless the context otherwise requires:

(1) "Owner" means a person who, at the time of the damage caused to another, regularly harbors, keeps or exercises control over the dog, but does not include a person who, at the time of the damage, is temporarily harboring, keeping or exercising control over the dog; and

(2) "Running at large" means a dog goes uncontrolled by the dog's owner upon the premises of another without the consent of the owner of the premises, or other person authorized to give consent, or goes uncontrolled by the owner upon a highway, public road, street or any other place open to the public generally.

HISTORY: Acts 2007, ch. 276, 1.

Title 40 Criminal Procedure
Chapter 35 Tennessee Criminal Sentencing Reform Act of 1989
Part 1 General Provisions

Tenn. Code Ann. 40-35-111 (2014)

40-35-111. Authorized terms of imprisonment and fines for felonies and misdemeanors.

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

(c) (1) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(A) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;

(B) Three hundred thousand dollars (\$300,000) for a Class B felony;

(C) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;

(D) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony;
and

(E) Fifty thousand dollars (\$50,000) for a Class E felony.

(2) If a special fine for a corporation is expressly specified in the statute that defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and the house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

HISTORY: Acts 1989, ch. 591, 6; 2007, ch. 61, 1.

Title 39 Criminal Offenses
Chapter 11 General Provisions
Part 1 Construction

Tenn. Code Ann. 39-11-106 (2014)

39-11-106. Title definitions.

(a) As used in this title, unless the context requires otherwise:

(1) "Benefit" means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;

(2) "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;

(3) "Coercion" means a threat, however communicated, to:

(A) Commit any offense;

(B) Wrongfully accuse any person of any offense;

(C) Expose any person to hatred, contempt or ridicule;

(D) Harm the credit or business repute of any person; or

(E) Take or withhold action as a public servant or cause a public servant to take or withhold action;

(4) "Criminal negligence" refers to a person who acts with criminal negligence with respect to the circumstances surrounding that person's conduct or the result of that conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(5) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious bodily injury;

(6) (A) "Deception" means that a person knowingly:

(i) Creates or reinforces a false impression by words or conduct, including false impressions of fact, law, value or intention or other state of mind that the person does not believe to be true;

(ii) Prevents another from acquiring information which would likely affect the other's judgment in the transaction;

(iii) Fails to correct a false impression of law or fact the person knows to be false and:

(a) The person created; or

(b) Knows is likely to influence another;

(iv) Fails to disclose a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the impediment is or is not valid, or is or is not a matter of public record;

(v) Employs any other scheme to defraud; or

(vi) (a) Promises performance that at the time the person knew the person did not have the ability to perform or that the person does not intend to perform or knows will not be performed, except mere failure to perform is insufficient to establish that the person did not intend to perform or knew the promise would not be performed;

(b) Promising performance includes issuing a check or similar sight order for the payment of money or use of a credit or debit card when the person knows the check, sight order, or credit or debit slip will not be honored for any reason;

(B) "Deception" does not include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed;

(7) "Defendant" means a person accused of an offense under this title and includes any person who aids or abets the commission of such offense;

(8) "Deprive" means to:

(A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;

(B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or

(C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;

(9) "Effective consent" means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

(A) Induced by deception or coercion;

(B) Given by a person the defendant knows is not authorized to act as an agent;

(C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or

(D) Given solely to detect the commission of an offense;

(10) "Emancipated minor" means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor's parents;

(11) "Firearm" means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;

(12) "Force" means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;

(13) "Fraud" means as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;

(14) "Government" means the state or any political subdivision of the state, and includes any branch or agency of the state, a county, municipality or other political subdivision;

(15) "Governmental record" means anything:

(A) Belonging to, received or kept by the government for information; or

(B) Required by law to be kept by others for information of the government;

(16) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1) hand;

(17) "Harm" means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;

(18) "Intentional" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result;

(19) "Jail" includes workhouse and "workhouse" includes jail, whenever the context so requires or will permit;

(20) "Knowing" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result;

(21) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:

(A) Maintain public order; or

(B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(C) Investigate the commission or suspected commission of offenses;

(22) "Legal privilege" means a particular or peculiar benefit or advantage created by law;

(23) "Minor" means any person under eighteen (18) years of age;

(24) (A) "Obtain" means to:

(i) Bring about a transfer or purported transfer of property or of a legally recognized interest in the property, whether to the defendant or another; or

(ii) Secure the performance of service;

(B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;

(25) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;

(26) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;

(27) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;

(28) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water, cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;

(29) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;

(30) "Public servant" means:

(A) Any public officer or employee of the state or of any political subdivision of the state or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;

(B) Any person exercising the functions of any such public officer or employee;

(C) Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or jurors; or

(D) Any person elected, appointed or designated to become a public servant, although not yet occupying that position;

(31) "Reckless" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(32) (A) "Recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored;

(B) "Recorded device" includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;

(33) "Security guard/officer" means an individual employed to perform any function of a security guard/officer and security guard/officer patrol service as set forth in the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35;

(34) "Serious bodily injury" means bodily injury that involves:

(A) A substantial risk of death;

(B) Protracted unconsciousness;

(C) Extreme physical pain;

(D) Protracted or obvious disfigurement;

(E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or

(F) A broken bone of a child who is twelve (12) years of age or less;

(35) "Services" includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television, entertainment subscription service or other public services, accommodations in hotels, restaurants or elsewhere, admissions to exhibitions, use of vehicles or other movable property, and any other activity or product considered in the ordinary course of business to be a service, regardless of whether it is listed in this subdivision (a)(35) or a specific statute exists covering the same or similar conduct; and

(36) "Value":

(A) Subject to the additional criteria of subdivisions (a)(36)(B)-(D), "value" under this title means:

(i) The fair market value of the property or service at the time and place of the offense; or

(ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;

(B) The value of documents, other than those having a readily ascertainable fair market value, means:

(i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or

(ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;

(C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(36)(A) and (B), the property or service is deemed to have a value of less than fifty dollars (\$50.00); and

(D) If the defendant gave consideration for or had a legal interest in the property or service that is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(36)(A), (B) or (C) to determine value.

(b) The definition of a term in subsection (a) applies to each grammatical variation of the term.

HISTORY: Acts 1989, ch. 591, 1; 1990, ch. 1030, 1, 2; 1995, ch. 322, 1; 1996, ch. 1009, 22; 1997, ch. 437, 2; 2009, ch. 307, 1; 2009, ch. 325, 1; 2011, ch. 348, 1; 2014, ch. 984, 1.