



HEARING 09/12/17

**1pm State House
Rm A1**

OPPOSE HB3683– An Act to Promote Safe Dog Ownership [Rep. Timothy Whelan (R)]

Referred to Joint Committee on the Judiciary

What this bill does:

Sets a fine of up to \$2,500 for a dog owner whose dog causes damage or injury to someone and allows the conviction under this law to serve as evidence in other lawsuits.

Why you should oppose it:

This bill is dangerously vague. Exactly how much damage is required to trigger the penalties? There needs to be some sort of threshold, not just “any damage” and “any injury.” As currently written, it could trigger punishment for even minor issues. Things happen without there being “negligence” or malicious intent – life happens. This bill would make animal ownership a constant worry about what might happen accidentally and who might decide to take umbrage over something our dog does or which dog hater might take the opportunity to harass a dog owner with accusations and lawsuits. It is an invitation to get money for false outrage. In fact, it even encourages private lawsuits by stating that conviction under this statute can be used as evidence in other lawsuits connected with the incident. What’s more, the bill is so intent on punishment by government that restitution to the actual person damaged is left to the victim, who has to pursue his own lawsuit for restitution. Instead of assigning punishments and fines, any law on this subject should focus on restitution to the person damaged, not to the government. We don’t need more fines going to the government and more government oversight and more judges trying to second-guess people’s intentions – all that is needed for most types of damage is restitution to the person damaged. The fact that it doesn’t even offer that makes one suspicious that the real reason for this legislation is, like so much other legislation, to punish dog ownership and make dog ownership more onerous and difficult.

The law that this bill would replace is very similar except that it doesn’t mention fines or other lawsuits, so is less likely to be invoked punitively by those who are trying to harass dog owners.

FOR MORE INFORMATION:

Massachusetts Federation of Dog Clubs and Responsible Dog Owners

Bonnie Chandler, 978-456-3169, bhandler1@charter.net

Virginia Rowland; 978-424-1044; blackslate@aol.com

09/13/17

HOUSE No. 3683

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy R. Whelan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote safe dog ownership.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 3683

By Mr. Whelan of Brewster, a petition (subject to Joint Rule 12) of Timothy R. Whelan and others relative to penalties for neglectful dog ownership. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to promote safe dog ownership.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 155 of Chapter 140 of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by striking the section in its entirety and inserting in place thereof the
3 following:

4 If any dog owner negligently permits their dog to cause damage to the property of any
5 person, including their pet, companion animal, or service animal, or to cause injury to any
6 person, then the owner or keeper thereof; or if the owner or keeper be a minor, the parent or
7 guardian of such owner or keeper thereof, shall be punished by a fine of not more than \$2,500.

8

9 A conviction or findings of sufficient facts on any charge brought under this section shall
10 be prima facie evidence of liability in any action brought in connection with the following:

11 a. Any damage to any property, whether privately or publicly owned;

12 b. Any injury, illness, transmission of disease (such as rabies), or death to any person or
13 animal which is reasonably attributable to or caused by a violation of this section;

14 But no such evidence of civil liability shall be found if such damage shall have been
15 occasioned to the body or property of a person who, at the time such damage was sustained, was
16 committing a trespass or other tort, or was teasing, tormenting or abusing such dog. If a minor,
17 on whose behalf an action under this section is brought, is under seven years of age at the time
18 the damage was done, there shall be a rebuttable presumption that such minor was not
19 committing a trespass or other tort, or teasing, tormenting or abusing such dog.