

Dog Bite FAQ

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This document covers information about dog bites in Massachusetts. *Why is this important? Because, according to the law in Massachusetts, dog owners are responsible for just about anything that their animal does (not just bites). And dog bites are common – about 4.5 million dog bites occur annually nationwide.* With this in mind, do not start to examine your responsibilities as a dog owner after something goes wrong, when it is already too late. The route of prevention, training and cautiousness is the path you will want to follow. And if you are the victim of a dog bite, it is important to know what actions to take, who all the players are, and what the process is.

1. What is the state law in Massachusetts concerning dog bites?

Massachusetts has one of the best laws for the protection of dog bite victims, especially young children. A dog owner or keeper is strictly liable for any bites/injuries unless the victim was trespassing, teasing, tormenting or abusing the dog, or was committing another tort. A child under the age of 7 is presumed to have done none of those things, but the presumption is rebuttable. In the case of a dog that bites another dog, the law still stands. Simply stated, in Massachusetts, a dog is considered the property of the owner; if your dog is bitten by another dog, then your property has been damaged by that dog. The dog bite law comes under the General Laws of Massachusetts, Chapter 140: Section 155. See <https://dogbitelaw.com/statutory-strict-liability-state/massachusetts-dog-bite-law>.

2. Who gets involved when a dog bite/ injury happens?

Depending on the situation, the following entities can be involved: the person that was bitten, the owner of the dog that was bitten, the biter's owner, the vet, the physician, the animal control officer, the animal inspector, the police, the town, the insurance agency, and potentially a lawyer.

3. What does the injured party need to know? What information should one collect at the time of the bite / injury? Who should you call / notify and when?

When a dog bite or altercation occurs, it is important to exchange information. Specifically, it is recommended that the owner of the bitten dog collect the following information from the biter's owner: the owner's name, the owner's address (especially town), and the owner's phone number; the dog's name, the town and license number of the dog, and the dog's vet's information. These pieces of information are needed so that health and safety

of all parties can be protected. The main issue is the rabies status of the biter but there can also be issues of liability, insurance, and the dangerousness of the dog in more severe cases. It is best to collect as much information as possible in order to facilitate the process – just like an auto accident. So, either record the information on your cell phone or carry pen and paper to write it down in case it happens. If there are witnesses, get their contact information. If you have a cell phone, one can also take photos of the various parties.

4. What is the best thing to do before, during and after a fight to protect yourself or your dog?

The best thing to do before a dog bite occurs is to avoid the situation to begin with. This includes, but is not limited to, paying attention to the posturing of your dog and other dogs, ensuring that greetings between two dogs takes place in a safe and secure environment, and avoiding dogs that cannot be greeted in a safe manner. One situation is particularly troublesome – an off-leash dog racing up to your on-leash dog. If you find yourself in this situation, try getting the off-leash dog to slow down by taking an assertive stance and firmly saying “sit” - it is much easier to handle such a situation if the approaching dog is more under control.

During a fight, it is best to not pull the dogs apart if they are latched on to each other. Instead, try to distract the dogs by throwing a jacket on the dogs, spraying citronella spray, making a loud bang or horn sound, or some other creative action. Once distracted, separate the dogs as quickly as possible. In general, screaming does not help.

5. What does the biter’s owner need to know?

The biter’s owner needs to know that they are responsible for any damage that their dog creates. Know your dog and how your dog reacts; keep an eye on your dog; be ready to remove your dog from a situation if the dog is not comfortable. Make sure that you vaccinate and license your dog. Only let your dog off leash if you have control over your dog. And make sure that you declare that you have a dog on your renter or homeowner’s insurance. If an incident happens, offer up your information.

6. What is the role of the vet of a bitten dog?

If your dog has been bitten or been in an altercation, it is important to go to a vet and have the dog examined. Sometimes there are wounds that are not visible to the owner. If the vet finds that the skin was broken, the vet may give the dog a rabies booster. If the skin is broken, the vet is required to complete a Rabies Exposure Form. This form will be submitted to the Animal

Inspector of the town where the bitten dog resides. If the vet knows the town that the biter resides in, the vet may also submit the form to the Animal Inspector of that town. The Rabies Exposure Form includes such information as whether the biter has been exposed to a rabid animal, whether the biter has been vaccinated, etc. The contents of this form will be used to determine if one or both of the dogs need to be quarantined and / or other necessary actions.

7. What is the role of the physician of a person that has been bitten?

If a person is bitten by a dog and is critically injured, they should call 911 or go to an emergency room. If the injury is not life threatening, the person should wash the injury thoroughly with soap and water for 10 minutes and call a doctor. If soap is not available, rinse the wound with water – even that will greatly reduce the chances of contracting rabies. While a dog bite is not usually considered a medical emergency, it is considered medically urgent and one should not delay the decision to see a doctor. At the doctor, one can expect that the physician will follow the CDC protocol (https://www.cdc.gov/rabies/medical_care/index.html) for dog bites. This protocol includes cleansing the wound thoroughly; closing the wound, if necessary; administering a tetanus booster if one has not been immunized in 10 years; prescribing antibiotics if there is evidence of infection (either at the time of the bite or within a few days of the bite); and starting a post-exposure prophylaxis (PEP) regimen if rabies is suspected or the status of the biter is unknown. PEP consists of one injection of immune globulin and 4 doses of rabies vaccine over the course of 14 days. Note: infections are fairly common (approximately 20% of dog bites become infected) so it is important to keep an eye on the wound and notify your doctor if there is evidence of infection.

Healthcare providers are required to report any bite to a person by a domestic animal (e.g. dog) to the Animal Inspector of the city or town where the bite occurred, within 24 hours. Specifically, a Report of Bite By A Domestic Animal Form must be completed and sent to the AI of the town where the bite occurred. A sample form can be viewed here: <http://www.mass.gov/eohhs/docs/dph/cdc/rabies/animal-bite-report.pdf>. The healthcare provider and the Animal Inspector will determine the status of the biter, which will determine the protocol. See section #8 for more protocol information.

8. What is the role of the animal control officer and the animal inspector?

The animal control officer (ACO) and the animal inspector (AI) are two key roles in the world of dog bites. The ACO and AI are employees of the town – sometimes they are the same person. Officially, they may reside in the police department, the board of health, or the board of selectman – it depends on the town. For example, the Arlington ACO is a member of the town police

force. If the dog bite involved an immediate call to the police and the ACO is available, the ACO will show up at the scene; otherwise, regular police personnel will show up. Either way, a report will be written up. If the ACO was off duty at the time of the call, the ACO will add an additional report after their investigation. In the case where the police were not called but a vet was visited and a *Rabies Exposure Form* was filled out, the form goes to the Animal Inspector. In the case of a person being bitten and visiting a healthcare professional, the healthcare professional is required to fill out a *Report of Bite By A Domestic Animal Form* and send it to the AI within 24 hours. It is the role of the Animal Inspector to review the form, which contains information on the dogs involved (if possible), and determine if a quarantine needs to take place or what other actions need to occur.

In the case of a dog that was bitten, there is a decision process followed. If the bitten dog has been vaccinated and the biter is known and is a domestic animal, the bitten dog will have no restrictions, but the biter will be quarantined for 10 days to monitor for signs of rabies. The biter is quarantined for 10 days whether or not it was vaccinated. While this may seem odd, it is important to note that even if the biter was vaccinated, there is still a small chance that a dog's rabies vaccine could have been ineffective; if the biter was not vaccinated, then the 10-day period is required to ensure that the dog does not have rabies. If a dog has rabies, it will be deceased before the 10-day quarantine period is complete. If the biter is not known and the bitten dog has been vaccinated at least once in its life, the bitten dog will need to be quarantined for 45 days. If the biter is not known and the bitten dog has never been vaccinated, then the bitten dog needs to be quarantined for 4 months. Quarantine means that the dog can have no interaction with any person or animal that they do not currently live with. The dog can be at home and it can go for leash walks but it may not interact with any other people or animals. Clearly, having contact information for the biter's owner and being able to know the rabies status of the biter, is an important piece of information for the quarantine status of your dog.

In the case of a person being bitten, then a different decision process is followed. In the case of a person bitten by the dog, the first question is whether the biter is healthy and available for quarantine. If both conditions are met, then the dog will be quarantined for 10 days at which time the dog will be found to be healthy or it will be deceased from rabies. If the dog is healthy at the end of 10 days, then no further actions are needed in regards to rabies treatment. If the dog is unhealthy then the dog will be tested and the person will start PEP if the dog is found to be harboring rabies. Finally, if the dog is not available, the person would need to start post-exposure prophylaxis. See <http://www.mass.gov/eohhs/docs/dph/cdc/rabies/attach-2-exposure-management.pdf> for more details on the decision tree.

9. What is the role of the police?

See item #8 and #10.

10. What is the role of the town?

The town has two roles related to dog bites. First, every dog is required by the state of Massachusetts to be licensed by the town in which the dog lives. Licensing requires a current rabies certificate. An owner needs to be aware that a dog needs to be licensed at 6 months of age. Licensing is a once a year activity. The town census also asks if the resident has a dog and indicates that one needs to purchase a license. The second area that the town gets involved with dog bites is in the case of a nuisance or dangerous dog. In the case of a nuisance or dangerous dog, the process would start with the town / board of selectmen receiving a letter from someone indicating that a dog is a nuisance or dangerous. The determination process involves some investigation, a public hearing, and a Hearing Authority that determines the fate of the dog. It is important to note that a dog in Massachusetts cannot be banned from the town; instead, some restrictions may be placed on the dog. Information pertaining to the nuisance and dangerous dog laws can be found at <http://www.arlingtonma.gov/town-governance/laws-and-regulations/town-bylaws/title-viii-public-health-and-safety#A2> under Article 2 Section 1. Further information can also be found under the MGL Ch 140 Section 157.

11. What is the role of the biter's insurance company?

There are two situations where a dog owner's home or renter insurance might come into play. First, is when a dog or a person is bitten and the bite causes damage. Recall that the owner is responsible for any damage caused by their dog. Depending on the costs of the damage, a person may need to make a claim on their insurance to cover the damages. According to an Insurance Information Institute study, dog bites and dog-related injuries accounted for more than 1/3 of homeowners liability pay outs in 2015, with an average claim of \$37,000 (see <http://www.iii.org/press-release/dog-bites-accounted-for-more-than-one-third-of-all-homeowners-liability-pay-outs-last-year-as-cost-per-claim-soars-051315>). For the victim or the bitten dog, if the damage warrants a claim on insurance, then it is probably a good idea to talk with an attorney to ensure that the payout is fair and appropriate for the damage.

The second area where insurance comes into play is if a dog is deemed to be "dangerous" and the Hearing Authority has issued restrictions on the dog. One possible restriction is that the owner needs to carry a certain amount of insurance to cover any future damage that the dog may cause. The dog owner would need to show proof of such insurance to the town.

All dog owners should make sure that their insurance covers *their* dog. Some insurance companies do not insure dogs at all. Some insurance companies exclude or put restrictions on certain kinds of dogs. The only way to know if *your* dog is covered by *your* insurance is to talk with your agent – do not wait until your dog has bitten another dog or person to find out. See http://www.berryinsurance.com/blog/massachusetts_dog_bite_liability_knowing_the_law_and_insurance and <http://www.iii.org/issue-update/dog-bite-liability>. For information on an advocacy group (and legislation) for breed-specific discrimination by MA insurance companies, see <http://www.canine-strategies.com/advocacy.html>.

12. What is the role of a lawyer?

In the case of a dog bite, if the damage was severe enough and / or the two parties cannot come to an agreement, then the victim side might seek the advice of an attorney. This could be for property damage, medical bills for the person or the dog, and other costs incurred due to the dog bite. While it is beyond the scope of this document to cover all the details that come into play with a lawyer, there are a few tips that are important to know. First, if you or your dog suffered a significant injury, contact a lawyer that has dealt with dog bites before – dog bites can have unique injury profiles and having a lawyer that is knowledgeable of these issues is important. Second, treat the incident like an automobile accident - collect as much relevant information that you can at the scene, including names of witnesses, but do not offer up any extraneous information. Take photos of the injuries and damage – document the event. Finally, before you agree to anything or discuss money-related details, consult with an attorney and follow their advice.

If your dog bit a person or another dog and you are faced with legal proceedings, you can be charged criminally or civilly. Many factors determine if you should hire an attorney. To decide, consult with an attorney to make an informed decision.

13. What is the role of an animal behaviorist?

Sometimes, if a dog has been bitten, the dog will develop a fear or reaction to other dogs. In this case, one might want to seek advice from a trainer or behaviorist to work with you and your dog to retrain the dog (and you) to become more comfortable with dogs. There are different schools of thoughts as to how this training should be done so one should reach out to different trainers / behaviorists and determine which one is right for you. The main thing here is to realize that a dog might develop a fear after being bitten and to know that there are resources to help in this case. On the flip side, the owner of the biter should seek the assistance of a behaviorist to learn about their dog's body language to know when their dog is telling them that they

have had enough and may next resort to a bite. 99% of the time, they are telling you, with their body language, that something is wrong before a bite occurs.

Key Takeaways:

1. A dog's owner is responsible for just about any damage that a dog creates, including bites.
2. If you or your dog is bitten, it is in your best interest to collect as much information that you can from the owner of the biter dog so that you or your dog do not need to go through a lengthy quarantine or post-exposure prophylaxis regimen.

For further information, you can consult these resources:

<https://dogbitelaw.com/legal-rights-of-dog-bite-victims-in-usa/legal-rights-of-dog-bite-victims-in-the-usa>

<http://www.berryinsurance.com/blog/massachusetts-dog-bite-liability-knowing-the-law-and-insurance>