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The Tracey vs. Solesky “Pit Bull” Case and Its Impact

What is this all about? The Maryland Court of Appeals (the state’s highest court) issued an opinion in April 2012 declaring “pit bull” dogs “inherently dangerous,” creating a new law that threatens tens of thousands of dogs and their families across the state. This misguided ruling is contrary to all available scientific evidence about dogs, which tells us that breed is not predictive of behavior. It also mistakenly treats “pit bulls” as a specific breed of dog, when in fact the name “pit bull” is an artificial category that includes several breeds of dogs as well as any dog that has vaguely similar characteristics.

The ruling also imposed liability well beyond owners to third parties, making landlords, veterinarians, kennels, animal shelters, rescue groups, pet sitters, groomers, and anyone else who has the ability to control the dog’s presence on their property automatically financially liable for bites or other injuries. Despite expectations that the Maryland General Assembly would repeal this ruling during the 2013 legislative session, they failed to do so before they adjourned on April 8. The court ruling remains in effect and the next opportunity to address it won’t be until January 2014. The news is not all bad, though; this change in the law only applies to “pit bulls,” not mixes or other types of dogs, so there is no reason for renters to panic or for landlords to overreact.

What was the law before this case? The common law rule for dog bites in Maryland requires a showing that an owner acted negligently in failing to prevent the bite and that he knew, or should have known, the dog was dangerous based on its past behavior. A landlord who maintained control over the premises and knew of the dog’s presence is also required to show knowledge of the dog’s past behavior.

What is the law now? The old common law rule still applies to the majority of dogs. However, under the recent court ruling, if a person is injured by a “pit bull,” a standard called “strict liability” attaches, meaning there no longer needs to be any evidence that the owner had reason to know the dog was potentially dangerous. The holding extends strict liability not only to the owner, but also to landlords and other third parties. The key to this holding, though, is whether or not the dog is actually a “pit bull” – a determination which is nearly impossible, and which will make future legal actions much more complicated than they might appear.

Which dogs are impacted by the court’s decision? The Court’s decision applies specifically to “pit bulls.” However, “pit bull” is not a breed of dog at all, but rather a generic term typically used to group three breeds of dog and their mixes: the American Pit Bull Terrier (APBT), American Staffordshire Terrier (AST), and Staffordshire Terrier (ST). The ruling expressly excludes “cross-breeds, pit bull mix, or cross-bred pit bull mix” dogs. Unfortunately, many people guess at whether a dog is a “pit bull” based on appearance, and they are wrong more often than not. According to a [recent study](#) by the Maddie’s Fund Shelter Medicine Program at the University of Florida, shelter staff identified 55 of 120 dogs as “pit bulls,” but only 25 were actually confirmed through DNA testing as having either APBT, AS, or ST heritage; the others just had an appearance that made staff mistakenly believe they did. The staff also misidentified 20 percent of the dogs as non-pit bull type dogs when they actually did have APBT, AS, or

ST blood. This study underscores how even experts can be misled by appearances. Imagine, then, the challenges this ruling poses for landlords, judges, and others who will be in the impossible position of trying to determine which dogs are “pit bulls.”

Does this decision affect dogs other than pit bull-type dogs? Because of the high likelihood of confusion about which dogs are and are not “pit bulls,” any dog that shares similar general physical characteristics may, unfortunately, be punished by this ruling. As an unintended consequence, the confusion may lead to expensive court battles over whether a dog is a “pit bull.” Because this ruling is based on a subjective assessment of what a dog looks like, rather than his or her behavior, the result will not just be anti “pit bull” but anti-dog.

The truth about “dangerous dogs.” Scientific evidence presented by nationally recognized sources (including the Centers for Disease Control and Prevention, the American Veterinary Medical Association, and other independent entities) reliably demonstrates that dog breed is not a key predictive factor in dog bites. A dog’s propensity to bite is actually the product of numerous factors including early socialization, living conditions, and the owner’s choices (failure to have their dog neutered, for example, or chaining their dog outdoors). Moreover, there is *no truth* to the myth that certain types of dogs have locking jaws or other sinister traits. While all domesticated dogs have been selectively bred to enhance characteristics like hunting and herding ability, they share the same basic physical structure and communicate with the same signals and language. For these reasons, efforts aimed at increasing public safety by singling out one breed/type of dog have never been successful. Instead, efforts to protect the public from dog bites must be preventative and comprehensive in nature, and extended across the board to the owners of all dogs.

What can be done? If you rent a home, please do not panic. Regardless of the type of dog you have, your landlord cannot just show up and force either you or your dog out. If you own property, please do not assume that you must evict your tenants. For more detailed information on the ruling and efforts to address its impacts, please visit www.humanesociety.org/protectmddogs.