

## **Dog Bite Liability**

### **THE TOPIC**

**MAY 2014**

Sixty-eight percent of U.S. households, or 83.3 million homes, own a pet, according to a 2013/2014 survey from by the American Pet Products Association.

According to the Centers for Disease Control and Prevention, about 4.5 million people are bitten by dogs each year and about 885,000 require medical attention for these injuries; about half of these are children.

Some insurance companies will not insure homeowners who own certain breeds of dogs categorized as dangerous, such as pit bulls. Others decide on a case-by-case basis, depending on whether an individual dog, regardless of its breed has been deemed vicious.

### **RECENT DEVELOPMENTS**

- **Claims:** Dog bites accounted for more than one-third of all homeowners insurance liability claim dollars paid out in 2013, costing more than \$483 million, according to the Insurance Information Institute (I.I.I.) and State Farm®. An analysis of homeowners insurance data by the I.I.I. found that the number of dog bite claims nationwide increased 5.5 percent in 2013, while the average cost per claim for the year dropped 6.4 percent. The average cost paid out for dog bite claims nationwide was \$27,862 in 2013 compared with \$29,752 in 2012. The average cost per claim nationally has risen more than 45 percent in the last decade (2003-2013), which can be attributed to increased medical costs as well as the size of settlements, judgments and jury awards given to plaintiffs, which are still on the upswing. California had the largest number of claims, at 1,919, with an average cost per claim of \$33,709. New York had the highest average cost per claim, at \$43,122.

### **ESTIMATED NUMBER AND COST OF DOG BITE CLAIMS NATIONWIDE, 2003-2013**

<b>Year</b>	<b>Value of claims (\$ millions)</b>	<b>Number of claims</b>	<b>Average cost per claim</b>
2003	\$324.2	16,919	\$19,162
2004	318.9	15,630	20,406
2005	321.1	14,295	22,464
2006	322.4	14,661	21,987
2007	356.2	14,531	24,511
2008	387.0	15,823	24,461
2009	412.0	16,586	24,840
2010	412.6	15,770	26,166
2011	490.8	16,695	29,396
2012	489.7	16,459	29,752
2013	483.7	17,359	27,862
Percent change, 2012-2013	-1.2%	5.5%	-6.4%
Percent change, 2003-2013	49.2	2.6	45.4

Source: Insurance Information Institute, State Farm®.

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## **TOP 10 STATES WITH ESTIMATED NUMBER AND COST OF DOG BITE CLAIMS, 2013**

<b>State</b>	<b>Number of claims</b>	<b>Average cost per claim</b>	<b>Value of claims (\$ millions)</b>
CA	1,919	\$33,709	\$64.7
NY	965	43,122	41.6
OH	948	18,853	17.9
IL	914	28,941	26.5
PA	909	29,078	26.4
MI	866	24,700	21.4
TX	775	19,339	15.0
IN	503	25,502	12.8
AZ	488	27,556	13.4
WI	449	31,629	14.2

Source: Insurance Information Institute, State Farm®.

## NUMBER OF U.S. HOUSEHOLDS THAT OWN A PET, BY TYPE OF ANIMAL

(millions)

<b>Pet</b>	<b>Number</b>
Bird	6.9
Cat	45.3
Dog	56.7
Horse	2.8
Freshwater fish	14.3
Saltwater fish	1.8
Reptile	5.6
Small animal	6.9

Source: American Pet Products Association's 2013-2014 National Pet Owners Survey.

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## TOTAL NUMBER OF PETS OWNED IN THE U.S., BY TYPE OF ANIMAL

(millions)

<b>Pet</b>	<b>Number</b>
Bird	20.6
Cat	95.6
Dog	83.3
Horse	8.3
Freshwater fish	145.0
Saltwater fish	13.6
Reptile	11.5
Small animal	18.1

Source: American Pet Products Association's 2013-2014 National Pet Owners Survey.

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## BACKGROUND

**State and Local Legislation:** Dog owners are liable for injuries their pets cause if the owner knew the dog had a tendency to bite. In some states, statutes make the owners liable whether or not they knew the dog had a tendency to bite; in others, owners can be held responsible only if they knew or should have known their dogs had a propensity to bite. Some states and municipalities have "breed specific" statutes that identify breeds such as pit bulls as dangerous; in others individual dogs can be designated as vicious.

At least two states, Pennsylvania and Michigan, have laws that prohibit insurers from canceling or denying coverage to the owners of particular dog breeds. In Ohio, for example, owners of dogs that have been classified as vicious are required to purchase at least \$100,000 of liability insurance.

The American Kennel Club reports that while many municipalities have enacted bans on specific breeds, several states have laws barring municipalities and counties from targeting individual breeds.

**Dog Owners? Liability:** There are three kinds of law that impose liability on owners:

- 1) A dog-bite statute: where the dog owner is automatically liable for any injury or property damage the dog causes without provocation.
- 2) The one-bite rule: where the dog owner is responsible for an injury caused by a dog if the owner knew the dog was likely to cause that type of injury?in this case, the victim must prove the owner knew the dog was dangerous.
- 3) Negligence laws: where the dog owner is liable if the injury occurred because the dog owner was unreasonably careless (negligent) in controlling the dog.

**Criminal Penalties:** On January 26, 2001, two Presa Canario dogs attacked and killed Diane Whipple in the doorway of her San Francisco, California, apartment. Marjorie Knoller, the owner of the dogs, was convicted of involuntary manslaughter for keeping a mischievous dog that killed a person. She was sentenced to four years in prison for involuntary manslaughter and was ordered to pay \$6,800 in restitution. Her husband, Robert Noel, was convicted on lesser charges but also received a four-year prison sentence. Knoller became the first Californian convicted of murder for a dog's actions. This was only the third time such charges have been upheld in the United States, the first coming in Kansas in 1997.

**Insurers are Limiting their Exposure:** Homeowners and renters insurance policies typically cover dog bite liability legal expenses, up to the liability limits (typically \$100,000 to \$300,000). If the claim exceeds the limit, the dog owner is responsible for all damages above that amount. Some insurers do not ask the breed of a dog owned when writing or renewing homeowners insurance and do not track the breed of dogs involved in dog bite incidents. However, once a dog has bitten someone, it poses an increased risk. In that instance, the insurance company may charge a higher premium, nonrenew the homeowner's insurance policy or exclude the dog from coverage.

Some insurers are taking steps to limit their exposure to such losses. Some companies require dog

owners to sign liability waivers for dog bites, while others charge more for owners of breeds such as pit bulls and Rottweilers and others are not offering insurance to dog owners at all. Some will cover a pet if the owner takes the dog to classes aimed at modifying its behavior or if the dog is restrained with a muzzle, chain or cage.

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