



March 5, 2021

In our capacity as topic experts, the National Canine Research Council Action Fund has reviewed the claims made by American Property Casualty Insurance Association in its opposition letter to SB 103, submitted to the Senate Committee on Commerce and Labor, dated February 24, 2021.

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**APCIA claim:**

*The American Property Casualty Insurers Association of America (APCIA) is opposed to SB 103 which would require insurers to provide insurance to policyholders who have dangerous dogs on their property.*

This is false. This statement is predicated on the APCIA’s belief, as revealed elsewhere in the letter, that APCIA imagines that one or more breeds of dogs is disproportionately dangerous to people. There is no evidence that supports this notion. SB103 provides that insurers can still exclude policyholders who have dangerous dogs on their property, they just cannot make that determination based on a breed label. This is consistent, by the way, with Nevada’s law that preempts cities and counties from regulating dogs on the basis of breed. The State of Nevada has a comprehensive legal definition for both “dangerous” and “vicious” dogs and has specified penalties for owners of such dogs. Additionally, there is state and local governance for the responsible keeping of dogs. Insurance providers will retain the option to preclude coverage for owners who choose to possess declared “dangerous” or “vicious” dogs as well as owners who violate state and local laws that govern responsible ownership.

**MISCELLANEOUS CRIMES CONCERNING PUBLIC SAFETY**

**NRS 202.500 Dangerous or vicious dogs: Unlawful acts; penalties.**

1. For the purposes of this section, a dog is:
  - (a) “Dangerous” if:
    - (1) It is so declared pursuant to subsection 2; or
    - (2) Without provocation, on two separate occasions within 18 months, it behaved menacingly, to a degree that would lead a reasonable person to defend himself or herself against substantial bodily harm, when the dog was:
      - (I) Off the premises of its owner or keeper; or
      - (II) Not confined in a cage, pen or vehicle.
  - (b) “Provoked” when it is tormented or subjected to pain.
  - (c) “Vicious” if:
    - (1) Without being provoked, it killed or inflicted substantial bodily harm upon a human being; or
    - (2) After its owner or keeper had been notified by a law enforcement agency that the dog is dangerous, the dog continued the behavior described in paragraph (a).
2. A dog may be declared dangerous by a law enforcement agency if it is used in the commission of a crime by its owner or keeper.

3. A dog may not be found dangerous or vicious:
  - (a) Based solely on the breed of the dog; or
  - (b) Because of a defensive act against a person who was committing or attempting to commit a crime or who provoked the dog.
4. A person who knowingly:
  - (a) Owns or keeps a vicious dog, for more than 7 days after the person has actual notice that the dog is vicious; or
  - (b) Transfers ownership of a vicious dog after the person has actual notice that the dog is vicious,  
➤ is guilty of a misdemeanor.
5. If substantial bodily harm results from an attack by a dog known to be vicious, its owner or keeper is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#). In lieu of, or in addition to, a penalty provided in this subsection, the judge may order the vicious dog to be humanely destroyed.
6. A local authority shall not adopt or enforce an ordinance or regulation that deems a dog dangerous or vicious based solely on the breed of the dog.
7. This section does not apply to a dog used by a law enforcement officer in the performance of his or her duty.
8. As used in this section, “local authority” means the governing board of a county, city or other political subdivision having authority to enact laws or ordinances or promulgate regulations relating to dogs.  
[1911 C&P § 176; RL § 6441; NCL § 10123] — (NRS A [1967, 488](#); [1993, 2887](#); [1995, 1209](#); [2013, 426](#))

<https://www.leg.state.nv.us/nrs/nrs-202.html>

**APCIA claim:**

*APCIA opposes legislative or regulatory efforts that would require insurers to wait for a potentially devastating personal injury loss before being able to decide whether to provide, or continue to provide, coverage.*

This is false and exhibits a woeful misunderstanding of canine behavior. Not pedigree, physical appearance, nor a breed label assigned on the basis of a guess, predict a dog’s behavior. The mapping of the canine genome has shown that the genes which determine physical appearance do not necessarily influence behaviors of interest to insurers. The best predictor of future behavior is past behavior. This accepted principle of canine behavior science is also consistent with Nevada’s other relevant dog control statutes. And it is true for dogs and for dog owners.

**APCIA claim:**

*Each year there are an alarming number of vicious injuries and fatal attacks against humans by certain breeds of dogs.*

This is just simply unfounded. There is no central reporting system, no regional reporting systems, and no standardized local reporting systems, for dog related injuries, whether in the attempt to correlate injury by presumed or suspected breed or otherwise. While the CDC’s National Center for Injury Prevention and Control include “unintentional dog bites” in their data collection, the injuries are not tracked by breed. The CDC has not attempted to correlate dog bite injuries or fatalities with presumed breed since 1998. There is no evidence in the refereed literature to support this APCIA claim.

**APCIA claim:**

*Certain breeds can bite with a force averaging 1,000 pounds per square inch, and some can even bite with twice that force - enough to severely injure a child or adult in seconds.*

This is mythology perpetuated by reality television and unsourced hyperbolic claims made by excited local news reporters. There has never been a controlled experiment anywhere that supports this claim. Nor is there any evidence to be gleaned from the records of injuries to people or other animals that will support this claim. Even attorneys tasked with defending breed discrimination ordinances in court have not tried to make this claim. It is both shameful and frightening that the APCIA would include this utterly discredited claim in their statement.

**APCIA claim:**

*The oftentimes unprovoked and fierce nature of such attacks further supports an insurer's need to incorporate such information in its assessment of risk.*

All previous claims made to justify this statement are false which renders this without merit. Serious and fatal dog incidents are far too infrequent, according to the CDC.

**APCIA claim:**

*According to the Insurance Information Institute, children comprise half of the 900,000 dog bite victims who require medical attention after a bite. Two-thirds of injuries to children ages four years and younger were to the head or neck region.*

What both the APCIA claim, and the Insurance Information Institute, fail to include is that the second CDC Injury Control and Risk Survey (ICARIS-2) reported that medically attended dog bites to children had declined by 47% when compared to the first ICARIS. There are limitations to what can be concluded with both the Insurance Information Institute web page and the CDC's ICARIS reports as the ICARIS surveys did not define either the term "dog bite" or specify what meant by "medically attended." The severity or level of attention is undefined. A fear of zoonotic disease will cause parents to seek treatment for children after a dog bite but precisely because of fear of zoonotic disease, not because that injury is serious.

<https://www.nationalcanineresearchcouncil.com/research-library/summary-analysis-dog-bites-still-problem>

<https://www.nationalcanineresearchcouncil.com/injurious-dog-bites/medically-attended-dog-bites>

**APCIA claim:**

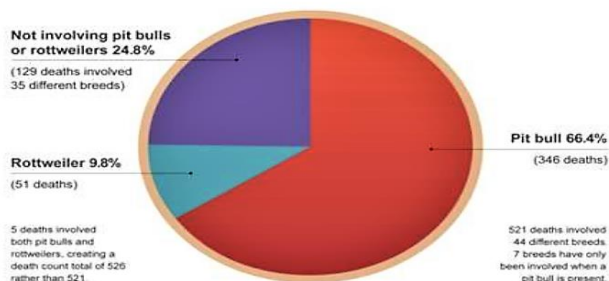
*Plastic and reconstructive surgeons all too often see these tragic consequences as they treat young patients with severe lacerations to the face and head that carry the potential of lifetime disfigurement.*

According to the 2019 Plastic Surgery Statistics Report published by the American Society of Plastic Surgeons (page 10), the number of reconstructive surgeries resulting from dog bites dropped 5% from the prior year and 34% since the year 2000. By any means, whenever a child is injured, it is a tragic event. However, in this instance, as elsewhere in their letter, the APCIA wants to broadcast alarm amid a continuing pattern of a reduction in dog bite related reconstructive surgeries. It is nothing more than a red herring.

**APCIA claim**

**15 Year U.S. Dog Bite Fatality Chart - 2005 to 2019**

During this 15-year period, 521 Americans suffered death due to dog bite injury.



**Breeds of Dogs Involved in the Most Human Fatalities**

| Dog Breed                    | Fatalities | % of Total |
|------------------------------|------------|------------|
| Pit bull                     | 346        | 66.4%      |
| Rottweiler                   | 51         | 9.8%       |
| Mixed-breed                  | 27         | 5.2%       |
| German shepherd              | 22         | 4.2%       |
| Mastiff/Bulmastiff           | 18         | 3.5%       |
| American bulldog             | 16         | 3.1%       |
| Husky                        | 14         | 2.7%       |
| Combination of 37 dog breeds | ≤ 9        |            |

As insurance actuaries can confirm, there is a scientific definition of data. The manner in which this pie chart was populated does not meet the standards to qualify as scientific data. This graphic was created from a scrapbook of news stories collected by the designer who created the website from where APCIA has copied and pasted it. None of the information in this chart has been peer reviewed or even analyzed for accuracy. The website is clear that the numbers were the result of reading the newspaper. Additionally, this chart is intended to be a compilation of DBRFs. As stated earlier, DBRFs are vanishingly rare, even as a fraction of dog bites, medically attended or otherwise. After surveying DBRFs over a twenty-year period, the CDC concluded that these incidents should not be a basis for public policy. Nor should they be a basis for a commercial policy. In a statement submitted by an organization such as APCIA, that is supposed to be driven by data that predicts risk, the inclusion of a poorly sourced,

unverified, not peer-reviewed pie chart that proposes to sum up fantastically rare occurrences is nothing more than a red herring or, perhaps, a lazy work product.

There has been a thoroughly researched, peer reviewed, and published consideration of DBRFs that identified seven potentially preventable co-occurring factors present in the majority of DBRFs. It should be noted that breed was not one of the factors that could be reliably identified.

<https://www.nationalcanineresearchcouncil.com/research-library/summary-analysis-co-occurrence-potentially-preventable-factors-256-dog-bite-related>

**APCIA claim:**

*Numerous studies have been published on dog bite injuries and fatalities by breed.*

No substantiation for this claim was provided. If APCIA were to consult the literature, it would learn that the majority of studies we assume they are referring to caution that the breed identifications relied upon are unreliable.

For example, from one of the most often cited papers used to attempt to justify breed target lists the author adds this warning:

"Still, our study has several major limitations. Manitoba jurisdictions were largely grouped together as those with and without BSL. Such a grouping neither considered general heterogeneity within each group nor across the two groups. Enforcement of by-law, known to differ across the different BSL jurisdictions and over the years, was not accounted for in this study. While a specific health outcome such as DBIH was studied with justification, neither the decline in the number of dogs in the banned breeds nor the proportion of DBIH that can be attributed to the banned breed have been determined. Other differences between jurisdictions with and without BSL have the potential to influence the study results. As quasi-experimental study designs can inform discussions of cause and effect but cannot definitely establish a link, the results of our finding should be interpreted cautiously." - M Raghavan, *Injury Prevention*, 2013

**APCIA claim:**

*More than 4 million dog bites occur each year in the U.S., with associated liability claims totaling \$797 million in 2019 — an increase of 134% since 2003, according to the Insurance Information Institute (III) and State Farm®. The number of dog bite claims nationwide rose to 17,802 in 2019 from 17,297 in 2018—a 2.9 percent increase, according to an analysis of homeowners insurance data by the III. The average cost per claim increased by 14.7 percent in 2019. The average cost paid out for dog bite claims nationwide was \$44,760 in 2019 up from \$39,017 in 2018. The average cost per claim nationally has risen 134 percent from 2003 to 2019, due to increased medical costs as well as the size of settlements, judgments and jury awards given to plaintiffs, which are trending upwards.*

While costs per claim have risen, the number of claims paid has remained fairly stable, despite a significant rise in the US dog population, which can be taken as evidence that people are taking better care of their dogs. The APCIA has studiously neglected to disclose that the number of claims paid in 2003 was 16,919. In 2019, a total of 17,802 claims were paid. That is an increase – over a period of 16 years – of 5%. Meanwhile, the dog population increased from approximately 63 million to 76 million, according to the American Veterinary Medical Association, an increase of more than 20%.

**APCIA claim:**

*However, insurance companies must be able to properly underwrite and rate risks.*

Given the statement as it was submitted, it is unclear how APCIA lays claim to properly underwriting and rating risk.

**APCIA claim:**

*If insurers are forced to insure those homeowners with an increased chance of loss, whether it is a poorly maintained woodburning (sic) stove, a leaky roof, or an aggressive dog, then they must be able to charge an adequate rate.*

This is unclear to us but it seems to be a circular argument. There are no “aggressive” breeds of dogs. From the perspective of insurance, the concern is whether a dog is liable to bite and that cannot be determined by breed. The rate of incidence for dogs as a species, or for individual breeds, is simply too low. Furthermore, there is nothing in SB103 that would prevent an insurer from denying coverage to the owner of a dog that has been identified as “aggressive”. Again, the best predictor of future behavior is past behavior. This is true for dogs and owners, alike.

**APCIA claim:**

*If there is an issue with the specific breed, a homeowner can shop around for a different insurer or consider a different dog breed.*

There are no issues, such as the APCIA would have us believe, with specific breeds or groups of breeds, or breed mixes. This is nonsense. In summary, the submitted APCIA statement in opposition to SB103 is a good example of why insurance consumers need protection from insurers that rely on poorly scrutinized and non-existent sources.