WALKING ON THE WILD SIDE: CLASSIFICATION AND LIABILITY FOR OWNERS OF WILD-DOMESTIC ANIMAL HYBRIDS

INTRODUCTION

Man has long been diversely fascinated with animals. We keep them in zoos to admire their strength and rugged wild beauty. We domesticate them to become our companions and servants. We hunt them for sport and create laws, foundations, and funds to protect them from extinction. We study them in the wild, and in laboratories, to gain insight into their behavior, and our own. For better or for worse, the human race has taken an active and inextricable role in the natural animal kingdom.

One of the latest trends in this relationship has been the drive to make our domestic companions more closely resemble their wild relatives.[1] Since the domestication of dogs nearly 10,000 years ago,[2] man has engaged in selective breeding of his domesticated animals to enhance and emphasize the traits he desired, ultimately resulting in different accepted breeds within the species.[3] Now, numerous breeders are engaged in the cross-breeding of domestic animals with their wild relatives.[4] In the case of dogs and cats, this is primarily to appeal to those buyers desiring to own an exotic pet by creating the appearance of a wild animal.[5]

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[1] *See* Richard H. Polsky, *Wolf hybrids: Are they suitable as pets?*, Veterinary Medicine, December 1995, at 1122, *available at* http://www.dogexpert.com/Wolf%20Hybrids/Publication/Hybridsaredangerous.html; *see also* A Brief History of the (Bengal) Universe, http://www.bengalclassifieds.com/bengal-cat-education-history. htm (last visited Aug. 16, 2008).

[2] JOHN PAUL SCOTT & JOHN L. FULLER, DOG BEHAVIOR: THE GENETIC BASIS 29 (University of Chicago Press 1965).

[3] WESLEY MILLS, THE DOG IN HEALTH AND IN DISEASE 5-6 (2nd ed., D. Appleton and Company1906) (1892).

[4] Robert A. Willems, *The Wolf-Dog Hybrid An Overview of a Controversial Animal*, ANIMAL WELFARE INFO. NEWSL. (USDA, Animal and Plant Health Inspection Service),Vol. 5 No. 4 1994/1995, *available at* http://www.nal.usda.gov/awic/newsletters/v5n4/5n4wille.htm.

[5] P.A. CUSDIN & A.G. GREENWOOD, DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS, ROYAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, THE KEEPING OF WOLF-HYBRIDS IN GREAT BRITAIN 22 (2000); Jessica Dickler, How much is

The purpose of this Comment is to address the legal issue of classification and tort liability involved in this growing trend of wild-domestic animal hybridization for private pet ownership. This Comment will provide some background and recent trends in wild-domestic hybridization of companion animals, and an overview of general tort liability standard for animals. An analysis of the laws of the United States regarding the ability to keep and breed exotic pets, highlighting the differing approaches taken by the states, will be followed by analysis of the case law dealing with liability standards of owners/keepers of hybrids. This Comment will briefly address some of the other pertinent issues in fashioning comprehensive legislation of wild-domestic hybrid pets, including enforceability, public health concerns, insurance ramifications, and ethical issues and provides a recommendation on how to establish more clear and standardized laws across the United States.

I. WILD-DOMESTIC ANIMAL HYBRID BACKGROUND

Evidence of domesticated wolf-dog hybrids in the Americas exists back to 8000 BC.[6] Domestic cats are believed to have been crossed with wild cats, such as the African Wildcat and Leopard Cat, thousands of years ago.[7] The suggestion of hybridization first appeared in the records of the Cat Fancy[8] as early as 1871.[9] The large scale hybridization of both dogs and cats for pets, however, did not become popular in the United States until the mid-1960s.[10]

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the kitty in the window? $22,000, http:// money.aol.com/cnnmoney/general/canvas3/a/how-much-is-the-kitty-in-the-window/20071112154009990002 (last visited Sep. 7, 2008).

[6] D. N Walker & G.C. Frison, *Studies on Amerindian dogs, 3: Prehistoric Wolf/Dog Hybrids from the Northwestern Plains*, 9 J. ARCHAEOLOGICAL SCIENCE, 125, 125 (1982).

[7] Leopard Cat Foundation, Leopard Cat Hybridization, http://www.leopardcat.8k.com/hybrids.html (last visited Dec. 15, 2008).

[8] The "Cat Fancy" is the term used for organizations throughout the world that consist of breeders and lovers of cats, and originated in England. The Cat Fanciers' Association is a non-profit organization founded in 1906 in America with the stated objectives to promote the welfare of all cats; the promotion and improvement of CFA recognized breeds of cats; the registering, recording or identifying by number or by other means the names and/or pedigrees of only those cats and kittens entitled to be registered as one of the breeds recognized by the Association; the promulgation of rules for the management of cat shows; the licensing of cat shows held under the rules of this organization; and the promotion of the interests of breeders and exhibitors of pedigreed cats. The Cat Fanciers' Ass'n, Inc., http://www.cfa.org/objectives.html (last visited Sept. 7, 2008).

[9] Records from the English Cat Fancy circa 1871 suggest the Spotted British Short hair was a hybrid resulting from the mating of a spotted jungle cat and a domestic cat. A Brief History of the (Bengal) Universe, *supra* note 1.

[10] A Brief History of the (Bengal) Universe, *supra* note 1.

A. The Wolf-Dog Hybrid

The wolf-dog hybrid, or wolf-dog, is a cross between a domestic dog (*Canis familiaris*) and a wild wolf (*Canis lupus*).[11] Wolves are the genetic ancestors of the domestic dog, theoretically allowing a wolf to be able to successfully breed with any breed of dog.[12] The most popular breed partners are the Malamute and Husky breeds, as these most closely resemble the wolf in appearance.[13] Wolf-dogs have been known to demonstrate the physical characteristics of both the wolf and dog.[14] This makes identification of a wolf-dog by physical appearance extremely difficult,[15] despite the fact that they are often larger in size than both of the animals from which they were bred.[16]

The United States Department of Agriculture ("USDA") estimated the population of wolf-dog hybrids in the United States to be approximately 300,000.[17] The close genetic relationship of the wolf and dog make identification of hybrids, or their wolf percentage, almost impossible with current technology.[18] Reliance on the accuracy of owner-supplied pedigrees is the only way to quantify the percentage and status of a wolf-dog as a hybrid.[19] Despite this close relationship, the genetic differences in the wolf and dog result in unpredictable behavior patterns.[20] This frequently results in offspring with the more aggressive behavior of the dog

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[11] CUSDIN ET AL, *supra* note 5, at 4.

[12] Willems, *supra* note 4.

[13] CUSDIN ET AL, *supra* note 5, at 4; Willems, *supra* note 4.

[14] Willems, *supra* note 4.

[15] "[A]lthough most high-percentage hybrids often retain much of the physical appearance of the wolf, many hybrids are indistinguishable from dogs in appearance." Willems, *supra* note 4.

[16] This phenomenon is known as "hybrid vigor." Willems, *supra* note 4.

[17] Willems, *supra* note 4.

[18] "Though not identical, the genotypes of wolves and dogs are very similar. It is probable, in fact, that 99 percent or more of the genotypes of these two species are indistinguishable. The large majority of wolf genes that enter into pedigree percentage calculations are, therefore, identical to the corresponding dog genes." Willems, *supra* note 4.

[19] Willems, *supra* note 4.

[20] "There are many behavioral differences between wolves and dogs. Wolves in the wild appear to fear humans and will avoid contact whenever possible. Wolves raised in captivity are not as fearful of humans. This suggests that such fear may be learned rather than inherited. Dogs, on the other hand, socialize quite readily with humans, often preferring human company to that of other dogs. Wolves are tremendously successful hunters. Most dogs would quickly starve to death if left to fend for themselves in the wild. Additionally, wolves rarely bark, something obviously not true for most dogs. Since wolf hybrids are genetic mixtures of wolves and dogs, they can inherit a range of behavioral traits, some of which may be conflicting." Willems, *supra* note 4.

combined with the social posturing and predatory behaviors of the wolf.[21] These factors seem to drive the majority of wolf-dog attacks.[22] In a study by the Center for Disease Control, fourteen fatal attacks are attributed to wolf-dogs between 1979 and 1998.[23] Although on average this accounts for less than a single attack per year, the wolf-dog has the fifth highest total and is number one among non-purebred dogs.[24]

Many owners ultimately find the wolf-dog to be a poor household pet.[25] The wolf's curious nature and natural ability to dig often remains in the hybrid,[26] resulting in the wholesale destruction of furniture and yards. This nature also makes it extremely difficult to keep them confined.[27] In frustration, many owners abandon the animals to shelters where they are likely to be euthanized.[28] Alternatively, they release them into the wild where they may interbreed with any local wolf population and contaminate the gene pool.[29]

There is strong advocacy both for and against banning or regulating the wolf-dog.[30] Proponents say proper breeding for appearance and temperament coupled with a proper training program by the owner can curb behavioral issues and aggressive tendencies in wolf-dogs to the same degree as any other breed.[31] However, many wolf education and support organizations discourage the keeping of hybrids as pets for the reasons noted above.[32] Furthermore, press coverage of wolf-dog incidents has had a negative effect on wolf conservation and reintroduction efforts.[33]

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[21] CUSDIN ET AL., *supra* note 5, at 24-26; Willems, *supra* note 4.

[22] CUSDIN ET AL., *supra* note 5, at 24-26.

[23] Jeffrey J. Sacks, et al, *Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998*, 217 J.AM.VETERINARY.MED.ASS'N. 836, 837-838 (2000) (table showing the statistics of fatal attacks, by dog breed).

[24] *Id.* at 837-838.

[25] CUSDIN ET AL, *supra* note 5, at 23; Willems, *supra* note 4.

[26] CUSDIN ET AL, *supra* note 5, at 24; Willems, *supra* note 4.

[27] Willems, *supra* note 4.

[28] CUSDIN ET AL, *supra* note 5, at 23; Willems, *supra* note 4.

[29] Experts: Wolf-Dog hybrids don't make safe pets, http://www.timberwolf information.org/info/archieve/newspapers/wolf_hybridsarenotsafe.htm (last visited Oct. 6, 2008.) (describing how gene pool contamination from released wolf-dog hybrids actually contaminates the gene pool and harms reintroduction efforts).

[30] *See* Owning Wolf Hybrids Often Ends in Disaster, http://petplace.com/article-printer-friendly.aspx?id=2090 (last visited Aug. 17. 2008).

[31] Tracy Vogel, Crying Wolf (2000), http://www.workingdogs.com/vccrywolf.htm (last visited Aug. 13, 2008).

[32] Wolf Park, Guidelines for Keeping Wolves and Wolf-dog Hybrids, http://www.wolfpark.org/wolfdogs/ guidelines.html (last visited Nov. 9, 2008).

[33] Experts: Wolf-Dog hybrids don't make safe pets, *supra* note 29 (describing how the increased contact with the public, and the increased number of bite incidents because of the increased contact actually turns public opinion against wolves).

Mainstream animal organizations such as the Humane Society of the United States ("HSUS") and the American Society for the Prevention of Cruelty to Animals ("ASPCA"), strongly agree that wolf-dogs should not be kept as pets and that breeding should be immediately ceased.[34]

B. Cat Hybrids

Some documentation of cat hybridization exists back to the very first cat show of what has become the modern day Cat Fancy.[35] Serious efforts to create new breeds of cat by crossing wild and domestic cats did not occur until the late 1960s, coinciding with the importation of wild Leopard Cats into the United States.[36] Although one early breeding effort began as research into the natural immunity of many smaller wildcats to feline diseases,[37] numerous private cat clubs soon formed to promote hybrid cat breeding.[38] These clubs focused primarily on the Bengal Cat, now a mostly accepted "domestic" cat breed.[39] These cats were bred to have the spotted look of a wild cat and the gentle temperament of domestic cats.[40]

In order to feed the desire of some owners to have increasingly larger, wilder, and more exotic pets, breeders are hurriedly attempting to create new and different "designer cats."[41] Such cats can be offered up for spectacular costs, up to $22,000.[42] At least seventeen different wild-domestic hybrid cat breeds have emerged from the various combinations of domestic and wild cats.[43] Some of the resulting animals have weighed

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[34] Vogel, *supra* Note 31; Press Release, The Humane Society of the United States, Wolf and Wolf-dog Hybrid Incidents Demonstrate the Need for Exotic Pet Bans (Jul. 21, 2006), *available at* htpp://www.hsus.org/press_and_publications/press_releases/wolf_and_wolf-dog_hybrid.html (last visited Jul. 16, 2008).

[35] The first organized cat show in London, England in 1871 listed a class of "Domestic Cats crossed with Wild Cats" exhibited. A Brief History of the (Bengal) Universe, *supra* note 1.

[36] A Brief History of the (Bengal) Universe, *supra* note 1.

[37] It was discovered that many wild cats had a natural immunity to such feline diseases as feline leukemia and feline AIDS. When an epidemic of feline leukemia occurred in the 1960's experiments began to see if the natural immunity would be passed to cross-breed offspring. A Brief History of the (Bengal) Universe, *supra* note 1.

[38] A Brief History of the (Bengal) Universe, *supra* note 1.

[39] A Brief History of the (Bengal) Universe, *supra* note 1.

[40] A Brief History of the (Bengal) Universe, *supra* note 1.

[41] "Designer cats" is a term used to describe the selective breeds of hybrid cats now being marketed at extremely high prices. Dickler, *supra* note 5.

[42] Dickler, *supra* note 5.

[43] Some of the more well-known examples of the wild-domestic hybrid cat include the Bengal (from the Asian Leopard Cat), the Chausie (from the Jungle Cat), the Savannah

up to thirty pounds,[44] and many retain the wild personality as a dominant trait.[45]

Breeders market some of these designer cats as "toy tigers,"[46] and they are not far off the mark. Most of these cats are highly intelligent and need constant stimulation to avoid the boredom that triggers the destruction of the home.[47] Although serious attacks on people do not appear to be commonplace, probably due to the smaller size of the animal in comparison to people, these cats commonly bite and injure during play.[48] They have also been reported to attack and stalk other animals much larger than themselves.[49] They retain the territorial marking habits of their wild ancestry[50] and often have medical issues not associated with their domestic counterparts.[51] As these traits and characteristics manifest, unwary owners often take their cats to shelters or rescue facilities where they are often deemed not adoptable and euthanized.[52]

Similar advocacy arguments to those made for the wolf-dog are found concerning the hybrid cat movement.[53] Unlike the wolf-dog, whose first generation offspring are generally fertile and have a good chance of being socialized,[54] breeding programs for hybrid cats often take several more generations to produce pet- and show-quality animals.[55] Many of the wild animals used in hybrid breeding programs are highly prized, sometimes to the point of endangerment, for their fur.[56] Some early gen-

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and Ashera (from the Serval). Sarah Hartwell, Domestic X Wildcat Hybrid (1993), http://www.messybeast.com/small-hybrids/hybrids.htm (last visited Oct. 6, 2008).

[44] New Hybrid Cat Becomes the Latest Exotic Pet – CBS Report on the Ashera (CBS television broadcast Nov. 6, 2007); Dickler, *supra* note 5.

[45] "Even after five generations, that wild personality is often a dominant trait." Carole Baskin, *What about Hybrid Cats?*, http://www.bigcatrescue.org/cats/wild/hybrids.htm (last visited Oct. 6, 2008).

[46] Toyger Cat Society, About Toygers, http://www.toygers.org/about.html (last visited Oct. 6, 2008).

[47] Baskin, *supra* note 45.

[48] Baskin, *supra* note 45.

[49] Baskin, *supra* note 45.

[50] Baskin, *supra* note 45.

[51] Bengal cats are very susceptible to Irritable Bowel Disorder and often require a special diet. Baskin, *supra* note 45.

[52] Baskin, *supra* note 45.

[53] REXANO Press, Iowa Introduces Bill to Legalize the Exotic/Domestic Cat Hybrids, (Feb. 11, 2008), *available at* http://www.bloggernews.net/113729 (last visited Aug. 31, 2008).

[54] Willems, *supra* note 4.

[55] Baskin, *supra* note 45.

[56] Baskin, *supra* note 45.

eration animals[57] that are not suitable as pets are used to supply high-end furriers.[58] This has led the Bengal cat, an offspring of the endangered Leopard Cat, to be commonly called "The Money Cat."[59] Both ASPCA and HSUS also oppose the breeding and possession of hybrid cats.[60]

As more attention is brought to bear on hybrid breeds and the issues associated with them, legislators are being called upon by both sides of the debate to either ban or legitimize these creatures.[61] There is a wide variation in the laws regarding classification, regulation, and liability standards for owners of these animals.[62] In order to put a discussion of these laws, or lack thereof, in their proper context, a discussion of the overview of general tort liability standards for animals is necessary.

II. GENERAL TORT LIABILITY STANDARDS FOR ANIMALS

In general, an owner's tort liability position for injury or damage caused by an animal in his or her possession is based on whether the animal is considered domestic or wild.[63] A wild animal is normally considered to be one that is "not by custom devoted to the service of mankind in the time and place that it is kept."[64] Owners are subject to strict liability for injury caused to persons or property by wild animals in their possession.[65] Owners of domestic animals, on the other hand, are generally subject only to a negligence standard of liability under common law unless the owner knows or has reason to know of the animal's dangerous propensities.[66] Many states have enacted specific legislation to identify

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[57] It can take up to 50 cats (starting with the offspring from one wild and one domestic cat) to breed a 4th or 5th generation hybrid that is salable as a pet- or show-quality cat. Baskin, *supra* note 45.

[58] The fur of the endangered Leopard Cat, among others, is highly prized, and it is alleged that some furriers may be using discarded early generation hybrids, or purposefully breeding hybrids, for the similarity of markings that the hybrids have to their endangered counterparts. Baskin, *supra* note 45.

[59] Baskin, *supra* note 45.

[60] Press Release, The Humane Society of the United States, *supra* note 34; Position Statements on Hybrids as Pets, The American Society for the Prevention of Cruelty to Animals, *available at* http://www.aspca.org/site/Page Server?pagename =pp_hybrids (last visited Oct. 6, 2008)

[61] Press Release, The Humane Society of the United States, *supra* note 34; REXANO Press, *supra* note 53; United Kennel Club Position Paper, Subject: Wolves and Wolf-Dog Crosses (Sep. 1998), *available at* http://www.idir.net/ ~wolf2dog/ukcpos.htm (last visited Sep. 5, 2008).

[62] *See* discussion *infra* Part III.

[63] VICTOR E. SCHWARTZ ET AL., TORTS 689 (11th ed. 2005).

[64] RESTATEMENT (SECOND) OF TORTS §506 (1977).

[65] RESTATEMENT (SECOND) OF TORTS §507 (1977).

[66] RESTATEMENT (SECOND) OF TORTS §518 (1977).

what constitutes a "wild" or "dangerous" animal, thereby implying what common law liability standards apply. [67]

In this context, strict liability means that the owner of the animal is liable for harm caused by the animal, regardless of whether the owner negligently or intentionally caused the animal to harm another.[68] Liability is limited to injuries caused by those traits that make the animal inherently wild or dangerous.[69] Strict liability does not apply when the person is interacting with the animal for the purpose of securing some benefit from the contact.[70] It also does not apply when the defendant possesses the animal in pursuance of an obligation imposed by law.[71] In addition, strict liability in animals remains subject to the defense of contributory negligence.[72] This defense will hold the injured party proportionally liable for their own injuries.[73]

Negligence, on the other hand, requires the injured party to show that the possessor of the animal failed to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation, and this failure was the cause of the injury.[74] Under this standard, as long as a possessor of an animal has acted reasonably to prevent the injury caused, the injured party will not recover.[75] Even where the possessor was negligent, comparative negligence jurisdictions will reduce the injured party's recovery proportional to their own negligence, but does not ban recovery completely.[76]

Non-hybrid dogs and cats are, without exception, considered "domestic animals" within the United States.[77] This is not true of their hybrid

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[67] *See* discussion *infra* Part III.

[68] RESTATEMENT (THIRD) OF TORTS chapter 4 scope note (Proposed Final Draft No. 1, 2005).

[69] If a person was injured due to severe allergic reaction to the dander of a wild animal, the owner would not be strictly liable as this is not part of what makes the animal "inherently wild." *See* RESTATEMENT (SECOND) OF TORTS §507 (1977)..

[70] *See* RESTATEMENT (SECOND) OF TORTS §515 (1977); RESTATEMENT (THIRD) OF TORTS: LIAB.PHYSICAL HARM §24 (Proposed Final Draft No. 1, 2005).

[71] RESTATEMENT (SECOND) OF TORTS §517 (1977).

[72] Only as to the plaintiffs "knowingly and unreasonable subjecting himself to the risk." RESTATEMENT (SECOND) OF TORTS §515 (1977).

[73] RESTATEMENT (THIRD) OF TORTS: APPORTIONMENT LIAB. §8 (2000).

[74] RESTATEMENT (SECOND) OF TORTS §518 cmt.f (1977).

[75] *Id.*

[76] RESTATEMENT (THIRD) OF TORTS: APPORTIONAMENT LIAB. §8 (2000).

[77] Dog bite legal expert Kenneth Williams is unaware of any situation or jurisdiction where a non-hybrid dog or cat has not been considered a domestic animal. E-mail from Kenneth M. Phillips, Attorney at Law, Law Offices of Kenneth M. Phillips, to Lisa A. Cutts, Law Student, San Joaquin College of Law (Oct. 26, 2008, 21:12:39 PDT) (on file with author).

counterparts.[78] Under the common law, owners of domestic dogs and cats are not liable for injury caused to others by their animal unless they were negligent.[79] Owners of animals subject to strict liability who take the exact same precautions, however, would be liable for the same injury, even if not negligent.[80] Outside of specific legislation on liability in each jurisdiction, the classification of the hybrid as wild or domestic becomes critical. The lack of standardized classification also becomes problematic for owners who move between states. Unlike domestic pets, which are universally allowed,[81] a hybrid pet may be banned by either the state or the local government that the owner will relocate to.[82]

The need for clear classification goes well beyond the owner's liability. The strict liability standard for wild animals is why many hybrids are euthanized upon abandonment at local animal shelters instead of being offered up for adoption.[83] Additionally, at least one case exists wherein a veterinarian was held liable when a wolf hybrid he treated later bit someone.[84] The often vague and unclear status of the hybrids creates

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[78] *See* discussion *infra* Part III.

[79] RESTATEMENT (SECOND) OF TORTS §518 (1977).

[80] An owner who confined a 25 lb feline within a strong cage in its backyard and for the first time the animal injures a party who reaches in to pet it is only liable if negligent if it is a domestic housecat, but is strictly liable if the feline is a bobcat, or other wild feline, no matter how tame it may act with its owner. *See* RESTATEMENT (SECOND) OF TORTS §507 cmt.c (1977).

[81] Although regulations involving the keeping of animals vary by state and locality, no known jurisdiction actually completely bans the keeping of domestic dogs or cats. E-mail from Kenneth M. Phillips, Attorney at Law, Law Offices of Kenneth M. Phillips, to Lisa A. Cutts, Law Student, San Joaquin College of Law (Oct. 26, 2008, 21:12:39 PDT) (on file with author).

[82] Laws, statutes, ordinances and regulations from all levels of government affect the ownership of exotic and hybrid animals. The website "Hybrid Law" strongly recommends that county and city laws, and homeowners' association rules be researched prior to buying or selling any hybrid animal. Hybrid Law, http:// www.hybrid law.com (last visited Nov. 6, 2008).

[83] "In 1988, a wolf hybrid was adopted from a humane society shelter in Florida. Several hours after it was taken home, it escaped from its new owner's fenced yard and killed a neighbor's 4-year-old boy. The shelter was sued and paid $425,000 in a settlement to the child's parents. Since this incident, shelters around the country have been reluctant to put these animals up for adoption. Instead, the animals are euthanized once the required holding period is over." Willems, *supra* note 4.

[84] "In some States, veterinarians have had legal problems as a result of treating wolf hybrids in their practices. Recently, a veterinarian in New Jersey was sued and found liable for damages after a wolf hybrid he had treated later bit someone. To further complicate matters, veterinarians may find that their malpractice insurance does not offer coverage in a suit involving a wolf hybrid, if the hybrid has no permit or is owned illegally. The American Veterinary Medical Association recently issued a statement saying that their malpractice insurance carrier would not cover suits involving wolf hybrids if

problems for local animal control agencies, whose ordinances are often written strictly for dogs and cats.[85] Many times, state wildlife agencies will not consider the hybrids as "wildlife" even where the animal is legally defined as wild or exotic.[86] This causes a response vacuum, or failure of any agency to take responsibility, when a member of the public reaches out for assistance. The need for a definitive classification within each jurisdiction is clear; to ensure owners have a clear understanding of their potential liability when they make the decision to adopt a hybrid animal.

III. STATUTORY ANALYSIS

There are two basic issues to be addressed in a statutory analysis regarding the subject of wild-domestic animal hybrids. The first issue is whether the state classifies the hybrid as wild, domestic, or does not classify it. The second issue is whether the state then imposes any regulation on the hybrid. The state has several positions it can adopt:

1) Identify the hybrid as equivalent to the domestic animal;

2) Identify the hybrid as a domestic animal, but separately define laws and ordinances as to its keeping and status;

3) Identify the hybrid as wild, but allow possession under specified conditions and/or with special permission;

4) Identify the hybrid as wild, and ban it from private possession (with and without grandfather clauses);

5) Provide vague and sometimes conflicting guidance without direct reference to hybridization; or

6) Do nothing.

All of these situations currently exist with regards to laws in effect in the various states.[87] The analysis will attempt to quantify the direction taken in regards to both hybrid dogs and cats in the United States, compare and contrast statutory construction within each category, and summarize any relevant legislative history within each category.

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the animal's owner has no permit in a State that requires one, or if hybrids are prohibited in the State in which the incident occurred." Willems, *supra* note 4.

[85] Willems, *supra* note 4.

[86] Willems, *supra* note 4.

[87] Willems, *supra* note 4 (describing the variance of positions regarding wolf hybrids); Hybrid Law, *supra* note 78 (listing the various laws, or lack thereof, in effect in 2008 for hybrid cats and dogs, by state).

A. Federal Position

In regards to animal activities regulated by the federal government, it has taken the position that dog and cat hybrid crosses are domestic animals.[88] The Animal Welfare Act ("AWA") defines both dogs and cats as including hybrid crosses of the same.[89] The AWA further states that "crosses between wild animal species and domestic animals, such as dogs and wolves or buffalo and domestic cattle, are considered to be domestic animals."[90] The AWA was enacted to regulate the interstate sale, transportation, and handling of animals used for research, experimentation, exhibition and use as pets.[91] Although enacted primarily to ensure the humane treatment of animals,[92] the federal position is often cited by hybrid proponents to bolster their arguments for possession[93]; however, it is not preemptive of state law.[94]

B. States That Ban Hybrids

Currently, seventeen states explicitly or constructively ban the personal possession of dog or cat hybrids as pets.[95] Most of the states ban-

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[88] 9 C.F.R §1.1 (2008)

[89] *Id.*

[90] *Id.*

[91] 7 U.S.C.§ 2131 (2007).

[92] *Id.*

[93] REXANO Press, *supra* note 53.

[94] "The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof . . . ." 7 U.S.C.§ 2131 (2007) (indicating purpose of act is to regulate interstate and foreign commerce only).

[95] ALA. CODE § 3-8-1 (2008) (constructive ban by making it illegal to own "any *canidae* or *felidae* for which there is no licensed rabies vaccine"); ALASKA ADMIN. CODE tit. 5, §92.029 (2008) (specifically limiting allowable dogs and cats to *canis familiaris* and *felis catus* only, and specifically excluding hybrids); CONN. GEN. STAT. ANN. § 26-40a (West 2008) (banning possession of *canidae* and *felidae* hybrids except for properly registered F4 and later Bengal cats); GA. CODE ANN. §27-5-5 (West 2008) (specifically banning possession of wolf hybrids unless grandfathered and properly permitted); HAW. CODE R. §4-71-2 (2006) (specifically limiting allowable dogs and cats to *canis familiaris* and *felis catus* only); 720 ILL. COMP. STAT. ANN. 585/0.1 (West 2008) (as interpreted by Department of Natural Resources), *see also* Hybrid Law (Ill), http://www.hybridlaw.com/(last visited Dec. 27, 2008); IOWA CODE ANN. § 717F.1 (West 2008) (permitting possession of wolf-dog hybrids, but not cat hybrids; an amendment allowing some cat hybrids is currently being considered); MD. CODE ANN., CRIM. LAW §10-621 (West 2008) (prohibiting hybrid dogs and hybrid cats weighing over 30 pounds); MASS. GEN. LAWS ANN. ch. 131, §77A (West 2008) (prohibiting canid and felid hybrids); MICH. COMP. LAWS ANN. §§ 287.1002-1004 (West 2008) (prohibiting wolf-dog crosses unless in possession prior to passage of act and properly registered/permitted); MINN. STAT. ANN. §346.155 (West

ning possession do so explicitly,[96] with and without grandfather clauses for possession prior to the passage of the law.[97] Interpretation of the animal's status in this circumstance is relatively easy. Other states, however, require more work to determine a constructive ban on possession. For example, Alabama bans the possession of *canidae*[98] and *felidae*[99] for which there is no USDA licensed rabies vaccine.[100] Currently, the USDA does not license any vaccine for use on dog or cat hybrids,[101] resulting in an effective ban for legal purposes. However, for the lay person this distinction may be too finely carved and may result in the unintentional violation of the law. [102]

2008) (prohibits cat hybrids unless recognized as a domestic breed by a national or international multi-breed cat registry association); NEB. REV. STAT. §37-477 (2007) (prohibiting cat hybrids by allowing only *felis domesticus*); N.H. REV. STAT. ANN. § 466-A.1 (2008) (prohibiting sale, but not possession of wolf hybrids); N.H. ADMIN. R. FIS. 802.03 (2007) (prohibiting cat hybrids unless an F4 or later animal of a breed registered with a national or international breeding association or registry); N.Y. ENVTL. CONSERV. LAW §§11-0103, 0105 (McKinney 2008) (defining wildlife as including all hybrid *felidae*, except those registered with American Cat Fanciers Association or the International Cat Association and without any wild felid parentage for a minimum of five generations and vesting all ownership in wildlife in the state); UTAH ADMIN. CODE r. 657-3(2008) (limiting domestic cat to those breeds recognized by the International Cat Association); WYO. STAT. ANN. §23-1-103 (2008) (prohibiting wolf hybrids); R.I. DEPT. ENVTL. MGMT, FISH & WILDLIFE, RULES AND REGULATIONS GOVERNING IMPORTATION AND POSSESSION OF NATIVE WILDLIFE (2006) (prohibiting hybrids of wild animals).

[96] ALASKA ADMIN. CODE tit.5, §92.029 (2008); CONN. GEN. STAT. ANN. § 26-40a (West 2008); GA. CODE ANN. §27-5-5 (West 2008); IOWA CODE ANN. § 717F.1 (West 2008); MD. CODE ANN., CRIM. LAW §10-621 (West 2008); MASS. GEN. LAWS ANN. ch. 131, §77A (West 2008); MICH. COMP. LAWS ANN. §§ 287.1002, 1004 (West 2008); MINN. STAT. ANN. §346.155 (West 2008); N.H. ADMIN. R. FIS. 802.03 (2007); N.Y. ENVTL. CONSERV. LAW §§11-0103, 0105 (McKinney 2008); WYO. STAT. ANN. §23-1-103 (2008); R.I. DEPT. ENVTL. MGMT., FISH & WILDLIFE, RULES AND REGULATIONS GOVERNING IMPORTATION AND POSSESSION OF NATIVE WILDLIFE (2006).

[97] *See, e.g.,* GA.CODE ANN. §27-5-5 (West 2008) (specifically banning possession of wolf hybrids unless grandfathered and properly permitted).

[98] A family of carnivorous mammals that includes dogs, wolves, jackals, and foxes. THE AMERICAN HERITAGE STEDMAN'S MEDICAL DICTIONARY (Houghton Mifflin Company 2006) (1995) *available at* http://dictionary. reference. com/browse/canidae.

[99] A natural family of lithe-bodied round-headed fissiped mammals, including the cats; wildcats; lions; leopards; cheetahs; and saber-toothed tigers. Free Dictionary, http://www.freedictionary.org/?Query=felidae (last visited Dec. 17, 2008).

[100] ALA. CODE § 3-8-1 (2008) (constructive ban by making it illegal to own "any *canidae* or *felidae* for which there is no licensed rabies vaccine").

[101] Wolf Dog Coalition, Rabies Vaccine, the Wolf and Wolf Dog, *available at* http://www.inetdesign.com/coalition /issue.html (last visited Nov. 9, 2008).

[102] Although Alabama has a law that bans all animals for which there is no USDA licensed rabies vaccine, and there is not yet one licensed for hybrids, a website that tracks hybrid laws states that Alabama Game and Fish Commission "does not have any regula-

Even where the animals are banned, legislatures vary as to whether they attempt to formally classify the animal as "wild." Alabama, for example, specifically classifies hybrids as "domestic" animals[103] even though they are constructively banned for public health reasons.[104] Eleven of the states use the term "wild" or "wildlife" in the legislative action or administrative rule,[105] while another two designate the banned animals as "dangerous" or "potentially dangerous."[106] Under the common law, these classifications would likely be enough to place an owner on notice that he may be subject to strict liability in tort.[107] Other terminology used is not so clear. Terms such as "regulated," "prohibited," and "non-domestic," while creating liability for illegal possession in terms of the statute, do little to establish an owner's basis for tort liability.

Interestingly, of the eight states that ban only one of the species,[108] five ban only hybrid cats as opposed to the larger and potentially more dangerous wolf-dog hybrid.[109] This suggests that factors other than potential danger to humans play a part in the legislative decision to ban. Additionally, most of the states that ban hybrid cats have statutory exceptions for hybrid breeds currently recognized by national and international

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tions on hybrid dogs or cats at this time," giving the lay owner the impression that possession of hybrid animals is permissible. *See,* ALA. CODE § 3-8-1 (2008). *See also,* Hybrid Law, http://www.hybridlaw. com (last visited Nov. 7. 2008).

[103] ALA. ADMIN CODE r.420-4-4.02 (2007).

[104] ALA. CODE § 3-8-1 (2008).

[105] ALASKA ADMIN. CODE tit.5, §92.029 (2008) ; CONN. GEN. STAT. ANN. § 26-40a (West 2008); GA. CODE ANN. §27-5-5 (West 2008); IOWA CODE ANN. § 717F.1 (West 2008); MASS. GEN. LAWS ANN. ch. 131, §77A (West 2008); NEB. REV. STAT. §37-477 (2007); N.H. REV. STAT. ANN. § 466-A.1 (2008); N.H. ADMIN. R. FIS. 802.03 (2007); N.Y. ENVTL. CONSERV. LAW §§11-0103, 0105 (McKinney 2008); UTAH ADMIN. CODE r. 657-3(2008); WYO.STAT.ANN. §23-1-103 (2008); R.I. DEPT. ENVTL. MGMT., FISH & WILDLIFE, RULES AND REGULATIONS GOVERNING IMPORTATION AND POSSESSION OF NATIVE WILDLIFE (2006).

[106] 720 ILL. COMP. STAT. ANN. 585/0.1 (West 2008); MD. CODE ANN., CRIM. LAW §10-621 (West 2008).

[107] RESTATEMENT (SECOND) OF TORTS §507 (1977); RESTATEMENT (SECOND) OF TORTS §518 (1977).

[108] GA. CODE ANN. §27-5-5 (West 2008); IOWA CODE ANN. § 717F.1 (West 2008); MICH. COMP. LAWS ANN. §§ 287.1002-1004 (West 2008); MINN. STAT. ANN. §346.155 (West 2008); NEB. REV. STAT. §37-477 (2007); N.H. ADMIN. R. FIS. 802.03 (2007); UTAH ADMIN. CODE r. 657-3(2008); WYO. STAT. ANN. §23-1-103 (2008).

[109] IOWA CODE ANN. § 717F.1 (West 2008); MINN. STAT. ANN. §346.155 (West 2008); NEB. REV. STAT. §37-477 (2007); N.H. ADMIN. R. FIS. 802.03 (2007); UTAH ADMIN. CODE r. 657-3(2008).

breeding associations where the animal's wild parentage is a specified number of generations removed.[110]

C. States that Regulate Hybrids

Eighteen states regulate hybrid dogs and cats.[111] However, the favoritism shown to the wolf-dog hybrid in states that ban hybrids is reversed in favor of the cat hybrid here. While five regulate both cat and dog hybrids,[112] another eight regulate wolf-dogs only.[113] Although most of the

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[110] *See, e.g.*, N.H. ADMIN. R. FIS. 802.03 (2007) (prohibiting cat hybrids unless an F4 or later animal of a breed registered with a national or international breeding association or registry).

[111] ARK. CODE ANN. §§ 20-19-401-404 (2008) (defining wolf-dog hybrid as any animal publicly acknowledged as such by its owner and regulating care, registration and confinement); CAL. CODE REGS. tit. 14, §671 (2008) (prohibiting unpermitted possession of F1 wolf-dog hybrids); DEL. CODE ANN. tit. 3, §§ 7201, 8205 (2008) (requiring permits for wild animal hybrids and regulating rabies vaccination of hybrids); FLA. STAT. ANN. §379.303(West 2008) (establishing classifications of wildlife); FLA. ADMIN. CODE ANN. r. 68A-6 (2008) (defining and prohibiting as Class I wildlife wolf hybrids of more than 75% wolf); IDAHO CODE ANN. § 36-712 (2008) (classifying any canine exhibiting primary wolf characteristics as a wolf and requiring reporting of all wolves in captivity); IDAHO ADMIN. CODE r. 02.04.27.010 (2008) (defining all non-native species hybrids as deleterious exotic animals); IDAHO ADMIN. CODE r. 02.04.27.111 (2008) (requiring a permit for all deleterious exotic animals); 312 IND. ADMIN. CODE 9-3-18.5 (2008) (defining exotic mammals as wild *canidae* and *felidae* species, and prohibiting possession without a permit); LA. ADMIN. CODE tit. 76, §115 (2008) (prohibiting possession without permit of all hybrids of listed exotic cats and their subspecies as wild animals); MISS. CODE ANN. §49-8-1 (2007) (defining and prohibiting wolf hybrids as inherently dangerous wild animals); MO. CODE REGS. ANN. tit. 3 §10.9.240 (2008) (defining wolf hybrids as Class II wildlife and requiring permit for possession); NEV. ADMIN. CODE §503.140 (2008) (restricting types of felines allowable without a permit); N.D. CENT. CODE §36-01-08.2 (2007) (requiring identification of wolf-hybrids in captivity); N.D. CENT. CODE §23-36-01 (2007) (defining all hybrids of wild mammals as wild mammals for the purposes of rabies control regardless of other definitions allowed by statute); OR. REV. STAT. ANN. §609.305 (West 2007) (defining as exotic all *felidae* except *felis catus* and all *canidae* except *canis familiaris*); OR. ADMIN. R. 333-019-0022 (2008) (defining wolf hybrids as wild animals and not dogs for purposes of dog licensing, vaccination and repose to bites); 58 PA. CODE §§147.1, 147.2 (2008) (defining all members of family *felidae* except house cats and all canidae except those licensed by Department of Agriculture as exotic wildlife for which a permit is required); TENN. CODE ANN. §70-4-403 (2008) (classifying hybrids as class III exotic animals regulated by the statute); TEX. HEALTH & SAFETY CODE ANN. §822.101 (2007) (defining hybrids of enumerated cat species as dangerous wild animals); VT. STAT. ANN. tit. 20, §3549 (2008) (delegating to municipalities the ability to regulate wolf-hybrids); VA. CODE ANN. §3.2-6581 (West 2008) (defining hybrid canine and prescribing confinement).

[112] DEL. CODE ANN. tit. 3, §§ 7201, 8205 (2008); IDAHO CODE ANN. § 36-712 (2008); 58 PA. CODE §§147.1, 147.2 (2008); TENN. CODE ANN. §70-4-403 (2008); VT. STAT. ANN. tit. 20, §3549 (2008) (delegating to municipalities the ability to regulate wolf-hybrids).

regulation centers on the requirement for the owner to obtain special permits,[114] in the case of the wolf-dog, there is a significant amount of regulation regarding containment, identification, and vaccination requirements.[115] In the few states that regulate hybrid cats only,[116] the regulations either specify certain breeds or certain generations as not requiring special permits.[117] All other breeds or early generation hybrids do require special permits, usually as wildlife or exotic animals.[118]

Even in states where hybrids are generally allowed, the classification for tort liability purposes is confused and muddled.[119] None definitively classify the animals as domestic.[120] Although a number of the states use the terms "wild," "wildlife," or "dangerous,"[121] it is sometimes applied only to early generation hybrids[122] or hybrids with a certain wild animal percentage.[123] This can create an issue of enforceability where genealogy cannot be proven,[124] leaving the owner in doubt as to their liability position. Idaho goes so far as to state that, for identification purposes, "[a]ny canine exhibiting primary wolf characteristics shall be classified as a wolf. . . ."[125]

Arkansas, while diametrically opposite, is no less problematic, because it relies on the public acknowledgment of the owner to establish the clas-

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[113] ARK. CODE ANN. §§ 20-19-402, 404 (2008); CAL. CODE REGS. tit. 14, §671 (2008); FLA. STAT. ANN. §379.303(West 2008) ; FLA. ADMIN. CODE ANN. r. 68A-6 (2008); MISS. CODE ANN. §49-8-1 (2007); MO. CODE REGS. ANN. tit. 3 §10.9.240 (2008); N.D. CENT. CODE §36-01-08.2 (2007); N.D. CENT. CODE §23-36-01 (2007); OR. REV. STAT. ANN. §609.305 (West 2007); OR. ADMIN. R. 333-019-0022 (2008); VA. CODE ANN. §3.2-6581 (West 2008).

[114] *E.g.*, DEL. CODE ANN. tit. 3, § 7201.

[115] *E.g.*, ARK. CODE ANN. §§ 20-19-403, 404 (2008)

[116] The four states that regulate hybrid cats only are Indiana, Louisiana, Nevada and Texas. 312 IND. ADMIN. CODE 9-3-18.5 (2008); LA. ADMIN. CODE tit. 76, §115 (2008); NEV. ADMIN. CODE §503.140 (2008); TEX. HEALTH & SAFETY CODE ANN. §822.101 (2007).

[117] *E.g.*, TEX. HEALTH & SAFETY CODE ANN. §822.101 (2007).

[118] *E.g.*, TEX. HEALTH & SAFETY CODE ANN. §822.101 (2007).

[119] Only one state, Oregon, clearly establishes treatment of bites by hybrid canines as that of a wild animal. OR. ADMIN. R. 333-019-0022 (2008).

[120] *See supra* note 111 and accompanying text.

[121] DEL. CODE ANN. tit. 3, §§ 7201, 8205 (2008); FLA. ADMIN. CODE ANN. r. 68A-6 (2008); IDAHO ADMIN. CODE r. 02.04.27.010 (2008); LA. ADMIN. CODE tit. 76, §115 (2008); MISS. CODE ANN. §49-8-1 (2007); MO. CODE REGS. ANN. tit. 3 §10.9.240 (2008); N.D. CENT. CODE §23-36-01 (2007); OR. ADMIN. R. 333-019-0022 (2008); 58 PA. CODE §§147.1, 147.2 (2008); TEX. HEALTH & SAFETY CODE ANN. §822.101 (2007).

[122] *E.g.*, CAL. CODE REGS. tit. 14, §671 (2008).

[123] *E.g.*, FLA. ADMIN. CODE ANN. r. 68A-6 (2008).

[124] Willems, *supra* note 4.

[125] IDAHO CODE ANN. § 36-712 (2008).

sification of the animal as a hybrid.[126] It specifically prohibits classification as a wolf or wolf-hybrid based on appearance.[127] Arkansas's statutes imply equivalence between a wolf and wolf-dog hybrid,[128] thus opening the door for a strict liability finding against a wolf-dog hybrid owner.[129] Although Arkansas specifically allows the possession of both wolves and wolf-dog hybrids,[130] an owner facing a tort liability action may be able to escape strict liability by asserting that their animal is not a hybrid, but only a "mutt."[131] The owner of a true "mutt," passed off by the seller and acknowledged by the owner as a hybrid,[132] could be subject to strict liability. This dichotomy seemingly violates the essential fairness that is at the heart of animal liability theories.

D. States that Equate Hybrids to Domestic Animals

Only one state, South Carolina, completely and unequivocally classifies all dog and cat hybrids as domestic.[133] New Hampshire and Utah both explicitly or implicitly classify dog hybrids as domestic,[134] but qualify cat hybrids by limiting the domestic classification to either "recognized breeds"[135] or specific generations.[136] Maine and Kansas are the only other states to explicitly equate the wolf-dog hybrid to a domestic dog.[137] In these states, absent any state legislation creating stricter liability standards, owners will be liable in tort under a negligence standard

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[126] ARK. CODE ANN. § 20-19-402 (2008).

[127] *Id.*

[128] *Id.*

[129] If determined to be a wolf, the owner would be strictly liable for an injury caused by his "wild" animal. *See* RESTATEMENT (SECOND) OF TORTS §507 (1977).

[130] ARK. CODE ANN. § 20-19-401 (2008);

[131] By stating that his dog is only an unidentifiable mixed breed, a wolf hybrid owner would (absent state law to the contrary) be able to avoid strict liability under Arkansas law that allows identification as a hybrid only by owner acknowledgement. ARK. CODE ANN. § 20-19-402.

[132] By stating that his dog is a wolf hybrid, an owner of an unidentified mixed breed would be subject to a strict liability standard as the owner of a wild animal, even though his animal is not wild. ARK. CODE ANN. § 20-19-402.

[133] S.C. CODE ANN. §47-3-10 (2007).

[134] N.H. ADMIN. R. FIS. 802.03 (2007) (by stating that rules against possession of wildlife do not apply to owners of wolf-dog hybrids); UTAH ADMIN. CODE r. 657-3(2008) (explicitly designated as domestic).

[135] Recognized as a domestic breed by a nationally or internationally recognized breeding association. N.H. ADMIN. R. FIS. 802.03 (2007); UTAH ADMIN. CODE r. 657-3(2008).

[136] N.H. ADMIN. R. FIS. 802.03 (2007) (no wild parentage within three generations).

[137] KAN. STAT. ANN §47-1701 (2007) (defining a dog as any animal wholly or in part of the species *Canis familiaris)*; ME. REV. STAT. ANN tit. 7, §3907 (2008) (defining a wolf hybrid regardless of generation as equivalent to a domestic dog).

unless they know, or have reason to know, the animal has dangerous propensities.[138]

Three additional states implicitly equate hybrid animals to domestic by their statutory language.[139] Arizona law states that wolf-dog hybrids are "not wildlife."[140] Iowa law states they are not "dangerous wild animals."[141] Hybrid cats are "not restricted" in California in the same section of the law that states domestic cats and dogs are "not restricted."[142] The context in which these statements are made strongly implies that the state intends to treat these animals as domestic for liability purposes.

E. States that Do Nothing

Twenty-eight states do not satisfactorily address the status or classification of at least one of the hybrid species.[143] Twelve states have not addressed either cat or dog hybrids,[144] eleven do not address cat hybrids,[145] and five do not address dog hybrids.[146] This puts owners of hybrid animals in the precarious position of being unable to definitively determine their liability until after an incident occurs.

In 1997, Colorado's legislature statutorily commissioned a study of hybrid canids[147] and felids[148] to determine if legislation was appropriate.[149] It ultimately concluded that there was not enough evidence of risk to persons or property from felid hybrids to make any recommendations.[150] On the issue of wolf-dogs, it conceded the potential problem of attacks

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[138] RESTATEMENT (SECOND) OF TORTS §518 (1977).

[139] ARIZ. ADMIN. CODE § 12-4-401 (2008); CAL. CODE REGS. tit. 14, §671 (2008); IOWA CODE ANN. § 717F.1 (2008).

[140] ARIZ. ADMIN. CODE § 12-4-401 (2008).

[141] IOWA CODE ANN. § 717F.1 (2008).

[142] CAL.CODE REGS. tit. 14, §671 (2008).

[143] *See infra* notes 144- 146 and accompanying text.

[144] Colorado, Kentucky, Montana, North Carolina, New Jersey, New Mexico, Ohio, Oklahoma, South Dakota, Washington, West Virginia, and Wisconsin. *See* Hybrid Law, *supra* note 82.

[145] Arkansas, Arizona, Florida, Kansas, Maine, Michigan, Mississippi, Missouri, Pennsylvania, Virginia, and Wyoming. *See* Hybrid Law, *supra* note 82.

[146] Minnesota, Nebraska, Nevada, Tennessee, and Texas. *See* Hybrid Law, *supra* note 82.

[147] "[A]ny of a family (*Canidae*) of carnivorous animals that includes the wolves, jackals, foxes, coyote and the domestic dog." Merriam-Webster OnLine, http://www. merriam-webster.com/dictionary/canid (last visited Nov. 9 2008).

[148] "Cat" Merriam-Webster OnLine, http://www.merriam-webster.com/dictionary/felid (last visited Nov. 9 2008).

[149] COLO. REV. STAT. ANN. § 35-81-102 (West 2008).

[150] CANINE AND FELINE HYBRID ADVISORY GROUP, REPORT TO THE COLORADO GENERAL ASSEMBLY, 1 (1998).

and aggressive behaviors, but generally only in the same context as other large dogs.[151] The study concluded that the existing "dangerous dog law"[152] was sufficiently broad enough to address any problems with wolf-dog hybrids.[153] The conclusion was based on the circular reasoning in the law that defines a dog as any "domesticated animal related to the . . . wolf . . ."[154] and a domestic animal as "any dog . . . kept as a household pet. . . ."[155]

While some state's statutes may contain some mention of hybrids that will be subject to legal interpretation,[156] most of the states that do not address the hybrid status do so by simply ignoring the issue altogether.[157] The lay owner who acquires such an animal without understanding the precariousness of their position may end up the unwitting victim of unfavorable judicial interpretation or future legislation as the visibility on the hybrid issue increases.[158]

F. Statutory Liability

Most states, as well as the District of Columbia, have some form of statutory liability for dog bites,[159] which may be augmented by city and county ordinances. Most of these hold the owner strictly liable to a bite victim regardless of whether the dog previously exhibited vicious tendencies.[160] The wording, interpretation, and ultimate effect of the statute can vary widely.[161] Some states limit the liability to bites causing severe injury.[162] Others may include liability for non-bite injuries caused by the dog.[163] Maine applies the statute to bites that occur off the owner's property only,[164] and other states limit recovery to medical bills and economic

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[151] *Id* at 4.

[152] *Id* at 9.

[153] *Id* at 5 (indicating that most incidents of canine attacks involve irresponsible ownership).

[154] COLO. REV. STAT. ANN. § 18-9-204.5 (West 2008).

[155] *Id.*

[156] *See* discussion *supra* Part III. B-D.

[157] *See supra* notes 139-141 and accompanying text.

[158] Although a number of states have enacted legislation with grandfather provisions for existing owners of hybrid animals, some states have not. *See, e.g.*, GA. CODE ANN. §27-5-5 (West 2008). *But see* CONN. GEN. STAT. ANN. § 26-40a (West 2008) (authorizing seizure and disposal of any hybrid animal illegally possessed).

[159] Dog Bite Law, http://www.dogbitelaw.com/PAGES/legal_ri.htm (last visited Nov. 9 2008).

[160] Dog Bite Law, *supra* note 159.

[161] Dog Bite Law, *supra* note 159.

[162] *E.g.*, 3 PA. STAT. ANN. §459-502-A (West 2008).

[163] Dog Bite Law, *supra* note 159.

[164] ME. REV. STAT. ANN. tit. 7, §3961 (2008).

losses.[165] Common exceptions to strict liability rules include where the victim was a trespasser or committing a crime against the owner of the dog;[166] the dog was provoked by the victim through physical abuse;[167] the victim was a veterinarian or canine professional handling the animal at the time of the incident;[168] or where the victim assumed the risk by either explicitly or implicitly consenting to be bitten.[169] Police and military working dogs on duty are also generally excluded.[170]

Those states that do not subscribe to the basic statutory strict liability standard instead use the "one bite rule."[171] This common law rule works as both a shield for the owner and a sword for the victim.[172] Dog owners are generally shielded from liability the first time a dog injures a person unless the liability can be established on other grounds.[173] The owner is then held strictly liable for harm caused by the known dangerous propensity of the dog for any subsequent bites or attacks.[174] Traditional exceptions to the "one bite rule" include provocation and assumption of risk.[175]

A few states explicitly include hybrids in their "dangerous dog" laws,[176] or have expressed the legislative intent to control hybrid attacks through such a law.[177] Of course, where the hybrid is treated and regulated similarly to a dog, it seems clear that this standard should prevail. Potential conflict exists where there is not a clearly established classification of the hybrid in a common-law "one bite" state.

The majority of the statutory liability laws refer only to dogs and not to cats.[178] This is likely to result in even more confusion in hybrid cat cases. First, the court must decide if the cat is wild or domestic. Then, if it is treated like a domestic animal, the court must determine if the common law "one bite" rule should apply. Alternatively, the court may use the statutory strict liability law that is seemingly written only for dogs. Does

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[165] N.Y. AGRIC. & MKTS. LAW §121 (McKinney 2008).
[166] Dog Bite Law, *supra* note 159.
[167] Dog Bite Law, *supra* note 159.
[168] Dog Bite Law, *supra* note 159.
[169] Dog Bite Law, *supra* note 159.
[170] Dog Bite Law, *supra* note 159.
[171] Dog Bite Law, *supra* note 159. *See also,* RESTATEMENT (SECOND) OF TORTS §509 (1977).
[172] Dog Bite Law, *supra* note 159.
[173] Dog Bite Law, *supra* note 159.
[174] Dog Bite Law, *supra* note 159.
[175] Dog Bite Law, *supra* note 159.
[176] *E.g.,* N.J. STAT. ANN. § 4:19-18 (West 2008).
[177] *See supra* notes 144-148 and accompanying text.
[178] Vast majority of statutory liability laws specifically refer to dogs only. *E.g.,* COLO. REV. STAT. ANN. § 18-9-204.5 (West2008). *But see,* GA. CODE ANN. §51-2-7 (West 2008).

it change the court's analysis when the cat exceeds 30 pounds, as some of the new hybrid breeds claim,[179] which are larger than many breeds of dog?[180] Or, as several courts have upheld, is biting and scratching part of the normal activity of the cat and is *not* evidence of a dangerous propensity unless unusual?[181]

IV. CASE LAW ANALYSIS

There is very little case law regarding the classification and tort liability standards of wild-domestic animal hybrids that are kept as pets. This is likely due to the fact that most cases, even if they do ultimately result in a trial, are not appealed or published.[182] In reality, most cases are probably settled by the insurance companies or between the parties.[183] The only case that provides any serious discussion of the wild or domestic issue does not provide a comprehensive picture of the state of hybrid animal classification or owner liability.[184]

The South Dakota Supreme Court wrestled with the issue of wolf-dog hybrids in *Tipton v. Town of Tabor*, 538 N.W.2d 783 (S.D. 1995) (*Tipton I*)[185] and *Tipton v. Town of Tabor*, 567 N.W.2d 351 (S.D. 1997) (*Tipton II*).[186] These cases concern a four-year-old girl who was severely injured by wolf-dog hybrids when she approached their pen while visiting the owner's neighbor.[187] There was no evidence of any prior issues or prob-

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[179] Dickler, *supra* note 5.

[180] 76 breeds are listed as being in the 30 pound or smaller range. Dogsindepth.com, http://www.dogsindepth. com/dog_breed_size_chart.html (last visited Nov. 9, 2008).

[181] *See* Judd v. Zupon, 209 N.W.2d 423, 423 (Minn. 1973); Lee v. Weaver, 237 N.W.2d 149, 151 (Neb. 1976); Ray v. Young, 572 S.E.2d 216, 219 (N.C. Ct. App. 2002).

[182] In Vermont, between March 1992 and January 1995 there were 20 attacks attributable to wolf-hybrids, with several resulting in severe injury and one in death, however, no published cases regarding these attacks exist. Wolf Hybrid Bite Case, http://leerburg. com/wolf3.htm (last visited Nov. 9, 2008).

[183] Inferred from lack of published cases and anecdotal data. Jonathan Brunt, *What the Law Says About Wolf-dog Hybrids*, ID. STATESMAN, *available at* http:// www.nnwyn. info/wolf/wn/wn290403.html (last visited Sep. 5, 2008); Dog Bite Law, *supra* note 159.

[184] *See* Tipton v. Town of Tabor, 538 N.W.2d 783 (S.D. 1995) (*Tipton I*); Tipton v. Town of Tabor, 567 N.W.2d 351 (S.D. 1997) (*Tipton II*).

[185] *Tipton I* discusses the duty and liability of the township to a young girl who was bitten in allowing a resident to maintain wolf-dog hybrids within the town limits, focusing on the procedural elements of the trail court grant of summary judgment to the township. Tipton v. Town of Tabor, 538 N.W.2d 783, 784 (S.D. 1995).

[186] *Tipton II*, after remand, delves into the actual issues of the township's liability. Tipton v. Town of Tabor, 567 N.W.2d 351 (S.D. 1997).

[187] *Tipton I*, 538 N.W.2d at 785.

lems with the animals.[188] Although *Tipton I* focused on the procedural issues surrounding the trial court's grant of summary judgment for the defendant and the issue of the public duty of the town in allowing the animals, reference was made to the underlying substantive issue of hybrid classification.[189]

The *Tipton I* majority opinion states that "[w]olves are commonly known to have dangerous propensities,"[190] and that the owner's behavior in keeping the animals in a secure pen could be interpreted as "proof that they were dangerous, wild animals."[191] A holding that treats the efforts of an owner to avoid liability as "proof" that he should indeed be liable is a disturbing proposition. This creates a disincentive for the owner of any animal to take normal precautions where there is no other evidence of dangerous disposition. The *Tipton I* dissent suggests that "common knowledge"[192] of a general species character trait or reputation being applied to every animal within the species, and every hybrid thereof, is "too big a leap."[193]

Tipton II delved deeper, albeit just as inconclusively, into the actual issue of wolf-dog classification and liability. The ultimate question of *Tipton II* was not owner liability, but rather the liability of town officials who knowingly allowed the animals to be kept there.[194] The court notes that the definitions of "wild" and "domestic" animals in the Restatement (Second) of Torts are of "little assistance in categorizing a particular crossbreed."[195] The court ultimately concludes that the "results of breeding wild with domesticated dogs is unpredictable,"[196] without addressing the question of whether the wolf-dog, specifically, or hybrids in general, are "wild" or "domestic."[197]

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[188] *Id.*

[189] *Id.* at 786-790.

[190] *Id.* at 787.

[191] *Id.*

[192] Tipton v. Town of Tabor, 538 N.W.2d 783, 788-789 (S.D. 1995) (Erickson, J. concurring in part, dissenting in part).

[193] *Id.* at 789.

[194] Tipton v. Town of Tabor, 567 N.W.2d 351, 354 (S.D. 1997).

[195] *Id.* at 362.

[196] *Id.* at 363.

[197] The *Tipton II* court recognizes that determining a bright line standard will be difficult, at best, and fails to reach a solid conclusion. "Courts have had little experience in dealing with the legal aspects of animal hybridization. A 'beefalo,' for example, is considered by many to be a successful cross between a Bison (buffalo) and any domestic or exotic cattle breed, blending the outstanding qualities of both. Likewise, with wolfdogs, breeders hoped to combine the feral beauty of wolves with the congenial qualities of domesticated dogs. Perhaps owners ought to bear responsibility for experimenting with nature. . . ." *Id.* at 363 n.20.

V. OTHER ISSUES

A few other issues must be briefly considered before a comprehensive position on the issue of wild-domestic hybrid pets can be formulated. These issues are important factors that will influence the effectiveness of any legislation and public support for it. These include legal enforceability of any recommended position, public health and insurance ramifications, and ethical issues.

A. Enforceability

Any legal position must be enforceable or it is ultimately an exercise in futility. This is a looming issue in the wolf-dog hybrid debate,[198] although less so for the hybrid cat,[199] as it begins with identification of the animal as a hybrid. Currently, there exists no test that can conclusively determine that the animal has descended from a wolf.[200] This is due to the extremely close genetic relationship of the dog and wolf;[201] indeed it is accepted that wolves are the genetic forerunners of most, if not all, domestic breeds of dog.[202] Any determination of wolf heritage is then either a matter of documented pedigree, subjective determination,[203] or the simple boast of the owner that he owns a wolf-hybrid.[204] Of these, the subjective determination is the most troubling and most likely to be used.[205] Although experts may claim to have some skill in identifying wolf hybrids,[206] some dog breeds share so many of the same physical characteristics of wolves that purebred members of those breeds can be mistaken for wolves or hybrids.[207]

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[198] Willems, *supra* note 4.

[199] DNA evidence is generally able to be used to conclusively determine hybrid cat genealogy. *See* Hartwell, *supra* note 43.

[200] Willems, *supra* note 4.

[201] CANINE AND FELINE HYBRID ADVISORY GROUP, REPORT TO THE COLORADO GENERAL ASSEMBLY, 3-4 (1998).

[202] *Id.*

[203] Willems, *supra* note 4.

[204] *See* ARK. CODE ANN. § 20-19-402 (2008).

[205] Due to the inability to determine genealogy with technology, in the absence of a pedigree, experts are the states only recourse to attempt to identify a wolf-dog as a hybrid. HAW. CODE R. §4-71-6.1 (2006) (requiring the use of an expert to identify animals as hybrids); Willems, *supra* note 4.

[206] Some experts are alleged to be able to identify a wolf-hybrid, and their wolf percentage, to within a few percentage points. Michigan Wolfdog Ass'n Inc. v. St. Clair County, 122 F.Supp.2d 794, 804 (E.D.Mich. 2000).

[207] Willems, *supra* note 4.

We must ask ourselves if we are prepared to take away a beloved family pet on such a subjective determination. It appears that some jurisdictions are reluctant to do so. The Colorado study on hybrids stated that those states that had passed statutes regulating wolf-dog hybrids found them extremely difficult to enforce.[208] Furthermore, other than pedigree, there is no test that has withstood legal challenge.[209] This issue, more than any other, appears to have prompted the Colorado legislature to avoid the hybrid issue altogether.[210]

B. Public Health Concerns

The public health ramifications of both cat and dog hybrids center as much around the possible spread of rabies[211] as for general safety of the public. There is no rabies vaccine licensed by the USDA for use on hybrids.[212] States that allow the animals generally require the animals to be vaccinated.[213] Do they then assume some level of liability when a person who is bitten by a vaccinated hybrid contracts rabies? Most states require even vaccinated hybrids to be euthanized for brain stem testing if they bite a human being.[214]

C. Insurance Ramifications for Owners

A number of insurance providers either refuse, or charge steep premiums, to insure owners of wolf-dog hybrids, as well as other "dangerous breeds" of dogs.[215] Some insurers are beginning to refuse to insure a home with any breed of dog[216] due to the large number of dog bite claims

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[208] CANINE AND FELINE HYBRID ADVISORY GROUP, REPORT TO THE COLORADO GENERAL ASSEMBLY, 1,9 (1998).

[209] *Id.* at 3.

[210] *Id.* at 1, 10 (recommending use of the existing Dangerous Dog Law to address any wolf-dog problems).

[211] Wolf Dog Coalition, *supra* note 101.

[212] *Id.*; Willems, *supra* note 4.

[213] *E.g.*, N.H REV. STAT. ANN. §466-A.4. *See also* Diana L. Guerrero, Wildside Explores Wolf Dogs, Part 6 of 8, http://www.arkanimals.com/ark/ws_6_wolf_dog_hybrids.html (last visited Nov. 9, 2008).

[214] Willems, *supra* note 4.

[215] "Some big insurers, including Allstate and Farmers Insurance Group, won't cover homes in some states if residents own certain breeds. Others exclude some breeds from liability coverage, or charge extra for it." M.P. McQueen, *Snarling at Insurers*, Wall Street Journal, July 16, 2006, *available at* http://online. wsj.com/public/article_print/SB115300436876507906.html (last visited Dec. 28, 2008).

[216] Dog Bite Law, *supra* note 159.

made annually.[217] Hybrid cats have not drawn the same attention as the wolf-dog in this area, but, as the breeds grow larger, more "wild-like," and rivaling some dogs in their ability to harm,[218] it is quite possible that insurers will apply the same standards to cat owners. Thus, it will become more difficult for responsible persons to risk the companionship and joys of pet ownership.

D. Ethical Considerations

Given the potential risks[219] involved in breeding wild animals with their domestic relatives, should propagation of these animals be allowed merely to satisfy the longing of humans for ever more exotic creatures to command as their own? Is the risk to the future of endangered and protected animals' gene pools worth the pride of ownership of a magnificent, if out of place, creature? Is the waste of life that comes from the abandonment of unsalable generations of Bengal cats to furriers[220] balanced by the first generation of pet or breed quality kittens? Worse, can we sit idly by while greed compels the production of even more cats for the purpose of sidestepping endangered animal protection laws?[221] Most mainstream animal welfare organizations and experts not affiliated with the specific breed concerned say, resoundingly, "No."[222]

VI. RECOMMENDATION

Hybrid cats and dogs kept as pets are now a fact of life in the United States.[223] These creatures are often unsuited to the life of the standard domestic pet, because of the specific needs of their breed.[224] This does not mean that there is not a place for these creatures for those who have the time, energy, commitment, and space to accommodate the animal's

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[217] Brian Sodergren, Humane Society of the United States, Insurance Companies Unfairly Target Specific Dog Breeds, http://www.hsus.org/pets/issues_affecting_our_pets/insurance_companies_unfairly_target_specific_dog_ breeds.htm (last visited Nov. 9, 2008).

[218] Baskin, *supra* note 45.

[219] A vaccination failure in a wolf-dog hybrid was reported in 1994. Guerrero, *supra* note 213 ; *See also*, discussion, *supra* Part I-A.

[220] *See supra* note 58 and accompanying text.

[221] *See supra* note 58 and accompanying text.

[222] Press Release, The Humane Society of the United States, *supra* note 34; Position Statements on Hybrids as Pets, The American Society for the Prevention of Cruelty to Animals, *supra* note 60.

[223] *See supra* Part I.

[224] *See supra* Part I.

needs. It often means that the casual owner, looking only for a status symbol, is not a good match for these animals as pets.

Although many states have taken steps to address the hybrid issue,[225] efforts in some cases are incomplete and difficult to implement.[226] A Model Hybrid Companion Animal Law is necessary to provide legislatures clear guidance on how to craft enforceable, fair, and consistent laws. A comprehensive Model Law should include the following components:

1) Comprehensive definition(s) of hybrid companion animal(s).

2) Mandatory licensing and pedigree registration for breeders and their stock.

   a. Identification standards through pedigree registration[227] (including penalties for violation.)

3) Limitations on breeding and possession, to include:

   a. Number of animals permitted to be possessed.

   b. Production limitations on breeders.

   c. Required conditions for the animals in both breeding and companion animal conditions (space,[228] security, etc).

   d. Mandatory sterilization for those animals not in the possession of breeder for breeding purposes.

   e. Identification requirements (tattooing or micro-chipping).

   f. Mandatory education on the breed issues prior to adoption from a breeder or shelter.

   g. Resale of adopted animals only with a permit and compliance with basic adoption requirements.

   h. Civil and/or Criminal penalties for failure to follow law.

4) Mandatory vaccinations by "best available" rabies vaccine if none licensed by USDA.

   a. Include release of liability to the administering veterinarian.

   b. Provide for mandatory quarantine upon substantiated bite injury

5) Create immunity from liability for shelters that readopt out hybrid animals, subject to mandatory education and full disclosure on the animal's pedigree and reason (if known) for turn into shelter.

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[225] *See supra* Part III.

[226] *See supra* Part III.

[227] Pedigree registration is the only accurate way to validate wolf percentage of a wolf-dog hybrid. Willems, *supra* note 4.

[228] Recommended space for wolf-dog hybrids is significantly more than that of a dog; ranging from 1600 SF to three-quarters of an acre. *See* Wolf Park, *supra* note 32; *see also* Vogel, *supra* note 31.

6) Clearly define the owner's civil and criminal liability for injury caused by the animal (strict liability, "one bite", and/or negligence) either specifically as a hybrid, or in the context of existing bite laws.

A recommended Model Hybrid Companion Animal Law is included in Appendix I.

VII. CONCLUSION

The modern hybrid animal is a unique creature, and we are still learning the responsibilities that its creation levies upon us. However, we know enough to recognize that the time has come to slow the proliferation of these animals in order to ensure they are not exploited, endangered, or forced to endure a life to which they are eminently unsuited. We must ensure that the persons who accept the responsibilities for these creatures are knowledgeable of what to expect so that no more hybrid animals are needlessly euthanized or abandoned. Creation and legislative adoption of a comprehensive model hybrid animal law will be a significant first step in the correct direction for fair and consistent laws for pet owners. It will also provide a standard for future laws regarding hybrid animals in contexts other than as companion animals. Mankind can no longer avoid its most pressing responsibility as the creator of these new creatures. We must provide legal protections and limitations to ensure owners neither endanger other humans nor allow their creations to atrophy in misery, but rather enrich all humanity through their existence.

LISA A. CUTTS

APPENDIX I

MODEL HYBRID COMPANION ANIMAL LAW

1. Definitions: For the purposes hereof, the following terms mean:
   a. Best available rabies vaccination: Current rabies vaccinations approved by the USDA for use on (1) hybrid dogs, or cats, as applicable or (2) domestic dogs, or domestic cats, as applicable, if no vaccination is yet approved for hybrid dogs, or cats, as applicable.
   b. Breeder: An owner engaged in the business or hobby of propagating animals to obtain certain characteristics or to promulgate the specific breed.
   c. Domestic cat: Any member of the species *felis domesticus*, or any hybrid cat breed recognized by a nationally or internationally recognized breeding association or registry which certifies the pedigree and registration of such cat to be without any wild felid parentage for a minimum of four generations.
   d. Domestic dog: Any member of the species *canis familiaris*, or any hybrid dog certified by the breeder pedigree and registration of such dog to be without any wild canine parentage for a minimum of four generations, or 10% or less wolf.
   e. Hybrid cat: Any cross between a domestic cat and either a wild cat species or any first through third generation hybrid cat.
   f. Hybrid dog: Any cross between a domestic dog and either a wolf (*canis lupus*) or a hybrid dog that results in either an animal less than four generations removed from its wild parentage or more than 10% wolf.
   g. Owner: A person having the right of property or custody of the animal that keeps or harbors an animal or knowingly permits the animal to remain on or about any premises occupied by that person.
   h. Resell: The permanent transfer of ownership from a non-breeder owner to non-breeder or non-shelter third party with or without receipt of consideration.
2. The animal authority having jurisdiction shall set up a hybrid pedigree registration for the purpose of maintaining records of the number, type, pedigree and owners of hybrid animals within the jurisdiction.

3. Breeder Responsibility: Any breeder of hybrid companion animals shall be responsible for the following:
   a. Obtain a license for hybrid breeding from the animal control authority having jurisdiction (in addition to any special permits required to possess wolves.)
   b. Maintain records of animal pedigree by recording the breed(s) and accurate percentages thereof of the animal's parentage.
   c. Microchip or tattoo each hybrid offspring at the age of 8 weeks.
   d. Spay or neuter any hybrid animal offered for sale to other than a licensed breeder.
   e. Provide and register with the animal authority having jurisdiction a certificate of pedigree with each hybrid animal including the animal's breed history back to foundation parents, wild animal percentage, and microchip or tattoo identification number.
   f. Possess no more than three (3) adult wild or hybrid males and three (3) adult wild or hybrid females at any time.
   g. Allow each wild or hybrid female to whelp no more than 2 litters in any 12 month period.
   h. Provide breed-specific educational materials approved by the animal authority having jurisdiction to prospective non-breeder purchasers of hybrid animals a minimum of seven (7) days prior to purchase. Materials shall include information on behavioral issues, dietary information, required permitting and space requirements, and veterinary concerns. Breeder shall obtain a signed statement of understanding of the materials from non-breeder purchaser at time of purchase.
   i. Maintain containment, insurance and vaccinations as required by this section.
   j. Sale of a hybrid animal to a furrier, or to another for the purpose of being sold or provided to a furrier, is prohibited.
   k. The failure of a breeder to comply with any of the requirements herein is a misdemeanor punishable by a fine not exceeding $1,000.00 or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, for each offense.
4. Non-Breeder Owner Responsibilities Any non-breeder owner of hybrid companion animals shall be responsible for the following:
   a. Obtain a license to possess a hybrid from the animal control authority having jurisdiction.
   b. If obtained from a private owner or out-of state breeder, ensure the animal has been
      i. Microchipped or tattooed.
      ii. Spayed or neutered. A non-breeder owner may not possess unaltered hybrid animals.

c. Maintain and register with the animal authority having jurisdiction a certificate of pedigree for each hybrid animal including the animal's breed history back to foundation parents, wild animal percentage, and microchip or tattoo identification number.
d. Possess no more than two (2) adult hybrid animals at any time. Such hybrids count towards total animals allowed to be kept as pets in accordance with municipal codes.
e. Sign a statement of understanding provided by the breeder or shelter that owner has read and understands the behavioral issues, dietary information, required permitting and space requirements, and veterinary concerns of the breed at time of purchase.
f. Maintain containment, insurance and vaccinations as required by this section.
g. Must obtain a permit to resell a hybrid animal from the animal authority having jurisdiction, provide breed-specific educational materials approved by the animal authority having jurisdiction to the prospective purchaser a minimum of seven (7) days prior to purchase. Materials shall include information on behavioral issues, dietary information, required permitting and space requirements, and veterinary concerns. Owner shall obtain a signed statement of understanding of the materials from purchaser at time of purchase.
h. Sale of a hybrid animal to a furrier, or to another for the purpose of being sold or provided to a furrier, is prohibited.
i. The failure of an owner to comply with any of the requirements herein is a misdemeanor punishable by a fine not exceeding $500.00 or by imprisonment for a period not exceeding three months, or by both such fine and imprisonment, for each offense.

5. Containment:
   a. Wolf-Dog hybrids:
      i. Minimum of one-half acre enclosure per two adult hybrid (or wild) animals. Enclosure shall consist of a 7' high chain link fence with overhang and ground wire, with a double gate entry area. Enclosure must be maintained within a secure perimeter fence to prevent animal from roaming at large if it escapes the primary enclosure and to prevent other persons from approaching the animals. The owner's home may be considered part of the enclosure.
      ii. Outside of the enclosure, wolf-dog hybrids must be caged or leashed at all times.
   b. Cat hybrids:

i. Indoor/Outdoor enclosures: Maintain a minimum of 100 square feet by 6' high fully enclosed pen per hybrid cat. The owner's home may suffice as an enclosure.
ii. Outside of the enclosure, cat hybrids must be caged or leashed at all times.

6. Vaccinations:
   a. All hybrid animals shall be vaccinated using the best available rabies vaccine at the prescribed intervals. Until such time as the USDA licenses a rabies vaccines for hybrid animals, owners shall sign a release of liability to the veterinarian administering said rabies vaccine indicating that they understand the vaccine is not licensed and that the animal may be subject to euthanasia and brain-stem testing if the animal bites a human being.
7. Insurance:
   a. The owner of a hybrid animal which is expected to weigh more than 30 pounds when fully grown shall provide proof that the owner is insured by a policy of liability insurance which provides coverage for canine or feline inflicted injuries, with a policy limit of at least $50,000 per occurrence.
8. Animal Shelters:
   a. Shall maintain known hybrid animals in the same manner as other canines and felines of the same size.
   b. Shall require any person placing a known hybrid animal with the shelter to state a reason for so placing. Shelter shall check the animal for microchip and tattoo and shall obtain pedigree and prior owner information from the hybrid pedigree registry.
   c. Shall notify prospective owners of known hybrid animal's status and provide approved breed-specific educational materials to prospective owners a minimum of forty-eight (48) hours prior to adoption. Materials shall include information on behavioral issues, dietary information, required permitting and space requirements, and veterinary concerns. Breeder shall obtain a signed statement of understanding of the materials from non-breeder purchaser at time of adoption.
   d. Shall disclose to the prospective owner the stated reason the prior owner placed the animal with shelter, if one exists.
   e. Shall obtain a release of liability from the owner at the time of adoption.
   f. Animal shelters will not be liable for injury by hybrid animals whose status as a hybrid was not known at the time of adoption.
9. Local Laws
   a. Nothing in the Hybrid Companion Animal Law shall be construed to prevent a city or county from adopting or enforcing its

own program for the control of hybrid companion animals provided that such provisions are more restrictive than those stated herein.

10. Personal Injury Liability
    a. The owner of a hybrid animal that is less than four generations removed from its wild parentage, or more than 10% wolf (in the case of dog hybrids), shall be strictly liable for injury caused to a human being due to biting, clawing or other predatory attack, unless the animal was defending itself or its owner(s) from physical abuse or attack.
    b. The owner of a hybrid animal that is four generations or more removed from its wild parentage, or 10% or less wolf, in the case of dog hybrids, shall be liable for injury to a person in accordance with existing domestic animal laws of the jurisdiction.
    c. Where a pedigree is not available, a hybrid animal expert appointed by the animal authority having jurisdiction shall make a final determination of the hybrid animal's wild percentage.
    d. Upon a substantiated bite injury, the owner of the hybrid animal shall immediately surrender his or her animal to the animal authority having jurisdiction for quarantine.